Article - Health Occupations

§1–101.

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

(b) "Board of Review" means the Board of Review of the Department.

(c) "County" means a county of this State and, unless expressly provided otherwise, Baltimore City.

(d) "Department" means the Department of Health and Mental Hygiene.

(e) "Household member" means someone who is:

(1) The individual's:

(i) Spouse;

(ii) Son;

(iii) Daughter;

(iv) Ward; or

(v) Parent; or

(2) The individual's relative:

(i) Who shares the individual's legal residence; or

(ii) Whose financial affairs are under the legal or actual control of the individual.

(f) "Includes" or "including" means includes or including by way of illustration and not by way of limitation.

(g) "Oral competency" means general English–speaking proficiency as evidenced by achievement of a passing score obtained on a Board approved standardized test.

(h) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(i) "Physician" means, except in Title 14 of this article, an individual who is authorized by a law of this State to practice medicine in this State.

(j) "Secretary" means the Secretary of Health and Mental Hygiene.

(k) "State" means:

(1) A state, possession, or territory of the United States;

(2) The District of Columbia; or

(3) The Commonwealth of Puerto Rico.

(l) "Substantial financial interest" means:

(1) An asset with a fair market value of $1,000 or more; or

(2) A source of income of $500 or more in a calendar year.

§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.

§1–201.

(a) A requirement in this article that a document be verified means that the document shall be verified by a declaration made under the penalties of perjury that the matters and facts contained in the document are true to the best of the knowledge, information, and belief of the individual making the declaration.

(b) The verification shall be made:

(1) Before an individual authorized to administer oaths; or

(2) By a signed statement of verification that:

(i) Is in the document or attached to and made part of the document; and

(ii) States that the statement is made under the penalties for perjury.

(c) If the procedures provided in subsection (b)(2) of this section are used, the statement of verification subjects the individual making the statement to the penalties for perjury to the same extent as if the statement had been verified under oath before an individual authorized to administer oaths.

§1–202.

Before any license or permit may be issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) A certificate of compliance with the Maryland Workers' Compensation Act; or

(2) The number of a workers' compensation insurance policy or binder.

§1–203.

(a) The power of the Secretary over plans, proposals, and projects of units in the Department does not include the power to disapprove or modify any decision or determination that a board or commission established under this article makes under authority specifically delegated by law to the board or commission.

(b) The power of the Secretary to transfer staff or functions of units in the Department does not apply to any staff of a board or commission, established under this article, or to any functions that pertain to licensing, disciplinary, or enforcement authority, or to any other authority specifically delegated by law to a board or commission.

§1–204.

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

(1) "Health occupation" means nurses, cytotechnologists, hospital pharmacists, occupational therapists, physical therapists, radiation technologists, and respiratory therapists who are licensed or certified under this article or by the Department.

(2) "Hospital or related institution" means a hospital or related institution, as defined in § 19-301 of the Health - General Article.

(3) "Area of shortage" means those health occupations for which the average statewide employment vacancy rate at hospitals or related institutions exceeds 7 percent.

(b) Each year, the Secretary shall:

(1) Survey hospitals and related institutions for areas of shortage; and

(2) Project for each of the subsequent 5 years:

(i) Average statewide employment vacancy rates expected in areas

of shortage; and

(ii) The number of students expected to graduate from programs leading to licensure or certification in those areas of shortage based on information provided by appropriate State education officials.

(c) Each board or commission established under this article shall provide the Secretary with any information the Secretary may require to conduct the activities under subsection (b) of this section.

(d) Each year, the Secretary shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, the Governor, and the Maryland Higher Education Commission on the number and types of areas of shortage and the projected statewide employment vacancy rates in hospitals and related institutions.

§1–205.

Each health occupation board may consider regional and national averages of health occupations licensing fees when the board evaluates the amount that constitutes a reasonable fee for the issuance and renewal of licenses and its other services.

§1–207.

The Department, in consultation with the Medical and Chirurgical Faculty of Maryland, the Maryland Hospital Association, the Maryland Association of Health Maintenance Organizations, the Health Facilities Association of Maryland, the Maryland Association of Nonprofit Homes for the Aging, the Maryland State Dental Association, the Maryland Nurses Association, the Maryland Funeral Directors Association, the Maryland Podiatrists Association, the affected boards, the Association for Practitioners for Infection Control, and a consumer of health care services, shall develop a notice written in layman's language that explains the Centers for Disease Control and Prevention's guidelines on universal precautions.

§1–208.

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

(2) (i) Except as otherwise provided in this paragraph, "health care practitioner" means a physician or any other person licensed or certified under this article and reimbursed by a third party payor.

(ii) Subject to the provisions of subparagraph (iii) of this paragraph, "health care practitioner" does not include a physician or other person licensed or certified under this article who is compensated by a health maintenance organization on a salaried or capitated basis.

(iii) The exclusion provided under subparagraph (ii) of this paragraph only applies when the physician or other licensed or certified person is rendering care

to a member or subscriber of the health maintenance organization on a salaried or capitated system basis.

(3) "Third party payor" means any person that administers or provides reimbursement for health care benefits on an expense incurred basis including:

(i) A health maintenance organization issued a certificate of authority in accordance with Title 19, Subtitle 7 of the Health - General Article;

(ii) A health insurer or nonprofit health service plan authorized to offer health insurance policies or contracts in this State in accordance with the Insurance Article; or

(iii) A third party administrator registered under the Insurance Article.

(4) "Uniform claims form" means the claim or billing form for reimbursement of services rendered by a health care practitioner adopted by the Insurance Commissioner under § 15-1003 of the Insurance Article.

(b) When submitting a claim or bill for reimbursement to a third party payor, a health care practitioner shall use the uniform claims form.

(c) The uniform claims form submitted under this section:

(1) Shall be properly completed; and

(2) May be submitted by electronic transfer.

(d) The Secretary may impose a penalty not to exceed $100 on any health care practitioner that violates the provisions of this section.

§1–209.

(a) Each board shall assess each applicant for a license or a renewal of a license a fee established in accordance with the provisions of § 19-111 of the Health - General Article.

(b) Each board shall transfer the fees assessed under this subsection to the Maryland Health Care Commission Fund on a quarterly basis.

§1–210.

(a) By August 31 of each year, each health occupation board authorized to issue a license or certificate under this article shall provide to the Department of Assessments and Taxation a list of persons issued licenses or certificates under this article during the previous fiscal year, to assist the Department of Assessments and Taxation in identifying new businesses within the State.

(b) The list provided under this section shall:

(1) Be provided free of charge; and

(2) Include, for each person on the list:

(i) The name and mailing address of the person; and

(ii) The federal tax identification number of the person or, if the person does not have a federal tax identification number, the Social Security number of the person.

§1–211.

A person who is licensed, certified, or otherwise authorized to practice a health occupation under this article may not practice the health occupation on an animal unless the person:

(1) Is a licensed pharmacist practicing pharmacy under Title 12 of this article;

(2) Is a licensed acupuncturist practicing in accordance with § 2-301(g)(11) of the Agriculture Article; or

(3) Provides care to an animal in accordance with § 2-304(e) of the Agriculture Article.

§1–212.

(a) Each health occupation board authorized to issue a license or certificate under this article shall adopt regulations that:

(1) Prohibit sexual misconduct; and

(2) Provide for the discipline of a licensee or certificate holder found to be guilty of sexual misconduct.

(b) For the purposes of the regulations adopted in accordance with subsection (a) of this section, "sexual misconduct" shall be construed to include, at a minimum, behavior where a health care provider:

(1) Has engaged in sexual behavior with a client or patient in the context of a professional evaluation, treatment, procedure, or other service to the client or patient, regardless of the setting in which professional service is provided;

(2) Has engaged in sexual behavior with a client or patient under the pretense of diagnostic or therapeutic intent or benefit; or

(3) Has engaged in any sexual behavior that would be considered

unethical or unprofessional according to the code of ethics, professional standards of conduct, or regulations of the appropriate health occupation board under this article.

(c) Subject to the provisions of the law governing contested cases, if an applicant, licensee, or certificate holder violates a regulation adopted under subsection (a) of this section a board may:

(1) Deny a license or certificate to the applicant;

(2) Reprimand the licensee or certificate holder;

(3) Place the licensee or certificate holder on probation; or

(4) Suspend or revoke the license or certificate.

(d) This section does not negate any other disciplinary action under a health occupation board's statutory or regulatory provisions.

(e) (1) Each year, each health occupation board shall submit a statistical report to the Secretary, indicating the number of complaints of sexual misconduct received and the resolution of each complaint. The report shall cover the period beginning October 1 and ending the following September 30 and shall be submitted by the board not later than the November 15 following the reporting period.

(2) The Secretary shall compile the information received from the health occupation boards and submit an annual report to the General Assembly, in accordance with § 2-1246 of the State Government Article, not later than December 31 of each year.

§1–213.

(a) A license or permit is considered renewed for purposes of this section if the license or permit is issued by a unit of State government to a person for the period immediately following a period for which the person previously possessed the same or a substantially similar license.

(b) Before any license or permit may be renewed under this article, the issuing authority shall verify through the office of the Comptroller that the applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing, and Regulation or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection.

§1–214.

To the extent practicable, the members appointed to each health occupations board authorized to issue a license or certificate under this article shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

§1–215.

(a) Each health occupations board authorized to issue a license or certificate under this article shall notify all licensees or certificate holders of board vacancies.

(b) A health occupations board may give notice of a board vacancy by electronic mail or a notice on the board's Web site.

§1–216.

The health occupations boards authorized to issue a license or certificate under this article shall develop collaboratively a training process and materials for new board members that include training in cultural competency.

§1–217.

The Secretary shall confirm the appointment of each administrator or executive director to each health occupations board authorized to issue a license or certificate under this article.

§1–218.

Each health occupations board authorized to issue a license or certificate under this article shall collect racial and ethnic information about the applicant as part of the board's licensing, certifying, or renewal process.

§1–219.

(a) In this section, "health care practitioner" means a person who is licensed, certified, or otherwise authorized to practice a health occupation under this article.

(b) Subject to the hearing provisions that govern the discipline of a health care practitioner by each respective health occupations board, a health occupations board may reprimand, place on probation, or suspend or revoke a license or certificate of any health care practitioner under the board's jurisdiction who fails to comply with § 14–3A–03(c) of the Public Safety Article.

§1–220.

(a) Each health occupation board may develop a secure electronic system for the distribution of a renewed license, permit, certification, or registration required to be issued under this title.

(b) The system shall:

(1) Be accessible to the public for the purpose of verification of a current license, permit, certification, or registration; and

(2) Provide the licensee, permit holder, certificate holder, or registrant the

option of printing a verification of the status of their license, permit, certification, or registration.

(c) Except as otherwise provided by law, a board that develops and implements a system authorized under subsection (a) of this section shall:

(1) Discontinue to send by first–class mail:

(i) A renewal notice for a license, permit, certification, or registration; and

(ii) A renewed license, permit, certification, or registration;

(2) Send by electronic means:

(i) A renewal notice for a license, permit, certification, or registration; and

(ii) A renewed license, permit, certification, or registration; and

(3) Continue to send by first–class mail an initial license, permit, certification, or registration.

(d) If a board chooses to send renewal notices or renewed licenses, permits, certifications, or registrations exclusively by electronic mail under subsection (c) of this section, the board shall, on request of the licensee, permit holder, certificate holder, or registrant, send by first–class mail:

(1) The renewal notice; or

(2) The renewed license, permit, certification, or registration.

§1–221.

(a) In this section, "health care practitioner" means a person who is licensed, certified, or otherwise authorized under this article to provide health care services in the ordinary course of business or practice of a profession.

(b) This section applies only to a health care practitioner who practices in:

(1) A freestanding ambulatory care facility;

(2) A physician's office; or

(3) An urgent care facility.

(c) Except as provided in subsection (d) of this section, when providing health care to a patient, a health care practitioner shall wear a badge or other form of identification displaying in readily visible type:

(1) The health care practitioner's name; and

(2) The type of license of the health care practitioner.

(d) A badge or other form of identification is not required to be worn if:

(1) (i) The patient is being seen in the office of a health care practitioner who is a solo practitioner; and

(ii) The name and license of the health care practitioner can be readily determined by the patient from a posted license or sign in the office; or

(2) The patient is being seen in:

(i) An operating room or other setting where surgical or other invasive procedures are performed; or

(ii) Any other setting where maintaining a sterile environment is medically necessary.

(e) (1) Each health occupations board may adopt regulations to implement this section.

(2) The regulations, when necessary for the patient or health care practitioner's safety or for therapeutic concerns may:

(i) Provide exemptions from wearing a badge or other form of identification; or

(ii) Allow use of the health care practitioner's first name only.

(3) A violation may be reported to the health occupations board that licensed or certified the health care practitioner.

(4) In response to a reported violation, a health occupations board may send an advisory letter or a letter of education to the health care practitioner.

(f) An advisory letter or letter of education sent by a health occupations board under this section is confidential and may not be publicly reported as a disciplinary action.

§1–301.

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

(b) (1) "Beneficial interest" means ownership, through equity, debt, or other means, of any financial interest.

(2) "Beneficial interest" does not include ownership, through equity, debt,

or other means, of securities, including shares or bonds, debentures, or other debt instruments:

(i) In a corporation that is traded on a national exchange or over the counter on the national market system;

(ii) That at the time of acquisition, were purchased at the same price and on the same terms generally available to the public;

(iii) That are available to individuals who are not in a position to refer patients to the health care entity on the same terms that are offered to health care practitioners who may refer patients to the health care entity;

(iv) That are unrelated to the past or expected volume of referrals from the health care practitioner to the health care entity; and

(v) That are not marketed differently to health care practitioners that may make referrals than they are marketed to other individuals.

(c) (1) "Compensation arrangement" means any agreement or system involving any remuneration between a health care practitioner or the immediate family member of the health care practitioner and a health care entity.

(2) "Compensation arrangement" does not include:

(i) Compensation or shares under a faculty practice plan or a professional corporation affiliated with a teaching hospital and comprised of health care practitioners who are members of the faculty of a university;

(ii) Amounts paid under a bona fide employment agreement between a health care entity and a health care practitioner or an immediate family member of the health care practitioner;

(iii) An arrangement between a health care entity and a health care practitioner or the immediate family member of a health care practitioner for the provision of any services, as an independent contractor, if:

1. The arrangement is for identifiable services;

2. The amount of the remuneration under the arrangement is consistent with the fair market value of the service and is not determined in a manner that takes into account, directly or indirectly, the volume or value of any referrals by the referring health care practitioner; and

3. The compensation is provided in accordance with an agreement that would be commercially reasonable even if no referrals were made to the health care provider;

(iv) Compensation for health care services pursuant to a referral from a health care practitioner and rendered by a health care entity, that employs or contracts with an immediate family member of the health care practitioner, in which the immediate family member's compensation is not based on the referral;

(v) An arrangement for compensation which is provided by a health care entity to a health care practitioner or the immediate family member of the health care practitioner to induce the health care practitioner or the immediate family member of the health care practitioner to relocate to the geographic area served by the health care entity in order to be a member of the medical staff of a hospital, if:

1. The health care practitioner or the immediate family member of the health care practitioner is not required to refer patients to the health care entity;

2. The amount of the compensation under the arrangement is not determined in a manner that takes into account, directly or indirectly, the volume or value of any referrals by the referring health care practitioner; and

3. The health care entity needs the services of the practitioner to meet community health care needs and has had difficulty in recruiting a practitioner;

(vi) Payments made for the rental or lease of office space if the payments are:

1. At fair market value; and

2. In accordance with an arm's length transaction;

(vii) Payments made for the rental or lease of equipment if the payments are:

1. At fair market value; and

2. In accordance with an arm's length transaction; or

(viii) Payments made for the sale of property or a health care practice if the payments are:

1. At fair market value;

2. In accordance with an arm's length transaction; and

3. The remuneration is provided in accordance with an agreement that would be commercially reasonable even if no referrals were made.

(d) "Direct supervision" means a health care practitioner is present on the premises where the health care services or tests are provided and is available for

consultation within the treatment area.

(e) "Faculty practice plan" means a tax–exempt organization established under Maryland law by or at the direction of a university to accommodate the professional practice of members of the faculty who are health care practitioners.

(f) "Group practice" means a group of two or more health care practitioners legally organized as a partnership, professional corporation, foundation, not–for–profit corporation, faculty practice plan, or similar association:

(1) In which each health care practitioner who is a member of the group provides substantially the full range of services which the practitioner routinely provides through the joint use of shared office space, facilities, equipment, and personnel;

(2) For which substantially all of the services of the health care practitioners who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

(3) In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined on an annual basis by members of the group.

(g) "Health care entity" means a business entity that provides health care services for the:

(1) Testing, diagnosis, or treatment of human disease or dysfunction; or

(2) Dispensing of drugs, medical devices, medical appliances, or medical goods for the treatment of human disease or dysfunction.

(h) "Health care practitioner" means a person who is licensed, certified, or otherwise authorized under this article to provide health care services in the ordinary course of business or practice of a profession.

(i) "Health care service" means medical procedures, tests and services provided to a patient by or through a health care entity.

(j) "Immediate family member" means a health care practitioner's:

(1) Spouse;

(2) Child;

(3) Child's spouse;

(4) Parent;

(5) Spouse's parent;

(6) Sibling; or

(7) Sibling's spouse.

(k) (1) "In–office ancillary services" means those basic health care services and tests routinely performed in the office of one or more health care practitioners.

(2) Except for a radiologist group practice or an office consisting solely of one or more radiologists, "in–office ancillary services" does not include:

(i) Magnetic resonance imaging services;

(ii) Radiation therapy services; or

(iii) Computer tomography scan services.

(l) (1) "Referral" means any referral of a patient for health care services.

(2) "Referral" includes:

(i) The forwarding of a patient by one health care practitioner to another health care practitioner or to a health care entity outside the health care practitioner's office or group practice; or

(ii) The request or establishment by a health care practitioner of a plan of care for the provision of health care services outside the health care practitioner's office or group practice.

§1–302.

(a) Except as provided in subsection (d) of this section, a health care practitioner may not refer a patient, or direct an employee of or person under contract with the health care practitioner to refer a patient to a health care entity:

(1) In which the health care practitioner or the practitioner in combination with the practitioner's immediate family owns a beneficial interest;

(2) In which the practitioner's immediate family owns a beneficial interest of 3 percent or greater; or

(3) With which the health care practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family has a compensation arrangement.

(b) A health care entity or a referring health care practitioner may not present or cause to be presented to any individual, third party payor, or other person a claim, bill, or other demand for payment for health care services provided as a result of a

referral prohibited by this subtitle.

(c) Subsection (a) of this section applies to any arrangement or scheme, including a cross-referral arrangement, which the health care practitioner knows or should know has a principal purpose of assuring indirect referrals that would be in violation of subsection (a) of this section if made directly.

(d) The provisions of this section do not apply to:

(1) A health care practitioner when treating a member of a health maintenance organization as defined in § 19-701 of the Health - General Article if the health care practitioner does not have a beneficial interest in the health care entity;

(2) A health care practitioner who refers a patient to another health care practitioner in the same group practice as the referring health care practitioner;

(3) A health care practitioner with a beneficial interest in a health care entity who refers a patient to that health care entity for health care services or tests, if the services or tests are personally performed by or under the direct supervision of the referring health care practitioner;

(4) A health care practitioner who refers in-office ancillary services or tests that are:

(i) Personally furnished by:

1. The referring health care practitioner;

2. A health care practitioner in the same group practice as the referring health care practitioner; or

3. An individual who is employed and personally supervised by the qualified referring health care practitioner or a health care practitioner in the same group practice as the referring health care practitioner;

(ii) Provided in the same building where the referring health care practitioner or a health care practitioner in the same group practice as the referring health care practitioner furnishes services; and

(iii) Billed by:

1. The health care practitioner performing or supervising the services; or

2. A group practice of which the health care practitioner performing or supervising the services is a member;

(5) A health care practitioner who has a beneficial interest in a health care

entity if, in accordance with regulations adopted by the Secretary:

(i) The Secretary determines that the health care practitioner's beneficial interest is essential to finance and to provide the health care entity; and

(ii) The Secretary, in conjunction with the Maryland Health Care Commission, determines that the health care entity is needed to ensure appropriate access for the community to the services provided at the health care entity;

(6) A health care practitioner employed or affiliated with a hospital, who refers a patient to a health care entity that is owned or controlled by a hospital or under common ownership or control with a hospital if the health care practitioner does not have a direct beneficial interest in the health care entity;

(7) A health care practitioner or member of a single specialty group practice, including any person employed or affiliated with a hospital, who has a beneficial interest in a health care entity that is owned or controlled by a hospital or under common ownership or control with a hospital if:

(i) The health care practitioner or other member of that single specialty group practice provides the health care services to a patient pursuant to a referral or in accordance with a consultation requested by another health care practitioner who does not have a beneficial interest in the health care entity; or

(ii) The health care practitioner or other member of that single specialty group practice referring a patient to the facility, service, or entity personally performs or supervises the health care service or procedure;

(8) A health care practitioner with a beneficial interest in, or compensation arrangement with, a hospital or related institution as defined in § 19-301 of the Health - General Article or a facility, service, or other entity that is owned or controlled by a hospital or related institution or under common ownership or control with a hospital or related institution if:

(i) The beneficial interest was held or the compensation arrangement was in existence on January 1, 1993; and

(ii) Thereafter the beneficial interest or compensation arrangement of the health care practitioner does not increase;

(9) A health care practitioner when treating an enrollee of a provider-sponsored organization as defined in § 19-7A-01 of the Health - General Article if the health care practitioner is referring enrollees to an affiliated health care provider of the provider-sponsored organization;

(10) A health care practitioner who refers a patient to a dialysis facility, if the patient has been diagnosed with end stage renal disease as defined in the Medicare regulations pursuant to the Social Security Act; or

(11) A health care practitioner who refers a patient to a hospital in which the health care practitioner has a beneficial interest if:

(i) The health care practitioner is authorized to perform services at the hospital; and

(ii) The ownership or investment interest is in the hospital itself and not solely in a subdivision of the hospital.

(e) A health care practitioner exempted from the provisions of this section in accordance with subsection (d) shall be subject to the disclosure provisions of § 1-303 of this subtitle.

§1–303.

(a) Except as provided in subsection (c) of this section and Title 12 of this article, a health care practitioner making a lawful referral shall disclose the existence of the beneficial interest in accordance with provisions of this section.

(b) Prior to referring a patient to a health care entity in which the practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family owns a beneficial interest, the health care practitioner shall:

(1) Except if an oral referral is made by telephone, provide the patient with a written statement that:

(i) Discloses the existence of the ownership of the beneficial interest or compensation arrangement;

(ii) States that the patient may choose to obtain the health care service from another health care entity; and

(iii) Requires the patient to acknowledge in writing receipt of the statement;

(2) Except if an oral referral is made by telephone, insert in the medical record of the patient a copy of the written acknowledgement;

(3) Place on permanent display a written notice that is in a typeface that is large enough to be easily legible to the average person from a distance of 8 feet and that is in a location that is plainly visible to the patients of the health care practitioner disclosing all of the health care entities:

(i) In which the practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family owns a beneficial interest; and

(ii) To which the practitioner refers patients; and

(4) Documents in the medical record of the patient that:

(i) A valid medical need exists for the referral; and

(ii) The practitioner has disclosed the existence of the beneficial interest to the patient.

(c) The provisions of this section do not apply to:

(1) A health care practitioner when treating a member of a health maintenance organization as defined in § 19-701 of the Health - General Article and the health care practitioner does not have a beneficial interest in the health care entity; or

(2) A health care practitioner who refers a patient:

(i) To another health care practitioner in the same group practice as the referring health care practitioner;

(ii) For in-office ancillary services; or

(iii) For health care services provided through or by a health care entity owned or controlled by a hospital.

(d) A health care practitioner who fails to comply with any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000.

§1–304.

(a) A health care practitioner shall disclose the name of a referring health care practitioner on each request for payment or bill submitted to a third party payor, including nonprofit health plans and fiscal intermediaries and carriers, that may be responsible for payment, in whole or in part, of the charges for a health care service, if the health care practitioner knows or has reason to believe:

(1) There has been a referral by a health care practitioner; and

(2) The referring health care practitioner has a beneficial interest in or compensation arrangement with the health care entity that is prohibited under § 1-302 of this subtitle.

(b) A health care practitioner who knows or should have known of the practitioner's failure to comply with the provisions of this section shall be subject to disciplinary action by the appropriate licensing board.

§1–305.

(a) If a referring health care practitioner, a health care entity, or other person furnishing health care services collects any amount of money that was billed in violation of § 1-302(b) of this subtitle and the referring health care practitioner, health care entity, or other person knew or should have known of the violation, the referring health care practitioner, health care entity, or other person is jointly and severally liable to the payor for any amounts collected.

(b) If a claim, bill, or other demand or request for payment for health care services is denied under § 19-712.4 of the Health - General Article or § 15-110 of the Insurance Article, the referring health care practitioner, health care entity, or other person furnishing the health care services may not submit a claim, bill, or other demand or request for payment to the person who received the health care services.

§1–306.

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

(2) "Anatomic pathology services" means:

(i) Histopathology or surgical pathology;

(ii) Cytopathology;

(iii) Hematology;

(iv) Subcellular pathology and molecular pathology; or

(v) Blood–banking services performed by pathologists.

(3) "Clinical laboratory" means a facility that provides anatomic pathology services.

(4) (i) "Cytopathology" means the microscopic examination of cells from fluids, aspirates, washings, brushings, or smears.

(ii) "Cytopathology" includes the microscopic examination of cells in a Pap test examination performed by a physician or under the direct supervision of a physician.

(5) "Hematology" means:

(i) The microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the direct supervision of a physician; or

(ii) Review of a peripheral blood smear if a physician or technologist requests that a pathologist review a blood smear.

(6) "Histopathology or surgical pathology" means gross and microscopic examination of organ tissue performed by a physician or under the direct supervision of a physician.

(7) (i) "Referring laboratory" means a clinical laboratory that sends a specimen to another clinical laboratory for histologic processing or anatomic pathology consultation.

(ii) "Referring laboratory" does not include a laboratory of a physician's office or a group practice that collects a specimen and orders, but does not perform, anatomic pathology services for patients.

(b) Nothing in this section may be construed to:

(1) Mandate the assignment of benefits for anatomic pathology services; or

(2) Prohibit a health care practitioner who performs or supervises anatomic pathology services and is a member of a group practice, as defined under § 1–301 of this subtitle, from reassigning the right to bill for anatomic pathology services to the group practice if the billing complies with the requirements of subsection (c) of this section.

(c) A clinical laboratory, a physician, or a group practice located in this State or in another state that provides anatomic pathology services for a patient in this State shall present, or cause to be presented, a claim, bill, or demand for payment for the services to:

(1) Subject to the limitations of § 19–710(p) of the Health – General Article, the patient directly unless otherwise prohibited by law;

(2) A responsible insurer or other third–party payor;

(3) A hospital, public health clinic, or nonprofit health clinic ordering the services;

(4) A referring laboratory;

(5) On behalf of the patient, a governmental agency or its public or private agent, agency, or organization; or

(6) A health care practitioner who orders but does not supervise or perform an anatomic pathology service on a Pap test specimen, provided the health care practitioner is in compliance with subsection (e)(2) of this section.

(d) Except as provided in subsection (e) of this section, a health care practitioner licensed under this article may not directly or indirectly charge, bill, or otherwise solicit payment for anatomic pathology services unless the services are performed:

(1) By the health care practitioner or under the direct supervision of the health care practitioner; and

(2) In accordance with the provisions for the preparation of biological products by service in the federal Public Health Service Act.

(e) This section does not prohibit:

(1) A referring laboratory from billing for anatomic pathology services or histologic processing if the referring laboratory must send a specimen to another clinical laboratory for histologic processing or anatomic pathology consultation; and

(2) A health care practitioner who takes a Pap test specimen from a patient and who orders but does not supervise or perform an anatomic pathology service on the specimen, from billing a patient or payor for the service, provided the health care practitioner complies with:

(i) The disclosure requirements of § 14–404(a)(16) of this article; and

(ii) The ethics policies of the American Medical Association that relate to referring physician billing for laboratory services.

(f) A patient, insurer, third–party payor, hospital, public health clinic, or nonprofit health clinic is not required to reimburse a health care practitioner who violates the provisions of this section.

§1–307.

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

(b) The appropriate regulatory board may investigate a claim under this subtitle in accordance with the investigative authority granted under this article.

§1–401.

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

(2) (i) "Alternative health care system" means a system of health care delivery other than a hospital or related institution.

(ii) "Alternative health care system" includes:

1. A health maintenance organization;

2. A preferred provider organization;

3. An independent practice association;

4. A community health center that is a nonprofit, freestanding ambulatory health care provider governed by a voluntary board of directors and that provides primary health care services to the medically indigent;

5. A freestanding ambulatory care facility as that term is defined in § 19–3B–01 of the Health – General Article; or

6. Any other health care delivery system that utilizes a medical review committee.

(3) "Medical review committee" means a committee or board that:

(i) Is within one of the categories described in subsection (b) of this section; and

(ii) Performs functions that include at least one of the functions listed in subsection (c) of this section.

(4) (i) "Provider of health care" means any person who is licensed by law to provide health care to individuals.

(ii) "Provider of health care" does not include any nursing institution that is conducted by and for those who rely on treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.

(5) "The Maryland Health Care Commission" means the State agency described in § 19–103 of the Health – General Article.

(6) "The Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13–503 of the Education Article.

(b) For purposes of this section, a medical review committee is:

(1) A regulatory board or agency established by State or federal law to license, certify, or discipline any provider of health care;

(2) A committee of the Faculty or any of its component societies or a committee of any other professional society or association composed of providers of health care;

(3) A committee appointed by or established in the Department or a local health department for review purposes;

(4) A committee appointed by or established in the Maryland Institute for Emergency Medical Services Systems;

(5) A committee of the medical staff or other committee, including any risk

management, credentialing, or utilization review committee established in accordance with § 19–319 of the Health – General Article, of a hospital, related institution, or alternative health care system, if the governing board of the hospital, related institution, or alternative health care system forms and approves the committee or approves the written bylaws under which the committee operates;

(6) A committee or individual designated by the holder of a pharmacy permit, as defined in § 12–101 of this article, that performs the functions listed in subsection (c) of this section, as part of a pharmacy's ongoing quality assurance program;

(7) Any person, including a professional standard review organization, who contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section;

(8) Any person who contracts with a provider of health care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of health care;

(9) An organization, established by the Maryland Hospital Association, Inc. and the Faculty, that contracts with a hospital, related institution, or alternative delivery system to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a hospital in meeting the requirements of § 19–319(e) of the Health – General Article;

(10) A committee appointed by or established in an accredited health occupations school;

(11) An organization described under § 14–501 of this article that contracts with a hospital, related institution, or health maintenance organization to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a health maintenance organization in meeting the requirements of Title 19, Subtitle 7 of the Health – General Article, the National Committee for Quality Assurance (NCQA), or any other applicable credentialing law or regulation;

(12) An accrediting organization as defined in § 14–501 of this article;

(13) A Mortality and Quality Review Committee established under § 5–801 or a Morbidity, Mortality, and Quality Review Committee established under § 18–107 of the Health – General Article;

(14) A center designated by the Maryland Health Care Commission as the Maryland Patient Safety Center that performs the functions listed in subsection (c)(1) of this section; or

(15) The Maryland Health Care Commission or its staff, when performing the functions listed in subsection (c) of this section, provided that the data or medical information under review is furnished to the Maryland Health Care Commission by another medical review committee.

(c) For purposes of this section, a medical review committee:

(1) Evaluates and seeks to improve the quality of health care provided by providers of health care;

(2) Evaluates the need for and the level of performance of health care provided by providers of health care;

(3) Evaluates the qualifications, competence, and performance of providers of health care; or

(4) Evaluates and acts on matters that relate to the discipline of any provider of health care.

(d) (1) Except as otherwise provided in this section, the proceedings, records, and files of a medical review committee are not discoverable and are not admissible in evidence in any civil action.

(2) The proceedings, records, and files of a medical review committee are confidential and are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being reviewed and evaluated by the medical review committee if requested by the following:

(i) The Department of Health and Mental Hygiene to ensure compliance with the provisions of § 19–319 of the Health – General Article;

(ii) A health maintenance organization to ensure compliance with the provisions of Title 19, Subtitle 7 of the Health – General Article and applicable regulations;

(iii) A health maintenance organization to ensure compliance with the National Committee for Quality Assurance (NCQA) credentialing requirements; or

(iv) An accrediting organization to ensure compliance with accreditation requirements or the procedures and policies of the accrediting organization.

(3) If the proceedings, records, and files of a medical review committee are

requested by any person from any of the entities in paragraph (2) of this subsection:

(i) The person shall give the medical review committee notice by certified mail of the nature of the request and the medical review committee shall be granted a protective order preventing the release of its proceedings, records, and files; and

(ii) The entities listed in paragraph (2) of this subsection may not release any of the proceedings, records, and files of the medical review committee.

(e) Subsection (d)(1) of this section does not apply to:

(1) A civil action brought by a party to the proceedings of the medical review committee who claims to be aggrieved by the decision of the medical review committee; or

(2) Any record or document that is considered by the medical review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(f) (1) A person shall have the immunity from liability described under § 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the medical review committee or for giving information to, participating in, or contributing to the function of the medical review committee.

(2) A contribution to the function of a medical review committee includes any statement by any person, regardless of whether it is a direct communication with the medical review committee, that is made within the context of the person's employment or is made to a person with a professional interest in the functions of a medical review committee and is intended to lead to redress of a matter within the scope of a medical review committee's functions.

(g) Notwithstanding this section, §§ 14–410 and 14–412 of this article apply to:

(1) The Board of Physicians; and

(2) Any other entity, to the extent that it is acting in an investigatory capacity for the Board of Physicians.

§1–402.

(a) In accordance with the Health Care Quality Improvement Act of 1986, the State elects not to be governed by the provisions of the Act that provide limitations on damages for suits brought under State law against medical review bodies and to physicians participating in professional peer review activities.

(b) For suits brought under State law, the State shall be governed by this subtitle.

§1–501.

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

(b) "Board" means any board established under this article.

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

(2) "Employee" does not include a State employee.

(d) "Supervisor" means any individual within an employer's organization who has the authority to direct and control the work performance of an employee, or who has managerial authority to take corrective action regarding the violation of a law, rule, or regulation of which the employee complains.

§1–502.

Subject to § 1-503 of this subtitle, an employer may not take or refuse to take any personnel action as reprisal against an employee because the employee:

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

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

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

§1–503.

The protection provided against a violation of § 1-502 of this subtitle shall only apply if:

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

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

(3) Before reporting to the board:

(i) The employee has reported the activity, policy, or practice to a supervisor or administrator of the employer in writing and afforded the employer a

reasonable opportunity to correct the activity, policy, or practice; or

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

§1–504.

(a) Any employee who is subject to a personnel action in violation of § 1-502 of this subtitle may institute a civil action in the county where:

(1) The alleged violation occurred;

(2) The employee resides; or

(3) The employer maintains its principal offices in the State.

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

§1–505.

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

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

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

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

(4) Reinstate full fringe benefits and seniority rights;

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

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

(i) The employer, if the employee prevails; or

(ii) The employee, if the court determines that the action was brought by the employee in bad faith and without basis in law or fact.

§1–506.

In any action brought under this subtitle, it is a defense that the personnel action

was based on grounds other than the employee's exercise of any rights protected under this subtitle.

§1–601.

In this subtitle, "health occupations board" means a board authorized to issue a license or certificate under this article.

§1–602.

(a) After consultation with the Secretary and to the extent permitted by existing administrative and fiscal resources, each health occupations board shall establish a disciplinary subcommittee.

(b) To the extent deemed practicable by each board, a disciplinary subcommittee shall:

(1) Be responsible for the investigation of complaints;

(2) Determine whether the health occupations board should bring charges against a licensee or certificate holder; and

(3) Participate in preadjudication case resolution conferences resulting from the charges.

§1–603.

(a) Except as provided in subsection (b) of this section, a health occupations board may not bring charges against a licensee or certificate holder based solely on events contained in a complaint the board receives more than 6 years after:

(1) The day the complainant actually discovered the facts that form the basis of the complaint; or

(2) The day when a reasonable person exercising due diligence should have discovered the facts that form the basis of the complaint.

(b) This section does not apply to a complaint based on:

(1) Criminal convictions or sexual misconduct or other similar boundary violations;

(2) Reciprocal discipline matters;

(3) Ongoing substance abuse;

(4) Fraudulent concealment of material information; or

(5) Acts that occur while a patient is a minor.

§1–604.

(a) If a statute authorizes a health occupations board to use a system of peer review in standard of care cases and the peer reviewer or peer reviewers determine that there has been a violation of a standard of care, the board shall provide the licensee or certificate holder under investigation with an opportunity to review the final peer review report and provide the board with a written response within 10 business days after the report was sent to the licensee or certificate holder.

(b) If a health occupations board receives a written response to a final peer review report, the board shall consider both the report and response before taking any action.

§1–605.

(a) As an alternative to a formal hearing, each health occupations board may establish a program for licensees or certificate holders who commit a single standard of care violation.

(b) A program established under this section shall provide training, mentoring, or other forms of remediation as determined by the health occupations board.

(c) A health occupations board may refer a licensee to the program.

§1–606.

(a) Each health occupations board shall adopt specific sanctioning guidelines, including:

(1) A range of sanctions that is based on historical data or a normative process for each type of violation; and

(2) A list of mitigating and aggravating circumstances that may be used to decide if a sanction falls within or outside the established range of sanctions.

(b) Sanctioning guidelines adopted under this section shall:

(1) Conform to a general framework or incorporate a common set of elements; and

(2) Be used as a guide for sanctioning licensees and certificate holders in formal and informal proceedings.

(c) (1) To the extent a health occupations board departs from the sanctioning guidelines adopted under this section, the board shall state its reasons.

(2) A departure from the guidelines alone is not grounds for any hearing or appeal of any board action.

§1–607.

Each health occupations board shall post on the board's Web site each final, public order for a disciplinary sanction issued to a licensee or certificate holder.

§1–608.

(a) The Secretary shall monitor the timeliness of complaint resolution for each health occupations board.

(b) (1) On or before October 1, 2012, the Secretary shall establish goals for the timeliness of complaint resolution for all of the boards, a group of boards, or a specific board, including:

(i) After a complaint is filed with a board, a goal for the length of time a board has to complete an investigation and determine whether to bring charges;

(ii) After a board makes a decision to charge, a goal for the length of time a board has to issue charges;

(iii) After a board issues charges, a goal for the length of time a board has to schedule a hearing; and

(iv) After the date of an opinion from the Office of Administrative Hearings, or the final day of any hearing, a goal for the length of time a board has to issue a final decision.

(2) When determining the time frames for complaint resolution, the Secretary shall consider:

(i) The administrative and fiscal constraints of each health occupations board; and

(ii) The recommendations from the Task Force on Discipline of Health Care Professionals and Improved Patient Care.

(3) The goals established by the Secretary in accordance with this section are nonbinding and failure to meet the goals may not be used as grounds for any hearing or appeal of any board action.

(c) On or before October 1, 2012, the Secretary of Health and Mental Hygiene shall, in accordance with § 2–1246 of the State Government Article, report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on the goals for the timeliness of complaint resolution established under this section.

§1–609.

(a) Each health occupations board shall collaborate with the Office of the Attorney General to make guidelines available to the public concerning the separate roles for assistant attorneys general as counsel and prosecutor for the board.

(b) Noncompliance with the guidelines made available under this section may not be used as grounds for any hearing or appeal of any board action.

§1–701.

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

(b) "Health occupations board" means a board authorized to issue a license, certificate, or registration under this article.

(c) (1) "Military spouse" means the spouse of a service member or veteran.

(2) "Military spouse" includes a surviving spouse of:

(i) A veteran; or

(ii) A service member who died within 1 year before the date on which the application for a license, certificate, or registration is submitted.

(d) "Service member" means an individual who is an active duty member of:

(1) The armed forces of the United States;

(2) A reserve component of the armed forces of the United States; or

(3) The National Guard of any state.

(e) (1) "Veteran" means a former service member who was discharged from active duty under circumstances other than dishonorable within 1 year before the date on which the application for a license, certificate, or registration is submitted.

(2) "Veteran" does not include an individual who has completed active duty and has been discharged for more than 1 year before the application for a license, certificate, or registration is submitted.

§1–702.

(a) In calculating an individual's years of practice in a health occupation, each health occupations board shall give credit to the individual for all relevant experience as a service member.

(b) Each health occupations board shall credit any training and education provided by the military and completed by a service member toward any training or

education requirements for licensure, certification, or registration if the training or education is determined by the health occupations board to be:

(1) Substantially equivalent to the training or education required by the health occupations board; and

(2) Not otherwise contrary to any other licensing requirement.

§1–703.

A health occupations board may allow a licensee or certificate holder who is a member of an armed force deployed outside the United States or its territories to:

(1) Renew the license or certificate after the expiration of the renewal period without payment of a penalty or reinstatement fee if the late renewal is a direct result of the deployment; and

(2) Complete any continuing education or continuing competency requirements or criminal history records check required for renewal within a reasonable time after renewing the license or certificate.

§1–704.

(a) (1) Each health occupations board shall develop a procedure by which an individual who applies for a license, certificate, or registration can notify the board that the individual is a service member, veteran, or military spouse.

(2) A health occupations board may satisfy the requirement of paragraph (1) of this subsection by including a check–off box on a license, certificate, or registration application form.

(b) For each applicant who is a service member, veteran, or military spouse, a health occupations board shall assign to the applicant an advisor to assist the individual with the application process.

(c) (1) Each health occupations board shall expedite the process for the licensure, certification, or registration of a service member, veteran, or military spouse.

(2) If a service member, veteran, or military spouse meets the requirements for licensure, certification, or registration, a health occupations board shall issue the license, certificate, or registration within 15 business days after receiving a completed application.

(d) If a health occupations board determines that a service member, veteran, or military spouse does not meet the education, training, or experience requirements for licensure, certification, or registration, a representative of the board shall assist the service member, veteran, or military spouse in identifying:

(1) Programs that offer relevant education or training; or

(2) Ways of obtaining needed experience.

§1–705.

Each health occupations board shall publish prominently on its Web site information on:

(1) The expedited licensing process available to service members, veterans, and military spouses under § 1–704 of this subtitle; and

(2) Any assistance and services related to licensure, certification, or registration provided by the board to service members, veterans, and military spouses.

§1–706.

Each health occupations board may adopt regulations to carry out this subtitle.

§1A–101.

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

(b) "Acupuncture" means a form of health care, based on a theory of energetic physiology, that describes the interrelationship of the body organs or functions with an associated point or combination of points.

(c) "Auricular detoxification" means an acupuncture technique involving the needling of the external auricle of the human ear for the purpose of assisting a person who is undergoing detoxification to remove addictive substances from the body and restoring health.

(d) "Board" means the State Acupuncture Board.

(e) "License" means, unless the context requires otherwise, a license issued by the Board to practice acupuncture.

(f) (1) "Practice acupuncture" means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health.

(2) "Practice acupuncture" includes:

(i) Stimulation of points of the body by the insertion of acupuncture needles;

(ii) The application of moxibustion; and

(iii) Manual, mechanical, thermal, or electrical therapies only when

performed in accordance with the principles of oriental acupuncture medical theories.

(g) "Supervision" means:

(1) A formalized professional relationship between a licensed acupuncturist and an individual performing auricular detoxification that provides evaluation and direction of the individual to adequately ensure the safety and welfare of clients during the course of treatment; and

(2) As defined by the Board in regulations:

(i) Periodic direct supervision where the licensed acupuncturist is present or on-site during treatment; and

(ii) General supervision where the licensed acupuncturist is neither present nor on-site during treatment.

§1A–102.

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(b) This title does not limit the right of a physician authorized under Title 14 of this article to perform acupuncture as it is defined in that title.

(c) This title does not limit a dentist licensed under Title 4 of this article who is authorized to perform acupuncture in connection with the practice of dentistry.

(d) This title does not limit a veterinarian licensed under the Agriculture Article who performs acupuncture on animals in connection with the practice of veterinary medicine.

§1A–201.

There is a State Acupuncture Board in the Department.

§1A–202.

(a) (1) The Board consists of seven members appointed by the Governor.

(2) Of the seven members:

(i) Five shall be licensed acupuncturists appointed from a list submitted as provided in subsection (c) of this section; and

(ii) Two shall be consumer members.

(b) Each acupuncturist member shall:

(1) Be a resident of the State; and

(2) For at least 5 years immediately before appointment have been engaged in the practice of acupuncture in the State.

(c) For each vacancy of an acupuncture member, the Board shall compile a list of names to be submitted to the Governor in the following manner:

(1) The Board shall notify all licensed acupuncturists in the State of the vacancy to solicit nominations to fill the vacancy;

(2) Each professional association of acupuncturists in the State shall nominate at least one person for every two vacancies that exist; and

(3) Each educational institution that provides acupuncture training in the State shall nominate at least one person for every two vacancies that exist.

(d) The consumer members:

(1) Shall be members of the general public;

(2) May not be or ever have been an acupuncturist or in training to become an acupuncturist;

(3) May not have a household member who is an acupuncturist or in training to become an acupuncturist;

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

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

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

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

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1994.

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

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

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

(h) The Governor may remove a member for incompetence or misconduct.

§1A–203.

From among its members, the Board shall elect officers in a manner and for terms that the Board determines.

§1A–204.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall meet at least once every 3 months, at the times and places that it determines.

(c) Each member of the Board is entitled to:

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

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

(d) The Board may employ a staff in accordance with the State budget.

§1A–205.

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

(1) Regulations to carry out the provisions of this title; and

(2) A code of ethics for licensees.

(b) In addition to the duties set forth elsewhere in this title, the Board shall keep:

(1) Records and minutes necessary for the orderly conduct of business; and

(2) A list of each currently licensed acupuncturist.

(c) In addition to the duties set forth elsewhere in this title, the Board shall investigate any alleged violation of this title.

§1A–206.

(a) There is an Acupuncture Board Fund.

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

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

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

(2) The Comptroller shall distribute the fees to the Acupuncture Board Fund.

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

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

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

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

(f) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for a lawful purpose authorized under this article.

§1A–207.

A person shall have immunity from the liability described under § 5–724 of the Courts Article for giving information to the Board or otherwise participating in its activities.

§1A–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice acupuncture in this State.

(b) This section does not apply to:

(1) An individual employed by the federal government as an acupuncturist while practicing within the scope of that employment;

(2) A student, trainee, or visiting teacher who is designated as a student, trainee, or visiting teacher while participating in a course of study or training under

the supervision of a licensed acupuncturist in a program that is approved by the Board or the State Board of Higher Education; or

(3) An individual authorized under § 1A-316 of this subtitle to perform auricular detoxification under the direct supervision of an acupuncturist licensed by the Board.

§1A–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character;

(2) Be at least 18 years old;

(3) Demonstrate competence in performing acupuncture by meeting one of the following standards for education or training:

(i) Graduation from a course of training of at least 1,800 hours in acupuncture, including 300 clinical hours, that is:

1. Approved by the Maryland Higher Education Commission;

2. Accredited by the Accreditation Commission for Acupuncture and Oriental Medicine; or

3. Found by the Board to be equivalent to a course approved by the Accreditation Commission for Acupuncture and Oriental Medicine; or

(ii) Achievement of a:

1. Diplomate in acupuncture from the National Certification Commission for Acupuncture and Oriental Medicine; or

2. Passing score on an examination that is determined by the Board to be equivalent to the examination given by the National Certification Commission for Acupuncture and Oriental Medicine;

(4) Demonstrate the ability to communicate in the English language; and

(5) Meet any other qualifications that the Board establishes in regulations.

§1A–303.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§1A–304.

The Board shall issue a license to any applicant who meets the requirements of this title and the regulations adopted by the Board under this title.

§1A–305.

Except as otherwise provided in this title, a license authorizes the licensee to practice acupuncture while the license is effective.

§1A–306.

(a) (1) The Board shall provide for the term and renewal of licenses under this section.

(2) The term of a license may not be more than 3 years.

(3) A license expires at the end of its term, unless the license is renewed for a term as provided by the Board.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.

(d) 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.

(e) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(f) An acupuncturist has a grace period of 30 days after the acupuncturist's license expires in which to renew it retroactively, if the acupuncturist:

(1) Otherwise is entitled to have the license renewed; and

(2) Pays to the Board the renewal fee and any late fee set by the Board.

(g) A licensee may advertise only as permitted by regulations adopted by the Board.

§1A–307.

(a) (1) The Board shall place a licensee on inactive status if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board may not place a licensee on inactive status for more than 6 years.

(b) The Board shall reactivate a license to an individual who is on inactive status if the individual complies with the renewal requirements that exist at the time the individual changes from inactive to active status.

(c) The Board may reinstate the license of a former licensee who has failed to renew the license for any reason if the former licensee:

(1) Meets the continuing education requirements of § 1A-306 of this subtitle for each year that the license has lapsed;

(2) Applies for reinstatement more than 30 days after the license renewal deadline;

(3) Submits to the Board an application for reinstatement on the form required by the Board; and

(4) Pays to the Board a reinstatement fee and a renewal fee set by the Board.

(d) The Board may not assess the reinstatement fee required under subsection (c) of this section on an individual who has been on inactive status for more than 6 years if the individual can provide documentation of maintaining an active license in another state.

(e) An individual who has been previously licensed by the Board shall obtain a license only by means of license renewal or reinstatement as provided in this article and in regulations adopted by the Board.

§1A–308.

(a) Unless the Board agrees to accept the surrender of a license, a licensee 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.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§1A–309.

Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny a license to practice acupuncture to any applicant, 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:

(i) Uses a license; or

(ii) Solicits or advertises;

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

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

(5) 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 other drug that is in excess of therapeutic amounts or without a valid medical indication;

(6) Knowingly violates any provision of this title or any rule or regulation of the Board adopted under this title;

(7) 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;

(8) Practices acupuncture with an unauthorized person or assists an unauthorized person in the practice of acupuncture;

(9) Is disciplined by the licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

(10) Willfully makes or files a false report or record in the practice of acupuncture;

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

(12) Submits a false statement to collect a fee;

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

(14) Fails to display the notice required under § 1A-313 of this subtitle;

(15) Fails to cooperate with a lawful investigation conducted by the Board;

(16) Commits any act of gross negligence, incompetence, or misconduct in the practice of acupuncture;

(17) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of acupuncture; or

(18) Fails to comply with any Board order.

§1A–310.

(a) Except as provided in the Administrative Procedure Act, before the Board takes any action under § 1A-309 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under

this title and any hearings or proceedings before it.

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(f) If, after a hearing, an individual is found in violation of § 1A-309 of this subtitle, the individual shall pay the costs of the hearing as specified in a regulation adopted by the Board.

§1A–310.1.

(a) If after a hearing under § 1A–310 of this subtitle the Board finds that there are grounds under § 1A–309 of this subtitle to place any licensee on probation, reprimand any licensee, or suspend or revoke a license, the Board may impose a penalty not exceeding $5,000:

(1) Instead of placing the licensee on probation, reprimanding the licensee, or suspending or revoking the license; or

(2) In addition to placing the licensee on probation, reprimanding the licensee, or suspending or revoking the license.

(b) The Board shall adopt regulations to set standards for the imposition of penalties under this section.

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

§1A–311.

(a) Except as provided in this section for an action under § 1A–309 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined by the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 1A–309 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided by the Administrative Procedure Act.

§1A–312.

On the application of an individual whose license has been suspended or revoked, the Board, on the affirmative vote of a majority of its full authorized membership, may reinstate a suspended or revoked license.

§1A–313.

If an acupuncturist is engaged in the private practice of acupuncture in this

State, the acupuncturist shall display the notice developed under § 1-207 of this article conspicuously in each office where the acupuncturist is engaged in practice.

§1A–314.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of acupuncture; or

(2) Conduct that is a ground for disciplinary action under § 1A-309 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the act sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of acupuncture under § 1A-401 of this title or disciplinary action under § 1A-309 of this subtitle.

§1A–314.1.

The Board may issue a cease and desist order or obtain injunctive relief for a violation of any provision of § 1A–401 or § 1A–402 of this title.

§1A–315.

(a) While investigating an allegation against a licensee under this title, the Board may require the licensee to submit to an appropriate examination by a health care provider designated by the Board if the Board has reason to believe that the licensee may cause harm to a person.

(b) In return for the privilege given to a licensee to practice acupuncture in the State, the licensee is deemed to have:

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

(2) Waived any claim of privilege as to the testimony or report of a health care provider who examines the licensee.

(c) The failure or refusal of the licensee to submit to an examination required under this section is prima facie evidence of the licensee's inability to practice acupuncture competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

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

§1A–316.

(a) An acupuncturist licensed by the Board may provide supervision to as many individuals performing auricular detoxification as permitted by Board regulations, if each individual:

(1) Is:

(i) An alcohol, substance abuse, or chemical dependency counselor who is:

1. Certified under Title 17, Subtitle 4 of this article to practice as a certified professional counselor–alcohol and drug, certified associate counselor–alcohol and drug, or certified supervised counselor–alcohol and drug; or

2. Licensed to practice clinical alcohol and drug counseling or clinical professional counseling under Title 17, Subtitle 3 of this article;

(ii) A nurse licensed to practice under Title 8, Subtitle 3 of this article;

(iii) A psychologist licensed to practice under Title 18, Subtitle 3 of this article who works directly with the alcohol– or drug–addicted clients of a chemical dependency program in the counseling or treatment of those clients; or

(iv) A licensed certified social worker–clinical licensed to practice under Title 19, Subtitle 3 of this article who works directly with the alcohol– or drug–addicted clients of a chemical dependency program in the counseling or treatment of those clients;

(2) Provides documentation to the Board of the successful completion of a training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that:

(i) Is approved by the Board; and

(ii) Meets or exceeds the standards of the National Acupuncture Detoxification Association;

(3) Does not represent to the public, by description of services, methods, or procedures, or otherwise, that the individual is authorized to practice acupuncture in this State;

(4) Agrees to be subject to the Board for any violation of § 1A–309 of this subtitle; and

(5) Performs auricular detoxification only:

(i) Within the context of a clinical substance abuse program;

(ii) In hospitals, prisons, outpatient clinics, or other settings approved by the Board; and

(iii) Under the supervision of an acupuncturist licensed by the State.

(b) The Board shall adopt regulations to carry out the provisions of this section, including regulations that cover:

(1) The qualifications, training, and monitoring of individuals who perform auricular detoxification under the supervision of an acupuncturist licensed by the Board;

(2) The number of individuals performing auricular detoxification to which an acupuncturist licensed by the Board may provide supervision; and

(3) The requirements for the approval of a clinical substance abuse program or a setting where an individual may perform auricular detoxification under the supervision of an acupuncturist licensed by the Board.

(c) (1) Except as otherwise provided in this section, an individual may not practice, attempt to practice, or offer to practice auricular detoxification in this State.

(2) An acupuncturist who is licensed by the Board is responsible for assuring the Board that the individual performing auricular detoxification under the supervision of the acupuncturist complies with all applicable laws, regulations, and standards of practice.

(3) If the individual performing auricular detoxification under this section violates any applicable laws, regulations, or standards of practice, the Board may discipline:

(i) The individual performing auricular detoxification; and

(ii) The supervising acupuncturist licensed by the Board for

unprofessional conduct under § 1A-309 of this subtitle.

§1A–401.

Except as provided in this title, a person may not practice, attempt to practice, or offer to practice acupuncture in this State unless licensed by the Board.

§1A–402.

(a) Unless authorized to practice acupuncture under this title, a person may not represent to the public, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice acupuncture in this State.

(b) Unless authorized to practice acupuncture under this title, a person may not use the words or terms "acupuncturist", "licensed acupuncturist", "L.Ac.", or any other words, letters, or symbols with the intent to represent that the person is authorized to practice acupuncture.

§1A–403.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 3 years or both.

(b) A person who violates § 1A–401 or § 1A–402 of this subtitle is subject to a civil fine not to exceed $50,000 to be assessed by the Board in accordance with regulations adopted by the Board.

§1A–501.

This title may be cited as the "Maryland Acupuncture Act".

§1A–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2025.

§2–101.

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

(b) "Audiologist" means an individual who practices audiology.

(c) "Board" means the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech–Language Pathologists.

(d) "Direct supervision" means on–site and personal oversight by an individual licensed under this title who assumes responsibility for another individual's conduct

whether it is consistent or fails to be consistent with professional standards and the provisions of this title.

(e) "Hearing aid" means any FDA approved instrument or device that is designed for or represented as being capable of improving or correcting impaired human hearing.

(f) "Hearing aid dispenser" means an individual who practices hearing aid dispensing.

(g) "Hearing aid dispenser supervisor" means a licensed hearing aid dispenser or licensed audiologist who supervises a limited licensee who is studying hearing aid dispensing for the purpose of becoming eligible to sit for the licensure examination.

(h) (1) "Hearing aid dispensing" means performing, conducting, and interpreting hearing assessment procedures to determine the type and extent of hearing loss for the purpose of:

(i) Fitting suitable hearing instruments;

(ii) Selecting suitable hearing instruments;

(iii) Programming a hearing aid by selecting and determining the frequency response, compression, output, gain, or other parameters of the hearing aid for initial wear by an individual or any required alterations throughout the use of the hearing aid;

(iv) Making ear molds or ear impressions; and

(v) Providing appropriate counseling.

(2) "Hearing aid dispensing" includes:

(i) An act pertaining to the selling, renting, leasing, or delivering of a hearing instrument; and

(ii) Providing maintenance or repair services for a hearing aid.

(i) "Hearing aid establishment" means an establishment that offers, advertises, or performs hearing aid dispensing.

(j) (1) "License" means, unless the context requires otherwise, a license issued by the Board to practice audiology, hearing aid dispensing, or speech–language pathology, or to assist in the practice of speech–language pathology.

(2) "License" includes, unless the context requires otherwise, a limited license.

(k) "Licensed audiologist" means, unless the context requires otherwise, an

audiologist who is licensed by the Board to practice audiology.

(l) "Licensed hearing aid dispenser" means, unless the context requires otherwise, a hearing aid dispenser who is licensed by the Board to practice hearing aid dispensing.

(m) "Licensed speech–language pathologist" means, unless the context requires otherwise, a speech–language pathologist who is licensed by the Board to practice speech–language pathology.

(n) "Licensed speech–language pathology assistant" means, unless the context requires otherwise, a speech–language pathology assistant who is licensed by the Board to assist a licensed speech–language pathologist in the practice of speech–language pathology.

(o) "Limited license" means a license issued by the Board to practice audiology, hearing aid dispensing, or speech–language pathology, or to assist in the practice of speech–language pathology as limited by §§ 2–310 through 2–310.3 of this title.

(p) "Oral competency" means the demonstration of general English–speaking proficiency by receiving a passing score on a standardized test that the Board has approved by regulation.

(q) (1) "Practice audiology" means to apply the principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction that relate to the development and disorders of hearing, vestibular functions, and related language and speech disorders, to prevent or modify the disorders or assist individuals in hearing and auditory and related skills for communication.

(2) "Practice audiology" includes the fitting or selling of hearing aids.

(r) "Practice speech–language pathology" means to apply the principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction that relate to the development and disorders of speech, voice, swallowing, and related language and hearing disorders, to prevent or modify the disorders or to assist individuals in cognition–language and communication skills.

(s) "Speech–language pathologist" means an individual who practices speech–language pathology.

(t) "Speech–language pathology assistant" means an individual who:

(1) Meets the minimum qualifications established by the Board that shall be less stringent than those established by this title to license speech–language pathologists;

(2) Does not work independently;

(3) Works under the direct supervision of a speech–language pathologist licensed under this title.

(u) "Telehealth" means the use of telecommunications and information technologies for the exchange of information from one site to another for the provision of health care to an individual from a provider through hardwire or Internet connection.

§2–102.

(a) This title applies to an individual who practices audiology, hearing aid dispensing, or speech–language pathology, or assists in the practice of speech–language pathology in the State.

(b) This title does not:

(1) Limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article;

(2) Prohibit an individual from practicing any other profession that the individual is authorized to practice under the laws of this State; or

(3) Limit the right of a physician who is authorized to practice medicine under the laws of the State to treat the human ear or fit hearing aids.

§2–201.

There is a State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists in the Department.

§2–202.

(a) (1) The Board consists of 13 members.

(2) Of the 13 Board members:

(i) 3 shall be licensed audiologists who have at least 5 years' paid work experience in audiology and are currently practicing audiology in the State;

(ii) 3 shall be licensed speech–language pathologists who have at least 5 years' paid work experience in speech–language pathology and are currently practicing speech–language pathology in the State;

(iii) 2 shall be physicians who shall be voting members of the Board, except on proposals that expand or restrict the practice of audiology as defined in § 2–101(q) of this title or that expand or restrict the practice of speech–language pathology as defined in § 2–101(r) of this title, and who:

1. Are licensed to practice medicine in the State;

2. Hold a certificate of qualification from the American Board of Otolaryngology; and

3. Are currently practicing in the State;

(iv) 2 shall be consumer members, 1 of whom shall be a consumer of services provided by an individual licensed by the Board; and

(v) 3 shall be licensed hearing aid dispensers who have at least 5 years' paid work experience in dispensing hearing aids and are currently practicing hearing aid dispensing in the State.

(3) The Governor shall appoint the physician members, with the advice of the Secretary, from a list submitted to the Secretary and the Governor by the Maryland Society of Otolaryngology with the approval of the Medical and Chirurgical Faculty of the State of Maryland. There shall be at least 3 names on the list.

(4) The Governor shall appoint the speech–language pathologist members, with the advice of the Secretary, from a list submitted to the Secretary and the Governor by the Maryland Speech–Language and Hearing Association. The number of names on the list shall be at least 3 times the number of vacancies.

(5) (i) Subject to subparagraph (ii) of this paragraph, the Governor shall appoint the audiologist members, with the advice of the Secretary, from a list submitted to the Secretary and the Governor, jointly by the Maryland Academy of Audiology and the Maryland Speech–Language and Hearing Association. The number of names on the list shall be at least 3 times the number of vacancies.

(ii) For each audiologist vacancy, the Maryland Academy of Audiology and the Maryland Speech–Language and Hearing Association shall:

1. Notify all licensed audiologists in the State of the vacancy to solicit nominations to fill the vacancy; and

2. Conduct a balloting process by which every licensed audiologist in the State is eligible to vote on the names of the licensed audiologists to be submitted to the Secretary and the Governor.

(6) (i) The Governor shall appoint the hearing aid dispenser members, with the advice of the Secretary, from a list submitted to the Secretary and the Governor by the Maryland members of the Hearing Society of Maryland, Washington, D.C., and Delaware.

(ii) The number of names on the list shall be at least 3 times the number of vacancies.

(7) (i) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(ii) 1. The Governor shall appoint the consumer member who is a consumer of services provided by an individual licensed by the Board from a list submitted to the Secretary and the Governor by the Department of Disabilities.

2. The Department of Disabilities shall solicit nominees from associations representing hearing or communication impaired individuals in the State.

(b) Each member of the Board:

(1) Shall be a resident of this State; but

(2) May not be an employee of the Department.

(c) The consumer members of the Board:

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

(2) May not be or ever have been an audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant, or in training to become an audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant;

(3) May not have a household member who is an audiologist, hearing aid dispenser, or speech–language pathologist or in training to become an audiologist, hearing aid dispenser, or speech–language pathologist;

(4) May not participate or ever have participated in a commercial or professional field related to audiology, hearing aid dispensing, or speech–language pathology;

(5) May not have a household member who participates in a commercial or professional field related to audiology, hearing aid dispensing, or speech–language pathology; and

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

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

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1992.

(3) At the end of a term, a member continues to serve until a successor is

appointed and qualifies.

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

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

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

(g) (1) The Governor may remove a member for incompetence or misconduct.

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

(h) A member of the Board may not serve as an employee, an elected officer, or a director of a professional or trade association that has members who are under the authority of the Board.

§2–203.

(a) From among its members, the Board annually shall elect a chairman.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§2–204.

(a) A majority of the members currently serving on the Board, with at least 1 member of each profession regulated under the provisions of this title being present, is a quorum to do business.

(b) The Board shall meet at least once a year, at the times and places that it determines.

(c) In accordance with the budget of the Board, each member of the Board is entitled to:

(1) Compensation, at a rate determined by the Board, for each day on which the member is engaged in the duties of the member's office; and

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

(d) The Board may employ a staff in accordance with the budget of the Board.

(e) The Board shall appoint an executive director who:

(1) Shall serve at the pleasure of the Board;

(2) Is the executive officer of the Board; and

(3) Has the powers and duties assigned by the Board.

§2–205.

In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To adopt and publish codes of ethics for the practices of audiology, hearing aid dispensing, and speech–language pathology, and the assistance in the practice of speech–language pathology;

(3) To adopt an official seal;

(4) To hold hearings and keep records and minutes necessary for the orderly conduct of business;

(5) To issue a list annually of the names of all individuals licensed by the Board;

(6) To send any notice that the Board is required to give to a licensee under this title to the last known address given to the Board by the licensee; and

(7) To adopt regulations governing the use of telehealth communications by audiologists, hearing aid dispensers, and speech–language pathologists.

§2–205.1.

(a) While investigating an allegation against a licensee under this title, the Board may require the licensee to submit to an appropriate examination by a health care provider designated by the Board if the Board has reason to believe that the licensee may cause harm to a person affected by the licensee's practice of audiology, hearing aid dispensing, or speech–language pathology, or assistance in the practice of speech–language pathology.

(b) In return for the privilege given to a licensee to practice audiology, hearing aid dispensing, or speech–language pathology, or assist in the practice of speech–language pathology in the State, the licensee is deemed to have:

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

(2) Waived any claim of privilege as to the testimony or reports of a health care provider who examines the licensee.

(c) The failure or refusal of the licensee to submit to an examination required under subsection (b) of this section is prima facie evidence of the licensee's inability to practice audiology, hearing aid dispensing, or speech–language pathology, or assist in the practice of speech–language pathology competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

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

§2–206.

(a) There is a State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Fund.

(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 produce funds to approximate the cost of maintaining the Board.

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

(c) In accordance with the budget of the Board, the Board may pay expenses incurred in carrying out the provisions of this title.

(d) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Fund.

(e) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

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

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

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

(f) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§2–207.

A person shall have immunity from the liability described under § 5–703 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§2–301.

(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice audiology, hearing aid dispensing, or speech–language pathology, or assist in the practice of speech–language pathology in this State.

(2) On or after October 1, 2007, an individual hired by a Maryland local public school system, State–approved nonpublic school for handicapped children, or chartered educational institution of the State to practice speech–language pathology or assist in the practice of speech–language pathology, shall be licensed by the Board.

(b) (1) This section does not apply:

(i) To an individual employed by any agency of the federal government performing the duties of that employment;

(ii) To an individual continuously employed to practice audiology since June 30, 1988 by a county public school system, a State approved nonpublic school for handicapped children, a chartered institution of the State, or the State Department of Education while performing the duties of that employment;

(iii) To an individual employed by a Maryland local public school system, State approved nonpublic school for handicapped children, or chartered educational institution of the State or the State Department of Education to practice speech–language pathology continuously since on or before September 30, 2007, while performing the duties of that employment;

(iv) To a student or trainee in audiology or speech–language pathology while pursuing a supervised course of study at an accredited university or college or a recognized training center while the student is obtaining clinical practicum hours; or

(v) To a volunteer while working in free speech and hearing

screening programs.

(2) The Board may allow an audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant licensed in another state to practice audiology, hearing aid dispensing, or speech–language pathology, or assist in the practice of speech–language pathology in this State without a license if the audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant has a completed application for a license pending before the Board.

§2–302.

(a) To qualify for a license to practice audiology, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall:

(1) On or before September 30, 2007:

(i) Hold a master's or doctoral degree in audiology from an accredited educational institution which incorporates the academic course work and the minimum hours of supervised clinical training required by the regulations adopted by the Board; and

(ii) Have completed the period of supervised postgraduate professional practice in audiology as specified by the regulations adopted by the Board;

(2) On or after October 1, 2007, hold a doctoral degree in audiology from an accredited educational institution which incorporates the academic course work and the minimum hours of supervised clinical training required by the regulations adopted by the Board; or

(3) Qualify for a license under § 2–305 of this subtitle.

(d) Except as otherwise provided in this title, the applicant shall:

(1) Pass an examination in audiology required by the regulations adopted by the Board; and

(2) Complete training consistent with the standards established by:

(i) The Accreditation Commission for Audiology Education; or

(ii) The Counsel of Academic Accreditation.

(e) The applicant shall demonstrate oral competency.

§2–302.1.

(a) On or after January 1, 2008, to qualify for an initial license to practice hearing aid dispensing, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall:

(1) Be a graduate of an accredited 2–year postsecondary program with a diploma or degree; and

(2) Prior to taking the State licensing examination, provide proof of successful completion of the International Hearing Society Curriculum entitled "Distance Learning For Professionals in Hearing Health Sciences" or an equivalent course approved by the Board.

(d) (1) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(2) Except for an applicant who holds a valid license to provide hearing aid dispenser services in another state, the applicant shall obtain 6 months' training under the supervision of a licensed hearing aid dispenser or licensed audiologist prior to taking the examination given by the Board.

(e) The applicant shall demonstrate oral competency.

§2–302.2.

(a) To qualify for a license to practice speech–language pathology, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall:

(1) Hold a master's degree in the area of speech–language pathology from an educational institution which incorporates the academic course work and the minimum hours of supervised training required by the regulations adopted by the Board; and

(2) Have completed the period of supervised postgraduate professional practice in speech–language pathology as specified by the regulations adopted by the Board.

(d) Except as otherwise provided in this title, the applicant shall pass an examination in speech–language pathology as required by regulations adopted by the

Board.

(e) The applicant shall demonstrate oral competency.

§2–302.3.

(a) To qualify for a license to assist in the practice of speech–language pathology, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character;

(2) Hold a baccalaureate degree in speech–language pathology or communication sciences and disorders from an accredited institution or other degree as provided for in regulations adopted by the Board;

(3) Have successfully completed the clinical observation hours and supervised clinical assisting experience hours required by the regulations adopted by the Board;

(4) After a period of supervised practice by a licensed speech–language pathologist, have successfully completed a competency skills checklist as provided for in regulations adopted by the Board; and

(5) Demonstrate oral competency.

(c) The Board may waive any of the qualifications required under this section as provided for in regulations adopted by the Board.

§2–303.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§2–304.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) (1) For the examination of applicants for a license to practice audiology or speech–language pathology, the Board may adopt appropriate examinations given by a professional body in the field of audiology or the field of speech–language pathology.

(2) An examination shall be in writing and consist of tests that require an applicant to demonstrate the minimum knowledge of services and subject matter related to the practice of audiology or speech–language pathology that will enable the applicant to practice audiology or speech–language pathology effectively.

(3) The Board may supplement any written examination given under this section with an oral examination.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) The Board:

(1) Shall determine the subjects, scope, form, and passing scores for examinations given under this subtitle; or

(2) May adopt an examination given by a national body.

(e) The Board may not limit the number of times an applicant may take an examination required under this subtitle.

(f) (1) An applicant who otherwise qualifies for a license to practice hearing aid dispensing is entitled to be examined as provided in this subsection.

(2) The examination shall consist of a written part and a practical part as required by regulations by the Board.

§2–305.

(a) The Board may waive any of the qualifications required for a license to practice audiology under this title for an individual who:

(1) Is of good moral character;

(2) Pays the application fee required by the Board under § 2–303 of this subtitle; and

(3) (i) Holds or has held a national certification in audiology from an organization if the organization is recognized by the Board and the qualifications for certification meet the practice requirements established by the regulations adopted by the Board;

(ii) Holds a current license to practice audiology in another state if the Board determines that the state has requirements for licensure that are at least equivalent to the requirements of this State and meet the practice requirements established under regulations adopted by the Board; or

(iii) On or before September 30, 2007, holds a current license to

practice audiology in this or another state or practices audiology under the authority and supervision of an agency of the federal government or a board, agency, or department of this State or another state if:

1. The individual holds a master's degree in audiology from an accredited educational program;

2. The Board determines that the requirements for practice are at least equivalent to the requirements of this Board; and

3. The individual meets other requirements established by regulations adopted by the Board that may not include a requirement for a doctoral degree in audiology.

(b) The Board may waive any of the qualifications required for a license to practice speech–language pathology or to assist in the practice of speech–language pathology under this title for an individual who:

(1) Is of good moral character;

(2) Pays the application fee required by the Board under § 2–303 of this subtitle; and

(3) (i) Holds or has held a national certification in speech–language pathology or as an assistant of speech–language pathology from an organization if the organization is recognized by the Board and the qualifications for certification meet the practice requirements established by the regulations adopted by the Board; or

(ii) Holds a current license to practice speech–language pathology or to assist in the practice of speech–language pathology in another state that the Board determines has requirements for licensure and practice that are at least equivalent to the requirements established under regulations adopted by the Board.

(c) The Board may waive any examination requirement of this subtitle for an applicant for a license to practice audiology or speech–language pathology who:

(1) Pays the application fee required by the Board under § 2–303 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) Became licensed in the other state after meeting, in that or any other state, requirements that are at least equivalent to the licensing requirements of this State.

(d) (1) The Board shall waive the examination requirements of this subtitle

for an applicant for a license to practice hearing aid dispensing who is licensed to practice hearing aid dispensing in another state.

(2) The Board may grant a waiver under this subsection only if the applicant:

(i) Pays the application fee required under § 2–303 of this subtitle; and

(ii) Provides adequate evidence that the applicant:

1. Meets the qualifications otherwise required by this title;

2. Became licensed in the other state after meeting, in that or any other state, requirements that are at least equivalent to the licensing requirements of this State; and

3. Meets the practice requirements established by the regulations adopted by the Board.

(3) The Board may grant a waiver under this subsection if an applicant holds current national board certification as a hearing instrument specialist and meets the practice requirements established by regulations adopted by the Board.

§2–306.

The Board shall issue a license to any applicant who:

(1) Meets the requirements of this title; and

(2) Pays the license fee set by the Board.

§2–307.

A license to practice audiology authorizes the licensee to practice audiology while the license is effective.

§2–307.1.

A license to practice hearing aid dispensing authorizes the licensee to practice hearing aid dispensing while the license is effective.

§2–307.2.

A license to practice speech-language pathology authorizes the licensee to practice speech-language pathology while the license is effective.

§2–307.3.

A license to assist in the practice of speech–language pathology authorizes the licensee to assist a speech–language pathologist in the practice of speech–language pathology while the license is effective.

§2–307.4.

A licensee shall identify and represent themselves by profession and degree earned.

§2–308.

(a) Except as provided for a limited license in §§ 2–310 through 2–310.3 of this subtitle, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 2 months before the license expires, the Board shall contact the licensee by electronic means or first–class mail at the last known electronic or physical address provided by the licensee and advise the licensee of:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires;

(ii) Evidence of compliance with any continuing education requirement set under this section for license renewal; and

(iii) Evidence that each audiometer in use has been calibrated within 12 months before the date the license is renewed.

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

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

(f) A licensee has a grace period of 30 days after a license expires in which to renew it retroactively, if the licensee:

(1) Otherwise is entitled to have the license renewed; and

(2) Pays to the Board the renewal fee and any late fee set by the Board.

§2–309.

(a) If a licensee fails for any reason to renew a license by the end of the 30–day grace period, the Board shall reinstate the license if the licensee:

(1) Applies to the Board for reinstatement of the license within 5 years after the license expires;

(2) Meets the renewal requirements of § 2–308 of this subtitle; and

(3) Pays to the Board the renewal fee and the reinstatement fee set by the Board.

(b) The Board may not reinstate the license of an audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant who fails to apply for reinstatement of the license within 5 years after the license expires, unless the audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant:

(1) Meets the requirements of § 2–305 of this subtitle; or

(2) Meets the current requirements for obtaining a new license under this title including continuing education requirements established by the rules and regulations of the Board.

§2–310.

(a) Subject to the provisions of this section, the Board shall issue a limited license to practice audiology to an applicant who:

(1) Except for the examination or supervised clinical training, meets the license requirements under § 2–302 of this subtitle;

(2) Demonstrates to the satisfaction of the Board that for the term of the limited license the applicant will practice audiology only under the supervision of an individual described under subsection (b)(2) of this section;

(3) Submits an application to the Board on the form that the Board requires; and

(4) Pays to the Board the application fee set by the Board.

(b) (1) The purpose of a limited license is to permit an individual to practice audiology while completing the licensing requirements of this title.

(2) While it is effective, a limited license authorizes the licensee to practice audiology under the supervision of:

(i) A fully licensed audiologist; or

(ii) If the individual is employed in a setting in which licensure is not required as provided under § 2–301(b)(1)(i) of this subtitle, an individual who holds national certification in audiology from a professional organization acceptable to the Board as provided in the regulations adopted by the Board.

(c) A limited license expires on the first anniversary of its effective date.

(d) The Board may renew the limited license once for an additional 1–year term, if the holder:

(1) Otherwise meets the requirements of this section;

(2) Submits a renewal application to the Board on the form that the Board requires; and

(3) Pays to the Board a limited license renewal fee set by the Board.

(e) If a limited licensee fails to receive a full license within 2 years after the initial limited license was issued, the individual may not apply for another limited license.

§2–310.1.

(a) Subject to the provisions of this section, the Board shall issue a limited license to practice hearing aid dispensing to an individual who is waiting to take a licensing examination under this subtitle.

(b) The Board may issue a limited license to practice hearing aid dispensing only to an individual who:

(1) Except for completing the requirements under § 2–302.1(c) of this subtitle, otherwise qualifies for a license;

(2) Submits to the Board an application on the form that the Board provides;

(3) Satisfies the Board that the individual will practice hearing aid dispensing only within the scope allowed under subsection (c) of this section; and

(4) Pays to the Board the application fee set by the Board.

(c) While a limited license to practice hearing aid dispensing is in effect, it authorizes the holder to practice hearing aid dispensing only while being trained under the supervision of a licensed hearing aid dispenser or a licensed audiologist.

(d) A limited license to practice hearing aid dispensing expires on the first anniversary of its effective date.

(e) Subject to the provisions of this subsection, the Board may renew once for an additional 1–year term the limited license to practice hearing aid dispensing to an individual who:

(1) (i) Takes but fails to pass the examination; or

(ii) Does not take the examination for a reason that the Board finds adequate to excuse the failure to take the examination;

(2) Submits to the Board a renewal application on the form that the Board provides; and

(3) Pays to the Board the renewal fee set by the Board.

(f) The total amount of time during which an individual may practice hearing aid dispensing under a limited license or licenses may not be more than 2 years.

(g) If a limited licensee fails to receive a full license within 2 years after the initial limited license was issued, the individual shall wait a minimum of 1 year before the individual may apply for another license.

§2–310.2.

(a) Subject to the provisions of this section, the Board shall issue a limited license to practice speech–language pathology to an applicant who:

(1) Except for the examination and supervised postgraduate professional practice in speech–language pathology, meets the license requirements under § 2–302.2 of this subtitle;

(2) Demonstrates to the satisfaction of the Board that for the term of the limited license the applicant will practice only under the supervision of an individual described under subsection (b)(2) of this section;

(3) Submits an application to the Board on the form that the Board requires; and

(4) Pays to the Board the application fee set by the Board.

(b) (1) The purpose of a limited license to practice speech–language pathology

is to permit an individual to practice speech–language pathology while completing the licensing requirements of this title.

(2) While it is effective, a limited license to practice speech–language pathology authorizes the licensee to practice speech–language pathology under the supervision of:

(i) A fully licensed speech–language pathologist; or

(ii) If the individual is employed in a setting in which licensure is not required as provided under § 2–301(b)(1)(i) of this subtitle, an individual who holds national certification in speech–language pathology from a professional organization acceptable to the Board as provided for in the regulations adopted by the Board.

(c) A limited license to practice speech–language pathology expires on the first anniversary of its effective date.

(d) The Board may renew the limited license to practice speech–language pathology once for an additional 1–year term, if the holder:

(1) Otherwise meets the requirements of this section;

(2) Submits a renewal application to the Board on the form that the Board requires; and

(3) Pays to the Board a limited license renewal fee set by the Board.

(e) If a limited licensee fails to receive a full license within 2 years after the date the initial limited license was issued, the individual shall wait a minimum of 1 year before the individual may apply for another license.

§2–310.3.

(a) Subject to the provisions of this section, the Board shall issue a limited license to assist in the practice of speech–language pathology to an applicant who:

(1) Except for the clinical observation hours and supervised clinical assisting experience hours requirement, meets the license requirements under § 2–302.3 of this subtitle;

(2) Demonstrates to the satisfaction of the Board that for the term of the limited license the applicant will practice only under the supervision of an individual described under subsection (b)(2) of this section;

(3) Submits an application to the Board on the form that the Board requires; and

(4) Pays to the Board an application fee set by the Board.

(b) (1) The purpose of a limited license to assist in the practice of speech–language pathology is to permit an individual to practice as a speech–language pathology assistant while completing the licensing requirements of this title.

(2) While it is effective, a limited license to assist in the practice of speech–language pathology authorizes the licensee to assist in the practice of speech–language pathology under the direct supervision of:

(i) A fully licensed speech–language pathologist; or

(ii) If the individual is employed in a setting in which licensure is not required as provided under § 2–301(b)(1)(i) of this subtitle, an individual who holds national certification in speech–language pathology from a professional organization as provided for in the regulations adopted by the Board.

(c) A limited license to assist in the practice of speech–language pathology expires on the first anniversary of its effective date.

(d) The Board may renew a limited license to assist in the practice of speech–language pathology once for an additional 1–year term, if the holder:

(1) Otherwise meets the requirements of this section;

(2) Submits a renewal application to the Board on the form that the Board requires; and

(3) Pays to the Board a limited license renewal fee set by the Board.

(e) If a limited licensee fails to receive a full license within 2 years, the individual shall wait a minimum of 1 year before the individual may apply for another license.

§2–311.

(a) Each licensee shall display the license conspicuously in the office or place of employment of the licensee.

(b) If a licensee has more than one place of business, the licensee shall notify the Board of the address the Board may use to send notices and other correspondence.

(c) A licensee shall notify the Board in writing of a change of address within 30 days after the change of address.

§2–312.

(a) (1) The Board shall investigate any alleged violation of this title.

(2) The Board may issue subpoenas, administer oaths, and examine witnesses.

(b) The Board may issue a cease and desist order or obtain injunctive relief for a violation of any provision of § 2–314 of this subtitle or §§ 2–401 through 2–402.3 of this title.

(c) (1) An action may be maintained in the name of the State or the Board to enjoin:

(i) Conduct that is a ground for disciplinary action under § 2–314 of this subtitle;

(ii) The unauthorized practice of audiology, hearing aid dispensing, or speech–language pathology; or

(iii) Aiding and abetting in the unauthorized practice of audiology, hearing aid dispensing, or speech–language pathology.

(2) An action under this subsection may be brought by:

(i) The Board, in its own name;

(ii) The Attorney General, in the name of the State; or

(iii) A State's Attorney, in the name of the State.

(3) An action under this subsection shall be brought in the county where the defendant:

(i) Resides; or

(ii) Engages in the act sought to be enjoined.

(4) Proof of actual damages or that any person is likely to sustain any damage if an injunction is not granted is not required for an action under this subsection.

(5) An action under this subsection is in addition to and not instead of disciplinary action under § 2–314 of this subtitle or criminal prosecution for the unauthorized practice of audiology, hearing aid dispensing, or speech–language pathology under §§ 2–401 through 2–402.3 of this title.

§2–313.

(a) Unless the Board agrees to accept the surrender of a license or a limited license, a licensee or limited licensee may not surrender the license or limited license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

(b) The Board may set conditions on its agreement with a licensee or limited licensee under investigation or against whom charges are pending to accept surrender

of the license.

§2–314.

Subject to the hearing provisions of § 2–315 of this subtitle, the Board may deny a license or limited license to any applicant, reprimand any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or limited license if the applicant, licensee, or holder:

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

(2) Fraudulently or deceptively uses a license or limited license;

(3) Commits fraud or deceit in the practice of audiology, hearing aid dispensing, or speech–language pathology, or assistance of the practice of speech–language pathology;

(4) 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;

(5) Obtains a fee through fraud or misrepresentation;

(6) Directly or indirectly employs any unlicensed person or any person whose license or limited license has been suspended;

(7) Uses or promotes or causes the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation;

(8) In the practice of audiology, hearing aid dispensing, or speech–language pathology, or assistance of the practice of speech–language pathology:

(i) Falsely represents the use or availability of services or advice of a physician; or

(ii) Misrepresents the applicant, licensee, or holder by using the word "doctor" or any similar word, abbreviation, or symbol if the use is not accurate;

(9) Permits another person to use the license of the licensee or limited license of the holder;

(10) Commits any act of unprofessional conduct in the practice of audiology, hearing aid dispensing, or speech–language pathology, or the assistance of the practice of speech–language pathology;

(11) Violates any lawful order given or regulation adopted by the Board;

(12) Violates any provision of this title;

(13) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

(15) Practices audiology, hearing aid dispensing, or speech–language pathology, or assists in the practice of speech–language pathology with an unauthorized person or supervises or aids an unauthorized person in the practice of audiology, hearing aid dispensing, or speech–language pathology, or assistance of the practice of speech–language pathology;

(16) Knowingly makes or files a false report or record in the practice of audiology, hearing aid dispensing, or speech–language pathology, or assistance in the practice of speech–language pathology;

(17) Knowingly fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(18) Submits a false statement to collect a fee;

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

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

(21) Behaves immorally in the practice of audiology, hearing aid dispensing, or speech–language pathology, or assistance of the practice of speech–language pathology;

(22) 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

(23) Pays or agrees to pay any sum to any person for bringing or referring a patient.

§2–314.1.

(a) In this section, "medical examination" means a physical examination of the ear of an individual by an otolaryngologist, otologist, or other physician.

(b) (1) Before an audiologist or a hearing aid dispenser sells a hearing aid to an individual, the audiologist or hearing aid dispenser shall determine whether the individual has had a medical examination within the 6 months before the hearing aid service is to be provided.

(2) Unless an audiologist or a hearing aid dispenser determines that an individual has had a medical examination within the period set under paragraph (1) of this subsection, the audiologist or hearing aid dispenser:

(i) Shall give the individual a written recommendation that the individual obtain a medical examination; and

(ii) Except as provided in subsection (c) of this section, may not sell a hearing aid to the individual until the individual provides to the audiologist or the hearing aid dispenser satisfactory written evidence that the individual has had a medical examination within the 6 months before the hearing aid is provided.

(c) (1) An audiologist or a hearing aid dispenser may sell a hearing aid to an individual without complying with the requirements of subsection (b)(2)(ii) of this section only if the services are:

(i) Limited to replacement of a hearing aid; or

(ii) Provided to an individual who:

1. Is at least 18 years old; and

2. Before a hearing aid is provided, signs a written waiver of the medical examination that otherwise is required under subsection (b)(2)(ii) of this section.

(2) Each audiologist or hearing aid dispenser shall keep a copy of each signed waiver.

§2–314.2.

While practicing audiology or hearing aid dispensing, an audiologist or a hearing aid dispenser may not:

(1) Advertise a particular model, type, or kind of hearing aid for sale while intending:

(i) 1. Not to allow an individual who responds to the

advertisement to buy the hearing aid advertised; or

2. To dissuade an individual who responds to the advertisement from buying the hearing aid advertised; and

(ii) To obtain for a prospective buyer a model, type, or kind of hearing aid that differs from that advertised; or

(2) Falsely represent the use or availability of services or advice of a physician for providing hearing aid services.

§2–314.3.

While practicing hearing aid dispensing, a hearing aid dispenser may not misrepresent the place of business of the person by use of the word "clinic" or any similar word, abbreviation, or symbol to indicate falsely that a medical service is provided at that place.

§2–314.4.

A person may not practice hearing aid dispensing under a false name.

§2–314.5.

While practicing audiology or hearing aid dispensing, an audiologist or a hearing aid dispenser may not directly or indirectly give or offer to give anything of value to another person who provides professional services to clients, if the thing of value is given to induce the person receiving the thing of value to:

(1) Buy a product or service from the person giving the thing of value;

(2) Refrain from buying a product or service of a competitor of the person giving the thing of value; or

(3) Influence another to:

(i) Buy a product or service from the person giving the thing of value; or

(ii) Refrain from buying a product or service of a competitor of the person giving the thing of value.

§2–314.6.

(a) Subject to subsection (b) of this section, a person may not sell or attempt to sell a hearing aid to any person by door–to–door solicitation.

(b) Subsection (a) of this section does not apply to a solicitation that is made:

(1) At the request of the solicited individual; or

(2) In response to an inquiry from the solicited individual.

§2–314.7.

While practicing audiology or hearing aid dispensing, a person may not engage in an unfair or deceptive trade practice, as defined in § 13–301 of the Commercial Law Article.

§2–314.8.

Each time an audiologist or a hearing aid dispenser sells a hearing aid to an individual, the audiologist or the hearing aid dispenser shall give the individual a receipt that includes:

(1) The name and address of the regular place of business of the audiologist or the hearing aid dispenser;

(2) The license number of the audiologist or the hearing aid dispenser;

(3) The make, model, and serial number of the hearing aid provided;

(4) If the hearing aid is used or reconditioned, a statement that indicates that the hearing aid is used or reconditioned;

(5) The amount charged for the hearing aid;

(6) The total refundable amount of the hearing aid if it is returned within 30 days as provided in the Hearing Aid Sales Act, Title 14, Subtitle 25 of the Commercial Law Article; and

(7) The signature of the audiologist or the hearing aid dispenser.

§2–314.9.

(a) If after a hearing under § 2–315 of this subtitle, the Board finds that there are grounds under § 2–314 of this subtitle to suspend or revoke a license or to reprimand a licensee or place a licensee on probation, the Board may impose a penalty not exceeding $5,000 in addition to suspending or revoking the license, reprimanding the licensee, or placing the licensee on probation.

(b) The Board shall adopt regulations to set standards for the imposition of penalties under this section.

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

§2–315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 2–314 of this subtitle or denies a license or a limited license for any other reason, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) Any notice given under this section shall be sent by first–class mail to the last known address given to the Board by the individual.

(d) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(e) Over the signature of an officer or the administrator of the Board, the Board may issue a subpoena or administer an oath in connection with an investigation, hearing, or proceeding by the Board.

(f) If, after a hearing, a licensee is found in violation of this title, the licensee shall pay costs of the hearing as specified in regulations adopted by the Board.

§2–316.

(a) Except as provided in this section for an action under § 2–314 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 2–314 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) An order of the Board may not be stayed pending review.

§2–317.

(a) If the license of an audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant is suspended or revoked under § 2–314 of this subtitle, and it is not reinstated by the Board within 5 years, the Board may not reinstate it.

(b) If a license may not be reinstated under subsection (a) of this section, an audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant may apply for a new license by meeting the current licensing requirements for obtaining a new license under this title and any additional requirements determined by the Board.

§2–318.

(a) In this section, "rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a rehabilitation committee is a committee of the Board or a committee of a professional association approved by the Board that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to audiologists, hearing aid dispensers, speech–language pathologists, and speech–language pathology assistants.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a rehabilitation committee evaluates and provides assistance to any audiologist, hearing aid dispenser, speech–language pathologist, or speech–language pathology assistant, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of the rehabilitation committee is not civilly liable for any action as a member of the rehabilitation committee or for giving information to, participating in, or contributing to the function of the rehabilitation committee.

§2–319.

(a) A licensed speech–language pathologist may delegate duties to an assistant within the scope of practice and supervision guidelines in the regulations adopted under subsection (b) of this section.

(b) The Board shall adopt regulations to establish qualifications and scope of practice for the position of a speech–language pathology assistant and the requirements for the supervision of a speech–language pathology assistant by a supervisor of a speech–language pathology assistant.

§2–401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice audiology, hearing aid dispensing, or speech–language pathology, or assist in the practice of speech–language pathology in this State unless licensed by the Board to practice audiology, hearing aid dispensing, or speech–language pathology, or assist in the practice of speech–language pathology.

(b) A person may not use or attempt to use a license or a limited license that has been purchased, fraudulently obtained, counterfeited, or materially altered.

§2–402.

(a) Unless authorized to practice audiology under this title or unless otherwise provided for in this article, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise that the person:

(1) Is authorized to practice audiology in this State; or

(2) Evaluates, examines, directs, instructs, or counsels individuals suffering from disorders or conditions that affect hearing and balance or assists those individuals in the perception of sound.

(b) Unless authorized to practice audiology under this title or unless otherwise provided for in this article, a person may not use, with the intent to represent that the person practices audiology, words or terms, including:

(1) "Audiological";

(2) "Audiologist";

(3) "Audiology";

(4) "Aural rehabilitation";

(5) "Hearing clinic";

(6) "Hearing clinician";

(7) "Hearing rehabilitation"; or

(8) "Hearing specialist".

(c) While performing the duties of that employment, an individual employed by any agency of the federal government may use any of the titles listed in subsection (b) of this section.

§2–402.1.

Unless authorized under this title to practice hearing aid dispensing or unless otherwise provided for in this article, a person may not represent to the public, by use of a title, including "licensed hearing aid dispenser", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice hearing aid dispensing in the State.

§2–402.2.

(a) Unless authorized to practice speech–language pathology under this title or unless otherwise provided for under this article, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise that the person:

(1) Is authorized to practice speech–language pathology in this State; or

(2) Evaluates, examines, instructs, or counsels individuals suffering from disorders or conditions that affect speech, language, communication, and swallowing.

(b) Unless authorized to practice speech–language pathology under this title or unless otherwise provided for under this article, a person may not use any word or term connoting professional proficiency in speech–language pathology, including but not limited to:

(1) "Communication disorders";

(2) "Communicologist";

(3) "Dysphagist";

(4) "Language pathologist";

(5) "Logopedist";

(6) "Speech and language clinician";

(7) "Speech and language therapist";

(8) "Speech clinic";

(9) "Speech clinician";

(10) "Speech correction";

(11) "Speech correctionist";

(12) "Speech pathology";

(13) "Speech–language pathology";

(14) "Speech therapist";

(15) "Speech therapy"; or

(16) "Swallowing therapist".

(c) While performing the duties of that employment, an individual employed by any agency of the federal government may use any of the titles listed in subsection (b) of this section.

§2–402.3.

(a) Unless authorized to practice as a speech–language pathology assistant under this title or unless otherwise provided for under this article, a person may not represent to the public, by title, description of services, methods, or procedures, or otherwise, that the person:

(1) Is authorized to practice as a speech–language pathology assistant in the State; or

(2) Assists in the practice of speech–language pathology.

(b) Unless authorized to practice as a speech–language pathology assistant under this title or unless otherwise provided for under this article, a person may not use any word or term connoting professional proficiency in assisting the practice of speech–language pathology, including:

(1) "Communication assistant";

(2) "Speech assistant";

(3) "Speech–language assistant";

(4) "Speech–language teacher"; or

(5) "Speech teacher".

§2–403.

A person may not knowingly make a false, material statement in an application for a license or a limited license or for renewal of a license or a limited license.

§2–404.

A person may not materially alter a license or a limited license with fraudulent intent.

§2–405.

A person may not transfer or offer to transfer a license or a limited license for consideration.

§2–406.

While providing hearing aid services as an audiologist or a hearing aid dispenser, a person may not:

(1) Engage in an unfair or deceptive trade practice, as defined in § 13-301 of the Commercial Law Article; or

(2) Violate any provision of Title 14, Subtitle 25 of the Commercial Law Article.

§2–408.

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 3 years or both.

§2–501.

This title may be cited as the "Maryland Audiology, Hearing Aid Dispensing, and Speech–Language Pathology Act".

§2–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2026.

§3–101.

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

(b) "Board" means the State Board of Chiropractic and Massage Therapy Examiners.

(c) "Chiropractor" means an individual who practices chiropractic.

(d) "License" means, unless the context requires otherwise, a license issued by the Board:

(1) To practice chiropractic; or

(2) To practice chiropractic with the right to practice physical therapy.

(e) "Licensed chiropractor" means, unless the context requires otherwise, a chiropractor who is licensed by the Board to practice chiropractic or to practice chiropractic with the right to practice physical therapy.

(f) (1) "Practice chiropractic" means to use a drugless system of health care based on the principle that interference with the transmission of nerve impulses may cause disease.

(2) "Practice chiropractic" includes the diagnosing and locating of misaligned or displaced vertebrae and, through the manual manipulation and adjustment of the spine and other skeletal structures, treating disorders of the human body.

(3) Except as otherwise provided in this title, "practice chiropractic" does not include the use of drugs or surgery, or the practice of osteopathy, obstetrics, or any other branch of medicine.

(4) The definition of "practice chiropractic" does not prohibit a chiropractor from selecting diet and hygiene measures for an individual.

(g) "Practice physical therapy" has the meaning stated in § 13–101 of this article.

§3–102.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§3–201.

There is a State Board of Chiropractic and Massage Therapy Examiners in the Department.

§3–202.

(a) (1) The Board consists of 11 members.

(2) Of the 11 members:

(i) 6 shall be licensed chiropractors;

(ii) 3 shall be licensed massage therapists; and

(iii) 2 shall be consumer members.

(3) (i) The Governor shall appoint the chiropractor members, with the advice of the Secretary, and with the advice and consent of the Senate, from a list of qualified individuals submitted to the Governor by the Maryland Chiropractic Association.

(ii) The number of names on the list shall be five times the number of vacancies.

(iii) The list shall include the name of the incumbent member unless the incumbent declines renomination.

(4) (i) The Governor shall appoint the massage therapist members, with the advice of the Secretary, and with the advice and consent of the Senate, from a list of qualified individuals submitted to the Governor by the American Massage Therapy Association, Maryland Chapter.

(ii) The number of names on the list shall be five times the number of vacancies.

(iii) The list shall include the name of the incumbent member unless the incumbent declines renomination.

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

(b) Each chiropractor member of the Board shall be:

(1) A resident of this State;

(2) A licensed chiropractor of integrity and ability who is in active practice;

(3) A graduate of a resident course in chiropractic; and

(4) An individual who has practiced chiropractic in this State for at least 5 consecutive years.

(c) Each massage therapist member of the Board shall be:

(1) A resident of this State;

(2) A licensed massage therapist of integrity and ability who is in active practice;

(3) A graduate of a Board–approved course in massage therapy; and

(4) An individual who has practiced massage therapy in this State for at least 5 consecutive years.

(d) Each consumer member of the Board:

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

(2) May not be or ever have been a chiropractor or massage therapist or in training to become a chiropractor or massage therapist;

(3) May not have a household member who is a chiropractor or massage therapist or in training to become a chiropractor or massage therapist;

(4) May not participate or ever have participated in a commercial or professional field related to chiropractic or massage therapy;

(5) May not have a household member who participates in a commercial or professional field related to chiropractic or massage therapy; and

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

(e) (1) In addition to the requirements of subsections (b) and (c) of this section, each chiropractic and massage therapy member of the Board shall be a licensed chiropractor or licensed massage therapist whose license is in good standing with the Board.

(2) For purposes of this subsection, "good standing" means that the Board has not reprimanded the licensee, suspended or revoked the license of the chiropractor and massage therapist, or placed the licensee on probation within 5 years prior to or after confirmation to the Board.

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

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

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

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 2008.

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

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

(5) The Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

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

(i) (1) The Governor may remove a member for incompetence or misconduct.

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

§3–203.

(a) From among its members, the Board annually shall elect a president, a vice-president, and a secretary-treasurer.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§3–204.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) In accordance with the budget of the Board, each member of the Board is entitled to:

(1) Compensation for each day on which the member is engaged in the duties of the member's office; and

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

(d) The Board may employ a staff in accordance with the budget of the Board.

§3–205.

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

(1) Adopt rules and regulations to carry out the provisions of this title;

(2) Summon witnesses, administer oaths, take affidavits, and take testimony about matters that relate to the duties of the Board; and

(3) In accordance with the State budget, authorize payment of fees and travel expenses of witnesses who testify in any proceeding before the Board.

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

(1) Adopt an official seal;

(2) File reports of its activities as required by the Secretary;

(3) Assist in prosecutions under this title; and

(4) Investigate an alleged violation of this title.

§3–206.

(a) There is a State Board of Chiropractic and Massage Therapy Examiners Fund.

(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 produce funds to approximate the cost of maintaining the Board.

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Chiropractic Examiners Fund.

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

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

(f) The Legislative Auditor shall audit the accounts and transactions of the

Fund as provided in § 2-1220 of the State Government Article.

§3–207.

A person shall have the immunity from liability described under § 5-704 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§3–301.

(a) The Board may issue, as appropriate:

(1) A license to practice chiropractic; or

(2) A license to practice chiropractic with the right to practice physical therapy.

(b) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice chiropractic in this State.

(c) A chiropractor who holds a license to practice chiropractic with the right to practice physical therapy may practice chiropractic and physical therapy in this State.

(d) This section does not apply to:

(1) A student of chiropractic while under the direct supervision of a licensed chiropractor engaged in an educational program:

(i) Sponsored by a college accredited by the Council on Chiropractic Education; and

(ii) Approved by the Board; or

(2) An individual licensed to practice chiropractic in any other state or a foreign country while that individual makes a clinical demonstration before:

(i) A chiropractic association;

(ii) A chiropractic convention; or

(iii) A chiropractic college.

§3–302.

(a) To qualify for a license, an applicant shall be an individual who:

(1) Submits to a criminal history records check in accordance with § 3–302.1 of this subtitle;

(2) Meets the requirements of this section; and

(3) Meets the examination requirements of this title.

(b) The applicant shall be of good moral character.

(c) Except as otherwise provided in this title, the applicant shall:

(1) (i) Hold a bachelor's degree from a college or university approved by an accrediting agency of the United States Department of Education; and

(ii) Have completed satisfactorily college courses required by the Board; and

(2) (i) Be a graduate of a school of chiropractic that has been approved by the Board under § 3-402 of this title; or

(ii) 1. Be licensed in another state for at least 2 years; and

2. Be a graduate of a school of chiropractic:

A. That has been approved by the Council on Chiropractic Education within 4 years after the applicant graduated from that school; and

B. That the Board determines had standards comparable to an approved school at the time the applicant graduated.

(d) An applicant shall be entitled to a license to practice chiropractic with the right to practice physical therapy if the applicant:

(1) Satisfies the requirements of this section and §§ 3-303 and 3-304(e)(2) of this subtitle;

(2) Was licensed as a chiropractor on or before June 1, 1949; or

(3) Was enrolled at an approved college of chiropractic on June 1, 1949, and later was graduated by that college and licensed.

§3–302.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of

Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) Information obtained from the Central Repository under this section:

(1) Is confidential and may not be redisseminated; and

(2) May be used only for the licensing or registration purpose authorized by this title.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§3–303.

(a) To apply for a license, an applicant shall submit to the Board at least 45 days before an examination:

(1) An application on the form the Board requires that includes information of the applicant's:

(i) Educational history;

(ii) Experience in health care;

(iii) Hours and courses taken during chiropractic studies;

(iv) Training or studies in related fields; and

(v) Clinical experience;

(2) Certified transcripts that demonstrate compliance with the college credit requirements of § 3–302 of this subtitle;

(3) Proof of any degrees or certification alleged;

(4) Satisfactory evidence of good moral character;

(5) An application fee set by the Board; and

(6) Satisfactory evidence of having completed a State and national criminal history records check in accordance with § 3–302.1 of this subtitle.

(b) An application shall be signed by the applicant and verified.

(c) The applicant shall pay an application fee set by the Board for any subsequent application and examination.

§3–304.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least twice in each calendar year at the times and places that the Board determines.

(c) The Board shall:

(1) Notify each qualified applicant of the time and place of examination; and

(2) Publish in a newspaper of general circulation the time and place of each examination, at least 30 days before the examination.

(d) (1) The Board shall develop written evaluation criteria to be used to identify minimum competency on the oral or clinical portions of the examination.

(2) Except as otherwise provided in this section, the Board shall determine the subjects, scope, method, and form for examinations given under this title.

(3) Until the grading of all examinations is completed:

(i) The examination papers of each applicant shall be identified only by a number; and

(ii) The name of the applicant to whom an examination paper belongs may not be disclosed to any member of the Board.

(4) The examination shall include a written practical or oral section on clinical subjects, including:

(i) Chiropractic principles;

(ii) Chiropractic technique and practice;

(iii) Hygiene;

(iv) Neurology;

(v) Orthopedics;

(vi) Physical diagnosis;

(vii) Roentgenology;

(viii) Symptomatology; and

(ix) Physical therapy, as defined in § 13-101 of this article.

(e) (1) Except as otherwise provided in this title, an applicant qualifies for a license to practice chiropractic only if the applicant answers correctly at least:

(i) 60 percent of the questions in each subsection of the examination other than the subsection on physical therapy; and

(ii) 75 percent of all of the questions on the examination other than those on physical therapy.

(2) Except as otherwise provided in this title, an applicant qualifies for a license to practice chiropractic with the right to practice physical therapy only if the applicant answers correctly at least:

(i) 60 percent of the questions in each subsection of the examination; and

(ii) 75 percent of all of the questions on the examination.

§3–305.

(a) Subject to the provisions of this section, the Board may waive any applicable examination requirement of this title for an individual who is licensed to practice chiropractic or to practice chiropractic with the right to practice physical therapy in any other state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the license fee required by § 3-306 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title or their equivalent; and

(ii) Became licensed in the other state after passing in that or any other state an examination that is similar to the examination for which the applicant is seeking the waiver.

§3–306.

(a) Subject to subsection (c) of this section, the Board shall issue a license to any applicant who:

(1) Pays a license fee set by the Board; and

(2) Otherwise meets the requirements of this title.

(b) The Board shall include on each license that it issues:

(1) Its seal; and

(2) Designations that clearly distinguish between those licensees who may practice chiropractic and those who may practice chiropractic with the right to practice physical therapy.

(c) (1) On receipt of the criminal history record information of an applicant for licensure or registration forwarded to the Board in accordance with § 3–302.1 of this subtitle, in determining whether to grant a license or registration, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Any other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license or registration if the criminal history record information required under § 3–302.1 of this subtitle has not been received.

§3–307.

(a) Except as otherwise provided in this section, a license authorizes the licensee to practice chiropractic while the license is effective.

(b) A license that includes the right to practice physical therapy authorizes the licensee to practice chiropractic and physical therapy while the license is effective.

(c) A license does not authorize a licensee to execute or file a birth or death certificate.

§3–308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term of longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to each licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal form and a renewal notice that states:

(1) The date on which the current license expires;

(2) That the renewal application and fee must be received by the Board on or before the license expiration date; and

(3) The amount of the renewal fee.

(c) A licensee periodically may renew a license for an additional term if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with the continuing education requirements set by the Board under this section for license renewal.

(d) (1) The Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

(2) Any requirements established under this subsection shall reflect current educational methods and chiropractic techniques.

(e) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

§3–309.

The Board shall reinstate a license that is expired only if the former licensee:

(1) Meets the renewal requirements of § 3-308; and

(2) Pays to the Board a reinstatement fee set by the Board.

§3–310.

(a) If a chiropractor fails for any reason to renew the license of the chiropractor, the Board shall reinstate the license if the chiropractor:

(1) Applies to the Board for reinstatement of the license within 5 years after the license expires;

(2) Meets the renewal requirements of § 3-308 of this subtitle;

(3) Pays to the Board the reinstatement fee set by the Board; and

(4) Passes the law and regulations portion of the Board's examination.

(b) The Board may not reinstate the license of a chiropractor who fails to apply for reinstatement of the license within 5 years after the license expires. However, the chiropractor may become licensed by meeting the current requirements for obtaining a new license under this title.

§3–311.

(a) The Board shall place a licensee on inactive status, if the licensee submits to the Board:

(1) An application for inactive status on the form required by the Board; and

(2) The inactive status fee set by the Board.

(b) A licensee on inactive status may reactivate the license at any time if the licensee:

(1) Complies with the continuing education requirements in effect for the renewal period in which the licensee seeks to reactivate the license; and

(2) Pays the reinstatement fee set by the Board.

§3–312.

(a) Unless the Board agrees to accept the surrender of a license, a licensed chiropractor 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 chiropractor.

(b) The Board may set conditions on its agreement with the chiropractor under investigation or against whom charges are pending to accept surrender of the chiropractor's license.

§3–313.

Subject to the hearing provisions of § 3–315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, 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) Practices chiropractic under a false name;

(4) Impersonates another practitioner;

(5) 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;

(6) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(7) Solicits or advertises in a false or misleading manner or in any other manner not approved by the Board;

(8) Is unethical in the conduct of the practice of chiropractic;

(9) Is professionally incompetent;

(10) Abandons a patient;

(11) Misrepresents the effectiveness of any treatment, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(12) Makes or files a false report or record in the practice of chiropractic;

(13) Fails to file or record any report as required by law;

(14) Impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

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

(16) Overutilizes health care services;

(17) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted by a court of any state or country for an act that would be grounds for disciplinary action under this section;

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

(19) Violates any rule or regulation adopted by the Board;

(20) Behaves immorally in the practice of chiropractic;

(21) Commits an act of unprofessional conduct in the practice of chiropractic;

(22) Grossly overutilizes health care services;

(23) Is convicted of insurance fraud under § 27–801 of the Insurance Article;

(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) Submits false statements to collect fees for which services were not provided;

(26) Misrepresents qualifications, education, training, or clinical experience;

(27) Is physically or mentally impaired to the extent that it impairs the applicant's or licensee's ability to practice chiropractic safely;

(28) Violates any provision of this title; or

(29) Fails to submit to a criminal history records check in accordance with § 3–302.1 of this subtitle.

§3–314.

(a) If after a hearing under § 3-315 of this subtitle the Board finds that there are grounds under § 3-313 of this subtitle to suspend or revoke a license, the Board may impose a penalty not exceeding $5,000 for each violation:

(1) Instead of suspending the license; or

(2) In addition to suspending or revoking the license.

(b) If, after disciplinary procedures have been brought against a licensee, the

licensee waives the right to a hearing required under this subtitle and if the Board finds that there are grounds under § 3-313 of this subtitle to reprimand the licensee, place the licensee on probation, or suspend or revoke a license, the Board may impose a penalty not exceeding $5,000 for each violation in addition to reprimanding, placing the licensee on probation or suspending or revoking the license.

(c) The Board shall adopt rules and regulations to set standards for the imposition of penalties under this section.

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

§3–315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 3–313 of this subtitle or § 3–5A–10 of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(e) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction shall compel compliance with the subpoena and may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(g) If, after a hearing, a chiropractor or massage therapist is found in violation of § 3–313 of this subtitle or § 3–5A–10 of this title, the chiropractor or massage therapist shall pay to the Board the costs for court reporting services.

§3–316.

(a) Except as provided in this section for an action under § 3–313 of this subtitle or § 3–5A–10 of this title, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 3–313 of this

subtitle or § 3–5A–10 of this title may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§3–316.1.

(a) An action may be maintained in the name of this State or the Board to enjoin:

(1) The unauthorized practice of chiropractic or massage therapy; or

(2) Conduct that is a ground for disciplinary action under § 3–313 of this subtitle or § 3–5A–10 of this title.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of this State; or

(3) A State's Attorney, in the name of this State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the acts sought to be enjoined.

(d) (1) Except as provided in paragraph (2) of this subsection, an action under this section may not be brought against an individual who is authorized to practice a health occupation under this article.

(2) An action under this section may be brought against an individual who is authorized to practice chiropractic or massage therapy under this title.

(e) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(f) An action under this section is in addition to and not instead of criminal prosecution for:

(1) The unauthorized practice of chiropractic under § 3–501 of this title or disciplinary action under § 3–313 of this subtitle; or

(2) The unauthorized practice of massage therapy under § 3–501 of this title or disciplinary action under § 3–5A–10 of this title.

§3–401.

(a) The Board shall adopt rules and regulations to establish standards for

advertising or soliciting by chiropractors.

(b) For purposes of this section, notices mailed to patients to inform them of times for periodic examinations are not advertising or soliciting.

§3–402.

(a) The Board shall approve those schools of chiropractic that provide a curriculum, teaching standards, and facilities that the Board determines are adequate to prepare a license applicant to practice chiropractic under this title.

(b) To be approved under this section, a school shall offer a program that:

(1) Is 4 academic years that total at least 4,000 60-minute hours of resident study; and

(2) Leads to a degree of Doctor of Chiropractic.

(c) The Board may inspect any school of chiropractic to determine whether it meets the standards required by this section.

(d) The Board may approve a school in another state on the recommendation of:

(1) The chiropractic licensing authority of that state; or

(2) The Council on Chiropractic Education.

§3–403.

The provisions of § 13-402 of this article do not prohibit a chiropractor who is licensed to practice chiropractic with the right to practice physical therapy from representing that the licensee holds that license.

§3–404.

A licensed chiropractor may delegate duties to an assistant to the extent permitted by the rules and regulations of the Board if the assigned duties do not require the professional skill and judgment of a licensed chiropractor. The rules and regulations shall also establish qualifications for the position of chiropractic assistant.

§3–405.

A licensed chiropractor shall have the immunity from liability described under § 5-636 of the Courts and Judicial Proceedings Article for reviewing the fees or charges for services of another licensed chiropractor in this or any other state.

§3–406.

(a) In this section, "chiropractor rehabilitation committee" means a committee

that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a chiropractor rehabilitation committee is a committee of the Board or a committee of the Maryland Chiropractic Association that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to chiropractors.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a chiropractor rehabilitation committee evaluates and provides assistance to any chiropractor, chiropractic assistant, and any other individual regulated by the Board in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the chiropractor rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the chiropractor rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the chiropractor rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in any arbitration or civil proceeding.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a chiropractor rehabilitation committee is not civilly liable for any action as a member of the chiropractor rehabilitation committee or for giving information to, participating in, or contributing to the function of the chiropractor rehabilitation committee.

§3–407.

A licensed chiropractor may use a trade name in connection with the practice of

chiropractic provided that:

(1) The use of the trade name is not deceptive or misleading;

(2) The advertisement in which the trade name appears includes the name of the licensed chiropractor or the name of the business entity providing the chiropractic services being advertised as long as the advertisement includes the name of a licensed chiropractor;

(3) The name of the licensed chiropractor providing chiropractic services appears on the billing invoices, stationery, and on any receipt given to a patient;

(4) Treatment records are maintained that clearly identify the licensed chiropractor who has performed the chiropractic service for the patient; and

(5) The use of a trade name is preapproved by the Board before use.

§3–501.

(a) Except as otherwise provided in § 3–404 of this title, a person may not practice, attempt to practice, or offer to practice chiropractic in this State unless licensed by the Board.

(b) Except as otherwise provided in this title, an individual may not practice, attempt to practice, or offer to practice massage therapy, massage, myotherapy, or any synonym or derivation of these terms in this State unless licensed or registered by the Board.

§3–502.

(a) (1) Unless authorized to practice chiropractic under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice chiropractic in this State.

(2) Unless authorized to practice under this title, a person may not use the title "chiropractor", or "D.C.", or any other term or title with the intent to represent that the person practices chiropractic.

(b) (1) An individual who is not a licensed massage therapist or registered as a massage practitioner under this title may not advertise or claim by title, abbreviation, sign, card, or any other representation that the individual practices massage, massage therapy, myotherapy, or any synonym or derivation of these terms.

(2) Unless authorized to practice under this title, a person may not use the title "massage therapist", "MT", "licensed massage therapist", "LMT", "massage practitioner", "MP", "registered massage practitioner", "RMP", or any other term or title with the intent to represent that the person practices massage therapy.

(c) An individual who is a registered massage practitioner under this title or a business entity that employs registered massage practitioners under this title may not advertise to the public that the individual or business entity provides health–related therapeutic massage services.

(d) (1) In Charles County and Washington County, an individual may not perform a massage or offer to perform a massage on another person for compensation unless the individual who performs the massage or offers to perform a massage is a licensed massage therapist or registered massage practitioner.

(2) A law enforcement officer in Charles County or Washington County may demand proof of licensure or registration.

§3–503.

A person may not buy, sell, or fraudulently obtain:

(1) A license; or

(2) Any diploma or degree required under § 3–302 or § 3–5A–06 of this title.

§3–506.

(a) A person who practices or attempts to practice chiropractic or massage therapy without a license in violation of § 3–501 of this subtitle or represents to the public in violation of § 3–502 of this subtitle that the person is authorized to practice chiropractic or massage therapy is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding $2,000 or imprisonment not exceeding 6 months; or

(2) For a subsequent offense, a fine not exceeding $6,000 or imprisonment not exceeding 1 year.

(b) A person who is convicted under the provisions of this section shall reimburse the Board for the direct costs of the Board, including court reporting services and expert witness fees, incurred as a result of a prosecution under this section.

§3–5A–01.

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

(b) "Board" means the State Board of Chiropractic and Massage Therapy Examiners.

(c) "Health care setting" means:

(1) The office of a health care provider regulated under this article; or

(2) A health care facility as defined in § 19–114 of the Health – General Article.

(d) "License" means, unless the context requires otherwise, a license issued by the Board to practice massage therapy.

(e) "Licensed massage therapist" means an individual who is licensed by the Board to practice massage therapy.

(f) (1) "Massage therapy" means the use of manual techniques on soft tissues of the human body including effleurage (stroking), petrissage (kneading), tapotement (tapping), stretching, compression, vibration, and friction, with or without the aid of heat limited to hot packs and heating pads, cold water, or nonlegend topical applications, for the purpose of improving circulation, enhancing muscle relaxation, relieving muscular pain, reducing stress, or promoting health and well–being.

(2) "Massage therapy" does not include:

(i) The diagnosis or treatment of illness, disease, or injury;

(ii) The adjustment, manipulation, or mobilization of any of the articulations of the osseous structures of the body or spine; or

(iii) Except as provided in paragraph (3) of this subsection, the laying on of hands, consisting of pressure or movement on a fully clothed individual, to specifically affect the electromagnetic energy or energetic field of the human body.

(3) "Massage therapy" includes the laying on of hands, consisting of pressure or movement on a fully clothed individual, to specifically affect the electromagnetic energy or energetic field of the human body if this practice includes use of the manual techniques set forth in paragraph (1) of this subsection.

(4) In paragraph (2)(iii) of this subsection, "fully clothed" does not require the wearing of footwear.

(5) The provisions of paragraph (2) of this subsection do not preclude the application of the modalities described in paragraph (1) of this subsection to an individual who has an injury.

(g) "Practice massage therapy" means to engage professionally and for compensation in massage therapy.

(h) "Registered massage practitioner" means an individual who is registered by the Board to practice massage therapy in a setting that is not a health care setting.

(i) "Registration" means, unless the context requires otherwise, a registration issued by the Board to practice massage therapy in a setting that is not a health care setting.

§3–5A–02.

The Board shall adopt regulations for the:

(1) Licensure and practice of massage therapists; and

(2) Registration and practice of massage practitioners.

§3–5A–03.

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

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program, registration program, and the other services provided to massage therapists.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller of the State.

(2) The Comptroller shall distribute all fees to the State Board of Chiropractic and Massage Therapy Examiners Fund established under § 3–206 of this title.

(c) The fees shall be used exclusively to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§3–5A–04.

Except as otherwise provided in this subtitle, an individual shall be:

(1) Licensed by the Board before the individual may practice massage therapy in this State; or

(2) Registered by the Board before the individual may practice massage therapy in a setting that is not a health care setting in this State.

§3–5A–05.

This subtitle does not apply to:

(1) A student enrolled in an approved education program as determined by the Board while practicing massage therapy in that program;

(2) An individual permitted to practice massage therapy under regulations adopted by the Board, if the individual otherwise has qualified to practice massage therapy in any other state or country that has substantially similar requirements for authorization to practice massage therapy and the individual is in this State for no more than 7 days;

(3) A family member practicing massage therapy on another family member;

(4) An athletic trainer while functioning in the course of the athletic trainer's professional capacity;

(5) An individual employed by the federal government to practice massage therapy while practicing within the scope of the individual's employment; or

(6) An individual working in a beauty salon:

(i) For which the person who operates the beauty salon has obtained a permit from the State Board of Cosmetology as required under § 5–501 of the Business Occupations and Professions Article; and

(ii) In which the individual is providing cosmetology and esthetic services, including the application and removal of skin or skin care products.

§3–5A–06.

(a) To qualify for a license, an applicant shall be an individual who:

(1) Is of good moral character;

(2) Is at least 18 years old;

(3) Has satisfactorily completed:

(i) At least 60 credit hours of education at an institution of higher education as defined in § 10–101 of the Education Article and as approved by the Board and the Maryland Higher Education Commission of which a minimum of 24 credit hours shall have been in basic and applied science courses related to health care; or

(ii) 1. At least 60 credit hours of education at an institution of higher education as defined in § 10–101 of the Education Article and as approved by the Maryland Higher Education Commission; and

2. 24 hours of advanced massage therapy continuing education as approved by the Board in basic and applied science courses related to health care;

(4) Has completed 600 hours of education in a Board approved program

for the study of massage therapy that includes the following areas of content:

(i) Anatomy, physiology, and kinesiology;

(ii) Massage theory, techniques, and practice;

(iii) Contraindications to massage therapy; and

(iv) Professional ethics;

(5) Has passed an examination approved by the Board; and

(6) Submits to a criminal history records check in accordance with § 3–302.1 of this title.

(b) To qualify for registration, an applicant shall be an individual who:

(1) Is of good moral character;

(2) Is at least 18 years old;

(3) Has completed 600 hours of education in a Board approved program for the study of massage therapy that includes the following areas of content:

(i) Anatomy, physiology, and kinesiology;

(ii) Massage theory, techniques, and practice;

(iii) Contraindications to massage therapy; and

(iv) Professional ethics;

(4) Has passed an examination approved by the Board; and

(5) Submits to a criminal history records check in accordance with § 3–302.1 of this title.

§3–5A–06.1.

(a) The Board shall issue a license or registration to any applicant who:

(1) Pays a license or registration fee set by the Board; and

(2) Meets the requirements of this subtitle.

(b) The Board shall include on each license and registration that the Board issues:

(1) The seal of the Board; and

(2) The kind of license or registration.

§3–5A–07.

(a) Subject to the provisions of this section, the Board may waive any requirement of this subtitle for an applicant who is registered, certified, or licensed to practice massage therapy in another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee set by the Board; and

(2) Provides adequate evidence that the applicant:

(i) Has completed educational requirements that the Board determines to be equivalent to the Board approved educational requirements in this State; and

(ii) 1. At the time the applicant became certified, registered, or licensed in the other state, passed in that state or any other state an examination that the Board determines to be equivalent to the examination required in this State; or

2. Passed an examination approved by the Board; and

(3) Is of good moral character.

§3–5A–08.

To apply for a license or registration, an applicant shall:

(1) Submit to the Board an application on the form that the Board requires;

(2) Submit to the Board evidence of compliance with the requirements of § 3–5A–06 of this subtitle;

(3) Submit to the Board satisfactory evidence of having completed a State and national criminal history records check in accordance with § 3–302.1 of this title; and

(4) Pay the application fee set by the Board.

§3–5A–09.

(a) (1) A license or registration expires on the date set by the Board, unless the license or registration is renewed for a 1–year term as provided in this section.

(2) A license or registration may not be renewed for a term of longer than 2 years.

(b) At least 1 month before the license or registration expires, the Board shall send to the licensee or registration holder, by electronic means or first–class mail to the last known electronic or physical address of the licensee or registration holder, a renewal notice that states:

(1) The date on which the current license or registration expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license or registration expires; and

(3) The amount of the renewal fee.

(c) Before a license or registration expires, the licensee or registration holder periodically may renew it for an additional term, if the licensee or registration holder:

(1) Otherwise is entitled to be licensed or registered;

(2) Submits to the Board a renewal application on the form that the Board requires; and

(3) Pays to the Board a renewal fee set by the Board.

(d) (1) Each licensee or registration holder shall notify the Board in writing of any change in the name or address of the licensee or registration holder within 60 days after the change occurred.

(2) If a licensee or registration holder fails to notify the Board within the time required under this subsection, subject to the hearing provisions of § 3–315 of this title, the Board may impose an administrative penalty of $100.

(e) The Board shall renew the license of each licensee and the registration of each registration holder who meets the requirements of this section.

§3–5A–10.

(a) Subject to the hearing provisions of § 3–315 of this title, the Board may deny a license or registration to any applicant, reprimand any licensee or registration holder, place any licensee or registration holder on probation, or suspend or revoke the license of a licensee or the registration of a registration holder if the applicant, licensee, or registration holder:

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

(2) Fraudulently or deceptively uses a license or registration;

(3) Is disciplined by a licensing, certifying, or disciplinary authority of any

other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

(4) 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;

(5) Willfully and knowingly:

(i) Files a false report or record of an individual under the care of the license holder or registration holder; or

(ii) Gives any false or misleading information about a material matter in an employment application;

(6) Knowingly does any act that has been determined by the Board, in its regulations, to exceed the scope of practice authorized to the individual under this subtitle;

(7) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;

(9) Is negligent in the practice of massage therapy;

(10) Is professionally incompetent;

(11) Has violated any provision of this subtitle;

(12) Submits a false statement to collect a fee;

(13) Is physically or mentally incompetent;

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

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

(16) 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;

(17) Is habitually intoxicated;

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

(19) Fails to cooperate with a lawful investigation conducted by the Board;

(20) Engages in conduct that violates the professional code of ethics;

(21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations; or

(22) Fails to submit to a criminal history records check in accordance with § 3–302.1 of this title.

(b) If, after a hearing under § 3–315 of this title, the Board finds that there are grounds under subsection (a) of this section to suspend or revoke a license or registration to practice massage therapy, to reprimand a licensee or registration holder, or place a licensee or registration holder on probation, the Board may impose a penalty not exceeding $5,000 in lieu of or in addition to suspending or revoking the license or registration, reprimanding the licensee or registration holder, or placing the licensee or registration holder on probation.

(c) (1) An individual whose license or registration has been suspended or revoked by the Board shall return the license or registration to the Board.

(2) If the suspended or revoked license or registration has been lost, the individual shall file with the Board a verified statement to that effect.

(d) The Board shall file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a license or registration under this section within 24 hours of the revocation or suspension.

§3–5A–11.

This subtitle does not limit the right of an individual to practice or advertise an occupation that the individual is otherwise authorized to practice under the Maryland Annotated Code.

§3–5A–12.

(a) The Board shall adopt rules and regulations to establish standards for advertising or soliciting by licensed massage therapists or registered massage practitioners.

(b) For purposes of this section, notices mailed to patients to inform them of

times for periodic appointments are not advertising or soliciting.

(c) A licensed massage therapist or a registered massage practitioner may use a trade name in connection with the practice of massage therapy provided that:

(1) The use of the trade name is not deceptive or misleading;

(2) The advertisement in which the trade name appears includes the name of the licensed massage therapist or registered massage practitioner or the name of the business entity providing the massage therapy services being advertised, as long as the advertisement includes the name of a licensed massage therapist or registered massage practitioner;

(3) The name of the licensed massage therapist or registered massage practitioner providing massage therapy services appears on the billing invoices, stationery, and on any receipt given to a patient;

(4) Treatment records are maintained that clearly identify the licensed massage therapist or registered massage practitioner who has performed the massage therapy service for the patient; and

(5) The use of a trade name is preapproved by the Board before use.

§3–5A–13.

A health care provider licensed or certified under this article may not refer patients to a person who is not a licensed massage therapist.

§3–5A–14.

Notwithstanding the fact that these services are provided within the scope of their licensed practice, nothing in this subtitle requires a nonprofit health service plan, insurer, health maintenance organization, or person acting as a third party administrator to reimburse a licensed massage therapist or registered massage practitioner for any services rendered.

§3–5A–15.

(a) In Charles County and Washington County, the County Commissioners may adopt ordinances or regulations relating to massage establishments and the practices of massage therapists, massage practitioners, and any other individuals who provide massage for compensation.

(b) (1) The Charles County Commissioners shall provide that the Director of the Charles County Health Department and the Office of the Sheriff for Charles County have the authority to carry out the provisions of the ordinances or regulations adopted under subsection (a) of this section.

(2) The Washington County Commissioners shall provide that the Washington County Health Officer and the Office of the Sheriff for Washington County have the authority to carry out the provisions of the ordinances or regulations adopted under subsection (a) of this section.

§3–601.

This title may be cited as the "Maryland Chiropractic Act".

§3–602.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2022.

§4–101.

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

(b) "Board" means the State Board of Dental Examiners.

(c) "Dental appliance" means any:

(1) Oral prosthesis;

(2) Orthodontic appliance;

(3) Regulatory appliance;

(4) Supportive appliance; or

(5) Other intraoral appliance or restoration.

(d) "Dental hygienist" means an individual, other than a dentist, who practices dental hygiene.

(e) "Dental laboratory" means any commercial laboratory or workroom in which a person engages in dental laboratory work.

(f) "Dental laboratory work" means making, repairing, or altering a dental appliance extraorally.

(g) "Dentist" means an individual who practices dentistry.

(h) (1) "License" means, unless the context requires otherwise, a license issued by the Board to:

(i) Practice dentistry; or

(ii) Practice dental hygiene.

(2) "License" includes, unless the context requires otherwise:

(i) A general license to practice dentistry;

(ii) A limited license to practice dentistry;

(iii) A teacher's license to practice dentistry;

(iv) A general license to practice dental hygiene;

(v) A teacher's license to practice dental hygiene;

(vi) A retired volunteer dentist's license to practice dentistry;

(vii) A retired volunteer dental hygienist's license to practice dental hygiene;

(viii) A volunteer dentist's license to practice dentistry;

(ix) A volunteer dental hygienist's license to practice dental hygiene;

(x) A temporary volunteer dentist's license to practice dentistry; and

(xi) A temporary dental hygienist's license to practice dental hygiene.

(i) (1) "Licensed dental hygienist" means, unless the context requires otherwise, a dental hygienist who is licensed by the Board to practice dental hygiene.

(2) "Licensed dental hygienist" includes, unless the context requires otherwise, a holder of:

(i) A general license to practice dental hygiene;

(ii) A teacher's license to practice dental hygiene;

(iii) A retired volunteer dental hygienist's license to practice dental hygiene;

(iv) A volunteer dental hygienist's license to practice dental hygiene; or

(v) A temporary volunteer dental hygienist's license to practice dental hygiene.

(j) (1) "Licensed dentist" means, unless the context requires otherwise, a dentist who is licensed by the Board to practice dentistry.

(2) "Licensed dentist" includes, unless the context requires otherwise, a holder of:

(i) A general license to practice dentistry;

(ii) A limited license to practice dentistry;

(iii) A teacher's license to practice dentistry;

(iv) A retired volunteer dentist's license to practice dentistry;

(v) A volunteer dentist's license to practice dentistry; or

(vi) A temporary volunteer dentist's license to practice dentistry.

(k) "Practice dental hygiene" means to:

(1) Perform a preliminary dental examination;

(2) Perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration;

(3) Polish a tooth or a restoration;

(4) Chart cavities, restorations, missing teeth, periodontal conditions, and other features observed during preliminary examination, prophylaxis, or polishing;

(5) Apply a medicinal agent to a tooth for a prophylactic purpose;

(6) Take a dental X ray;

(7) Perform a manual curettage in conjunction with scaling and root planing;

(8) Administer local anesthesia in accordance with § 4–206.1 or § 4–206.3 of this title;

(9) Monitor, in accordance with § 4–206.2 of this title, a patient to whom nitrous oxide is administered; or

(10) Perform any other intraoral function that the Board authorizes by a rule or regulation adopted under § 4–206 of this title.

(l) "Practice dentistry" means to:

(1) Be a manager, a proprietor, or a conductor of or an operator in any place in which a dental service or dental operation is performed intraorally;

(2) Perform or attempt to perform any intraoral dental service or intraoral

dental operation;

(3) Diagnose, treat, or attempt to diagnose or treat any disease, injury, malocclusion, or malposition of a tooth, gum, or jaw, or structures associated with a tooth, gum, or jaw if the service, operation, or procedure is included in the curricula of an accredited dental school or in an approved dental residency program of an accredited hospital or teaching institution;

(4) Perform or offer to perform dental laboratory work;

(5) Place or adjust a dental appliance in a human mouth; or

(6) Administer anesthesia for the purposes of dentistry and not as a medical specialty.

(m) Except as provided in § 4–308(f)(2) of this title, "supervision" means supervision of a dental hygienist by a dentist, where the dentist may or may not be present when the dental hygienist performs the dental hygiene procedures but is available on the premises.

(n) "Temporary dental clinic permit" means, unless the context requires otherwise, a temporary permit issued by the Board to a bona fide charitable organization to provide dental services to the poor, elderly, or disabled at a dental clinic.

(o) "Third party" means any person who collects premiums, assumes financial risks, pays claims, or provides administrative services relating to any:

(1) Insurance policy;

(2) Insurance contract;

(3) Health prepayment contract;

(4) Health care plan; or

(5) Nonprofit health service plan contract.

§4–102.

(a) (1) Except as otherwise provided in this subsection, this title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(2) The provisions of this title do not affect a physician while practicing medicine, unless the physician practices dentistry as a specialty.

(b) This title does not prohibit an educational program broadcast on radio or television by the Department or by the health department of a political subdivision of

this State.

(c) This title does not apply to a clinic maintained by a public school, a State institution, or charitable institution, or a business corporation, for its pupils, inmates, or employees if:

(1) The school or institution, or corporation does not advertise concerning dentistry; and

(2) Notwithstanding the provisions of this subsection:

(i) Each dental hygienist, dental assistant, dental technician, or other dental auxiliary employed by the clinic shall be subject to the provisions of this title; and

(ii) Each dentist employed by the clinic shall be licensed and shall be subject to the provisions of Subtitle 3 of this title.

§4–201.

There is a State Board of Dental Examiners in the Department.

§4–202.

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

(2) Of the 16 Board members:

(i) 9 shall be licensed dentists;

(ii) 4 shall be licensed dental hygienists; and

(iii) 3 shall be consumer members.

(3) (i) Subject to subsection (b)(1) of this section, the Governor shall appoint the dentist Board members, with the advice of the Secretary, from a list of names submitted to the Governor by the Board.

(ii) The number of names on the list for one vacancy shall be at least four names, for two vacancies at least three names for each vacancy, and for three or more vacancies at least two names for each vacancy.

(4) (i) Subject to subsection (b)(2) of this section, the Governor shall appoint the dental hygienist Board members, with the advice of the Secretary, from a list of names submitted to the Governor by the Board.

(ii) The number of names on the list shall be four times the number of vacancies.

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

(6) To the extent practicable, the members appointed to the Board shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(b) (1) For each licensed dentist vacancy, the Board shall:

(i) Send by electronic mail or regular mail a solicitation for nominations to fill the vacancy to:

1. Each dentist licensed by the Board; and

2. Each State dental organization affiliated with a national organization; and

(ii) Conduct a balloting process by which each dentist licensed by the State is eligible to vote to select the names of the licensed dentists to be submitted to the Governor.

(2) For each licensed dental hygienist vacancy, the Board shall:

(i) Send by electronic mail or regular mail a solicitation for nominations to fill the vacancy to:

1. Each dental hygienist licensed by the Board; and

2. Each State dental hygienist organization affiliated with a national organization; and

(ii) Conduct a balloting process by which each dental hygienist licensed by the State is eligible to vote to select the names of the licensed dental hygienists to be submitted to the Governor.

(3) The Board shall develop guidelines for the solicitation of nominations and balloting process that to the extent possible will result in the overall composition of the Board reasonably reflecting the geographic, racial, ethnic, and gender diversity of the State.

(c) Each dentist Board member:

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

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

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

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

(i) An officer of the association;

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

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

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

(d) Each dental hygienist Board member:

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

(2) Shall be a resident of this State;

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

(i) An officer of the association;

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

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

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

(e) Each consumer member of the Board:

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

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

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

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

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

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

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

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

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

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2006.

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

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

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

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

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

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

§4–203.

(a) From among its members, the Board shall elect a president and a secretary.

(b) The Board shall determine:

(1) The manner of election of officers;

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

(3) The duties of each officer.

§4–204.

(a) (1) The Board shall meet at least twice a year, at the times and places that it determines.

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

(i) The Secretary requests a meeting; or

(ii) The Board considers a meeting necessary.

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

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

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

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

(c) The Board may employ a staff in accordance with the budget of the Board.

§4–205.

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

(1) Adopt regulations governing:

(i) The administration of general anesthesia by a licensed dentist;

(ii) The administration of sedation by a licensed dentist;

(iii) The use of a dental assistant by a licensed dentist in performing intraoral procedures;

(iv) Subject to subsection (b) of this section, the issuance of a permit to a facility not otherwise regulated where a dentist administers or has general anesthesia or sedation administered;

(v) Subject to subsection (b) of this section, the issuance of a permit to a dentist who administers or has general anesthesia or sedation administered;

(vi) Reasonable requirements for the training and evaluation of a dentist before the dentist may administer general anesthesia or sedation other than nitrous oxide administered alone and not in conjunction with:

1. Another method of diminishing or eliminating pain; or

2. Medication used for diminishing or eliminating anxiety;

(vii) Reasonable requirements for:

1. The education, training, evaluation, and examination of a dental hygienist before the dental hygienist may perform manual curettage in conjunction with scaling and root planing; and

2. Performance by a dental hygienist of manual curettage in conjunction with scaling and root planing;

(viii) Reasonable requirements for:

1. The education, training, evaluation, and examination of a dental hygienist before the dental hygienist may administer local anesthesia under § 4–206.1 of this subtitle; and

2. Administering by a dental hygienist of local anesthesia under § 4–206.1 of this subtitle;

(ix) Reasonable requirements for:

1. The education, training, evaluation, and examination of a dental hygienist before a dental hygienist may monitor a patient to whom nitrous oxide is being administered, subject to § 4–206.2 of this subtitle; and

2. Monitoring by a dental hygienist, in accordance with § 4–206.2 of this subtitle, of a patient to whom nitrous oxide is being administered;

(x) Reasonable requirements for the education, training, evaluation, and examination of a dental hygienist before a dental hygienist may administer local anesthesia by inferior alveolar nerve block under § 4–206.3 of this subtitle;

(xi) The discipline of a holder of any facility or administration permit for the administration of general anesthesia or sedation; and

(xii) The release of patient dental records;

(2) After consulting with the State Board of Pharmacy, adopt regulations regarding the dispensing of prescription drugs by a licensed dentist;

(3) On receipt of a written and signed complaint, investigate an alleged violation of this title;

(4) After consulting with the Maryland Dental Hygienists' Association, adopt regulations establishing continuing education requirements for licensed dental hygienists;

(5) Adopt regulations establishing continuing education requirements for licensed dentists;

(6) 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 dentist, other than an office of a dentist 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

(7) Establish committees from among its members to facilitate and assist the Board in discharging its duties and responsibilities under this title by evaluating, reviewing, and making recommendations to the Board on matters referred to the committees by the Board. The committees established shall include, but may not be limited to:

(i) A nominations committee;

(ii) A regulations committee;

(iii) A committee on dental hygiene composed of 3 dental hygienists, 1 dentist, and 1 consumer to which the Board shall refer all matters within the Board's jurisdiction under this title relating to or affecting the practice of dental hygiene for the committee's evaluation, review, and recommendation;

(iv) A disciplinary committee; and

(v) Such other committees as the Board considers appropriate.

(b) The Board may not require a facility or a dentist to obtain a permit if a dentist:

(1) Administers nitrous oxide that is not administered in conjunction with:

(i) Another method of diminishing or eliminating pain; or

(ii) Medication used for diminishing or eliminating anxiety; or

(2) Prescribes or administers oral medication to a patient within the maximum recommended dosage for that patient for the sole purpose of diminishing or eliminating anxiety that is not prescribed in conjunction with:

(i) Another method of diminishing or eliminating pain; or

(ii) The administration of nitrous oxide.

(c) In addition to the duties set forth elsewhere in this title, the Board shall:

(1) Keep a record of each license and each action taken under § 4–315 of this title;

(2) Have an official seal; and

(3) Adopt rules, regulations, and bylaws as may be necessary to carry out the provisions of this title.

§4–206.

(a) Except as otherwise provided in this section, the Board may adopt rules and regulations that authorize a licensed dental hygienist to perform additional intraoral functions.

(b) The Board may not authorize a licensed dental hygienist to:

(1) Perform a diagnosis;

(2) Perform an extraction;

(3) Repair a cavity;

(4) Correct tooth placement;

(5) Perform a surgical procedure; or

(6) Administer anesthesia other than the following:

(i) Topical anesthesia; or

(ii) Local anesthesia in accordance with § 4–206.1 of this subtitle.

§4–206.1.

(a) Subject to the requirements of subsections (b) and (c) of this section, a dental hygienist may administer local anesthesia by infiltration for the purpose of anesthetizing soft tissue to facilitate the performance of dental hygiene procedures, but not as a medical specialty, provided the administration of local anesthesia is under the supervision of a dentist who:

(1) Is physically present on the premises; and

(2) Prescribes the administration of local anesthesia by the dental hygienist.

(b) Before a dental hygienist may administer local anesthesia under subsection (a) of this section, the dental hygienist shall successfully complete the following:

(1) Any educational requirements established by the Board; and

(2) A written and clinical examination as required by the Board.

(c) A dental hygienist shall obtain the educational requirements established by the Board under subsection (b)(1) of this section from an accredited dental hygiene

program.

§4–206.2.

(a) A dental hygienist may monitor a patient to whom nitrous oxide is administered provided the monitoring of the patient is under the supervision of a dentist who is physically present on the premises.

(b) Before a dental hygienist may monitor a patient to whom nitrous oxide is administered, the dental hygienist shall successfully complete the following:

(1) Any educational requirements established by the Board; and

(2) A written and clinical examination as required by the Board.

(c) A dental hygienist shall complete the educational requirements established by the Board under subsection (b)(1) of this section through an accredited dental hygiene program.

§4–206.3.

(a) Subject to the requirements of subsection (b) of this section, a dental hygienist may administer local anesthesia by inferior alveolar nerve block for the purpose of anesthetizing soft tissue to facilitate the performance of dental hygiene procedures, but not as a medical specialty, provided the administration of the local anesthesia is under the supervision of a dentist who:

(1) Is physically present on the premises; and

(2) Prescribes the administration of local anesthesia by the dental hygienist.

(b) (1) Before a dental hygienist may administer local anesthesia under subsection (a) of this section, the dental hygienist shall successfully complete the following:

(i) Any educational requirements established by the Board; and

(ii) A written and clinical examination as required by the Board.

(2) A dental hygienist shall obtain the education required under paragraph (1) of this subsection from an accredited dental hygiene program.

(3) A dental hygienist who successfully completed the education requirements and examination required under paragraph (1) of this subsection before October 1, 2011, shall take and successfully complete a refresher course and a clinical examination from an accredited dental hygiene program.

§4–207.

(a) There is a State Board of Dental Examiners Fund.

(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.

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Dental Examiners Fund.

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

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

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

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

(e) (1) In addition to the provisions of subsection (d) of this section, the Board shall fund:

(i) The budget of a dental well–being committee, as defined in § 4–501.1 of this title, with fees set, collected, and distributed to the Fund under this title; and

(ii) The budget of a dental hygiene well–being committee, as defined in § 4–508 of this title, with fees set, collected, and distributed to the Fund under this title.

(2) After review and approval by the Board of a budget submitted by the Maryland State Dental Association for a dental well–being committee, the Board may allocate moneys from the Fund to the dental well–being committee.

(3) After review and approval by the Board of a budget submitted by the

Maryland Dental Hygienists' Association for a dental hygiene well–being committee, the Board may allocate moneys from the Fund to a dental hygiene well–being committee.

(f) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§4–208.

The Board may sue and be sued in its own name in the courts of this State.

§4–209.

A person shall have the immunity from liability described under § 5-705 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§4–301.

(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dentistry before the individual may practice dentistry on a human being in this State.

(2) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dental hygiene before the individual may practice dental hygiene on a human being in this State.

(b) This section does not apply to:

(1) A student of dentistry while engaged in an educational program at an approved school of dentistry;

(2) A student of dental hygiene while engaged in an approved educational program in dental hygiene;

(3) A dentist while performing official duties in a federal dental service;

(4) An individual licensed to practice dentistry in any other state or a foreign country, while the individual:

(i) Makes a clinical demonstration before a dental society, dental convention, association of dentists, or dental college; or

(ii) Performs professional duties on a specific case for which the

individual is called into this State; or

(5) A dental assistant, if the dental assistant:

(i) Subject to the rules and regulations adopted by the Board, performs only procedures that do not require the professional skills of a licensed dentist; and

(ii) Performs intraoral tasks only under the direct supervision of a licensed dentist who personally is present in the office area where the tasks are performed.

§4–302.

(a) Except as otherwise provided in this title, to qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) To qualify for a license to practice dentistry, the applicant shall be at least 18 years old.

(d) Unless waived by the Board under §§ 4–303 and 4–303.1 of this subtitle, to qualify for a license to practice dentistry, the applicant shall hold a degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or the equivalent, from a college or university that is:

(1) Authorized by any state or any province of Canada to grant the degree; and

(2) Recognized by the Board as requiring adequate preprofessional collegiate training and as maintaining an acceptable course of dental instruction.

(e) To qualify for a license to practice dental hygiene, the applicant shall be a graduate of a school for dental hygienists that:

(1) Requires at least 2 years of education in an institution of higher education;

(2) Is accredited by the American Dental Association Commission on Dental Accreditation; and

(3) Is approved by the Board.

(f) (1) Unless the examination requirement is waived under § 4–306 or § 4–310 of this subtitle, and except as provided in § 4–303.1 of this subtitle, to qualify for a general license to practice dentistry or a general license to practice dental hygiene, the applicant shall pass an examination given by the Board under this subtitle.

(2) An examination is not required for a teacher's license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dental hygiene.

(g) In addition to the requirements of subsections (a), (b), (c), and (d) of this section, to qualify for a teacher's license to practice dentistry, the applicant shall:

(1) Be licensed to practice dentistry in any other state;

(2) Have been active in the dental profession for at least 5 years;

(3) Be a full–time or part–time faculty member at a college or university where the applicant teaches a subject required by the dental school of that college or university; and

(4) If the applicant is engaged in a teaching area that is designated as a specialty by the American Dental Association, meet the requirements established by the American Dental Association for that specialty.

(h) In addition to the requirements of subsections (a), (b), and (e) of this section, to qualify for a teacher's license to practice dental hygiene, the applicant shall:

(1) Be licensed to practice dental hygiene in any other state;

(2) Have been active as a dental hygienist for at least 5 years before applying for the teacher's license to practice dental hygiene; and

(3) Be a full–time or part–time faculty member at a dental school where the applicant teaches a subject required by that school.

(i) In addition to the requirements of subsections (a), (b), (c), and (d) of this section, to qualify for a retired volunteer dentist's license to practice dentistry, the applicant shall:

(1) Have had a general license to practice dentistry issued under this title within the last 2 years;

(2) Complete the continuing education requirements that the Board establishes for a general license; and

(3) Provide dental services as required under § 4–308(c) of this subtitle.

(j) In addition to the requirements of subsections (a), (b), and (e) of this section, to qualify for a retired dental hygienist's license to practice dental hygiene, the applicant shall:

(1) Have had a general license to practice dental hygiene under this title within the last 2 years;

(2) Complete the continuing education requirements that the Board establishes for a general license; and

(3) Provide dental hygiene services as required under § 4–308(g) of this subtitle.

(k) In addition to the requirements of subsections (a), (b), (c), and (d) of this section, to qualify for a volunteer dentist's license to practice dentistry, the applicant shall:

(1) Satisfy the requirements of § 4–306(b)(1) and (d)(2) of this subtitle;

(2) Hold an active license to practice dentistry in another state or in the District of Columbia;

(3) Complete the continuing education requirements that the Board establishes for a general license;

(4) Provide dental services exclusively in the manner described in § 4–308(c) of this subtitle; and

(5) Immediately upon ceasing to provide services exclusively in the manner described in § 4–308(c), surrender the volunteer license to the Board.

(l) In addition to the requirements of subsections (a), (b), (c), and (e) of this section, to qualify for a volunteer dental hygienist's license to practice dental hygiene, an applicant shall:

(1) Satisfy the requirements of § 4–306(b)(2) and (e)(2) of this subtitle;

(2) Hold an active license to practice dental hygiene in another state or in the District of Columbia;

(3) Complete the continuing education requirements that the Board establishes for a general license;

(4) Provide dental hygiene services exclusively in the manner described in § 4–308(g) of this subtitle; and

(5) Immediately upon ceasing to provide services exclusively in the manner described in § 4–308(g), surrender the volunteer license to the Board.

(m) To qualify for a limited license to practice dentistry, the applicant shall meet the requirements set forth in subsections (a), (b), (c), and (d) of this section.

§4–303.

(a) Subject to the provisions of this section, the Board may waive the education requirements of § 4-302 of this subtitle for an applicant for a limited license who

does not hold a degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or the equivalent from a college or university that is authorized by any state or any province of Canada to grant the degree and is recognized by the Board under § 4-302(d)(2) of this subtitle.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Completes at least 2 years of formal general clinical training in a college or university that is authorized by any state or any province of Canada to grant the degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or the equivalent and is recognized by the Board under § 4-302(d)(2) of this subtitle; and

(2) Meets any other requirements that the Board establishes for a waiver of the education requirements of § 4-302 of this subtitle.

(c) (1) Notwithstanding the provisions of subsection (b) of this section and § 4-302(g) of this subtitle, the Board may grant a waiver for a teacher's license if it finds that:

(i) The applicant holds a degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or an equivalent degree from a school, college, or faculty of dentistry;

(ii) The applicant demonstrates that the applicant has had at least 5 years of clinical dental experience;

(iii) The applicant is found to be of good moral character and professionally competent;

(iv) The Dean of the University of Maryland Dental School requests the waiver and circumstances exist that justify the granting of a waiver; and

(v) The applicant is appointed to a full-time or part-time faculty position at the University of Maryland Dental School.

(2) A teacher's license granted pursuant to a waiver under paragraph (1) of this subsection:

(i) Authorizes the licensee to practice dentistry to the same extent as other faculty members who hold general licenses to practice dentistry, provided that the licensee only practices dentistry at established teaching sites and faculty programs of the University of Maryland Dental School; and

(ii) Shall be surrendered immediately to the Board when the licensee ceases to hold an appointment as a full-time or part-time faculty member of the University of Maryland Dental School.

§4–303.1.

(a) Subject to the provisions of this section, the Board may waive the education requirements of § 4–302 of this subtitle for an applicant for a limited license to practice dentistry who does not hold a degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or the equivalent from a college or university that is authorized by any state or any province of Canada to grant the degree and is recognized by the Board under § 4–302(d)(2) of this subtitle.

(b) The Board may grant a waiver under this section only if:

(1) The applicant:

(i) Holds a degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or an equivalent degree from a school, college, or faculty of dentistry other than one located in the United States or Canada;

(ii) Has successfully completed at least a 2–year pediatric dentistry residency program at a dental school or a hospital authorized by any state and which is recognized by the Board;

(iii) Either is a pediatric dental fellow, or has successfully completed a pediatric dental fellowship, at the University of Maryland Dental School;

(iv) Is contractually obligated to provide pediatric dental services for at least 2 years:

1. In a public health dental clinic operated by the State or a county or municipality of the State; or

2. In a federally qualified health center or Maryland qualified health center only to Medicaid, uninsured, or indigent patients or patients who otherwise qualify for dental care in a public health dental clinic;

(v) Limits practice to the public health dental clinic, federally qualified health center, or Maryland qualified health center for which the applicant has contractually agreed to provide pediatric dental services;

(vi) Is found to be of good moral character and professionally competent; and

(vii) Meets any other requirements that the Board may reasonably require; and

(2) The health officer of the public health program for which the applicant has contractually agreed to provide at least 2 years of pediatric dental services and the Dean of the University of Maryland Dental School request the waiver from the Board and state that circumstances exist to justify granting the waiver.

(c) A limited license to practice dentistry issued to an applicant for a waiver under this section shall expire and be surrendered immediately to the Board if:

(1) The licensee's contract with the public health dental clinic, federally qualified health center, or Maryland qualified health center expires; or

(2) The licensee fails, for any reason, to fully satisfy the licensee's obligations under subsection (b)(1)(iv) and (v) of this section.

(d) The Board may issue a general license to a limited licensee who was granted a waiver under this section if the limited licensee:

(1) Successfully completes at least a 2–year contractual obligation to provide pediatric dental care in accordance with subsection (b)(1)(iv) of this section;

(2) Submits an application for a general license to practice dentistry on a form provided by the Board;

(3) Passes the ADLEX as defined in § 4–306(a)(4) of this subtitle;

(4) Passes the Maryland Dental Jurisprudence Examination given by the Board or its designee;

(5) Passes the National Board Examinations;

(6) Demonstrates oral English competency by scoring 220 or better for overall comprehension and 2.0 or better for pronunciation, grammar, and fluency on the test of spoken English administered by the Educational Testing Service; and

(7) Is found to be of good moral character.

§4–304.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board an application fee set by the Board.

(b) In addition to the other requirements of this section, an applicant for a limited license to practice dentistry shall submit to the Board a written request, from the hospital, sanatorium, dental school, or public health program to which the practice is to be limited, that the license be issued.

(c) To apply for a retired volunteer dentist's license, a volunteer dentist's license, or a temporary volunteer dentist's license to practice dentistry, an applicant:

(1) Shall submit an application to the Board on the form that the Board

requires; and

(2) May not be required to pay an application fee.

(d) (1) At least 30 days before the examination, an applicant for a general license to practice dental hygiene shall submit the application to the Board.

(2) In addition to the other requirements of this section, an applicant for a license to practice dental hygiene shall submit to the Board:

(i) Satisfactory evidence of graduation from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation; and

(ii) Any other credentials that the Board requires.

(e) To apply for a retired volunteer dental hygienist's license, a volunteer dental hygienist's license, or a temporary volunteer dental hygienist's license to practice dental hygiene, an applicant:

(1) Shall submit an application to the Board on the form that the Board requires; and

(2) May not be required to pay an application fee.

(f) To apply for a temporary dental clinic permit, an applicant:

(1) Shall submit an application on the form that the Board requires; and

(2) May not be required to pay an application fee.

§4–305.

(a) An applicant who otherwise qualifies for a general license to practice dentistry or a general license to practice dental hygiene is entitled to be examined as provided in this section.

(b) The Board shall notify each qualified applicant of the time and place of examination.

(c) The Board shall determine the subjects, scope, form, and passing score for examinations given under this title.

(d) An applicant shall pay:

(1) To the Board an examination fee set by the Board in an amount that does not exceed the costs of administering the examination; or

(2) To an examining body designated by the Board an examination fee set

by the examining body as approved by the Board.

(e) An applicant who fails an examination 4 times may not be licensed.

(f) Consumer members of the Board may only participate in the proctoring or monitoring of examinations under this title.

(g) Unless authorized by the Board, a dental hygienist member of the Board may not participate in any activity relating to the examination of dentists under this title.

§4–306.

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

(2) "ADEX" means the American Board of Dental Examiners, Inc., or its successor organization.

(3) (i) "ADHLEX" means the American Dental Hygiene Licensing Examination designed and developed by ADEX, or its successor examination.

(ii) "ADHLEX" includes a written component and a clinical component.

(4) (i) "ADLEX" means the American Dental Licensing Examination designed and developed by ADEX, or its successor examination.

(ii) "ADLEX" includes a written component and a clinical component.

(b) (1) A dentist licensed in any other state shall be issued a license in this State if the applicant:

(i) 1. Has passed the ADLEX; and

2. Has passed the Maryland Dental Jurisprudence Examination given by the Board or its designee; or

(ii) 1. For the 5 preceding years, has been actively engaged in practicing dentistry for at least 850 hours on average per year;

2. Has passed an examination with a clinical component as a requirement for licensure in another state;

3. Has passed a comprehensive written examination on applied clinical diagnosis and treatment planning administered by ADEX; and

4. Has passed the Maryland Dental Jurisprudence Examination given by the Board or its designee.

(2) A dental hygienist licensed in any other state shall be issued a license in this State if the applicant:

(i) 1. Has passed the ADHLEX; and

2. Has passed the Maryland Dental Hygiene Jurisprudence Examination given by the Board or its designee; or

(ii) 1. For the 3 preceding years, has been actively engaged in practicing dental hygiene for at least 150 hours on average per year;

2. Has passed an examination with a clinical component as a requirement for licensure in another state;

3. Has passed a comprehensive written examination on applied clinical diagnosis and treatment planning administered by ADEX; and

4. Has passed the Maryland Dental Hygiene Jurisprudence Examination given by the Board or its designee.

(c) (1) The Board may adopt regulations for the content and administration of examinations and any other regulations necessary to provide for the licensure of individuals who apply for a license to practice dentistry under subsection (b)(1) of this section.

(2) The Board may adopt regulations for the content and administration of examinations and any other regulations necessary to provide for the licensure of individuals who apply for a license to practice dental hygiene under subsection (b)(2) of this section.

(d) An applicant for a general license to practice dentistry under this section shall:

(1) Pay the application fee required by § 4–304 of this subtitle; and

(2) Provide adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title for a general license to practice dentistry;

(ii) Holds a license to practice dentistry in another state;

(iii) Has satisfied the examination requirements provided in subsection (b)(1) of this section;

(iv) Is not being investigated by a disciplinary authority of another state, does not have charges pending against the applicant's license, and has not been disciplined by a disciplinary or licensing authority of any other state or country, or

been convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under § 4–315 of this subtitle; and

(v) Has not previously failed an examination for licensure as a dentist in this State.

(e) An applicant for a general license to practice dental hygiene under this section shall:

(1) Pay the application fee required by § 4–304 of this subtitle; and

(2) Provide adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title for a general license to practice dental hygiene;

(ii) Holds a license to practice dental hygiene in another state;

(iii) Has satisfied the examination requirements provided in subsection (b)(2) of this section;

(iv) Is not being investigated by a disciplinary authority of another state, does not have charges pending against the applicant's license, and has not been disciplined by a disciplinary or licensing authority of any other state or country, or been convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under § 4–315 of this subtitle; and

(v) Has not previously failed an examination for licensure as a dental hygienist in this State.

§4–307.

(a) The Board shall issue the appropriate license to any applicant who meets the requirements of this title for that license.

(b) (1) The Board shall include on each license that the Board issues:

(i) The name of the licensee;

(ii) The date the license was issued;

(iii) A serial number;

(iv) The signatures of the president and secretary of the Board; and

(v) The seal of the Board.

(2) On a limited license to practice dentistry, the Board also shall include:

(i) The date the license expires, for a license that expires on the first anniversary of its effective date; and

(ii) The name of the institution or public health program at which the licensee is authorized to practice dentistry.

(3) On a teacher's license to practice dentistry, the Board also shall include the name of the college or university at which the licensee is a full-time or part-time faculty member.

(4) On a teacher's license to practice dental hygiene, the Board also shall include the name of the dental school at which the licensee is a full-time or part-time faculty member.

(c) The Board shall issue a license to replace a lost or destroyed license if the licensee pays a fee set by the Board that approximates the actual cost of replacing the license.

§4–308.

(a) A general license to practice dentistry issued under this title authorizes the licensee to practice dentistry while the license is effective.

(b) While it is effective, a limited license to practice dentistry issued under this title authorizes the licensee to practice dentistry, including as an intern or a resident:

(1) Only for the institution or public health program named on the license; and

(2) Only on patients of the institution or public health program named on the license.

(c) While it is effective, a retired volunteer dentist's license or a volunteer dentist's license to practice dentistry issued under this title authorizes the licensee to practice dentistry:

(1) Only in a dental office, dental clinic, ambulatory care facility, or hospital;

(2) Only for an entity providing medical care to the poor, elderly, or disabled that is operated by:

(i) The State or a local government;

(ii) A bona fide charitable organization; or

(iii) Any other entity authorized under regulations adopted by the Board;

(3) If the dentist signs a written statement agreeing to donate at least 100 hours of dental services without compensation in a facility that satisfies the requirements of items (1) and (2) of this subsection;

(4) If the dentist provides documentation as required by the Board which evidences that the licensee is covered by malpractice insurance; and

(5) If the dentist does not otherwise practice dentistry for profit in Maryland.

(d) (1) While it is effective, a temporary volunteer dentist's license issued under this title authorizes the licensee to practice dentistry:

(i) Only in a temporary dental clinic providing medical care to the poor, elderly, or disabled that is operated by:

1. A bona fide charitable organization;

2. The State or a local government; or

3. A local health department;

(ii) If:

1. The dentist holds a general license to practice dentistry in another state that permits clinical practice and the dentist is not subject to clinical restrictions; and

2. The dentist has:

A. Passed the North East Regional Board Clinical Examination; or

B. Submitted to the Board a notarized affidavit or other evidence satisfactory to the Board indicating that for the 5 years preceding application, the applicant has actively engaged in practicing dentistry for at least 850 hours on average per year;

(iii) If the dentist has fulfilled any requirements of the Board relating to knowledge of the regulations adopted by the Board and the laws concerning the practice of dentistry in the State;

(iv) If the dentist provides a notarized affidavit to the Board agreeing to donate dental services without compensation for a temporary dental clinic that satisfies the requirements of subsection (i) of this section;

(v) If the dentist provides documentation as required by the Board that evidences that the dentist is covered by malpractice insurance;

(vi) If the dentist does not otherwise practice dentistry for profit in the State; and

(vii) If the dentist provides verification of current cardiopulmonary resuscitation certification.

(2) A dentist who holds a temporary volunteer dentist's license may not administer, maintain, or monitor general anesthesia or sedation.

(3) A dentist who holds a temporary volunteer dentist's license may only provide services authorized under the Maryland Dentistry Act and the regulations adopted by the Board.

(4) A dentist who holds a temporary volunteer dentist's license or the temporary dental clinic in which the dentist is providing services shall provide a form to a patient at the conclusion of treatment that contains:

(i) A summary of the services that were provided to the patient by the dentist and, if applicable, the dental hygienist; and

(ii) Instructions for any recommended follow–up dental care.

(5) The Board may deny a temporary volunteer dentist's license on the grounds provided under § 4–315 of this subtitle.

(6) A temporary volunteer dentist's license issued to a dentist under this title shall be issued for the duration of the temporary dental clinic only and may not be renewed.

(7) The Board may issue a temporary volunteer dentist's license to a dentist who previously held a temporary volunteer dentist's license if the dentist applies for a new license and satisfies the requirements of this subtitle.

(8) The Board may not require continuing education as a condition for the issuance of a temporary volunteer dentist's license.

(e) While it is effective, a teacher's license to practice dentistry issued under this title authorizes the licensee to practice dentistry at only the following institutions:

(1) The institution named on the license; and

(2) Other affiliated institutions as appropriate because of the specialized nature of the services to be performed.

(f) (1) Except as provided in subsection (k) of this section, while it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene:

(i) Under the supervision of a licensed dentist who is:

1. On the premises and available for personal consultation while the services are being performed; or

2. Not on the premises while authorized dental hygiene services are provided when the requirements of subsection (l) of this section have been fully satisfied; and

(ii) Only in a:

1. Dental office;

2. Dental clinic;

3. Hospital;

4. School;

5. Charitable institution; or

6. Health maintenance organization certified by the State Insurance Commissioner.

(2) (i) The Board may waive, on a case by case basis only, the supervision requirements of this subsection for:

1. A dental facility owned and operated by the federal, the State, or a local government;

2. A health facility licensed by the Department of Health and Mental Hygiene;

3. A facility providing medical care to the poor, elderly, or handicapped that is owned and operated by:

A. The State or a local government; or

B. A bona fide charitable organization; or

4. Any other setting authorized under regulations adopted by the Board.

(ii) A waiver is not required to practice dental hygiene under general supervision in accordance with subsection (k) of this section.

(3) The Board may grant a waiver under paragraph (2) of this subsection if:

(i) The facility requesting the waiver has submitted a written application;

(ii) The facility requesting the waiver has submitted a medical emergency plan of action at the time of application; and

(iii) The Board finds that:

1. Good cause exists to justify the granting of the waiver;

2. Adequate facilities and equipment, including portable equipment where appropriate and appropriate armamentarium, are available for the appropriate delivery of dental hygiene services; and

3. Adequate safeguards are present to protect the patient's health and safety.

(4) (i) The Board, upon written request or its own motion, may conduct a public informational meeting on any waiver application.

(ii) The Board shall maintain records of all waiver applications and the criteria and basis for its action on each application.

(iii) The Board shall have the power to inspect or review any facility, location, person, or entity applying for, covered by, or acting under a waiver.

(5) (i) Except as provided under subparagraph (ii) of this paragraph, the Board shall accept or deny a waiver under paragraph (2) of this subsection within 60 calendar days of the receipt of the application for the waiver or it shall be deemed to have been accepted.

(ii) If extraordinary circumstances exist, the Board shall accept or deny a waiver under paragraph (2) of this subsection within 90 calendar days of the receipt of the application for the waiver or it shall be deemed to have been accepted.

(6) Any changes in the procedures or personnel of a facility with a waiver granted under this subsection shall be reported to the Board within 15 business days after the change.

(g) While it is effective, a retired volunteer dental hygienist's license or a volunteer dental hygienist's license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene:

(1) Only in a dental office, dental clinic, ambulatory care facility, or hospital;

(2) Only for an entity providing medical care to the poor, elderly, or handicapped that is operated by:

(i) The State or a local government;

(ii) A bona fide charitable organization; or

(iii) Any other entity authorized under regulations adopted by the Board;

(3) If the dental hygienist signs a written statement agreeing to donate at least 100 hours of dental hygiene services without compensation in a facility that satisfies the requirements of items (1) and (2) of this subsection;

(4) If the dental hygienist provides documentation as required by the Board which evidences that the licensee is covered by malpractice insurance; and

(5) If the dental hygienist does not otherwise practice dental hygiene for profit in Maryland.

(h) (1) While it is effective, a temporary volunteer dental hygienist's license issued under this title authorizes the licensee to practice dental hygiene:

(i) Only in a temporary dental clinic providing medical care to the poor, elderly, or disabled that is operated by:

1. A bona fide charitable organization;

2. The State or a local government; or

3. A local health department;

(ii) If the dental hygienist holds a general license to practice dental hygiene in another state that permits clinical practice and the dental hygienist is not subject to clinical restrictions;

(iii) In addition to holding a general license to practice dental hygiene, if the dental hygienist:

1. Provides documentation as required by the Board which evidences that the dental hygienist passed the North East Regional Board Clinical Examination; or

2. Submits to the Board a notarized affidavit or other evidence satisfactory to the Board indicating that for the 3 years preceding application, the dental hygienist has actively engaged in practicing dental hygiene for at least 150 hours on average per year;

(iv) If the dental hygienist has fulfilled any requirements of the Board related to knowledge of the laws and regulations governing the practice of dental hygiene in the State;

(v) If the dental hygienist provides a notarized affidavit to the Board agreeing to donate dental hygiene services without compensation for a temporary dental clinic that satisfies the requirements of subsection (i) of this section;

(vi) If the dental hygienist provides documentation as required by the Board evidencing that the dental hygienist is covered by malpractice insurance;

(vii) If the dental hygienist does not otherwise practice dental hygiene for profit in the State; and

(viii) If the dental hygienist provides verification of current cardiopulmonary resuscitation certification.

(2) A dental hygienist who holds a temporary volunteer dental hygienist's license may only provide services authorized under the Maryland Dentistry Act and the regulations adopted by the Board.

(3) A dental hygienist who holds a temporary volunteer dental hygienist's license may not:

(i) Administer local anesthesia; or

(ii) Administer, maintain, or monitor nitrous oxide oxygen.

(4) While it is effective, a temporary volunteer dental hygienist's license issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a dentist who:

(i) Is on the premises;

(ii) Examines the patient at any time during the treatment; and

(iii) Is available for personal consultation while the services are being performed.

(5) A dental hygienist may perform an assessment of dental needs and provide dental hygiene services prior to an examination by a supervising dentist.

(6) This subsection may not be construed to:

(i) Require a preliminary dental examination or treatment by a dental hygienist; or

(ii) Prohibit a supervising dentist from either examining a patient or providing treatment to a patient prior to treatment by a dental hygienist.

(7) The Board may deny a temporary volunteer license to practice dental hygiene on the grounds provided under § 4–315 of this subtitle.

(8) A temporary volunteer dental hygienist's license issued to a dental hygienist under this section shall be issued for the duration of the temporary dental clinic only and may not be renewed.

(9) The Board may issue a temporary volunteer dental hygienist's license to a dental hygienist who previously held a temporary volunteer dental hygienist's license if the dental hygienist applies for a new license and satisfies the requirements of this subtitle.

(10) The Board may not require continuing education as a condition for the issuance of a temporary volunteer dental hygienist's license.

(i) (1) While it is effective, a temporary dental clinic permit issued to a bona fide charitable organization under this title authorizes the permit holder to utilize holders of a temporary volunteer dentist's license or a temporary volunteer dental hygienist's license to provide dental services to the poor, elderly, or disabled at a temporary dental clinic that is operated by the bona fide charitable organization.

(2) The Board shall issue a temporary dental clinic permit to a bona fide charitable organization that meets the requirements of this subsection.

(3) A temporary dental clinic permit issued to a bona fide charitable organization under this title shall be issued for the duration of the dental clinic only and may not be renewed.

(4) The Board may issue a temporary dental clinic permit to a bona fide charitable organization that previously held a temporary dental clinic permit if the bona fide charitable organization applies for a new permit and satisfies the requirements of this subtitle.

(5) A bona fide charitable organization that conducts a temporary dental clinic under this title may not be construed to be practicing dentistry as defined in § 4–101 of this title.

(6) (i) The State, a local government, or a local health department that provides dental services to the poor, elderly, or disabled:

1. May not be required by the Board to seek authorization under this title to provide the services; and

2. Shall provide written notice to the Board of its intention to provide dental services to the poor, elderly, or disabled at least 60 days prior to the date the services are to be provided.

(ii) A holder of an out–of–state license to practice dentistry or dental hygiene who would like to provide dental services sponsored by the State, a local government, or a local health department shall obtain a temporary volunteer dentist's license or temporary volunteer dental hygienist's license as provided in this title before

providing the dental services.

(7) A holder of a temporary dental clinic permit shall have:

(i) A medical emergency plan;

(ii) Adequate equipment, including portable equipment where appropriate, and appropriate armamentarium available for the appropriate delivery of dental services; and

(iii) Adequate safeguards to protect the health and safety of patients.

(8) The Board may:

(i) Enter and inspect a temporary dental clinic in order to carry out a duty under this title; and

(ii) Conduct an investigation of a temporary dental clinic or a holder of a temporary volunteer dentist's license or a temporary volunteer dental hygienist's license providing dental services at the temporary dental clinic.

(j) While it is effective, a teacher's license to practice dental hygiene issued under this title authorizes the licensee to:

(1) Teach dental hygiene only at the institution named on the license; and

(2) Practice dental hygiene under the general supervision of a licensed dentist with the institution named on the license.

(k) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Contractual employee" means a dental hygienist who has an annual contract to practice dental hygiene an average of at least 8 hours per week in a facility specified under paragraph (3)(i) of this subsection.

(iii) "Facility" includes a program operated within a facility that is specified under paragraph (3)(i) of this subsection.

(iv) "Federally qualified health center" has the meaning stated in 42 U.S.C. § 254b(a).

(v) "Federally qualified health center look–alike" has the meaning stated in 42 U.S.C. § 1396d(l)(2)(B).

(vi) "General supervision" means supervision of a dental hygienist by a dentist, where the dentist may or may not be present when the dental hygienist performs the dental hygiene procedures.

(2) (i) While effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene and apply sealants or fluoride agents such as professional topical fluoride treatments, mouth rinse, or varnish:

1. Under general supervision in accordance with this subsection; and

2. In a facility specified under paragraph (3)(i) of this subsection that complies with the requirements of this subsection.

(ii) This subsection may not be construed to:

1. Authorize a dental hygienist to practice dental hygiene independent of a supervising dentist;

2. Prohibit a dentist from being available for personal consultation or on the premises where a dental hygienist is practicing; or

3. Require a waiver under subsection (f) of this section.

(3) (i) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under general supervision in:

1. A dental facility owned and operated by the federal, the State, or a local government;

2. A public health department or public school of the State or a county;

3. A facility in which a program licensed by the Department is operating;

4. A facility owned and operated by the Department of Juvenile Services;

5. A facility owned and operated by the State or a local government that provides medical care to the poor, elderly, or handicapped;

6. A facility in which a federally qualified health center or a federally qualified health center look–alike is located; or

7. A facility in which a State licensed Head Start Program or Early Head Start Program operates.

(ii) Before a facility may allow a dental hygienist authorized to practice dental hygiene under general supervision in accordance with this subsection

to practice in the facility, the facility shall report to the Board:

1. That the facility is operating under general supervision; and

2. The identity of each supervising dentist and each dental hygienist.

(4) A facility in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist in accordance with this subsection shall ensure that:

(i) The supervising dentist for the facility:

1. Holds an active general license to practice dentistry in the State;

2. Holds a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and

3. Has at least 2 years of active clinical practice in direct patient care;

(ii) Each dental hygienist authorized to practice under the general supervision of a licensed dentist in accordance with this subsection:

1. Holds an active general license to practice dental hygiene in the State;

2. Holds a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation;

3. Has at least 2 years of active clinical practice in direct patient care; and

4. Is a permanent or contractual employee of the federal government, a state or local government, or a federally qualified health center;

(iii) The facility has:

1. A medical emergency plan;

2. Adequate equipment, including portable equipment where appropriate and appropriate armamentarium, available for the appropriate delivery of dental hygiene services; and

3. Adequate safeguards to protect the patient's health and safety;

(iv) A recall patient who has been examined by a dental hygienist

practicing under the general supervision of a licensed dentist will be scheduled for an oral examination every 6 months, or as otherwise recommended by the supervising dentist;

(v) A dental hygienist practicing under the general supervision of a licensed dentist ascertains before treating a recall patient that there has been no change in the patient's medical history;

(vi) A dental hygienist consults with the supervising dentist, the patient's dentist, or a treating physician before proceeding with treatment if there is a change in the patient's medical history;

(vii) Adequate facilities and equipment are available for the delivery of dental hygiene services other than fluoride rinse programs; and

(viii) The facility reports to the Board any changes in the status of the facility's general supervision, any supervising dentist, or any dental hygienist within 30 days after the change.

(l) (1) In this subsection, "private dental office" means a dental office owned and operated by:

(i) A licensed dentist; or

(ii) A professional corporation, partnership, limited liability company, or limited liability partnership owned and controlled by a licensed dentist.

(2) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in a private dental office.

(3) A private dental office in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist shall ensure that:

(i) The supervising dentist holds an active license to practice dentistry in this State;

(ii) The dental hygienist holds an active license to practice dental hygiene in this State;

(iii) The dental hygienist has at least 1,500 hours of dental hygiene clinical practice in direct patient care; and

(iv) There is a written agreement between the supervising dentist and the dental hygienist practicing under general supervision that clearly sets forth the terms and conditions under which the dental hygienist may practice, including a statement that the dental hygienist may provide dental hygiene services without the supervising dentist on the premises.

(4) A dental hygienist may perform authorized dental hygiene services without the supervising dentist on the premises only if:

(i) After the supervising dentist examines and evaluates a patient, the prescribed and authorized treatment to be provided by the dental hygienist is written in the patient's records;

(ii) 1. Treatments authorized by a supervising dentist to be provided by the dental hygienist are rendered no later than 7 months from the date the patient was examined and evaluated by the supervising dentist; and

2. Upon expiration of a prescription or prescribed treatment, the supervising dentist examines and reevaluates the patient before writing a new prescription and authorization for treatment;

(iii) Prior to an appointment, the patient or the custodial parent or legal guardian of a minor or incompetent adult shall:

1. Be informed that a dental hygienist will be providing services previously prescribed by a dentist who will not be on the premises during the appointment; and

2. Consent to receiving the dental hygiene services;

(iv) Written emergency procedures are in place and the dental hygienist is trained to implement the emergency procedures;

(v) A designated licensed dentist is available for consultation with the dental hygienist; and

(vi) The number of unsupervised clinical hours worked by a supervised dental hygienist in any given 3–month period is less than 60 percent of the dental hygienist's total hours worked during that 3–month period.

(5) A supervising dentist may not employ more than two dental hygienists to work under the dentist's general supervision at any given time.

(m) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Assisted living program" has the meaning stated in § 19–1801 of the Health – General Article.

(iii) "General supervision" means supervision of a dental hygienist by a dentist, where the dentist may or may not be present when the dental hygienist performs the dental hygiene procedures.

(iv) "Long–term care facility" means:

1. A nursing home; or

2. An assisted living program.

(v) "Nursing home" has the meaning stated in § 19–1401 of the Health – General Article.

(2) (i) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in a long–term care facility in accordance with this subsection.

(ii) This subsection may not be construed to:

1. Authorize a dental hygienist to practice dental hygiene independent of a supervising dentist;

2. Prohibit a dentist from being available for personal consultation or on the premises where a dental hygienist is practicing;

3. Prohibit a dental hygienist, without the supervision of a dentist, from performing a preliminary dental examination with subsequent referral to a dentist; or

4. Require a waiver under subsection (f) of this section.

(3) Before a dental hygienist is authorized to practice dental hygiene under general supervision in a long–term care facility in accordance with this subsection, the dental hygienist shall:

(i) Hold an active license to practice dental hygiene in the State;

(ii) Hold a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation;

(iii) Have at least 2 years of active clinical practice in direct patient care; and

(iv) Ensure that the long–term care facility where the dental hygienist will practice under general supervision has:

1. A written medical emergency plan in place;

2. Adequate equipment, including portable equipment and appropriate armamentarium, available for the appropriate delivery of dental hygiene services; and

3. Adequate safeguards to protect the patient's health and safety.

(4) Before a dental hygienist is authorized to practice dental hygiene under general supervision in a long–term care facility in accordance with this subsection, the supervising dentist shall:

(i) Hold an active general license to practice dentistry in the State;

(ii) Hold a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and

(iii) Have at least 2 years of active clinical practice in direct patient care.

(5) A dental hygienist practicing under the general supervision of a licensed dentist in a long–term care facility and performing an authorized dental hygiene service for a patient's initial appointment shall:

(i) Have a written agreement between the supervising dentist and the dental hygienist that clearly sets forth the terms and conditions under which the dental hygienist may practice, including a statement that the dental hygienist may provide dental hygiene services without the supervising dentist on the premises;

(ii) Ensure that the supervising dentist is available for consultation with the dental hygienist:

1. In person;

2. By telephone; or

3. Electronically;

(iii) Consult with the supervising dentist or a treating physician before proceeding with initial treatment if there is a change in a recall patient's medical history;

(iv) Assess the appropriate recall interval based on the individual needs of the patient, or as otherwise recommended by the supervising dentist;

(v) Limit dental hygiene tasks and procedures to:

1. Toothbrush prophylaxis;

2. Application of fluoride;

3. Dental hygiene instruction;

4. Assessment of the patient's apparent need for further evaluation by a dentist in order to diagnose the presence of dental disease; and

5. Other duties as may be delegated, verbally or in writing, by

the supervising dentist; and

(vi) Submit findings of the initial assessment to the supervising dentist for a determination of future treatment.

(6) A dental hygienist may perform subsequent authorized dental hygiene services without the supervising dentist on the premises only if:

(i) The supervising dentist examines the patient and authorizes in the patient's record a prescription of specific treatment to be provided by the dental hygienist;

(ii) An authorized treatment is provided by the dental hygienist as soon as possible, but no later than 7 months from the date the patient was examined by the supervising dentist; and

(iii) Upon expiration of a prescribed treatment, the supervising dentist is responsible for determining future protocols for the treatment of the patient.

§4–308.1.

(a) In this section, "community–based health fair" means a health service event that offers primary health care services to an individual for free or using a sliding fee schedule that is sponsored by:

(1) The federal, the State, or a local government;

(2) A nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code; or

(3) A nonprofit community organization that has the stated purpose of providing health services to the disadvantaged.

(b) Notwithstanding any other provision of this title, a licensed dental hygienist, without the supervision of a dentist, may provide without compensation the following services at a community–based health fair:

(1) A preliminary dental examination, including charting any cavities, restorations, or missing teeth;

(2) Oral health education;

(3) Taking blood pressure, pulse rate, respiration rate, height, and weight; and

(4) Referrals to a dental home, including providing a patient with a list of clinical public health facilities.

(c) (1) The Board, in consultation with the Department's Office of Oral

Health, shall develop a standard form to be used by a dental hygienist who performs the services authorized under this section at a community–based health fair.

(2) A dental hygienist who performs services in accordance with this section shall:

(i) Fill out the form required under paragraph (1) of this subsection for each patient who received services from the dental hygienist; and

(ii) Submit the completed form to the Office of Oral Health.

§4–309.

(a) (1) Except as otherwise provided in this subsection, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(2) Except as provided in § 4–303.1 of this subtitle, a limited license to practice dentistry expires on the first anniversary of its effective date.

(3) A teacher's license to practice dentistry or a teacher's license to practice dental hygiene expires on the earlier of:

(i) The date set by the Board, unless the license is renewed for an additional term as provided in this section; or

(ii) The date when the licensee ceases to be a full–time or part–time faculty member at the institution named on the license.

(b) If a teacher's license to practice dentistry expires because the licensee no longer is a full–time or part–time faculty member at the institution named on the license, the licensee shall surrender the license to the Board secretary within 30 days.

(c) At least 1 month before a license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

§4–310.

(a) (1) The Board shall place the holder of a general license to practice dentistry or a general license to practice dental hygiene on inactive status and issue an inactive status registration certificate to the licensee, if the licensee:

(i) Submits to the Board an application for inactive status on the form required by the Board; and

(ii) Pays to the Board the inactive status application fee set by the Board.

(2) A licensee on inactive status may not practice dentistry or dental hygiene in this State.

(b) The form provided by the Board for inactive status application or renewal shall require the individual to state:

(1) Name;

(2) Inactive status registration number, if any;

(3) Degree;

(4) School that awarded the degree;

(5) Year of graduation;

(6) Home address;

(7) Principal office address;

(8) Principal office telephone number; and

(9) Whether or not the individual is in regular practice outside this State.

(c) The Board shall waive the examination requirements of §§ 4-302 and 4-305 of this subtitle for:

(1) A dentist on inactive status who applies for a general license to practice dentistry, if the dentist has practiced dentistry regularly in any other state within 3 years of applying for the license; or

(2) A dental hygienist on inactive status who applies for a general license to practice dental hygiene, if the dental hygienist has practiced dental hygiene regularly in any other state within 3 years of applying for the license.

§4–311.

The Board shall reinstate a general license to practice dentistry, a teacher's license to practice dentistry, a general license to practice dental hygiene, or a teacher's license to practice dental hygiene that is expired only if the licensee:

(1) Meets the renewal and reinstatement requirements set by rule and regulation of the Board; and

(2) Pays to the Board a reinstatement fee set by the Board.

§4–312.

(a) Subject to the provisions of this section, the Board may issue a temporary license to practice dental hygiene to an applicant who:

(1) Is licensed to practice dental hygiene in any other state or any province of Canada;

(2) Meets any other qualifications that the Board establishes;

(3) Submits to the Board an application on the form that the Board requires;

(4) Has graduated from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation; and

(5) Pays to the Board an application fee set by the Board.

(b) While it is effective, a temporary license to practice dental hygiene authorizes the holder to practice dental hygiene subject to the same restrictions imposed on a holder of a general license to practice dental hygiene.

(c) A temporary license to practice dental hygiene expires when licenses are issued to those who pass the first examination for a general license to practice dental hygiene given over 30 days after the effective date of the temporary license.

§4–313.

(a) Each holder of a general license to practice dental hygiene, a teacher's license to practice dental hygiene, or a temporary license to practice dental hygiene shall display the license and any current renewal certificate conspicuously in the office where the holder is engaged in practice.

(b) Each holder of a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry shall keep the license and any current renewal certificate in the office where the holder is engaged in practice.

(c) (1) Each holder of a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry shall notify the secretary of the Board in writing within 60 days of any change of office address.

(2) A licensee who fails to notify the secretary of the Board of any change of office address as provided in this subsection shall pay to the Board a late fee of $10.

(d) If a dentist is engaged in the private practice of dentistry in this State, the dentist shall display the notice developed under § 1-207 of this article conspicuously in

the office where the dentist is engaged in practice.

§4–314.

(a) Unless the Board agrees to accept the surrender of a license, a holder of a general license, limited license, teacher's license, or a temporary license 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.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§4–315.

(a) Subject to the hearing provisions of § 4–318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, 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) Obtains a fee by fraud or attempts to obtain a fee by fraud;

(4) 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;

(5) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner;

(7) Has had a license to practice dentistry revoked or suspended in any other state;

(8) Uses another person as an in–person solicitor of business;

(9) Practices or offers to practice dentistry under a name other than that on the license;

(10) Uses in connection with the practice of dentistry a business entity name or a trade name that is not authorized by law;

(11) Permits an unauthorized individual to practice dentistry under the supervision of the applicant or licensee;

(12) Permits a dental hygienist to practice dental hygiene:

(i) In an unauthorized place; or

(ii) Without being supervised by a licensed dentist as required by § 4–308 of this subtitle;

(13) Violates any restriction on advertising in § 4–503 of this title;

(14) Suggests, requests, or in any way directs that a patient appear at a dental laboratory;

(15) Violates any provision in Subtitle 4 of this title, which relates to work authorizations for dental laboratory work;

(16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;

(17) Is mentally or physically incompetent to practice dentistry;

(18) Demonstrates a course of conduct of providing dental care that is inconsistent with generally accepted professional standards of care in the practice of dentistry, regardless of whether actual injury to the patient occurs;

(19) Provides a dental service in a manner that is significantly inconsistent with generally accepted professional standards of care in the practice of dentistry, regardless of whether actual injury to the patient occurs;

(20) Violates any rule or regulation adopted by the Board;

(21) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(22) Willfully makes or files a false report or record in the practice of dentistry;

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

(24) Knowingly submits to a third party any claim form, bill, or statement which contains any misleading, deceptive, false, incomplete, or fraudulent

representation asserting a fee which is greater than the fee that the dentist usually accepts as payment in full for any given dental appliance, procedure, or service;

(25) Abrogates or forgives the copayment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;

(26) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

(27) (i) Except as provided in subparagraph (ii) of this paragraph, divides a fee with another dentist if the division is not in proportion to the services performed and the responsibility assumed by each dentist;

(ii) A dentist may divide a fee with another dentist who is a partner or an associate in the same dental practice if dividing the fee does not increase the fee for the service charged to the patient;

(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 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;

(31) Fails to display the notice required under § 4–313(d) of this subtitle;

(32) Fails to begin to fulfill a public service requirement within 1 year of when the assignment is to begin that was a condition of the applicant or licensee receiving State or federal loans or scholarships for the applicant's or licensee's dental education;

(33) Fails to comply with any Board order; or

(34) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board.

(b) Subject to the hearing provisions of § 4–318 of this subtitle, the Board may deny a general license to practice dental hygiene, a teacher's license to practice dental hygiene, or a temporary license to practice dental hygiene to any applicant, reprimand any licensed dental hygienist, place any licensed dental hygienist on probation, or suspend or revoke the license of any licensed dental hygienist, 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) Behaves unprofessionally or in a grossly immoral way, or violates a professional code of ethics pertaining to the dental hygiene profession;

(4) Practices dental hygiene in an unauthorized place;

(5) Practices dental hygiene in a professionally incompetent manner or in a grossly incompetent manner;

(6) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(7) Performs intraoral functions not authorized by statute or the rules and regulations of the Board;

(8) Violates the requirements of § 4–313 of this subtitle that relate to display of licenses and renewal certificates;

(9) Violates any rule or regulation adopted by the Board;

(10) Is mentally or physically incompetent to practice dental hygiene;

(11) Demonstrates a course of conduct of providing dental hygiene care that is inconsistent with generally accepted professional standards of care in the practice of dental hygiene, regardless of whether actual injury to the patient occurs;

(12) Provides a dental hygiene service in a manner that is significantly inconsistent with generally accepted professional standards of care in the practice of dental hygiene, regardless of whether actual injury to the patient occurs;

(13) 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;

(14) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(15) Willfully makes or files a false report or record in the practice of dental hygiene;

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

(17) 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;

(18) 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;

(19) Fails to comply with any Board order; or

(20) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board.

§4–316.

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

(b) If a person who is not a member of the Board files a complaint, the complaint shall:

(1) Be in writing;

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

(3) Request Board action; and

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

(c) (1) The Board shall investigate each complaint filed with the Board if the complaint:

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

(ii) Meets the requirements of this section.

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

(d) If, after performing any preliminary investigation, the Board determines that an allegation involving fees for professional or ancillary services does not constitute grounds for discipline or other action, the Board may refer the allegation concerning a member of a professional society or association composed of providers of

dental care to a committee of the Society for Mediation.

§4–317.

(a) If after a hearing under § 4-318 of this subtitle the Board finds that there are grounds under § 4-315 of this subtitle to suspend or revoke a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry, or to reprimand a licensed dentist, the Board may impose a penalty not exceeding $5,000:

(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 penalty collected under this section into the General Fund of this State.

§4–318.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 4-315 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) In accordance with the State budget, the Board may authorize payment of fees and travel expenses of witnesses who testify in a proceeding under this section.

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

(e) The Board may administer oaths and take depositions of witnesses in any proceeding under this section.

(f) (1) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths to witnesses in connection with any investigation under this title and any hearings or proceedings before it.

(2) The Board shall issue subpoenas on behalf of the individual if the individual requests in writing that the Board do so.

(3) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(4) If, without lawful excuse, an individual disobeys a subpoena from

the Board or an order by the Board to take an oath, testify, or answer a question, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.

(g) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§4–319.

(a) Except as provided in this section for an action under § 4–315 of this subtitle, a person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 4–315 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§4–320.

(a) An action may be maintained in the name of this State or the Board to enjoin:

(1) Unauthorized practice of dentistry or dental hygiene;

(2) Conduct that is a ground for disciplinary action under § 4-315(a) of this subtitle;

(3) Conduct that violates any prohibition in Subtitle 4 of this title, which relates to dental laboratory work; or

(4) Conduct that violates the practice limitations of § 4-603 of this title.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of this State; or

(3) A State's Attorney, in the name of this State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the acts sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for unauthorized practice of dentistry under § 4-601 of this title or disciplinary action under § 4-315 of this subtitle.

§4–401.

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

(b) "Dental technician" means an individual who does dental laboratory work.

(c) "Subcontracted work authorization" means a written request for subcontracted dental laboratory work.

(d) "Work authorization" means a written request for dental laboratory work.

§4–402.

(a) Except as otherwise provided in this subtitle, a person other than a licensed dentist may not do dental laboratory work unless the person:

(1) Works under a work authorization that meets the requirements of § 4-403 of this subtitle; and

(2) Uses casts or models made from impressions taken by a licensed dentist.

(b) The requirements of this subtitle that relate to work authorizations do not apply to:

(1) A dental laboratory on the premises of a dental office that is used only by the licensed dentists practicing in the office; or

(2) A dental student, dental technician, or student dental technician while doing dental laboratory work at the educational institution, hospital, or clinic with which the individual is associated.

§4–403.

(a) The work authorization required by § 4-402 of this subtitle for dental laboratory work shall:

(1) Be on the form that the Board requires;

(2) Be signed by a licensed dentist who requests the work; and

(3) Contain the information required by this section.

(b) The work authorization shall be prepared in duplicate and contain:

(1) The name and address of the dental laboratory to do the work;

(2) Identification of the patient by name or number;

(3) The date on which the work authorization form was completed;

(4) A description of the work to be done, including diagrams if necessary;

(5) A specification of the type of dental materials to be used; and

(6) The name and license number of the dentist who requests the work.

(c) A dental laboratory named in a work authorization may subcontract dental laboratory work, if that dental laboratory:

(1) Completes in duplicate the subcontracted work authorization form that the Board requires; and

(2) Complies with the record keeping requirements of § 4-404 of this subtitle.

(d) The Board shall publish:

(1) An approved standard work authorization form; and

(2) An approved standard subcontracted work authorization form that is of a color different from the standard work authorization form.

(e) A dental laboratory in this State may do dental laboratory work on the request of a dentist licensed and practicing in any other state or a foreign country if the request:

(1) Is on the form that the Board requires or a reasonably equivalent form; and

(2) Otherwise meets the requirements of this subtitle.

§4–404.

(a) (1) The dentist who signs a work authorization shall:

(i) Send the original to the dental laboratory named on the work authorization; and

(ii) Keep the copy.

(2) The dental laboratory named in the original work authorization shall:

(i) Send the original of a subcontracted work authorization to the

dental laboratory that is to do the subcontracted work; and

(ii) Keep the copy.

(b) (1) The person who keeps or receives the original or copy of a work authorization or subcontracted work authorization shall keep it for at least 1 year.

(2) If a subcontracted work authorization is issued, the dental laboratory named in the original work authorization shall attach the original work authorization form to the copy of the subcontracted work authorization form and keep the two together in the files of the dental laboratory for at least 1 year.

(c) If a dentist uses a patient identification number instead of a name on a work authorization, the dentist shall keep in the dentist's office a cross reference that translates the number to the name of the specific patient.

§4–405.

A dental laboratory may make dental appliances for research, technique samples, or training purposes:

(1) Without a work authorization if the dental laboratory annually secures permission from the Board to use plastic typdont or dentoform type models for this fabrication; or

(2) Under a work authorization signed by a licensed dentist that gives the dental laboratory permission to use the dentist's cast of a particular patient and that contains:

(i) The name and address of the dental laboratory;

(ii) Patient identification by name or number;

(iii) The date on which the written work authorization form was completed; and

(iv) The name and license number of the dentist who signs the form.

§4–406.

(a) A dental laboratory may not accept a request for dental laboratory work unless the request meets the requirements of this subtitle.

(b) A licensed dentist may not:

(1) Suggest, request, or in any way direct that a patient appear at a dental laboratory; or

(2) Sign a work request that does not contain all the information required

by this subtitle.

§4–407.

(a) (1) To determine compliance with this subtitle, the Board may inspect, at random, the work authorization forms and files kept by a licensed dentist or dental laboratory.

(2) The Board may appoint any person, including a dental technician, to conduct the inspection permitted by this subsection.

(b) Doing dental laboratory work while not in possession of a work authorization or a subcontracted work authorization that meets the requirements of this subtitle is prima facie evidence of a violation of this subtitle.

§4–501.

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

(2) "Dental review committee" means a committee or board that:

(i) Is within one of the categories described in subsection (b) of this section; and

(ii) Performs any of the functions listed in subsection (c) of this section.

(3) "Provider of dental care" means any person who is licensed by law to provide dental care to individuals.

(b) For purposes of this section, a dental review committee is:

(1) A regulatory board or agency established by State or federal law to license, certify, or discipline any provider of dental care;

(2) A committee of the Maryland State Dental Association or any of its component societies, including a dentist rehabilitation committee as defined in § 4–501.1 of this subtitle;

(3) A committee of the Maryland Dental Society or any of its component societies;

(4) A committee of the Maryland Dental Hygienists' Association, or any of its component societies, including a dental hygienist rehabilitation committee as defined in § 4–508 of this subtitle;

(5) A committee of any professional society or association composed of providers of dental care;

(6) A committee of the medical staff or other committee of a hospital or related institution, if the governing board of the hospital or related institution forms and approves the committee or approves the written bylaws under which the committee operates;

(7) Any person, including a professional standard review organization, that contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section; or

(8) Any person that contracts with a provider of dental care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of dental care.

(c) For purposes of this section, a dental review committee:

(1) Evaluates and seeks to improve the quality of dental care provided by providers of dental care;

(2) Evaluates the need for and the level of performance of dental care provided by providers of dental care;

(3) Evaluates the qualifications, competence, and performance of providers of dental care;

(4) Evaluates and acts on matters that relate to the discipline of any provider of dental care; or

(5) Evaluates and provides assistance to any provider of dental care in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(d) Except as otherwise provided in this section, the proceedings, records, and files of a dental review committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being reviewed and evaluated by the dental review committee.

(e) Subsection (d) of this section does not apply to:

(1) A civil action brought by a party to the proceedings of the dental review committee who claims to be aggrieved by the decision of the dental review committee; or

(2) Any record or document that is considered by the dental review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(f) A person who acts in good faith and within the scope of jurisdiction of a dental review committee is not civilly liable for any action as a member of the dental

review committee or for giving information to, participating in, or contributing to the function of the dental review committee.

§4–501.1.

(a) In this section, "Dental Well–Being Committee" means the committee of the Maryland State Dental Association that evaluates and provides assistance to any provider of dental care in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, the Maryland State Dental Association shall appoint the members of the Dental Well–Being Committee.

(2) At least one member of the Dental Well–Being Committee shall be a member of the Maryland Dental Society.

(c) The Board shall fund the budget of the Dental Well–Being Committee as provided in § 4–207 of this title.

(d) The Legislative Auditor shall audit the accounts and transactions of the Dental Well–Being Committee as provided in § 2–1220 of the State Government Article.

§4–502.

(a) In accordance with the federal Health Care Quality Improvement Act of 1986, the State elects not to be governed by the provisions of the Act that provide limitations on damages for suits brought under State law against dental review bodies and to individuals participating in professional peer review activities.

(b) For suits brought under State law, the State shall be governed by this title.

§4–503.

(a) A licensed dentist may not advertise:

(1) To guarantee any dental work;

(2) Making an undifferentiated claim to do dental work painlessly;

(3) To do dental work in a superior manner; or

(4) Falsely or in a manner that tends to deceive or mislead the public.

(b) (1) A licensed dentist may not:

(i) Use the designation "Dental Surgeon" on a sign that bears the name of the licensee; or

(ii) Include a specialty designation in a card, letterhead, sign, telephone directory listing, or other printed matter that bears the name of the licensee, unless:

1. The licensee is identified by the Board as a specialist in the designated field under § 4-504 of this subtitle; and

2. The language used to refer to the specialty is approved by the Board.

(2) A licensed dentist may use the designations "Dr.", "dentist", "D.D.S.", or "D.M.D." on a sign that bears the licensee's name.

(c) A person who is not a licensed dentist may not solicit or advertise to the general public in any manner that the person alters, constructs, duplicates, repairs, or supplies a dental appliance.

(d) A licensed dentist may use a trade name in connection with the practice of dentistry provided that:

(1) The use of the trade name is not deceptive or misleading;

(2) The advertisement in which the trade name appears includes the name of the licensed dentist or the name of the business entity providing the dental services being advertised as long as the advertisement includes the name of a licensed dentist;

(3) The name of the licensed dentist providing dental services shall appear on the billing invoices, and on the receipts if any are given to patients; and

(4) Treatment records are maintained that clearly identify the licensed dentist who has performed the dental service for any patient.

§4–504.

(a) A licensed dentist may not represent to the public that the licensee is a specialist in any field of specialized dental practice unless identified as a specialist in that field by the Board.

(b) If a licensed dentist requests, the Board shall determine whether the licensee qualifies for Board identification as a specialist.

(c) The Board may approve any area of specialty recognized by the Commission on Dental Accreditation or its successor organization.

(d) (1) The Board shall adopt rules and regulations concerning application procedures, fees, and required qualifications for identification as a specialist.

(2) The qualifications required of applicants for Board identification as a

specialist may include:

(i) The requirements established by various specialty certifying boards of the American Dental Association;

(ii) Education;

(iii) Professional experience; and

(iv) Whether, before July 1, 1979, the applicant represented to the public, in an ethical manner, that the applicant was a specialist.

(e) In approving additional specialties, the Board may consider those fields recognized and approved by the American Dental Association.

(f) The Board is a depository for and the arbitrator of the specialty qualification standards of the American Dental Association in this State.

§4–505.

(a) The Board of Dental Examiners shall:

(1) Define, for the purpose of this section, the terms "dental radiation technologist" and "practice dental radiation technology";

(2) Adopt rules and regulations concerning qualifications, training, certification, monitoring of, and enforcement requirements for a dental radiation technologist; and

(3) Provide for a requirement to ensure competency in new safety and technological advances.

(b) The qualifications required of applicants for Board certification as a dental radiation technologist shall include requirements established by:

(1) The American Dental Association; or

(2) Any applicable federal standards for training and certification.

(c) After July 1, 1988, an individual must be certified by the Board as a dental radiation technologist before a licensed dentist may employ the individual to practice dental radiation technology.

(d) After July 1, 1988, an individual may not practice dental radiation technology unless certified by the Board.

(e) At least 1 month before a certificate expires, the Board shall send to each certificate holder, by electronic means or first–class mail to the last known electronic or physical address of the certificate holder, a renewal notice that states:

(1) The date on which the current certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(3) The amount of the renewal fee.

§4–506.

When using radiation for the purposes of dental diagnosis a patient's body shall be protected under the supervision of a licensed dentist. The State Board of Dental Examiners shall adopt rules and regulations of patient protection to be applied during the use of radiation.

§4–507.

A dentist who has successfully completed a physical evaluation program or course at an accredited hospital or teaching institution, who is qualified and identified by the Board as a specialist in oral surgery, and who admits to a hospital any patient without known medical problems, if the dentist is deemed by the hospital to be qualified to do so:

(1) May complete a hospital admission history and a physical examination of that patient; and

(2) Shall assess the medical risks of the proposed procedures to that patient.

§4–508.

(a) In this section, "Dental Hygiene Well–Being Committee" means the committee of the Maryland Dental Hygienists' Association that evaluates and provides assistance to any dental hygienist, dental radiation technologist, or dental assistant in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(b) The Maryland Dental Hygienists' Association shall appoint the members of the Dental Hygiene Well–Being Committee.

(c) The Board shall fund the budget of the Dental Hygiene Well–Being Committee as provided in § 4–207 of this title.

(d) The Legislative Auditor shall audit the accounts and transactions of the Dental Hygiene Well–Being Committee as provided in § 2–1220 of the State Government Article.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the Dental Hygiene Well–Being Committee are not discoverable

and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the Dental Hygiene Well–Being Committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the Dental Hygiene Well–Being Committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a Dental Hygiene Well–Being Committee is not civilly liable for any action as a member of the Dental Hygiene Well–Being Committee or for giving information to, participating in, or contributing to the function of the Well–Being Committee.

§4–601.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice dentistry or dental hygiene on a human being in this State unless licensed by the Board.

(b) A person may not aid or abet unauthorized practice of dental hygiene in this State.

§4–602.

(a) (1) Except as otherwise provided in this section, unless authorized to practice dentistry under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice dentistry in this State.

(2) Unless authorized to practice dental hygiene under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice dental hygiene in this State.

(b) This title does not affect the right of a holder of a dental degree who does not directly or indirectly practice or attempt to practice dentistry in this State to use the degree or an abbreviation for the degree in connection with the name of the holder.

§4–603.

(a) Except as otherwise provided by law, a licensed dentist may not practice dentistry:

(1) Under a name other than the name of the licensee;

(2) As a business entity; or

(3) Under the name of a business entity.

(b) A licensed dentist may practice, under the name of the licensee, as an employee of a health maintenance organization that is certified by the State Insurance Commissioner.

(c) A licensed dentist may practice, under the name of the licensee, as a member of a limited liability company.

§4–604.

The clerk of each district and circuit court shall:

(1) Report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a dentist or a dental hygienist for any felony or crime involving moral turpitude; and

(2) Submit the report within 10 working days of the conviction or entry of the plea.

§4–605.

A dental hygienist may not own or operate a dental practice or a dental hygiene practice.

§4–606.

(a) A person who practices or attempts to practice dentistry without a license in violation of § 4-601(a) of this subtitle or represents to the public in violation of § 4-602 of this subtitle that the person is authorized to practice dentistry is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding $2,000 or imprisonment in jail not exceeding 6 months; or

(2) For a subsequent offense, a fine not exceeding $6,000 or imprisonment in the State penitentiary not exceeding 1 year.

(b) A person who practices or attempts to practice dental hygiene without a license in violation of § 4-601(a) of this subtitle, aids or abets unauthorized practice of dental hygiene in violation of § 4-601(b) of this subtitle, or represents to the public in violation of § 4-602 of this subtitle that the person is authorized to practice dental hygiene is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(c) A person who violates any provision of Subtitle 4 of this title, which relates to

dental laboratory work, or who advertises a dental appliance in violation of § 4-503(c) of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $2,000 or imprisonment in jail not exceeding 6 months.

§4–701.

This title may be cited as the "Maryland Dentistry Act".

§4–702.

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, 2021.

§5–101.

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

(b) "Board" means the State Board of Dietetic Practice.

(c) "Certified nutrition specialist" means an individual certified by the Certification Board for Nutrition Specialists, the accrediting body of the American College of Nutrition.

(d) "Dietitian-nutritionist" means, unless the context requires otherwise, an individual who is licensed by the Board to practice dietetics.

(e) "License" means, unless the context requires otherwise, a license issued by the Board to practice dietetics.

(f) (1) "Medical device" means a health care product used in the diagnosis, treatment, or prevention of disease.

(2) "Medical device" does not mean:

(i) A drug;

(ii) A surgical or dental instrument;

(iii) Physical therapy equipment;

(iv) X-ray apparatus; or

(v) A component part or accessory of any of the items listed in this paragraph.

(g) "Medical nutrition" means the nutritional advice or counsel provided to an individual by a licensee in their professional capacity that is designed for an individual to alleviate a specific physiological complaint, condition, or symptom.

(h) (1) "Practice dietetics" means to apply the principles derived from integrating knowledge of food, biochemistry, physiology, management science, behavioral science, and social science to human nutrition.

(2) "Practice dietetics" includes:

(i) Assessing individual and community food practices and nutritional status using anthropometric, biochemical, clinical, dietary, and demographic data, for clinical, research, and program planning purposes;

(ii) Developing, establishing, and evaluating nutritional care plans that establish priorities, goals, and objectives for meeting nutrient needs for individuals or groups;

(iii) Nutrition counseling and education as a part of preventive or restorative health care throughout the life cycle;

(iv) Determining, applying, and evaluating standards for food and nutrition services; and

(v) Applying scientific research to the role of food in the maintenance of health and the treatment of disease.

(i) "Registered dietitian" means an individual registered with the Commission on Dietetic Registration, the accrediting body of the Academy of Nutrition and Dietetics.

(j) "Supervision" means the management of an individual who aids in the practice of dietetics by a licensed dietitian-nutritionist who may or may not be on the premises.

§5–102.

The purpose of this title is to protect the lives and health of the people of this State by:

(1) Setting standards for the practice of dietetics; and

(2) Limiting the use of the title "licensed dietitian-nutritionist" to individuals who meet those standards.

§5–103.

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(b) This title does not limit the right of an individual or group to provide services and information related to nonmedical nutrition while:

(1) Employed by or operating a health, weight loss, or fitness program;

(2) Employed by or operating a health food store;

(3) Employed by or operating a business that sells health products including dietary supplements, food, or food materials, or provides nonmedical nutritional information or distributes nutritional literature; or

(4) Conducting classes or disseminating information related to nonmedical nutrition.

(c) This title does not limit the right of an individual to provide services related only to the purchasing, preparation, and service of food to groups of people.

(d) This title does not limit the right of an individual to provide nonmedical nutritional information or to distribute nutritional literature.

§5–201.

There is a State Board of Dietetic Practice in the Department.

§5–202.

(a) (1) The Board consists of nine members.

(2) Of the nine Board members:

(i) Seven shall be dietitian-nutritionists licensed on or after July 1, 2004 to practice dietetics in Maryland, including:

1. One member who is engaged primarily in clinical dietetic practice;

2. One member who is engaged primarily in community or public health dietetic practice;

3. One member who is engaged primarily in administrative dietetic practice;

4. One member who is engaged primarily in consulting dietetic practice;

5. One member who is a faculty member in the field of dietetics or nutritional science; and

6. Two members who are certified nutrition specialists and who may not be registered dietitians; and

(ii) Two shall be consumer members.

(3) The Governor shall appoint the licensed dietitian-nutritionist

members with the advice of the Secretary and with the advice and consent of the Senate from a list submitted as provided in subsection (b) of this section.

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

(b) (1) For each licensed dietitian–nutritionist vacancy, the Board shall compile a list of names to be submitted to the Secretary in accordance with this subsection, including at least three names for each of the vacancies.

(2) The Board shall notify all licensed dietitian–nutritionists in the State of the vacancy to solicit nominations to fill the vacancy.

(3) The Maryland Academy of Nutrition and Dietetics or the Maryland Nutritionists Association shall nominate qualified individuals to fill the vacancy within 30 days after the notice required in paragraph (2) of this subsection is given.

(4) The Maryland Academy of Nutrition and Dietetics may comment on an individual nominated by the Maryland Nutritionists Association under paragraph (3) of this subsection within 30 days after the nomination and before the list is submitted to the Secretary.

(5) The Maryland Nutritionists Association may comment on an individual nominated by the Maryland Academy of Nutrition and Dietetics under paragraph (3) of this subsection within 30 days after the nomination and before the list is submitted to the Secretary.

(c) (1) Each licensed dietitian-nutritionist member of the Board shall:

(i) Be a citizen of the United States;

(ii) Be a resident of the State; and

(iii) Have practiced dietetics for at least 5 of the last 10 years.

(2) The consumer member of the Board:

(i) Shall be a citizen of the United States;

(ii) Shall be a resident of this State;

(iii) May not be a licensed dietitian-nutritionist or have a household member who is a licensed dietitian-nutritionist;

(iv) May not have a financial interest in the provision of goods or services to licensed dietitian-nutritionists; and

(v) May not have a financial interest in the provision of dietary goods or services to consumers.

(d) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 1985.

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

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

(5) To the extent practicable, the Governor shall fill any vacancy on the Board within 75 days of the date of the vacancy.

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

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

§5–203.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§5–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) A member of the Board:

(1) Is entitled to compensation in accordance with the budget of the Board; and

(2) Is entitled to reimbursement for expenses at a rate determined by the Board.

(d) The Board may employ a staff in accordance with the budget of the Board.

§5–205.

(a) In addition to the powers set forth elsewhere in this subtitle, the Board may:

(1) Adopt regulations to carry out the provisions of this subtitle;

(2) Sue to enforce any provision of this subtitle by injunction; and

(3) Issue subpoenas, summon witnesses, administer oaths, take affidavits, and take testimony about matters that relate to the jurisdiction of the Board.

(b) In addition to the duties set forth elsewhere in this subtitle, the Board shall:

(1) Keep a list of all dietitian–nutritionists who are currently licensed;

(2) Keep a record of its proceedings;

(3) Submit an annual report of its transactions for the previous fiscal year to the Governor by September 30 of each year; and

(4) Investigate an alleged violation of this title.

§5–206.

(a) There is a State Board of Dietetic Practice Fund.

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

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

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the funds to the State Board of Dietetic Practice Fund.

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

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

(3) Any unspent portions of the Fund may not be transferred or revert to

the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this article.

(4) Except as otherwise provided by law, no other State money may be used to support the Fund.

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§5–207.

A person shall have immunity from the liability described under § 5–719 of the Courts Article for giving information to the Board or otherwise participating in its activities.

§5–301.

(a) Except as otherwise provided in this subtitle, an individual shall be licensed by the Board before the individual may practice dietetics in the State.

(b) The following individuals may practice dietetics without a license:

(1) A student or trainee, working under the supervision of a licensed dietitian-nutritionist while fulfilling an experience requirement or pursuing a course of study to meet requirements for licensure, for a limited period of time as determined by the Board;

(2) An individual employed by the United States government to practice dietetics, while practicing within the scope of that employment; and

(3) An individual who aids in the practice of dietetics, if the individual works under the supervision of a licensed dietitian-nutritionist or licensed physician.

§5–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant must be of good moral character.

(c) The applicant must be at least 18 years old.

(d) The applicant for licensure as a dietitian–nutritionist shall:

(1) (i) 1. Have satisfactorily completed academic requirements for the field of dietetics as approved by the Board; and

2. Have received a baccalaureate degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation; or

(ii) Have received a master's or doctoral degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation in nutritional sciences (with emphasis in human nutrition), food and nutrition, dietetics, human nutrition, community nutrition, public health nutrition, or equivalent training approved by the Board;

(2) Have satisfactorily completed a program of supervised clinical experience approved by the Board; and

(3) (i) Submit to the Board proof of certification by the Certification Board for Nutritional Specialists; or

(ii) Submit to the Board proof of registration with the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics.

(e) Except as otherwise provided in this subtitle, the applicant must pass an examination approved by the Board under this subtitle.

(f) The applicant shall meet any other qualifications or requirements that the Board establishes for license applicants.

§5–303.

(a) An applicant for a license shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) Pay the application fee set by the Board; and

(3) Provide proof of passing an examination approved by the Board.

(b) In addition to any other requirements of this section, an applicant who is or has been licensed to practice dietetics in another state or country shall submit proof of good standing in that state or country or proof of eligibility for a license in good standing in that state or country.

§5–304.

The Board shall determine the passing score for the examination approved.

§5–305.

(a) Subject to the provisions of this section, the Board may waive an examination requirement of this title for an individual who:

(1) Is licensed to practice dietetics in another state or country;

(2) Is registered to practice dietetics by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics; or

(3) Is certified by the Certification Board for Nutrition Specialists.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee set by the Board under § 5–206 of this title; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this subtitle; and

(ii) 1. Became licensed in the other state or country after passing, in that state or country, an examination that the Board determines to be comparable to the examination for which the applicant is seeking the waiver;

2. Became registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics after meeting the examination waiver requirements of that Commission or its predecessor; or

3. Became certified by the Certification Board for Nutrition Specialists after meeting the examination waiver requirements of that Certification Board or its predecessor.

§5–306.

(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that specifies that:

(1) The applicant has qualified for a license; and

(2) On receipt of the license fee set by the Board, the Board will issue a license to the applicant.

(b) On payment of the license fee, the Board shall issue a license to any applicant who meets the requirements of this subtitle.

(c) The Board shall include on each license that the Board issues:

(1) The full name of the licensee;

(2) A serial number assigned by the Board to the licensee; and

(3) The signature of the chairman of the Board, under seal of the Board.

§5–307.

A license authorizes the licensee to practice dietetics while the license is effective.

§5–308.

(a) (1) Unless the license is renewed for an additional term as provided in this section, a license expires on the date set by the Board.

(2) A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, the licensee may renew it for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with the continuing education requirements for license renewal set by the Board under this section.

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

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

§5–309.

(a) (1) The Board shall place a licensee on inactive status if the licensee:

(i) Submits to the Board an application for inactive status on the form required by the Board; and

(ii) Pays to the Board the inactive status fee set by the Board.

(2) The Board shall reactivate the license of an individual placed on inactive status if the individual:

(i) Satisfies the continuing education requirements established by the Board; and

(ii) Pays to the Board a reactivation fee set by the Board.

(b) The Board, in accordance with its regulations, shall reinstate the license of an individual who failed to renew a license for any reason if the individual:

(1) Otherwise is entitled to be licensed;

(2) Satisfies the continuing education requirements established by the Board;

(3) Pays to the Board a reinstatement fee set by the Board; and

(4) Applies to the Board for reinstatement of a license within 5 years after the expiration of the license.

(c) (1) The Board may not reinstate the license of an individual who fails to apply for reinstatement of the license within 5 years after the expiration of the license.

(2) An individual who fails to apply for reinstatement of a license within 5 years after the expiration of the license may become licensed by meeting the requirements for obtaining an initial license under this title.

§5–310.

(a) Each licensee shall produce a valid license when requested to do so by an existing or potential employer or client.

(b) Each licensee shall give the Board written notice of any change of address within 30 days of any change of address.

§5–310.1.

(a) Unless the Board agrees to accept the surrender of a license, a licensed dietitian-nutritionist 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.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§5–311.

Subject to the hearing provisions of § 5-312 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, 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) Violates any provision of this title or any regulations adopted under this title;

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

(5) Commits fraud or deceit in the practice of dietetics;

(6) Is convicted of or pleads 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;

(7) Obtains or attempts to obtain a fee through fraud or misrepresentation;

(8) Employs any person to practice dietetics whose license or certificate to practice a health occupation under this article has been suspended;

(9) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, or promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation;

(10) Commits any act of unprofessional conduct, as defined by the rules and regulations of the Board, or violates the code of ethics adopted by the Board;

(11) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(12) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any other state or country for an act that would be grounds for disciplinary action under this section;

(13) Practices dietetics with an unauthorized person or supervises or aids an unauthorized person in the practice of dietetics;

(14) Fails to file or record any report or record as required by law in the practice of dietetics, impedes or obstructs the filing or recording of the report or record, or induces another to fail to file or record the report or record;

(15) Submits a false statement to collect a fee;

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

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

(18) Fails to cooperate with a lawful investigation conducted by the Board.

§5–311.1.

(a) If after a hearing under § 5-312 of this subtitle the Board finds that there are grounds under § 5-311 of this subtitle to suspend or revoke a license, the Board may impose a penalty not exceeding $5,000:

(1) Instead of suspending the license; or

(2) In addition to suspending or revoking the license or reprimanding the licensee.

(b) The Board shall adopt regulations to set standards for the imposition of penalties under this section.

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

§5–312.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any action under § 5-311 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(d) If, without lawful excuse, a person disobeys a subpoena from the Board, an order by the Board to take any oath or to testify, or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person for contempt of court.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(f) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 14 days before the hearing.

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

§5–313.

(a) Except as otherwise provided in this section for an action under § 5–311 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 5–311 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) An order of the Board may not be stayed pending review.

§5–314.

(a) In this section, "dietetic rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a dietetic rehabilitation committee is a committee of the Board or a committee of an association representing licensed dietitian-nutritionists that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to dietitian-nutritionists.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a dietetic rehabilitation committee evaluates and provides assistance to any dietitian-nutritionist and any other individual regulated by the Board in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the dietetic rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the dietetic rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the dietetic rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a dietetic rehabilitation committee is not civilly liable for any action as a member of the dietetic rehabilitation committee or for giving information to, participating in, or contributing to the function of the dietetic rehabilitation committee.

§5–401.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice dietetics in the State unless licensed by the Board.

§5–402.

(a) Except as otherwise provided under this title, a person may not represent or imply to the public by use of the title "licensed dietitian-nutritionist", by other title, by description of services, methods, or procedures that the person is authorized to practice dietetics in the State.

(b) Unless authorized to practice dietetics under this title, a person may not use the words or terms "dietitian-nutritionist", "licensed dietitian-nutritionist", "LDN", "dietitian", "licensed dietitian", "D", "LD", "nutritionist", "licensed nutritionist", or "LN".

§5–403.

(a) A person who violates § 5–401 or § 5–402 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or

imprisonment not exceeding 1 year or both.

(b) A person who violates § 5–401 or § 5–402 of this subtitle is subject to a civil fine not to exceed $50,000 to be assessed by the Board in accordance with regulations adopted by the Board.

§5–404.

The Board may issue a cease and desist order or obtain injunctive relief for a violation of any provision of § 5–401 or § 5–402 of this subtitle.

§5–405.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of dietetics; or

(2) Conduct that is a ground for disciplinary action under § 5–311 of this title.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the act sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of dietetics under § 5–401 of this subtitle or disciplinary action under § 5–311 of this title.

§5–501.

This title may be cited as the "Maryland Licensed Dietitian-Nutritionists Act".

§5–502.

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, 2025.

§7–101.

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

(b) "Apprentice" means an individual licensed by the Board who assists a licensed mortician or funeral director in the practice of mortuary science or funeral direction, under direct supervision of a licensed mortician or funeral director.

(c) "Apprentice sponsor" means an individual who:

(1) Is a licensed mortician or funeral director whose license is in good standing with the Board;

(2) Has practiced mortuary science as a licensed mortician or funeral director in Maryland at least 1 year immediately prior to accepting the applicant as an apprentice; and

(3) Provides direct supervision to an apprentice.

(d) "Board" means the Maryland State Board of Morticians and Funeral Directors.

(e) (1) "Business of operating a crematory" means controlling or managing a crematory.

(2) "Business of operating a crematory" does not include:

(i) The practice of funeral direction or the practice of mortuary science; or

(ii) 1. Assistance in making decisions and filling out forms that are not directly related to cremation;

2. Obtaining vital statistics, signatures, and other information necessary to complete a death certificate;

3. Transportation of a body to the place of disposition; or

4. Any other services regarding the disposition of a body that are not directly related to cremation.

(f) (1) "Corporation" means a mortuary science business whose articles of incorporation are in good standing with the Maryland State Department of Assessments and Taxation, or its successor, the initial business for which the license is issued must have been incorporated on or before June 1, 1945 and have "Incorporated", "Inc.", or "Corporation" in its name.

(2) "Corporation" does not include, for purposes of issuing a corporation license, a "professional association" (P.A.) or a "professional corporation" (P.C.).

(g) "Courtesy card" means a license issued by the Board to licensed practitioners of mortuary science in other states, to make a removal of a dead human body in this State and to return the body to another state or country, to return dead bodies from another state or country to this State, to fill out the family history portion of the death certificate, and to sign the death certificate in the holder's capacity as a licensed practitioner of mortuary science.

(h) "Cremation" means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process.

(i) "Crematory" means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation.

(j) "Funeral director" means an individual who is licensed by the Board to practice all aspects of mortuary science except for embalming.

(k) "Funeral establishment" means any building, structure, or premises from which the business of practicing mortuary science is conducted.

(l) (1) "Human remains" means:

(i) The body of a deceased person; or

(ii) A part of a body or limb that has been removed from a living person.

(2) "Human remains" includes the body or part of a body or limb in any state of decomposition.

(m) (1) "License" means, unless the context requires otherwise, a license issued by the Board.

(2) "License" includes, unless otherwise indicated:

(i) A mortician license;

(ii) An apprentice license;

(iii) A funeral director license;

(iv) A surviving spouse license;

(v) A corporation license;

(vi) A funeral establishment license; and

(vii) A courtesy card.

(n) "Licensed apprentice" means, unless the context requires otherwise, an apprentice who is licensed by the Board to assist a licensed mortician or funeral director in the practice of mortuary science or funeral direction.

(o) "Licensed funeral director" means, unless the context requires otherwise, a funeral director who is licensed by the Board to practice funeral direction.

(p) "Licensed funeral establishment" means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

(q) "Licensed mortician" means, unless the context requires otherwise, a mortician who is licensed by the Board under this title to practice mortuary science.

(r) "Licensee" means an individual or entity licensed by the Board to practice mortuary science to the extent determined by the Board.

(s) "Mortician" means an individual who practices mortuary science.

(t) (1) "Practice funeral direction" means:

(i) To operate a funeral establishment;

(ii) For compensation, to prepare a dead human body for disposition; or

(iii) For compensation, to arrange for or make final disposition of a dead human body.

(2) "Practice funeral direction" does not include:

(i) For compensation, disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection or any other type of preservation; or

(ii) The business of operating a crematory.

(u) (1) "Practice mortuary science" means:

(i) To operate a funeral establishment;

(ii) For compensation, to prepare a dead human body for disposition; or

(iii) For compensation, to arrange for or make final disposition of a dead human body.

(2) "Practice mortuary science" includes:

(i) The practice of funeral direction; and

(ii) Disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection.

(3) "Practice mortuary science" does not include:

(i) The pickup, removal, or transportation of a dead human body, if the unlicensed individual is acting under the direction of a licensed mortician or funeral director; or

(ii) The business of operating a crematory.

(v) "Pre–need contract" means an agreement between a consumer and a licensed funeral director, licensed mortician, or surviving spouse to provide any goods and services purchased prior to the time of death. Goods and services shall include:

(1) A service, including any form of preservation and disposition or cremation, that a mortician normally provides in the ordinary course of business; or

(2) Merchandise, including a casket, vault, or clothing, that a mortician normally provides in the ordinary course of business.

(w) "Surviving spouse" means the legal widow or widower of a licensed funeral director or licensed mortician, whose license was in good standing at the time of death, and who at the time of death, wholly or partly owned and operated a mortuary science business.

§7–102.

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(b) (1) In this subsection, "registrant or permit holder" means a person regulated under Title 5 of the Business Regulation Article as a registered cemeterian, registered seller, or holder of a permit to operate a cemetery or burial goods business.

(2) This title does not apply to:

(i) The business of operating a cemetery, including the sale of cemetery lots, grave sites, mausoleums, monuments, lawn crypts, or vaults;

(ii) The ownership of a crematory or the business of operating a crematory in which:

1. A registrant or permit holder owns a greater percentage of the crematory than a person licensed under this title;

2. Ownership is equal between a registrant or permit holder

and a person licensed under this title; or

3. Neither a registrant, permit holder, or person licensed under this title has an ownership interest in the crematory; or

(iii) The ownership of a crematory or the business of operating a crematory or incinerator at a licensed medical facility or educational institution.

§7–103.

The purpose of this title is to protect the health and welfare of the public.

§7–201.

There is a State Board of Morticians and Funeral Directors in the Department.

§7–202.

(a) (1) The Board consists of 11 members.

(2) Of the 11 Board members:

(i) 6 shall be licensed morticians or licensed funeral directors; and

(ii) 5 shall be consumer members.

(3) All Board members shall be residents of the State.

(4) The Governor shall appoint each member with the advice of the Secretary, and with the advice and consent of the Senate.

(5) The Board may not have more than one member who is employed by or affiliated with, directly or indirectly, the same corporation, professional association, or other entity, that owns, directly or through a subsidiary corporation, professional association, or other entity, one or more funeral homes.

(b) (1) Each mortician member shall:

(i) Be a licensed mortician whose license is in good standing with the Board; and

(ii) Have practiced mortuary science actively for at least 5 years immediately before appointment.

(2) In this subsection, "good standing" means that the Board has not reprimanded the licensee, suspended, or revoked the mortician's license or placed the licensee on probation within 5 years' time prior to or after confirmation to the Board.

(3) To qualify for appointment to the Board, the licensee must meet all

other qualifications required for renewal of a mortician license under this title.

(c) (1) Each funeral director member shall:

(i) Be a licensed funeral director whose license is in good standing with the Board; and

(ii) Have practiced funeral direction actively for at least 5 years immediately before appointment.

(2) In this subsection, "good standing" means that the Board has not reprimanded the licensee, suspended, or revoked the funeral director's license or placed the licensee on probation within 5 years' time prior to or after confirmation to the Board.

(3) To qualify for appointment to the Board, the licensee must meet all other qualifications required for renewal of a funeral director license under this title.

(d) Each consumer member of the Board:

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

(2) May not be or ever have been a mortician, funeral director, or apprentice;

(3) May not have a household member who is a mortician, funeral director, or apprentice;

(4) May not participate or ever have participated in a commercial or professional field related to the practice of mortuary science;

(5) May not have a household member who participates in a commercial or professional field related to the practice of mortuary science; and

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

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

(f) Before taking office, each member of the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of an appointed member is 4 years, except that the initial term of 1 of the consumer members is 3 years.

(2) The terms of appointed members are staggered as required by the terms provided for members of the Board on July 1, 1981.

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

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

(5) To the extent practicable, the Governor shall fill any vacancy on the Board occurring during the term of an appointed member within 60 days of the date of the vacancy.

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

(h) (1) The Governor may remove an appointed member:

(i) For incompetence or misconduct; or

(ii) Who, because of events that occur after the member's appointment or reappointment to the Board, causes the Board to be in violation of the prohibition set forth in subsection (a)(5) of this section.

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

§7–203.

(a) From among its members, the Board shall elect a president, a first vice president, and a second vice president.

(b) The Board shall determine:

(1) The manner of election of officers;

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

(3) The duties of each officer.

§7–204.

(a) A majority of the full authorized membership of the Board is a quorum to do business.

(b) (1) The Board shall meet at least once a year, at the times and places that it sets in its bylaws and rules and regulations.

(2) The Board shall hold special meetings that:

(i) It considers necessary; or

(ii) The Secretary directs.

(c) Each appointed member of the Board is entitled to:

(1) Compensation in accordance with the budget of the Board for each meeting that the member attends; and

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

(d) (1) The Board may appoint a Board secretary, who may be a member of the Board.

(2) The Board may employ inspectors and other staff in accordance with the budget of the Board.

§7–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt bylaws, rules, and regulations to carry out the provisions of this title;

(2) To adopt a seal;

(3) To establish procedures for licensing apprentices;

(4) To keep a list of all individuals currently licensed by the Board;

(5) To investigate any alleged violation of this title;

(6) To enforce this title;

(7) To adopt rules and regulations regarding false and misleading advertising and misrepresentation;

(8) To inspect licensed funeral establishments;

(9) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, to conduct an unannounced inspection of the funeral establishment to determine compliance at that funeral establishment with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(10) To establish standards for the practice of mortuary science; and

(11) To establish standards for sanitation and waste disposal in connection with the practice of mortuary science.

(b) The Board may conduct an audit of a licensee that:

(1) Receives pre-need funds;

(2) Places pre-need funds in a trust; or

(3) Enters into a pre-need contract.

(c) In conjunction with the Office of Cemetery Oversight, the Board shall:

(1) Establish a process for regulating crematories that provides for:

(i) Registration or licensure and renewal;

(ii) Applications, including certification of ownership and identification of individuals who will perform cremation;

(iii) Registration or licensure fees;

(iv) Inspections and oversight;

(v) Grounds for discipline and penalties; and

(vi) Complaints and hearings; and

(2) Adopt regulations that are identical to regulations adopted by the Director of the Office of Cemetery Oversight to:

(i) Implement item (1) of this subsection; and

(ii) Ensure public health and safety.

§7–206.

(a) There is a State Board of Morticians and Funeral Directors Fund.

(b) (1) The Board may set reasonable fees for its services.

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

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Morticians and Funeral Directors Fund.

(d) (1) The Fund shall be used to cover the actual documented direct and

indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§7–207.

A person shall have the immunity from liability described under § 5-707 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§7–208.

(a) The Board may require an applicant or licensee to submit to a mental or physical examination by a health care practitioner designated by the Board, if:

(1) When investigating an allegation brought against an applicant or licensee under this title, the Board finds reasonable evidence indicating that the applicant or licensee cannot practice mortuary science or funeral direction competently;

(2) The Board:

(i) Makes a written request for the applicant or licensee to submit to the examination;

(ii) Provides the applicant or licensee with a list of three health care practitioners from which the applicant may choose a health care practitioner to conduct the examination; and

(iii) Pays the cost of the examination in accordance with subsection (c) of this section; and

(3) The applicant or licensee:

(i) Consents to submit to the examination; and

(ii) Waives any claim or privilege as to the examination report.

(b) An evaluation report of a health care practitioner designated by the Board is confidential except as to contested case proceedings as defined by the Administrative Procedure Act.

(c) (1) (i) Subject to subparagraph (ii) of this paragraph, an applicant who does not hold a valid license with the Board shall pay the reasonable cost of any examination made under this section.

(ii) If the applicant is deemed competent to practice mortuary science or funeral direction as a result of the evaluation, the Board shall reimburse the applicant for the reasonable cost of the evaluation that was performed.

(2) The Board shall pay the reasonable cost of an examination made under this section for a licensee of the Board.

§7–301.

(a) Except as provided in subsection (b) of this section, an individual shall be licensed by the Board before the individual may practice mortuary science in this State.

(b) This section does not:

(1) Limit the right of a school of medicine or dentistry to use and dispose of a dead human body or its parts;

(2) Limit the right of any person who is authorized by law to handle or dispose of a dead human body or its parts, if the person acts within the scope of that authorization;

(3) Affect the right of an authorized officer or employee of the United States or the District of Columbia to practice mortuary science in the course of that individual's duties;

(4) Apply to an individual who makes funeral arrangements in the course of the duties of that individual as an attorney; or

(5) (i) Limit the right of the Board to issue temporary permits to out–of–state licensed morticians or funeral directors for teaching purposes involving an approved continuing education program or disaster situations as deemed necessary by the Board.

(ii) A mortician or funeral director who is issued a temporary permit shall be subject to any conditions and limitations that the Board may specify in the permit and the provisions of this title.

§7–302.

(a) (1) An individual shall be licensed by the Board before the individual may practice mortuary science in this State.

(2) A mortician license issued under this title authorizes the licensee to practice mortuary science while the license is effective.

(b) (1) An individual shall be licensed by the Board before the individual may practice funeral direction in this State.

(2) A funeral director license issued under this title authorizes the licensee to practice funeral direction while the license is effective.

§7–303.

(a) (1) The Board shall determine the qualifications necessary for an individual to lawfully engage in the practice of mortuary science or funeral direction and to operate a funeral establishment within this State.

(2) Except as otherwise provided in this subtitle, to qualify for a mortician or funeral director license, an applicant shall be an individual who meets the requirements of this section.

(b) The Board shall examine all applications for licensure for the practice of mortuary science or funeral direction and shall issue the mortician or funeral director license to an individual who:

(1) Is judged to be of good moral character;

(2) Has completed not less than 1 year and not more than 2 years of licensed apprenticeship, unless the Board allowed extensions for additional 1–year terms;

(3) Except as otherwise provided in this section, has graduated with an associate of arts degree in mortuary science or its equivalent from a school accredited by the American Board of Funeral Service Education or approved by the Board, or has acquired at least an associate of arts degree and completed a course in mortuary science that is accredited by the American Board of Funeral Service Education or approved by the Board;

(4) For an individual applying for a license to practice as a mortician, passed the national board examination administered by the Conference of Funeral Service Examining Boards of the United States;

(5) For an individual applying for a license to practice as a funeral director, passed the arts and sciences State board examinations, administered by the Conference of Funeral Service Examining Boards of the United States;

(6) Except as provided in subsection (c) of this section, has passed a written examination on Maryland law and regulations governing the practice of mortuary science and a practical examination demonstrating competency in the preparation of dead human bodies for final disposition and sanitary science; and

(7) Has submitted an application to the Board on the required form and has paid a fee set by the Board.

(c) For an individual applying for a license to practice funeral direction, the practical examination qualification under subsection (b)(6) of this section may not include demonstrating competency in embalming.

(d) The Board shall advise each applicant that a license issued under subsection (b) of this section does not guarantee that the applicant will be allowed to practice in any other state.

§7–304.

(a) An applicant who otherwise qualifies for a mortician or funeral director license is entitled to be examined as provided in this section if the applicant:

(1) Holds an apprentice license; or

(2) Has completed the apprenticeship requirements of this title.

(b) The Board shall give examinations to applicants twice each year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) The written part of the examination shall include:

(i) The general and local laws of this State on the practice of mortuary science; and

(ii) The laws and regulations on infectious diseases.

(2) In the practical part of the examination:

(i) The Board shall provide a dead human body; and

(ii) Except as provided in paragraph (3) of this subsection, in the presence of at least one third of the licensed members of the Board, each applicant shall demonstrate the applicant's knowledge and skill in the preparation of dead human remains for final disposition.

(3) For individuals applying for a license to practice funeral direction, a practical examination under paragraph (2) of this subsection may not include

demonstrating competency in embalming.

(e) (1) An applicant shall pay to the Board an examination fee set by the Board.

(2) The payment of one examination fee entitles an applicant to take the examination twice.

(f) If an applicant fails the examination twice, the applicant may retake the examination if the applicant pays the appropriate fee.

(g) In addition to the written and practical examinations administered by the Board, an applicant must take and pass the national examination administered by the Conference of Funeral Service Examining Boards of the United States.

§7–305.

(a) Subject to the provisions of this subsection, the Board may waive the examination and apprenticeship requirements of § 7–303 of this subtitle and issue a mortician or funeral director license to an applicant who is licensed to practice mortuary science or funeral direction in any other state.

(b) The Board may grant a waiver under this subsection only if the applicant:

(1) Pays the license fee required by the Board under § 7–303 of this subtitle;

(2) Was a licensed mortician or funeral director in good standing in the other state;

(3) Serves an apprenticeship consisting of 1,000 hours; and

(4) Passes the Maryland State written examination administered by the Board.

(c) The Board may grant a waiver only if the state in which the applicant is licensed:

(1) Grants a similar waiver to licensees of this State; and

(2) Has standards for a mortician or funeral director license that are not lower than those of this State.

§7–306.

(a) An individual shall obtain an apprentice license from the Board before beginning an apprenticeship in this State.

(b) (1) A mortician apprentice shall have an apprentice sponsor who:

(i) Is a licensed mortician whose license is in good standing with the Board; and

(ii) Is employed by the same funeral establishment that employs the apprentice.

(2) A funeral director apprentice shall have an apprentice sponsor who:

(i) Is a licensed mortician or funeral director whose license is in good standing with the Board; and

(ii) Is employed by the same funeral establishment that employs the apprentice.

(3) An apprentice may have more than one apprentice sponsor.

(c) An applicant for an apprentice license shall pay to the Board a fee set by the Board.

(d) (1) Prior to an individual appearing before the Board for approval of an apprentice license, the individual must complete two–thirds of the academic credits for a mortuary science program at a school accredited by the American Board of Funeral Service or approved by the Board, with a 2.0 grade point average or higher that is verified with a certified copy of the college transcript.

(2) The applicant and a licensed mortician or licensed funeral director shall appear before the Board to seek the Board's approval for an apprentice license for the applicant.

(3) On termination of the sponsor–apprentice relationship, both the sponsor and the apprentice shall independently notify the Board in writing of:

(i) The date of termination;

(ii) The name, date of death, date of service, and evidence of the service for each decedent for whom a funeral service was conducted under subsection (e)(1)(i) of this section in which the apprentice participated; and

(iii) The name, date of death, date of the preparation for disposition, and a copy of the decedent's filed death certificate for each decedent for whom the apprentice assisted in accordance with subsection (e)(1)(ii) of this section.

(4) Prior approval must be granted by the Board before a change of sponsorship occurs.

(e) (1) The practical experience of an apprentice shall include:

(i) Participation in at least 20 funerals;

(ii) Except as provided in paragraph (2) of this subsection, assistance in the preparation and embalming of at least 20 dead human bodies for final disposition; and

(iii) Completion of 1,000 working hours in a licensed funeral establishment under the direct supervision of the apprentice sponsor.

(2) For an apprentice funeral director, the practical experience under paragraph (1)(ii) of this subsection may not include embalming.

(3) For purposes of paragraph (1)(iii) of this subsection, direct supervision may include instruction by a licensed mortician or funeral director employed or supervised by the apprentice sponsor that is observed in person by the apprentice sponsor.

(f) While the license is effective, an apprentice license authorizes the licensee to assist a licensed mortician or funeral director in the practice of mortuary science or funeral direction only as part of a training program to become a licensed mortician or funeral director.

§7–308.

(a) Subject to the provisions of this section, the Board shall issue a surviving spouse license to an applicant if the applicant:

(1) Is the surviving spouse of a licensed mortician or licensed funeral director whose license was in good standing at the time of death and who at the time of death was operating and wholly or partly owned a mortuary science business;

(2) Is not a licensed mortician or licensed funeral director;

(3) Submits to the Board, within 30 days of the death of the licensed mortician or funeral director, written verification of the death of the licensee and the application required by the Board; and

(4) Pays a fee set by the Board.

(b) (1) Within 6 months of the issuance of the surviving spouse license, the applicant must take the written Maryland State law examination administered by the Board under § 7-304(b), (c), (d)(1), (e), and (f) of this subtitle.

(2) The license becomes null and void if the surviving spouse fails the Maryland State law examination twice.

(3) An applicant may retake the law examination as often as necessary to fulfill the requirement of this subsection.

(c) Nothing in this section shall prevent a surviving spouse from selling the

mortuary science business that was operated and wholly or partly owned by the licensed funeral director or licensed mortician.

(d) Except as provided in subsection (c) of this section, while a surviving spouse license is effective, it authorizes the licensee to:

(1) Continue the operation of the mortuary science business that had been operated and wholly or partly owned by the spouse of the licensee; and

(2) Assist with the planning and conducting of funeral services for that mortuary science business.

(e) The Board may issue a license under this section only if:

(1) The business is operated under the direct supervision of a licensed mortician or funeral director; and

(2) The embalming is done by a licensed mortician.

§7–308.1.

(a) A personal representative of a deceased mortician's, funeral director's, or surviving spouse's estate shall be licensed by the Board before continuing operation of the mortuary science business.

(b) The Board shall issue an executor license to an applicant if the applicant:

(1) Is the appointed personal representative of a deceased mortician's, funeral director's, or surviving spouse's estate in accordance with the requirements established in Title 5 of the Estates and Trusts Article;

(2) Submits to the Board, within 30 days of the death of the licensed mortician, funeral director, or surviving spouse:

(i) Written verification of the death of the licensee;

(ii) Written verification of appointment as a personal representative; and

(iii) The application required by the Board;

(3) Within 14 days after the death of the licensed mortician, funeral director, or surviving spouse, submits to the Board the name of a licensed funeral director or mortician who has agreed to apply for a pre–need trustee license issued under § 7–308.2 of this subtitle; and

(4) Pays a fee set by the Board.

(c) Nothing in this section shall prevent a personal representative from selling

the mortuary science business that was operated and wholly or partly owned by the licensed funeral director or licensed mortician.

(d) Except as provided in subsection (c) of this section, while an executor license is effective, it authorizes the licensee to:

(1) Continue operation of the mortuary science business that had been operated and wholly or partly owned by the deceased mortician or funeral director; and

(2) Assist with the planning and conducting of funeral services for that mortuary science business.

(e) The Board may issue a license under this section only if:

(1) The business is operated under the direct supervision of a licensed mortician or funeral director; and

(2) The embalming services are provided by a licensed mortician.

(f) (1) (i) Notwithstanding the provisions of § 7–314 of this subtitle, the Board shall provide for the term of an executor license.

(ii) The term of an executor license may not be more than 12 months.

(2) An executor license may be renewed for one additional 3–month period if:

(i) A buyer of the funeral establishment has been identified and has entered into a sales contract, but the sale of the funeral establishment has not been completed;

(ii) A pre–need account audit has not been completed and evidence is presented to the Board that failure to complete the audit is due to circumstances beyond the control of the funeral establishment; or

(iii) The Board determines that a renewal is needed due to unforeseen circumstances.

(g) A personal representative who wishes to continue operation of a mortuary science business upon expiration of the executor license must qualify and be licensed as a mortician or a funeral director, or be the holder of a surviving spouse or corporation license.

§7–308.2.

(a) Subject to the provisions of this section, the Board shall issue a pre–need trustee license to an applicant if the applicant:

(1) Applies to the Board on an application provided by the Board;

(2) Has been actively licensed in good standing by the Board for a minimum of 5 years while working in a facility that has accepted pre–need contracts and who can provide proof to the Board that these services have been provided by the applicant;

(3) Has been appointed as a pre–need trustee by the holder of an executor license issued under § 7–308.1 of this subtitle;

(4) Is of good moral character; and

(5) Pays the required fee.

(b) (1) While a pre–need trustee license is effective, the license authorizes the license holder to manage pre–need accounts held by a funeral establishment until the closing or sale of the funeral establishment.

(2) Notwithstanding the provisions of § 7–314 of this subtitle, a pre–need trustee license is valid from the date of issuance until the date of expiration of the license of the executor who appointed the license holder as a pre–need trustee under subsection (a)(3) of this section.

(c) The holder of a pre–need trustee license issued under this section may be the supervising mortician in a funeral establishment.

§7–308.3.

(a) This section applies to a funeral establishment owned by a funeral director, mortician, or surviving spouse who was the single owner and sole licensee of a funeral establishment.

(b) Within 7 days after the death of the single owner and sole licensee of a funeral establishment, the supervising mortician shall:

(1) Place an obituary for the deceased single owner and sole licensee in the death notices section of a newspaper with general circulation in the area of the funeral establishment; and

(2) Place a notice to the public of the death of the single owner and sole licensee on any Web site maintained by the funeral establishment.

(c) (1) Within 90 days after the death of a single owner of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall send a letter to all pre–need contract holders who have funds in trust with or an insurance product assigned to the funeral establishment stating the options available under § 7–405 of this title.

(2) The letter required by paragraph (1) of this subsection shall be returned within 5 days after receipt and shall include the full signature of the

pre–need contract holder next to the option chosen from those available under § 7–405 of this title.

(d) (1) Within 90 days after the death of a single owner and sole licensee of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall identify to the Board and the executor licensed under § 7–308.1 of this subtitle all pre–need bank trust money that has been deposited under the federal identification number of the funeral establishment or the Social Security number of the deceased single owner and sole licensee, instead of the Social Security number of the beneficiary or buyer of the pre–need contract.

(2) The pre–need trustee licensed under § 7–308.2 of this subtitle shall make a claim against the estate of the deceased single owner and sole licensee of the establishment which the licensee previously owned for the money identified under paragraph (1) of this subsection.

(3) The executor licensed under § 7–308.1 of this subtitle shall transfer all money identified in paragraph (1) of this subsection to the abandoned property office in the Office of the Comptroller in the proper name of the beneficiary or buyer of the pre–need contract.

(e) Within 90 days after the death of the single owner of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall send to the Board a list that includes:

(1) The names of all funded pre–need contract holders;

(2) The amount of the funds entrusted to the funeral establishment through a bank account or insurance product; and

(3) The location where the funds currently are maintained.

(f) (1) Within 90 days after the death of the single owner of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall send to the Board a list of all unclaimed cremains, including:

(i) A copy of the filed death certificate for each cremated decedent; and

(ii) The crematory certificate for each cremains.

(2) The Board shall work collaboratively with the State Anatomy Board to ensure proper disposition of the cremains.

(g) The pre–need trustee licensed under § 7–308.2 of this subtitle shall submit to the Board a digital image on removable media or on cloud–based storage that includes:

(1) All signed pre–need contracts; and

(2) Any associated paperwork dating from the signing of the pre–need contract.

§7–309.

(a) Except as otherwise provided by law, a corporation may not operate a mortuary science business and the Board may not issue a license to or list any corporation as licensed to operate a mortuary science business.

(b) The Board may renew only the license of a corporation that:

(1) On June 1, 1945, held a license issued by this State;

(2) Has been renewed continuously since that date;

(3) Submits an application on a form required by the Board; and

(4) Pays a fee set by the Board.

(c) Each application for renewal made by a corporation shall state the name and address of each officer and director of the corporation.

(d) While a corporation license is effective, it authorizes a corporation to operate a mortuary science business only if any practice of mortuary science that is conducted for the corporation is practiced by a licensed individual.

(e) A corporation may not operate a branch funeral establishment unless the branch funeral establishment was in operation on or before October 1, 1964.

(f) If a corporation is sold, declares bankruptcy, or ceases to operate, written notice must be submitted to:

(1) The Board, within 2 weeks of the occurrence, detailing the changes and the arrangements for carrying out the pre-need contracts and disbursement of the money held in escrow; and

(2) The holders of pre-need contracts advising them of their options under Maryland law.

§7–310.

(a) (1) A funeral establishment shall be licensed by the Board before the establishment may be used for the preparation of the remains, viewing, or conducting of services.

(2) The licensee may be restricted to operations as determined by the Board.

(b) (1) To apply for a funeral establishment license, an applicant shall:

(i) Submit an application to the Board on the form that the Board requires; and

(ii) Pay to the Board:

1. An application fee set by the Board; and

2. The fee established under § 7–4A–05(a) of this title.

(2) An application for a funeral establishment license shall be signed by a licensed individual who is not an apprentice but is the owner or co–owner of the establishment to be licensed.

(c) The Board shall issue a funeral establishment license to a funeral establishment that:

(1) Has complied with all applicable State and local laws; and

(2) Will be owned and operated in accordance with this title by at least one:

(i) Licensed mortician;

(ii) Licensed funeral director;

(iii) Holder of a surviving spouse license;

(iv) Holder of a corporation license; or

(v) Holder of an executor license.

(d) Signs and advertisements of a funeral establishment shall display the name that appears on the establishment license.

(e) (1) Each licensed funeral establishment shall have a supervising mortician.

(2) A licensed funeral establishment shall designate a licensed mortician whose license is in good standing with the Board to be the supervising mortician for the funeral establishment.

(3) A licensed mortician designated to be the supervising mortician for a funeral establishment shall complete the registration required by the Board.

(4) A mortician whose license is not in good standing in the State or any other jurisdiction may not be a supervising mortician.

(5) The supervising mortician for a funeral establishment shall be:

(i) Held responsible for all activities performed on behalf of the funeral establishment with the knowledge or at the direction of the supervising mortician; and

(ii) Except as provided in paragraph (6) of this subsection, limited to supervising:

1. One funeral establishment with an embalming facility; and

2. No more than three funeral establishments total that are within close enough proximity to each other to allow for oversight of each funeral establishment.

(6) The limits on the number of funeral establishments a supervising mortician may supervise as provided for in paragraph (5)(ii) of this subsection do not apply if a funeral establishment prepares for the disposition of less than 75 bodies in a calendar year.

(7) If a supervising mortician for a funeral establishment relinquishes the supervising mortician's responsibility under paragraph (5)(i) of this subsection for any reason, the funeral establishment shall name an interim supervising mortician who shall be held responsible for all activities performed on behalf of the funeral establishment, with the knowledge or at the direction of the interim supervising mortician, until a new supervising mortician for the funeral establishment registers with the Board.

(f) A funeral establishment that uses a central preparation room at another funeral establishment is not required to have its own preparation room or holding room.

§7–311.

(a) The Board may issue a courtesy card to a practitioner of mortuary science who:

(1) Is licensed to practice mortuary science in another state;

(2) Maintains a license in good standing with that state;

(3) Files an application with the Board; and

(4) Pays to the Board a license fee set by the Board.

(b) The courtesy card:

(1) Allows the holder of the courtesy card to make a removal of a dead human body in this State and to return the body to another state or country, to return a dead human body from another state or country to this State for final disposition, to fill out the family history portion of the death certificate, and to sign the death certificate

in the holder's capacity as a licensed practitioner of mortuary science; but

(2) Does not allow the holder of the courtesy card to operate a funeral establishment, make funeral arrangements, or conduct funerals in this State.

(c) A card issued by the Board under this title is not transferable.

§7–312.

Any person who obtains a burial-transit permit under § 4-215 of the Health - General Article is exempt from any requirement of this title to be under the direction of a licensed mortician or licensed funeral director.

§7–313.

(a) The Board shall issue the appropriate license to an applicant who meets the requirements of this title.

(b) The Board shall include on each license and renewal certificate that the Board issues:

(1) The signature of the secretary of the Board;

(2) The seal of the Board;

(3) A designation of the kind of license; and

(4) If it is a corporation license, the name and address of each director and each officer.

(c) A license issued by the Board under this title is not transferable.

§7–314.

(a) A license issued under this title expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Except as otherwise provided in this section, before a license expires, the licensee periodically may renew it for additional terms, if the licensee:

(1) Has met the qualifications for licensure and is not under a suspension or revocation order of the Board;

(2) Except as otherwise provided under this title, pays to the Board a renewal fee set by the Board;

(3) Submits to the Board a renewal application on the form that it requires;

(4) Submits to the Board satisfactory evidence of compliance with any continuing education requirements the Board may adopt by regulation; and

(5) For a funeral establishment license, provides proof of any payment to the Board required in accordance with § 7–4A–05(b) of this title.

(d) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The secretary of the Board may issue a renewal certificate during the interim between meetings of the Board.

(e) (1) Before an apprentice license expires, the licensee may renew it for an additional 1–year term only if the licensee:

(i) Submits to the Board a renewal application on the form that the Board requires;

(ii) Continues to participate in a training program; and

(iii) Pays to the Board a renewal fee set by the Board.

(2) An apprentice license may be renewed only two times.

(f) Before a courtesy card expires, the licensee may renew it for additional terms if the licensee:

(1) Submits to the Board a renewal application on the form that the Board requires;

(2) Submits documentation to the Board that the out–of–state license is in good standing; and

(3) Pays to the Board a renewal fee set by the Board.

(g) If, when the license of an individual otherwise would expire, the licensee is on active duty as a member of the armed forces but not on a career basis, the license is

renewed automatically for a 1–year term without application or payment of a fee.

§7–315.

(a) The Board shall reinstate the license of an individual who has failed to renew a mortician license or funeral director license for any reason if the individual:

(1) Requests that the Board reinstate the license;

(2) Meets the appropriate renewal requirements of this subtitle;

(3) Pays to the Board a reinstatement fee set by the Board;

(4) Submits to the Board an affidavit stating that the individual did not practice mortuary science in this State while the license was expired; and

(5) Applies to the Board for reinstatement of the license within 5 years after the license expires.

(b) The Board may not reinstate the license of a mortician or funeral director who fails to apply for reinstatement of the license within 5 years after the license expires unless the mortician or funeral director meets the terms and conditions established by the Board.

§7–316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any 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) Commits fraud or misrepresentation in the practice of mortuary science;

(4) 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;

(5) Aids or abets an unauthorized person in the practice of mortuary science;

(6) Advertises falsely or in a misleading manner;

(7) Solicits mortuary science business, either personally or by an agent,

from a dying individual or the relatives of a dead or dying individual, other than through general advertising;

(8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any other person to obtain business, either in general or for a licensee or funeral establishment;

(9) Directly or indirectly pays or offers to pay to obtain mortuary science business;

(10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing a dead human body to be disposed of there;

(11) Refuses to surrender custody of a dead human body on the demand of a person who is entitled to its custody;

(12) Sells or offers to sell any share, certificate, or interest in a mortuary science business with a promise or offer to perform services to the buyer at a cost less than that offered to the general public;

(13) Fails, after proper demand, to refund promptly any payments received under a pre–need contract with interest;

(14) At the time funeral arrangements are made, fails to give the contract required by § 7–404 of this title;

(15) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition;

(16) Practices mortuary science under a name other than:

(i) The name that appears on the license of that person; or

(ii) The name of a partnership in accordance with § 7–401 of this title;

(17) Signs an application for a funeral establishment license if the signer knew or should have known that grounds existed for which the funeral establishment license later was denied, suspended, or revoked;

(18) Violates any provision of this title or of the laws relating to cremation;

(19) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(20) Willfully makes or files a false report or record in the practice of mortuary science;

(21) 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;

(22) Submits a false statement to collect a fee;

(23) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(24) Violates any rule or regulation adopted by the Board;

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

(26) Commits an act of unprofessional conduct in the practice of mortuary science;

(27) 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/AIDS positive;

(28) 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;

(29) Fails to allow an inspection under § 7–205(a)(8) of this title;

(30) Fails to comply with inspection requirements in the time specified by the Board;

(31) Fails to provide the Board the certification required under § 7–405(i) of this title; or

(32) Fails to comply with § 5–513 of the Health – General Article.

(b) Subject to the hearing provisions of § 7–319 of this subtitle, the Board may deny a license to an applicant for a funeral establishment license, reprimand the holder of a funeral establishment license, place the holder of a funeral establishment license on probation, or suspend or revoke a funeral establishment license if, with the knowledge or at the direction of the funeral establishment:

(1) An unlicensed individual practices mortuary science or funeral

direction for or within the funeral establishment;

(2) An employee of the funeral establishment fails to comply with § 5–513(b) and (d) of the Health – General Article; or

(3) An employee of the funeral establishment fails to comply with § 7–405 of this title.

§7–316.1.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of mortuary science; or

(2) Conduct that constitutes a ground for disciplinary action under § 7-315 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board;

(2) The Attorney General; or

(3) A State's Attorney.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the practice of mortuary science.

(d) Proof of actual damage or proof that a person will sustain damage if an injunction is not granted is not required for an action under this section.

(e) Criminal prosecution for the unauthorized practice of mortuary science under § 7-501 of this title or disciplinary action under § 7-316 of this subtitle does not prohibit an action to enjoin under this section.

§7–317.

(a) If, after the Board brings an action under § 7-316 of this subtitle, the Board finds that there are grounds to place a licensee on probation or suspend or revoke a license, the Board may impose a penalty not exceeding $5,000:

(1) Instead of suspending or revoking the license; or

(2) In addition to placing the licensee on probation or suspending or revoking the license.

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

§7–318.

(a) Unless the Board agrees to accept the surrender of a license while the licensee is under investigation or while charges are pending against the licensee, a licensee may not:

(1) Surrender the license; or

(2) Allow the license to lapse by operation of the law.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§7–319.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 7-316 of this subtitle, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any audit or investigation under this title and any hearings or proceedings before it.

(e) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction shall compel compliance with the subpoena and may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(g) If after a hearing an individual is found in violation of § 7-316 of this subtitle, the individual shall pay the hearing costs.

(h) If the Board orders the suspension of a license in accordance with § 10–226(c)(2) of the State Government Article, the Board shall notify the licensee of the suspension within 48 hours after the Board makes the determination to order the suspension.

§7–320.

(a) Except as provided in this section for an action against any health care professional under § 7–316 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any health care professional aggrieved by a final decision of the Board under § 7–316 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) If a person notes an appeal from an order of suspension or revocation by the Board, the order is stayed.

§7–321.

(a) The Board shall place a licensee on inactive status if the licensee submits to the Board:

(1) An application for inactive status on the form required by the Board; and

(2) Pays the inactive status fee set by the Board.

(b) A licensee on inactive status may reactivate the license at any time if the licensee:

(1) Complies with the continuing education requirements in effect for the year in which the licensee seeks to reactivate the license;

(2) Has not practiced mortuary science in the State while on an inactive status; and

(3) Pays the reactivation fee set by the Board.

(c) If a license is inactive for more than 5 years, the licensee shall take and pass the Maryland Morticians Law Examination administered by the Board.

§7–401.

(a) Two or more licensed morticians or funeral directors may practice mortuary science as a partnership.

(b) A partnership shall be conducted under the names of all the partners.

(c) Before practicing as a partnership, the licensees shall:

(1) Notify the Board that they will be practicing as a partnership; and

(2) Submit to the Board the name and address of each partner.

§7–402.

(a) One or more licensed morticians or funeral directors may practice mortuary science as a professional association.

(b) A professional association shall be conducted under the name authorized by the Department of Assessments and Taxation.

(c) Before practicing as a professional association, the licensee shall:

(1) Notify the Board; and

(2) Submit to the Board the name and address of each member of the professional association.

§7–403.

(a) The Board may establish a school to:

(1) Teach mortuary science; and

(2) Gather and give out information on:

(i) Sanitation;

(ii) Preservation of dead human bodies; and

(iii) Disinfection of dead human bodies, living areas, clothing, and bedding when death results from infectious disease.

(b) The Board may adopt rules and regulations for:

(1) The conduct of the school;

(2) Payment of tuition fees;

(3) Admission of students; and

(4) Issuance of diplomas.

(c) The cost of operating the school shall be derived from:

(1) Tuition fees;

(2) License examination fees;

(3) License fees; and

(4) Renewal fees.

§7–404.

(a) (1) At the time a licensee makes funeral arrangements, the licensee shall give to the individual who requested the funeral arrangements a contract that includes:

(i) An itemized list of all services and merchandise that will be provided and the total price;

(ii) To the extent possible, a specification of any item for which the licensee will advance money to accommodate the buyer; and

(iii) The terms and method of payment.

(2) The contract shall be in duplicate and contain the signatures of the licensee, other than an apprentice, and the payor of the requested service.

(3) A copy of the signed contract shall be given to the payor at the time the arrangements are finalized.

(b) In addition to the contract required under subsection (a) of this section, the licensee shall give to the individual who requested a funeral a similar written statement that reflects any change in the arrangements agreed to between the parties.

§7–405.

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

(2) "Beneficiary" means a person for whose benefit a pre–need contract is purchased and who will receive the merchandise or services offered under the contract.

(3) "Buyer" means a person that purchases a pre–need contract.

(4) "Guaranteed contract" means a written pre–need contract that:

(i) Is signed by the consumer and a licensee of a licensed funeral establishment; and

(ii) Guarantees in whole the price of goods and services and cash advance items specified in the contract.

(5) "Guaranteed in part contract" means a written pre–need contract that:

(i) Is signed by the consumer and a licensee of a licensed funeral establishment; and

(ii) Guarantees in part the price of goods and services and cash advance items specified in the contract.

(6) "Nonguaranteed contract" means a written pre–need contract:

(i) That is signed by the consumer and a licensee of a licensed funeral establishment;

(ii) That does not guarantee the price of any specific goods and services or cash advance items; and

(iii) For which any funds or benefits paid under the contract are only a deposit or partial payment to be applied toward the final cost, determined at the time of death, of the goods, services, or cash advance items.

(7) "Seller" means a person who agrees to provide services or merchandise, directly or indirectly, under a pre–need contract.

(8) "Trustee" means a person that has responsibility for making pre–need arrangements in a manner that entitles the beneficiary to be eligible for benefits that restrict assets.

(b) (1) Only a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license may offer or agree, directly or indirectly, to provide services or merchandise under a pre–need contract.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a licensed mortician or a licensed funeral director who is employed by a funeral establishment may execute pre–need contracts on behalf of the funeral establishment with which the mortician or funeral director is employed.

(3) Any funeral establishment on whose behalf pre–need contracts are executed under this subsection must comply with the requirements of this section.

(c) (1) A pre–need contract shall contain:

(i) The name of each party to the contract and, if the beneficiary is an individual other than the buyer, the name of the beneficiary of the contract;

(ii) A description of any service or merchandise to be provided under the pre–need contract;

(iii) A disclosure statement that clearly:

1. States that all funeral costs may not be covered under the pre–need contract;

2. States that "not all charges that may be required to be paid at the time of need are listed in this contract";

3. Informs a buyer of whether the contract is a guaranteed

contract, a guaranteed in part contract, or a nonguaranteed contract; and

4. If the contract is a guaranteed in part contract:

A. Lists the funeral goods and services or cash advance items included in the guarantee; and

B. Identifies in at least 14 point bold face type above each section of the contract whether the section is fully guaranteed or not guaranteed;

(iv) A line totaling:

1. The guaranteed amount paid; and

2. The amount for nonguaranteed items that are considered to be only a down payment toward future total cost; and

(v) The method of payment.

(2) If disclosure is made in accordance with paragraph (1)(iii)3 and 4 of this subsection, a pre–need contract may:

(i) Be a guaranteed contract, a guaranteed in part contract, or a nonguaranteed contract; and

(ii) Include cash advance items or goods and services that are not guaranteed.

(3) A pre–need contract shall be executed in duplicate and be signed by each party.

(4) The seller shall give one of the duplicate originals of the pre–need contract to the buyer.

(d) (1) Within 10 days after receiving a payment under a pre–need contract, the seller shall deposit into an interest bearing, escrow or trust account:

(i) For services, 100% of the payment under the pre–need contract; and

(ii) For goods:

1. An amount from the payment that is equal to 80% of the selling price of a casket or casket vault under the pre–need contract; and

2. 100% of the payment that is for all other goods under the pre–need contract.

(2) The interest bearing, escrow or trust account shall be with:

(i) A banking institution that is insured by an agency of the federal government; or

(ii) A savings and loan association that is insured by an agency of the federal government.

(3) (i) A pre–need escrow or trust account may not be deemed an asset of:

1. The individual licensee; or

2. The licensed funeral establishment.

(ii) A pre–need escrow or trust account with a banking institution or savings and loan association described in paragraph (2) of this subsection shall be:

1. Established using the name, address, and Social Security number of the buyer; and

2. Held in trust for the licensed funeral establishment.

(iii) 1. A buyer for whom a monetary pre–need escrow or trust account is established under subparagraph (ii) of this paragraph shall receive a statement regarding the escrow or trust account at least annually.

2. The requirement under subsubparagraph 1 of this subparagraph may be satisfied by a statement that is:

A. Issued by the banking institution or savings and loan association at which the escrow or trust account is established; and

B. Sent to the buyer.

(4) (i) Any interest or dividends earned by the escrow or trust account prior to service being rendered belong to the buyers of the pre–need contracts.

(ii) Upon performance of the contract, any interest or dividends earned by the escrow or trust account belong to the seller.

(e) (1) (i) Except as may be provided in an irrevocable trust established under paragraph (4) of this subsection and in subparagraph (ii) of this paragraph, the banking institution or savings and loan association with which funds are deposited under this section is not responsible for the application of pre–need contract escrow or trust funds.

(ii) Except as otherwise provided in this section, the banking institution or savings and loan association with which funds are deposited under this section may not release the funds to the seller unless the seller provides to the banking

institution or savings and loan association:

1. A copy of the death certificate of the beneficiary; or

2. A notarized statement and withdrawal request from the buyer or the buyer's legal representative.

(2) (i) Except as otherwise provided in this subsection, a seller may not withdraw from the account any money received from a buyer unless the services and merchandise have been provided as agreed in the contract.

(ii) 1. Except as otherwise provided in this subsection, a seller may not withdraw from the account any money received from a buyer unless the seller provides to the banking institution or savings and loan association with which funds are deposited a copy of the beneficiary's death certificate.

2. A violation of subsubparagraph 1 of this subparagraph is an unfair or deceptive trade practice under Title 13 of the Commercial Law Article.

(3) A pre–need contract is ended and a seller shall refund to a buyer all payments and interest held for the buyer if:

(i) The buyer or the legal representative of the buyer demands in writing a refund of all payments made;

(ii) The business of the seller is discontinued or sold;

(iii) The seller is unable to perform under the terms and conditions of the pre–need contract; or

(iv) The buyer fails to pay the entire contract price before the death of the beneficiary, and the seller considers the pre–need contract void.

(4) (i) Notwithstanding the provisions of paragraph (3) of this subsection, the buyer of a pre–need contract has the option, at any time, to establish, under paragraph (5) of this subsection, an irrevocable trust with respect to all or any portion of the payment made under the contract in the escrow or trust account held by the seller, but only for the purpose of entitling the buyer to be eligible for any current Social Security benefits or for any benefits under any other plan that restricts eligibility to those with limited assets.

(ii) The trust document establishing a trust under this paragraph shall contain the following notice, conspicuously displayed in 10–point boldface type:

"This document creates an irrevocable trust. Under the terms of this document, a buyer may not receive a refund of any payments made for the pre–need burial contract".

(5) The trust document establishing a trust under paragraph (4) of this subsection shall provide for:

(i) The disposition of the income earned by the trust which shall inure to the benefit of the buyer;

(ii) The transfer of the trust funds if required by a trustee substituted under paragraph (6) of this subsection; and

(iii) The disposition of the trust funds if:

1. The business of the seller is discontinued or sold;

2. The seller is unable to perform under the terms and conditions of the pre–need contract; and

3. The buyer fails to pay the entire contract price before the death of the beneficiary and the seller considers the pre–need contract void.

(6) If the buyer exercises the option described in paragraph (4) of this subsection, the buyer, a relative of the buyer, or legal representative of the buyer shall retain the right to appoint, as trustee of the irrevocable trust, a trustee other than the one originally designated in the contract.

(7) If a contract is voided under paragraph (3) of this subsection and the option to establish an irrevocable trust has been exercised under paragraph (4) of this subsection, the buyer, a relative of the buyer, or a legal representative of the buyer shall retain the right to appoint, as trustee of the irrevocable trust, a trustee other than the one originally designated in the contract.

(f) (1) A pre–need contract is not subject to the Retail Installment Sales Act.

(2) The making of a pre–need contract by a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license is not the practice of insurance business.

(3) (i) A pre–need contract that is a guaranteed contract, a guaranteed in part contract, or a nonguaranteed contract may be funded by a life insurance policy or an annuity contract if:

1. The mortician, funeral director, licensed funeral establishment, or surviving spouse is not the owner of or beneficiary under the life insurance policy or annuity contract;

2. An irrevocable assignment of benefits to the licensed funeral establishment:

A. May be transferred at any time by the owner of the life

insurance policy or annuity contract to any other licensed funeral establishment; and

B. May not be transferred to the consumer; and

3. Any benefits payable under the life insurance policy or annuity contract in excess of the amount necessary to pay the total price, as determined at the time of death of the insured, of the services and merchandise agreed on in the pre–need contract are paid to the beneficiary under the life insurance policy or annuity contract.

(ii) A pre–need contract that is funded by a life insurance policy or an annuity contract shall terminate if the assignment of benefits to the mortician, funeral director, or surviving spouse is revoked by the owner of the life insurance policy or annuity contract.

(iii) 1. The offer, sale, or assignment of a life insurance policy or annuity contract to fund a pre–need contract is not subject to this section.

2. A pre–need contract funded by a life insurance policy or an annuity contract is not subject to subsection (d) or (e) of this section.

(g) A seller of a pre–need contract shall provide the buyer with a general price list for the buyer to keep of the goods and services offered by the seller.

(h) A seller of a pre–need contract shall disclose to the consumer the buyer's cancellation and refund rights under subsection (d) of this section.

§7–406.

A licensee shall maintain a complete file of a cremation that includes the signature of the next of kin, person identifying the body, or person responsible for disposition, time of death, and the date and time of cremation.

§7–407.

(a) A licensed funeral director shall provide to the surviving spouse or immediate family members of the deceased or authorized representative a notice which advises that certain individuals may be entitled to continuation of group health insurance benefits under § 15-407 of the Insurance Article.

(b) The notices required to be provided in subsection (a) of this section shall be supplied to the licensed funeral director by the Insurance Commissioner.

(c) A licensed funeral director who fails to provide notice under subsection (a) of this section shall not be liable to any person for benefits which would have otherwise been payable under § 15-407 of the Insurance Article or other damages resulting from the failure to provide notice.

§7–408.

(a) In this section, "mortician and funeral director rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a mortician and funeral director rehabilitation committee is a committee of the Board or a committee of any association representing morticians and funeral directors that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to morticians and funeral directors.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a mortician and funeral director rehabilitation committee evaluates and provides assistance to any mortician or funeral director, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the mortician and funeral director rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the mortician and funeral director rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the mortician and funeral director rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a mortician and funeral director rehabilitation committee is not civilly liable for any action as a member of the mortician and funeral director rehabilitation committee or for

giving information to, participating in, or contributing to the function of the mortician and funeral director rehabilitation committee.

§7–409.

(a) Except as provided in subsection (b) of this section, all inspections of funeral establishments shall be unannounced and may take place at any time without notice from the Board.

(b) An unannounced inspection may include advance notice that an inspector may be in the region of the funeral establishment for the purpose of conducting an inspection if:

(1) The advance notice is no more than 14 days prior to the inspection;

(2) No specific date or time is provided for the inspection; and

(3) The advance notice is provided solely to ensure that a licensed mortician or funeral director will be on–site for the inspection.

(c) (1) This subsection applies to inspections conducted:

(i) In response to valid information provided to the Board resulting in a complaint being opened by the Board concerning the preparation or body storage areas of a licensed funeral establishment only if the Board has provided a copy of the complaint to the licensed funeral establishment; or

(ii) Of a funeral establishment that the Board has placed on probationary status in accordance with § 7–316(b) of this title.

(2) A trained staff member of the Board who is qualified to do inspections may call the supervising mortician of a licensed funeral establishment, as designated under § 7–310(e) of this title, and request immediate access to the preparation and body storage areas of the funeral establishment.

(3) If a request is made under paragraph (2) of this subsection, the supervising mortician immediately shall provide the staff member of the Board with the location of the key or access code to the preparation or body storage areas of the funeral establishment.

(4) An employee of a licensed funeral establishment is not required to accompany a staff member of the Board while the staff member conducts an inspection of a preparation or body storage area in accordance with this subsection.

(d) An unannounced inspection of a licensed funeral establishment shall be conducted during the hours that the business of mortuary science is being conducted at the licensed funeral establishment.

(e) Within 24 hours after the completion of an unannounced inspection of a licensed funeral establishment, the Board shall provide the results of the inspection to:

(1) The holder of the funeral establishment license; or

(2) The supervising mortician for the licensed funeral establishment, as designated under § 7–310(e) of this title.

§7–410.

(a) Any individual who is 18 years of age or older may decide the disposition of the individual's own body after the individual's death without the pre-death or post-death consent of another person by executing a document that expresses the individual's wishes or by entering into a pre-need contract.

(b) In order to be valid, any document executed under subsection (a) of this section must be written and signed by the individual in the presence of a witness, who, in turn, shall sign the document in the presence of the individual.

(c) Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent under this section and are liable for the reasonable costs of preparation, care, and disposition of the decedent:

(1) The surviving spouse or domestic partner, as defined in § 1–101 of the Health – General Article, of the decedent;

(2) An adult child of the decedent;

(3) A parent of the decedent;

(4) An adult brother or sister of the decedent;

(5) A person acting as a representative of the decedent under a signed authorization of the decedent;

(6) The guardian of the person of the decedent at the time of the decedent's death, if a guardian has been appointed; or

(7) In the absence of any person under items (1) through (6) of this subsection, any other person willing to assume the responsibility to act as the authorizing agent for purposes of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the persons described in items (1) through (6) of this subsection.

(d) (1) Subject to paragraph (2) of this subsection, if a decedent has more than one survivor under subsection (c)(1) through (4) of this section, any adult child, parent, or adult brother or sister of the decedent who confirms in writing to a licensee that all of the other members of the same class have been notified may serve as the authorizing agent unless the licensee receives a written objection from another member of that class.

(2) If a decedent has more than one survivor under subsection (c)(1) through (4) of this section, the majority of a class may serve as the authorizing agent.

(e) For an individual whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the body of the individual may serve as the authorizing agent for purposes of this section.

(f) For an individual who has donated the individual's body to medical science or whose death occurred in a nursing home or other private institution, a representative of the institution to which the body was donated or in which the decedent died may serve as the authorizing agent of the decedent and the institution is charged with making arrangements for the final disposition of the body.

§7–411.

(a) Before burial or interment, a mortician shall affix to the long bones of the deceased human body a plastic or metal identification tag.

(b) After cremation, a licensee shall ensure that a metal or plastic identification tag is placed in the cremains container.

(c) The identification tag shall contain:

(1) The name of the decedent;

(2) The Social Security number of the decedent;

(3) The decedent's date of birth; and

(4) The decedent's date of death.

§7–4A–01.

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

(b) "Advisory Committee" means the Family Security Trust Fund Advisory Committee.

(c) "Fund" means the Family Security Trust Fund.

§7–4A–02.

This subtitle does not limit the authority of the Board to:

(1) Take any action against a licensee under the disciplinary provisions of §§ 7–316 through 7–320 of this title; or

(2) Take any other disciplinary or other action authorized under this title.

§7–4A–03.

(a) There is a Family Security Trust Fund.

(b) The Board shall:

(1) Administer the Fund; and

(2) Over a reasonable period of time, build the Fund to a level of $1,000,000 and thereafter maintain the Fund at that level.

(c) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(d) (1) The Board shall deposit all money collected to the credit of the Fund with the State Treasurer for placement into a special account.

(2) (i) The State Treasurer may invest or reinvest money in the Fund in the same manner as money in the State Retirement and Pension System.

(ii) The investment earnings shall be:

1. Except as provided in paragraph (3) of this subsection, credited to the Fund; and

2. Available for the same purposes as the money deposited into the Fund.

(3) If the level of the Fund exceeds $1,000,000, the State Treasurer shall pay the investment earnings of the Fund into the General Fund of the State.

(e) The Fund is not liable for any other expenses or obligations of the Board.

(f) (1) Accounting and financial reports related to the Fund shall be publicly available in a timely manner.

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

(g) (1) The Board may retain the services of appropriate experts or service

providers to advise about, or administer, the Fund.

(2) The costs of the services described in paragraph (1) of this subsection shall be paid out of the Fund.

(h) The Board shall adopt regulations for the administration and claims procedures of the Fund.

§7–4A–04.

(a) There is a Family Security Trust Fund Advisory Committee.

(b) The Advisory Committee consists of the following five members:

(1) Three members of the Board, including one consumer member, appointed by the Board;

(2) One member designated by the Maryland State Funeral Directors Association; and

(3) One member designated by the Funeral Directors and Morticians Association of Maryland, Inc.

(c) The Advisory Committee members may be, but are not required to be, licensees of the Board.

(d) (1) Except for the initial terms of the Advisory Committee, the term of a member is 4 years.

(2) A member continues to serve until a successor is appointed and qualifies.

(3) The terms of the initial members shall be staggered evenly between 3 years and 4 years as the Advisory Committee shall determine at the Advisory Committee's first meeting.

(4) A member may not serve for more than two 4–year terms.

(e) The Advisory Committee shall elect annually a chair, vice chair, and secretary from among its members.

(f) (1) The Advisory Committee shall meet at the call of the chair or the vice chair.

(2) The Advisory Committee shall meet at least twice each year at the times and places that it determines.

(g) The purpose of the Advisory Committee is to provide nonbinding counsel and advice to the Board on any Fund matters other than pending individual claim matters.

(h) The Board shall:

(1) Work with the Advisory Committee in a cooperative manner; and

(2) Provide to the Advisory Committee, in a timely manner:

(i) All appropriate Fund information, other than information involving pending claim matters; and

(ii) Summary information about the outcome of all closed claims, including actual amounts of individual and total claim payments.

(i) A member of the Advisory Committee:

(1) May not receive compensation as a member of the Advisory Committee; but

(2) May receive reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§7–4A–05.

(a) Before the Board issues an initial funeral establishment license, the funeral establishment shall pay, in addition to all other applicable fees, a fee of $375 to be credited to the Fund.

(b) (1) Each funeral establishment shall pay $375 per year into the Fund, until the Fund has accumulated a balance of $1,000,000.

(2) If, after the Fund has accumulated a balance of $1,000,000, the amount in the Fund falls below $1,000,000, the Board shall assess each funeral establishment an additional fee in an amount that will, over a reasonable period, return the Fund to a level of at least $1,000,000.

(3) The Board may not issue a renewal funeral establishment license if the funeral establishment has not paid the fee required under this subsection.

§7–4A–06.

(a) Subject to the provisions of this subtitle, a person may recover compensation from the Fund for an actual pre–need trust fund loss that occurred on or after January 1, 2010, and is based on an act or omission as described in subsection (b) of this section.

(b) A claim for the loss shall:

(1) Be based on an act or omission that occurs in the provision of funeral pre–need services by:

(i) A licensed mortician;

(ii) A licensed funeral director;

(iii) A licensed apprentice mortician;

(iv) A licensed apprentice funeral director; or

(v) An unlicensed employee of a licensed funeral establishment;

(2) Involve a transaction that relates to pre–need funeral planning that occurred in the State; and

(3) Be based on an act or omission:

(i) In which pre–need money is obtained from a person by theft, embezzlement, false pretenses, or forgery; or

(ii) That constitutes fraud or misrepresentation.

(c) The amount recovered for any claim against the Fund:

(1) May not exceed the actual monetary loss suffered; and

(2) May not include noneconomic, consequential, or punitive damages.

(d) A funeral establishment shall include in each sales contract that is provided by the funeral establishment a written notice to the buyer that the buyer may file a claim with the Fund.

§7–4A–07.

(a) Each claim against the Fund shall be made in accordance with this section.

(b) Each claim shall:

(1) Be in writing;

(2) Be made under oath;

(3) State the amount of loss claimed;

(4) State the facts on which the claim is based; and

(5) Be accompanied by any documentation or other evidence that supports the claim.

§7–4A–08.

(a) The Board shall act promptly on a claim made under this subtitle.

(b) On receipt of a claim, the Board shall:

(1) Forward a copy of the claim:

(i) To each licensee alleged to be responsible for the act or omission giving rise to the claim;

(ii) To each unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; and

(iii) To each funeral establishment that employs a licensee or unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; and

(2) Request from each of the persons listed in item (1) of this subsection a written response within 10 days to the allegations set forth in the claim.

(c) (1) The Board:

(i) Shall review the claim and any response to the claim; and

(ii) May conduct an investigation of the claim.

(2) On the basis of its review and any investigation that the Board conducts, the Board shall:

(i) Set the matter for a hearing; or

(ii) If the claim is frivolous, made in bad faith, or legally insufficient, dismiss the claim.

(d) At any claim hearing, the burden of proof shall be on the claimant to establish the validity of the claim.

§7–4A–09.

(a) The Board shall give the following persons notice of the hearing and an opportunity to participate in the hearing:

(1) The claimant;

(2) Each licensee alleged to be responsible for the act or omission giving rise to the claim;

(3) Each unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; and

(4) Each funeral establishment that employs a licensee or unlicensed employee alleged to be responsible for the act or omission giving rise to the claim.

(b) The Board may not proceed with the hearing unless the records of the Board show that the Board provided each notice required under the provisions of this section and § 7–4A–08 of this subtitle.

§7–4A–10.

(a) If a claim against the Fund alleges that the act or omission giving rise to the claim was performed by a licensee, the Board may join the proceeding on the claim with any disciplinary proceeding against the licensee under this title arising from the same facts alleged in the claim.

(b) (1) For that part of a hearing on consolidated proceedings that relates to disciplinary action but does not relate to the Fund claim against a licensee, the claimant:

(i) May not be a party; and

(ii) May participate only as a witness.

(2) For that part of a hearing on consolidated proceedings that relates to the claim against the Fund, the claimant is a party.

§7–4A–11.

(a) The Board shall order full or partial payment of a claim by the Fund if, on the hearing, the claimant proves that the claimant has a valid claim under this subtitle.

(b) The Board may order full or partial payment by the Fund only for the actual monetary loss suffered by the claimant as a result of the claim proven by the claimant.

(c) A payment may not be made by the Fund under an order of the Board until:

(1) The expiration of the time provided under Title 10, Subtitle 2 of the State Government Article for seeking judicial review of the Board's order; or

(2) The expiration of any judicial stay of the order of the Board.

(d) The Board shall order payment of each claim due in the order in which the claim was awarded.

(e) If, at the time a payment is due, the money in the Fund is insufficient to satisfy fully the order for payment, the Board:

(1) Immediately shall pay to the claimant the amount that is available in the Fund; and

(2) When sufficient funds are available in the Fund, shall pay the claimant the balance due on the order.

§7–4A–12.

(a) After payment of a claim by the Fund, a licensee who the Board finds responsible for the act or omission that gave rise to the claim shall reimburse the Fund in full for:

(1) The amount paid by the Fund; and

(2) Interest on the amount paid by the Fund at an annual rate of 6%.

(b) Each licensee who the Board finds responsible for the act or omission that gave rise to a claim is jointly and severally liable for the claim.

(c) If a licensee does not reimburse the Fund as provided in subsection (a) of this section, the Board or the State Central Collection Unit, as assignee of the Board, may bring an action against the licensee for the amount that has not been reimbursed.

(d) The Board or the State Central Collection Unit, as assignee of the Board, shall be entitled to a judgment for the amount that the licensee has not reimbursed the Fund if the Board proves that:

(1) Payment was made by the Fund based on an act or omission for which the Board found the licensee was responsible;

(2) A period of at least 30 days has passed since payment was made by the Fund; and

(3) The licensee has not reimbursed the Fund for the amount for which the judgment is sought.

(e) (1) If a person liable for reimbursing the Fund under this section receives a demand for reimbursement and fails to reimburse the Fund, the reimbursement amount and any accrued interest or cost are a lien in favor of the State on any real property of the person if the lien is recorded and indexed as provided in this subsection.

(2) (i) The lien in favor of the State created by this subsection may not attach to specific property until the State Central Collection Unit records written notice of the lien in the office of the clerk of the court for the county in which the property subject to the lien or any part of the property is located.

(ii) The notice required under subparagraph (i) of this paragraph shall contain the name and address of the person against whose property the lien exists, the amount of the lien, a description of or reference to the property subject to the lien, and the date the Fund paid the claim giving rise to the lien.

(3) The lien in favor of the State created by this subsection does not have priority as to any specific property over any person who is a lienholder of record at the time the notice required under paragraph (2) of this subsection is recorded.

(4) On presentation of a release of any lien in favor of the State created by this subsection, the clerk of the court in which the lien is recorded and indexed shall record and index the release and shall note in the lien docket the date the release is filed and the fact that the lien is released.

(5) The notice required under paragraph (2) of this subsection and any release filed under paragraph (4) of this subsection shall be indexed with the judgment lien records maintained by the office of the clerk of the court where the notice is recorded.

(6) The clerk may collect a reasonable fee for recording and indexing each notice of lien or release of any lien under this subsection.

(f) For the purpose of excepting to a discharge of a licensee under 11 U.S.C. § 523, the Board or the State Central Collection Unit, as assignee of the Board, is a creditor of the licensee for the amount that was paid by the Fund but that has not been reimbursed by the licensee.

§7–4A–13.

(a) If the Board orders payment by the Fund of a claim based on an act or omission for which a licensee is responsible, the Board immediately and without further proceedings shall suspend the license of the licensee.

(b) The Board may not reinstate a license that is suspended under this section until the person whose license was suspended:

(1) Repays in full:

(i) The amount paid by the Fund; and

(ii) The interest due under § 7–4A–12(a)(2) of this subtitle; and

(2) Applies to the Board for reinstatement of the license.

(c) Regardless of whether the disciplinary sanction was imposed for the same act or omission that gave rise to the claim against the Fund, the reimbursement of the Fund by a licensee does not affect any sanction imposed by the Board against a person under the disciplinary provisions of §§ 7–316 through 7–320 of this title.

§7–501.

Except as otherwise provided in this title, a person may not practice, attempt to practice, offer to practice, or assist in the practice of mortuary science in this State unless licensed by the Board.

§7–502.

Unless authorized to practice mortuary science under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice mortuary science in this State.

§7–503.

(a) Except as provided in subsection (b) of this section, a licensee may not practice mortuary science under any name other than the name that appears on that person's license.

(b) (1) The name appearing on the license may be a trade or copyrighted name which may be sold to another licensee as part of the goodwill of the funeral establishment.

(2) If the sale of the trade name or copyrighted name is made part of a sale of a funeral establishment:

(i) The buyer must:

1. Notify the Board of the sale of the trade or copyrighted name; and

2. Apply for a funeral license in the name of the new owner; and

(ii) The funeral establishment license must indicate that the trade or copyrighted name will continue to be used by the new owner.

(3) The sale of a funeral establishment does not preclude the buyer from advertising the funeral establishment as the successor to the funeral establishment acquired.

§7–504.

Unless a person is a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license, the person may not offer or agree, directly or indirectly, to provide services or merchandise under a pre-need contract.

§7–505.

A licensee or the agent of a licensee may not represent that a burial or funeral casket is required for cremation.

§7–508.

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 1

year or both.

§7–601.

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

(b) (1) "Mortuary transport service" means an individual or a business entity that, for compensation, removes and transports human remains or employs a transporter to remove or transport human remains.

(2) "Mortuary transport service" does not include:

(i) A licensed funeral establishment or an employee of a licensed funeral establishment that removes and transports human remains; or

(ii) A cemetery or employee of a cemetery that removes or transports human remains within the boundaries of the cemetery.

(c) "Permit" means a permit issued by the Board to the owner of a mortuary transport service to operate in the State.

(d) "Permit holder" means a mortuary transport service that holds a permit issued by the Board.

(e) "Registered transporter" means an individual employee of a mortuary transport service who has registered with the Board to remove and transport human remains.

(f) "Remove and transport human remains" means to remove human remains from one location and transport the human remains to another location.

(g) "Transporter" means an individual who removes and transports human remains.

§7–602.

(a) A mortuary transport service shall be issued a permit by the Board before the mortuary transport service may remove and transport human remains in this State.

(b) (1) To apply for a permit, a mortuary transport service shall submit to the Board:

(i) An application on the form that the Board requires;

(ii) An application fee set by the Board; and

(iii) Evidence that the mortuary transport service is bonded and carries liability insurance that covers each registered transporter employed by the mortuary transport service.

(2) An application for a permit shall be signed by an individual who is the owner or a co–owner of the mortuary transport service to be issued a permit.

(c) To qualify for a permit, a mortuary transport service shall satisfy the Board that the mortuary transport service:

(1) Has complied with all applicable State and local laws;

(2) Will be owned and operated in accordance with this subtitle; and

(3) While the mortuary transport service removes and transports human remains, will be held responsible for the treatment of the human remains.

(d) (1) A permit holder shall use vehicles that have passed an inspection by an inspector designated by the Board while the permit holder removes and transports human remains.

(2) A permit holder shall employ only registered transporters to remove and transport human remains.

(e) (1) (i) A permit issued under this subtitle shall expire on the date set by the Board.

(ii) A permit may not be renewed for a term longer than 2 years.

(2) A permit holder may renew a permit for additional terms, if the permit holder:

(i) Submits to the Board:

1. An application on the form that the Board requires; and

2. An application fee set by the Board; and

(ii) Complies with any other renewal requirements established by the Board.

(f) Signs and advertisements for a mortuary transport service shall display the name of the mortuary transport service as it appears on the permit.

§7–603.

(a) An individual employed by a permit holder shall be registered with the Board as a transporter before the individual may remove and transport human remains.

(b) To register as a transporter, an individual shall submit to the Board:

(1) A signed application on the form that the Board requires;

(2) A criminal history records check; and

(3) Evidence of the completion of coursework recommended by the Board.

(c) The Board shall register an individual who:

(1) Holds a valid driver's license; and

(2) Has complied with all applicable State and local laws.

(d) While a registered transporter removes and transports human remains or otherwise acts in the capacity of a registered transporter, the registered transporter shall:

(1) Treat every decedent with the utmost dignity; and

(2) Prominently display on their person the permit for the mortuary transport service for which the transporter is employed.

§7–604.

Subject to the hearing provisions of § 7–319 of this title, the Board may deny a permit or registration to any applicant, reprimand any permit holder or registered transporter, place any permit holder or registered transporter on probation, or suspend or revoke any permit or registration if the applicant, permit holder, or registered transporter:

(1) Fraudulently or deceptively obtains or attempts to obtain a permit or registration for the applicant, permit holder, registered transporter, or another;

(2) Fraudulently or deceptively uses a permit or registration;

(3) Commits fraud or misrepresentation while the applicant, permit holder, or registered transporter removes and transports human remains;

(4) 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;

(5) Aids or abets an unauthorized person to remove and transport human remains;

(6) Advertises falsely or in a misleading manner;

(7) Solicits to remove and transport human remains, either personally or by an agent, from a dying individual or the relatives of a dead or dying individual, other than through general advertising;

(8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any

other person to obtain business, either in general or for a permit holder or registered transporter;

(9) Directly or indirectly pays or offers to pay to obtain business to remove and transport human remains;

(10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing human remains to be disposed of there;

(11) Refuses to surrender custody of human remains on the demand of a person who is entitled to their custody;

(12) Sells or offers to sell any share, certificate, or interest in a mortuary transport service with a promise or offer to perform services to the buyer at a cost less than that offered to the general public;

(13) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of human remains or the disposal of instruments, materials, and wastes relevant to preparation of human remains for final disposition;

(14) Removes and transports human remains under a name other than the name that appears on the permit or registration of the permit holder or registered transporter;

(15) Signs an application for a permit or registration if the signer knew or should have known that grounds existed for which the permit or registration later was denied, suspended, or revoked;

(16) Violates any provision of this subtitle or of any other law relating to removing and transporting human remains;

(17) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Willfully makes or files a false report or record for a mortuary transport service;

(19) 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;

(20) Submits a false statement to collect a fee;

(21) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(22) Violates any rule or regulation adopted by the Board;

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

(24) Commits an act of unprofessional conduct while removing and transporting human remains;

(25) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the permit holder or registered transporter is qualified to render because the individual is HIV positive;

(26) 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;

(27) Removes human remains from a death scene, mortuary, funeral establishment, or crematory without authorization of the individual or entity in custody of the human remains;

(28) Removes and transports human remains, either free of charge or for compensation, to an entity where the human remains are not authorized to be held; or

(29) Removes and transports human remains without respect for the decedent or the health and safety of the public.

§7–605.

(a) (1) Unless an individual or entity holds a current permit issued by the Board under this subtitle, the individual or entity may not represent to the public by name, description of services, methods, or procedures, or otherwise, that the individual or entity is a permit holder.

(2) Unless an individual or entity holds a current permit issued by the Board under this subtitle, an individual or entity may not use the words "permitted mortuary transport service" or "mortuary transport service" with the intent to represent that the individual or entity is authorized to operate as a permit holder.

(b) (1) Unless an individual is registered by the Board under this subtitle, the individual may not represent to the public by name, description of services, methods, or procedures, or otherwise, that the individual is a registered transporter.

(2) Unless an individual is registered by the Board under this subtitle, the individual may not use the terms "registered transporter" or "transporter" with the intent to represent that the individual is authorized to operate as a registered

transporter.

(c) (1) A mortuary transport service or transporter may not obtain a permit or registration by making a false statement.

(2) On conviction of an individual for making a false representation to the Board in order to obtain a permit or registration, the permit or registration is void.

§7–606.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 1 year or both.

§7–607.

The Board shall adopt regulations to:

(1) Implement this subtitle; and

(2) Establish requirements for removing and transporting human remains.

§7–701.

This title may be cited as the "Maryland Morticians and Funeral Directors Act".

§7–702.

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, 2018.

§8–101.

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

(b) "Advanced practice nurse" means an individual who:

(1) Is licensed by the Board to practice registered nursing; and

(2) Is certified by the Board to practice as:

(i) A nurse practitioner;

(ii) A nurse anesthetist;

(iii) A nurse midwife;

(iv) A nurse psychotherapist; or

(v) A clinical nurse specialist.

(c) "Applicant" means, unless the context requires otherwise:

(1) An individual applying for an initial license by examination or endorsement;

(2) A licensee applying for renewal of a license; or

(3) An individual applying for reinstatement of a license in accordance with § 8–319 of this title.

(d) "Board" means the State Board of Nursing.

(e) "Expired license" means, unless the context requires otherwise, a license that was not renewed before the expiration date of the license as established under § 8–312(a) of this title.

(f) "Lapsed license" means, unless the context requires otherwise, a license that was not renewed because a licensee failed to renew the license or otherwise did not meet the renewal requirements of this title.

(g) "License" means, unless the context requires otherwise, a license issued by the Board to practice:

(1) Registered nursing; or

(2) Licensed practical nursing.

(h) "Licensed practical nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice licensed practical nursing.

(i) "Licensee" means, unless the context requires otherwise, a registered nurse or licensed practical nurse who has:

(1) An active license;

(2) An inactive license;

(3) A temporary license;

(4) An expired temporary license;

(5) An expired license;

(6) A lapsed license;

(7) A suspended license; or

(8) A license subject to a reprimand, probation, or suspension.

(j) "Nurse practitioner" means an individual who:

(1) Is licensed by the Board to practice registered nursing; and

(2) Is certified by the Board to practice as a nurse practitioner.

(k) "Practice as a nurse practitioner" means to independently:

(1) Perform an act under subsection (m) of this section;

(2) Conduct a comprehensive physical assessment of an individual;

(3) Establish a medical diagnosis for common chronic stable or short–term health problems;

(4) Order, perform, and interpret laboratory tests;

(5) Prescribe drugs as provided under § 8–508 of this title;

(6) Perform diagnostic, therapeutic, or corrective measures;

(7) Refer an individual to an appropriate licensed physician or other health care provider; and

(8) Provide emergency care.

(l) "Practice licensed practical nursing" means to perform in a team relationship an act that requires specialized knowledge, judgment, and skill based on principles of biological, physiological, behavioral, or sociological science to:

(1) Administer treatment or medication to an individual;

(2) Aid in the rehabilitation of an individual;

(3) Promote preventive measures in community health;

(4) Give counsel to an individual;

(5) Safeguard life and health;

(6) Teach or supervise; or

(7) Perform any additional acts authorized by the Board under § 8–205 of this title.

(m) (1) "Practice registered nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the biological, physiological, behavioral, or sociological sciences as the basis for assessment, nursing diagnosis, planning, implementation, and evaluation of the practice of nursing in order to:

(i) Maintain health;

(ii) Prevent illness; or

(iii) Care for or rehabilitate the ill, injured, or infirm.

(2) For these purposes, "practice registered nursing" includes:

(i) Administration;

(ii) Teaching;

(iii) Counseling;

(iv) Supervision, delegation and evaluation of nursing practice;

(v) Execution of therapeutic regimen, including the administration of medication and treatment;

(vi) Independent nursing functions and delegated medical functions; and

(vii) Performance of additional acts authorized by the Board under § 8–205 of this title.

(n) "Registered nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice registered nursing.

§8–102.

(a) In this section, "Christian Science nurse" means an individual who is registered as a Christian Science nurse in the Christian Science Journal of the Christian Science Publishing Society.

(b) Except as specifically provided in this title, this title does not limit the right of:

(1) An individual to practice a health occupation that the individual is authorized to practice under this article;

(2) A Christian Science nurse to care for an individual who is ill, injured, or infirm, if the Christian Science nurse does not administer any drug or medicine; or

(3) An unlicensed individual to perform acts of registered nursing or acts of licensed practical nursing:

(i) While supervised by an individual who is authorized by this State to practice registered nursing or licensed practical nursing; and

(ii) If the unlicensed individual performs only acts that are in the area of responsibility of the supervisor and under the instruction of the supervisor.

§8–201.

There is a State Board of Nursing in the Department.

§8–202.

(a) (1) The Board consists of 13 members.

(2) Of the 13 Board members:

(i) 8 shall be registered nurses;

(ii) 3 shall be licensed practical nurses; and

(iii) 2 shall be consumers.

(3) Of the 8 registered nurse members:

(i) 1 shall be certified in an advanced practice nursing specialty that rotates with each vacancy among the following specialties:

1. Nurse anesthetist;

2. Nurse practitioner;

3. Nurse midwife; and

4. Nurse psychotherapist;

(ii) 1 shall be a baccalaureate nursing educator with, at least, a master's degree in nursing or education;

(iii) 1 shall be an associate degree nursing educator with, at least, a master's degree in nursing or education;

(iv) 1 shall be a practical nursing educator with, at least, a bachelor of science degree in nursing or education;

(v) 1 shall be a nurse administrator with, at least, a master's degree in nursing administration, business administration, business management, education,

or public health;

(vi) 1 shall be a nurse clinician with at least a master's degree in nursing or public health;

(vii) 1 shall be a currently practicing nurse, who has practiced acute care for at least 5 years, with a bachelor of science degree in nursing; and

(viii) 1 shall be a currently practicing nurse who has practiced as a delegating nurse in a supervised group living setting, as defined in COMAR 10.27.11.02(20), for at least 5 years.

(4) Of the 3 licensed practical nurse members, at least 1 shall practice in a long–term care nursing facility.

(b) (1) The Governor shall appoint:

(i) The registered nurse member certified in an advanced practice nursing specialty, with the advice of the Secretary, from a list of qualified individuals jointly developed in accordance with the requirements of subsection (a)(3)(i) of this section and submitted to the Secretary and the Governor by the:

1. Maryland Association of Nurse Anesthetists, Inc.;

2. Nurse Practitioners Association of Maryland, Inc.;

3. Maryland Coalition of Nurse Practitioners, Inc.;

4. Maryland Chapter, American College of Nurse–Midwives; and

5. Psychiatric Advance Practice Nurses of Maryland; and

(ii) The other registered nurse members, with the advice of the Secretary, from:

1. A list of qualified individuals submitted to the Secretary and the Governor by:

A. The Maryland Nurses Association, Inc.; or

B. Any other professional nursing organization that represents at least 25 licensed registered nurses; or

2. A valid petition submitted to the Secretary and the Governor by a registered nurse with an active license under this title.

(2) The Governor shall appoint the licensed practical nurse members, with the advice of the Secretary, from:

(i) A list of qualified individuals submitted to the Secretary and the Governor by:

1. The Maryland Licensed Practical Nurse Association, Inc.; or

2. Any other professional nursing organization representing at least 25 licensed practical nurses; or

(ii) A valid petition submitted to the Secretary and the Governor by a licensed practical nurse with an active license under this title.

(3) A list submitted to the Secretary and the Governor under this subsection shall be 5 times the number of vacancies.

(4) A petition submitted to the Secretary and Governor under this subsection shall have at least 25 signatures of support from nurses with active licenses in the State.

(5) The Board shall provide notice of a vacancy on the Board to:

(i) All nurses with an active license in the State; and

(ii) All appropriate professional nursing organizations.

(6) The Governor may request an additional list of 5 nominees for each vacancy from the appropriate professional nursing organizations.

(7) The Governor shall make the appointment for each vacancy from the lists or petitions submitted under this subsection.

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

(9) To the extent practicable, the members appointed to the Board shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(c) Each member of the Board shall be:

(1) A citizen of the United States; and

(2) A resident of this State.

(d) (1) A registered nurse member of the Board shall:

(i) Have graduated from an approved school of nursing or its equivalent; and

(ii) Have at least 5 years of experience in nursing administration, education, or practice, which includes at least the 3 years immediately before the appointment.

(2) A member of the Board who is a registered nurse certified in an advanced practice nursing specialty shall:

(i) Hold a current license to practice registered nursing in this State;

(ii) Hold a current certification in an advanced practice nursing specialty in this State; and

(iii) Have at least 5 years of experience in an advanced practice nursing education or practice, including at least the 3 years immediately before the appointment.

(e) A licensed practical nurse member of the Board shall have at least 5 years of experience in the practice of licensed practical nursing, which includes at least the 3 years immediately before the appointment.

(f) Each consumer member of the Board:

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

(2) May not be or ever have been a registered nurse or licensed practical nurse or in training to become a registered nurse or licensed practical nurse;

(3) May not have a household member who is a registered nurse or licensed practical nurse or in training to become a registered nurse or licensed practical nurse;

(4) May not participate or ever have participated in a commercial or professional field related to registered nursing or licensed practical nursing;

(5) May not have a household member who participates in a commercial or professional field related to registered nursing or licensed practical nursing; or

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

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

(h) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(i) (1) The term of a member is 4 years, except that the initial term of 1 of the consumer members is 2 years.

(2) The terms of the members are staggered as required by the terms

provided for members of the Board on July 1, 1981.

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

(4) A member who is appointed after a term has begun may serve an additional 2 consecutive full terms.

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

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

(j) (1) The Governor may remove a member for incompetence, misconduct, neglect of a duty required by law, unprofessional conduct, or dishonorable conduct.

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

§8–203.

(a) From among its members, the Board shall elect a president and a secretary once every 2 years in July.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§8–204.

(a) (1) Except as provided in paragraph (2) of this subsection, a majority of the full authorized membership of the Board that includes at least one officer is a quorum.

(2) In addition to the requirements of paragraph (1) of this subsection, on a matter concerning licensing or disciplining of an individual, a quorum shall include:

(i) At least three registered nurse members if a registered nurse or an applicant for a license as a registered nurse is involved; or

(ii) At least two licensed practical nurse members if a licensed practical nurse or an applicant for a license as a licensed practical nurse is involved.

(b) In addition to the other meeting requirements of this title, the Board shall meet:

(1) At the request of the Secretary; or

(2) If necessary to transact its business.

(c) In accordance with the State budget, each member of the Board is entitled to:

(1) Compensation, at a rate determined by the Board, for each day on which the member is engaged in the duties of the member's office; and

(2) Reimbursement for expenses under the Standard State Travel Regulations.

(d) The Board may:

(1) Employ a staff in accordance with the State budget;

(2) Define the duties of its staff; and

(3) Employ an executive director who shall be a registered nurse with a minimum of a master's degree in nursing or the equivalent, in the judgment of the Board, in professional education and administrative experience.

§8–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To set standards for the practice of registered nursing, licensed practical nursing, certified nursing assistants, and certified medication technicians;

(3) To adopt rules and regulations for the performance of delegated medical functions that are recognized jointly by the State Board of Physicians and the State Board of Nursing, under § 14–306(d) of this article;

(4) To adopt rules and regulations for the performance of additional nursing acts that:

(i) May be performed under any condition authorized by the Board, including emergencies; and

(ii) Require education and clinical experience;

(5) To adopt rules and regulations for registered nurses to perform independent nursing functions that:

(i) Require formal education and clinical experience; and

(ii) May be performed under any condition authorized by the Board,

including emergencies;

(6) To adopt rules and regulations for licensed practical nurses to perform additional acts in the practice of registered nursing that:

(i) Require formal education and clinical experience;

(ii) May be performed under any condition authorized by the Board, including emergencies; and

(iii) Are recognized by the Nursing Board as proper for licensed practical nurses to perform;

(7) To keep a record of its proceedings;

(8) To submit to the Governor, the Secretary, and, in accordance with § 2–1246 of the State Government Article, the General Assembly, an annual report that includes the following data calculated on a fiscal year basis:

(i) The number of initial and renewal licenses and certificates issued;

(ii) The number of positive and negative criminal history records checks results received;

(iii) The number of individuals denied initial or renewal licensure or certification due to positive criminal history records checks results;

(iv) The number of individuals denied licensure or certification due to reasons other than a positive criminal history records check;

(v) The number of new complaints received;

(vi) The number of complaints carried over from year to year;

(vii) The most common grounds for complaints; and

(viii) The number and types of disciplinary actions taken by the Board;

(9) To enforce the employment record requirements of this title;

(10) To keep separate lists, which lists are open to reasonable public inspection, of all:

(i) Registered nurses licensed under this title;

(ii) Licensed practical nurses licensed under this title;

(iii) Nurse midwives certified under this title;

(iv) Nurse practitioners certified under this title; and

(v) Other licensees with a nursing specialty that is certified under this title;

(11) To collect any funds of the Board;

(12) To report any alleged violation of this title to the State's Attorney of the county where the alleged violation occurred;

(13) In accordance with the State budget, to incur any necessary expense for prosecution of an alleged violation of this title;

(14) 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 nurse in independent practice, other than an office of a nurse in independent practice 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

(15) To maintain a nurse aide registry that complies with federal law.

(b) With regard to any list kept by the Board under subsection (a)(10) of this section, upon written request from an individual licensee the Board shall delete that individual's name from any licensee list purchased from the Board.

(c) (1) The Board is the only unit of the Department that is responsible for adopting rules and regulations to determine:

(i) Individuals to whom any act of the practice of registered nursing and licensed practical nursing may be delegated; and

(ii) The acts that may be delegated safely.

(2) The Department shall retain its authority to require training for nonlicensed patient care personnel under § 19-308.1 of the Health - General Article.

§8–205.1.

(a) If the Board, while reviewing an application for licensure or investigating an allegation brought against a licensee under this title, has reason to believe and objective evidence that the applicant or licensee may cause harm to individuals affected by the applicant's or licensee's practice of nursing, the Board shall require the applicant or licensee to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege to practice nursing in the State, the applicant or licensee is deemed to have:

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

(2) Waived any claim of privilege as to the testimony or examination reports of the examining health care professional.

(c) The failure or refusal of the applicant or licensee to submit to an examination required under subsection (b) of this section is prima facie evidence of the applicant's or licensee's inability to practice nursing competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

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

§8–206.

(a) There is a Board of Nursing Fund.

(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 produce funds to approximate the cost of maintaining the Board as provided in subsection (e) of this section.

(c) The Board shall publish in its rules and regulations the fees that it sets.

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

(2) The Comptroller shall distribute the fees received from the Board to the Board of Nursing Fund.

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

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

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

(3) No other State money may be used to support the Board of Nursing Fund.

(f) (1) The Chairman of the Board or the designee of the Chairman shall administer the Board of Nursing Fund.

(2) Moneys in the Board of Nursing Fund may be expended only for any

lawful purpose authorized by the provisions of this title.

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

§8–207.

A person shall have the immunity from liability described under § 5-708 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§8–208.

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

(2) "Applicant" means an individual who has submitted an application to the Board to be licensed as a registered nurse, licensed practical nurse, or electrologist or to be certified as a nursing assistant or medication technician in this State.

(3) "Program" means the rehabilitation program.

(b) (1) There is a Rehabilitation Committee in the Board.

(2) The Board may create 1 or more rehabilitation committees.

(c) (1) The Committee shall consist of 6 members.

(2) Of the 6 Committee members:

(i) 3 shall be licensed registered nurses, who have demonstrated expertise in the field of chemical dependency or psychiatric nursing;

(ii) 1 shall be a registered nurse, who has demonstrated expertise in the area of pain management;

(iii) 1 shall be a licensed practical nurse; and

(iv) 1 shall be a consumer member, who is knowledgeable in the field of chemical dependency.

(d) (1) The Board shall determine the term of a member of the Committee.

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

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

(4) The Board may remove a Committee member for incompetence or

misconduct.

(e) (1) The Committee shall elect a chairperson and a vice-chairperson.

(2) The manner of election of officers shall be as the Committee determines.

(f) A majority of the members then serving on the Committee Board is a quorum.

(g) The Committee shall determine the times and places of its meetings.

(h) Each member of the Committee is entitled to:

(1) Compensation in accordance with the State budget; and

(2) Reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(i) The Board may employ a staff to carry out the activities of the Committee in accordance with the State budget.

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

(1) Evaluate those nurses, nursing assistants, medication technicians, electrologists, or applicants who request participation in the program according to the guidelines prescribed by the Board and consider the recommendations for admission into the program;

(2) Review and designate those treatment facilities and services to which nurses, nursing assistants, medication technicians, electrologists, or applicants in the program may be referred;

(3) Receive and review information concerning a nurse, nursing assistant, medication technician, electrologist, or applicant participating in the program;

(4) Consider in the case of each nurse, nursing assistant, medication technician, electrologist, or applicant participating in a program whether the nurse, nursing assistant, medication technician, electrologist, or applicant may with safety continue or resume the practice of nursing or delegated nursing functions or electrology; and

(5) Have meetings as necessary to consider the requests of nurses, nursing assistants, medication technicians, electrologists, or applicants to participate in the program, and consider reports regarding nurses, nursing assistants, medication technicians, electrologists, or applicants participating in the program.

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

(1) Prepare reports to be submitted to the Board; and

(2) Set forth in writing for each nurse, nursing assistant, medication technician, electrologist, or applicant participating in the program a rehabilitation program established for that nurse, nursing assistant, medication technician, electrologist, or applicant, including the requirements for supervision and surveillance.

(l) The Committee shall inform each nurse, nursing assistant, medication technician, electrologist, or applicant who requests participation in the program of:

(1) The procedures followed in the program;

(2) The rights and responsibilities of the nurse, nursing assistant, medication technician, electrologist, or applicant in the program; and

(3) The possible results of noncompliance with the program.

(m) (1) Each nurse, nursing assistant, medication technician, electrologist, or applicant who requests to participate in the program shall agree to cooperate with the individual rehabilitation program designed by the Committee.

(2) Any failure to comply with the provisions of a rehabilitation program may result in termination of the nurse's, nursing assistant's, medication technician's, electrologist's, or applicant's participation in the program.

(3) The Committee shall report the name and license number of a nurse or electrologist, the name and certificate number of a nursing assistant or medication technician, or the name of an applicant who is expelled from the program for failure to comply with the conditions of the program.

(4) (i) The program shall transfer to the Board all the records of any nurse, nursing assistant, medication technician, electrologist, or applicant expelled from the program.

(ii) The Board may initiate disciplinary action based on the failure of the nurse, nursing assistant, medication technician, electrologist, or applicant to comply with the conditions of the program in accordance with the provisions of §§ 8-316 and 8-317 or §§ 8-6B-18 and 8-6B-19 of this title.

(n) After the Committee has determined that a nurse, nursing assistant, medication technician, electrologist, or applicant has been rehabilitated, the Committee shall purge and destroy all records concerning a nurse's, nursing assistant's, medication technician's, electrologist's, or applicant's participation in the program.

(o) All Board and Committee records of a proceeding concerning the rehabilitation of a nurse, nursing assistant, medication technician, electrologist, or applicant in the program are confidential and are not subject to discovery or subpoena in any civil or criminal action.

(p) The Board shall provide for the representation of any person making reports to the Committee or the Board under this section in any action for defamation directly resulting from reports or information given to the Committee or the Board regarding a nurse's, nursing assistant's, medication technician's, electrologist's, or applicant's participation in the program.

(q) Beginning July 1, 1990, and on a regular basis thereafter, the Board shall require reports from the Committee. The reports shall include:

(1) Information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance; and

(2) A cost analysis of the program.

§8–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice registered nursing in this State.

(b) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice licensed practical nursing in this State.

(c) This section does not apply to:

(1) A student enrolled in an approved education program while practicing registered nursing or licensed practical nursing in that program;

(2) An individual employed by the federal government to practice registered nursing or licensed practical nursing while practicing within the scope of that employment, if the individual is authorized by any state to practice registered nursing or licensed practical nursing;

(3) An individual permitted to practice registered nursing or licensed practical nursing under rules and regulations adopted by the Board, if the individual:

(i) Otherwise has qualified to practice registered nursing or licensed practical nursing in any other state or country and is in this State temporarily; or

(ii) Has an application for a license pending before the Board:

1. But has not taken the examination required under this title;

2. Has taken an examination under this title, but the results

of the examination are not yet known; or

3. Has taken and passed an examination under this title, but is waiting for the completion of the criminal history records check;

(4) An individual who provides gratuitous care for friends, domestic partners, or family members; or

(5) An individual who responds to a disaster situation in this State to practice registered nursing or licensed practical nursing, if:

(i) The individual has an active unencumbered license to practice registered nursing or licensed practical nursing in another state and the individual is assigned by:

1. The American Red Cross; or

2. A member of the Maryland Emergency Management Assistance Compact under § 14–803 of the Public Safety Article;

(ii) The Governor has declared a State of Emergency by Executive Order or proclamation in accordance with § 3–401 of the State Government Article; and

(iii) The individual reports to the designated staging area in accordance with § 14–803(2)(b)(5)(iv) of the Public Safety Article.

(d) A registered nurse or licensed practical nurse in a party state to the Nurse Multistate Licensure Compact shall hold a license in only one party state at a time, that is issued by the home state in accordance with Subtitle 7A of this title.

(e) A registered nurse who has been granted multistate licensing privileges by a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title may practice registered nursing in the State.

(f) A licensed practical nurse who has been granted multistate licensing privileges by a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title may practice practical nursing in the State.

§8–302.

(a) Except as otherwise provided in this title, to qualify for a license or certification, an applicant shall be an individual who submits to a criminal history records check in accordance with § 8–303 of this subtitle and meets the requirements of this section.

(b) (1) An applicant for certification as an advanced practice nurse shall:

(i) Be a registered nurse;

(ii) Complete an education program approved by the Board;

(iii) Submit to the Board:

1. A completed application for certification as a nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist for each area in which certification is sought;

2. Documentation of an active license in good standing as a registered nurse in the State;

3. Documentation that the applicant has graduated from an accredited program for advanced practice nursing for nurse practitioners, nurse anesthetists, nurse midwives, nurse psychotherapists, or clinical nurse specialists; and

4. Documentation of certification as a nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist by a nationally recognized certifying body approved by the Board; and

(iv) Meet any other requirements that the Board sets.

(2) (i) An individual certified as a nurse practitioner by a national certifying body prior to October 1, 2010 who is certified by the Board and in good standing shall be deemed to meet the education requirements under subsection (b)(1)(iii)3 of this section.

(ii) An individual certified as a nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist who is certified by the Board and in good standing prior to October 1, 2012, shall be deemed to meet the education requirements under subsection (b)(1)(iii)3 of this section.

(3) In addition to the requirements for renewal of a license under § 8–312 of this subtitle, the Board may establish continuing education or competency requirements for the renewal of a certificate under this subsection.

(4) (i) Subject to the provisions of this subsection, the Board may waive any requirement of this subsection for an applicant who is licensed or certified to practice as a nurse practitioner, nurse anesthetist, nurse midwife, nurse psychotherapist, or clinical nurse specialist in any other state or country.

(ii) The Board may grant a waiver under this paragraph only if the applicant:

1. Pays the application fee required by the Board under § 8–304 of this subtitle;

2. Became licensed or certified in the other state or country under requirements substantially equivalent to the certification requirements of this title; and

3. Meets any other qualifications established by the Board.

(5) (i) A certified nurse practitioner may not practice in the State unless the nurse practitioner has an approved attestation that:

1. The nurse practitioner has an agreement for collaboration and consulting with a physician licensed under Title 14 of this article and will refer to and consult with physicians and other health care providers as needed; and

2. The nurse practitioner will practice in accordance with the standards of practice of the American Academy of Nurse Practitioners or any other national certifying body recognized by the Board.

(ii) The Board shall:

1. Maintain an approved attestation; and

2. Make the approved attestation available to the State Board of Physicians on the request of the State Board of Physicians.

(6) Unless authorized to practice as a nurse practitioner under this title, a person may not:

(i) Represent to the public by title or by description of services, methods, or procedures, or otherwise, that the person is authorized to practice as a nurse practitioner in this State;

(ii) Use as a title or describe the services the person provides by use of the words "nurse practitioner" or "certified registered nurse practitioner"; or

(iii) Use the abbreviation "N.P.", "C.R.N.P.", or any other words, letters, or symbols with the intent to represent that the person practices as a nurse practitioner.

(7) Unless authorized to practice as a nurse anesthetist under this title, a person may not:

(i) Practice nurse anesthesia unless certified by the Board in accordance with this section; or

(ii) Use the title "certified nurse anesthetist", "nurse anesthetist", or any other words, letters, or symbols with the intent to represent that the person practices as a nurse anesthetist.

(8) Unless authorized to practice as a nurse midwife under this title, a person may not:

(i) Practice nurse midwifery unless certified by the Board in accordance with this section; or

(ii) Use the title "certified nurse midwife", "nurse midwife", or any other words, letters, or symbols with the intent to represent that the person practices as a nurse midwife.

(9) Unless authorized to practice as a nurse psychotherapist under this title, a person may not:

(i) Practice as a nurse psychotherapist unless certified by the Board in accordance with this section; or

(ii) Use the title "advanced practice nurse", "certified nurse psychotherapist", "registered nurse/psychiatric mental health", "nurse psychotherapist", or any other words, letters, or symbols with the intent to represent that the person practices as a nurse psychotherapist.

(10) Unless authorized to practice as a clinical nurse specialist under this title, a person may not:

(i) Practice as a clinical nurse specialist unless certified by the Board in accordance with this section; or

(ii) Use the title "certified clinical nurse specialist", "clinical nurse specialist", "clinical registered nurse specialist", "clinical nurse specialist graduate", or any other words, letters, or symbols with the intent to represent that the person practices as a clinical nurse specialist.

(c) An applicant for a license to practice registered nursing shall complete satisfactorily and meet all requirements for a diploma or degree from:

(1) A registered nursing education program approved by the Board; or

(2) An education program in registered nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(d) An applicant for a license to practice licensed practical nursing shall:

(1) Meet all requirements for a high school diploma or its equivalent; and

(2) Complete satisfactorily and meet all requirements for a diploma from:

(i) A licensed practical nursing education program or its equivalent approved by the Board; or

(ii) An education program in licensed practical nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(e) Except as otherwise provided in this title, the applicant shall pass an examination developed by the National Council of State Boards of Nursing and administered at a testing site approved by the National Council.

(f) (1) Except as otherwise provided in this subsection, the Board shall require as part of its examination or licensing procedures that an applicant for a license to practice registered nursing or licensed practical nursing demonstrate an oral competency in the English language.

(2) Acceptable proof of proficiency in the oral communication of the English language under this section includes:

(i) After at least 3 years of enrollment, graduation from a recognized English–speaking undergraduate school;

(ii) Graduation from a recognized English–speaking professional school; or

(iii) Completion of at least 5 years of practicing nursing in another state or English–speaking territory of the United States.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charge or action that involves a problem with the oral communication of the English language is brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

(5) The Board may not require that an applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing to demonstrate an oral competency in the English language as part of its examination or licensing procedures if the other state has a similar oral competency component as part of its examination or licensing procedures.

(6) (i) The Board may issue a temporary license to any applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing and who, except for the oral competency in the English language component, is otherwise qualified for a license.

(ii) A temporary license issued under this subsection is valid only

until the date when the next test to demonstrate oral competency in the English language is given.

(g) An applicant for a license or certification under this section shall be of good moral character.

§8–303.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) (1) Beginning January 1, 2015, the Board shall establish a rap back program through which the Central Repository reports all new and additional criminal history information to the Board for an applicant who has been fingerprinted in accordance with the requirements of this section.

(2) The Board shall notify each applicant that:

(i) The applicant's fingerprints will be retained by the Central Repository; and

(ii) All new and additional criminal information will be reported to the Board.

(3) The Board may enter into an agreement with the Central Repository and the Federal Bureau of Investigation to carry out this subsection.

(e) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of criminal history records check as permitted by the Director of the Central Repository and the Director

of the Federal Bureau of Investigation.

(f) Information obtained from the Central Repository under this section shall be:

(1) Confidential and may not be redisseminated; and

(2) Used only for the licensing purpose authorized by this title.

(g) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§8–304.

To apply for a license to practice registered nursing or licensed practical nursing, an applicant shall:

(1) Submit to a criminal history records check in accordance with § 8–303 of this subtitle;

(2) Submit to the Board:

(i) An application on the form that the Board requires, including a current address;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met or has been met;

(iii) Written, verified evidence of completion of the appropriate education requirements of § 8–302 of this subtitle; and

(iv) Written, verified evidence satisfactory to the Board that the applicant's primary state of residence is Maryland or a state that is not a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title; and

(3) Pay to the Board the application fee set by the Board.

§8–305.

(a) Except as otherwise provided in subsections (b) and (c) of this section, an applicant who otherwise qualifies for a license as a registered nurse or as a licensed practical nurse is entitled to be examined for that license as provided in this section.

(b) An applicant whose primary state of residence is a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title, other than Maryland, is not entitled to be examined for a license as a registered nurse or licensed practical nurse in the State.

(c) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny the right to be examined for a license as a registered nurse or as a licensed practical nurse to any applicant who is found to have violated any provision of § 8–316 of this subtitle.

(d) The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

(e) (1) In this subsection, "preceptorship program" means:

(i) An organized system of clinical experience that pairs a nursing student enrolled in a nursing education program that is recognized by the Board with a registered nurse who meets the qualifications as a preceptor for the purpose of attaining specified learning objectives; or

(ii) An individualized and supervised clinical experience offered by an institution employing nurses that complies with the requirements for temporary licensure for the purpose of facilitating an inactive licensee to return to active practice in accordance with the requirements of paragraph (2) of this subsection.

(2) An applicant whose nursing education program was completed 5 or more years prior to passing the licensure examination and who has not practiced for at least 1,000 hours in the previous 5 years may only be issued an inactive license until submission to the Board of satisfactory evidence that the applicant has successfully completed:

(i) A nursing review course approved by the Board; or

(ii) A preceptorship program approved by the Board.

(f) (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

§8–306.

An applicant qualifies for certification as a certified nurse practitioner only if the applicant passes a Board-approved examination.

§8–307. IN EFFECT

(a) Subject to the provisions of this section, the Board may issue a license by endorsement and waive any appropriate examination requirement of this title for an applicant who has an active unencumbered license to practice registered nursing or

licensed practical nursing in any other state or country.

(b) The Board may issue a license by endorsement under this section only if the applicant:

(1) Submits to the Board an application on the form that the Board requires;

(2) Submits to a criminal history records check in accordance with § 8–303 of this subtitle;

(3) Pays the application fee set by the Board under § 8–304 of this subtitle; and

(4) Provides adequate evidence that:

(i) At the time the applicant graduated from a nursing education program approved in the other state or country, the applicant met the educational qualifications then required by the laws of this State;

(ii) At the time the applicant became licensed or registered in the other state or country, the applicant passed in that or any other state or country an examination that was similar to the examination that then was given in this State; and

(iii) The applicant meets the qualifications otherwise required by this title.

(c) (1) The Board may waive the clinical experience requirements established under this subtitle for an applicant who has an active unencumbered license to practice registered nursing or licensed practical nursing in any other state or country but does not satisfy the requirement under subsection (b)(4)(i) of this section, if the applicant:

(i) Graduated from a program accredited by a nursing accreditation agency recognized by the Board;

(ii) Submits to the Board satisfactory evidence of completing active nursing practice as provided in paragraph (2) of this subsection; and

(iii) Otherwise meets the requirements of this section.

(2) (i) An applicant applying for a registered nurse license under this subsection shall submit evidence of completing 1,000 hours of active practice as a registered nurse within the 12–month period immediately preceding the date of the application.

(ii) An applicant applying for a licensed practical nurse license under this subsection shall submit evidence of completing 1,000 hours of active practice as a

licensed practical nurse within the 12–month period immediately preceding the date of the application.

(3) If an applicant applying for a license under this subsection has been disciplined in another state or country for an act that would be a violation under § 8–316(a) of this subtitle, the Board may deny a license to the applicant.

(4) The Board shall adopt regulations to implement this subsection.

8–307. // EFFECTIVE SEPTEMBER 30, 2018 PER CHAPTERS 281 AND 282 OF 2013 //

(a) Subject to the provisions of this section, the Board may issue a license by endorsement and waive any appropriate examination requirement of this title for an applicant who has an active unencumbered license to practice registered nursing or licensed practical nursing in any other state or country.

(b) The Board may issue a license by endorsement under this section only if the applicant:

(1) Submits to the Board an application on the form that the Board requires;

(2) Submits to a criminal history records check in accordance with § 8–303 of this subtitle;

(3) Pays the application fee set by the Board under § 8–304 of this subtitle; and

(4) Provides adequate evidence that:

(i) At the time the applicant graduated from a nursing education program approved in the other state or country, the applicant met the educational qualifications then required by the laws of this State;

(ii) At the time the applicant became licensed or registered in the other state or country, the applicant passed in that or any other state or country an examination that was similar to the examination that then was given in this State; and

(iii) The applicant meets the qualifications otherwise required by this title.

§8–308.

(a) Subject to subsection (c) of this section, the Board shall license any applicant who meets the requirements for a license as:

(1) A registered nurse under this title; or

(2) A licensed practical nurse under this title.

(b) (1) The Board shall:

(i) Issue each new licensee a license number and registration certificate that indicates that the initial license was issued by the Board; and

(ii) Electronically record each license in the Board's database and on the Board's Web site.

(2) Each license shall include:

(i) Any expiration date;

(ii) The type of license; and

(iii) Any certification.

(c) (1) On receipt of the criminal history record information of an applicant for licensure or certification forwarded to the Board in accordance with § 8–303 of this subtitle, in determining whether to grant a license or a certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Board may not issue a license or a certificate if the criminal history record information required under § 8–303 of this subtitle has not been received.

(ii) The Board may grant a 90–day extension of a temporary license pending receipt of criminal history record information.

§8–309.

(a) If an individual has been licensed by the Board to practice registered nursing or licensed practical nursing in this State in accordance with the requirements of this

subtitle, the individual may be subsequently licensed as a registered nurse or as a licensed practical nurse on inactive status.

(b) The Board shall place a licensee on inactive status and record the inactive status in the Board's database and on the Board's Web site if the licensee:

(1) (i) Has not satisfactorily completed 1,000 hours of active nursing practice within the 5–year period immediately preceding the date of anticipated renewal;

(ii) Chooses inactive status; or

(iii) Submits documentation of a medical condition that the Board determines will prevent the licensee from practicing as a registered nurse or licensed practical nurse;

(2) (i) Completes the biennial application for inactive status; and

(ii) If applicable, provides documentation of a continuing medical condition; and

(3) Pays the applicable fees as required by the Board.

(c) A licensee on inactive status may not practice nursing in this State, but:

(1) A registered nurse on inactive status may use the title "Registered Nurse", or the abbreviation "RN"; and

(2) A practical nurse on inactive status may use the title "Licensed Practical Nurse", or the abbreviation "LPN".

(d) (1) A licensee on inactive status may apply for reactivation of the license to practice nursing if the licensee:

(i) Meets the renewal requirements of § 8–312 of this subtitle; and

(ii) If applicable, submits documentation satisfactory to the Board that the medical condition for which the inactive status was granted no longer exists.

(2) If a licensee meets the requirements of paragraph (1) of this subsection, the Board shall:

(i) Record the status of the licensee as active in the Board's database and on the Board's Web site; and

(ii) Reactivate the licensee's license to practice nursing in this State.

(e) (1) If a licensee is granted inactive status because of a medical condition, the Board may not charge a fee to place the licensee on or remove the licensee from

inactive status.

(2) If a licensee is granted inactive status because of a medical condition, the inactive status:

(i) May not be considered a disciplinary action under § 8–316 of this subtitle; and

(ii) May not be reported to any certifying entity, employer, or insurance company as a disciplinary action.

§8–310.

(a) A license to practice registered nursing authorizes the licensee to practice registered nursing while the license is effective.

(b) A licensee may practice registered nursing using only the name in which the license has been issued.

§8–311.

(a) Subject to the provisions of this section, a license to practice licensed practical nursing authorizes the licensed practical nurse to practice licensed practical nursing while the license is effective.

(b) (1) The licensed practical nurse is a recognized member of the health professional team and performs an integral part of nursing.

(2) Except as provided in the rules and regulations of the Board adopted under § 8-205 of this title, a licensed practical nurse may practice licensed practical nursing only in a team relationship with at least one licensed health professional who is not a licensed practical nurse.

(c) A licensed practical nurse may administer treatment or medication only if the treatment or medication is prescribed by an individual who is authorized by law to prescribe medication or treatment.

(d) A licensed practical nurse may teach or supervise commensurate with the education and demonstrated competencies of the licensed practical nurse.

(e) A licensed practical nurse may practice practical nursing using only the name in which the license has been issued.

§8–312.

(a) A license expires on the 28th day of the birth month of the licensee and may not be renewed for a term longer than 2 years.

(b) (1) At least 3 months before a license expires, the Board shall send to the

licensee a renewal notice by:

(i) First–class mail to the last known mailing address of the licensee; or

(ii) Electronic means to the last known electronic address of the licensee.

(2) If a licensee is required to have a criminal history records check before a license may be renewed, the Board shall send the licensee the documents necessary for initiating the criminal history records check in conjunction with the renewal notice required under paragraph (1) of this subsection.

(c) Before a license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board:

(i) A renewal fee set by the Board; or

(ii) A renewal fee that is set by the Board if the licensee certifies to the Board that the licensee provides professional services only as a volunteer; and

(3) Submits to the Board by paper application or electronic means:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of completion of:

1. 1,000 hours of active nursing practice within the 5–year period immediately preceding the date of renewal;

2. A course of instruction, commonly known as a refresher course, approved by the Board; or

3. A preceptorship program provided by an employer and approved by the Board.

(d) (1) The Board may grant a 30–day extension, beyond a license's expiration date, to a licensee so that the licensee may renew the license before it expires.

(2) The Board may grant two 90–day extensions beyond a license's expiration date pending receipt of criminal history record information.

(e) (1) Each licensee shall notify the Board in writing of any change in the name or address of the licensee within 60 days after the change occurred.

(2) If a licensee fails to notify the Board within the time required under this subsection, subject to the hearing provisions of § 8–317 of this subtitle, the Board may impose an administrative penalty of $100.

(f) (1) Subject to subsection (g) of this section, the Board shall renew the license of each licensee who meets the requirements of this section.

(2) A volunteer's license issued under subsection (c)(2)(ii) of this section shall be clearly designated as a volunteer's license.

(g) (1) (i) Beginning July 2009, the Board shall begin a process requiring criminal history records checks in accordance with § 8–303 of this subtitle on:

1. Selected annual renewal applicants as determined by regulations adopted by the Board; and

2. Each licensee who files for reinstatement under § 8–313 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this subtitle, in determining whether to renew a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the licensee poses a threat to the public health or safety.

(3) The Board may not renew a license if the criminal history record information required under § 8–303 of this subtitle has not been received.

§8–313.

The Board shall reinstate the license of a licensee who has failed to renew the license for any reason if the licensee meets the renewal requirements of § 8–312 of this subtitle.

§8–314.

(a) Unless the Board agrees to accept the surrender of a license, a licensed registered nurse, licensed practical nurse, or holder of a temporary license may not surrender the license.

(b) The Board may require terms and conditions on an agreement with the licensee to accept surrender of the license.

(c) An agreement to accept the surrender of a license is a final order of the Board and is a public record.

§8–315.

(a) The Board may issue a temporary license to any applicant who:

(1) Submits to a criminal history records check in accordance with § 8–303 of this subtitle;

(2) (i) Is licensed by any other state; or

(ii) Has taken and passed an examination under this title, but is waiting for the completion of the criminal history records check;

(3) Submits to the Board:

(i) An application on the form required by the Board;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met; and

(iii) Any other document required by the Board; and

(4) Pays the fee required by the Board.

(b) (1) A temporary license issued to an individual who is authorized to practice registered nursing in another state or who has taken and passed an examination under this title authorizes the holder to practice registered nursing in this State while the temporary license is effective.

(2) A temporary license issued to an individual who is authorized to practice licensed practical nursing in another state or who has taken and passed an examination under this title authorizes the holder to practice licensed practical nursing in this State while the temporary license is effective.

(c) (1) The Board may issue a temporary practice letter to a certified nurse practitioner or certified nurse–midwife who:

(i) Has been issued a temporary license under this subsection; and

(ii) Is authorized to practice as a registered nurse.

(2) A temporary practice letter issued to an individual who is authorized to practice as a certified nurse practitioner in another state authorizes the holder to practice as a certified nurse practitioner in this State while the temporary practice letter is effective.

(d) (1) Except as provided in this subtitle, a temporary license and temporary practice letter may not be renewed.

(2) Unless the Board suspends or revokes a temporary license or temporary practice letter, each temporary license or temporary practice letter expires 90 days after the date of issue.

(3) A temporary license may be extended up to an additional 90 days if the applicant is awaiting the completion of criminal history record information.

(4) A temporary license or temporary practice letter may be extended every 90 days, provided that the total length of renewal does not exceed 12 months from the date the original temporary license or temporary practice letter was issued, if the applicant does not meet the practice requirement as provided for in regulation.

(e) The Board shall revoke a temporary license or temporary certificate if the criminal history record information forwarded to the Board in accordance with § 8–303 of this subtitle reveals that the applicant, certificate holder, or licensee has been convicted or pled 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.

§8–316.

(a) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny a license or grant a license, including a license subject to a reprimand, probation, or suspension, to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

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

(2) Fraudulently or deceptively uses a license;

(3) Is disciplined by a licensing, military, or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this State or in any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(4) 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;

(5) Willfully and knowingly:

(i) Files a false report or record of an individual under the licensee's care;

(ii) Gives any false or misleading information about a material matter in an employment application;

(iii) Fails to file or record any health record that is required by law;

(iv) Obstructs the filing or recording of any health record as required by law; or

(v) Induces another person to fail to file or record any health record as required by law;

(6) Knowingly does any act that has been determined by the Board, in its rules and regulations, to exceed the scope of practice authorized to the individual under this title;

(7) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of registered nursing or licensed practical nursing;

(9) Is grossly negligent in the practice of registered nursing or licensed practical nursing;

(10) Has violated any provision of this title;

(11) Submits a false statement to collect a fee;

(12) Is physically or mentally incompetent;

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

(14) 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;

(15) 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;

(16) Is in independent practice and fails to display the notice required under § 8–506 of this title;

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

(18) Is habitually intoxicated;

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

(20) Fails to cooperate with a lawful investigation conducted by the Board;

(21) Is expelled from the rehabilitation program established pursuant to § 8–208 of this title for failure to comply with the conditions of the program;

(22) Delegates nursing acts or responsibilities to an individual that the applicant or licensee knows or has reason to know lacks the ability or knowledge to perform;

(23) Delegates to an unlicensed individual nursing acts or responsibilities the applicant or licensee knows or has reason to know are to be performed only by a registered nurse or licensed practical nurse;

(24) Fails to properly supervise individuals to whom nursing acts or responsibilities have been delegated;

(25) Engages in conduct that violates the professional code of ethics;

(26) Is professionally incompetent;

(27) Practices registered nursing or licensed practical nursing without a license before obtaining or renewing a license, including any period when practicing registered nursing or licensed practical nursing on an expired license or a lapsed license;

(28) When holding an expired license or a lapsed license or after a temporary license has expired in accordance with § 8–315(d) of this subtitle, commits any act that would be grounds for disciplinary action under this section;

(29) Practices registered nursing or licensed practical nursing on a nonrenewed license for a period of 16 months or longer;

(30) Violates regulations adopted by the Board or an order from the Board;

(31) Performs an act that is beyond the licensee's knowledge and skills;

(32) Fails to submit to a criminal history records check in accordance with § 8–303 of this subtitle;

(33) When acting in a supervisory position, directs another nurse to perform an act that is beyond the nurse's knowledge and skills;

(34) When acting in a supervisory position, directs another nurse to delegate a nursing task to an individual when that nurse reasonably believes:

(i) The individual lacks the knowledge and skills to perform the task; or

(ii) The patient's condition does not allow delegation of the nursing task; or

(35) Has misappropriated the property of a patient or a facility.

(b) If, after a hearing under § 8–317 of this subtitle, the Board finds that there are grounds under subsection (a) of this section to suspend or revoke a license to practice registered nursing or licensed practical nursing, to reprimand a licensee, or place a licensee on probation, the Board may impose a penalty not exceeding $5,000 instead of or in addition to suspending or revoking the license, reprimanding the licensee, or placing the licensee on probation.

(c) In addition to any sanction authorized under this section, the Board may require a licensee to comply with specified terms and conditions determined by the Board.

§8–317.

(a) Except as otherwise provided in the Administrative Procedure Act and in subsection (g) of this section, before the Board takes any action under § 8–312 or § 8–316 of this subtitle or § 8–404 of this title, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) The hearing notice to be given to the person shall be sent by certified mail, return receipt requested, to the last known address of the person at least 30 days before the hearing.

(d) The person may be represented at the hearing by counsel.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(f) (1) Over the signature of the president, the executive director, or the deputy director as authorized by the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(2) If a person, without lawful excuse, disobeys a subpoena from the Board or an order by the Board to take an oath, testify, or answer questions, on petition of the Board a court of competent jurisdiction may compel compliance with the subpoena and hold the individual in contempt of court.

(g) The Board may immediately suspend the license of a registered nurse or licensed practical nurse who is expelled from the rehabilitation program under § 8–208 of this title for noncompliance with the nurse's agreement if:

(1) Prior to suspending the license, the Board provides the licensee with an opportunity to show cause by written communication or nontestimonial presentation as to why the suspension should not occur; and

(2) The Board provides the licensee with an opportunity for a hearing, which:

(i) Shall occur within 30 days of written request by the licensee; and

(ii) Shall impose on the licensee the burden of proving by a preponderance of the evidence that the licensee is not addicted to drugs or alcohol.

(h) (1) After the Board conducts an investigation under this title, the Board may issue an advisory letter to the licensee or holder of a multistate licensing privilege.

(2) The Board may disclose an advisory letter issued under this subsection to the public.

(3) The issuance of an advisory letter under this subsection may not:

(i) Be considered a disciplinary action under § 8–316 of this subtitle; and

(ii) Be reported to any licensing entity, employer, or insurance company as a disciplinary action.

§8–318.

(a) Except as provided in this section for an action under § 8–316 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the

Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 8–316 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) A Board decision may not be stayed while judicial review is pending.

§8–319.

(a) If a license was suspended or revoked for a period of more than 1 year, or if a period of more than 1 year has passed since a license was surrendered, the Board may reinstate the license if the licensee:

(1) Applies to the Board for reinstatement;

(2) Meets the requirements for renewal under § 8–312 of this subtitle;

(3) Meets any other requirements for reinstatement as established by the Board; and

(4) Submits to a criminal history records check in accordance with § 8–303 of this subtitle.

(b) If a licensee meets the requirements of subsection (a) of this section, the Board may:

(1) Reinstate the license;

(2) Reinstate the license subject to terms and conditions that the Board considers necessary, including a period of probation; or

(3) Deny reinstatement of the license.

§8–320.

(a) Except by the express stipulation and consent of all parties to a proceeding before the Board or any of its investigatory bodies, in a civil action, the proceedings, records, and files of the Board or any of its investigatory bodies are not discoverable and are not admissible in evidence.

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

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

§8–321.

(a) The Board may disclose any information contained in the proceedings, records, and files of the Board to any health occupation regulatory board of the State or another state if the health occupation regulatory board requests the information in writing.

(b) A health occupation regulatory board that receives information from the Board under subsection (a) of this section may not redisclose the information without the consent of the Board.

§8–322.

(a) The authority of the Board established under this subtitle:

(1) Vests with the Board at the time an individual applies for licensure or to practice under the multistate licensing privilege;

(2) Continues during periods of licensure; and

(3) Includes authority over an individual holding an expired license, a lapsed license, or a temporary license that has expired under § 8–315(d) of this subtitle.

(b) The authority of the Board shall be continuous over an individual applicant, licensee, or holder of a multistate licensing privilege and may not be divested by withdrawal of an application, when a license expires or lapses, or when a temporary license expires.

§8–401.

(a) The Board may approve any registered nursing or licensed practical nursing education program at an institution in this State.

(b) The Board shall:

(1) Keep a list of institutions in this State that currently have an approved registered nursing or licensed practical nursing education program;

(2) Set standards for approval of education programs for registered nurses and licensed practical nurses at institutions in this State;

(3) Evaluate the need for an education program for registered nurses or licensed practical nurses in the geographic area in which the program is proposed to be located; and

(4) Survey approved nursing education programs as it considers necessary.

§8–402.

Before an institution conducts a registered nursing or licensed practical nursing education program in this State, the institution shall obtain approval from:

(1) The Board by submitting evidence that it is prepared to:

(i) Carry out a program in registered nursing education or licensed practical nursing education; and

(ii) Meet the standards established by the Board under this title; and

(2) The appropriate State education board.

§8–403.

(a) The Board shall have its representatives survey:

(1) Each registered nursing and licensed practical nursing program when the program is first established in this State; and

(2) From time to time, each existing registered nursing and licensed practical nursing program in this State.

(b) The representatives who make the survey shall submit a written report to the Board.

§8–404.

(a) Except as provided in subsection (b) of this section, the Board may remove an institution from its list of institutions that offer approved nursing education programs in this State if the institution violates the standards set under this title or by the Board.

(b) (1) At least 30 days before the Board may issue a formal notice of violation to an institution, the Board shall notify the chief administrator of the institution and the chief administrator of the nursing education program of the institution that the Board is considering issuing a formal notice of violation.

(2) During the 30-day period provided in paragraph (1) of this subsection, the Board shall provide the chief administrator of the institution and the chief administrator of the nursing education program an opportunity to meet with representatives of the Board.

(c) Any action taken under this section shall be in accordance with the hearing and administrative and judicial review provisions of §§ 8-316 and 8-317 of this title.

§8–501.

The Board shall evaluate continuously master planning by other agencies that

may affect nursing practice in this State.

§8–502.

(a) The Board shall appoint or recognize specific task advisory committees.

(b) Each advisory committee consists of at least three members appointed by the Board.

(c) Each committee member shall have expertise in the specific problem or area of nursing practice that is under investigation.

(d) Each member of a committee is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) Each advisory committee shall:

(1) Help the Board to forecast directions in nursing practice;

(2) Help the Board evaluate the impact of identified issues on nursing practice; and

(3) Make recommendations to the Board when appropriate.

§8–503.

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

(2) "Nurse anesthetist" means a registered nurse who is:

(i) Certified under this title to practice nurse anesthesia; and

(ii) Certified by the Council on Certification or the Council on Recertification of Nurse Anesthetists.

(b) "Nurse midwife" means a registered nurse who is certified under this title to practice nurse midwifery and who is also certified by the American College of Nurse Midwives.

(c) The Board shall appoint separate peer review committees to oversee the use of health insurance and medical assistance benefits by:

(1) Certified nurse anesthetists;

(2) Certified nurse midwives;

(3) Certified nurse practitioners; and

(4) Any other licensee with a nursing specialty that has been approved for

third party reimbursement conditioned on peer review.

§8–504.

(a) (1) In this section, "employer" means:

(i) A public employer;

(ii) A private employer; or

(iii) An employment agency.

(2) "Employer" does not include a private employer who employs a licensee for personal or family use.

(b) Each employer shall report periodically to the Board the name and license number of each licensee employed or placed to practice registered nursing or licensed practical nursing.

§8–505.

(a) Except as provided in subsection (b) of this section, the following applies:

(1) If a nursing administrator, registered nurse, licensed practical nurse, or certified nursing assistant knows of an action or condition that might be grounds for action under § 8–316 or Subtitle 6A of this title, the nursing administrator, registered nurse, licensed practical nurse, or certified nursing assistant shall report the action or condition to the Board; and

(2) An individual shall have the immunity from liability described under § 5–709 of the Courts and Judicial Proceedings Article for making a report as required by this subsection.

(b) If a nurse administrator, registered nurse, licensed practical nurse, or certified nursing assistant has reason to know that a licensee or certificate holder has committed an action or has a condition that might be grounds for reprimand or probation of the licensee or certificate holder or suspension or revocation of the license under § 8–316 or § 8–6A–10 of this title because the licensee or certificate holder is alcohol impaired or drug impaired, the nurse administrator, registered nurse, licensed practical nurse, or certified nursing assistant is not required to report the licensee or certificate holder to the Board if:

(1) The nurse administrator, registered nurse, licensed practical nurse, or certified nursing assistant knows that the licensee or certificate holder is in an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, is certified by the Department, or is under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

(2) The nurse administrator, registered nurse, licensed practical nurse, or certified nursing assistant is able to verify that the licensee or certificate holder remains in the treatment program until discharge; and

(3) The action or condition of the licensee or certificate holder has not caused injury to any person while the licensee is practicing registered nursing or licensed practical nursing or the certificate holder is working as a nursing assistant.

(c) A person is not required under this section to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.

§8–506.

If a nurse is engaged in independent practice in this State, the nurse shall display the notice developed under § 1-207 of this article conspicuously in each office where the nurse is engaged in practice.

§8–508.

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

(2) "Nurse practitioner" means a registered nurse who is:

(i) Certified as a nurse practitioner; and

(ii) Authorized to prescribe drugs under regulations adopted by the State Board of Nursing.

(3) "Starter dosage" means an amount of drug sufficient to begin therapy:

(i) Of short duration of 72 hours or less; or

(ii) Prior to obtaining a larger quantity of the drug to complete therapy.

(4) "Personally prepare and dispense" means that a nurse practitioner:

(i) Is physically present on the premises where the prescription is filled; and

(ii) Performs a final check of the prescription before it is provided to the patient.

(b) A nurse practitioner may personally prepare and dispense a starter dosage of any drug the nurse practitioner is authorized to prescribe to a patient of the nurse practitioner if:

(1) The starter dosage complies with the labeling requirements of § 12–505

of this article;

(2) No charge is made for the starter dosage; and

(3) The nurse practitioner enters an appropriate record in the patient's medical record.

(c) In accordance with the provisions of subsection (d) of this section, a nurse practitioner may personally prepare and dispense any drug that a nurse practitioner may prescribe to the extent permitted by law in the course of treating a patient at:

(1) A medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance;

(2) A medical facility or clinic that is operated on a nonprofit basis;

(3) A health center that operates on a campus of an institution of higher education;

(4) A public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds; or

(5) A nonprofit hospital or a nonprofit hospital outpatient facility as authorized under the policies established by the hospital.

(d) A nurse practitioner who personally prepares and dispenses a drug in the course of treating a patient as authorized under subsection (c) of this section shall:

(1) Comply with the labeling requirements of § 12–505 of this article;

(2) Record the dispensing of the prescription drug on the patient's chart;

(3) Allow the Division of Drug Control to enter and inspect the nurse practitioner's office at all reasonable hours; and

(4) Except for starter dosages or samples dispensed without charge, provide the patient with a written prescription, maintain prescription files, and maintain a separate file for Schedule II prescriptions for a period of at least 5 years.

§8–509.

(a) In this section, "law enforcement agency" includes:

(1) A State, county, or municipal police department or agency;

(2) A sheriff's office;

(3) A State's Attorney's office; and

(4) The Office of the Attorney General.

(b) A law enforcement agency that receives a complaint of death or bodily harm allegedly caused by a nurse who holds a license or certificate under this title shall notify the Board of the complaint.

§8–510.

(a) The Board may conduct a demonstration study to evaluate a proposed change to regulations regarding nursing practices or the activities of nursing assistants or medication technicians in a practice setting.

(b) A demonstration study enables the Board, in a controlled practice setting, to determine:

(1) The safety of the proposed practice or activity; and

(2) The appropriate education or training requirements for a proposed practice or activity.

(c) (1) The Board shall:

(i) Approve the demonstration study design; and

(ii) Select the testing facilities.

(2) The Board may waive selected nursing practice requirements during a demonstration study.

§8–511.

A registered nurse or licensed practical nurse working in a methadone clinic licensed by the Department of Health and Mental Hygiene may dispense methadone in accordance with regulations jointly developed and adopted by the Board and the State Board of Pharmacy.

§8–601.

In this subtitle:

(1) "Practice nurse midwifery" means the management and care of essentially normal newborns and of essentially normal women antepartally, intrapartally and postpartally.

(2) "Practice nurse midwifery" includes:

(i) Family planning and well woman reproductive care;

(ii) The prescribing of substances commonly used in the practice of

nurse midwifery as determined by the Board in consultation with the State Board of Pharmacy and the State Board of Physicians;

(iii) The prescribing of controlled substances on Schedules II, III, IV, and V commonly used in the practice of nurse midwifery as determined by the Board in consultation with the State Board of Pharmacy and the State Board of Physicians; and

(iv) The dispensing of the substances prescribed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph in the course of treating a patient at:

1. A medical facility or clinic that is operated on a nonprofit basis;

2. A health center that operates on a campus of an institution of higher education; or

3. A public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.

§8–602.

The practice of nurse midwifery is governed by rules and regulations that are adopted under § 8-205 of this title and that concern additional acts in the practice of registered nursing.

§8–603.

An individual who on June 30, 1981 is licensed as a nurse midwife by this State is governed by this title and any other provisions that concern additional acts in the practice of registered nursing that relate to the practice of nurse midwifery.

§8–6A–01.

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

(b) "Applicant" means, unless the context requires otherwise:

(1) An individual applying for an initial certificate by examination or endorsement;

(2) A certificate holder applying for renewal of a certificate; or

(3) An individual applying for reinstatement of a certificate in accordance with § 8–6A–10 of this subtitle.

(c) "Approved medication technician training program" means a course of training approved by the Board that meets the basic medication technician core curriculum and the medication technician content training specific to the setting in

which the medication technician will work.

(d) "Approved nursing assistant training program" means a course of training that meets the basic nursing assistant curriculum prescribed and approved by the Board.

(e) "Board" means the State Board of Nursing.

(f) "Certificate" means a certificate issued by the Board to practice as a certified nursing assistant or a certified medication technician in the State.

(g) "Certificate holder" means a certified nursing assistant or medication technician who has:

(1) An active certificate;

(2) An inactive certificate;

(3) A temporary certificate;

(4) An expired temporary certificate;

(5) An expired certificate;

(6) A lapsed certificate;

(7) A suspended certificate; or

(8) A certificate subject to a reprimand, probation, or suspension.

(h) "Certified medication technician" means an individual who:

(1) Has completed a Board–approved medication technician training program; and

(2) Is certified by the Board as a medication technician.

(i) "Certified medicine aide" means a certified nursing assistant who has completed a Board–approved course in medication administration.

(j) "Certified nursing assistant":

(1) Means an individual regardless of title who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation; and

(2) Does not include a certified medication technician.

(k) "Department" means the Department of Health and Mental Hygiene.

(l) "Expired certificate" means a certificate that was not renewed before the expiration date of the certificate as established under § 8–6A–08(a) of this title.

(m) "Geriatric nursing assistant" means a certified nursing assistant who has successfully completed the requirements for geriatric nursing assistant mandated under federal law and the regulations of the Board.

(n) "Lapsed certificate" means a certificate that was not renewed because a certificate holder failed to renew the certificate or otherwise did not meet the renewal requirements of this subtitle.

§8–6A–02.

(a) Except as otherwise provided in this subtitle, an individual shall be certified by the Board to practice as a nursing assistant or medication technician before the individual may practice as a nursing assistant or medication technician in the State.

(b) This subtitle does not apply to an individual who:

(1) Practices a health occupation that the individual is authorized to practice under this article;

(2) Provides for the gratuitous care of friends, domestic partners, or family members;

(3) Performs nursing assistant tasks while a nursing student enrolled in an accredited nursing program and practicing under the direct supervision of qualified faculty or preceptors;

(4) Performs nursing assistant tasks as a student while:

(i) Enrolled in a Board–approved nursing assistant training program; and

(ii) Practicing under the direct supervision of qualified faculty or preceptors;

(5) Performs medication technician tasks as a student while practicing under the direct supervision of qualified faculty; or

(6) Works as a principal or school secretary, does not administer medication as a routine part of the position, and has completed training by the delegating nurse for the occasion where the individual may need to administer medication in the absence of the nurse or medication technician.

(c) Nothing in this section shall preclude a registered nurse or licensed practical nurse from delegating a nursing task to an unlicensed individual provided that acceptance of delegated nursing tasks does not become a routine part of the

unlicensed individual's job duties.

§8–6A–03.

(a) An individual shall be certified as a nursing assistant by the Board before the individual may:

(1) Use the title "certified nursing assistant";

(2) Use the initials "C.N.A." after the name of the individual; or

(3) Represent to the public that the individual is certified as a nursing assistant.

(b) An individual shall be certified as a medication technician by the Board before the individual may:

(1) Use the title "certified medication technician";

(2) Use the initials "C.M.T." after the name of the individual; or

(3) Represent to the public that the individual is certified as a medication technician.

(c) An individual may not practice, attempt to practice, or offer to practice as a certified medication technician without certification from the Board.

§8–6A–04.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of certificates and other services it provides to certified nursing assistants and certified medication technicians.

(2) The fees charged shall be set to produce funds to approximate the cost of maintaining the certification program and the other services provided to certified nursing assistants and certified medication technicians.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller of the State.

(2) The Comptroller shall distribute all the fees to the State Board of Nursing Fund established under § 8-206 of this title.

§8–6A–05.

(a) The Board shall adopt regulations establishing:

(1) Categories of certified nursing assistants, including geriatric nursing assistants, home health aides, school health aides, dialysis technicians, individuals

working in developmental disabilities administration facilities, and medicine aides;

(2) Qualifications for each category of certified nursing assistant;

(3) Qualifications for certified medication technicians; and

(4) Standards for qualification of applicants for certification, including the applicant's criminal history, work record, and prohibitions against behavior which may be potentially harmful to patients.

(b) To qualify for certification as a nursing assistant, a nursing assistant in a specific category, or a medication technician, an applicant shall meet the requirements set by the Board.

(c) (1) An applicant for a certificate shall:

(i) Submit an application to the Board on the form that the Board requires;

(ii) Provide evidence, as required by the Board, of successful completion of:

1. An approved nursing assistant training program;

2. An approved course in medication administration; or

3. A portion of an approved nursing education program that the Board determines meets the requirements of a nursing assistant training program or medication administration course;

(iii) Pay to the Board an application fee set by the Board;

(iv) Be of good moral character;

(v) Be at least 16 years old to apply for certification as a nursing assistant; and

(vi) Be at least 18 years old to apply for certification as a medication technician.

(2) Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant shall submit to the Board:

(i) A criminal history records check in accordance with § 8–303 of this title and § 8–6A–08(k) of this subtitle; and

(ii) On the form required by the Board, written, verified evidence that the requirement of item (i) of this paragraph is being met or has been met.

(3) An applicant for certification as a certified medicine aide, in addition to the requirements under paragraph (1) of this subsection, shall submit an additional application to that effect to the Board on the form that the Board requires.

(4) An applicant for a certificate may not:

(i) Have committed any act or omission that would be grounds for discipline or denial of certification under this subtitle; and

(ii) Have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant or medication technician in the state or territory.

§8–6A–06.

Every applicant for certification by endorsement shall:

(1) Pay the required application fee;

(2) Submit the information required by the Board in the manner and form specified by the Board; and

(3) Submit written evidence that the applicant:

(i) Is certified to practice as a nursing assistant by another state or territory of the United States with requirements that are essentially similar to the requirements for certification established in this subtitle and that the certification is in good standing;

(ii) Has not committed any act or omission that would be grounds for discipline or denial of certification under this subtitle;

(iii) Has successfully completed nursing assistant training that meets the standards for an approved nursing assistant training program established under this subtitle and the standards adopted by the Board; and

(iv) Has no record of abuse, negligence, or misappropriation of a resident's property or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant in the state or territory.

§8–6A–07.

(a) Subject to subsection (g) of this section, the Board shall certify any applicant who meets the requirements of this subtitle.

(b) (1) The Board shall:

(i) Issue each new certified nursing assistant or medication technician a certificate number and registration certificate that indicates the initial certificate was issued by the Board; and

(ii) Electronically record each certificate in the Board's database and on the Board's Web site.

(2) Each certificate shall include:

(i) Any expiration date;

(ii) The type of certificate; and

(iii) Any specific category of nursing assistant.

(c) An individual who has met the requirements for a certified nursing assistant shall be certified with the title of "certified nursing assistant".

(d) An individual who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and has also completed a Board–approved course in medication administration shall be certified with the title of "certified medicine aide".

(e) An individual who has met the requirements for a certified medication technician shall be certified with the title of "certified medication technician".

(f) The Board may issue a registration certificate to replace a lost, destroyed, or mutilated certificate, if the certificate holder pays the certificate replacement fee set by the Board.

(g) (1) The Board may issue a temporary practice certificate to an applicant who:

(i) Has met the appropriate certification requirements of this subtitle to the satisfaction of the Board;

(ii) Does not have a criminal record and has not been the subject of a health professional disciplinary action in this State or another jurisdiction; and

(iii) Does not have a criminal charge or a health professional disciplinary action pending in this State or another jurisdiction.

(2) Unless the Board suspends or revokes a temporary practice certificate, the temporary practice certificate expires 90 days after issuance.

(3) A temporary practice certificate may be extended up to an additional 90 days if the applicant is awaiting the completion of criminal history record information.

(h) A medication technician graduate may practice for no more than 90 days

from the date of completion of a medication technician training program without certification by the Board.

(i) (1) On receipt of the criminal history record information of an applicant for certification as a certified nursing assistant forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.

§8–6A–08.

(a) A certificate expires on the 28th day of the birth month of the nursing assistant or medication technician, unless the certificate is renewed for a 2–year term as provided in this section.

(b) (1) At least 3 months before a certificate expires, the Board shall send a renewal notice to the nursing assistant or medication technician by:

(i) First–class mail to the last known mailing address of the nursing assistant or medication technician; or

(ii) Electronic means to the last known electronic address of the certificate holder.

(2) A renewal notice shall state:

(i) The date on which the current certificate expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(iii) The amount of the renewal fee.

(3) If a nursing assistant or medication technician is required to have a

criminal history records check before a certificate may be renewed, the Board shall send the nursing assistant or medication technician the documents necessary for initiating the criminal history records check in conjunction with the renewal notice required under paragraph (1) of this subsection.

(c) Before a certificate expires, a nursing assistant periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board; and

(4) Provides satisfactory evidence of completion of:

(i) 16 hours of active nursing assistant practice within the 2–year period immediately preceding the date of renewal; or

(ii) An approved nursing assistant training program.

(d) In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a certified medicine aide shall:

(1) Provide satisfactory evidence of completion of 100 hours of practice as a certified medicine aide in the 2–year period preceding the date of renewal; and

(2) Successfully complete a Board–approved medicine aide continuing education program.

(e) Before a certificate expires, a medication technician periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board;

(4) Every 2 years, provides satisfactory evidence of completion of a Board–approved clinical refresher course; and

(5) Provides satisfactory evidence of completion of 100 hours of practice as a certified medication technician within the 2–year period preceding the date of renewal.

(f) (1) The Board may grant a 30–day extension, beyond a certificate's

expiration date, to a certificate holder so that the certificate holder may renew the certificate before it expires.

(2) The Board may grant two 90–day extensions beyond a certificate's expiration date pending receipt of criminal history record information.

(g) The Board shall reinstate the certificate of a certificate holder who has failed to renew the certificate for any reason if the certificate holder meets the applicable renewal requirements of subsections (c) through (e) and (k)(1)(i)2 of this section.

(h) Subject to subsection (i) of this section, the Board shall renew the certificate of each nursing assistant or medication technician who meets the requirements of this section.

(i) (1) Within 60 days after a change has occurred, each certificate holder shall notify the Board in writing of any change in a name or address.

(2) If the certificate holder fails to notify the Board within the time required under this subsection, the Board may impose an administrative penalty of $25 on the certificate holder.

(j) The Board shall pay any penalty collected under this subsection to the General Fund of the State.

(k) (1) (i) The Board shall require criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection (g) of this section after failing to renew the certificate for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a certificate holder forwarded to the Board in accordance with § 8–303 of this title, in determining whether to renew the certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the certificate holder poses a threat to the public health or safety.

(3) The Board may not renew a certificate if the criminal history record information required under § 8–303 of this title has not been received.

(l) (1) If an individual has been certified by the Board to practice as a nursing assistant or medication technician in the State in accordance with the requirements of this subtitle, the individual subsequently may be certified as a nursing assistant or medication technician on inactive status.

(2) The Board shall place a certificate holder on inactive status and record the inactive status in the Board's database and on the Board's Web site if the certificate holder:

(i) Submits documentation of a medical condition that the Board determines will prevent the certificate holder from practicing as a nursing assistant or medication technician; and

(ii) Completes the biennial application for inactive status and submits documentation of a continuing medical condition.

(3) A certificate holder on inactive status may apply for reactivation of the certificate if the certificate holder:

(i) Submits documentation satisfactory to the Board that the medical condition for which the inactive status was granted no longer exists; and

(ii) Meets the renewal requirements of this section.

(4) If a certificate holder meets the requirements of paragraph (3) of this subsection, the Board shall:

(i) Record the status of the certificate holder as active in the Board's database and on the Board's Web site; and

(ii) Reactivate the certificate holder's certificate to practice as a nursing assistant or medication technician in the State.

(5) The Board may not charge a fee to place the certificate holder on or remove the certificate holder from inactive status under this subsection.

(6) Inactive status:

(i) May not be considered a disciplinary action under § 8–6A–10 of

this subtitle; and

(ii) May not be reported to any certifying entity, employer, or insurance company as a disciplinary action.

§8–6A–09.

(a) The Board may impose a civil fine not exceeding $50 on a certified nursing assistant or a certified medication technician who fails to renew a certificate within 30 days after its expiration date and practices as a certified nursing assistant or certified medication technician during the period of expiration.

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

§8–6A–10.

(a) Subject to the hearing provisions of § 8–317 of this title and § 8–6A–10.1 of this subtitle, the Board may deny a certificate or grant a certificate, including a certificate subject to a reprimand, probation, or suspension, to any applicant, reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the applicant or certificate holder:

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

(2) Fraudulently or deceptively uses a certificate;

(3) Is disciplined by a licensing, military, or disciplinary authority in this State or in any other state or country or convicted or disciplined by a court in this State or in any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(4) 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;

(5) Files a false report or record of an individual under the certificate holder's care;

(6) Gives any false or misleading information about a material matter in an employment application;

(7) Fails to file or record any health record that is required by law;

(8) Induces another person to fail to file or record any health record that is required by law;

(9) Has violated any order, rule, or regulation of the Board relating to the practice or certification of a nursing assistant or medication technician;

(10) Provides services as a nursing assistant or medication technician 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(11) Is habitually intoxicated;

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

(13) Has acted in a manner inconsistent with the health or safety of a person under the applicant or certificate holder's care;

(14) Has practiced as a nursing assistant or medication technician in a manner which fails to meet generally accepted standards for the practice of a nursing assistant or medication technician;

(15) Has physically, verbally, or psychologically abused, neglected, or otherwise harmed a person under the applicant or certificate holder's care;

(16) Has a physical or mental condition which renders the applicant or certificate holder unable to practice as a certified nursing assistant or certified medication technician with reasonable skill and safety to the patients and which may endanger the health or safety of persons under the care of the applicant or certificate holder;

(17) Has violated the confidentiality of information or knowledge as prescribed by law concerning any patient;

(18) Has misappropriated patient or facility property;

(19) Performs certified nursing assistant or certified medication technician functions incompetently;

(20) Has violated any provision of this title or has aided or knowingly permitted any person to violate any provision of this title;

(21) Submits a false statement to collect a fee;

(22) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the applicant

or certificate holder is certified and qualified to render because the individual is HIV positive;

(23) 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;

(24) Fails to cooperate with a lawful investigation conducted by the Board;

(25) Fails to comply with instructions and directions of the supervising registered nurse or licensed practical nurse;

(26) When holding an expired certificate or a lapsed certificate, commits any act that would be grounds for disciplinary action under this section;

(27) Practices as a nursing assistant or medication technician before obtaining or renewing the certificate, including any time period when practicing as a nursing assistant or medication technician on an expired certificate or a lapsed certificate;

(28) Impersonates another individual:

(i) Licensed under the provisions of this title; or

(ii) Who holds a certificate issued under the provisions of this title;

(29) Engages in conduct that violates the code of ethics;

(30) Performs activities that exceed the education and training of the certified nursing assistant or certified medication technician;

(31) Is expelled from the rehabilitation program established pursuant to § 8–208 of this title for failure to comply with the conditions of the program;

(32) Fails to submit to a criminal history records check in accordance with § 8–303 of this title as required under § 8–6A–05(c)(2) of this subtitle;

(33) Abandons a patient; or

(34) Is a director of nursing, or acts in the capacity of a director of nursing and knowingly employs an individual who is not authorized to perform delegated nursing duties under this subtitle.

(b) If, after a hearing under § 8–317 of this title and § 8–6A–10.1 of this subtitle, the Board finds that there are grounds under subsection (a) of this section to suspend or revoke a certificate to practice as a certified nursing assistant or certified medication technician, to reprimand a certificate holder, or place a certificate holder on probation, the Board may impose a penalty not exceeding $500 instead of or in

addition to suspending or revoking the certificate, reprimanding the certificate holder, or placing the certificate holder on probation.

(c) (1) If a certificate issued under this subtitle was suspended or revoked for a period of more than 1 year, or if a period of more than 1 year has passed since a certificate was surrendered, the Board may reinstate the certificate if the certificate holder:

(i) Applies to the Board for reinstatement;

(ii) Meets the requirements for renewal under § 8–6A–08 of this subtitle;

(iii) Meets any other requirements for reinstatement as established by the Board in regulations; and

(iv) Submits to a criminal history records check in accordance with § 8–303 of this title.

(2) If a certificate holder meets the requirements of paragraph (1) of this subsection, the Board may:

(i) Reinstate the certificate;

(ii) Reinstate the certificate subject to terms and conditions that the Board considers necessary, including a period of probation; or

(iii) Deny reinstatement of the certificate.

§8–6A–10.1.

(a) Except as otherwise provided in the Administrative Procedure Act and in subsection (g) of this section, before the Board takes any action under § 8–6A–10 of this subtitle, the Board shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) The hearing notice to be given to the individual shall be sent by certified mail, return receipt requested, to the last known address of the individual at least 30 days before the hearing.

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

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(f) (1) Over the signature of the president, the executive director, or the

deputy director as authorized by the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this subtitle and any hearings or proceedings before the Board.

(2) If an individual, without lawful excuse, disobeys a subpoena from the Board or an order by the Board to take an oath, testify, or answer questions, on petition of the Board a court of competent jurisdiction may compel compliance with the subpoena and hold the individual in contempt of court.

(g) The Board immediately may suspend the certificate of a nursing assistant or medication technician who is expelled from the rehabilitation program under § 8–208 of this title for noncompliance with the certificate holder's agreement if:

(1) Before suspending the certificate, the Board provides the certificate holder with an opportunity to show cause by written communication or nontestimonial presentation as to why the suspension should not occur; and

(2) The Board provides the certificate holder with an opportunity for a hearing that shall:

(i) Occur within 30 days after written request by the certificate holder; and

(ii) Impose on the certificate holder the burden of proving by a preponderance of the evidence that the certificate holder is not addicted to drugs or alcohol.

(h) (1) After the Board conducts an investigation under this subtitle, the Board may issue an advisory letter to the certificate holder.

(2) The Board may disclose an advisory letter issued under this subsection to the public.

(3) The issuance of an advisory letter under this subsection:

(i) May not be considered a disciplinary action under § 8–6A–10 of this subtitle; and

(ii) May not be reported to any certifying entity, employer, or insurance company as a disciplinary action.

§8–6A–11.

(a) Any person aggrieved by a final decision of the Board under § 8–6A–10 of this subtitle may only take a direct judicial appeal as allowed by the Administrative Procedure Act.

(b) A Board decision may not be stayed while judicial review is pending.

§8–6A–12.

(a) Unless the Board agrees to accept the surrender of a certificate, a certified nursing assistant or certified medication technician may not surrender the certificate.

(b) The Board may require terms and conditions on an agreement with the certified nursing assistant or certified medication technician to accept surrender of the certificate.

(c) An agreement to accept the surrender of a certificate is a final order of the Board and is a public record.

§8–6A–13.

(a) The Board shall appoint an advisory committee consisting of at least 15 members appointed by the Board.

(b) Of the 15 committee members:

(1) Six shall be nursing assistants:

(i) One shall be an acute care nursing assistant;

(ii) One shall be a home care nursing assistant;

(iii) One shall be a long–term care nursing assistant;

(iv) One shall be an adult medical day care nursing assistant;

(v) At least one of the nursing assistant members shall be a member of a union; and

(vi) One shall be an independent contractor;

(2) Three shall be registered nurses:

(i) One shall be an acute care registered nurse;

(ii) One shall be a home care registered nurse; and

(iii) One shall be a long–term care registered nurse;

(3) One shall be an administrator from a licensed health care facility;

(4) One shall be a licensed practical nurse;

(5) One shall be an individual who teaches a nursing assistant course;

(6) One shall be a consumer member who has received care, or has a family

member who has received care from a nursing assistant;

(7) One shall be a representative of the Department; and

(8) One shall be a certified medication technician.

(c) The Board shall appoint an alternate for each of the three nursing assistant members in the event that the nursing assistant member is unable to discharge the duties of the committee.

(d) An advisory committee member shall serve a term of 4 years.

(e) The advisory committee shall meet at least once a month.

(f) The advisory committee shall:

(1) Evaluate training programs and make recommendations for approval by the Board;

(2) Develop and recommend regulations to enforce the provisions of this subtitle;

(3) Evaluate candidates as required and recommend action to the Board;

(4) Review investigations of complaints against nursing assistants or medication technicians and make recommendations to the Board for disciplinary action;

(5) Keep a record of its proceedings; and

(6) Submit an annual report to the Board.

§8–6A–14.

(a) The Board, in conjunction with the Maryland Higher Education Commission, shall approve each nursing assistant training program prior to its implementation and provide periodic survey of all programs in the State.

(b) The Board in conjunction with the Department, Maryland Higher Education Commission, and the affected industry shall develop regulations for nursing assistant training programs.

(c) The curriculum content for an approved nursing assistant training program shall include:

(1) Content consistent with State licensing requirements in the Health - General Article and all federal requirements;

(2) All basic skills required of a nursing assistant regardless of the setting

of the practice; and

(3) Any skills required for certification in a specific category.

(d) Any additional clinical practice skills specific to a setting of practice shall be taught in that setting as a part of the employment training process in that setting.

(e) The Board may make survey visits from time to time, without prior notice, to all certified nursing assistant training programs.

(f) The provisions of this section may not be interpreted to impose additional requirements for geriatric nursing assistants beyond those required under federal law.

§8–6A–14.1.

The Board may make survey visits from time to time, without prior notice, to all Board-approved medication technician training programs.

§8–6A–15.

(a) If, during the review of an application for certification or investigation of an allegation brought against a certified nursing assistant or certified medication technician under this subtitle, the Board has reason to believe and objective evidence that the applicant, certified nursing assistant, or certified medication technician may cause harm to a person affected by the practice of the applicant, certified nursing assistant, or certified medication technician, the Board, on its own initiative, shall direct the applicant, certified nursing assistant, or certified medication technician to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege to practice as a certified nursing assistant or certified medication technician in the State, an applicant, certified nursing assistant, or certified medication technician is deemed to have:

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

(2) Waived any legal claim of privilege as to the testimony or examination reports of the examining health care provider.

(c) The failure or refusal of an applicant, certified nursing assistant, or certified medication technician to submit to an examination required under subsection (b) of this section is prima facie evidence of the inability of the applicant, certified nursing assistant, or certified medication technician to competently practice as a certified nursing assistant or certified medication technician, unless the Board finds that the failure or refusal was beyond the control of the applicant, certified nursing assistant, or certified medication technician.

(d) The Board shall pay the cost of any examination made in accordance with the provisions of this section.

§8–6A–16.

If the Board determines that the information contained in a record concerns possible criminal activity of an individual who routinely provides nursing and nursing related tasks delegated by a registered nurse or licensed practical nurse for compensation, the Board shall disclose the information to a law enforcement or prosecutorial official.

§8–6A–17.

(a) The authority of the Board established under this subtitle:

(1) Vests with the Board at the time an individual applies for certification;

(2) Continues during periods of certification; and

(3) Includes authority over an individual holding an expired certificate, a lapsed certificate, or a temporary certificate that has expired under § 8–6A–07(f) of this subtitle.

(b) The authority of the Board shall be continuous over an individual applicant or certificate holder and may not be divested by withdrawal of an application, when a certificate expires or lapses, or when a temporary certificate expires.

§8–6B–01.

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

(b) "Applicant" means, unless the context requires otherwise:

(1) An individual applying for an initial license by examination or endorsement;

(2) A licensee applying for renewal of a license; or

(3) An individual applying for reinstatement of a license in accordance with § 8–6B–14 of this subtitle.

(c) "Board" means the State Board of Nursing.

(d) "Committee" means the Electrology Practice Committee.

(e) "Electrologist" means an individual who practices electrology.

(f) "Electrology instructor" means an individual who practices electrology and teaches an electrology education program.

(g) "Expired license" means, unless the context requires otherwise, a license that was not renewed before the expiration date of the license as established by § 8–6B–14(a) of this subtitle.

(h) "Lapsed license" means, unless the context requires otherwise, a license that was not renewed because a licensee failed to renew the license or otherwise did not meet the renewal requirements of this subtitle.

(i) "License" means, unless the context requires otherwise, a license issued by the Board:

(1) To practice electrology; or

(2) To practice electrology and teach an electrology education program.

(j) "Licensed electrologist" means, unless the context requires otherwise, an electrologist who is licensed by the Board to practice electrology.

(k) "Licensed electrology instructor" means, unless the context requires otherwise, an electrologist who is licensed by the Board to practice electrology and teach an electrology education program.

(l) "Licensee" means, unless the context requires otherwise, a licensed electrologist or licensed electrology instructor who has:

(1) An active license;

(2) An inactive license;

(3) An expired license;

(4) A lapsed license;

(5) A suspended license; or

(6) a license subject to a reprimand, probation, or suspension.

(m) "Practice electrology" means to remove hair permanently through the use of electrical instruments.

§8–6B–02.

This subtitle does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§8–6B–03.

The Board shall adopt regulations for the licensure of electrologists and for the practice of electrology.

§8–6B–04.

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

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure and the other services provided to electrologists.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller of the State.

(2) The Comptroller shall distribute all fees to the Board.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§8–6B–05.

(a) There is an Electrology Practice Committee within the Board.

(b) (1) The Committee consists of three members appointed by the Board.

(2) Of the three Committee members:

(i) Two shall be licensed electrologists or licensed electrology instructors; and

(ii) One shall be a consumer member.

(c) Each member of the Committee shall be a citizen of the United States and a resident of the State.

(d) Each electrologist member of the Committee shall have practiced electrology actively in the State for at least 5 years immediately before appointment.

(e) The consumer member of the Committee:

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

(2) May not be or ever have been:

(i) An electrologist;

(ii) A health care professional; or

(iii) In training to be an electrologist or a health care professional;

(3) May not have a household member who is an electrologist, a health

care professional, in training to be an electrologist, or in training to be a health care professional; and

(4) May not:

(i) Participate or ever have participated in a commercial or professional field related to electrology;

(ii) Have a household member who participates in a commercial or professional field related to electrology; or

(iii) Have, or have had within 2 years before appointment, a substantial financial interest in a person regulated by the Board.

(f) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the provisions for members of the Committee on July 1, 2003.

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

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

(5) A member may not serve more than two consecutive full terms.

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

(g) A majority of the full authorized membership of the Committee is a quorum.

(h) In addition to any other meeting requirements of this title, the Committee shall meet:

(1) At the request of the executive director of the Board; or

(2) As necessary to conduct Board business.

(i) In accordance with the State budget, each member of the Committee is entitled to:

(1) Compensation, at a rate determined by the Board, for each day, or part of a day, on which the member is engaged in the duties of the Committee; and

(2) Reimbursement for expenses under the Standard State Travel Regulations.

(j) (1) The Board may remove a member for incompetence or misconduct.

(2) The Board may remove a member who is absent from two successive Committee meetings without adequate reason.

§8–6B–06.

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

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

(2) Make recommendations to the Board regarding a code of ethics for the practice of electrology;

(3) Make recommendations to the Board regarding the requirements for licensure as an electrologist or an electrology instructor;

(4) Review applications for licensure as an electrologist or electrology instructor and make recommendations to the Board;

(5) Maintain a list of all currently licensed electrologists and electrology instructors;

(6) Make recommendations to the Board regarding continuing education requirements for electrologists;

(7) At the request of the Board, investigate complaints against licensed electrologists;

(8) Review electrology education programs both in the State and out of state in accordance with § 8–6B–16 of this subtitle to determine compliance with the standards of that section and make recommendations to the Board regarding approval or disapproval of these programs;

(9) Review advertising by licensed electrologists and by institutions that offer an electrology program and make recommendations to the Board, as necessary;

(10) At the request of the Board, after the Board has received a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of an electrologist, other than an office of an electrologist 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 make recommendations to the Board, as necessary;

(11) At the request of the Board, after the Board has received notice that an electrologist has opened an office, after notifying the electrologist, conduct an inspection of the office to determine compliance with the Board's regulations relating to the minimum requirements for an office and make recommendations to the Board,

as necessary;

(12) Advise the Board on matters relating to the practice of electrology;

(13) Keep a record of its proceedings; and

(14) Submit an annual report to the Board.

§8–6B–07.

(a) Except as otherwise provided in this subtitle, an individual shall be licensed by the Board before the individual may practice electrology or teach an electrology education program in the State.

(b) This section does not apply to a student who is practicing electrology as part of an approved clinical electrology education program.

§8–6B–08.

(a) To qualify for a license, an applicant shall be an individual who submits to a criminal history records check in accordance with § 8–303 of this title and meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) Except as otherwise provided in this subtitle, an applicant shall be a high school graduate or have completed equivalent education and have completed satisfactorily:

(1) An electrology education program, taught by a licensed electrology instructor, that includes at least 600 hours of instruction, and has been approved by the Board; or

(2) An electrology education program in any other state that the Board determines is substantially equivalent to that required by item (1) of this subsection.

(e) (1) Except as otherwise provided in this subtitle, each applicant shall pass:

(i) An examination approved by the Board; and

(ii) A clinical examination approved by the Board.

(2) Applicants are responsible for scheduling the examinations required under paragraph (1) of this subsection.

(f) In addition to the other requirements of this section, an applicant for an electrology instructor license shall:

(1) Be a licensed electrologist;

(2) Have practiced electrology actively for at least 5 years immediately before the application;

(3) Pass an examination approved by the Board; and

(4) Meet any other requirements set forth in regulations adopted by the Board under § 8–6B–03 of this subtitle.

§8–6B–09.

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

(1) Submit to a criminal history records check in accordance with § 8-303 of this title;

(2) Submit to the Board:

(i) An application on the form that the Board requires;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met; and

(iii) Evidence of compliance with the requirements of § 8-6B-08 of this subtitle; and

(3) Pay to the Board a fee set by the Board.

(b) The Board shall issue the appropriate license to an applicant who meets the requirements of this subtitle.

§8–6B–10.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) (1) The Board shall give examinations to applicants.

(2) The Board may give reexaminations to applicants who fail all or part of an examination.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) Except as otherwise provided under this subtitle, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(e) (1) An applicant may retake an examination or a failed section of an

examination after paying a reexamination fee set by the Board.

(2) An applicant who fails two reexaminations may retake the examination only if the applicant:

(i) Retakes the entire examination;

(ii) Pays the full examination fee; and

(iii) Completes an education program that the Board requires.

§8–6B–11.

(a) Subject to the provisions of this section, the Board may issue a license by endorsement and waive the examination requirement of this subtitle for an individual who is licensed to practice electrology in another state.

(b) The Board may issue a license by endorsement under this section only if the applicant:

(1) Pays the license fee required by the Board; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this subtitle;

(ii) Became licensed in the other state after passing in that state, or any other state, an examination that is substantially equivalent to an examination approved by the Board; and

(iii) Became licensed in the other state after meeting requirements that are substantially equivalent to the requirements of this subtitle.

§8–6B–12.

(a) Subject to subsection (c) of this section, the Board shall issue a license to any applicant who:

(1) Meets the requirements of this subtitle; and

(2) Pays a license fee set by the Board.

(b) The Board shall include on each license that the Board issues a license designation as:

(1) Licensed electrologist; or

(2) Licensed electrology instructor.

(c) (1) On receipt of the criminal history record information of an applicant for licensure forwarded to the Board in accordance with § 8-303 of this title, in determining whether to grant a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates that the applicant does not pose a threat to the public health or safety.

(2) The Board may not issue a license if the criminal history record information required under § 8-303 of this title has not been received.

§8–6B–13.

(a) An electrologist's license issued under this subtitle authorizes the licensee to practice electrology while the license is effective.

(b) An electrology instructor's license issued under this subtitle authorizes the licensee to practice electrology and to teach an electrology education program while the license is effective.

§8–6B–14.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) A license may not be renewed for a term longer than 2 years.

(c) (1) At least 3 months before a license expires, the Board shall send a renewal notice to the licensee, by:

(i) First–class mail to the last known mailing address of the licensee; or

(ii) Electronic means to the last known electronic address of the licensee.

(2) A renewal notice shall state:

(i) The date on which the current license expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(iii) The amount of the renewal fee.

(d) Except as otherwise provided in this subtitle, before a license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirement set under this subtitle for license renewal.

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

(f) Subject to subsection (k) of this section, the Board shall renew the license of each licensee who meets the requirements of this section.

(g) If a licensee fails to provide satisfactory evidence of compliance with any continuing education requirements set under this subtitle for license renewal, the Board shall place the licensee on inactive status.

(h) (1) The Board shall place a licensee on inactive status and record the inactive status in the Board's database and on the Board's Web site, if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board;

(ii) If applicable, documentation of a medical condition that the Board determines will prevent the licensee from practicing electrology; and

(iii) If applicable, the inactive status fee set by the Board.

(2) The Board shall reactivate the license of an individual who is on inactive status and record the status of the licensee as active in the Board's database and on the Board's Web site, if the individual:

(i) Complies with any continuing education requirement established by the Board for this purpose;

(ii) If applicable, submits documentation satisfactory to the Board that the medical condition for which the inactive status was granted no longer exists;

(iii) If applicable, pays to the Board a reactivation fee set by the Board; and

(iv) Is otherwise entitled to be licensed.

(3) If the individual has been on inactive status for 5 years or more, before the Board may reactivate the license, the individual must pass an examination approved by the Board.

(4) (i) If a licensee is granted inactive status because of a medical condition, the Board may not charge a fee to place the licensee on or remove the licensee from inactive status.

(ii) If a licensee is granted inactive status because of a medical condition, the inactive status:

1. May not be considered a disciplinary action under § 8–6B–18 of this subtitle; and

2. May not be reported to any certifying entity, employer, or insurance company as a disciplinary action.

(i) The Board, in accordance with its rules and regulations, shall reinstate the license of an individual who has failed to renew the license for any reason if the individual:

(1) Is otherwise entitled to be licensed;

(2) Complies with any continuing education requirement established by the Board for this purpose;

(3) Pays to the Board a reinstatement fee set by the Board;

(4) For an expired license or lapsed license that has been expired or lapsed for more than 1 year, completes a criminal history records check in accordance with § 8–303 of this title; and

(5) Applies to the Board for reinstatement of the license within 5 years after the license expires.

(j) (1) The Board may not reinstate the license of an electrologist or an electrology instructor who fails to apply for reinstatement of the license within 5 years after the license expires.

(2) The electrologist or electrology instructor may become licensed by

meeting the current requirements for obtaining a new license under this subtitle.

(k) (1) (i) Beginning January 2011, the Board shall begin a process requiring criminal history records checks on selected annual renewal applicants as determined by regulations adopted by the Board in accordance with § 8–303 of this title.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this title, in determining whether to renew a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates that the licensee does not pose a threat to the public health or safety.

(3) The Board may not renew a license if the criminal history record information required under § 8–303 of this title has not been received.

§8–6B–15.

(a) Unless the Board agrees to accept the surrender of a license, a licensed electrologist or licensed electrology instructor may not surrender the license.

(b) The Board may require terms and conditions on an agreement with the licensed electrologist or licensed electrology instructor to accept surrender of the license.

(c) An agreement to accept the surrender of a license is a final order of the Board and is a public record.

§8–6B–16.

(a) Before an institution may operate an electrology education program in the State, the Board shall approve the program.

(b) The Board shall approve an electrology education program in the State if:

(1) The Maryland Higher Education Commission approves the program; and

(2) The institution that offers the program submits evidence to the Board that the institution is prepared to:

(i) Meet the standards established in regulations adopted by the Board under § 8-6B-03 of this subtitle; and

(ii) Carry out an education program in:

1. The theory of electrology; or

2. The clinical practice of electrology.

(c) (1) The Board periodically may evaluate electrology programs in the State and prepare a written report.

(2) If an institution that offers an approved electrology education program violates any of the standards set by the Board under this subtitle, the Board shall give the institution specific, written notice of the violation.

§8–6B–17.

Subject to the hearing provisions of § 8-317 of this title and § 8-6B-19 of this subtitle, the Board may remove an institution from its list of institutions that offer approved electrology education programs if the institution:

(1) Is guilty of fraud or deceit in obtaining or attempting to obtain approval;

(2) Acts in a manner inconsistent with generally accepted standards for the practice of electrology;

(3) Advertises in a manner that the Board determines violates § 8-6B-22 of this subtitle;

(4) Violates the standards set under this subtitle and does not correct the violation in a reasonable time after notice is given; or

(5) No longer operates a program that qualifies for approval under this subtitle.

§8–6B–18.

(a) Subject to the hearing provisions of § 8–317 of this title and § 8–6B–19 of this subtitle, the Board may deny a license to an applicant, grant a license, including a license subject to a reprimand, probation, or suspension, to an applicant, reprimand a licensee, place a 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) As part of the practice of electrology, knowingly does an act that exceeds the scope of the practice of electrology;

(4) Is grossly negligent in practicing or teaching an electrology education program;

(5) Acts in a manner inconsistent with generally accepted standards for the practice of electrology;

(6) 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;

(7) Is disciplined by a licensing or disciplinary authority of any state or country, 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 the Board's disciplinary statutes;

(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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(9) Uses types of instruments or procedures in the practice of electrology that are not approved by the Board;

(10) Advertises in a manner that violates this subtitle;

(11) Uses a title not authorized by § 8–6B–23 of this subtitle;

(12) Is currently adjudicated as being a disabled individual under Title 13 of the Estates and Trusts Article;

(13) Practices electrology with an unauthorized individual or supervises or aids an unauthorized individual in the practice of electrology;

(14) Willfully makes or files a false report or record in the practice of electrology;

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

(16) Submits a false statement to collect a fee;

(17) Violates a provision of this subtitle or a rule or regulation adopted by the Board;

(18) Uses or promotes or causes the use of a misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

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

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

(21) Behaves immorally in the practice of electrology;

(22) Commits an act of unprofessional conduct in the practice of electrology;

(23) 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;

(24) 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;

(25) Fails to display the notice required under § 8–6B–26 of this subtitle;

(26) Fails to submit to a criminal history records check in accordance with § 8–303 of this title;

(27) Fails to allow an inspection under § 8–6B–06(10) and (11) of this subtitle;

(28) Fails to cooperate with a lawful investigation conducted by the Board;

(29) Practices electrology without a license before obtaining or renewing a license, including any period when practicing electrology on an expired license or a lapsed license; or

(30) After failing to renew a license, commits any act that would be grounds for disciplinary action under this section.

(b) In addition to any sanction authorized under this section, the Board may require a licensee to comply with specified terms and conditions determined by the Board.

§8–6B–19.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 8-6B-17 or § 8-6B-18 of this subtitle, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) The hearing notice to be given to the person shall be sent by certified mail, return receipt requested, to the last known address of the person at least 30 days before the hearing.

(d) The person may be represented at the hearing by counsel.

(e) (1) The Board may issue subpoenas and administer oaths in connection with a proceeding under this section.

(2) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath, testify, or answer a question, then on petition of the Board, a court of competent jurisdiction:

(i) Shall compel compliance with the subpoena; and

(ii) May hold the person in contempt of court.

(f) If after due notice the person against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

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

(h) (1) After the Board conducts an investigation under this subtitle, the Board may issue an advisory letter to the certificate holder.

(2) The Board may disclose an advisory letter issued under this subsection to the public.

(3) The issuance of an advisory letter under this subsection may not:

(i) Be considered a disciplinary action under § 8-6B-18 of this subtitle; and

(ii) Be reported to any licensing entity, employer, or insurance company as a disciplinary action.

§8–6B–20.

(a) If after a hearing under § 8-6B-19 of this subtitle the Board finds that there are grounds under that section to suspend or revoke a license, the Board may impose a penalty not exceeding $5,000:

(1) Instead of suspending the license; or

(2) In addition to suspending or revoking the license.

(b) The Board shall adopt rules and regulations to set standards for the imposition of penalties under this section.

(c) The Board shall pay a penalty collected under this section into the General Fund of the State.

§8–6B–21.

(a) Except as provided in subsection (b) of this section, a person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) A person aggrieved by a final decision of the Board pursuant to § 8–6B–19 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) An order of the Board may not be stayed pending review.

§8–6B–22.

(a) If a license was suspended or revoked for a period of more than 1 year, or if a period of more than 1 year has passed since a license was surrendered, the Board may reinstate the license if the licensee:

(1) Applies to the Board for reinstatement;

(2) Meets the requirements for renewal under § 8–6B–14 of this subtitle;

(3) Meets any other requirements for reinstatement as established by the Board; and

(4) Submits to a criminal history records check in accordance with § 8–303 of this title.

(b) If a licensee meets the requirements of subsection (a) of this section, the Board may:

(1) Reinstate the license;

(2) Reinstate the license subject to terms and conditions that the Board considers necessary, including a period of probation; or

(3) Deny reinstatement of the license.

§8–6B–23.

(a) Unless authorized to practice electrology, or to teach an electrology program under this subtitle, an individual may not represent to the public by title, description of service, method, procedure, or otherwise, that the individual is authorized to practice electrology or to teach an electrology education program in the State.

(b) Neither a licensee nor an institution that offers an approved electrology education program may advertise in a manner that is unreasonable, misleading, or fraudulent.

(c) Unless authorized to practice electrology or instruct electrology under this subtitle, a person:

(1) May not use the designation "electrologist", "licensed electrologist", "licensed electrology instructor", or "electrology instructor"; and

(2) May not use the abbreviation "L.E." or "L.E.I.".

§8–6B–24.

(a) The Board shall adopt rules and regulations that specify the types of instruments and procedures that the Board approves for use in the practice and teaching of electrology.

(b) A licensee may use only those types of instruments and procedures in the practice of electrology or teaching of the clinical practice of electrology that are approved by the Board.

§8–6B–26.

If an electrologist is engaged in the private practice of electrology in the State, the electrologist shall display the notice developed under § 1-207 of this article conspicuously in each office where the electrologist is engaged in practice.

§8–6B–27.

A person who violates any provision of § 8–6B–23 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

§8–6B–28.

This subtitle may be cited as the "Maryland Electrologists Act".

§8–6B–29.

(a) The authority of the Board established under this subtitle:

(1) Vests with the Board at the time an individual applies for licensure;

(2) Continues during periods of licensure; and

(3) Includes authority over an individual holding an expired license or a lapsed license.

(b) The authority of the Board shall be continuous over an individual applicant or licensee and may not be divested by withdrawal of an application or when a license expires or lapses.

§8–6B–30.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, and subject to the termination of this title under § 8–802 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, 2023.

§8–701.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice registered nursing, registered nursing as an advanced practice nurse, or licensed practical nursing in this State unless licensed by the Board to practice registered nursing, registered nursing as an advanced practice nurse, or licensed practical nursing, respectively.

(b) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice electrology in this State unless licensed by the Board to practice electrology.

(c) (1) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified nursing assistant unless certified by the Board as a certified nursing assistant.

(2) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified nursing assistant in a specific category unless certified by the Board as a certified nursing assistant in that category.

(d) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified medication technician in this State unless certified by the Board to practice as a certified medication technician.

(e) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified medicine aide unless certified by the Board

to practice as a certified medicine aide.

(f) A person may not require a licensee to perform an act that is beyond the licensee's knowledge and skills.

(g) A person may not direct a licensee to delegate a nursing task to a nurse when the person reasonably believes:

(1) The nurse lacks the knowledge and skills to perform the nursing task; or

(2) The patient's condition does not allow delegation of the nursing task.

§8–702.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice registered nursing or licensed practical nursing beyond the scope of the license issued to that person.

§8–703.

(a) (1) Unless authorized to practice registered nursing under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice registered nursing in this State.

(2) Unless authorized to practice licensed practical nursing under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice licensed practical nursing in this State.

(3) Unless authorized to provide patient care as a certified nursing assistant or medication assistant under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to provide care as a certified nursing assistant or medication assistant in this State.

(4) Unless authorized to provide patient care in a specific category of certified nursing assistant, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to provide care as a certified nursing assistant in a specific category in this State.

(5) Unless authorized to administer medication as a medication technician under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to administer medication as a certified medication technician in this State.

(6) Unless authorized to administer medication as a medicine aide under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to administer medication as a certified medicine aide in this State.

(b) Unless authorized to practice registered nursing or licensed practical nursing under this title, a person may not use the word "nurse" to describe the profession of the person.

(c) Unless authorized to practice registered nursing under this title, a person may not use the words or terms "registered nurse", the abbreviation "R.N.", or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the person practices registered nursing.

(d) Unless authorized to practice licensed practical nursing under this title, a person may not use the words or terms "licensed practical nurse", the abbreviation "L.P.N.", or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the person practices licensed practical nursing.

(e) Unless authorized to practice as a nursing graduate under this title, a person may not use the words "nursing graduate", the abbreviation "NG", or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the person practices as a nursing graduate.

(f) Unless authorized to practice as a certified nursing assistant under this title, a person may not use the words or terms "nursing assistant" or "certified nursing assistant", the abbreviation "CNA", or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the person practices as a certified nursing assistant.

(g) Unless authorized to practice as a certified medication technician under this title, a person may not use the words or terms "medication technician" or "certified medication technician", the abbreviation "MT", or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the person practices as a certified medication technician.

(h) Unless authorized to practice as a certified medicine aide under this title, a person may not use the words or terms "medicine aide" or "certified medicine aide" or any other title, symbol, abbreviation, sign, card, device, or other representation with the intent to represent that the person practices as a certified medicine aide.

§8–704.

A person may not sell, fraudulently obtain, fraudulently provide, or fraudulently aid or abet the sale, fraudulent obtainment, or fraudulent provision of any record, nursing diploma, license, license renewal, certificate, or certificate renewal.

§8–705.

(a) A person may not practice registered nursing under color of any diploma, license, or record that is:

(1) Illegally or fraudulently obtained; or

(2) Signed or issued unlawfully or by fraudulent representation.

(b) A person may not practice licensed practical nursing under color of any diploma, license, or record that is:

(1) Illegally or fraudulently obtained; or

(2) Signed or issued unlawfully or by fraudulent representation.

(c) An individual may not practice as a nursing assistant under color of any diploma, license, record, or certificate that is:

(1) Illegally or fraudulently obtained; or

(2) Signed or issued unlawfully or by fraudulent representation.

(d) An individual may not practice as a certified medication technician under color of any diploma, license, record, or certificate that is:

(1) Illegally or fraudulently obtained; or

(2) Signed or issued unlawfully or by fraudulent representation.

(e) An individual may not practice as a certified medicine aide under color of any diploma, license, record, or certificate that is:

(1) Illegally or fraudulently obtained; or

(2) Signed or issued unlawfully or by fraudulent representation.

§8–706.

(a) A person may not knowingly employ to practice registered nursing any person who is not authorized to practice registered nursing under this title.

(b) A person may not knowingly employ to practice licensed practical nursing any person who is not authorized to practice licensed practical nursing under this subtitle.

(c) A person may not knowingly employ any individual who is not authorized to perform delegated nursing duties under this subtitle.

(d) A person may not knowingly employ to practice as a certified nursing assistant any person who is not authorized to practice as a certified nursing assistant under this title.

(e) A person may not knowingly employ to practice as a certified medication technician any person who is not authorized to practice as a certified medication technician under this title.

(f) A person may not knowingly employ to practice as a certified medicine aide any person who is not authorized to practice as a certified medicine aide under this title.

§8–707.

(a) Subject to the hearing provisions of § 8–317 of this title and in addition to any other sanction authorized for a violation of §§ 8–701 through 8–706 of this subtitle, the Board may issue a public cease and desist order, impose a civil fine of not more than $5,000 per offense, or both.

(b) For the purposes of this section, each violation is a separate offense if the violation occurs:

(1) At a different time, date, or location; or

(2) On the same date and location at a different time.

§8–708.

(a) An action may be maintained in the name of the State or the Board to enjoin conduct:

(1) Prohibited under §§ 8–701 through 8–706 of this subtitle; or

(2) That is grounds for disciplinary action under § 8–316, § 8–6A–10, or § 8–6B–18 of this title.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engaged in the acts sought to be enjoined.

§8–710.

(a) Except for a violation of § 8–701(a) through (e) of this subtitle, a person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(b) (1) Except as otherwise provided in this section, subject to the appropriate hearing and appeals provisions, the Board, on the affirmative vote of the majority of its members, may reprimand a licensee or certificate holder, place a licensee or certificate holder on probation, or suspend or revoke a license or certificate of a person who violates any provision of this subtitle.

(2) A person who is licensed, certified, or otherwise authorized to provide health care services under this article is not subject to the penalty provided in subsections (a) and (b) of this section for a violation of § 8–701(f) and (g) of this subtitle.

§8–711.

(a) The Board may impose a civil fine on a licensee who fails to renew a license within 30 days after the date of expiration of the license and engages in the practice of nursing during the period of expiration.

(b) The civil fine shall be $5 a day for each day that the violation continues, up to a maximum of $500.

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

§8–7A–01.

The Nurse Multistate Licensure Compact is hereby enacted and entered into with all other jurisdictions that legally join in the Compact in the form substantially as the Compact appears in this section as follows:

Article I. Findings and Statement of Purpose.

1.

The party states to this Compact find that:

(a) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensing laws;

(b) Violations of nurse licensure and other laws relating to the practice of nursing may result in injury or harm to the public;

(c) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensing and regulation;

(d) New practice modalities and technology make compliance with individual state nurse licensing laws difficult and complex; and

(e) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and the states.

2.

The general purposes of this Compact are to:

(a) Facilitate the states' responsibility to protect the health and safety of the public;

(b) Ensure and encourage the cooperation of party states in the areas of nurse licensing and regulation;

(c) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(d) Promote compliance with the laws governing the practice of nursing in each jurisdiction; and

(e) Authorize the party states to hold a nurse accountable for meeting all nurse practice laws in the state in which the patient is located at the time that care was rendered through the mutual recognition of party state licenses.

Article II. Definitions.

3.

For the purposes of this Compact, and of any supplemental or concurring legislation enacted under this Compact, except as may be otherwise required by the context:

(a) "Adverse action" means a home or remote state action.

(b) "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

(c) "Compact" means this Nurse Multistate Licensing Compact.

(d) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensing and enforcement

activities related to nurse licensing laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

(e) "Current significant investigative information" means investigative information that:

(1) A licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) Indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and has had an opportunity to respond.

(f) "Home state" means the party state that is the nurse's primary state of residence.

(g) (1) "Home state action" means any administrative, civil, equitable, or criminal action permitted by the laws of the home state which are imposed on a nurse by the licensing board of the home state.

(2) "Home state action" includes:

(i) Revocation of a license;

(ii) Suspension of a license;

(iii) Probation of a licensee; or

(iv) Any other action which affects a nurse's authorization to practice.

(h) "Multistate licensing privilege" means the current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in a party state.

(i) "Nurse" means a registered nurse or a licensed practical or vocational nurse as those terms are defined by the laws of each party state.

(j) "Party state" means any state that has adopted this Compact.

(k) "Remote state" means a party state, other than the home state:

(1) Where the patient is located at the time nursing care is provided; or

(2) In the case of the practice of nursing that does not involve a patient, in the party state where the recipient of nursing practices is located.

(l) "Remote state action" means any:

(1) Administrative, civil, equitable, or criminal action permitted by the laws of the remote state which are imposed on a nurse by the licensing board of the remote state or other authority, including actions against an individual's multistate licensing privilege to practice in the remote state; and

(2) Cease and desist or other injunctive or equitable orders issued by remote states or their licensing boards.

(m) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(n) (1) "State practice laws" means those individual party state's laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline.

(2) "State practice laws" does not include the initial qualifications for licensure or the requirements necessary to obtain and retain a license, except for the qualifications and requirements of the home state.

Article III. General Provisions and Jurisdiction.

4.

A license to practice registered nursing issued by a home state to a resident of that state will be recognized by each party state as authorization for a multistate licensing privilege to practice as a registered nurse in a party state. A license to practice licensed practical or vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorization for a multistate licensing privilege to practice as a licensed practical or vocational nurse in a party state. In order to obtain or retain a license, an applicant shall meet the home state's qualifications for licensure and license renewal, as well as other applicable state laws.

5.

Party states may, in accordance with the due process laws of that state, limit or revoke the multistate licensing privilege of any nurse to practice in the state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the party state. All party states are authorized to take actions against the nurse's privileges, including: suspension, revocation, probation, or any other action which affects a nurse's authorization to practice. If a party state takes such an action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure system shall promptly notify the home state of any such actions by remote states.

6.

(a) Every nurse practicing in a party state must comply with the state practice

laws of the state in which the patient is located at the time that care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all practices of nursing, as defined by the laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws of the party state.

(b) This Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensing privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

(c) Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided by the laws of each party state. However, the license granted to the individuals may not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

Article IV. Applications for Licensure in a Party State.

7.

(a) Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether:

(1) The applicant has ever held, or is the holder of, a license issued by any other state;

(2) There are any restrictions on the multistate license privilege; and

(3) Any other adverse action by any state has been taken against the licensee.

(b) A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

(c) A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such a change, provided that the nurse submits evidence of the change in primary state of residence that is satisfactory to the new home state's licensing board.

(d) When a nurse changes primary state of residence by moving:

(1) Between two party states and obtains a license from the new home state, the license from the former home state is no longer valid;

(2) From a nonparty state to a party state and obtains a license from the new home state, the individual state license issued by the nonparty state will remain in full force and effect, subject to the laws of the nonparty state; or

(3) From a party state to a nonparty state, the license issued by the former home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

Article V. Adverse Actions.

8.

In addition to the General Provisions contained in Article III, the following provisions apply:

(a) The licensing board of a remote state shall promptly notify the administrator of the coordinated licensure information system of any remote state actions, including the factual and legal basis for such action, if known, and promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

(b) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes the primary state of residence during the course of an investigation. It shall also have the authority to take action or actions, and shall promptly report the conclusions of the investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(c) A remote state may take an adverse action affecting the multistate licensing privilege to practice within that party state. However, only the home state shall have the power to impose an adverse action against the license issued by the home state.

(d) For purposes of imposing an adverse action, the licensing board of the home state shall give the same priority and effect to the reported conduct received from a remote state as it would if the conduct had occurred in the home state. In doing so, the home state shall apply its own state laws to determine the appropriate action to take against the licensee.

(e) The home state may take an adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such an adverse action.

(f) Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action, and that such participation shall remain nonpublic if required by the laws of the party state. Party states shall require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from that party state.

Article VI. Additional Authority Invested in Party State Nurse Licensing Boards.

9.

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(a) Recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse, if otherwise permitted by state law;

(b) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance of witnesses or the production of evidence from another party state or both, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or the evidence are located;

(c) Issue cease and desist orders to limit or revoke a nurse's authority to practice in the state; and

(d) Promulgate uniform rules and regulations as provided by Article VIII of this Compact.

Article VII. Coordinated Licensure Information System.

10.

(a) All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical or vocational nurses. This system shall include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) Notwithstanding any other provision of law, the nurse licensing boards of party states shall promptly report an adverse action, actions against multistate licensing privileges, any current significant investigative information yet to result in an adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

(c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to the nurse licensing boards of party states.

(d) Notwithstanding any other provision of law, the nurse licensing boards of party states contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other individuals or entities without the express permission of the contributing state.

(e) Any personally identifiable information obtained by the nurse licensing board of a party state from the coordinated licensure information system may not be shared with nonparty states or disclosed to other individuals or entities except to the extent permitted by the laws of the party state contributing the information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(g) The Compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this Compact.

Article VIII. Nurse Multistate Licensure Compact Administration and Interchange of Information.

11.

(a) The head of the nurse licensing board of a party state, or the designee of the head of the nurse licensing board, shall be the administrator of this Compact.

(b) In the State of Maryland, the administrator of this Compact shall be the executive director of the State Board of Nursing.

(c) The Compact administrator of each party state shall furnish to the Compact administrator of each other party state any information or documents, including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this Compact.

(d) Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under the authority vested in Article VI.

Article IX. Immunity.

12.

No party state, or the officers, employees, or agents of a party state's nurse licensing board, that acts in accordance with the provisions of this Compact may be liable on account of any act or omission that is made in good faith while engaged in the performance of their duties under this Compact. Good faith in this Article does not include willful misconduct, gross negligence, or recklessness.

Article X. Entry into Force, Withdrawal, and Amendment.

13.

(a) This Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing this Compact, but no such withdrawal may take effect until 6 months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

(b) No withdrawal may affect the validity or applicability of state nurse licensing boards remaining party to this Compact in reporting an adverse action that occurs prior to the withdrawal.

(c) Nothing contained in this Compact may be construed to invalidate or prevent any nurse licensing agreement or other cooperative agreement between a party state and a nonparty state that is made in accordance with other provisions of this Compact.

(d) This Compact may be amended by the party states. No amendment to this Compact may be effective until it is enacted into the laws of all party states.

Article XI. Construction and Severability.

14.

(a) This Compact shall be liberally construed so as to effectuate the purpose of the Compact. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the Constitution of the United States or of the party states, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance may not be affected thereby. If this Compact is held to be contrary to the constitution of a party state, this Compact shall remain in full force and effect as to the remaining party states, and to the party state affected as to all severable matters.

(b) In the event that party states find a need for settling disputes arising under this Compact:

(1) The party states may submit the issues in dispute to an arbitration panel which shall be comprised of an individual appointed by the Compact administrator in the home state, an individual appointed by the Compact administrator in the remote state or states involved in the dispute, and an individual who is chosen by mutual agreement of all of the party states involved in the dispute; and

(2) The decision of a majority of the arbitrators shall be final and binding.

§8–7A–02.

Judicial review of the validity of discipline in another state as set forth in Article V of this Compact shall be limited to the issue of the identity of the individual who was

disciplined in another state.

§8–7A–03.

(a) This Nurse Multistate Licensure Compact may not nullify any other provision in this title or any other title applicable to the practice of nursing in the State.

(b) In any instance where this Nurse Multistate Licensure Compact is silent as to an issue, the other provisions of this title and any regulations promulgated under this title shall prevail.

§8–7A–04.

In addition to the powers and duties set forth in this title, the Board shall promulgate regulations to effectuate the provisions of this Nurse Multistate Licensure Compact.

§8–7A–05.

This Nurse Multistate Licensure Compact:

(a) Is designed to facilitate the regulation of nurses, and may not relieve employers from complying with contractual and statutorily imposed obligations; and

(b) May not supersede existing State labor laws.

§8–801.

This title may be cited as the "Maryland Nurse Practice Act".

§8–802.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this title and of any rule or regulation adopted under this title shall terminate and be of no effect after July 1, 2023.

§9–101.

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

(b) "Board" means the State Board of Examiners of Nursing Home Administrators.

(c) "License" means, unless the context requires otherwise, a license issued by the Board to practice as a nursing home administrator.

(d) "Licensed nursing home administrator" means, unless the context requires otherwise, an individual who is licensed by the Board to practice as a nursing home

administrator.

(e) "Nursing home" means an institution or part of an institution that:

(1) Is a "skilled nursing facility" or an "intermediate care facility" as those terms are defined by federal law and participates in a program under Title XVIII or Title XIX of the Social Security Act; or

(2) If it is licensed only by this State, otherwise meets the federal requirements for a "skilled nursing facility" or an "intermediate care facility" as those terms are defined by federal law.

(f) "Nursing home administrator" means an individual who administers, manages, or is in general administrative charge of a nursing home whether or not the individual:

(1) Has an ownership interest in the nursing home; or

(2) Shares duties and functions with other individuals.

§9–102.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§9–201.

There is a State Board of Examiners of Nursing Home Administrators in the Department.

§9–202.

(a) (1) The Board consists of 14 members.

(2) Of the 14 Board members:

(i) Six members shall be licensed nursing home administrators who are practicing actively and have at least 5 years experience as licensed nursing home administrators, one of whom has experience with the Eden Alternative Green House or a similar program, if practicable;

(ii) Two shall be individuals who are not nursing home administrators but who are engaged actively in professions that are concerned with the care of chronically ill, infirm, or aged individuals;

(iii) One shall be a physician or a nurse practitioner who specializes in geriatrics;

(iv) One shall be a geriatric social worker;

(v) One shall be the State Long–Term Care Ombudsman designated under § 10–903 of the Human Services Article; and

(vi) Two shall be consumer members.

(3) Not more than three members may be officials or full–time employees of this State or of any of its political subdivisions.

(4) A representative of the Office of Health Care Quality shall serve as an ex officio member.

(b) (1) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(2) (i) Except for the consumer members and the State Long–Term Care Ombudsman, the Governor shall appoint each Board member, with the advice of the Secretary.

(ii) The Secretary shall make each recommendation after consulting with the associations and societies appropriate to the disciplines and professions representative of the vacancy to be filled.

(c) Each Board member shall:

(1) Be a United States citizen or have declared an intent to become a United States citizen; and

(2) Have resided in this State for at least 1 year before appointment to the Board.

(d) (1) Each consumer member of the Board:

(i) Shall be a member of the general public;

(ii) May not be or ever have been a nursing home administrator or in training to become a nursing home administrator;

(iii) May not have a household member who is a nursing home administrator or in training to become a nursing home administrator;

(iv) May not participate or ever have participated in a commercial or professional field related to the practice of a nursing home administrator;

(v) May not have a household member who participates in a commercial or professional field related to the practice of a nursing home administrator; and

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

(2) One consumer member shall have presently or have had a family member living in a nursing home.

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

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) This subsection does not apply to the State Long–Term Care Ombudsman.

(2) The term of a member is 4 years.

(3) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

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

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

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

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

(h) (1) The Governor may remove a member for incompetence, misconduct, incapacity, or neglect of duty.

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

§9–203.

(a) From among the Board members, the Governor shall appoint a chairman and vice chairman of the Board.

(b) (1) The Board shall appoint and the Secretary shall confirm the Board executive director.

(2) The Board executive director may not be a member of the Board and serves at the pleasure of the Board.

(3) The Board executive director is the executive officer of the Board.

(4) The Board executive director shall have, at a minimum, a bachelor's

degree.

(c) The Board shall determine the duties of each officer.

§9–204.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall meet at least twice a year, at the times and places that it determines.

(c) Each member of the Board is entitled to:

(1) Compensation determined by the Secretary in accordance with the State budget, unless the member otherwise is a public employee; and

(2) Reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the State budget.

§9–205.

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

(1) Adopt rules and regulations to carry out the provisions of this title; and

(2) Take any action necessary to enable the State to meet applicable federal requirements.

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

(1) Report directly to the Secretary, as the Secretary requires;

(2) Adopt standards for:

(i) Licensure of applicants; and

(ii) Practice of licensees;

(3) Devise examinations and adopt investigative procedures to:

(i) Determine whether licensees meet the standards adopted by the Board; and

(ii) Assure that licensees continue to meet these standards; and

(4) Conduct a continuing study and investigation of nursing homes and nursing home administrators to improve:

(i) Licensing standards; and

(ii) Procedures for enforcing these standards.

§9–206.

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

(b) The Board shall pay all funds collected under this title into the General Fund of this State.

§9–207.

A person shall have the immunity from liability described under § 5-710 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§9–301.

(a) Except as otherwise provided in this section, an individual shall be licensed by the Board before the individual may practice as a nursing home administrator in this State.

(b) (1) Except as provided in paragraph (2) of this subsection, if a licensee leaves or is removed from a position as a nursing home administrator by death or for any other unexpected cause, the owner of the nursing home or other appropriate nursing home authority shall immediately:

(i) Designate a licensed nursing home administrator to serve in that capacity; and

(ii) Notify the Board of the designated licensed nursing home administrator's name.

(2) (i) In the event a nursing home administrator is not available, the owner or other appropriate nursing home authority may appoint a nonlicensed person to serve in the capacity of acting nursing home administrator for a period not to exceed 90 days.

(ii) The owner or other appropriate nursing home authority shall immediately notify the Board of the appointment and forward the credentials of the person appointed to the Board for evaluation to assure that the person appointed is experienced, trained, and competent.

(iii) The 90-day period begins on the date that the licensee leaves or is removed from the position as a nursing home administrator.

(iv) The Board may extend the 90-day period for a further period of not more than 30 days.

§9–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 21 years old.

(d) (1) The applicant shall:

(i) 1. Have a baccalaureate or master's degree in health care administration from an accredited college or university; or

2. A. Have a baccalaureate or master's degree in a field other than health care administration from an accredited college or university; and

B. Have satisfactorily completed a minimum of 100 hours in a course of study in health care administration approved by the Board; and

(ii) 1. Have completed an administrator–in–training program approved by the Board; or

2. Have completed 1 year of full–time nursing home administration in a nursing home.

(2) The requirements of paragraph (1) of this subsection do not apply to an individual who:

(i) Was in possession of a valid license on December 15, 1988; or

(ii) 1. Had applied for a license by December 15, 1988; and

2. Met all of the other requirements for licensure.

(e) The Board may waive any education requirement of subsection (d) of this section for an individual who was licensed and practiced as a nursing home administrator for at least 3 years in another state.

(f) (1) Notwithstanding the provisions of subsection (d)(1)(i)1 or 2A of this section, the Board may not require an applicant to have a baccalaureate degree if the applicant:

(i) Is a registered nurse who:

1. Has an associate in arts degree in nursing; or

2. Is a diplomate nurse;

(ii) Has been working as a nursing home director of nursing for a period of at least 5 years, with at least 3 years experience at the same facility, prior to the date the applicant submits an application to the Board for a license;

(iii) Has completed at least 6 months of full-time nursing home administration in a training program approved by the Board; and

(iv) Has satisfactorily completed a minimum of 100 hours in a course of study in health care administration, or equivalent, approved by the Board.

(2) Whenever federal law requires that an applicant for a license to practice as a nursing home administrator must have a baccalaureate degree in health care administration or in a field other than health care administration the provisions of this section shall cease to be effective.

(g) Except as otherwise provided in this title, the applicant shall pass an examination given by the Board under this subtitle.

§9–303.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§9–304.

(a) The Board shall keep a file of each licensing application made under this subtitle.

(b) The file shall contain:

(1) The name, address, and age of the applicant;

(2) The name and address of the employer or business connection of the applicant;

(3) The date of the application;

(4) Complete and current information on the educational, training, and experience qualifications of the applicant;

(5) The date the Board reviewed and acted on the application;

(6) The action taken by the Board on the application;

(7) The identifying numbers of any license certificate or renewal certificate issued to the applicant; and

(8) Any other information that the Board considers necessary.

(c) The application files shall be open to public inspection.

§9–305.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least four times a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) Subject to the provisions of this subsection, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(2) The subjects of examination shall be related to:

(i) Nursing home administration;

(ii) Health administration; and

(iii) Attendant matters.

(3) Each applicant shall be required to show knowledge of the laws, rules, and regulations that apply to nursing homes.

(4) The scope, content, and form of an examination shall be the same for all license applicants who take the examination at the same time.

(e) The Board may not limit the number of times an applicant may take an examination required under this subtitle.

§9–306.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this title for an individual who is licensed as a nursing home administrator in any other state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Is of good moral character;

(2) Pays the application fee required by the Board under § 9-303 of this

subtitle;

(3) Provides adequate evidence that:

(i) At the time the applicant was licensed in the other state, the applicant was qualified to take the examination that then was required by the laws of this State; and

(ii) The applicant qualified for a license in the other state by passing an examination given in that or any other state.

§9–307.

(a) In this section, "certified institution" means an institution that:

(1) Cares for and treats the sick in accordance with the teachings of any recognized church or religious denomination that teaches reliance on spiritual means through prayer alone for healing; and

(2) Is certified by that church or religious denomination to provide this care and treatment.

(b) The Board may issue a limited license that permits the licensee to practice as a nursing home administrator only in a certified institution.

(c) An applicant qualifies for a limited license only if a recognized church or religious denomination that teaches reliance on spiritual means through prayer alone for healing approves the applicant as qualified to administer certified institutions.

(d) As a qualification for a limited license, the Board may not require the applicant to demonstrate proficiency in any medical technique or to meet any medical educational qualification or other medical standard that is not in accord with the remedial care and treatment provided in a certified institution.

(e) A license certificate and license card issued under this section shall include a statement that practice as a nursing home administrator under the license is restricted to a certified institution named in the license.

§9–308.

The Board shall issue a license certificate and a license card to any applicant who meets the requirements of this title.

§9–309.

The applicant may petition for judicial review of a decision of the Board that relates to issuing or renewing a license, as provided in the Administrative Procedure Act.

§9–310.

A license authorizes the licensee to practice as a nursing home administrator while the license is effective.

§9–311.

(a) A license expires on the second anniversary of its effective date, unless the license is renewed for a 2-year term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, the licensee periodically may renew it for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education and other qualifications and requirements set under this section for license renewal.

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

(2) If a continuing education program relates to federal or State regulation, policy and procedures, or law, the Board, in its sole discretion, may grant a request for accreditation of the program.

(e) The Board shall renew the license of and issue a renewal card to each licensee who meets the requirements of this section.

§9–312.

(a) The Board shall reinstate the license of a nursing home administrator who has failed to renew the license for any reason, if the licensee:

(1) Has not had the license suspended or revoked;

(2) Meets the renewal requirements of § 9-311 of this subtitle;

(3) Pays to the Board the reinstatement fee set by the Board;

(4) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this title for license reinstatements; and

(5) Applies to the Board for reinstatement of the license within 5 years after the license expires.

(b) The Board may not reinstate the license of a nursing home administrator who fails to apply for reinstatement of the license within 5 years after the license expires. However, the nursing home administrator may become licensed by meeting the current requirements for obtaining a new license under this title.

§9–312.1.

(a) If an individual has been licensed by the Board to practice as a nursing home administrator in the State in accordance with the requirements of this subtitle, the individual may be licensed subsequently as a nursing home administrator on inactive status, retaining the licensee's original license number.

(b) (1) The Board shall place a licensee on inactive status if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) A licensee's inactive status expires on the second anniversary of its effective date, unless the licensee renews the inactive status for a 2-year term as provided in this section.

(3) The Board shall provide a licensee who has complied with the requirements of paragraph (1) of this subsection with written notification of:

(i) The date that the licensee's inactive status becomes effective;

(ii) The date that the licensee's 2-year term of inactive status expires; and

(iii) The consequences of:

1. Not renewing inactive status before expiration of the 2-year term of inactive status; and

2. Not resuming active status within the 5-year period of inactive status, beginning on the first day of inactive status.

(c) A licensee on inactive status may not practice as a nursing home administrator in the State.

(d) The Board shall issue a license to a licensee who is on inactive status if the licensee:

(1) Completes an application form for reactivation of a license before expiration of the 2-year term of inactive status on the form required by the Board;

(2) Complies with the renewal requirements in effect at the time the licensee seeks to reactivate the license;

(3) Meets the continuing education requirements set by the Board;

(4) Has not practiced as a nursing home administrator in the State while on inactive status;

(5) Pays all appropriate fees set by the Board;

(6) Has been on inactive status for less than 5 years; and

(7) Is otherwise entitled to be licensed.

(e) Before the Board may reactivate the license of an individual who has been on inactive status for 5 years or more, the individual shall:

(1) Submit a new application;

(2) Pay all appropriate fees set by the Board;

(3) Complete a Board approved 1-month administrator refresher program; and

(4) Pass the State's standards examination.

(f) A nursing home administrator whose inactive license expires before the nursing home administrator returns to active licensure shall meet the reinstatement requirements of § 9-312 of this subtitle.

§9–313.

(a) Unless the Board agrees to accept the surrender of a license, a licensed nursing home administrator 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 nursing home administrator.

(b) The Board may set conditions on its agreement with the nursing home administrator under investigation or against whom charges are pending to accept surrender of the nursing home administrator's license.

§9–314.

(a) The Board shall investigate and take appropriate action as to any complaint filed with the Board that alleges that a licensee has failed to meet any standard of the Board.

(b) Subject to the hearing provisions of § 9-315 of this subtitle, the Board may deny a license or limited license to any applicant, reprimand any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, suspend or revoke a license or limited license, or impose a civil fine if the applicant, holder, or licensee:

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

(2) Fraudulently or deceptively uses a license;

(3) Otherwise fails to meet substantially the standards of practice adopted by the Board under § 9-205 of this title;

(4) 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;

(5) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(7) Practices nursing home administration with an unauthorized person

or supervises or aids an unauthorized person in the practice of nursing home administration;

(8) Willfully makes or files a false report or record in the practice of nursing home administration;

(9) 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;

(10) Submits a false statement to collect a fee;

(11) Commits an act of unprofessional conduct in the licensee's practice as a nursing home administrator; or

(12) 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.

§9–314.1.

(a) (1) If, after a hearing under § 9-315 of this subtitle, the Board finds that there are grounds under § 9-314 of this subtitle to reprimand a licensee, place a licensee on probation, or suspend or revoke a license, the Board may impose a civil fine:

(i) Instead of suspending or revoking the license; or

(ii) In addition to placing the licensee on probation or suspending or revoking the license.

(2) A civil fine imposed under this subsection may not exceed:

(i) $1,000 for a first violation; and

(ii) $5,000 for any subsequent violation of the same provision.

(b) If, after disciplinary procedures have been brought against a licensee, the licensee waives the right to a hearing required under this subtitle and if the Board finds that there are grounds under § 9-314 of this subtitle to reprimand the licensee, place the licensee on probation, or suspend or revoke a license, the Board, in addition to reprimanding the licensee, placing the licensee on probation, or suspending or revoking the license, may impose:

(1) A civil fine not exceeding $1,000 for a first violation; and

(2) A civil fine not exceeding $5,000 for any subsequent violation of the same provision.

(c) The Board shall pay any civil fine collected under this section into the

General Fund of the State.

§9–314.2.

(a) In this section, "nursing home management firm" means an organization that:

(1) Is intended to have or has full responsibility and control for the day–to–day operations of a nursing home; and

(2) Is under contract with:

(i) An applicant for a license from the Secretary to establish, operate, or continue the operation of an existing nursing facility; or

(ii) A holder of a license from the Secretary to operate a nursing facility.

(b) (1) Except as provided in paragraph (2) of this subsection, a nursing home or a nursing home management firm may not knowingly employ or retain as a consultant an individual who, for an activity described in § 9–314(b)(8), (9), or (10) of this subtitle, has surrendered a license under § 9–313 of this subtitle or has had a license revoked under § 9–314 of this subtitle.

(2) A nursing home or nursing home management firm may hire or retain as a consultant an individual who surrendered a license or had a license revoked under this subtitle, but had the license restored by the Board, and who is now a licensee in good standing under the provisions of this title.

§9–315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 9-314 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) Over the signature of an officer or the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(d) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(e) If after due notice the individual against whom the action is contemplated

fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§9–316.

(a) Except as provided in this section for an action under § 9–314 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 9–314 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) An order of the Board may not be stayed pending judicial review.

§9–316.1.

(a) The Board may issue a cease and desist order for practicing nursing home administration without a license or with an unauthorized person or for supervising or aiding an unauthorized person in the practice of nursing home administration.

(b) (1) An action for aiding and abetting may be maintained in the name of the State or the Board to enjoin:

(i) The unauthorized practice of nursing home administration; or

(ii) Conduct that is a ground for disciplinary action under § 9-314 of this subtitle.

(2) An action under this section may be brought by:

(i) The Board, in its own name;

(ii) The Attorney General, in the name of the State; or

(iii) A State's Attorney, in the name of the State.

(3) An action under this section shall be brought in the county where the defendant resides or engages in the acts sought to be enjoined.

(4) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(5) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of nursing home administration under § 9-401 of this title or disciplinary action under § 9-314 of this subtitle.

§9–317.

(a) In this section, "nursing home administrator rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a nursing home administrator rehabilitation committee is a committee of the Board or a committee of any association representing nursing home administrators that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to nursing home administrators.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a nursing home administrator rehabilitation committee evaluates and provides assistance to any nursing home administrator, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the nursing home administrator rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the nursing home administrator rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the nursing home administrator rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a nursing home administrator rehabilitation committee is not civilly liable for any action as a member of the nursing home administrator rehabilitation committee or for giving

information to, participating in, or contributing to the function of the nursing home administrator rehabilitation committee.

§9–401.

Except as otherwise provided in this title, an individual may not:

(1) Practice, attempt to practice, or offer to practice as a nursing home administrator in this State unless licensed by the Board; or

(2) Supervise, direct, induce, or aid an unlicensed individual to practice as a nursing home administrator.

§9–402.

(a) Unless authorized to practice as a nursing home administrator under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice as a nursing home administrator in this State.

(b) Unless authorized to practice under this title, a person may not use the title "nursing home administrator", or the abbreviation "N.H.A." or any other designation, title, or abbreviation with the intent to represent that the person is authorized to practice as a nursing home administrator.

§9–403.

A person may not:

(1) Sell or fraudulently obtain or furnish or aid in selling or fraudulently obtaining or furnishing a license issued under this title; or

(2) Practice as a nursing home administrator under any license unlawfully or fraudulently obtained or unlawfully issued.

§9–404.

Except when a nursing home administrator is removed from the position by death or for any other unexpected cause as provided in § 9-301 of this title, a nursing home may not be operated unless it is under the supervision of a licensed nursing home administrator.

§9–407.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to:

(1) A fine not exceeding $1,000 for a first offense; and

(2) A fine not exceeding $5,000 or imprisonment not exceeding 6 months or both for any subsequent violation of the same provision.

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

§9–501.

This title may be cited as the "Maryland Nursing Home Administrators Licensing Act".

§9–502.

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, 2017.

§10–101.

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

(b) "ACOTE" means the Accreditation Council for Occupational Therapy Education.

(c) "Aide" means any individual who:

(1) Is not licensed by the Board to perform occupational therapy or limited occupational therapy; and

(2) Provides supportive services to the occupational therapist or occupational therapy assistant under direct supervision.

(d) "Board" means the State Board of Occupational Therapy Practice.

(e) "Direct supervision" means supervision provided on a face-to-face basis by a supervising therapist when delegated client-related tasks are performed.

(f) "License" means, unless the context requires otherwise, a license issued by the Board to practice:

(1) Occupational therapy; or

(2) Limited occupational therapy.

(g) "Licensed occupational therapist" means, unless the context requires otherwise, an occupational therapist who is licensed by the Board to practice occupational therapy.

(h) "Licensed occupational therapy assistant" means, unless the context

requires otherwise, an occupational therapy assistant who is licensed by the Board to practice limited occupational therapy.

(i) (1) "Limited occupational therapy" means participation, while under the periodic supervision of a licensed occupational therapist, in:

(i) An initial screening and evaluation that applies the principles and procedures of occupational therapy; and

(ii) A treatment program that applies the principles and procedures of occupational therapy.

(2) "Limited occupational therapy" does not include:

(i) Initiation and interpretation of evaluation data; and

(ii) Initiation of a treatment program before the client has been evaluated and a licensed occupational therapist has rendered a treatment plan.

(j) "NBCOT" means the National Board for Certification in Occupational Therapy.

(k) "Occupational therapist" means an individual who practices occupational therapy.

(l) "Occupational therapy" means the therapeutic use of purposeful and meaningful goal–directed activities to evaluate, consult, and treat individuals who:

(1) Have a disease or disorder, impairment, activity limitation, or participation restriction that interferes with their ability to function independently in daily life roles; or

(2) Benefit from the prevention of impairments and activity limitations.

(m) "Occupational therapy assistant" means an individual who practices limited occupational therapy.

(n) "Occupational therapy practice" or "limited occupational therapy practice" means to carry out a treatment program that applies the principles and procedures of occupational therapy.

(o) "Occupational therapy principles" include:

(1) The use of therapeutic activities that promote independence in daily life roles;

(2) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes;

(3) In order to enhance performance, the adaption of task, process, or the environment, or the teaching of compensatory techniques;

(4) Methods and techniques for preventing disability that facilitate the development or safe application of performance skills;

(5) Health promotion strategies and practices that enhance performance abilities; and

(6) Education, instruction, and research in the practice of occupational therapy.

(p) (1) "Occupational therapy procedures" include:

(i) Developing, improving, sustaining, or restoring skills in activities of daily living, work, or productive activities, including:

1. Instrumental activities of daily activity; and

2. Play and leisure activities;

(ii) Developing, remediating, or restoring sensorimotor, perceptual, cognitive, or psychological components of performance;

(iii) Designing, fabricating, applying, or training in the use of assistive technology, splinting, or orthotic devices, including training in the use of prosthetic devices;

(iv) Adapting environments and processes, including the application of ergonomic principles to enhance performance and safety in daily life roles;

(v) Applying physical agent modalities as adjuncts to or in preparation for purposeful activity with appropriate training, as specified by the Board in regulations;

(vi) Promoting safe, functional mobility in daily life tasks;

(vii) Providing intervention in collaboration with the client, the client's family, the client's caregiver, or others;

(viii) Educating the client, the client's family, the client's caregiver, or others in carrying out appropriate nonskilled interventions; and

(ix) Consulting with groups, programs, organizations, and communities to provide population-based services.

(2) "Occupational therapy procedures" do not include the adjustment or manipulation of any of the osseous structures of the body or spine.

(q) "On-site supervision" means supervision in which a supervisor is immediately available on a face-to-face basis when client procedures are performed or as otherwise necessary.

(r) (1) "Periodic supervision" means supervision by a licensed occupational therapist on a face-to-face basis, occurring the earlier of at least:

(i) Once every 10 therapy visits; or

(ii) Once every 30 calendar days.

(2) "Periodic supervision" includes:

(i) Chart review; and

(ii) Meetings to discuss client treatment plans, client response, or observation of treatment.

(s) "Supervision" means aid, direction, and instruction provided by an occupational therapist to adequately ensure the safety and welfare of clients during the course of occupational therapy.

(t) "Temporary license" means a license issued by the Board under and as limited by § 10-313 of this title to practice:

(1) Occupational therapy; or

(2) Limited occupational therapy.

§10–102.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§10–201.

There is a State Board of Occupational Therapy Practice in the Department.

§10–202.

(a) (1) The Board consists of seven members.

(2) Of the seven Board members:

(i) Four shall be licensed occupational therapists;

(ii) One shall be a licensed occupational therapy assistant; and

(iii) Two shall be consumer members.

(3) The Governor shall appoint the occupational therapist members and the occupational therapy assistant member, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Occupational Therapy Association.

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

(b) Each member who is an occupational therapist or an occupational therapy assistant shall:

(1) Be a resident of this State at the time of nomination and appointment and for the duration of the term of the member; and

(2) For at least 3 of the 5 years immediately before appointment have been engaged in:

(i) Practicing occupational therapy or limited occupational therapy;

(ii) Teaching occupational therapy; or

(iii) Performing research in occupational therapy.

(c) Each consumer member of the Board:

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

(2) May not be or ever have been an occupational therapist or occupational therapy assistant or in training to become an occupational therapist or occupational therapy assistant;

(3) May not have a household member who is an occupational therapist or occupational therapy assistant or in training to become an occupational therapist or occupational therapy assistant;

(4) May not participate or ever have participated in a commercial or professional field related to occupational therapy;

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

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

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

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1994.

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

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

(5) A member may not serve more than two consecutive full terms.

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

(g) (1) The Governor may remove a member for incompetence or misconduct.

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

§10–203.

(a) From among its members, the Board shall annually elect one or more chairpersons.

(b) The Board shall determine:

(1) The manner of election of the chairpersons;

(2) The term of office of the chairpersons; and

(3) The duties of the chairpersons.

§10–204.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall meet at least once every 2 months, at the times and places that it determines.

(c) Each member of the Board is entitled to:

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

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

(d) (1) The Board shall appoint an Executive Director of the Board that serves

at the pleasure of the Board as its executive officer.

(2) In accordance with the budget of the Board, the Board may employ:

(i) A staff; and

(ii) Any experts and consultants necessary to obtain information and advice that relate to occupational therapy.

§10–205.

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

(1) Rules and regulations to carry out the provisions of this title;

(2) A code of ethics for licensees; and

(3) In consultation with the State Board of Physical Therapy Examiners and the Board of Chiropractic Examiners, regulations that recognize occupational therapists and occupational therapy assistants who have acquired advanced practice skills.

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

(1) Keep records and minutes necessary for the orderly conduct of business;

(2) Keep a list of each currently licensed occupational therapist and occupational therapy assistant; and

(3) Investigate an alleged violation of this title.

§10–206.

(a) There is a State Board of Occupational Therapy Practice Fund.

(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.

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Occupational Therapy Practice Fund.

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

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§10–207.

A person shall have the immunity from liability described under § 5-711 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§10–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice occupational therapy or limited occupational therapy in this State.

(b) This section does not apply to:

(1) An individual employed by the federal government as an occupational therapist or an occupational therapy assistant, while practicing within the scope of that employment;

(2) A student or trainee who is designated as a student or trainee, while:

(i) Fulfilling a field work requirement under § 10-302 of this subtitle; or

(ii) Pursuing a supervised course of study in an accredited or approved educational program leading to a degree or certificate in:

1. Occupational therapy; or

2. Occupational therapy assistant;

(3) Subject to the regulations adopted by the Board, an aide who supports the practice of occupational therapy or the practice of limited occupational therapy, if the aide:

(i) Works only under the direct supervision of a licensed occupational therapist or occupational therapy assistant and subject to the occupational therapist's responsibility for supervision, as provided by this subtitle; and

(ii) Performs only support activities that do not require training in the basic anatomical, biological, psychological, and social sciences used in the practice of occupational therapy;

(4) An occupational therapist who is authorized to practice occupational therapy in any other jurisdiction, if the occupational therapist practices occupational therapy in this State for the purpose of educating, consulting, and training, for the duration of the purpose, as preapproved by the Board; or

(5) An occupational therapy assistant who is authorized to practice limited occupational therapy in any other jurisdiction, if the occupational therapy assistant practices limited occupational therapy in this State for the purpose of educating, consulting, and training, for the duration of the purpose, as preapproved by the Board.

§10–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) An applicant for an occupational therapist license shall have successfully:

(1) Graduated from an educational program in occupational therapy that is recognized by the Board and accredited by ACOTE or any other nationally recognized programmatic accrediting agency; and

(2) Completed the equivalent of at least 6 months of supervised, full-time field work experience at a recognized educational institution or in a training program approved by the educational institution where the applicant met the academic requirements.

(e) An applicant for an occupational therapy assistant license shall have

successfully:

(1) Graduated from an educational program for occupational therapy assistants that is recognized by the Board and accredited by ACOTE or any other nationally recognized programmatic accrediting agency; and

(2) Completed the equivalent of at least 4 months of supervised, full-time field work experience at a recognized educational institution or in a training program approved by the educational institution where the applicant met the academic requirements.

(f) The applicant shall pass the appropriate examination given by NBCOT or any other national credentialing organization.

§10–303.

(a) (1) The Board shall waive the education and experience requirements of § 10-302(d) of this subtitle for an applicant for an occupational therapist license:

(i) Who applied for a license before July 1, 1979;

(ii) Whose principal residence is in this State;

(iii) Who presents to the Board satisfactory evidence that the applicant practiced occupational therapy in this State for at least 2 years before July 1, 1979; and

(iv) Who has a baccalaureate degree in a health science from an accredited college or university.

(2) Except for an applicant who was licensed as an occupational therapy assistant under subsection (b) of this section, the Board shall waive the education requirements of § 10-302(d) of this subtitle for an applicant for an occupational therapist license who has:

(i) Practiced limited occupational therapy for at least 4 years either as a licensed occupational therapy assistant or as an occupational therapy assistant certified by the American Occupational Therapy Association; and

(ii) Had at least 6 months full-time supervised field work experience.

(b) The Board shall waive the requirements of § 10-302(e) of this subtitle for an applicant for an occupational therapy assistant license:

(1) Who applied for a license before July 1, 1979;

(2) Whose principal residence is in this State;

(3) Who presents to the Board satisfactory evidence that the applicant has

practiced limited occupational therapy in this State for at least 2 years before July 1, 1979; and

(4) Who has a high school diploma or has completed successfully a high school equivalency examination or program.

§10–304.

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

(1) Submit an application to the Board in the form required by the Board; and

(2) Pay to the Board the application fee set by the Board.

(b) If an applicant is required under this title to take an examination, the applicant shall submit the application and fee at least 30 days before the date of the examination that the applicant is required to take.

§10–305.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall give examinations at least twice a year, at the times and places that the Board determines, to applicants for:

(1) An occupational therapist license; and

(2) An occupational therapy assistant license.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) The Board shall determine the subjects, scope, form, and standards for acceptable performance for examinations given under this subtitle.

(2) The subjects examined shall include:

(i) The basic and clinical sciences that relate to occupational therapy;

(ii) The theory and practice of occupational therapy;

(iii) The professional skills used in the practice of occupational therapy or limited occupational therapy; and

(iv) Judgment in using occupational therapy techniques and methods.

(e) In accordance with the rules and regulations of the Board, an applicant may obtain the applicant's score and review the applicant's examination papers.

§10–306.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for an applicant who is licensed in any other state to practice:

(1) Occupational therapy; or

(2) Limited occupational therapy or its equivalent.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee set by the Board under § 10-304 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) Became licensed in the other state after meeting requirements in that or any other state that are at least equivalent to the requirements of this State.

§10–307.

(a) Subject to the provisions of this subsection, the Board shall waive the appropriate examination requirement of this title for an applicant who:

(1) Pays the application fee set by the Board under § 10-304 of this subtitle; and

(2) (i) If applying for an occupational therapist license, was certified by the American Occupational Therapy Certification Board as an occupational therapist registered (O.T.R.) at any time before July 1, 1979; or

(ii) If applying for an occupational therapy assistant license, was certified by the American Occupational Therapy Certification Board as a certified occupational therapy assistant (C.O.T.A.) at any time before July 1, 1979.

(b) The Board may grant a waiver of the appropriate examination requirement of this subtitle to an applicant for an occupational therapist license who, on or after July 1, 1979, is certified by the American Occupational Therapy Certification Board as an occupational therapist registered (O.T.R.), or to an applicant for an occupational therapy assistant license who, on or after July 1, 1979, is certified by the American Occupational Therapy Certification Board as a certified occupational therapy assistant (C.O.T.A.), only if the applicant:

(1) Pays the application fee set by the Board under § 10-304 of this subtitle; and

(2) Provides adequate evidence that the applicant became certified after meeting requirements that are at least equivalent to the licensing requirements of this State.

§10–308.

(a) The Board shall issue the appropriate license to an applicant who meets the requirements of this title for that license.

(b) (1) Licensees shall present an original current license to the employer as part of the employment process.

(2) Except as otherwise provided in this subsection, each licensee shall display the license conspicuously in the office or place of employment of the licensee.

(3) If a licensee is unable to display the license, the licensee shall present the original license to the client at the request of the client or the client's designated decision maker.

§10–309.

An occupational therapist license authorizes the licensee to practice occupational therapy while the license is effective.

§10–310.

(a) Subject to subsection (b) of this section, an occupational therapy assistant license authorizes the licensee to practice limited occupational therapy while the license is effective.

(b) A licensed occupational therapy assistant may practice limited occupational therapy only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this State.

§10–311.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the

Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Except as otherwise provided in this title, before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing competency requirements and other qualifications and requirements set under this section for license renewal.

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

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

(f) The Board shall renew the license of an occupational therapist or an occupational therapy assistant who has failed to renew the license for any reason if the occupational therapist or occupational therapy assistant:

(1) Applies for renewal within 30 days after the deadline for renewal;

(2) Meets the renewal requirements of this section;

(3) Pays to the Board the renewal fee set by the Board; and

(4) Pays to the Board the late fee set by the Board.

§10–312.

The Board may reinstate the license of an occupational therapist or an occupational therapy assistant who has failed to renew the license for any reason, and who applies for reinstatement more than 30 days after the license renewal deadline, if the occupational therapist or occupational therapy assistant:

(1) Meets the renewal requirements of § 10-311 of this subtitle;

(2) Pays to the Board the reinstatement fee set by the Board;

(3) Provides documentation of successfully completing the continuing education requirements established by the Board; and

(4) Completes any other requirements established by regulation.

§10–313.

(a) The Board may issue a temporary license to an applicant who, except for passing an examination otherwise required under this subtitle, has met the appropriate education and experience requirements of this subtitle for an occupational therapist license or an occupational therapy assistant license under § 10-302 of this subtitle.

(b) (1) A temporary license issued to an occupational therapist authorizes the holder to practice occupational therapy only under the on-site supervision of an occupational therapist who is authorized to practice in this State.

(2) A temporary license issued to an occupational therapy assistant authorizes the holder to practice limited occupational therapy only under the on-site supervision of an occupational therapist or an occupational therapy assistant who is authorized to practice in this State.

(c) A temporary license is valid until:

(1) Notification of expiration by the Board for the licensee's failure to successfully complete the exam;

(2) Notification of suspension for the licensee's failure to submit exam results to the Board; or

(3) Notification of permanent licensure.

(d) The Board may not issue more than two temporary licenses to an individual.

§10–314.

(a) Unless the Board agrees to accept the surrender of a license, a licensed occupational therapist, licensed occupational therapy assistant, or holder of a limited or temporary license 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.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§10–315.

Subject to the hearing provisions of § 10-316 of this subtitle, the Board may deny a license or temporary license to any applicant, 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 or temporary license if the applicant, licensee, or holder:

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

(2) Fraudulently or deceptively uses a license or temporary license;

(3) Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy or limited occupational therapy;

(4) Knowingly violates any provision of this title;

(5) Violates any rule or regulation of the Board, including any code of ethics adopted by the Board;

(6) 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;

(7) Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy;

(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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(9) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

(10) Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy;

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

(12) Submits a false statement to collect a fee; or

(13) 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.

§10–316.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 10-315 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(b) (1) The Board chairman may delegate the authority to conduct a hearing to a committee consisting of two or more Board members.

(2) The committee shall:

(i) Hold an evidentiary hearing; and

(ii) Prepare a recommended decision for consideration by a quorum of the Board.

(3) The committee shall give notice to the individual of the opportunity to file exceptions and present argument to the Board regarding the recommended decision.

(c) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(d) The hearing notice to be given to the individual shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the individual at least 30 days before the hearing.

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

(f) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(g) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(h) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§10–317.

(a) Except as provided in this section for an action under § 10–315 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 10–315 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§10–317.1.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of occupational therapy or limited occupational therapy; or

(2) Conduct that is grounds for disciplinary action under § 10-315 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney in the name of the State.

(c) An action under this section may be brought in the county where:

(1) The defendant resides; or

(2) The defendant engaged in the act sought to be enjoined.

(d) Proof that damage or possible damage will be incurred if an injunction is not granted is not required for an action under this section.

(e) An action under this section does not preclude a criminal prosecution for the unauthorized practice of occupational therapy under § 10-401 of this title or disciplinary action under § 10-315 of this subtitle.

§10–318.

On the application of an individual whose license has been revoked, the Board, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

§10–319.

(a) In this section, "impaired occupational therapist professionals committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, an impaired occupational therapist professionals committee is a committee of the Board or a committee of the Maryland Occupational Therapy Association that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to occupational therapists.

(c) An impaired occupational therapist professionals committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with an impaired professionals committee representing another board or boards.

(d) For purposes of this section, an impaired occupational therapist professionals committee evaluates and provides assistance to any occupational therapist or occupational therapy assistant in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the impaired occupational therapist professionals committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the impaired occupational therapist professionals committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the impaired occupational therapist professionals committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of an impaired occupational therapist professionals committee is not civilly liable for any action as a member of the impaired occupational therapist professionals committee or for giving information to, participating in, or contributing to the function of the impaired occupational therapist professionals committee.

§10–401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice occupational therapy in this State unless licensed to practice occupational therapy by the Board.

(b) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice limited occupational therapy in this State unless licensed to practice limited occupational therapy by the Board.

§10–402.

(a) Unless authorized to practice occupational therapy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this State.

(b) Unless authorized to practice occupational therapy under this title, a person may not use the credentialing abbreviation "O.T." or any other words, letters, or symbols with the intent to represent that the person practices occupational therapy.

§10–403.

(a) Unless authorized to practice limited occupational therapy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice limited occupational therapy in this State.

(b) Unless authorized to practice limited occupational therapy under this title, a person may not use the credentialing abbreviation "O.T.A." or any other words, letters, or symbols with the intent to represent that the person practices limited occupational therapy.

§10–404.

A person may not provide, attempt to provide, offer to provide, or represent that the person provides occupational therapy unless the occupational therapy is provided by an individual who is authorized to practice occupational therapy or limited occupational therapy under this title.

§10–407.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§10–501.

This title may be cited as the "Maryland Occupational Therapy Practice Act".

§10–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this

title shall terminate and be of no effect after July 1, 2025.

§11–101.

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

(b) "Board" means the State Board of Examiners in Optometry.

(c) "Diagnostically certified optometrist" means a licensed optometrist who is certified by the Board to administer topical ocular diagnostic pharmaceutical agents to the extent permitted under § 11-404 of this title.

(d) "License" means, unless the context requires otherwise, a license issued by the Board to practice optometry.

(e) "Licensed optometrist" means, unless the context requires otherwise, an optometrist who is licensed by the Board to practice optometry.

(f) "Optometrist" means an individual who practices optometry.

(g) (1) "Practice optometry" means:

(i) Subject to §§ 11-404 and 11-404.2 of this title, to use any means known in the science of optics or eye care, except surgery:

1. To detect, diagnose, and subject to §§ 11-404 and 11-404.2 of this title, treat, subject to this title, any optical or diseased condition in the human eye; or

2. To prescribe eyeglasses, lenses, or contact lenses to correct any optical or visual condition in the human eye;

(ii) To give advice or direction on the fitness or adaptation of eyeglasses or lenses to any individual for the correction or relief of a condition for which eyeglasses or lenses are worn; or

(iii) To use or permit the use of any instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.

(2) Subject to §§ 11-404 and 11-404.2 of this title, "practice optometry" includes:

(i) The administration of topical ocular diagnostic pharmaceutical agents;

(ii) The administration and prescription of therapeutic pharmaceutical agents; and

(iii) The removal of superficial foreign bodies from the cornea and conjunctiva.

(h) "Therapeutically certified optometrist" means a licensed optometrist who is certified by the Board to practice optometry to the extent permitted under § 11-404.2 of this title.

§11–102.

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(b) This title does not affect the right of:

(1) An optician to provide glasses on the prescription of a licensed optometrist or a physician who is authorized to practice medicine under Title 14 of this article; or

(2) A dealer to sell eyeglasses or lenses if the dealer does not practice or claim to practice optometry.

§11–201.

There is a State Board of Examiners in Optometry in the Department.

§11–202.

(a) (1) The Board consists of 7 members.

(2) Of the 7 members:

(i) Five shall be licensed optometrists; and

(ii) Two shall be consumer members.

(3) The Governor shall appoint the optometrist members, with the advice of the Secretary, from a list submitted to the Secretary by the Maryland Optometric Association.

(4) The number of names on the list shall be three times the number of vacancies.

(5) For each optometrist vacancy, the Maryland Optometric Association shall:

(i) Notify all licensed optometrists in the State of the vacancy to solicit nominations to fill the vacancy; and

(ii) Conduct a balloting process where every licensed optometrist is

eligible to vote to select the names of the licensed optometrists that will be submitted to the Governor.

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

(b) For at least 5 years before appointment, each optometrist member of the Board shall have:

(1) Resided in this State; and

(2) Practiced optometry actively and continuously in this State.

(c) The consumer members of the Board:

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

(2) May not be or ever have been an optometrist or in training to become an optometrist;

(3) May not have a household member who is an optometrist or in training to become an optometrist;

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

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

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

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

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1982.

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

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

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

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

(g) (1) The Governor may remove a member for incompetence or misconduct.

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

§11–203.

(a) From among its members, the Board every 2 years shall elect a president, a secretary, and a treasurer.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§11–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall meet:

(1) At least twice a year, at the times and places that it determines; and

(2) When requested by the Secretary.

(c) In accordance with the budget of the Board, each member of the Board is entitled to:

(1) Compensation, at a rate determined by the Board, for each day on which the member is engaged in the duties of the member's office; and

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

(d) The Board may employ a staff in accordance with the budget of the Board.

§11–205.

(a) In addition to the powers set forth elsewhere in this title, the Board has the following powers:

(1) Each member of the Board may administer oaths and take affidavits for any matter under the jurisdiction of the Board; and

(2) The Board may adopt rules and regulations to carry out the provisions of this title.

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

(1) Keep a current list showing all:

(i) Licensed optometrists;

(ii) Optometrists who are on inactive status;

(iii) Diagnostically certified optometrists;

(iv) Therapeutically certified optometrists; and

(v) Optometrists against whom action has been taken under § 11–313 of this title;

(2) Keep a full record of its proceedings;

(3) Adopt an official seal; and

(4) Investigate an alleged violation of this title.

§11–206.

(a) In connection with any investigation of charges under § 11-313 of this title, the Board may request the licensee to submit to an appropriate physical or mental examination by a licensed physician designated by the Board.

(b) In return for the privilege given to a licensee to practice optometry in this State, the licensee is deemed to have:

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

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

(c) At any disciplinary hearing before the Board, the failure or refusal of the licensee to submit to an examination under this section is prima facie evidence of the licensee's inability to practice optometry competently, unless the Board finds that the failure or refusal is beyond the control of the licensee.

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

(e) Notwithstanding any provisions of this section, a licensee may present evidence to the Board of mental or physical health that conflicts or is different from that presented as a result of an examination under this section.

§11–207.

(a) There is a State Board of Examiners in Optometry Fund.

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

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

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Examiners in Optometry Fund.

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

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§11–208.

(a) A licensed optometrist shall perform a minimum optometric examination which shall include:

(1) Reviewing a patient's history, past prescriptions and specifications when available;

(2) Visual analysis;

(3) Ophthalmoscopy of internal eye;

(4) Tonometry without anesthetic when indicated or for a patient over 40 years of age;

(5) Muscle balance examination;

(6) Writing of lens formula and other prescription data when needed as well as specific instructions for future care; and

(7) Subsequent progress evaluation when indicated.

(b) A licensed optometrist shall maintain thorough records of all testing procedures, results, and case dispositions in accordance with § 4-403 of the Health - General Article.

(c) A licensed optometrist shall have on hand all instrumentation and equipment, in good working condition, required to carry out the procedures for the minimum examination under this section.

§11–209.

A person shall have the immunity from liability described under § 5-712 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§11–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice optometry in this State.

(b) This section does not apply to a student while participating in a residency training program under the direct supervision of a licensed optometrist.

§11–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) The applicant shall submit to the Board satisfactory evidence of scholastic and professional education that is at least equal to the current standards set by the Board. However, an applicant who is licensed to practice optometry in any other state shall submit satisfactory evidence of scholastic and professional education that is at least equal to the standards set by the Board at the time of the applicant's completion of scholastic and professional education.

(2) On written request, the Board shall provide information as to the current scholastic and professional education standards that the Board sets. In the case of an out-of-state applicant the Board shall provide information on the educational and professional standards in effect at the time of an applicant's completion of scholastic and professional education.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

§11–303.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§11–304.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) Periodically, but not more often than once every 6 months, the Board shall give examinations to applicants at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) Except as otherwise provided in this subsection, the Board shall determine the subjects, scope, form, and passing score for examinations administered under this subtitle.

(2) The subjects examined shall include:

(i) The anatomy, physiology, and pathology of the human eye; and

(ii) The use of all instruments used for examination of the human eye.

(3) The examination may include any subject that relates to optics and optometry:

(i) Contained in any textbook; or

(ii) Taught at any accredited educational institution that teaches optics, optometry, and other related subjects.

(e) (1) An applicant who fails the examination may take the next regularly

scheduled examination.

(2) The applicant shall pay to the Board a reexamination fee set by the Board for each reexamination.

§11–305.

(a) Subject to the provisions of this section, the Board may waive the examination requirements of this title for an individual who is licensed to practice optometry in any other state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee required by the Board under § 11-303 of this subtitle;

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title, including, for 3 years before applying, the continuing education requirements of the other state in which the applicant has been practicing optometry, or, if the other state does not have any continuing education requirement, the applicant shall meet the equivalent of 3 years of the continuing education requirements of this subtitle in courses approved by the Board;

(ii) Meets the terms and conditions that the Board establishes in subsections (c) and (d) of this section;

(iii) At the time the applicant was licensed in the other state, was qualified to take the examination that then was required by the laws of this State; and

(iv) Qualified for a license in the other state by passing an examination given by the board of optometry in that state;

(3) Presents a copy of the license, certified by the issuing board; and

(4) Has not failed an examination given by the Board within the previous 5 years.

(c) (1) The Board may waive the examination requirements of this subtitle for an applicant who:

(i) If so required by the Board under subsection (d) of this section, passes an examination administered by the Board; and

(ii) For 3 years immediately before applying, has practiced optometry actively.

(2) The Board may waive the requirement of practicing optometry actively

for an applicant who for 3 years:

(i) Was teaching optometry;

(ii) Was a military optometrist;

(iii) Was a supervisor or administrative optometrist; or

(iv) Was a researcher in optometry.

(d) (1) Within 1 year of receipt of an application, the Board may require that the applicant pass an examination.

(2) The Board shall determine the scope, form, and passing score for examinations under this section.

§11–306.

The Board shall issue a license to any applicant who:

(1) Meets the requirements of this title; and

(2) Pays to the Board the license fee set by the Board.

§11–307.

A license authorizes the licensee to practice optometry while the license is effective.

§11–307.1.

(a) An applicant for a limited license shall submit to the Board:

(1) An application on the form the Board requires; and

(2) A written confirmation of participation from the institution in which the applicant intends to participate in a postgraduate teaching, research, or training program.

(b) The Board may waive the examination requirements of this subtitle and issue a limited license to practice optometry to an individual who:

(1) Is qualified for a postgraduate teaching, research, or training position;

(2) Is applying to participate in a postgraduate teaching, research, or training program approved by the Board under this subsection;

(3) Is eligible to sit for the Maryland licensure examination;

(4) Is licensed, at the time of application, to practice optometry in another state; and

(5) Pays the fee set by the Board.

(c) A limited license authorizes the licensee for 1 year to practice optometry only:

(1) At the institution that has been approved by the Board and is designated on the individual's license;

(2) At other institutions that are affiliated with the designated institution; and

(3) On the patients of the designated institution or its affiliates.

(d) The Board may renew a limited license once for an additional 1-year term if the holder:

(1) Otherwise meets the requirements of this section;

(2) Submits a renewal application to the Board on the form that the Board requires; and

(3) Pays to the Board the limited license renewal fee set by the Board.

§11–308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, a licensee periodically may renew it for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with the continuing education requirements set under this subtitle for license renewal.

(d) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(e) If an optometrist does not renew a license before its expiration date, the Board shall send to the optometrist a notice stating that the license will expire 30 days after the notice is sent unless the optometrist applies for renewal within the grace period.

§11–309.

(a) In addition to any other qualifications and requirements established by the Board, the Board shall establish continuing education requirements as a condition to the renewal of licenses and certificates under this title.

(b) (1) The continuing education required by the Board shall be in courses approved by the Board.

(2) The Board may not require a nontherapeutically certified optometrist to attend more than 50 hours in any licensing period.

(3) The Board shall require a therapeutically certified optometrist to attend at least 50 hours of continuing education in a licensing period.

(4) (i) In each licensing period, a therapeutically certified optometrist shall attend 30 hours of continuing education on the use and management of therapeutic pharmaceutical agents.

(ii) The 30 hours of continuing education required under subparagraph (i) of this paragraph shall be counted toward the total number of required hours of continuing education in a licensing period.

(c) At the time a licensee applies for license renewal, the licensee shall submit to the Board, on a form provided by the Board, a certification that the licensee has attended the required courses.

(d) The Board may refuse to renew the license of a licensee who has failed:

(1) To attend the required courses; or

(2) To submit certification of attendance at the required courses.

(e) The Board may waive the continuing education requirements in cases of

illness or other undue hardship on the licensee.

(f) The Board may use any funds allocated to it for continuing education as State funds to match federal funds for providing continuing education.

§11–310.

(a) (1) The Board shall place a licensee on inactive status, if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall issue a license to an individual who is on inactive status if the individual:

(i) Meets any continuing education requirements set by the Board; and

(ii) Pays to the Board the reinstatement fee set by the Board.

(b) The Board may reinstate the license of an optometrist whose license has been expired for less than 5 years and who has not been put on inactive status, if the optometrist:

(1) Has met the continuing education requirements set by the Board;

(2) Meets the renewal requirements of § 11-308 of this subtitle; and

(3) Pays to the Board the reinstatement fee set by the Board.

(c) The Board may not reinstate the license of an optometrist whose license has been expired for 5 years or more and who has not been put on inactive status, unless the optometrist:

(1) Passes an examination administered by the Board; and

(2) Otherwise meets the requirements of subsection (b) of this section.

§11–311.

(a) Each licensee shall display the license conspicuously in the office of the licensee.

(b) A licensee practicing optometry away from the licensee's office shall give to the patient a statement that contains the licensee's home address, license number, and signature.

§11–312.

(a) Unless the Board agrees to accept the surrender of a license, a licensed optometrist 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 optometrist.

(b) The Board may set conditions on its agreement with the optometrist under investigation or against whom charges are pending to accept surrender of the optometrist's license.

§11–313.

Subject to the hearing provisions of § 11-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, 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 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;

(4) Abandons a patient;

(5) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

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

(7) Willfully makes or files a false report or record in the practice of optometry;

(8) Willfully fails to file or record any optometric report as required by law;

(9) Willfully impedes or obstructs the filing or recording of any optometric report as required by law;

(10) Willfully induces another to fail to file or record any optometric report

as required by law;

(11) Fails to provide details of the optometric record of a patient to a physician or another optometrist on proper request by the patient;

(12) Employs another person as a solicitor of business;

(13) Splits or agrees to split a fee for optometric services with any person for bringing or referring a patient;

(14) Makes a willful misrepresentation in treatment;

(15) Aids an unauthorized person in the practice of optometry;

(16) Grossly and willfully:

(i) Overcharges for optometric services; or

(ii) Submits false statements to collect fees for which services are not provided;

(17) Behaves immorally in the practice of optometry;

(18) Is professionally, physically or mentally incompetent;

(19) Advertises in a false or misleading manner;

(20) Has had a license to practice optometry denied, suspended or revoked in another state for an act which would be grounds for disciplinary action under this section;

(21) Has violated any provision of this title;

(22) Violates any rule or regulation adopted by the Board;

(23) Commits an act of unprofessional conduct in the practice of optometry;

(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) Willfully engages in conduct that is likely to deceive, defraud, or harm the public;

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

(27) Engages in conduct which exhibits an inappropriate standard of care.

§11–314.

(a) If after a hearing under § 11-315 of this subtitle the Board finds that there are grounds under § 11-313 of this subtitle to suspend or revoke a license, the Board may impose a penalty not exceeding $5,000:

(1) Instead of suspending the license; or

(2) In addition to suspending or revoking the license.

(b) The Board shall adopt rules and regulations to set standards for the imposition of penalties under this section.

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

§11–315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 11-313 of this subtitle, it shall give the licensee against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) The Board may issue subpoenas in connection with any investigation of charges under § 11-313 of this subtitle or proceeding under this section.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§11–316.

(a) If the Board finds that there are grounds under § 11-313 of this subtitle for action, the Board shall pass an order in accordance with the Administrative Procedure Act.

(b) If the Board finds that there are no grounds under § 11-313 of this subtitle for action, the Board:

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

(2) Shall expunge all records that relate to the charges; and

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

§11–317.

(a) The Board shall include in any order of suspension or revocation the specific terms and conditions of the suspension or revocation.

(b) Except as provided in § 11-318(c) of this subtitle for a stay pending review, when the Board files an order of suspension or revocation, it is effective, in accordance with its terms and conditions, immediately.

(c) The Board shall keep a copy of each order of suspension or revocation as a permanent record.

§11–318.

(a) Except as provided in this section for an action under § 11–313 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 11–313 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) If an optometrist seeks judicial review of an order of suspension or revocation by the Board, the order shall be stayed until the optometrist's judicial remedies are exhausted.

§11–319.

The Board may reinstate the license of any individual whose license has been suspended or revoked under this title only in accordance with:

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

(2) An order of reinstatement issued by the Board; or

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

§11–320.

(a) This section does not apply to:

(1) An individual licensed under Title 14, Subtitle 3 of this article; or

(2) An individual supervised by an individual licensed under Title 14, Subtitle 3 of this article.

(b) The Board may issue a cease and desist order or obtain injunctive relief for a violation of any provision of § 11–313 of this subtitle or § 11–501, § 11–502, or § 11–504

of this title.

(c) (1) An action may be maintained in the name of the State or the Board to enjoin:

(i) The unauthorized practice of optometry;

(ii) The misrepresentation of the practice of optometry;

(iii) The act of knowingly dispensing contact lenses or replacement contact lenses without a valid and unexpired prescription or a replacement contact lens prescription; or

(iv) Conduct that is grounds for disciplinary action under § 11–313 of this subtitle.

(2) An action under this subsection may be brought by:

(i) The Board, in its own name;

(ii) The Attorney General, in the name of the State; or

(iii) A State's Attorney, in the name of the State.

(3) An action under this subsection shall be brought in the county where the defendant:

(i) Resides; or

(ii) Engages in the act sought to be enjoined.

(4) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this subsection.

(5) An action under this subsection is in addition to and not instead of criminal prosecution for disciplinary action under § 11–313 of this subtitle or the unauthorized practice of optometry under §§ 11–501, 11–502, and 11–504 of this title.

§11–401.

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

(2) "Governmental unit" means any board, commission, authority, department, or other administrative agency of this State, a county, or a municipality.

(3) "Ocular practitioner" means any practitioner who is authorized to provide services within the scope of optometry.

(b) (1) Except as provided in this subsection, a governmental unit may not

interfere with the complete freedom of the public to choose any ocular practitioner.

(2) A governmental unit may make an agreement under which an ocular practitioner is to provide optometric services to the employees of a governmental unit.

(c) A governmental unit shall honor and accept any report, statement, or service made or provided by a licensed optometrist within the scope of optometry to the same extent as if the report, statement, or service was made or provided by a physician.

§11–402.

(a) If, while providing optometric services to a patient, an optometrist or diagnostically certified optometrist detects or diagnoses an active eye pathology which the optometrist is not licensed or certified to treat under § 11-404 or § 11-404.2 of this subtitle, the optometrist shall refer the patient to:

(1) An ophthalmologist or a therapeutically certified optometrist, as appropriate;

(2) The patient's physician;

(3) A physician if required under a managed care contract; or

(4) A hospital emergency room or ambulatory surgical center if necessary.

(b) If, while providing optometric services to a patient, a therapeutically certified optometrist diagnoses an active eye pathology that the optometrist is not certified to treat under § 11-404.2 of this subtitle, the optometrist shall refer the patient to:

(1) An ophthalmologist;

(2) The patient's physician;

(3) A physician if required under a managed care contract; or

(4) A hospital emergency room if necessary.

§11–403.

(a) A licensed optometrist may:

(1) Use the title "optometrist";

(2) If the optometrist holds the degree of doctor of optics or doctor of optometry from a college or university authorized to give the degree, use the title "Doctor" or the abbreviations "Dr." or "O.D." with the optometrist's name;

(3) If the optometrist is certified under § 11-404 of this subtitle, use the

title “diagnostically certified optometrist”; and

(4) If the optometrist is certified under § 11-404.1 of this subtitle, use the title “therapeutically certified optometrist”.

(b) Except as otherwise provided in this section, a licensed optometrist may not attach to the optometrist’s name or use as a title:

(1) The words or abbreviations “Doctor”, “Dr.”, “M.D.”, “physician”, or “surgeon”, or any other word or abbreviation that suggests that the optometrist practices medicine; or

(2) Any word or abbreviation that suggests that the optometrist treats diseases or injuries of the human eye, including the words “eye specialist”, “eyesight specialist”, “oculist”, or “ophthalmologist”.

§11–404.

(a) Unless certified under this section, a licensed optometrist may not administer a topical ocular diagnostic pharmaceutical agent to a patient.

(b) The Board shall certify a licensed optometrist as qualified to administer topical ocular diagnostic pharmaceutical agents if the licensed optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:

(1) Meets the educational requirements that the Board establishes for certification of qualification to administer topical ocular diagnostic pharmaceutical agents; and

(2) Has within 7 years before certification completed a course in pharmacology that meets the requirements of subsection (c) of this section.

(c) The course in pharmacology required by subsection (b) of this section shall:

(1) Be of at least the length that the Board establishes but not less than 70 course hours;

(2) Place emphasis on:

(i) Topical application of ocular diagnostic pharmaceutical agents for the purpose of examining and analyzing ocular functions; and

(ii) Allergic reactions to ocular diagnostic pharmaceutical agents; and

(3) Be given by an institution that is:

(i) Accredited by a regional or professional accrediting organization that is recognized or approved by the United States Commissioner of Education; and

(ii) Approved by the Board.

(d) The Board shall revoke the certification of qualification to administer topical ocular diagnostic pharmaceutical agents of any licensed optometrist who does not annually take a course of study, approved by the Board, that relates to the use of those agents.

(e) Certification of qualification under this section authorizes the licensed optometrist who is certified under this section to administer a topical ocular diagnostic pharmaceutical agent to a patient for diagnostic purposes but not for purposes of treatment.

(f) Except as expressly authorized under this section for diagnostic purposes or under § 11-404.1 of this subtitle for therapeutic purposes, an optometrist may not administer drugs or medicine to any patient.

(g) The Department shall collect and report statistical information on the incidences of negative reactions to the administration by optometrists of topical ocular diagnostic pharmaceutical agents.

§11–404.1.

(a) Unless certified under this section, a licensed optometrist may not administer or prescribe any therapeutic pharmaceutical agents or remove superficial foreign bodies from a human eye, adnexa, or lacrimal system.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board shall certify a licensed optometrist as a therapeutically certified optometrist if the licensed optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:

(i) Has successfully completed at least 110 hours of a therapeutic pharmaceutical agents course approved by the Board;

(ii) Has successfully passed a pharmacology examination relating to the treatment and management of ocular disease, which is prepared, administered, and graded by the National Board of Examiners in Optometry or any other nationally recognized optometric organization as approved by the Secretary;

(iii) Is currently certified by the Board to administer topical ocular diagnostic pharmaceutical agents under § 11-404 of this subtitle; and

(iv) Has successfully completed an 8-hour course in the management of topical steroids approved by the Board.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not subject to the requirements of paragraph (1)

of this subsection.

(ii) If an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not certified under this section within 3 years of graduation, the optometrist shall successfully complete a therapeutic pharmaceutical agents course and successfully pass a pharmacology exam under paragraph (1) of this subsection before the Board may certify the optometrist.

§11–404.2.

(a) In this section, "refer" means that a therapeutically certified optometrist:

(1) Informs the patient that the patient should see an ophthalmologist and give the ophthalmologist an opportunity to physically examine the patient; and

(2) Refrains from rendering further treatment for the specific condition that is the basis for the referral until the patient has been physically examined by an ophthalmologist.

(b) (1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents limited to:

(i) Ocular antihistamines, decongestants, and combinations thereof;

(ii) Ocular antiallergy pharmaceutical agents;

(iii) Ocular antibiotics and combinations of ocular antibiotics, excluding specially formulated or fortified antibiotics;

(iv) Anti-inflammatory agents;

(v) Ocular lubricants and artificial tears;

(vi) Tropicamide;

(vii) Homatropine;

(viii) Nonprescription drugs that are commercially available; and

(ix) Primary open-angle glaucoma medications, in accordance with subsection (c) of this section.

(2) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent listed in paragraph (1)(i) through (vii) of this subsection, and the patient does not have the expected response within 72 hours:

(i) The therapeutically certified optometrist shall consult with an ophthalmologist; and

(ii) The ophthalmologist may determine that the ophthalmologist needs to physically examine the patient.

(3) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent under paragraph (2) of this subsection, the therapeutically certified optometrist shall communicate with the patient to determine the response of the patient to the therapeutic pharmaceutical agent as soon as practicable after 72 hours of the time the agent was administered or prescribed.

(4) A therapeutically certified optometrist may administer or prescribe topical steroids in accordance with a practice protocol established by the Board.

(5) A therapeutically certified optometrist may not administer or prescribe:

(i) Antiviral agents;

(ii) Antifungal agents;

(iii) Antimetabolite agents; or

(iv) Antiparasitic agents.

(6) A therapeutically certified optometrist may dispense a topical therapeutic pharmaceutical agent listed in paragraph (1) of this subsection only if:

(i) No charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent; and

(ii) The amount dispensed does not exceed a 72-hour supply, except that if the minimum available quantity for dispensing is greater than a 72-hour supply, the minimum available quantity may be dispensed.

(c) (1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents for glaucoma only:

(i) For patients with primary open-angle glaucoma;

(ii) After the optometrist refers the patient to an ophthalmologist; and

(iii) After the ophthalmologist and optometrist jointly and promptly develop a written individualized treatment plan that is signed by the ophthalmologist and optometrist and includes:

1. All tests and examinations that led to the diagnosis;

2. An initial schedule of all tests and examinations necessary

to treat the patient's condition;

3. A medication plan;

4. A target intraocular pressure; and

5. Criteria for surgical intervention by the ophthalmologist.

(2) (i) A treatment plan developed under this subsection may be modified only after both the optometrist and the ophthalmologist consult together and consent to the modification.

(ii) Each modification shall be noted in the optometric record of the patient.

(3) A therapeutically certified optometrist who treats a patient with primary open-angle glaucoma in accordance with this section:

(i) Shall refer the patient to an ophthalmologist at least once a year after the initial mandatory referral under paragraph (1) of this subsection;

(ii) May continue to render treatment under the joint treatment plan until the patient is examined by an ophthalmologist;

(iii) Shall consult with an ophthalmologist if:

1. The patient does not have the expected response to treatment;

2. The target intraocular pressure is not reached; or

3. There is worsening in a patient's visual field or optic nerve head; and

(iv) May perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos. The tests or photos shall be provided to an ophthalmologist for review by the ophthalmologist.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a therapeutically certified optometrist may not administer or prescribe any oral pharmaceutical agent for any purpose.

(2) (i) A therapeutically certified optometrist may administer and prescribe oral tetracycline and its derivatives only for the diagnosis and treatment of meibomitis and seborrheic blepharitis.

(ii) If a therapeutically certified optometrist administers or prescribes oral tetracycline or its derivatives to a patient in accordance with subparagraph (i) of this paragraph and the patient does not improve within 3 weeks

of treatment, the optometrist shall refer the patient to an ophthalmologist.

(3) A therapeutically certified optometrist may administer or prescribe nonprescription drugs that are commercially available.

(e) (1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not perform any procedure on the eyelid of a patient.

(2) A therapeutically certified optometrist may epilate with forceps an eyelash from the eyelid, adnexa, or lacrimal system of a patient.

(f) A therapeutically certified optometrist may remove superficial foreign bodies from the human eye only if:

(1) The foreign body may be removed with a cotton-tipped applicator or blunt spatula; and

(2) The foreign body has not penetrated beyond the bowman's membrane of the cornea and is not within 2.5 millimeters of the visual axis.

(g) (1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not order laboratory tests for a patient.

(2) A therapeutically certified optometrist may order a conjunctival culture.

(h) A therapeutically certified optometrist may not provide any therapeutic treatment listed in this section for a child under the age of 1 year.

(i) Unless the standard of care requires an earlier referral, if a therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient does not have the expected response within 48 hours, the optometrist immediately shall refer the patient to an ophthalmologist.

(j) A therapeutically certified optometrist shall be held to the same standard of care as an ophthalmologist who is licensed under Title 14 of this article and who is providing similar services.

§11–404.3.

(a) The Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons shall recommend to the Secretary quality assurance guidelines for therapeutically certified optometrists and optometric care.

(b) (1) After considering the recommendations of the Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons, the Secretary shall adopt regulations that establish:

(i) Standards of quality for therapeutically certified optometrists and optometric care;

(ii) An ongoing quality assurance program that includes the monitoring and study of the joint management of primary open-angle glaucoma patients under § 11-404.2(c) of this subtitle;

(iii) A program to evaluate the cost of optometric care; and

(iv) A plan to monitor complaint investigation.

(2) The regulations shall require the Board to:

(i) Conduct a continuing study and investigation of therapeutically certified optometrists to ensure the quality of care they provide; and

(ii) Report to the Secretary, as the Secretary requires, on the results of the Board's study and investigation.

(3) The Board's study and investigation shall include:

(i) A peer review program; and

(ii) A review of patient optometric records that includes the collection and evaluation of data on the drugs being prescribed and administered and the appropriateness of treatment by therapeutically certified optometrists.

§11–404.4.

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

(2) "Replacement contact lens prescription" means a prescription prepared by a licensed optometrist containing the information specified in this section and written expressly for the purpose of providing lenses which have already been properly fitted.

(3) "Immediate follow-up care" is that period of contact lens fitting time required to reach a contact lens prescription that is appropriate to the documented clinical needs of the patient.

(b) A licensed optometrist shall ensure that each replacement contact lens prescription that the licensed optometrist prescribes for contact lenses:

(1) Contains all the information necessary for the replacement contact lens prescription to be properly dispensed, including but not limited to the:

(i) Lens manufacturer;

(ii) Type of lens;

(iii) Power of the lens, including plano or zero-powered contact lenses;

(iv) Base curve;

(v) Lens size;

(vi) Name of the patient;

(vii) Date the prescription was given to the patient;

(viii) Name and office location of the licensed optometrist who writes the replacement contact lens prescription; and

(ix) Expiration date of the replacement contact lens prescription; and

(2) Is reduced to writing and placed in the patient's permanent file.

(c) (1) (i) After a licensed optometrist releases the patient from immediate follow-up care, the patient may request the replacement contact lens prescription from the licensed optometrist.

(ii) If, after examination, the patient's prescription has not changed since the last examination, a licensed optometrist shall comply with the provisions of paragraph (2) of this subsection without requiring the patient to purchase contact lenses or to undergo immediate follow-up care.

(2) (i) Upon the request of a patient of a licensed optometrist, and without cost to the patient, the licensed optometrist shall provide the patient's replacement contact lens prescription to the patient or the patient's designee.

(ii) In responding to a request under paragraph (1)(i) of this subsection, a licensed optometrist shall transmit the contact lens prescription by mail, telephone, facsimile, e-mail, or any other means of communication that will, under normal circumstances, result in the designee receiving the information within 7 business days after the patient's request.

(iii) The replacement contact lens prescription that the licensed optometrist provides the patient under subparagraph (i) of this paragraph:

1. Shall contain the information necessary for the proper duplication of the current prescription of the patient;

2. Shall contain, subject to the provisions of subsection (d) of this section, an expiration date for the replacement contact lens prescription of not more than 24 months from the time the patient was first examined; and

3. May contain wearing guidelines or specific instructions for use of the contact lenses by the patient, or both.

(d) The licensed optometrist shall enter into the patient's medical record the valid clinical reasons for a shorter expiration date and shall provide the patient with a written and oral explanation of the clinical reasons for a shorter expiration date.

(e) When a patient's prescription is dispensed by a person other than the licensed optometrist or a person associated directly or indirectly with the licensed optometrist, the licensed optometrist is not liable for any injury to or condition of a patient caused solely by the negligence of the dispenser.

(f) A licensed optometrist who releases a replacement contact lens prescription to a patient may provide the patient with a written statement that wearing improperly fitted contact lenses may cause harm to the patient's eyes and that the patient should have an eye examination if there are any changes in the patient's vision, including pain or vision loss.

(g) (1) A licensed optometrist who fills or provides a contact lens prescription shall maintain a record of that prescription in accordance with § 4-403 of the Health - General Article.

(2) A person other than a licensed optometrist who fills a contact lens prescription shall maintain a record of that prescription for 5 years.

(h) The Board may impose a civil fine of no more than $1,000 on a licensed optometrist who fails to provide a replacement contact lens prescription or who knowingly dispenses contact lenses without a valid and unexpired replacement contact lens prescription, or who otherwise fails to comply with this title.

§11–405.

(a) In this section, "optometrist rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, an optometrist rehabilitation committee is a committee of the Board or a committee of the Maryland Optometric Association that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to optometrists.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, an optometrist rehabilitation committee evaluates and provides assistance to any optometrist, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the optometrist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the optometrist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the optometrist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in any arbitration or civil proceeding.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of an optometrist rehabilitation committee is not civilly liable for any action as a member of the optometrist rehabilitation committee or for giving information to, participating in, or contributing to the function of the optometrist rehabilitation committee.

§11–501.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice optometry in this State unless licensed by the Board.

§11–502.

Unless licensed to practice optometry under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person practices optometry.

§11–503.

An optometrist practicing in the State may not:

(1) Use surgical lasers;

(2) Perform any surgery, including cataract surgery or cryosurgery;

(3) Perform a radial keratotomy;

(4) Give an injection, except that an optometrist may give an injection

of epinephrine in the appropriate dose for the treatment of acute anaphylaxis or emergency resuscitation; or

(5) Except as provided under this title, dispense a therapeutic pharmaceutical agent to any person.

§11–504.

(a) Knowingly selling or dispensing contact lenses or replacement contact lenses without a valid and unexpired prescription or replacement contact lens prescription shall be considered a violation of this title.

(b) The Board shall investigate any alleged violation of this section or § 11-404.4 of this title and may, notwithstanding § 11-205 of this title:

(1) Issue subpoenas, administer oaths, and examine witnesses; and

(2) Enforce any provision of this title by injunction or other appropriate proceedings.

(c) An action under this section is in addition to and not instead of criminal prosecution under § 11-505 of this subtitle.

§11–505.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) (1) This subsection does not apply to:

(i) An individual licensed under Title 14, Subtitle 3 of this article; or

(ii) An individual supervised by an individual licensed under Title 14, Subtitle 3 of this article.

(2) A person who violates § 11–501, § 11–502, or § 11–504 of this subtitle is subject to a civil fine not exceeding $50,000 to be assessed by the Board in accordance with regulations adopted by the Board.

§11–601.

This title may be cited as the "Maryland Optometry Act".

§11–602.

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, 2023.

§12–101.

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

(b) "Authorized prescriber" means any licensed dentist, licensed physician, licensed podiatrist, licensed veterinarian, certified nurse midwife to the extent permitted in § 8–601 of this article, certified nurse practitioner to the extent permitted in § 8–508 of this article, or other individual authorized by law to prescribe prescription or nonprescription drugs or devices.

(c) "Board" means the State Board of Pharmacy.

(d) (1) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

(i) As the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice; or

(ii) For the purpose of, or incident to, research, teaching, or chemical analysis and not for the sale or dispensing of the drug or device.

(2) "Compounding" includes the preparation of drugs or devices in anticipation of a prescription drug order based on routine, regularly observed prescribing patterns.

(e) (1) "Delegated pharmacy act" means an activity that constitutes the practice of pharmacy delegated by a licensed pharmacist under this title and regulations adopted by the Board.

(2) "Delegated pharmacy act" does not include:

(i) An act within the parameters of a therapy management contract as provided under Subtitle 6A of this title;

(ii) The administration of an influenza vaccination in accordance with § 12–508 of this title;

(iii) The delegation of a pharmacy act by a registered pharmacy technician, pharmacy student, or pharmacy technician trainee;

(iv) A pharmacy activity performed by a pharmacy student in accordance with § 12–301(b) of this title;

(v) A pharmacy activity performed by an applicant for a license to practice pharmacy in accordance with regulations adopted by the Board; or

(vi) The performance of other functions prohibited in regulations

adopted by the Board.

(f) (1) "Device" means a device used in the diagnosis, treatment, or prevention of disease.

(2) "Device" does not include any:

(i) Surgical or dental instrument;

(ii) Physical therapy equipment;

(iii) X–ray apparatus; or

(iv) Component part or accessory of any of these items.

(g) "Direct supervision" means that a licensed pharmacist is physically available, notwithstanding appropriate breaks, on–site and in the prescription area or in an area where pharmacy services are provided to supervise the practice of pharmacy and delegated pharmacy acts.

(h) "Dispense" or "dispensing" means the procedure which results in the receipt of a prescription or nonprescription drug or device by a patient or the patient's agent and which entails the:

(1) Interpretation of an authorized prescriber's prescription for a drug or device;

(2) Selection and labeling of the drug or device prescribed pursuant to that prescription; and

(3) Measuring and packaging of the prescribed drug or device in accordance with State and federal laws.

(i) (1) "Distribute" means the process resulting in the provision of a prescription or nonprescription drug or device to a separate, intervening individual, licensed and practicing under this article, prior to administration of the provided drug or device to the patient pursuant to a prescription issued by an authorized prescriber.

(2) "Distribute" does not include the operations of a person who holds a permit issued under § 12–6C–03 of this title.

(j) "License" means, unless the context requires otherwise, a license issued to a pharmacist by the Board to practice pharmacy.

(k) "Licensed pharmacist" means, unless the context requires otherwise, a pharmacist who is licensed by the Board to practice pharmacy.

(l) "Nonprescription drug" means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the

requirements of the laws and regulations of this State and the federal government.

(m) "Nonresident pharmacy" means a pharmacy located outside this State that, in the normal course of business, as determined by the Board, ships, mails, or delivers drugs or devices to a person in this State pursuant to a prescription.

(n) "Pharmaceutical care" means the provision of a patient's drug regimen for the purpose of achieving definite outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process by identifying, resolving, or preventing actual or potential drug therapy problems and which may include patient counseling and providing information to licensed and certified health care providers.

(o) "Pharmacist" means an individual who practices pharmacy regardless of the location where the activities of practice are performed.

(p) "Pharmacy" means an establishment in which prescription or nonprescription drugs or devices are compounded, dispensed, or distributed.

(q) "Pharmacy permit" means a permit issued by the Board to establish and operate a pharmacy.

(r) "Pharmacy student" means an individual who is enrolled as a student in a school or college of pharmacy approved by the Board or accredited by the Accreditation Council for Pharmacy Education.

(s) "Pharmacy technician trainee" means an individual engaged in a Board approved pharmacy technician training program.

(t) (1) "Practice pharmacy" means to engage in any of the following activities:

(i) Providing pharmaceutical care;

(ii) Compounding, dispensing, or distributing prescription drugs or devices;

(iii) Compounding or dispensing nonprescription drugs or devices;

(iv) Monitoring prescriptions for prescription and nonprescription drugs or devices;

(v) Providing information, explanation, or recommendations to patients and health care practitioners about the safe and effective use of prescription or nonprescription drugs or devices;

(vi) Identifying and appraising problems concerning the use or monitoring of therapy with drugs or devices;

(vii) Acting within the parameters of a therapy management contract, as provided under Subtitle 6A of this title;

(viii) Administering vaccinations in accordance with § 12–508 of this title;

(ix) Delegating a pharmacy act to a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program;

(x) Supervising a delegated pharmacy act performed by a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program; or

(xi) Providing drug therapy management in accordance with § 19–713.6 of the Health – General Article.

(2) "Practice pharmacy" does not include the operations of a person who holds a permit issued under § 12–6C–03 of this title.

(t–1) "Registered pharmacy intern" means an individual who is registered with the Board to practice pharmacy under the direct supervision of a pharmacist.

(u) "Registered pharmacy technician" means an individual who is registered with the Board to perform delegated pharmacy acts.

(v) "Registration" means, unless the context requires otherwise, a registration issued by the Board to perform delegated pharmacy acts under the supervision of a licensed pharmacist.

(w) "Supervision" means reviewing the work, guiding and directing the activities, and monitoring the performance of an individual.

§12–102.

(a) (1) In this section the following terms have the meanings indicated.

(2) "In the public interest" means the dispensing of drugs or devices by a licensed dentist, physician, or podiatrist to a patient when a pharmacy is not conveniently available to the patient.

(3) "Personally preparing and dispensing" means that the licensed dentist, physician, or podiatrist:

(i) Is physically present on the premises where the prescription is filled; and

(ii) Performs a final check of the prescription before it is provided to

the patient.

(b) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(c) (1) This subsection does not apply to a licensed dentist who obtains a permit from the State Board of Dental Examiners under subsection (h) of this section.

(2) This title does not prohibit:

(i) A licensed veterinarian from personally preparing and dispensing the veterinarian's prescriptions;

(ii) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:

1. The dentist, physician, or podiatrist:

A. Has applied to the board of licensure in this State which licensed the dentist, physician, or podiatrist;

B. Has demonstrated to the satisfaction of that board that the dispensing of prescription drugs or devices by the dentist, physician, or podiatrist is in the public interest;

C. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge; and

D. Posts a sign conspicuously positioned and readable regarding the process for resolving incorrectly filled prescriptions or includes written information regarding the process with each prescription dispensed;

2. The person for whom the drugs or devices are prescribed is a patient of the prescribing dentist, physician, or podiatrist;

3. The dentist, physician, or podiatrist does not have a substantial financial interest in a pharmacy; and

4. The dentist, physician, or podiatrist:

A. Complies with the dispensing and labeling requirements of this title;

B. Records the dispensing of the prescription drug or device on the patient's chart;

C. Allows the Division of Drug Control to enter and inspect the dentist's, physician's, or podiatrist's office at all reasonable hours and in accordance

with § 12–102.1 of this subtitle;

D. On inspection by the Division of Drug Control, signs and dates an acknowledgment form provided by the Division of Drug Control relating to the requirements of this section;

E. Except for starter dosages or samples without charge, provides the patient with a written prescription, maintains prescription files in accordance with § 12–403(c)(13) of this title, and maintains a separate file for Schedule II prescriptions;

F. Does not direct patients to a single pharmacist or pharmacy in accordance with § 12–403(c)(8) of this title;

G. Does not receive remuneration for referring patients to a pharmacist or pharmacy;

H. Complies with the child resistant packaging requirements regarding prescription drugs under Title 22, Subtitle 3 of the Health – General Article;

I. Complies with drug recalls;

J. Maintains biennial inventories and complies with any other federal and State record–keeping requirements relating to controlled dangerous substances;

K. Purchases prescription drugs from a pharmacy or wholesale distributor who holds a permit issued by the Board of Pharmacy, as verified by the Board of Pharmacy;

L. Annually reports to the respective board of licensure whether the dentist, physician, or podiatrist has personally prepared and dispensed prescription drugs within the previous year; and

M. Completes ten continuing education credits over a 5–year period relating to the preparing and dispensing of prescription drugs, offered by the Accreditation Council for Pharmacy Education (ACPE) or as approved by the Secretary, in consultation with each respective board of licensure, as a condition of permit renewal; or

(iii) A hospital–based clinic from dispensing prescriptions to its patients.

(d) This title does not prohibit:

(1) A licensed veterinarian from personally dispensing a drug or device sample to a patient of the veterinarian; or

(2) A licensed dentist, licensed physician, or licensed podiatrist from personally dispensing a drug or device sample to a patient of the licensed dentist, licensed physician, or licensed podiatrist if:

(i) The sample complies with the labeling requirements of § 12–505 of this title;

(ii) No charge is made for the sample; and

(iii) The authorized prescriber enters an appropriate record in the patient's chart.

(e) (1) This title does not prohibit a dentist, physician, or podiatrist from administering a prescription drug or device in the course of treating a patient.

(2) For the purposes of paragraph (1) of this subsection, "administering" means the direct introduction of a single dosage of a drug or device at a given time, whether by injection or other means, and whether in liquid, tablet, capsule, or other form.

(f) (1) This title does not prohibit a dentist, physician, or podiatrist from personally dispensing a starter dosage of a prescription drug or device to a patient of the dentist, physician, or podiatrist, provided that:

(i) The starter dosage complies with the labeling requirements of § 12–505 of this title;

(ii) No charge is made for the starter dosage; and

(iii) The dentist, physician, or podiatrist enters an appropriate record on the patient's chart.

(2) For the purposes of paragraph (1) of this subsection, "starter dosage" means an amount of drug or device sufficient to begin therapy:

(i) Of short duration of 72 hours or less; or

(ii) Prior to obtaining a larger quantity of the drug or device to complete the therapy.

(g) This title does not prohibit a dentist, physician, or podiatrist from dispensing a prescription drug or device in the course of treating a patient:

(1) At a medical facility or clinic that is operated on a nonprofit basis;

(2) At a health center that operates on a campus of an institution of higher education; or

(3) At a public health facility, a medical facility under contract with a State

or local health department, or a facility funded with public funds.

(h) This title does not prohibit a licensed dentist who obtains a permit from the State Board of Dental Examiners that allows the licensed dentist to dispense only prescription strength home fluoride products, dentin/enamel remineralizing products, and antimicrobial rinse from dispensing the product or rinse when:

(1) The product or rinse is dispensed to a patient of the licensed dentist;

(2) The licensed dentist enters an appropriate record in the patient's chart that the product or rinse was dispensed to the patient; and

(3) The licensed dentist affixes a label on the product or rinse container that includes:

(i) The name of the patient; and

(ii) Unless already printed on the container:

1. The expiration date of the product or rinse; and

2. The instructions for using the product or rinse.

(i) This title does not apply to a person who only dispenses:

(1) Prescription devices that do not contain a prescription drug;

(2) Prescription devices within which the only prescription drug is medical oxygen;

(3) Durable medical equipment, as defined by the Centers for Medicare and Medicaid Services; or

(4) Prosthetics, orthotics, and related supplies.

(j) This title does not prohibit a licensed dentist from dispensing a full course of antibiotics to a patient for infection control if:

(1) The patient is receiving pro bono dental care;

(2) There is no charge for the antibiotics;

(3) The licensed dentist enters an appropriate record of the treatment in the patient's chart; and

(4) The licensed dentist affixes a label on the antibiotic container that includes:

(i) The name of the patient; and

(ii) Unless already printed on the container:

1. The expiration date of the antibiotic; and

2. The instructions for taking the antibiotic.

(k) This title does not limit the right of a general merchant to sell:

(1) Any nonprescription drug or device;

(2) Any commonly used household or domestic remedy; or

(3) Any farm remedy or ingredient for a spraying solution, in bulk or otherwise.

(l) The Board of Pharmacy, the Board of Dental Examiners, the Board of Physicians, and the Board of Podiatric Medical Examiners annually shall report to the Division of Drug Control:

(1) The names and addresses of its licensees who are authorized to personally prepare and dispense prescription drugs; and

(2) The names and addresses of its licensees who have reported, in accordance with subsection (c)(2)(ii)4L of this section, that they have personally prepared and dispensed prescription drugs within the previous year.

(m) A dentist, physician, or podiatrist who fails to comply with the provisions of this section governing the dispensing of prescription drugs or devices shall:

(1) Have the dispensing permit revoked; and

(2) Be subject to disciplinary actions by the appropriate licensing board.

§12–102.1.

(a) This section does not apply to a licensed dentist who obtains a permit from the State Board of Dental Examiners under § 12–102(h) of this subtitle.

(b) The Division of Drug Control shall enter and inspect the office of a dentist, physician, or podiatrist who holds:

(1) An initial dispensing permit:

(i) Within 6 months after receiving the report required under § 12–102(l)(1) of this subtitle; and

(ii) At least one more time during the duration of the permit; and

(2) A renewed dispensing permit at least two times during the duration of

the permit.

(c) The Division of Drug Control promptly shall report the results of the inspections required under subsection (b) of this section to the respective board of licensure.

§12–102.2.

(a) This section does not apply to a licensed dentist who obtains a permit from the State Board of Dental Examiners under § 12–102(h) of this subtitle.

(b) The Board of Dental Examiners, the Board of Physicians, and the Board of Podiatric Medical Examiners shall charge a fee to a dentist, physician, or podiatrist who holds a dispensing permit in an amount that will produce funds to approximate but not exceed the documented costs to the Division of Drug Control for inspections of dispensing permit holders.

(c) Revenues collected by the Board of Dental Examiners, the Board of Physicians, and the Board of Podiatric Medical Examiners under this section shall be paid into the General Fund of the State.

§12–201.

There is a State Board of Pharmacy in the Department.

§12–202.

(a) (1) The Board consists of twelve members.

(2) Of the twelve Board members:

(i) Ten shall be licensed pharmacists, including:

1. Two who at the time of appointment practice primarily in chain store pharmacies;

2. Two who at the time of appointment practice primarily in independent pharmacies;

3. Two who at the time of appointment practice primarily in an acute–care hospital;

4. One who at the time of appointment practices primarily in a pharmacy that provides services to a long–term care facility;

5. One who at the time of appointment practices primarily in a pharmacy that specializes in the provision of home infusion/home care services; and

6. Two pharmacists at–large; and

(ii) Two shall be consumer members.

(3) (i) The Governor shall appoint the chain store pharmacist members, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Association of Chain Drug Stores.

(ii) The Governor shall appoint the independent pharmacist members, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Pharmacists Association and the Maryland Pharmaceutical Society.

(iii) The Governor shall appoint the acute–care hospital pharmacist members, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Society of Health–System Pharmacists.

(iv) The Governor shall appoint the long–term care facility pharmacist member, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Chapter of the American Society of Consultant Pharmacists.

(v) The Governor shall appoint the home infusion/home care pharmacist member, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Society of Health–System Pharmacists.

(vi) The Governor shall appoint the at–large pharmacist members, with the advice of the Secretary, from a list of all names submitted to the Maryland Pharmacists Association, and then forwarded to the Secretary and the Governor.

(vii) Except for the at–large vacancies, the number of names on each list submitted to the Secretary and the Governor under this paragraph shall be three times the number of vacancies.

(4) For each pharmacist vacancy:

(i) The Board shall notify all licensed pharmacists and other interested parties of record in the State of the vacancy to solicit nominations to fill the vacancy and provide information for contacting a representative of the group that submits the list of names to the Governor under paragraph (3) of this subsection; and

(ii) Except for the at–large vacancies, each association that is responsible for submitting a list of nominees to the Secretary and the Governor under this section shall:

1. Issue a nomination form upon the request of any licensed pharmacist and consider all nominations received by the association's deadline;

2. Form a committee, which recognizes diversity within

the State in geographic distribution, sex, race, and age, comprised of at least five pharmacists to review nominations, interview all qualified nominees in a meeting open to the public, and select three names for each vacancy to be submitted to the Secretary and the Governor; and

3. In the event that fewer than three qualified nominees are submitted to the association, select any additional names that are needed to complete the list required to be submitted to the Secretary and the Governor under this section.

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

(6) Each member of the Board shall be a resident of this State.

(7) A member of the Board shall be recused from all aspects of the licensing exam if that Board member:

(i) Is a member of the board of trustees at a school of pharmacy;

(ii) Is a teacher at a school of pharmacy; or

(iii) Acquires the member's primary source of income through employment by a school of pharmacy.

(b) Each pharmacist member of the Board shall:

(1) Be skilled and competent in practicing pharmacy; and

(2) Have at least 5 years of active pharmacy practice.

(c) Each consumer member of the Board:

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

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

(3) May not have a household member who is a pharmacist or in training to become a pharmacist;

(4) May not participate or ever have participated in a commercial or professional field related to practicing pharmacy;

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

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

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

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

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

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

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

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

(g) (1) The Governor may remove a member for incompetence or misconduct.

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

§12–203.

(a) From among its members, the Board annually shall elect a president, a secretary, and a treasurer.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§12–204.

(a) A majority of the members then serving on the Board is a quorum to do business.

(b) The Board shall determine the times and places of its meetings.

(c) Each member of the Board is entitled to:

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

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

(d) (1) The Board may employ a staff in accordance with the budget of the Board.

(2) The Board may designate 1 of its staff as an executive director.

§12–205.

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

(1) Rules and bylaws that are necessary to do its business;

(2) Rules and regulations to carry out the provisions of this title;

(3) Rules and regulations that are necessary to protect the public health, safety, and welfare and that establish standards for practicing pharmacy and operating pharmacies, including rules and regulations that govern:

(i) Methods of advertising and promotion; and

(ii) Standards for filling and refilling prescriptions; and

(4) A code of conduct that specifies which behaviors are either required or prohibited in the practice of pharmacy.

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

(1) Keep a record that includes:

(i) The name and place of the business or the home address of each licensed pharmacist, each registered pharmacy technician, and each registered pharmacy intern;

(ii) The facts concerning the issuance of that pharmacist's license;

(iii) The facts concerning the issuance of that pharmacy technician's registration; and

(iv) The facts concerning the issuance of that pharmacy intern's registration;

(2) Prepare and deliver to the Governor, the Secretary, and the Maryland Pharmacists Association an annual report that:

(i) Summarizes the condition of pharmacy in this State; and

(ii) Includes a record of the proceedings of the Board; and

(3) Disclose any information contained in a record to any health occupations regulatory board or agency of this State or another state if the health occupations regulatory board or agency of this State or another state requests the information in writing.

(c) In addition to the duties set forth elsewhere in this title, the Board may initiate such programs and projects as deemed necessary to inform or protect the public.

(d) (1) The Board shall adopt standards for approving examinations under § 12-6B-02(b)(4) of this title.

(2) The Board shall approve any examination that meets the standards adopted under paragraph (1) of this subsection including:

(i) Employer based pharmacy technician examinations;

(ii) Nationally recognized pharmacy technician examinations; and

(iii) Examinations for certification as a pharmacy technician.

§12–206.

(a) There is a State Board of Pharmacy Fund.

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

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

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Pharmacy Fund.

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

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

(f) The Board may allocate moneys from the Fund to a pharmacist rehabilitation committee described in § 12-317 of this title.

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

§12–207.

A person shall have the immunity from liability described under § 5-713 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§12–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice pharmacy in this State.

(b) This section does not apply to a pharmacy student participating in an experiential learning program of a college or school of pharmacy under the supervision of a licensed pharmacist.

(c) This section does not apply to a registered pharmacy intern practicing under the direct supervision of a licensed pharmacist.

§12–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall:

(1) Be a graduate of a school or college of pharmacy that is approved by the Board or accredited by the American Council on Pharmaceutical Education; and

(2) Have completed the professional experience program that the Board requires.

(e) Except as otherwise provided in this title, the applicant shall pass an

examination given by the Board under this subtitle.

(f) (1) In this subsection, "foreign school or college of pharmacy" means a school or college of pharmacy that is not located in any state in the United States.

(2) The Board may waive the requirements of subsection (d)(1) of this section for an applicant who is a graduate of a foreign school or college of pharmacy, provided that the applicant passes an examination approved by the Board in addition to the examinations otherwise given by the Board under this subtitle.

(g) (1) The Board shall require, as part of its examination or licensing procedures, an applicant for a license to practice pharmacy to demonstrate an oral competency in the English language by passing a Board approved standardized test of oral competency.

(2) The Board shall adopt regulations that establish a procedure for testing an individual who because of the individual's speech or hearing impairment is unable to complete satisfactorily a Board approved standardized test of oral competency.

(3) If any disciplinary charge or action that relates to a problem with the oral communication of the English language is brought against a licensee under this title, the Board shall require the licensee to pass a Board approved standardized test of oral competency.

(4) The Board may not require an applicant for a license to practice pharmacy, who was previously licensed in another state to practice pharmacy, to demonstrate an oral competency in the English language, if the other state's examination and licensing procedures at the time the applicant was licensed in the other state included an oral competency component similar to the oral competency component in this State's examination and licensing procedures.

§12–303.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay the application fees set by the Board.

(b) An application shall be signed and verified by the applicant as to completion of the required professional experience program.

§12–304.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least twice a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) The Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

§12–305.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this title for an applicant who is licensed to practice pharmacy in any other state, if that state grants a similar waiver to licensees of this State.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Is of good moral character;

(2) Pays the application fees set by the Board; and

(3) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) Became licensed or registered in the other state to practice pharmacy only after passing an examination that is approved by the Board.

(c) The Board shall adopt by regulation an examination to be administered to applicants who are licensed to practice pharmacy in any other state.

§12–306.

The Board shall issue a license to any applicant who meets the requirements of this title.

§12–307.

(a) A license authorizes the licensee to practice pharmacy while the license is effective.

(b) Except as otherwise provided in this section, a pharmacist may engage in dispensing or distributing only from a pharmacy holding a pharmacy permit issued by the Board.

(c) (1) Pursuant to regulations adopted by the Board, a licensed pharmacist may engage in dispensing or distributing from a setting not holding a pharmacy permit only upon receiving the prior approval of the Board.

(2) The Board shall adopt regulations that authorize a pharmacist to dispense or distribute from a remote location for the benefit of a health care facility that uses a remote automated medication system in accordance with § 12–605 of this title.

(d) A licensed pharmacist may delegate pharmacy acts to a registered pharmacy technician, pharmacy student, or pharmacy technician trainee provided that the delegated pharmacy acts:

(1) Are directly supervised by a licensed pharmacist;

(2) Are not required to be performed by a licensed pharmacist;

(3) Are within the education, training, experience, and area of practice of the delegating licensed pharmacist; and

(4) Are appropriate to the education, training, and experience of the registered pharmacy technician, pharmacy student, or pharmacy technician trainee.

§12–308.

(a) (1) A license expires on the date set by the Board unless it is renewed for an additional term as provided in this section.

(2) A license may not be renewed for a term longer than 2 years.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board shall send to each licensee, at least 1 month before a license expires, a renewal notice by first–class mail to the last known address of the licensee.

(2) If requested by a licensee, the Board shall send to the licensee, at least two times within the month before a license expires, a renewal notice by electronic means to the last known electronic address of the licensee.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send to the licensee a renewal notice by first–class mail to the last known address of the licensee.

(4) A renewal notice sent under this subsection shall state:

(i) The date on which the current license expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(iii) The amount of the renewal fee.

(c) Before the license expires, the licensee periodically may renew it for an additional term set by the Board in its regulations, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with the continuing education requirements set under this subtitle for license renewal.

(d) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

§12–309.

(a) Except as permitted in subsections (b) and (c) of this section, the Board may not renew the license and issue a certificate of renewal to any pharmacist until the pharmacist presents evidence of having completed 30 hours of approved continuing pharmaceutical education within the preceding 2 years.

(b) The Board may renew the license and issue a certificate of renewal to a pharmacist who presents acceptable evidence that the pharmacist was unable to comply with subsection (a) of this section.

(c) The Board may renew the license and issue a certificate of renewal for the first renewal period following the issuance of the original license without requiring a pharmacist to complete any continuing pharmaceutical education, if the pharmacist obtains a license within 1 year of the completion of the pharmacist's pharmaceutical education.

(d) The Board shall evaluate and approve programs of continuing pharmaceutical education submitted to the Board by the person who intends to offer the program.

(e) Each program of continuing pharmaceutical education shall consist of at least 1 continuing education unit, which is 1 hour of participation in an organized continuing educational experience, including postgraduate studies, institutes, seminars, lectures, conferences, workshops, correspondence courses, cassette programs, programmed learning courses, audiovisual programs, and any other form of presentation that is approved by the Board.

(f) Any aspect of the practice of pharmacy may be the subject of a program of continuing pharmaceutical education, including pharmaceutics (compounding), pharmacology, pharmaceutical chemistry, biochemistry, physiology, microbiology, pharmacy administration, and professional practice management.

(g) Each program of continuing pharmaceutical education submitted to the

Board of Pharmacy for approval shall:

(1) Have a definite stated objective;

(2) Be presented in an organized manner by a qualified instructor or resource person; and

(3) Include a method of program evaluation that is suitable to the type of program being presented.

(h) Each person who offers a program of continuing pharmaceutical education shall:

(1) Provide a means for registration by the participants;

(2) Maintain a record of participation for at least 3 years; and

(3) Furnish each participant with adequate documentation of satisfactory completion of the program, including:

(i) The name of the participant;

(ii) The name of the sponsor;

(iii) The type of program completed;

(iv) The number of continuing education hours or units completed; and

(v) The date of completion.

(i) For purposes of evaluation, members of the Board may attend and participate in any continuing pharmaceutical education program approved for credit.

(j) A pharmacist who completes a program of continuing pharmaceutical education that is not previously approved by the Board may request the Board, in writing, to approve the program for credit.

(k) The Board shall adopt regulations that are necessary to carry out the purposes of this section.

(l) Any continuing education program that is currently approved by the American Council on Pharmaceutical Education automatically qualifies for continuing education credit.

§12–310.

(a) The Board shall reinstate the license of a pharmacist whose license has been expired for less than 2 years, if the pharmacist:

(1) Meets the renewal and reinstatement requirements set by rule and regulation of the Board; and

(2) Pays to the Board the reinstatement fee set by the Board.

(b) The Board shall reinstate the license of a pharmacist whose license has been expired for 2 years or more if the pharmacist:

(1) Meets the reinstatement requirements established by the Board in its rules or regulations; and

(2) Satisfies the requirements of subsection (a) of this section.

§12–311.

Each licensee shall display the license conspicuously in the office or place of business of the licensee.

§12–312.

(a) Unless the Board agrees to accept the surrender of a license, a licensed pharmacist 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 pharmacist.

(b) The Board may set conditions on its agreement with the pharmacist under investigation or against whom charges are pending to accept surrender of the pharmacist's license.

§12–313.

(a) In this section, "convicted" includes a determination of guilt, a guilty plea, or a plea of nolo contendere followed by a sentence.

(b) Subject to the hearing provisions of § 12–315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist 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) Aids an unauthorized individual to practice pharmacy or to represent that the individual is a pharmacist, a registered pharmacy intern, or a registered pharmacy technician;

(4) Delegates pharmacy acts to an unauthorized individual;

(5) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Submits a false statement to collect a fee;

(7) Willfully makes or files a false report or record as part of practicing pharmacy;

(8) Willfully fails to file or record any report that is required by law;

(9) Willfully impedes or obstructs the filing or recording of any report that is required by law;

(10) Willfully induces another to fail to file or record any report that is required by law;

(11) Provides or causes to be provided to any authorized prescriber prescription forms that bear the name, address, or other means of identification of a pharmacist or pharmacy;

(12) Provides remuneration to an authorized prescriber for referring an individual to a pharmacist or pharmacy for a product or service to be provided by that pharmacist or pharmacy;

(13) Agrees with an authorized prescriber, a registered pharmacy intern, or registered pharmacy technician to prepare or dispense a secret formula prescription;

(14) Except as to an association that has remained in continuous existence since July 1, 1963, associates as a partner, coowner, or employee of a pharmacy that is owned wholly or substantially by an authorized prescriber or group of authorized prescribers;

(15) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;

(16) Except as provided in § 12–506 of this title, unless an authorized prescriber authorizes the refill, refills a prescription for any drug, device, or diagnostic for which a prescription is required;

(17) Violates any provision of § 12–505 of this title, which concerns the labeling requirements for prescriptions for drugs, devices, or diagnostics;

(18) Violates any provision of § 12–603 of this title, which concerns the home dialysis distribution program;

(19) Advertises or otherwise publicly claims to dispense prescriptions or practice pharmacy in a superior manner;

(20) Advertises in a manner that tends to deceive or defraud the public;

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

(22) 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;

(23) Is convicted of a violation of this title;

(24) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(25) Violates any rule or regulation adopted by the Board;

(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) Violates any provision of § 12–507 of this title;

(28) Provides or causes to be provided confidential patient information to any person without first having obtained the patient's consent, as required by § 12–403(c)(13) of this title and by Title 4, Subtitle 3 of the Health – General Article;

(29) Fails to cooperate with a lawful investigation conducted by the Board or the Division of Drug Control;

(30) Delegates pharmacy acts to a registered pharmacy technician, pharmacy student, or a pharmacy technician trainee outside the scope of education, training, experience, and area of practice of a licensed pharmacist;

(31) Delegates pharmacy acts that are inappropriate for a registered pharmacy technician, pharmacy student, or pharmacy technician trainee who does not have the education, training, or experience to perform the delegated pharmacy acts;

(32) Fails to dispense or dispose of prescription drugs or medical supplies in accordance with Title 15, Subtitle 6 of the Health – General Article; or

(33) Fails to appropriately supervise a registered pharmacy intern.

(c) (1) The Board shall revoke the license of a licensee who is convicted under

§ 5–702 of the Criminal Law Article.

(2) The Board may reinstate the license of a person whose license has been revoked under this section in accordance with the regulations adopted by the Board.

§12–314.

(a) If after a hearing under § 12-315 of this subtitle the Board finds that there are grounds under § 12-313 of this subtitle to reprimand any licensee, place any licensee on probation, or suspend or revoke a license, the Board may impose a penalty not exceeding $10,000:

(1) Instead of reprimanding the licensee, placing the licensee on probation, or suspending or revoking the license; or

(2) In addition to reprimanding the licensee, placing the licensee on probation, or suspending or revoking the license.

(b) The Board shall adopt rules and regulations to set standards for the imposition of penalties under this section.

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

§12–315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 12-313 of this subtitle or § 12-6B-09 of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) The hearing notice to be given to the individual shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the individual at least 20 days before the hearing.

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

(e) Over the signature of an officer or the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(f) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(g) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(h) The hearing of charges against a person may not be stayed or challenged by procedural defects alleged to have occurred prior to filing of the charges.

(i) (1) This subsection does not apply to a civil action brought by a party to a proceeding before the Board who claims to be aggrieved by the decision of the Board.

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

(i) The proceedings, records, or files of the Board or any of its investigatory bodies are not discoverable and are not admissible in evidence; and

(ii) Any order passed by the Board is not admissible in evidence.

(3) 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 or any of its investigatory bodies does not prevent its production in any other proceeding.

§12–316.

(a) Except as provided in this section for an action under § 12–313 of this subtitle or § 12–6B–09 or § 12–6D–11 of this title, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 12–313 of this subtitle or § 12–6B–09 or § 12–6D–11 of this title may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§12–317.

(a) In this section, "pharmacist rehabilitation committee" means a group, the majority of which is comprised of pharmacists, that is recognized by the Board.

(b) For purposes of this section, a pharmacist rehabilitation committee evaluates and provides assistance to any pharmacist, registered pharmacy intern, or registered pharmacy technician in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(c) (1) Except as otherwise provided in this section, the proceedings, records, and files of a pharmacist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the pharmacist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the pharmacist rehabilitation committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(d) A person who acts in good faith and within the scope of jurisdiction of a pharmacist rehabilitation committee is not civilly liable for any action as a member of the pharmacist rehabilitation committee or for giving information to, participating in, or contributing to the function of the pharmacist rehabilitation committee.

§12–318.

(a) In this section, "pharmacy review committee" means an advisory committee appointed by the Board from a pool of Board approved pharmacists to aid the Board in licensing and disciplinary matters.

(b) A pharmacy review committee shall:

(1) Evaluate and seek to improve the quality of pharmaceutical care provided by providers of pharmaceutical care;

(2) Evaluate the need for and the level of performance of pharmaceutical care provided by providers of pharmaceutical care;

(3) Evaluate the qualifications, competence, and performance of providers of pharmaceutical care; or

(4) Evaluate and act on matters that relate to the discipline of any provider of pharmaceutical care.

(c) (1) This subsection does not apply to:

(i) A civil action brought by a party to the proceedings of the pharmacy review committee who claims to be aggrieved by the decision of the pharmacy review committee; or

(ii) Any record or document that is considered by the pharmacy review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(2) The proceedings, records, and files of a pharmacy review committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being reviewed and evaluated by the pharmacy review committee.

(d) A person who acts in good faith and within the scope of jurisdiction of a pharmacy review committee is not civilly liable for any action as a member of

the pharmacy review committee or for giving information to, participating in, or contributing to the function of the pharmacy review committee.

§12–319.

(a) An action may be maintained in the name of this State or the Board to enjoin:

(1) The unauthorized practice of pharmacy; or

(2) Conduct that is a ground for disciplinary action under § 12-313 of this subtitle or § 12-6B-09 of this title.

(b) An action may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) The State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant resides or engages in the actions sought to be enjoined.

(d) Proof of actual damages or that a person will sustain damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for unauthorized practice of pharmacy under § 12-701 of this title or disciplinary action under § 12-313 of this subtitle or § 12-6B-09 of this title.

§12–320.

(a) In investigating an allegation brought against a licensee, registered pharmacy intern, or registered pharmacy technician under this title, if the Board has reason to believe that a licensee, registered pharmacy intern, or registered pharmacy technician may cause harm to a person affected by the licensee's practice, the acts of a registered pharmacy intern, or the acts of a registered pharmacy technician, the Board on its own initiative may direct the licensee, registered pharmacy intern, or registered pharmacy technician to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege given to a licensee to practice pharmacy, a registered pharmacy intern to practice pharmacy under the direct supervision of a pharmacist, or a registered pharmacy technician to perform delegated pharmacy acts in the State, the licensee, registered pharmacy intern, or registered pharmacy technician is deemed to have:

(1) Consented to submit to an examination under this section, if requested

by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports of a health care provider.

(c) The failure or refusal of a licensee, a registered pharmacy intern, or registered pharmacy technician to submit to an examination required under this section is prima facie evidence of the licensee's inability to practice pharmacy competently, the registered pharmacy intern's inability to practice pharmacy competently under the direct supervision of a pharmacist, or the registered pharmacy technician's inability to perform delegated pharmacy acts, unless the Board finds that the failure or refusal was beyond the control of the licensee, registered pharmacy intern, or registered pharmacy technician.

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

§12–401.

(a) A person shall hold a pharmacy permit issued by the Board before the person may establish or operate a pharmacy in this State.

(b) A separate pharmacy permit is required for each pharmacy that a person establishes or operates.

§12–402.

To qualify for a pharmacy permit, an applicant shall satisfy the Board that the pharmacy for which the application is made will be operated in accordance with the standards specified in § 12-403 of this subtitle.

§12–403.

(a) This section does not apply to a licensed dentist who obtains a permit from the State Board of Dental Examiners under § 12–102(h) of this title.

(b) This section does not require a nonresident pharmacy to violate the laws or regulations of the state in which it is located.

(c) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

(1) Shall be operated in compliance with the law and with the rules and regulations of the Board;

(2) Shall be located and equipped so that the pharmacy may be operated without endangering the public health or safety;

(3) Shall ensure that a licensed pharmacist be immediately available on

the premises to provide pharmacy services at all times the pharmacy is in operation;

(4) Shall be supervised by a licensed pharmacist who is responsible for the operations of the pharmacy at all times the pharmacy is in operation;

(5) Shall provide complete pharmaceutical service by preparing and dispensing all prescriptions that reasonably may be expected of a pharmacist;

(6) Shall provide services to the general public and may not restrict or limit its services to any group of individuals unless granted a waiver from this requirement by the Board;

(7) May not offer pharmaceutical services under any term or condition that tends to interfere with or impair the free and complete exercise of professional pharmaceutical judgment or skill;

(8) May not make any agreement that denies a patient a free choice of pharmacist or pharmacy services;

(9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12–313 of this title, a registered pharmacy technician under § 12–6B–09 of this title, or a registered pharmacy intern under § 12–6D–11 of this title;

(10) (i) Shall maintain at all times a current reference library that is appropriate to meet the needs of:

1. The practice specialty of that pharmacy; and

2. The consumers the pharmacy serves; and

(ii) Shall comply with any regulations adopted by the Board establishing the types of texts required to be included in the reference libraries in each of the various practice specialty pharmacies;

(11) (i) Shall maintain at all times the minimum professional and technical equipment and sanitary appliances that are necessary in a pharmacy:

1. To prepare and dispense prescriptions properly; and

2. To otherwise operate a pharmacy; and

(ii) Shall:

1. Be equipped with the minimum equipment and appliances specified by the Board under this section; and

2. Be kept in a clean and orderly manner;

(12) Shall store all prescription or nonprescription drugs or devices properly and safely subject to the rules and regulations adopted by the Board;

(13) Shall:

(i) Make and keep on file for at least 5 years a record of each prescription prepared or dispensed in the pharmacy;

(ii) Disclose the records and files maintained of prescriptions for drugs or devices that identify or may be readily associated with the identity of a patient only in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article; and

(iii) Keep additional records as required by the rules and regulations adopted by the Board;

(14) Except as otherwise provided under federal law, shall establish and maintain mechanisms to ensure that all prescription drugs or devices used within institutions that provide acute, subacute, or long–term care, or within their related corporate subsidiaries, but stored outside a pharmacy, are stored properly and safely, subject to rules and regulations adopted by the Board and policies established by the institution;

(15) Shall provide such personnel, automation, and technology as are necessary to allow the licensed pharmacist employee sufficient time to utilize the pharmacist's knowledge and training and to perform competently the functions of a licensed pharmacist as required by law;

(16) Shall provide such personnel, automation, and technology as are necessary to comply with the labeling requirements specified in § 12–505 of this title;

(17) With regard to a prescription drug that is delivered in this State by the United States mail, a common carrier, or a delivery service and is not personally hand delivered directly to a patient or to the agent of the patient at the residence of the patient or at another location designated by the patient, shall:

(i) Provide a general written notice in each shipment of a prescription drug that alerts a consumer that, under certain circumstances, a medication's effectiveness may be affected by exposure to extremes of heat, cold, or humidity; and

(ii) Provide a specific written notice in each shipment of a prescription drug that provides a consumer with a toll–free or local consumer access telephone number accessible during regular hours of operation, which is designed to respond to consumer questions pertaining to medications;

(18) (i) May maintain a record log of any prescription that is requested to be filled or refilled by a patient in accordance with the provisions of Title 4, Subtitle

3 of the Health – General Article;

(ii) If the prescription record of a patient includes the patient's Social Security number, shall keep the Social Security number confidential;

(iii) May not list in the record log the type of illness, disability, or condition that is the basis of any dispensing or distribution of a drug by a pharmacist; and

(iv) May not list a patient's Social Security number, illness, disability, or condition, or the name and type of drug received in the record log if the log is available to other pharmacy customers;

(19) May not allow an unauthorized individual to represent that the individual is a pharmacist, a registered pharmacy intern, or registered pharmacy technician;

(20) Shall provide information regarding the process for resolving incorrectly filled prescriptions in accordance with existing regulations by:

(i) Posting a sign that is conspicuously positioned and readable by consumers at the point where prescription drugs are dispensed to consumers; or

(ii) Including written information regarding the process with each prescription dispensed;

(21) Shall dispense or dispose of prescription drugs or medical supplies in accordance with Title 15, Subtitle 6 of the Health – General Article; and

(22) (i) Subject to § 12–4A–02 of this title, may provide to an ophthalmologist for office use, without a patient–specific prescription:

1. Compound antibiotics for the emergency treatment of bacterial endophthalmitis or viral retinitis; and

2. Compound antivascular endothelial growth factor agents for the emergency treatment of neovascular glaucoma, wet macular degeneration, or macular edema; and

(ii) Shall require the ophthalmologist to inform the pharmacy of the identity of any patient to whom the drugs are administered.

(d) (1) The Board may waive any of the requirements of this section for a school of pharmacy located in the State, accredited by the Accreditation Council for Pharmacy Education (ACPE), for nuclear pharmacy and dental pharmacy experimental and teaching programs.

(2) The Board may waive the requirements of subsection (c)(5) and (6) of

this section for pharmacies that are engaged in pharmaceutical specialties which are recognized by the Board under rules and regulations adopted by the Board.

(3) The Board may waive the requirements of subsection (c)(3) through (6) and (15) of this section for pharmacies that only dispense devices in accordance with rules and regulations adopted by the Board.

(4) The Board shall waive the requirements of subsection (c)(20) of this section for a pharmacy owned and operated by a hospital, nursing facility, or clinic to which the public does not have access to purchase pharmaceuticals on a retail basis.

(e) A nonresident pharmacy shall:

(1) Hold a pharmacy permit issued by the Board; and

(2) Have a pharmacist on staff who is:

(i) Licensed by the Board; and

(ii) Designated as the pharmacist responsible for providing pharmaceutical services to patients in the State.

(f) (1) In order to obtain a pharmacy permit from the Board, a nonresident pharmacy shall:

(i) Submit an application to the Board on the form that the Board requires;

(ii) Pay to the Board an application fee set by the Board;

(iii) Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the nonresident pharmacy is located; and

(iv) On the required permit application, identify the name and current address of an agent located in this State officially designated to accept service of process.

(2) A nonresident pharmacy shall report a change in the name or address of the resident agent in writing to the Board 30 days prior to the change.

(g) Notwithstanding subsection (b) of this section, a nonresident pharmacy shall:

(1) Comply with the requirements of subsection (c)(2), (7) through (12), and (19) of this section when:

(i) Dispensing prescription drugs or prescription devices to a patient in this State; or

(ii) Otherwise engaging in the practice of pharmacy in this State;

(2) On an annual basis and within 30 days after a change of office, corporate officer, or pharmacist, disclose to the Board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescriptions for drugs or devices to persons in this State;

(3) Comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is located and all requests for information made by the Board pursuant to this section;

(4) Maintain at all times a valid, unexpired permit to conduct a pharmacy in compliance with the laws of the state in which it is located;

(5) Maintain its records of prescription drugs or devices dispensed to patients in this State so that the records are readily retrievable;

(6) During its regular hours of operation, but not less than 6 days a week, and for a minimum of 40 hours per week, provide toll–free telephone service to facilitate communication between patients in this State and a pharmacist or an individual who:

(i) Has access to the patient's prescription records; and

(ii) Is required to refer patients in the State to the responsible pharmacist licensed in the State, as appropriate;

(7) Disclose its toll–free telephone number on a label affixed to each container of drugs or devices;

(8) Comply with the laws of this State relating to the confidentiality of prescription records if there are no laws relating to the confidentiality of prescription records in the state in which the nonresident pharmacy is located; and

(9) Comply with the requirements of subsection (c)(17) and (20) of this section.

(h) Subject to the hearing provisions of § 12–411 of this subtitle, if a pharmacy or a nonresident pharmacy is operated in violation of this section, the Board may suspend the applicable pharmacy permit until the pharmacy complies with this section.

(i) The Board may waive the following requirements for nonresident pharmacies that only dispense devices in accordance with rules and regulations adopted by the Board:

(1) Subsections (e)(2) and (g)(6)(ii) of this section; and

(2) If not applicable, subsections (f)(1)(iii) and (g)(4) of this section.

§12–404.

(a) To apply for a pharmacy permit, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board an application fee set by the Board.

(b) For each pharmacy permit for which a person applies, the person shall submit a separate application and pay a separate application fee.

§12–405.

(a) The Board shall issue a pharmacy permit to any applicant who meets the requirements of this title.

(b) If the Board denies a pharmacy permit to an applicant, it shall give the applicant written notice of its decision and the reasons for the denial.

§12–406.

(a) A pharmacy permit authorizes the pharmacy permit holder to establish and operate the pharmacy while the pharmacy permit is effective.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, a pharmacy permit holder may conduct wholesale distribution, if:

(i) The wholesale distribution business does not exceed 5% of the pharmacy permit holder's annual sales; and

(ii) The pharmacy permit holder:

1. Maintains records of wholesale distribution separately from its other records; and

2. Makes the records of wholesale distribution available for inspection by the Board.

(2) A pharmacy permit holder that obtains a waiver from the Board under § 12–403(d) of this subtitle may conduct wholesale distribution only with another pharmacy permit holder.

(3) A retail pharmacy that holds a pharmacy permit may conduct wholesale distribution only with:

(i) Another pharmacy permit holder; and

(ii) A wholesale distributor if the retail pharmacy:

1. Reports to the Board that the retail pharmacy is conducting wholesale distribution with a wholesale distributor; and

2. A. Maintains records of wholesale distribution with wholesale distributors separately from its records of wholesale distribution with pharmacy permit holders; and

B. Makes the records of wholesale distribution available for inspection by the Board.

§12–407.

(a) A pharmacy permit expires on the May 31 after its effective date, unless the pharmacy permit is renewed for a 2–year term as provided in this section.

(b) (1) Except as provided in paragraph (2) of this subsection, on or before March 1 of the year the permit expires, the Board shall send to each pharmacy permit holder a renewal notice for each pharmacy permit by first–class mail to the last known address of the pharmacy permit holder.

(2) If requested by a pharmacy permit holder, the Board shall send to the pharmacy permit holder, at least two times within the month before a pharmacy permit expires, a renewal notice for each pharmacy permit by electronic means to the last known electronic address of the pharmacy permit holder.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send to the pharmacy permit holder a renewal notice for each pharmacy permit by first–class mail to the last known address of the pharmacy permit holder.

(4) A renewal notice sent under this subsection shall state:

(i) The date on which the current pharmacy permit expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the pharmacy permit expires; and

(iii) The amount of the renewal fee.

(c) Before the pharmacy permit expires, the pharmacy permit holder periodically may renew it for an additional 2–year term, if the pharmacy permit holder:

(1) Otherwise is entitled to the pharmacy permit;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits a renewal application to the Board on the form that the Board provides.

(d) The Board shall renew the pharmacy permit of each pharmacy permit holder who meets the requirements of this section.

(e) If application for renewal is not made on or before May 1, the pharmacy permit shall expire on the last day of its term and the Board may not reinstate the pharmacy permit unless the applicant:

(1) Provides reason, sufficient to the Board, for the failure to file within the time required; and

(2) Pays, in addition to the renewal fee, a late fee set by the Board.

§12–408.

(a) A pharmacy permit is not transferable.

(b) Each pharmacy permit shall be displayed conspicuously in the pharmacy for which it is issued.

§12–409.

(a) Subject to the hearing provisions of § 12–411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:

(1) Is conducted so as to endanger the public health or safety;

(2) Violates any of the standards specified in § 12–403 of this subtitle; or

(3) Otherwise is not conducted in accordance with the law.

(b) (1) A nonresident pharmacy is subject to the disciplinary actions stated in this subtitle.

(2) The Board may fine a nonresident pharmacy in accordance with § 12–410 of this subtitle or deny, revoke, or suspend the permit of a nonresident pharmacy for any violation of § 12–403(e) through (h) of this subtitle.

§12–410.

(a) If after a hearing under § 12-411 of this subtitle the Board finds that there are grounds under § 12-409 of this subtitle to suspend or revoke a permit, the Board may impose a penalty not exceeding $10,000:

(1) Instead of suspending the permit; or

(2) In addition to suspending or revoking the permit.

(b) The Board shall adopt rules and regulations to set standards for the imposition of penalties under this section.

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

§12–411.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 12-409 of this subtitle or any action to suspend or revoke a pharmacy permit under any other section of this title, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) If after due notice the person against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§12–412.

(a) Any person whose application for a pharmacy permit has been denied or whose pharmacy permit has been suspended or revoked under this title may petition for judicial review as allowed by the Administrative Procedure Act.

(b) If an appeal is taken under this section, the Board may stay its order of suspension or revocation pending the decision of the court.

§12–413.

(a) During business hours, the Secretary, the Board, or the agents of either may enter any permit holder's pharmacy and inspect for compliance with federal and State laws and regulations:

(1) Any drugs or devices, dentifrices, domestic remedies, and toilet articles that are in the pharmacy;

(2) Any records or publications that are required to be kept by a pharmacy under this title; and

(3) The facility.

(b) At the direction of the Secretary, the Board, the Chief of the Division of Drug Control, or their agents may enter a permit holder's pharmacy at any time and investigate with law enforcement officers pursuant to a valid warrant.

(c) A person may not hinder an inspection or an investigation conducted under this section.

§12–4A–01.

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

(b) (1) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug only:

(i) As the result of a practitioner's prescription drug order or initiative based on the practitioner/patient relationship in the course of professional practice;

(ii) For the purpose of, or incidental to, research, teaching, or chemical analysis and not for the sale or dispensing of the drug or device; or

(iii) In anticipation of a prescription drug order based on routine, regularly observed prescribing patterns.

(2) "Compounding" does not include mixing, reconstituting, or other similar acts routinely performed:

(i) By, or under the supervision of, an oncologist, a rheumatologist, or a hematologist who administers chemotherapy, biologic therapy, supportive care medication, rheumatology therapy, or any other therapy in the treatment of cancer, a rheumatology condition, or a blood condition; and

(ii) In accordance with:

1. Directions contained in approved labeling provided by the product's manufacturer;

2. Other manufacturer directions consistent with the labeling; and

3. Other direction or guidance from the U.S. Food and Drug Administration relating to the acts described in this paragraph.

(c) "Designee" means a public agency or private entity approved by the Board to conduct inspections of sterile compounding facilities or entities that prepare sterile drug products.

(d) "Sterile compounding" means compounding of biologics, diagnostics, drugs, nutrients, and radiopharmaceuticals that, under USP 797, must be prepared using aseptic techniques.

(e) "Sterile compounding facility" means a pharmacy, a health care practitioner's office, or any other setting in which sterile compounding is performed.

(f) "Sterile drug product" means a drug product that:

(1) Must be prepared using aseptic techniques; and

(2) Is not required to be prepared in response to a patient specific prescription.

(g) "USP 797" means the standards set forth in the United States Pharmacopeia, General Chapter 797, "Pharmaceutical Compounding – Sterile Preparations".

§12–4A–02.

(a) A sterile compounding facility shall hold a sterile compounding permit issued by the Board before the sterile compounding facility may perform sterile compounding in the State.

(b) A sterile compounding permit is required in addition to and does not replace any other permit or license a sterile compounding facility holds.

(c) A sterile compounding facility that performs sterile compounding outside the State shall hold a sterile compounding permit issued by the Board before the sterile compounded preparations of the sterile compounding facility are dispensed in the State.

(d) A separate sterile compounding permit is required for each site at which sterile compounding is performed.

(e) A sterile compounding permit is not transferable.

(f) A person that prepares and distributes sterile drug products into or within the State:

(1) Is not required to hold a sterile compounding permit under subsection (a) or (c) of this section; and

(2) Shall hold:

(i) A manufacturer's permit or other permit designated by the U.S. Food and Drug Administration to ensure the safety of sterile drug products; and

(ii) A wholesale distributor's permit issued by the Board under Subtitle 6C of this title.

(g) (1) The Board may waive any requirements of this subtitle, including the requirements of subsection (f) of this section, in accordance with regulations adopted by the Board.

(2) A waiver may be issued to a sterile compounding facility or a person described in subsection (f) of this section only:

(i) For specified sterile compounded preparations or sterile drug

products for which there is a clinical need, as determined by the Board with input from health care providers in the State;

(ii) In exigent circumstances that, as determined by the Board, otherwise prevent health care providers from obtaining, in the size and strength needed, the specified sterile compounded preparations or sterile drug products under item (i) of this paragraph; and

(iii) If the sterile compounding facility or person described in subsection (f) of this section meets requirements established by the Board, including:

1. Provision of:

A. Reports of inspections conducted by a designee or the U.S. Food and Drug Administration;

B. A statement of compliance with USP 797; and

C. A review of adverse regulatory action; and

2. Any other requirement as determined by the Board.

(3) (i) The Board shall post on its Web site any waiver issued under this subsection.

(ii) For each waiver posted on its Web site, the Board shall include:

1. The name of the sterile compounding facility or other person receiving the waiver;

2. The sterile compounded preparation or sterile drug product for which the waiver is issued;

3. The basis for issuing the waiver;

4. The duration of the waiver; and

5. Any other information relating to the waiver or limitations on the waiver determined appropriate by the Board.

(4) Any waiver issued by the Board:

(i) May not exceed 2 years in duration;

(ii) May be renewed by the Board; and

(iii) May be rescinded by the Board if the Board finds that any requirements of this subtitle are not met.

(5) (i) The Board shall include in the regulations adopted under paragraph (1) of this subsection requirements for documenting, in a record acceptable to the Board, the administration to a patient of a sterile compounded preparation or sterile drug product obtained under a waiver issued under this subsection.

(ii) The requirements shall include:

1. Documentation of the lot number or other mechanism for identifying the sterile compounded preparation or sterile drug product for the purpose of tracing the sterile compounded preparation or sterile drug product back to the sterile compounding facility or other person that prepared it; or

2. If documentation of the lot number or other identification mechanism is not feasible, documentation of the source of the sterile compounded preparation or sterile drug product for the purpose of tracking the sterile compounded preparation or sterile drug product back to the sterile compounding facility or other person that prepared it.

§12–4A–03.

(a) To qualify for a sterile compounding permit, an applicant shall satisfy the Board that the applicant will perform sterile compounding in accordance with the requirements of this subtitle.

(b) The Board shall establish, by regulation, requirements for applicants based on risk.

§12–4A–04.

(a) To apply for a sterile compounding permit, an applicant shall:

(1) Pay to the Board an application fee set by the Board; and

(2) Submit an application to the Board on the form that the Board requires.

(b) The Board may not issue a sterile compounding permit to an applicant unless the Board or its designee:

(1) Conducts an inspection of the sterile compounding facility applying for the permit; and

(2) Finds that the sterile compounding facility meets the Board's requirements.

(c) The Board shall issue a sterile compounding permit to any applicant that meets the requirements of this section.

§12–4A–05.

(a) A sterile compounding permit expires on May 31 of the next even–numbered year after its effective date, unless the sterile compounding permit is renewed for a 2–year term as provided in this section.

(b) Before a sterile compounding permit expires, the sterile compounding permit may be renewed for an additional 2–year term if the applicant:

(1) Otherwise is entitled to the permit;

(2) Pays to the Board the renewal fee set by the Board in regulation; and

(3) Submits to the Board a renewal application on the form the Board requires.

(c) The Board shall renew a permit if the applicant meets the requirements of this section.

§12–4A–06.

(a) The Board shall adopt regulations to carry out this subtitle.

(b) The regulations shall:

(1) Require compliance with USP 797;

(2) Require each sterile compounded preparation to be dispensed or administered in accordance with a prescription from an authorized prescriber;

(3) Include:

(i) In accordance with §§ 12–4A–07 and 12–4A–08 of this subtitle, requirements for:

1. Inspections;

2. Reporting of adverse events and evidence of environmental contamination; and

3. Reporting of deficiencies, disciplinary action, or changes in accreditation status;

(ii) Quality and safety standards; and

(iii) Initial permit and permit renewal fees; and

(4) Require a sterile compounding permit holder to ensure that personnel engaging in sterile compounding are trained and demonstrate competence in the safe

handling and compounding of sterile preparations.

§12–4A–07.

(a) Subject to subsection (b) of this section, the Board:

(1) Shall inspect a sterile compounding permit holder with a frequency based on risk as set forth in regulations adopted by the Board;

(2) Shall include, in all inspections under item (1) of this subsection, a review in accordance with regulations adopted by the Board, of:

(i) Quality assurance testing reports; and

(ii) Microbial testing of a sampling of the compounded preparations of the sterile compounding permit holder; and

(3) May inspect a sterile compounding permit holder at any time:

(i) To verify compliance with permit requirements; or

(ii) To investigate a complaint.

(b) (1) If an applicant or permit holder is performing sterile compounding outside the State, the Board may rely on an inspection conducted by a designee to conduct inspections under this subtitle.

(2) The Board may approve a designee to conduct inspections of applicants or permit holders outside the State only if the inspections are conducted in accordance with this subtitle and the regulations adopted by the Board.

(3) An applicant or permit holder outside the State is responsible for obtaining an inspection from a designee to meet the requirements of this subtitle.

§12–4A–08.

(a) The Board shall:

(1) Determine the adverse events and evidence of environmental contamination that must be reported by a sterile compounding permit holder; and

(2) Require a sterile compounding permit holder to report to the Board the adverse events or evidence of environmental contamination within 5 calendar days after becoming aware of the adverse events or evidence.

(b) (1) The Board shall:

(i) Determine the deficiencies, disciplinary actions, and changes in accreditation status described in paragraph (2) of this subsection that must be reported

by a sterile compounding permit holder; and

(ii) Require a sterile compounding permit holder to report to the Board the deficiencies, disciplinary actions, and changes in accreditation status within 5 calendar days after becoming aware of the deficiencies, disciplinary actions, or changes in accreditation status.

(2) The Board may require a sterile compounding permit holder to report under paragraph (1) of this subsection:

(i) A deficiency noted during an inspection, during an accreditation site visit, or in official correspondence from a State or federal agency, a professional association, or an accreditation organization;

(ii) Disciplinary action by a State or federal agency, including a revocation, suspension, probation, censure, reprimand, or restriction placed on a license, a permit, or any other authorization of the sterile compounding permit holder or a health care practitioner who is an owner, operator, or employee of a sterile compounding permit holder; or

(iii) A change in accreditation status issued by a professional association or an accreditation organization relating to the sterile compounding permit holder.

§12–4A–09.

(a) (1) Subject to the hearing provisions of subsection (c) of this section, for a violation of this subtitle or any regulation adopted under this subtitle, the Board may:

(i) Deny a permit to an applicant;

(ii) Reprimand a permit holder;

(iii) Place a permit holder on probation; or

(iv) Suspend or revoke a permit.

(2) Instead of or in addition to a reprimand, probation, suspension, or revocation, the Board may impose a fine not exceeding $10,000 for any violation of this subtitle or any regulation adopted under this subtitle.

(3) Each violation of this subtitle or any regulation adopted under this subtitle is grounds for a separate fine.

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

(c) (1) Before the Board takes any action under subsection (a) of this section,

it shall give the applicant or permit holder an opportunity for a hearing before the Board.

(2) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(3) Any applicant or permit holder aggrieved by a final decision of the Board may appeal as provided under the Administrative Procedure Act.

(d) The Board shall report on its Web site and make available to the public on request:

(1) Within 5 calendar days after taking the action, information relating to a suspension or revocation of a permit; and

(2) Within 30 calendar days after taking the action, information relating to any other formal action against an applicant or permit holder.

§12–4A–10.

(a) Except as provided in subsection (c) of this section, a sterile compounding facility may not operate in the State or allow the sterile compounded preparations of the sterile compounding facility to be dispensed in the State unless the sterile compounding facility holds a sterile compounding permit issued by the Board.

(b) Except as provided in subsection (c) of this section, a person may not distribute sterile drug products in the State unless the sterile drug products are produced in a facility that holds a manufacturer's permit or other permit designated by the U.S. Food and Drug Administration to ensure the safety of sterile drug products.

(c) A person may dispense or distribute sterile compounded preparations or sterile drug products in the State without meeting the requirements of subsection (a) or (b) of this section only in accordance with a waiver issued by the Board under § 12–4A–02 of this subtitle.

§12–4A–11.

The Board shall maintain and submit annually to the Secretary information relating to each sterile compounding permit holder, including:

(1) The permit holder's name and address;

(2) The permit holder's permit category; and

(3) Any disciplinary actions taken against the permit holder during the reporting period.

§12–4A–12.

(a) A sterile compounding facility may provide to an ophthalmologist for office use, without a patient–specific prescription:

(1) Compound antibiotics for the emergency treatment of bacterial endophthalmitis or viral retinitis; and

(2) Compound antivascular endothelial growth factor agents for the emergency treatment of neovascular glaucoma, wet macular degeneration, or macular edema.

(b) A sterile compounding facility shall require the ophthalmologist to inform the sterile compounding facility of the identity of any patient to whom the drugs are administered.

§12–501.

(a) A pharmacist may refuse to dispense or refill a prescription if the decision is based on professional judgment, experience, knowledge, or available reference materials.

(b) (1) Except as provided in paragraph (2) of this subsection, if a pharmacist refuses to dispense or refill a prescription, the pharmacist shall, to the extent practicable, notify the authorized prescriber that the prescription or refill was refused within 72 hours after the refusal.

(2) Paragraph (1) of this subsection does not apply if a pharmacist is unable to determine the name of the authorized prescriber.

§12–502.

(a) In the operation of a pharmacy, only a licensed pharmacist or an individual engaging in a professional experience program and acting under the direct supervision of a licensed pharmacist may provide information to the public or a health care practitioner concerning prescription or nonprescription drugs or devices including information as to their therapeutic values, potential side effects, and use in the treatment and prevention of diseases.

(b) A licensed pharmacist shall give a patient who requests, in person or by telephone, the current price of a prescription drug or device that the pharmacy offers for sale to the public.

§12–503.

(a) An authorized prescriber who issues a prescription shall indicate on the prescription the date of its issuance.

(b) Unless otherwise instructed by the authorized prescriber who issues the prescription, a pharmacist may not dispense any drug or device on a prescription presented more than 120 days after the date the prescription was issued.

§12–504.

(a) In this section, "brand name" means the proprietary name a manufacturer places on a drug or device product or its container.

(b) (1) Subject to the provisions of this subtitle, a pharmacist, or the pharmacist's designee, who is under the direct supervision of the pharmacist, shall inform a retail consumer to the best of the pharmacist's or the pharmacist's designee's knowledge of the availability of a generically equivalent drug and shall inform a retail consumer of the approximate cost difference as compared to the brand name drug.

(2) The Board shall adopt procedures for:

(i) A consumer to notify the Board when a pharmacist fails to provide the information required under paragraph (1) of this subsection; and

(ii) Advising a pharmacist to bring the pharmacist into compliance with the requirements of paragraph (1) of this subsection.

(3) Paragraph (1) of this subsection does not apply:

(i) To a prescription that is written for a generic drug;

(ii) When the authorized prescriber states expressly that the prescription is to be dispensed only as directed;

(iii) To a pharmacist who works in a pharmacy, whether centralized or decentralized, which primarily serves public or private institutional recipients; or

(iv) When the cost of the prescription is reimbursed by a third party payer, including medical assistance.

(c) A pharmacist may substitute a generically equivalent drug or device product, of the same dosage form and strength, for any brand name drug or device product prescribed, if:

(1) The authorized prescriber does not state expressly that the prescription is to be dispensed only as directed;

(2) The substitution is recognized in the United States Food and Drug Administration's current list of approved drug or device products with therapeutic equivalence evaluations; and

(3) The consumer is charged less for the substituted drug or device than

the price of the brand name drug or device.

(d) If a drug or device product is substituted under this section, the pharmacist shall:

(1) Notify the patient in writing that the drug or device product dispensed is a generic equivalent of the prescribed drug or device product; and

(2) Record on the prescription and keep a record of the name and manufacturer of the substituted drug or device product.

(e) The Department may list any additional drug or device products that are determined by the Department to meet requirements that are adequate to assure product quality and therapeutic equivalence, after an opportunity for public comment as provided in Title 10, Subtitle 1 of the State Government Article.

(f) The Department may disqualify a drug or device product on the United States Food and Drug Administration's current list from being used in Maryland as a generic substitute if the Department determines that the drug or device is therapeutically nonequivalent or has a negative physical or biological effect on the consumer of that drug or device product:

(1) After providing an opportunity for public comment as provided in Title 10, Subtitle 1 of the State Government Article; or

(2) Prior to providing an opportunity for public comment, if the Department believes that a particular generic drug or device product constitutes an imminent danger to the public health, safety or welfare, and the Department:

(i) Provides an opportunity for public comment as provided in Title 10, Subtitle 1 of the State Government Article within 30 days of disqualifying the drug or device product; and

(ii) After providing an opportunity for public comment, determines whether the drug or device product should remain disqualified.

(g) For a drug or device product that the Department has disqualified from being used in Maryland as a generic substitute under subsection (f) of this section, the Department shall provide an opportunity for public comment as provided in Title 10, Subtitle 1 of the State Government Article before reinstating the drug or device product for use in Maryland as a generic substitute.

(h) A pharmacist who substitutes a drug or device product in compliance with this section incurs no greater liability in filling the prescription by dispensing the equivalent drug or device product than would be incurred in filling the prescription by dispensing the prescribed brand name drug or device.

§12–505.

(a) Except for a drug or device dispensed to an inpatient in a hospital or related institution, each container of a drug or device dispensed shall be labeled in accordance with this section.

(b) In addition to any other information required by law, the label shall include:

(1) The date the prescription is filled; and

(2) Unless otherwise required by the prescriber:

(i) An expiration date of the drugs or devices which shall be the lesser of:

1. 1 year from the date of dispensing;

2. The month and year when the drugs or devices expire;

3. The appropriate expiration date for repackaged drugs or devices; or

4. A shorter period as determined by the pharmacist;

(ii) Any appropriate special handling instructions regarding proper storage of the drugs or devices; and

(iii) Subject to the provisions of subsection (c) of this section, the name and strength of the drugs or devices.

(c) (1) Except as provided in paragraph (2) of this subsection, the label shall indicate the same name for the drug or device as that used by the authorized prescriber.

(2) If, under § 12-504 of this subtitle, the pharmacist substitutes a drug or device product for that named by the authorized prescriber, the label shall indicate both the name of the drug or device product and the name of the manufacturer or distributor of the drug or device dispensed.

(d) (1) Except as provided in this subsection, if an authorized prescriber dispenses a drug or device, the prescriber shall label each container of the drug or device.

(2) In addition to any other information required by law, the authorized prescriber shall include on the label:

(i) The name and strength of the drug or device;

(ii) The date the prescription is dispensed;

(iii) An expiration date of the drug or device which shall be the lesser of:

1. 1 year from the date of dispensing;

2. The month and year when the drug or device expires; or

3. A shorter period as determined by the authorized prescriber; and

(iv) Any appropriate special handling instructions regarding proper storage of the drug or device.

(3) The labeling requirements of this subsection do not apply if the authorized prescriber dispenses the drug or device:

(i) To an inpatient in a hospital or related institution;

(ii) In an emergency situation; or

(iii) As a sample drug or device dispensed in the regular course of the authorized prescriber's practice.

(e) So long as any of the original contents remain in the container, a person may not alter, deface, or remove any label required by this section.

§12–506.

(a) A pharmacist may refill a prescription for a drug or device for which the refill has not been authorized if:

(1) The pharmacist:

(i) Attempts to obtain an authorization from the authorized prescriber; and

(ii) Is not able readily to obtain the authorization;

(2) The refill of the prescription is not for a controlled dangerous substance;

(3) The drug or device is essential to the maintenance of life;

(4) (i) The drug or device is essential to the continuation of therapy in chronic conditions; and

(ii) In the pharmacist's professional judgment, the interruption of the therapy reasonably might produce an undesirable health consequence, be detrimental to the patient's welfare, or cause physical or mental discomfort;

(5) The pharmacist:

(i) Enters on the back of the prescription or on another appropriate uniformly maintained, readily retrievable record, such as a medication record, the date and the quantity of the drug or device dispensed; and

(ii) Signs or initials the record; and

(6) The pharmacist notifies the authorized prescriber of the refill of the prescription within 72 hours of dispensing the drug or device.

(b) If a pharmacist refills a prescription under subsection (a) of this section, the pharmacist may provide only 1 refill of the prescription and the refill quantity dispensed shall be in conformity with the prescriber's directions for use and may not exceed a 14-day supply or unit of use.

(c) If the federal or State government declares a state of emergency, a pharmacist working in the area declared an emergency may refill a prescription for a drug for which the refill has not been authorized if:

(1) As a result of the emergency, the pharmacist is unable to obtain an authorization from the authorized prescriber;

(2) The refill of the prescription is not for a controlled dangerous substance;

(3) The quantity dispensed does not exceed a 14-day supply or unit of use; and

(4) The pharmacist notifies the authorized prescriber of the refill of the prescription within 7 days of dispensing the drug.

§12–507.

(a) A pharmacist who provides prescription services to medical assistance recipients shall offer to discuss with each medical assistance recipient or caregiver who presents a prescription order for outpatient drugs any matter which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant, which may include the following:

(1) The name and description of the medication;

(2) The route, dosage form, dosage, route of administration, and duration of drug therapy;

(3) Special directions and precautions for preparation, administration, and use by the patient;

(4) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(5) Techniques for self-monitoring drug therapy;

(6) Proper storage;

(7) Prescription refill information; and

(8) Action to be taken in the event of a missed dose.

(b) The offer to discuss may be made in the manner determined by the professional judgment of the pharmacist, which shall include either:

(1) A face-to-face communication with the pharmacist; or

(2) At least 2 of the following:

(i) A sign posted so it can be seen by patients;

(ii) A notation affixed to or written on the bag in which the prescription is to be dispensed;

(iii) A notation contained on the prescription container; or

(iv) Communication by telephone.

(c) Nothing in this section shall be construed as requiring a pharmacist to provide consultation if the medical assistance recipient or caregiver refuses the consultation.

(d) A pharmacist must make a reasonable effort to obtain, record, and maintain, at the individual pharmacy, at least the following information regarding a medical assistance recipient:

(1) Name, address, telephone number, date of birth or age, and gender;

(2) Individual history when significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and

(3) Pharmacist comments relevant to the individual's drug therapy which may be recorded either manually or electronically in the patient's profile.

(e) This section shall apply only to medical assistance recipients presenting prescriptions for covered outpatient drugs.

(f) The requirements of this section do not apply to refill prescriptions.

(g) The Secretary, after consultation with the Maryland Pharmacists Association and the Maryland Association of Chain Drug Stores, shall adopt regulations in accordance with pharmacy practices in Maryland to implement the provisions of this section.

§12–508.

(a) (1) A pharmacist may administer an influenza vaccination to an individual who is at least 9 years old, in accordance with regulations adopted by the Board, in consultation with the Department.

(2) A pharmacist may administer a vaccination that is listed in the Centers for Disease Control and Prevention's Recommended Immunization Schedule to an individual who:

(i) Is at least 11 years old but under the age of 18 years; and

(ii) Has a prescription from an authorized prescriber.

(3) (i) Subject to subparagraph (ii) of this paragraph, a pharmacist may administer to an adult a vaccination that is:

1. Listed in the Centers for Disease Control and Prevention's Recommended Immunization Schedule; or

2. Recommended in the Centers for Disease Control and Prevention's Health Information for International Travel.

(ii) A pharmacist shall administer a vaccination under subparagraph (i) of this paragraph under a written protocol that:

1. Is vaccine specific; and

2. Meets criteria established by the Department, in consultation with the Board, the Board of Physicians, and the Board of Nursing, in regulation.

(4) A pharmacist shall:

(i) Report all vaccinations administered by the pharmacist to the ImmuNet Program established under § 18–109 of the Health – General Article;

(ii) If the vaccination has been administered in accordance with a prescription, document at least one effort to inform the individual's authorized prescriber that the vaccination has been administered; and

(iii) For a vaccination administered under paragraph (2) or (3) of this subsection, if the authorized prescriber is not the individual's primary care provider

or if the vaccination has not been administered in accordance with a prescription, document at least one effort to inform the individual's primary care provider or other usual source of care that the vaccination has been administered.

(b) The Board shall:

(1) Set reasonable fees for the administration of vaccinations under this section; and

(2) Adopt regulations that require a pharmacist to submit a registration form to the Board that includes verification that the pharmacist:

(i) Has successfully completed a certification course approved by the Board that included instruction in the guidelines and recommendations of the Centers for Disease Control and Prevention regarding vaccinations; and

(ii) Is certified in basic cardiopulmonary resuscitation and obtained the certification through in–person classroom instruction.

§12–601.

(a) Subject to the hearing provisions of § 12–315 of this title, for a violation of this subtitle, Subtitle 6C of this title, or any regulation adopted under Subtitle 6C of this title, the Board may:

(1) Deny a permit to an applicant;

(2) Reprimand a permit holder;

(3) Place a permit holder on probation; or

(4) Suspend or revoke a permit.

(b) A person aggrieved by a final action of the Board under this subtitle or Subtitle 6C of this title may not appeal to the Secretary or the Board of Review but may appeal as provided under Title 10, Subtitle 2 of the State Government Article.

§12–603.

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

(2) "Dialysis drugs and devices" means:

(i) Dialysate and dialysis solutions;

(ii) Dialyzers, delivery systems, and their accessory equipment necessary to administer these products;

(iii) Heparin;

(iv) Local anesthetics and any other drugs and devices approved by the Board under subsection (g) of this section;

(v) Needles;

(vi) Syringes; and

(vii) Sterile sodium chloride and sterile potassium chloride.

(3) "Home dialysis distribution permit" means a permit issued by the Board to distribute dialysis drugs and devices to the homes of dialysis patients.

(b) (1) Except as provided under this subsection, a person shall hold a home dialysis distribution permit issued by the Board before the person may distribute dialysis drugs and devices to the home of a dialysis patient.

(2) A licensed pharmacist may distribute dialysis drugs and devices under this section without the home dialysis distribution permit otherwise required by this section.

(c) To qualify for a home dialysis distribution permit, an applicant shall satisfy the Board that the applicant will distribute dialysis drugs and devices in compliance with subsection (h) of this section.

(d) To apply for a home dialysis distribution permit, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board a fee set by the Board.

(e) The Board shall issue a home dialysis distribution permit to any applicant who meets the requirements of this section.

(f) A home dialysis distribution permit issued under this section authorizes the home dialysis distribution permit holder to distribute dialysis drugs and devices to the home of a dialysis patient while the home dialysis distribution permit is effective.

(g) (1) The Board may approve local anesthetics and other drugs and devices for distribution as dialysis drugs and devices under this section.

(2) The Board may adopt rules and regulations to assure safe, proper, and uninterrupted distribution of dialysis drugs and devices, including rules and regulations as to:

(i) Maintaining facilities that are adequate to assure proper security and control of dialysis drugs and devices;

(ii) Keeping records;

(iii) Labeling dialysis drugs and devices;

(iv) Receipts and returns from patients for dialysis drugs and devices;

(v) Reports to the Board; and

(vi) Restrictions on specific dialysis drugs or devices, including limitations on the amounts that may be distributed.

(h) A person authorized to distribute dialysis drugs and devices under this section may distribute only dialysis drugs and devices:

(1) That the Board, after consultation with the State Commission on Kidney Disease, has approved as effective and safe for their intended use;

(2) Under supervision of a person who the Board considers qualified to safeguard and protect the public health;

(3) To an individual:

(i) Who has irreversibly lost function of the individual's kidneys and requires regular treatment; and

(ii) Who has completed a full course of training in providing the individual's own dialysis treatment given by:

1. A home dialysis training facility; or

2. An end stage renal disease clinic certified under Medicare; and

(4) In compliance with the rules and regulations adopted by the Board under this section.

(i) Subject to the Administrative Procedure Act, the Board may suspend or revoke the home dialysis distribution permit of any home dialysis distribution permit holder who fails to comply with subsection (h) of this section.

§12–604.

(a) The Secretary, the Board, or the agents of either, during business hours, may:

(1) Enter any place where drugs, devices, diagnostics, cosmetics, dentifrices, domestic remedies, or toilet articles are manufactured, packaged, stocked, or offered for sale; and

(2) Inspect the drugs, devices, diagnostics, cosmetics, dentifrices, domestic remedies, and toilet articles there.

(b) (1) A pharmacy in this State issued a permit by the Board and subject to inspection under subsection (a) of this section shall be inspected annually.

(2) A nonresident pharmacy:

(i) Is subject to inspection under subsection (a) of this section by the Secretary, the Board, or the agents of either; and

(ii) On application for and renewal of a pharmacy permit in this State, shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the nonresident pharmacy is located.

(c) A person may not hinder an inspection conducted under this section.

§12–605.

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

(2) "Health care facility" means a related institution as defined in § 19–301 of the Health – General Article.

(3) "Remote automated medication system" means an automated mechanical system that is located in a health care facility that does not have an on–site pharmacy and in which medication is stored in a manner that may be patient–specific.

(4) "Starter dose" means a dose of medication removed from a remote automated medication system within the first 24 hours after it is ordered.

(b) (1) A pharmacist shall be responsible for the safe and efficient dispensing, repackaging, delivery, control, bar coding, transaction records, dispensation records, labeling, and accountability for all medications in a remote automated medication system located in a health care facility that does not have a pharmacy present on–site.

(2) If a pharmacist is not physically present where the remote automated medication system is located in a health care facility, the pharmacist shall have access to the system by electronic and visual means in order to ensure the safe and efficient dispensing, repackaging, delivery, control, bar coding, transaction records, dispensation records, labeling, and accountability for all medications in the system.

(c) If a health care facility uses a remote automated medication system, a pharmacist shall review for accuracy, completeness, and appropriateness all medication orders after being entered into the system.

(d) (1) If a remote automated medication system, the pharmacy permit holder that manages the system, and the health care facility where the system is located meet the requirements of this subsection:

(i) A health care facility that uses a system does not need to have a pharmacist physically present to review the selection, packaging, or repackaging of medications by the system;

(ii) If the starter dose is reviewed by a pharmacist within 24 hours of delivery from a system, a system may deliver a starter dose or a dose in response to an emergency without prior review by a pharmacist; and

(iii) A system may allow simultaneous access to multiple drug strengths, dosage forms, or drug entities if contained within a patient–specific package.

(2) A remote automated medication system shall at least:

(i) Use bar code technology to ensure accuracy in loading and selection of medications in the system;

(ii) Have electronic reporting capability regarding the identity of all persons with access to the system and regarding all medications removed from the system; and

(iii) Before administration of a medication to a patient by an individual authorized to administer medication under this article, provide:

1. A picture of the medication if available; or

2. If a picture is not available, a written report that describes the medication.

(3) The health care facility where the system is located shall have at least:

(i) A pharmacist available for consultation 24 hours per day;

(ii) Technical assistance regarding operation of the system available 24 hours per day; and

(iii) A quality assurance program as described under subsection (e) of this section.

(4) The pharmacy permit holder that manages a remote automated medication system shall provide a comprehensive training program to all persons with access to the system.

(e) (1) A pharmacist that operates a remote automated medication system, in consultation with the health care facility where the system is located, shall develop and implement a quality assurance program in accordance with regulations adopted by the Board.

(2) The quality assurance program developed under this subsection shall include:

(i) Policies and procedures at both the pharmacy where the system receives an order and the health care facility where the system administers the medication regarding operation of the system;

(ii) Daily inspection of the integrity of the system;

(iii) A plan for addressing medication errors;

(iv) A plan for reviewing incidents regarding inappropriate use and access to the system;

(v) Proper labeling procedures that comply with applicable State and federal laws;

(vi) Policies and procedures for the safe handling and return of unused medications; and

(vii) Any other requirements determined by the Board and set forth in regulations.

(f) (1) A pharmacist that operates a remote automated medication system shall limit access to the system to individuals authorized to access the system by requiring individual security codes for all functions.

(2) A record shall be kept of each transaction containing user identification information.

(g) (1) A pharmacist who operates a remote automated medication system shall maintain maintenance logs and repair records for the system.

(2) In a power outage or otherwise unforeseen situation, a pharmacist shall ensure that:

(i) A back–up power source for the system is available by a connection with the health care facility's generator; and

(ii) Only a registered nurse or a licensed practical nurse has access to the medications contained within the system.

§12–6A–01.

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

(b) "Group model health maintenance organization" has the meaning stated in § 19–713.6 of the Health – General Article.

(c) "Health maintenance organization" has the meaning stated in § 19–701(g) of the Health – General Article.

(d) (1) "Institutional facility" means a facility other than a nursing home whose primary purpose is to provide a physical environment for patients to obtain inpatient or emergency care.

(2) "Institutional facility" does not include an urgent care facility that is not part of a facility.

(e) "Licensed physician" means an individual who is licensed to practice medicine under Title 14 of this article.

(f) "Physician–pharmacist agreement" means an agreement between a licensed physician and a licensed pharmacist that is disease–state specific and specifies the protocols that may be used.

(g) "Protocol" means a course of treatment predetermined by the licensed physician and licensed pharmacist according to generally accepted medical practice for the proper completion of a particular therapeutic or diagnostic intervention.

(h) (1) "Therapy management contract" means a voluntary, written arrangement that is disease–state specific signed by each party to the arrangement between:

(i) One licensed pharmacist and the licensed pharmacist's designated alternate licensed pharmacists;

(ii) One licensed physician and alternate designated licensed physicians involved directly in patient care; and

(iii) One patient receiving care from a licensed physician and a licensed pharmacist pursuant to a physician–pharmacist agreement and protocol under this subtitle.

(2) A therapy management contract shall be related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations for the purpose of improving patient outcomes.

§12–6A–02.

A therapy management contract is not required for the management of patients in an institutional facility or in a group model health maintenance organization.

§12–6A–03.

(a) A licensed physician and a licensed pharmacist who wish to enter into therapy management contracts shall have a physician–pharmacist agreement.

(b) (1) A licensed physician who has entered into a physician–pharmacist agreement shall submit to the Board of Physicians a copy of the physician–pharmacist agreement and any subsequent modifications made to the physician–pharmacist agreement or the protocols specified in the physician–pharmacist agreement.

(2) A licensed pharmacist who has entered into a physician–pharmacist agreement shall submit to the Board of Pharmacy a copy of the physician–pharmacist agreement and any subsequent modifications made to the physician–pharmacist agreement or the protocols specified in the physician–pharmacist agreement.

§12–6A–04.

A pharmacist is authorized to enter into a physician–pharmacist agreement if the pharmacist:

(1) Is a licensed pharmacist;

(2) Has a Doctor of Pharmacy Degree or equivalent training as established in regulations adopted under this subtitle;

(3) Is approved by the Board to enter into a physician–pharmacist agreement with a licensed physician in accordance with this subtitle; and

(4) Meets the requirements that are established by regulations adopted under this subtitle.

§12–6A–05.

(a) Subject to the regulations adopted under this subtitle, a licensed pharmacist may enter into a therapy management contract initiated by a licensed physician.

(b) A licensed pharmacist may not employ or provide economic incentives to a licensed physician for the purpose of entering into a physician–pharmacist agreement or a therapy management contract.

§12–6A–06.

(a) A protocol under this subtitle:

(1) May authorize:

(i) The modification, continuation, and discontinuation of drug therapy under written, disease–state specific protocols;

(ii) The ordering of laboratory tests; and

(iii) Other patient care management measures related to monitoring or improving the outcomes of drug or device therapy; and

(2) May not authorize acts that exceed the scope of practice of the parties to the therapy management contract.

(b) A protocol shall prohibit the substitution of a chemically dissimilar drug product by the pharmacist for the product prescribed by the physician, unless permitted in the therapy management contract.

§12–6A–07.

(a) A therapy management contract shall apply only to conditions for which protocols have been agreed to by a licensed physician and a licensed pharmacist in accordance with the regulations adopted under this subtitle.

(b) A therapy management contract shall terminate 1 year from the date of its signing, unless renewed by the licensed physician, licensed pharmacist, and patient.

(c) A therapy management contract shall include:

(1) A statement that none of the parties involved in the therapy management contract have been coerced, given economic incentives, excluding normal reimbursement for services rendered, or involuntarily required to participate;

(2) Notice to the patient indicating how the patient may terminate the therapy management contract;

(3) A procedure for periodic review by the physician, of the drugs modified pursuant to the agreement or changed with the consent of the physician; and

(4) Reference to a protocol, which will be provided to the patient upon request.

(d) Any party to the therapy management contract may terminate the contract at any time.

(e) The Board of Pharmacy may assess a fee, as established in regulation, for approval of a pharmacist to enter into a physician–pharmacist agreement.

§12–6A–08.

(a) The physician shall maintain complete patient records with respect to the therapy management contract.

(b) The licensed physician's patient record shall be fully updated in writing by the licensed pharmacist in a timely manner, as provided in the physician–pharmacist agreement.

§12–6A–09.

Nothing in this subtitle supersedes the provisions of § 5–902 of the Criminal Law

Article.

§12–6A–10.

(a) Subject to subsection (b) of this section, the Board of Pharmacy, together with the Board of Physicians, shall jointly develop and adopt regulations to implement the provisions of this subtitle.

(b) The regulations adopted under subsection (a) of this section:

(1) Shall include provisions that:

(i) Define the criteria for physician–pharmacist agreements; and

(ii) Establish guidelines concerning the use of protocols, including communication, documentation, and other relevant factors; and

(2) May not require the Board of Physicians or the Board of Pharmacy to approve a physician–pharmacist agreement or the protocols specified in a physician–pharmacist agreement.

§12–6B–01.

(a) Except as otherwise provided in this title, on or after January 1, 2007, an individual shall be registered and approved by the Board as a pharmacy technician before the individual may perform delegated pharmacy acts.

(b) This section does not apply to a pharmacy technician trainee under the direct supervision of a licensed pharmacist provided that the individual does not perform delegated pharmacy acts for more than 6 months.

§12–6B–02.

(a) To qualify for registration an applicant shall be an individual who:

(1) Is currently certified by a national pharmacy technician certification program and complies with subsection (b)(6) of this section; or

(2) Meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character;

(2) Be at least 17 years old;

(3) (i) 1. Be a high school graduate or have attained a high school equivalency; or

2. Be enrolled and in good standing at a high school; or

(ii) Meet the requirements in subsection (d) of this section;

(4) Have successfully passed an examination approved by the Board;

(5) Complete a pharmacy technician training program approved by the Board that:

(i) Includes 160 hours of work experience; and

(ii) Is no longer than 6 months' duration; and

(6) Submit a request for a State criminal history records check.

(c) The Board may not approve an application until the State criminal history records check is completed.

(d) If an applicant does not meet the requirements of subsection (b)(3) through (5) of this section, the applicant qualifies for registration if:

(1) The applicant has worked in the pharmacy area of a pharmacy operated by the same pharmacy permit holder since January 1, 2006;

(2) The pharmacy permit holder for whom the applicant works attests in writing that the applicant has worked in the pharmacy area operated by the pharmacy permit holder continuously since January 1, 2006;

(3) A pharmacist who has supervised the applicant for at least 6 months attests in writing that the individual has performed competently; and

(4) The applicant otherwise meets the requirements of subsection (b) of this section.

(e) An individual, at least 16 years and 6 months old, may begin fulfilling the pharmacy technician registration requirements under this subtitle.

(f) (1) Subject to the provisions of this subsection, the Board may waive any requirement of this subtitle for an individual who is registered as or has worked as a pharmacy technician in another state.

(2) The Board may grant a waiver under this subsection only if the applicant:

(i) Pays the application fee required under § 12-6B-03 of this subtitle; and

(ii) 1. Provides sufficient evidence that the applicant was registered in a state with registration or licensing requirements that are substantially

similar to the registration requirements of this subtitle; or

2. Has worked as a pharmacy technician in another state and satisfies any additional requirements established by the Board in regulation.

§12–6B–03.

(a) An applicant for registration shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) Unless otherwise qualified under § 12-6B-02(a) or (d) of this subtitle, provide documentation of the completion of a pharmacy technician training program under § 12-6B-02(b)(5) of this subtitle;

(3) Unless otherwise qualified under § 12-6B-02(a) or (d) of this subtitle, provide documentation of having successfully completed an examination approved by the Board;

(4) Submit to a request for a State criminal history records check; and

(5) Pay the application fees set by the Board.

(b) The application shall be signed by the applicant.

§12–6B–04.

(a) The Board shall register as a pharmacy technician any applicant who meets the requirements of this subtitle.

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

(2) The fees charged shall be set so as to approximate the cost of registering pharmacy technicians.

§12–6B–05.

(a) A registered pharmacy technician shall notify the Board of each plea of guilty for, conviction of, or entry of a plea of nolo contendere for a felony or a crime involving moral turpitude, regardless of whether:

(1) An adjudication of guilt or sentencing or imposition of sentence is withheld; or

(2) Any appeal or other proceeding is pending regarding the matter.

(b) The registered pharmacy technician shall notify the Board within 7 days of

the conviction or entry of the plea.

§12–6B–06.

(a) Registration authorizes a registered pharmacist technician to perform delegated pharmacy acts as defined in § 12–101 of this title while the registration is effective.

(b) A registered pharmacy technician or a pharmacy technician trainee may not:

(1) Act within the parameters of a therapy management contract as provided under Subtitle 6A of this title;

(2) Administer an influenza vaccination in accordance with § 12–508 of this title;

(3) Delegate a pharmacy act that was delegated to the registered pharmacy technician or individual engaging in a Board approved technician training program; or

(4) Perform other functions prohibited by regulations adopted by the Board.

§12–6B–07.

(a) (1) Unless the registration is renewed for an additional term as provided in this section, registration expires on the date set by the Board.

(2) The ability of a registered pharmacy technician to function as a pharmacy technician terminates on the date of expiration of the pharmacy technician's registration unless renewed.

(3) Registration may not be renewed for a term longer than 2 years.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board shall send to each registered pharmacy technician, at least 1 month before a registration expires, a renewal notice by first–class mail to the last known address of the registered pharmacy technician.

(2) If requested by a registered pharmacy technician, the Board shall send to the registered pharmacy technician, at least two times within the month before a pharmacy technician registration expires, a renewal notice by electronic means to the last known electronic address of the registered pharmacy technician.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send the registered pharmacy technician a renewal notice by first–class mail to the last known address of the registered pharmacy technician.

(4) A renewal notice sent under this subsection shall state:

(i) The date on which the current registration expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the registration expires; and

(iii) The amount of the renewal fee.

(c) A registered pharmacy technician periodically may renew a pharmacy technician's registration for an additional 2–year term, if the registered pharmacy technician:

(1) Otherwise is entitled to be registered as a pharmacy technician;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Meets the continuing education requirements set by the Board under this section; and

(4) Pays to the Board a renewal fee set by the Board.

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

(e) The Board shall renew the registration of each pharmacy technician who meets the requirements of this section.

(f) (1) Except as provided in paragraph (2) of this subsection, the registration of a pharmacy technician who qualified for registration under § 12–6B–02(d) of this subtitle permanently expires on the date the registered pharmacy technician's employment terminates with the pharmacy permit holder that made the attestation required under § 12–6B–02(d) of this subtitle.

(2) Paragraph (1) of this subsection does not apply to the registration of a pharmacy technician who:

(i) At the time of termination, notifies the Board of the termination date;

(ii) Resumes working as a pharmacy technician within 1 year of the termination date; and

(iii) Notifies the Board of the date the registered pharmacy technician begins employment after the termination date.

§12–6B–08.

(a) Each registered pharmacy technician shall:

(1) Display the pharmacy technician's registration in the office or place of business in which the pharmacy technician is working; or

(2) Have the registration on the pharmacy technician's person available for viewing.

(b) When performing delegated pharmacy acts, the registered pharmacy technician shall wear identification that conspicuously identifies the registered pharmacy technician as a registered pharmacy technician.

§12–6B–09.

Subject to the hearing provision of § 12–315 of this title, the Board may deny a pharmacy technician's registration to any applicant, reprimand a registered pharmacy technician, place any pharmacy technician's registration on probation, or suspend or revoke a pharmacy technician's registration if the applicant or pharmacy technician registrant:

(1) Performs an act that is restricted to a licensed pharmacist;

(2) Fraudulently or deceptively obtains or attempts to obtain a pharmacy technician's registration for the applicant or assists or attempts to assist another in fraudulently or deceptively obtaining a pharmacy technician's registration;

(3) Fraudulently uses a pharmacy technician's registration;

(4) Knowingly aids an unauthorized individual to practice pharmacy or to represent that the individual is a licensed pharmacist or registered pharmacy technician;

(5) Performs delegated pharmacy acts 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Submits a false statement to collect a fee;

(7) Willfully makes or files a false report or record as part of the registered pharmacy technician's duties or employment;

(8) Willfully fails to file or record any report that is required by law;

(9) Willfully impedes or obstructs the filing or recording of any report that is required by law;

(10) Willfully induces another to fail to file or record any report that is required by law;

(11) Provides or causes to be provided to any authorized prescriber prescription forms that bear the name, address, or other means of identification of a pharmacist or pharmacy;

(12) Provides remuneration to an authorized prescriber for referring an individual to a licensed pharmacist, registered pharmacy technician, or pharmacy for a product or service to be provided by that licensed pharmacist, registered pharmacy technician, or pharmacy;

(13) Agrees with an authorized prescriber or pharmacist to prepare or dispense a secret formula prescription;

(14) Except as to an association that has remained in continuous existence since July 1, 1963, associates as a partner, co–owner, or employee of a pharmacy that is owned wholly or substantially by an authorized prescriber or group of authorized prescribers;

(15) Knowingly aids a pharmacist in dispensing any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;

(16) Unless an authorized prescriber authorizes the refill, refills a prescription for any drug, device, or diagnostic for which a prescription is required;

(17) Violates any labeling requirements in this title;

(18) Violates any provision of § 12–603 of this title, which concerns the home dialysis distribution program;

(19) Advertises or otherwise publicly claims to dispense prescriptions in a superior manner;

(20) Advertises in a manner that tends to deceive or defraud the public;

(21) Is physically or mentally incompetent;

(22) Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:

(i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or

(ii) Any appeal or other proceeding is pending regarding the matter;

(23) Violates any provision of this title;

(24) Is disciplined by a licensing, registering, or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(25) Violates any regulation adopted by the Board;

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

(27) Participates in any activity that is grounds for Board action under § 12–313 or § 12–409 of this title;

(28) Provides or causes to be provided confidential patient information to any person without first having obtained the patient's consent, as required by § 12–403(c)(13) of this title and by Title 4, Subtitle 3 of the Health – General Article;

(29) Fails to cooperate with a lawful investigation conducted by the Board or the Division of Drug Control;

(30) Performs delegated pharmacy acts in an incompetent manner; or

(31) Performs delegated pharmacy acts that are inappropriate based on the registered pharmacy technician's education, training, and experience.

§12–6B–10.

(a) If after a hearing under § 12-315 of this title, the Board finds that there is a ground under § 12-6B-09 of this subtitle to reprimand a registered pharmacy technician, place a pharmacy technician's registration on probation, or suspend or revoke a pharmacy technician's registration, the Board may impose a penalty not exceeding $2,500:

(1) Instead of reprimanding the registered pharmacy technician, placing the registered pharmacy technician on probation, or suspending or revoking the pharmacy technician's registration; or

(2) In addition to reprimanding the registered pharmacy technician, placing the registered pharmacy technician on probation, or suspending or revoking the pharmacy technician's registration.

(b) The Board shall adopt regulations to set standards for the imposition of penalties under this section.

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

§12–6B–11.

(a) Unless the Board agrees to accept the surrender of a pharmacy technician's registration, a registered pharmacy technician may not surrender the pharmacy technician's registration nor may the pharmacy technician's registration lapse by operation of law while the registered pharmacy technician is under investigation or while charges are pending against the registered pharmacy technician.

(b) The Board may set conditions on its agreement with the registered pharmacy technician under investigation or against whom charges are pending to accept the surrender of the pharmacy technician's registration.

§12–6B–12.

Except as otherwise provided in this title, an individual may not work, attempt to work, or offer to work as a registered pharmacy technician in this State unless registered with the Board.

§12–6B–13.

(a) An individual may not obtain a pharmacy technician's registration by making a false representation.

(b) On conviction of an individual for making a false representation to the Board in order to register as a pharmacy technician, the pharmacy technician's registration is void.

§12–6B–14.

(a) Except as otherwise provided in this subtitle, an individual may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is registered to work as a registered pharmacy technician unless registered in accordance with this subtitle.

(b) Except as otherwise provided in this subtitle, an individual may not use the terms "registered pharmacy technician" or "pharmacy technician" with the intent to represent that the individual is authorized to work as a registered pharmacy technician unless registered as a pharmacy technician under this subtitle.

§12–6C–01.

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

(b) "Authenticate" means to affirmatively verify, before any wholesale distribution of a prescription drug occurs, that each transaction listed on the pedigree

for the prescription drug has occurred.

(c) "Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug.

(d) "Co–licensed partner" means a person in a relationship in which two or more persons have the right to engage in the manufacturing or marketing of a prescription drug, consistent with the U.S. Food and Drug Administration's implementation of the federal Prescription Drug Marketing Act.

(e) "Co–licensed product" means a product of co–licensed partners.

(f) "Designated representative" means an individual who:

(1) Is designated by a wholesale distributor;

(2) Serves as the primary contact of the wholesale distributor with the Board; and

(3) Is actively involved in and aware of the daily operation of the wholesale distributor.

(g) "Drop shipment" means the sale of a prescription drug:

(1) To a wholesale distributor by:

(i) The manufacturer of the prescription drug; or

(ii) The manufacturer's co–licensed partner, third party logistics provider, or manufacturer's exclusive distributor; and

(2) Through which:

(i) The wholesale distributor or a pharmacy warehouse takes title to but not physical possession of the prescription drug;

(ii) The wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer the prescription drug to a patient; and

(iii) The pharmacy, pharmacy warehouse, or other authorized person receives delivery of the prescription drug directly from:

1. The manufacturer; or

2. The manufacturer's third party logistics provider or the manufacturer's exclusive distributor.

(h) "Facility" means a facility of a wholesale distributor where prescription drugs are stored, handled, repackaged, or offered for sale.

(i) "Intracompany sales" means a:

(1) Transaction or transfer of prescription drugs between a division, subsidiary, parent, or affiliated or related company under common ownership and control of a corporate entity, other than a transaction or transfer of prescription drugs from a pharmacy to a wholesale distributor; or

(2) Transaction or transfer of a co–licensed product between co–licensed partners.

(j) "Manufacturer" means a person licensed or approved by the U.S. Food and Drug Administration to engage in the manufacture of prescription drugs or prescription devices, consistent with the definition of "manufacturer" under the U.S. Food and Drug Administration's regulations and guidelines implementing the Prescription Drug Marketing Act.

(k) "Manufacturer's exclusive distributor" means a person who:

(1) Contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of the manufacturer; and

(2) Takes title to the manufacturer's prescription drug, but does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug.

(l) "Normal distribution channel" means a chain of custody for a prescription drug that, directly or by drop shipment, goes:

(1) From:

(i) A manufacturer of the prescription drug; or

(ii) The manufacturer's co–licensed partner, third party logistics provider, or manufacturer's exclusive distributor; and

(2) To:

(i) A pharmacy or other designated person authorized by law to dispense or administer the prescription drug to a patient;

(ii) A wholesale distributor to a pharmacy or other designated person authorized by law to dispense or administer the prescription drug to a patient;

(iii) A wholesale distributor to a pharmacy warehouse to the pharmacy warehouse's intracompany pharmacy or other designated person authorized

by law to dispense or administer the prescription drug to a patient;

(iv) A pharmacy warehouse to the pharmacy warehouse's intracompany pharmacy or other designated person authorized by law to dispense or administer the prescription drug to a patient; or

(v) An authorized distributor of record to another authorized distributor of record solely for distribution to an office–based health care practitioner authorized by law to dispense or administer the prescription drug to a patient.

(m) "Ongoing relationship" means a relationship that exists between a wholesale distributor, including any affiliated group of the wholesale distributor, as defined in § 1504 of the Internal Revenue Code, and a manufacturer when the wholesale distributor:

(1) Has a written agreement currently in effect with the manufacturer evidencing the ongoing relationship; and

(2) Is listed on the manufacturer's current list of authorized distributors of record.

(n) "Pedigree" means a document or electronic file containing information that records each wholesale distribution of a prescription drug.

(o) "Pharmacy warehouse" means a physical location for storage of prescription drugs that:

(1) Serves as a central warehouse; and

(2) Performs intracompany sales or transfers of the prescription drugs to a group of pharmacies that are under common ownership and control with the pharmacy warehouse.

(p) "Prescription device" means any device required by federal law or regulation to be dispensed only by a prescription.

(q) (1) "Prescription drug" means any drug required by federal law or regulation to be dispensed only by a prescription.

(2) "Prescription drug" includes:

(i) A biological product; and

(ii) Finished dosage forms and bulk drug substances subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act.

(3) "Prescription drug" does not include blood and blood components intended for transfusion or biological products that are also medical devices.

(r) (1) "Repackage" means to repackage or otherwise change the container,

wrapper, or labeling of a prescription drug to further the distribution of the prescription drug.

(2) "Repackage" does not include changes to a container, wrapper, or labeling of a prescription drug completed by the pharmacist responsible for dispensing the prescription drug to a patient.

(s) "Repackager" means a person who repackages prescription drugs.

(t) "Third party logistics provider" means a person who:

(1) Contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of the manufacturer; but

(2) Does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition.

(u) (1) "Wholesale distribution" means the distribution of prescription drugs or prescription devices to persons other than a consumer or patient.

(2) "Wholesale distribution" does not include:

(i) Intracompany sales;

(ii) The sale, purchase, distribution, trade, or transfer of a prescription drug or an offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons;

(iii) The sale, purchase, distribution, trade, or transfer of a prescription drug or prescription device by the Department for public health purposes;

(iv) The distribution of samples of a prescription drug by a manufacturer's representative;

(v) Prescription drug returns conducted by a hospital, health care entity, or charitable institution in accordance with 21 C.F.R. § 203.23;

(vi) The sale of minimal quantities of prescription drugs by retail pharmacies to licensed health care practitioners for office use;

(vii) The sale, purchase, or trade of a prescription drug, an offer to sell, purchase, or trade a prescription drug, or the dispensing of a prescription drug in accordance with a prescription;

(viii) The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy to or with another pharmacy, whether accomplished as a purchase and sale of stock or business assets;

(ix) The sale, purchase, distribution, trade, or transfer of a

prescription drug from one authorized distributor of record to one additional authorized distributor of record if:

1. The manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply the prescription drug; and

2. The supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

(x) The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, if the common carrier does not store, warehouse, or take legal ownership of the prescription drug; or

(xi) The sale or transfer from a pharmacy or pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to:

1. The original wholesale distributor;

2. The original manufacturer; or

3. A third party returns processor.

(v) (1) "Wholesale distributor" means a person that is engaged in the wholesale distribution of prescription drugs or prescription devices.

(2) "Wholesale distributor" includes:

(i) A manufacturer;

(ii) A repackager;

(iii) An own–label distributor;

(iv) A private–label distributor;

(v) A jobber;

(vi) A broker;

(vii) A warehouse, including a manufacturer's or distributor's warehouse;

(viii) A manufacturer's exclusive distributor or an authorized distributor of record;

(ix) A drug wholesaler or distributor;

(x) An independent wholesale drug trader;

(xi) A third party logistics provider;

(xii) A pharmacy that conducts wholesale distribution, if the wholesale distribution business accounts for more than 5% of the pharmacy's annual sales; and

(xiii) A pharmacy warehouse that conducts wholesale distribution.

(w) "Wholesale distributor permit" means a permit issued by the Board under this subtitle to distribute prescription drugs or prescription devices into, out of, or within the State as a wholesale distributor.

§12–6C–02.

This subtitle does not affect any person while distributing:

(1) Feed for livestock or poultry;

(2) Fertilizers;

(3) Fungicides;

(4) Insecticide;

(5) Land plaster;

(6) Lime;

(7) Seeds; or

(8) Devices, drugs, or supplies of any kind for the treatment, care, or cure of farm animals.

§12–6C–03.

(a) A wholesale distributor shall hold a permit issued by the Board before the wholesale distributor engages in wholesale distribution in the State.

(b) (1) A manufacturer engaged in wholesale distribution shall hold a wholesale distributor permit issued under this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, the information and qualification requirements for obtaining a permit under this subtitle, beyond that required by federal law, do not apply to:

(i) A manufacturer that distributes its own prescription drugs that are approved by the U.S. Food and Drug Administration; or

(ii) A manufacturer that distributes its own prescription devices that are approved or authorized by the U.S. Food and Drug Administration.

(c) A manufacturer's exclusive distributor and a third–party logistics provider shall hold a wholesale distributor permit issued under this subtitle.

(d) A wholesale distributor permit shall be displayed conspicuously in the place of business for which the permit is issued.

(e) A wholesale distributor permit is not transferable.

(f) Subject to any other restriction provided by law, a person may not purchase or obtain a prescription drug or prescription device unless the prescription drug or prescription device is purchased or obtained from a person who holds a wholesale distributor permit, a licensed pharmacist, or an authorized prescriber.

§12–6C–03.1.

(a) The Department may purchase and distribute prescription drugs and prescription devices for public health purposes.

(b) The Department shall adopt regulations, in consultation with the Board, to implement this section.

§12–6C–03.2.

(a) Notwithstanding any other provision of this subtitle, a wholesale distributor applicant or permit holder that prepares sterile drug products shall submit to the Board a report of an inspection conducted by the U.S. Food and Drug Administration or a Board designee:

(1) At the time of application; and

(2) On renewal.

(b) The inspection report required under subsection (a) of this section shall:

(1) Be conducted within 1 year before the date of application or renewal; and

(2) Demonstrate compliance with applicable federal good manufacturing practice standards or USP 797, as defined in § 12–4A–01 of this title.

(c) An applicant or permit holder is responsible for obtaining an inspection to meet the requirements of this section.

§12–6C–04.

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

(2) "Accreditation organization" means a private entity that:

(i) Is recognized by the Board; and

(ii) Conducts inspections and surveys of wholesale distributors based on nationally recognized and developed standards.

(3) "Deemed status" means a status under which a wholesale distributor may be exempt from initial and routine inspection requirements under this subtitle.

(b) The Board may only grant deemed status to a wholesale distributor that is:

(1) Currently accredited by an accreditation organization, wherever the wholesale distributor is located; or

(2) Located in a state that has requirements that:

(i) Are substantially equivalent to the requirements of this State; and

(ii) Include pedigrees, routine inspections of wholesale distributors, operation of wholesale distributors in a commercial nonresidential facility, and security measures.

(c) (1) The Board may issue a wholesale distributor permit by reciprocity to a wholesale distributor who holds a license or permit under the laws of another state if the Board determines that the requirements of that state are substantially equivalent to the requirements of this State.

(2) A wholesale distributor that receives a permit by reciprocity shall comply with the requirements of § 12–6C–05(e) and (f) of this subtitle.

(3) In addition to meeting the requirements under this subtitle, a wholesale distributor located out–of–state that is not eligible for reciprocity shall be accredited by an accreditation organization.

(4) The Board shall grant deemed status to a wholesale distributor that:

(i) Is currently accredited by an accreditation organization; or

(ii) Has been granted reciprocity by the Board.

(d) The Board or its designee may inspect a wholesale distributor who is accredited or has been issued a permit by reciprocity to:

(1) Determine compliance with any permit requirement under this subtitle; or

(2) Investigate a complaint.

§12–6C–05.

(a) To apply for a wholesale distributor permit, an applicant shall:

(1) Pay to the Board an application fee set by the Board; and

(2) Submit an application to the Board on the form that the Board requires.

(b) The application shall include the following:

(1) The name, full business address, and telephone number of the applicant;

(2) All trade or business names used by the applicant;

(3) Addresses, telephone numbers, and the names of contact persons for the facility used by the applicant for the storage, handling, and distribution of prescription drugs;

(4) The type of business form under which the applicant operates, such as partnership, corporation, or sole proprietorship;

(5) The name of each owner and operator of the applicant, including:

(i) If an individual, the name of the individual;

(ii) If a partnership, the name of the partnership and of each partner;

(iii) If a corporation, the name of the corporation, the name and title of each corporate officer and director, and the state of incorporation; and

(iv) If a sole proprietorship, the full name of the sole proprietor and the name of the sole proprietor's business entity;

(6) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs;

(7) For the designated representative and the immediate supervisor of the designated representative at the applicant's place of business, the following:

(i) Name;

(ii) Places of residence for the past 7 years;

(iii) Date and place of birth;

(iv) The name and address of each business where the individual was employed during the past 7 years, and the individual's job title or office held at each

business;

(v) A statement of whether, during the past 7 years, the individual has been the subject of any proceeding for the revocation of any professional or business license or any criminal violation and, if so, the nature and disposition of the proceeding;

(vi) A statement of whether, during the past 7 years, the individual has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control, or distribution of prescription drugs, together with details concerning the event;

(vii) A description of any involvement, including any investments other than the ownership of stock in a publicly traded company or mutual fund, by the individual during the past 7 years with any business that manufactures, administers, prescribes, distributes, or stores prescription drugs, and any lawsuits in which the business was named as a party;

(viii) 1. A description of any misdemeanor or felony offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere; and

2. If the individual indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal, within 15 days after the disposition of the appeal, a copy of the final written order of disposition; and

(ix) A photograph of the individual taken in the previous 180 days.

(c) The information required under subsection (b) of this section shall be provided under oath.

(d) The Board may not issue a wholesale distributor permit to an applicant unless the Board or its designee:

(1) If the applicant holds prescription drugs or devices, conducts a physical inspection of the applicant's place of business, including any facility of the applicant;

(2) Finds that the place of business and facility, if any, meets the Board's requirements;

(3) Determines that the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Is physically present, except for an authorized absence such as sick leave or vacation leave, at the facility of the applicant during regular business hours;

(vi) Is serving as a designated representative for only one applicant at a time, or for two or more wholesale distributors who are located in the same facility and are members of an affiliated group, as defined in § 1504 of the Internal Revenue Code;

(vii) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(viii) Does not have any convictions for a felony under federal, state, or local laws; and

(4) Determines that the immediate supervisor of the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(vi) Does not have any convictions for a felony under federal, state, or local laws.

(e) The designated representative and the immediate supervisor of the designated representative of an applicant shall submit to a criminal history records check in accordance with § 12–6C–05.1 of this subtitle.

(f) (1) In this subsection, "gross receipts" means gross receipts from sales of prescription drugs and devices in the State.

(2) This subsection does not apply to a pharmacy warehouse that is not engaged in wholesale distribution.

(3) (i) An applicant for a wholesale distributor permit shall submit a surety bond or other equivalent means of security acceptable to the State, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to the State Board of Pharmacy to be deposited into an account established by the State under paragraph (7) of this subsection.

(ii) The surety bond or other security shall be in the amount of:

1. $100,000, if the annual gross receipts of the applicant for the previous tax year are $10,000,000 or more; or

2. $50,000, if the annual gross receipts of the applicant for the previous tax year are less than $10,000,000.

(iii) The Board may require by regulation documentation for the gross receipts of the wholesale distributor to qualify for a surety bond or other security in the amount of $50,000.

(4) The purpose of the surety bond is to secure payment of any fines or penalties imposed by the Board and any fees and costs incurred by the State relating to the permit that:

(i) Are authorized under State law; and

(ii) Are not paid by the permit holder within 30 days after the fines, penalties, fees, or costs become final.

(5) The State may make a claim against the surety bond or other security until 2 years after the permit holder's permit ceases to be valid.

(6) A single surety bond shall cover all facilities operated by the applicant in the State.

(7) The Board shall establish an account, separate from its other accounts, in which to deposit the applicant's surety bond or other security.

(g) If a wholesale distributor distributes prescription drugs or prescription devices from more than one facility, the wholesale distributor shall obtain a permit for each facility.

(h) Within 30 days after the date the Board receives a completed application, including the results of all required criminal history records checks, the Board shall

notify the applicant of the Board's acceptance or rejection of the application.

§12–6C–05.1.

(a) (1) In this subsection, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) This subsection applies to applicants located in the State.

(3) As part of an application to the Central Repository for a State and national criminal history records check, the designated representative and the immediate supervisor of the designated representative of an applicant shall submit to the Central Repository:

(i) Two complete sets of legible fingerprints taken on forms approved by the director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(iii) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward the criminal history records information of the designated representative and the immediate supervisor of the designated representative of an applicant to the Board and the applicant.

(5) The Board shall ensure that information obtained from the Central Repository under this subsection:

(i) Is kept confidential;

(ii) Is not redisseminated; and

(iii) Is used only for the permitting purpose authorized by this subtitle.

(6) The subject of a criminal history records check under this subsection may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(b) (1) This subsection applies to applicants located outside the State.

(2) The designated representative and the immediate supervisor of the designated representative of an applicant shall submit to a criminal history records

check by the applicant's state of residence, in accordance with the laws of the applicant's state of residence.

(3) The criminal history records check shall consist of:

(i) A state criminal history records check for the applicant's state of residence; and

(ii) A national criminal history records check.

(4) The designated representative and the immediate supervisor of the designated representative of an applicant shall request the appropriate entity in the applicant's state of residence to forward the results of the criminal history records check to the Board and the applicant.

(5) The Board shall ensure that information obtained under this subsection:

(i) Is kept confidential;

(ii) Is not redisseminated; and

(iii) Is used only for the permitting purpose authorized by this subtitle.

§12–6C–06.

(a) A wholesale distributor permit expires on May 31 after its effective date, unless the wholesale distributor permit is renewed for an additional 2–year term as provided in this section.

(b) (1) Except as provided in paragraph (2) of this subsection, at least 1 month before a wholesale distributor permit expires, the Board shall send to the wholesale distributor permit holder a renewal notice by first–class mail to the last known address of the permit holder.

(2) If requested by a wholesale distributor permit holder, the Board shall send to the permit holder, at least two times within the month before a wholesale distributor permit expires, a renewal notice by electronic means to the last known electronic address of the permit holder.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send to the wholesale distributor permit holder a renewal notice by first–class mail to the last known address of the permit holder.

(4) A renewal notice sent under this subsection shall state:

(i) The date on which the current wholesale distributor permit expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the current wholesale distributor permit expires; and

(iii) The amount of the renewal fee.

(5) Before a wholesale distributor permit expires, a wholesale distributor permit holder periodically may renew it for an additional 2–year term, if the wholesale distributor permit holder:

(i) Otherwise is entitled to a wholesale distributor permit;

(ii) Pays to the Board a renewal fee set by the Board; and

(iii) Submits to the Board a renewal application on the form that the Board requires.

(6) (i) The renewal application form shall set forth the information that the wholesale distributor provided under § 12–6C–05 of this subtitle.

(ii) Within 30 days after receiving the form, the wholesale distributor shall identify and state under oath to the Board all changes or corrections to the information that was provided under § 12–6C–05 of this subtitle.

(7) The Board shall renew the wholesale distributor permit of a wholesale distributor permit holder who meets the requirements of this subtitle and any regulations adopted under this subtitle.

(8) The Board may deny, suspend, or revoke the permit of a wholesale distributor if the Board determines that the wholesale distributor no longer qualifies for a permit.

§12–6C–07.

The Board:

(1) Shall adopt regulations that require routine inspections of wholesale distributor facilities; and

(2) May adopt regulations establishing:

(i) Minimum requirements for the receipt, storage, and handling of prescription drugs or prescription devices, security precautions, quality control, record keeping, and procedures, policy, and responsibilities of personnel; and

(ii) Education and experience requirements for personnel employed

in positions responsible for carrying out the duties:

1. Referenced in item (i) of this item; or

2. Related to State permit requirements under this subtitle.

§12–6C–08.

Information provided by a wholesale distributor or an applicant for a wholesale distributor permit under this subtitle may not be disclosed to any person or entity except a State licensing or permitting authority, State board, or government agency that needs the information for licensing, permitting, monitoring, or law enforcement purposes.

§12–6C–09.

(a) (1) A wholesale distributor shall receive prescription drug returns or exchanges from a pharmacy or pharmacy warehouse according to the terms and conditions of the agreement between the wholesale distributor and the pharmacy or pharmacy warehouse.

(2) Returns of expired, damaged, recalled, or otherwise nonsaleable prescription drugs shall be distributed by the receiving wholesale distributor only to either the original manufacturer or a third party returns processor.

(3) Returns or exchanges of prescription drugs, saleable or otherwise, including any redistribution by a receiving wholesaler, are not subject to the pedigree requirements of § 12–6C–10 of this subtitle if they are exempt from the pedigree requirement of the U.S. Food and Drug Administration's currently applicable Prescription Drug Marketing Act guidelines.

(4) Wholesale distributors and pharmacies shall be accountable for:

(i) Administering their returns process; and

(ii) Ensuring that the returns process is secure and does not permit the entry of adulterated and counterfeit product.

(b) A wholesale distributor may supply prescription drugs only to a person authorized by law to dispense or receive prescription drugs.

(c) (1) Except as provided in paragraph (2) of this subsection, a wholesale distributor may deliver prescription drugs only to:

(i) The premises listed on the recipient's license or permit; or

(ii) An authorized person or an agent of an authorized person at the premises of the wholesale distributor if:

1. The identity and authorization of the person or agent is properly established; and

2. This method of delivery is employed only to meet the immediate needs of a particular patient of the authorized person.

(2) (i) Prescription drugs may be supplied to a hospital pharmacy receiving area if a pharmacist or authorized receiving personnel of the hospital pharmacy signs, at the time of delivery, a receipt showing the type and quantity of the prescription drug received.

(ii) Any discrepancy between the type and quantity of the prescription drug indicated on the receipt and the type and quantity of the prescription drug received:

1. Shall be reported to the delivering wholesale distributor by the next business day after the delivery to the hospital pharmacy receiving area; and

2. May be reported to the Board for investigation.

(d) (1) A wholesale distributor may not accept payment or allow the use of a person's credit to establish an account for the purchase of prescription drugs from any person other than the owner of record, the chief executive officer, or the chief financial officer listed on the license or permit of a person legally authorized to receive prescription drugs.

(2) Any account established for the purchase of prescription drugs shall bear the name of the license or permit holder.

(e) A wholesale distributor may not operate out of a residence.

§12–6C–10.

(a) A person who is engaged in the wholesale distribution of a prescription drug that leaves, or has ever left, the normal distribution channel shall provide, before each wholesale distribution of the prescription drug, a pedigree to the person who receives the prescription drug.

(b) A retail pharmacy or pharmacy warehouse shall comply with the requirements of this section only if the pharmacy or pharmacy warehouse engages in the wholesale distribution of a prescription drug in the State.

(c) (1) To be considered part of the normal distribution channel, a wholesale distributor, a manufacturer's exclusive distributor, and a manufacturer's third party logistics provider also must be an authorized distributor of record.

(2) Notwithstanding paragraph (1) of this subsection, a pharmacy warehouse that is not an authorized distributor of record shall be considered part of

the normal distribution channel.

(d) Each person who engages in the wholesale distribution of a prescription drug, including repackagers but excluding the original manufacturer of the finished form of the prescription drug, who is provided a pedigree for the prescription drug and attempts to further distribute the prescription drug, shall authenticate, before any distribution of the prescription drug occurs, that each transaction listed on the pedigree has occurred.

(e) The pedigree shall include:

(1) All necessary identifying information relating to each sale in the chain of distribution of the prescription drug from the manufacturer or the manufacturer's third party logistics provider, co–licensed partner, or manufacturer's exclusive distributor, through acquisition and sale by any wholesale distributor or repackager, until final sale to a pharmacy or other person dispensing or administering the prescription drug, including:

(i) The name, address, telephone number, and if available, electronic mail address, of each owner and each wholesale distributor of the prescription drug;

(ii) The name and address of each location from which the prescription drug was shipped, if different from the owner's;

(iii) Transaction dates; and

(iv) Certification that each recipient has authenticated the pedigree;

(2) The name of the prescription drug;

(3) The dosage form and strength of the prescription drug;

(4) The size of the container;

(5) The number of containers;

(6) The lot number and National Drug Code of the prescription drug; and

(7) The name of the manufacturer of the finished dosage form.

(f) Each pedigree for a prescription drug shall be:

(1) Maintained by the purchaser and the wholesale distributor for 3 years from the date of sale or transfer; and

(2) Available for inspection or use within 5 business days on request of the Board, the Board's designee, or an authorized law enforcement officer.

§12–6C–11.

(a) (1) If a person knowingly violates any provision of this subtitle or any regulation adopted under this subtitle, the Board may impose a fine not to exceed $500,000.

(2) Before the Board imposes a fine, the Board shall consider the appropriateness of the fine in relation to:

(i) The size of the wholesale distributor;

(ii) The gravity of the violation for which the fine is to be imposed;

(iii) The good faith of the wholesale distributor; and

(iv) Any previous violations by the wholesale distributor.

(b) In addition to the penalty provided in subsection (a) of this section, the Board also may take disciplinary action against a permit holder who is convicted of or pleads guilty or nolo contendere to a violation of State, federal, or local drug laws.

§12–6C–12.

On or before January 1, 2008, the Board shall adopt regulations to implement this subtitle.

§12–6C–13.

On or before January 1, 2008, and on or before January 1 of each subsequent year, the Board shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the implementation of this subtitle.

§12–6D–01.

In this subtitle, "ACPE" means the Accreditation Council for Pharmacy Education.

§12–6D–02.

Except as otherwise provided in this title, an individual shall be registered and approved by the Board as a registered pharmacy intern before the individual may practice pharmacy under the direct supervision of a licensed pharmacist in accordance with this subtitle.

§12–6D–03.

(a) To qualify for registration an applicant shall be an individual who:

(1) Is currently enrolled and has completed 1 year of professional

pharmacy education in a doctor of pharmacy program accredited by the ACPE;

(2) Is currently enrolled and has completed 1 year of professional pharmacy education in a doctor of pharmacy program under accreditation review by the ACPE;

(3) Has graduated from a doctor of pharmacy program accredited by the ACPE and has applied for licensure with the Board; or

(4) Is a graduate of a foreign school of pharmacy who:

(i) Has established educational equivalency as determined by the Board; and

(ii) Has passed an examination of oral English approved by the Board.

(b) An applicant shall submit a request for a State criminal history records check in accordance with § 12–6D–04 of this subtitle.

(c) The Board may not approve an application until the State criminal history records check is completed.

(d) The applicant shall be of good moral character.

§12–6D–04.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State criminal history records check, the applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the director of the Central Repository; and

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward the criminal history records information of the applicant to the Board and the applicant.

(d) The Board shall ensure that information obtained from the Central Repository under this subsection:

(1) Is kept confidential;

(2) Is not redisseminated; and

(3) Is used only for the registration purpose authorized by this subtitle.

(e) The subject of a criminal history records check under this subsection may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§12–6D–05.

(a) An applicant for registration shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) Provide documentation of:

(i) Enrollment in a doctor of pharmacy program;

(ii) Graduation from an approved college of pharmacy; or

(iii) For an applicant who satisfies the requirements under § 12–6D–02(a)(4) of this subtitle, proof of:

1. Educational equivalency; and

2. Oral English competency;

(3) Submit to a request for a State criminal history records check; and

(4) Pay the application fees set by the Board.

(b) The application shall be signed by the applicant.

§12–6D–06.

(a) The Board shall register as a pharmacy intern any applicant who meets the requirements of this subtitle.

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

(2) The fees charged shall be set so as to approximate the cost of registering pharmacy interns.

(c) A licensed pharmacist may not directly supervise more than two registered pharmacy interns at one time.

§12–6D–07.

(a) A registered pharmacy intern shall notify the Board of each plea of guilty for, conviction of, or entry of a plea of nolo contendere for a felony or a crime involving moral turpitude, regardless of whether:

(1) An adjudication of guilt or sentencing or imposition of sentence is withheld; or

(2) Any appeal or other proceeding is pending regarding the matter.

(b) The registered pharmacy intern shall notify the Board within 7 days of the conviction or entry of the plea.

§12–6D–08.

(a) Registration authorizes a registered pharmacy intern to practice pharmacy under the direct supervision of a licensed pharmacist while the registration is effective.

(b) A registered pharmacy intern may administer vaccinations in accordance with regulations adopted by the Board.

(c) A registered pharmacy intern may not:

(1) Delegate a pharmacy act;

(2) Perform a final verification of a prescription drug or device before dispensing; or

(3) Perform other duties prohibited by regulations adopted by the Board.

§12–6D–09.

(a) (1) Registration expires on the date set by the Board.

(2) Registration is valid for up to 2 years from the date of issue.

(b) (1) A registered pharmacy intern who qualified for registration under § 12–6D–03(a)(1) and (2) of this subtitle may renew the registration one time if the registered pharmacy intern is:

(i) Otherwise entitled to be registered as a pharmacy intern;

(ii) Submits to the Board a renewal application on the form that the Board requires; and

(iii) Pays to the Board a renewal fee set by the Board.

(2) A registered pharmacy intern who qualified for registration under §

12–6D–03(a)(3) and (4) of this subtitle may not renew the registration.

(c) The registration of a pharmacy intern registered under this subtitle expires and may not be renewed on the date that the registered pharmacy intern becomes a licensed pharmacist.

(d) (1) Except as provided in paragraph (2) of this subsection, the Board shall send to each registered pharmacy intern, at least 1 month before a registration expires, a renewal notice by first–class mail to the last known address of the registered pharmacy intern.

(2) If requested by a registered pharmacy intern, the Board shall send to the registered pharmacy intern, at least two times within the month before a pharmacy intern registration expires, a renewal notice by electronic means to the last known electronic address of the registered pharmacy intern.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send the registered pharmacy intern a renewal notice by first–class mail to the last known address of the registered pharmacy intern.

(4) A renewal notice sent under this subsection shall state:

(i) The date on which the current registration expires;

(ii) The date by which the renewal application shall be received by the Board for the renewal to be issued and mailed before the registration expires; and

(iii) The amount of the renewal fee.

(e) The Board shall renew the registration of each pharmacy intern who meets the requirements of this section.

§12–6D–10.

(a) Each registered pharmacy intern shall:

(1) Display the pharmacy intern's registration in the office or place of business in which the pharmacy intern is practicing pharmacy under the direct supervision of a licensed pharmacist; or

(2) Have the registration on the pharmacy intern's person available for viewing.

(b) When practicing pharmacy under the direct supervision of a licensed pharmacist, the registered pharmacy intern shall wear identification that conspicuously identifies the registered pharmacy intern as a registered pharmacy intern.

§12–6D–11.

Subject to the hearing provision of § 12–315 of this title, the Board may deny a pharmacy intern's registration to any applicant, reprimand a registered pharmacy intern, place any pharmacy intern's registration on probation, or suspend or revoke a pharmacy intern's registration if the applicant or pharmacy intern registrant:

(1) Performs an act that is restricted to a licensed pharmacist;

(2) Practices pharmacy without the direct supervision of a licensed pharmacist;

(3) Fraudulently or deceptively obtains or attempts to obtain a pharmacy intern's registration for the applicant or assists or attempts to assist another in fraudulently or deceptively obtaining a pharmacy intern's registration;

(4) Fraudulently uses a pharmacy intern's registration;

(5) Knowingly aids an unauthorized individual to practice pharmacy or to represent that the individual is a licensed pharmacist or registered pharmacy intern;

(6) Practices pharmacy 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(7) Willfully makes or files a false report or record as part of the registered pharmacy intern's duties or employment;

(8) Willfully fails to file or record any report that is required by law;

(9) Willfully impedes or obstructs the filing or recording of any report that is required by law;

(10) Willfully induces another to fail to file or record any report that is required by law;

(11) Provides or causes to be provided to any authorized prescriber prescription forms that bear the name, address, or other means of identification of a licensed pharmacist or pharmacy;

(12) Knowingly aids a licensed pharmacist in dispensing any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;

(13) Unless an authorized prescriber authorizes the refill, refills a

prescription for any drug, device, or diagnostic for which a prescription is required;

(14) Is physically or mentally incompetent;

(15) Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:

(i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or

(ii) Any appeal or other proceeding is pending regarding the matter;

(16) Violates any provision of this title;

(17) Is disciplined by a licensing, registering, or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Violates any regulation adopted by the Board;

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

(20) Participates in any activity that is grounds for Board action under § 12–313, § 12–409, or §12–6B–09 of this title;

(21) Provides or causes to be provided confidential patient information to any person without first having obtained the patient's consent, as required by § 12–403(b)(13) of this title and by Title 4, Subtitle 3 of the Health – General Article; or

(22) Fails to cooperate with a lawful investigation conducted by the Board or the Division of Drug Control.

§12–6D–12.

(a) If after a hearing under § 12–315 of this title, the Board finds that there is a ground under § 12–6D–11 of this subtitle to reprimand a registered pharmacy intern, place a pharmacy intern's registration on probation, or suspend or revoke a pharmacy intern's registration, the Board may impose a penalty not exceeding $2,500:

(1) Instead of reprimanding the registered pharmacy intern, placing the registered pharmacy intern on probation, or suspending or revoking the pharmacy intern's registration; or

(2) In addition to reprimanding the registered pharmacy intern, placing the registered pharmacy intern on probation, or suspending or revoking the pharmacy

intern's registration.

(b) The Board shall adopt regulations to set standards for the imposition of penalties under this section.

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

§12–6D–13.

(a) Unless the Board agrees to accept the surrender of a pharmacy intern's registration, a registered pharmacy intern may not surrender the pharmacy intern's registration nor may the pharmacy intern's registration lapse by operation of law while the registered pharmacy intern is under investigation or while charges are pending against the registered pharmacy intern.

(b) The Board may set conditions on the Board's agreement with the registered pharmacy intern under investigation or against whom charges are pending to accept the surrender of the pharmacy intern's registration.

§12–6D–14.

Except as otherwise provided in this title, an individual may not practice, attempt to practice, or offer to practice as a registered pharmacy intern in the State unless registered with the Board.

§12–6D–15.

(a) Except as otherwise provided in this subtitle, an individual may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is registered to practice as a registered pharmacy intern unless registered in accordance with this subtitle.

(b) Except as otherwise provided in this subtitle, an individual may not use the terms "registered pharmacy intern" or "pharmacy intern" with the intent to represent that the individual is authorized to practice as a registered pharmacy intern unless registered as a pharmacy intern under this subtitle.

§12–701.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice pharmacy in this State unless licensed by the Board.

§12–702.

(a) A person may not obtain a license by making any false representation.

(b) On conviction of a person for obtaining a license by false representation, the

license held by that person is void.

§12–703.

A person may not establish or operate a pharmacy in this State or a nonresident pharmacy unless the person holds a pharmacy permit issued by the Board.

§12–704.

(a) (1) Unless authorized to practice pharmacy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice pharmacy in this State.

(2) Unless authorized to practice pharmacy under this title, a person may not use the terms "pharmacist" or "druggist" with the intent to represent that the person practices pharmacy.

(b) (1) Unless an establishment has a pharmacy permit, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the establishment is a pharmacy.

(2) The acts prohibited by this subsection include using, with the intent to misrepresent that an establishment is a pharmacy, the terms "pharmacy" or "drugstore", the characteristic show bottles or globes filled with colored water, or any other term or symbol traditionally associated with practicing pharmacy.

§12–707.

(a) A person who violates any provision of the following subtitles or sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000:

(1) § 12–311 ("Display of licenses");

(2) Subtitle 4 ("Pharmacy permits");

(3) § 12–502(b) ("Pharmaceutical information");

(4) § 12–505 ("Labeling requirements for prescription medicines"); and

(5) § 12–604 ("General power to inspect drugs, devices, and other products").

(b) A person who violates any provision of the following sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both:

(1) § 12–4A–10 ("Operating a sterile compounding facility without permit");

(2) § 12–701 ("Practicing pharmacy without license");

(3) § 12–702 ("License obtained by false representation");

(4) § 12–703 ("Operating a pharmacy without permit");

(5) § 12–704 ("Misrepresentations");

(6) § 12–6B–12 ("Working as an unregistered pharmacy technician"); and

(7) § 12–6D–15 ("Practicing as an unregistered pharmacy intern").

(c) Each day that a violation of any section of Subtitle 4 of this title continues constitutes a separate offense.

(d) Within 10 days after a court renders the conviction, the court shall report to the Board each conviction of a pharmacist or registered pharmacy technician for:

(1) Any crime regarding the pharmacy or drug laws that involves professional misconduct; or

(2) Any crime that involves the State law regarding controlled dangerous substances or the federal narcotic laws.

(e) (1) Any person who violates § 12–4A–10 ("Operating a sterile compounding facility without permit"), § 12–701 ("Practicing pharmacy without a license"), § 12–703 ("Operating a pharmacy without a permit"), § 12–6B–12 ("Working as an unregistered pharmacy technician"), or § 12–6D–15 ("Practicing as an unregistered pharmacy intern") of this title is subject to a civil fine of not more than $50,000 to be assessed by the Board.

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

§12–801.

This title may be cited as the "Maryland Pharmacy Act".

§12–802.

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, 2023.

§13–101.

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

(b) "Board" means the State Board of Physical Therapy Examiners.

(c) "License" means, unless the context requires otherwise, a license issued by the Board to practice:

(1) Physical therapy; or

(2) Limited physical therapy.

(d) "Licensed physical therapist" means, unless the context requires otherwise, a physical therapist who is licensed by the Board to practice physical therapy.

(e) "Licensed physical therapist assistant" means, unless the context requires otherwise, a physical therapist assistant who is licensed by the Board to practice limited physical therapy.

(f) "Physical therapist" means an individual, licensed by the State Board of Physical Therapy Examiners, who practices physical therapy and who has passed the national physical therapy licensing examination administered or accepted by the Board.

(g) "Physical therapist assistant" means an individual who practices limited physical therapy and who has passed the national physical therapy licensing examination administered or accepted by the Board.

(h) (1) "Practice limited physical therapy" means to implement therapeutic interventions for the purpose of:

(i) The prevention of disability in patients or clients; and

(ii) The physical rehabilitation of patients or clients with a congenital or acquired disability.

(2) "Practice limited physical therapy" includes, except as provided in paragraph (3) of this subsection:

(i) Taking and documenting measurements; and

(ii) Administering therapeutic interventions that include therapeutic exercise, therapeutic massage, mechanical devices, or therapeutic agents that use the physical, chemical, or other properties of air, water, electricity, sound, or radiant energy.

(3) "Practice limited physical therapy" does not include:

(i) Interpreting measurements;

(ii) Planning treatment programs;

(iii) Taking X rays;

(iv) Using radioactive substances; or

(v) Using electricity for cauterization or surgery.

(i) (1) "Practice physical therapy" means to design, implement, and modify therapeutic interventions for the purpose of:

(i) The prevention of disability in patients or clients; and

(ii) The physical rehabilitation of patients or clients with a congenital or acquired disability.

(2) "Practice physical therapy" includes:

(i) Performing an evaluation of the physical therapy needs of patients or clients;

(ii) Performing and interpreting tests and measurements of neuromuscular and musculoskeletal functions to aid treatment;

(iii) Planning treatment programs that are based on test findings; and

(iv) Except as provided in paragraph (3) of this subsection, administering therapeutic interventions that include therapeutic exercise, therapeutic massage, mechanical devices, or therapeutic agents that use the physical, chemical, or other properties of air, water, electricity, sound, or radiant energy.

(3) "Practice physical therapy" does not include:

(i) Taking X rays;

(ii) Using radioactive substances; or

(iii) Using electricity for cauterization or surgery.

(j) "Restricted license" means a license issued by the Board under and as limited by § 13–314 of this title to practice physical therapy.

§13–102.

Except as specifically provided in this title, this title does not limit the right of:

(1) An individual to practice a health occupation that the individual is authorized to practice under this article;

(2) A chiropractor to practice physical therapy if the chiropractor is authorized to practice physical therapy under Title 3 of this article;

(3) An individual to provide nonmedical services while:

(i) Practicing cosmetology; or

(ii) Operating a health club; or

(4) A health club to advertise as a health club.

§13–201.

There is a State Board of Physical Therapy Examiners in the Department.

§13–202.

(a) (1) The Board consists of 8 members.

(2) Of the 8 Board members:

(i) Five shall be licensed physical therapists, of which a minimum of four shall be engaged primarily in the clinical practice of physical therapy in this State;

(ii) One shall be a licensed physical therapist assistant practicing limited physical therapy in this State; and

(iii) Two shall be consumer members.

(3) The Governor shall appoint the licensed physical therapist members and the licensed physical therapist assistant member, with the advice of the Secretary, from a list of names of qualified individuals submitted to the Secretary and the Governor by the American Physical Therapy Association of Maryland. The number of names on the list shall be at least three times the number of vacancies.

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

(b) Each licensed physical therapist member:

(1) Shall have at least 5 years' experience in physical therapy administration, education, practice, or research immediately before appointment; and

(2) Shall be engaged in the profession of physical therapy in this State.

(c) The licensed physical therapist assistant member shall:

(1) Have 5 years' experience in limited physical therapy; and

(2) Be engaged in the profession of limited physical therapy in this State.

(d) Each consumer member of the Board:

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

(2) May not be or ever have been a physical therapist or physical therapist assistant or in training to become a physical therapist or physical therapist assistant;

(3) May not have a household member who is a physical therapist or physical therapist assistant or in training to become a physical therapist or physical therapist assistant;

(4) May not participate or ever have participated in a commercial or professional field related to physical therapy;

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

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

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

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

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

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

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

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

(h) (1) The Governor may remove a member for incompetence or misconduct.

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

§13–203.

(a) From among its members, the Board annually shall elect a chairman and vice chairman.

(b) The Board shall determine:

(1) The manner of election of the chairman and vice chairman; and

(2) The duties of the chairman and vice chairman.

§13–204.

(a) The Board shall appoint a Board executive director, who serves at the pleasure of the Board.

(b) The Board executive director:

(1) Is the executive officer of the Board; and

(2) Has the powers and duties assigned by the Board.

§13–205.

(a) A majority of the full authorized membership of the Board is a quorum to do business.

(b) The Board shall determine the times and places of its meetings.

(c) Each member of the Board is entitled to:

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

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

(d) In accordance with the budget of the Board, the Board may employ:

(1) A staff; and

(2) Experts and consultants to obtain information and advice that relate to physical therapy.

§13–206.

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

(1) Adopt rules and regulations to carry out the provisions of this title;

(2) Adopt standards of practice and a code of ethics for the practice of physical therapy and limited physical therapy; and

(3) Pay, in accordance with the State budget, any necessary expense that relates to the referral of an alleged violation of the criminal provisions of this title.

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

(1) Keep a list of the name and address of each licensed physical therapist and licensed physical therapist assistant;

(2) Present evidence of any alleged violation of this title to the State's Attorney of the county where the alleged violation occurred;

(3) Adopt rules and regulations that govern the use of a physical therapy aide by a licensed physical therapist; and

(4) Investigate an alleged violation of this title.

§13–207.

(a) There is a State Board of Physical Therapy Examiners Fund.

(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.

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Physical Therapy Examiners Fund.

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

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§13–207.1.

If it is determined that disclosure of information contained in a record of the Board will serve to protect the public, the Board, after an affirmative vote of a majority, may:

(1) Disclose any information contained in a record of the Board to any other health occupations licensure board of this State if the information relates to an individual licensed or certified by the other board; or

(2) Disclose to a physical therapy licensure board of any other state:

(i) Any information contained in a record of the Board if the information relates to an individual licensed by the Board and is based on a final decision of the Board; or

(ii) The information that a licensee has charges pending before the Board and there has been no final decision in the matter.

§13–208.

A person shall have the immunity from liability described under § 5-714 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§13–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice physical therapy or limited physical therapy in this State.

(b) This section does not apply to:

(1) A student who is supervised directly by a licensed physical therapist in a Board approved physical therapy educational program; or

(2) A physical therapy aide, if the physical therapy aide:

(i) Subject to the rules and regulations adopted by the Board, performs only procedures that do not require the professional skills of a licensed physical therapist or a licensed physical therapist assistant; and

(ii) Performs procedures only under the direct supervision of a licensed physical therapist who personally is present in the area where the procedures are performed.

§13–302.

(a) (1) To qualify for a physical therapy license, an applicant shall be an individual who:

(i) Meets the requirements of:

1. This section; and

2. § 13–303 of this subtitle; and

(ii) Submits to a criminal history records check in accordance with § 13–302.1 of this subtitle.

(2) To qualify for a physical therapist assistant license, an applicant shall be an individual who:

(i) Meets the requirements of:

1. This section; and

2. § 13–304 of this subtitle; and

(ii) Submits to a criminal history records check in accordance with § 13–302.1 of this subtitle.

(b) The applicant shall be of good moral character.

(c) Except as otherwise provided in this title, the applicant shall pass the appropriate examination given by the Board under this subtitle.

(d) The applicant shall meet any other qualifications or requirements that the Board establishes for license applicants.

(e) (1) Except as provided in paragraph (2) of this subsection, the Board shall require as part of its examination or licensing procedures that an applicant for a license to practice physical therapy or limited physical therapy demonstrate written and oral competency in the English language.

(2) An applicant is exempt from English language competency testing under paragraph (1) of this subsection if the applicant graduated from a physical therapy program that was taught in English.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charges or action that involves a problem with the oral communication of the English language are brought against a licensee under

this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

§13–302.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) Information obtained from the Central Repository under this section:

(1) Is confidential and may not be redisseminated; and

(2) May be used only for the licensing purpose authorized by this title.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§13–303.

(a) If an applicant for a physical therapy license has been educated in physical therapy in any state, the applicant shall have:

(1) Graduated from a physical therapy program that, in the year of graduation, was approved by:

(i) The American Medical Association;

(ii) The American Physical Therapy Association; or

(iii) The Commission on Accreditation of Physical Therapy Education; and

(2) Completed satisfactorily the clinical training required by the physical therapy curriculum.

(b) If an applicant for a physical therapy license has been educated in physical therapy outside of any state, the applicant shall have graduated from a physical therapy program that in the year of graduation had educational requirements equivalent to a degree in physical therapy from a United States program accredited by the Commission on Accreditation of Physical Therapy Education.

§13–304.

To qualify for a physical therapist assistant license, an applicant shall have:

(1) Graduated from a curriculum for physical therapist assistants that is approved by the American Physical Therapy Association; and

(2) Completed satisfactorily the clinical training required by the curriculum for physical therapist assistants.

§13–305.

(a) To apply for a physical therapy license, an applicant shall:

(1) Submit to the Board:

(i) An application on the form that the Board requires;

(ii) Evidence of completion of:

1. A physical therapy curriculum; and

2. Any clinical training required under the physical therapy curriculum; and

(iii) Any other document that the Board requires;

(2) Submit to a criminal history records check in accordance with § 13–302.1 of this subtitle; and

(3) Pay to the Board the application fee set by the Board.

(b) To apply for a physical therapist assistant license, an applicant shall:

(1) Submit to the Board:

(i) An application on the form that the Board requires;

(ii) Evidence of completion of:

1. A physical therapist assistant curriculum; and

2. Any clinical training required under the physical therapist assistant curriculum; and

(iii) Any other document that the Board requires;

(2) Submit to a criminal history records check in accordance with § 13–302.1 of this subtitle; and

(3) Pay to the Board the application fee set by the Board.

§13–306.

(a) An applicant who otherwise qualifies for a license is entitled to be examined for that license as provided in this section.

(b) The Board shall give examinations at least twice a year, at the times and places that the Board determines, to applicants for:

(1) A physical therapy license; and

(2) A physical therapist assistant license.

(c) The Board or its agent shall notify each qualified applicant of the time and place of the examination.

(d) The Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

§13–307.

(a) Subject to the provisions of this section, the Board may waive any examination requirement for an applicant who is licensed or otherwise is authorized to practice physical therapy or limited physical therapy in another state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee set by the Board under § 13-305 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) Became licensed or otherwise authorized in the other state after passing in that or any other state a national licensing examination with a passing score as high as that required of Maryland applicants.

§13–308.

(a) Subject to subsection (d) of this section, the Board shall issue the appropriate license to an applicant who meets the requirements of this title for that license.

(b) (1) Except as otherwise provided in this subsection, each licensee shall display the license conspicuously in the licensee's office so that it may be seen by patients.

(2) A licensee who works in a setting outside the licensee's office, other than a hospital or a related institution, as defined in § 19-301 of the Health - General Article, shall present the wallet sized renewal card as evidence of current licensure to a patient at the beginning of the licensee's initial visit to the patient.

(3) A hospital or a related institution that provides physical therapy services shall display a notice in the reception room of the physical therapy treatment area stating that evidence of current licensure for each licensee is on file and may be reviewed by a patient on request.

(c) Each licensee shall give the Board immediate written notice of any change of address.

(d) (1) On receipt of the criminal history record information of an applicant for licensure forwarded to the Board in accordance with § 13–302.1 of this subtitle, in determining whether to grant a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Any other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license if the criminal history record information required under § 13–302.1 of this subtitle has not been received.

§13–309.

A physical therapy license authorizes the licensee to practice physical therapy while the license is effective.

§13–310.

(a) Subject to subsection (b) of this section, a physical therapist assistant license authorizes the licensee to practice limited physical therapy while the license is effective.

(b) A licensed physical therapist assistant may practice limited physical therapy only under the direction of a licensed physical therapist who gives ongoing supervision and instruction that is adequate to ensure the safety and welfare of the patient.

§13–311.

(a) (1) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section.

(2) A license may not be renewed for a term longer than 2 years.

(b) (1) Except as provided in paragraph (2) of this subsection, at least 1 month before the license expires, the Board shall send to the licensee, by first–class mail to the last known address of the licensee, a renewal notice that states:

(i) The date on which the current license expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(iii) The amount of the renewal fee.

(2) If requested by a licensee, the Board shall send to the licensee, at least two times within the month before a license expires, a renewal notice by electronic means to the last known electronic mail address of the licensee.

(3) If a renewal notice sent by electronic means under paragraph (2) of this subsection is returned to the Board as undeliverable, the Board shall send to the licensee a renewal notice by first–class mail to the last known address of the licensee.

(c) Before the license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with the other qualifications set under this title for license renewal.

(d) The Board may adopt regulations to establish continuing education requirements as a condition for the renewal of licenses under this section.

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

§13–312.

(a) (1) Within 3 years after a license has expired, the Board may reinstate the license if the licensee:

(i) Was licensed by passing a Board approved national licensing examination;

(ii) Has not practiced physical therapy or limited physical therapy in this State during that period;

(iii) Otherwise is entitled to be licensed;

(iv) Pays to the Board the application fee set by the Board;

(v) Submits to the Board an application on the form required by the Board; and

(vi) Has met the continuing education requirements of § 13-311(d) of this subtitle.

(2) The Board may not require the physical therapist or physical therapist assistant who qualifies for reinstatement under this subsection to be reexamined under § 13-306 of this subtitle.

(b) The physical therapist or physical therapist assistant who does not qualify under subsection (a) of this section may not have the license reinstated. The physical therapist or physical therapist assistant may become licensed only by meeting the current requirements for obtaining a new license under this title.

§13–314.

(a) If an applicant is licensed or registered to practice physical therapy in any other state, the Board may waive the examination requirements of this subtitle and issue a restricted license if the applicant:

(1) Pays to the Board the restricted license fee set by the Board;

(2) Submits to the Board an application on a form acceptable to the Board; and

(3) Meets any other requirement set by the Board.

(b) A restricted license authorizes the holder to practice physical therapy in connection with:

(1) Giving lectures or workshops on physical therapy; or

(2) Taking any short-term physical therapy study course that is approved by the Board.

(c) A restricted license expires at the end of:

(1) The lecture or workshop on physical therapy; or

(2) The short-term physical therapy study course that is approved by the Board.

(d) The Board may not renew a restricted license. However, the holder of a restricted license may reapply to the Board for a new license.

§13–315.

(a) Unless the Board agrees to accept the surrender of a license, a licensed physical therapist, licensed physical therapist assistant, or holder of a restricted license 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.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

(c) An individual whose license has been suspended or revoked by the Board shall return the license to the Board. If the suspended or revoked license has been lost, the individual shall file with the Board a statement verifying that the individual's license has been lost.

§13–316.

Subject to the hearing provisions of § 13–317 of this subtitle, the Board may deny a license or restricted license to any applicant, reprimand any licensee or holder of a restricted license, place any licensee or holder of a restricted license on probation, or suspend or revoke a license or restricted license if the applicant, licensee, or holder:

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

(2) Fraudulently or deceptively uses a license or restricted license;

(3) Unless specifically licensed with respect to the treatment, treats or attempts to treat a health condition of a patient or client by means other than physical therapy;

(4) In the case of an individual who is authorized to practice physical therapy is grossly negligent:

(i) In the practice of physical therapy;

(ii) In the direction of an individual who is authorized to practice limited physical therapy; or

(iii) In the supervision of a physical therapy aide;

(5) In the case of an individual who is authorized to practice limited physical therapy:

(i) Practices limited physical therapy other than as authorized by this title; or

(ii) Is grossly negligent while practicing limited physical therapy;

(6) 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;

(7) Is convicted of a violation of a narcotic law;

(8) To an extent that impairs professional competence, habitually uses any:

(i) Drug; or

(ii) Alcoholic beverage;

(9) Pays or agrees to pay any sum to any person for bringing or referring a patient;

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

(11) Practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an unauthorized person in the practice of physical therapy or limited physical therapy;

(12) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy;

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

(14) Submits a false statement to collect a fee;

(15) Violates any provision of this title or rule or regulation adopted by the Board;

(16) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

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

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

(19) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy;

(20) Grossly overutilizes health care services;

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

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

(23) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(24) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board;

(25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care; or

(26) Fails to submit to a criminal history records check in accordance with § 13–302.1 of this subtitle.

§13–316.1.

(a) If in investigating an allegation brought against a licensee under this title, there is good cause to believe that the physical or mental condition of the licensee may adversely affect the ability of the licensee to practice physical therapy or limited physical therapy, the Board may require the licensee to submit to appropriate medical or psychological examination, testing, or evaluation by a health care provider designated by the Board.

(b) In return for the privilege to practice physical therapy or limited physical therapy, a licensee is deemed to:

(1) Consent to be examined, tested, or evaluated pursuant to this section; and

(2) Waive objection to the receipt of and consideration by the Board of the results of any examinations, tests, or evaluations conducted by, and the reports and testimony of, the examining health care provider.

(c) The failure or refusal of the licensee to submit to an examination required under subsection (b) of this section may be considered as evidence of the inability of the licensee to practice competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

(d) The Board shall pay the cost of all examinations, tests, and evaluations performed pursuant to this section.

§13–317.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 13-316 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) (1) The chairman of the Board may delegate authority to conduct a hearing to a committee consisting of three or more Board members.

(2) The committee shall:

(i) Hold an evidentiary hearing; and

(ii) Prepare a recommended decision for consideration by a quorum of the Board, which may include members of the committee.

(3) The committee shall give each party the opportunity to file exceptions and present argument to the Board regarding the decision of the committee.

(e) Over the signature of an officer or the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(f) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(g) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§13–318.

(a) Except as provided in this section for an action under § 13–316 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 13–316 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§13–318.1.

(a) An action may be maintained in the name of this State or the Board to enjoin:

(1) The unauthorized practice of physical therapy; or

(2) Conduct that is ground for disciplinary action under § 13-316 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section may be brought in the county where the defendant resides or engaged in the act sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of physical therapy under § 13-401 of this title or disciplinary action under § 13-316 of this subtitle.

§13–319.

(a) In this section, "physical therapist rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (c) of this section.

(b) For purposes of this section, a physical therapist rehabilitation committee is a committee of the American Physical Therapy Association of Maryland, Inc. that:

(1) Is recognized by the Board; and

(2) Is composed of physical therapists.

(c) For purposes of this section, a physical therapist rehabilitation committee evaluates and provides assistance to any physical therapist and physical therapist assistant in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(d) (1) Except as otherwise provided in this section, the proceedings, records, and files of the physical therapist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the physical therapist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the physical therapist rehabilitation committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(3) For the purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(e) A person who acts in good faith and within the scope of jurisdiction of a physical therapist rehabilitation committee is not civilly liable for any action as a member of the physical therapist rehabilitation committee or for giving information to, participating in, or contributing to the function of the physical therapist rehabilitation committee.

§13–401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice physical therapy in this State unless licensed to practice

physical therapy by the Board.

(b) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice limited physical therapy in this State unless licensed to practice limited physical therapy by the Board.

§13–402.

(a) Unless licensed to practice physical therapy under this title, a person may not represent to the public by title that the person is licensed to practice physical therapy in this State.

(b) Unless licensed to practice physical therapy under this title, a person may not use the abbreviation "P.T." or any other word, letter, or symbol approved by the Board with the intent to represent that the person practices physical therapy.

§13–403.

(a) Unless licensed to practice limited physical therapy under this title, a person may not represent to the public by title that the person is licensed to practice limited physical therapy in this State.

(b) Unless licensed to practice limited physical therapy under this title, a person may not use the abbreviation "P.T.A." or any other word, letter, or symbol approved by the Board with the intent to represent that the person practices limited physical therapy.

§13–404.

Unless under the direction of a licensed physical therapist, a physical therapist assistant may not practice limited physical therapy.

§13–407.

(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 3 years or both.

(b) (1) Any person who violates § 13–401 of this subtitle is subject to a civil fine of not more than $50,000 to be assessed by the Board.

(2) The Board shall pay any penalty collected under this subsection into the State Board of Physical Therapy Examiners Fund.

§13–407.1.

If, after a hearing under § 13-317 of this title, the Board finds that there are grounds under § 13-316 of this title to suspend or revoke a license to practice physical

therapy or limited physical therapy, to reprimand a licensee, or to refuse to license an applicant, the Board may impose a penalty not exceeding $5,000 in addition to suspending or revoking the license or reprimanding the licensee.

§13–408.

(a) Each court shall report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a physical therapist or physical therapist assistant for any felony or crime involving moral turpitude.

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

§13–501.

This title may be cited as the "Maryland Physical Therapy Act".

§13–502.

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, 2022.

§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.

(b) "Board" means the State Board of Physicians.

(c) "Board certified" means the physician is certified by a public or private board, including a multidisciplinary board, and the certifying board:

(1) Is:

(i) A member of the American Board of Medical Specialties;

(ii) An American Osteopathic Association certifying board;

(iii) The Royal College of Physicians and Surgeons of Canada; or

(iv) The College of Family Physicians of Canada;

(2) Has been approved by the Board under § 14–101.1 of this subtitle; or

(3) Requires that, in order to be certified, the physician:

(i) Complete a postgraduate training program that:

1. Provides complete training in the specialty or subspecialty; and

2. Is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; and

(ii) Be certified by:

1. The member board of the American Board of Medical Specialties;

2. The American Osteopathic Association in the training field;

3. The Royal College of Physicians and Surgeons of Canada; or

4. The College of Family Physicians of Canada.

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

(e) (1) "Cosmetic surgical procedure" means the use of surgical services to reshape the structure of a human body in order to change the appearance of an individual.

(2) Except as provided in paragraph (3) of this subsection, "cosmetic surgical procedure" does not include:

(i) A procedure done under local anesthesia or mild sedation; or

(ii) Liposuction that removes less than 1,000 cubic centimeters of aspirate.

(3) "Cosmetic surgical procedure" includes any procedure under paragraph (2) of this subsection that, under the circumstances established by the Secretary in regulations adopted under Title 19, Subtitle 3C of the Health – General Article, is a cosmetic surgical procedure.

(e–1) "Disciplinary panel" means a disciplinary panel of the Board established under § 14–401 of this title.

(f) "Faculty" means the Medical and Chirurgical Faculty of the State of Maryland.

(g) "Hospital" has the meaning stated in § 19–301 of the Health – General Article.

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

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

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

(k) "Mild sedation" means a drug–induced state during which:

(1) A patient is able to respond to verbal commands;

(2) A patient's ventilatory and cardiovascular functions are not affected; and

(3) A patient's cognitive function and coordination may be impaired.

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

(m) "Physician" means an individual who practices medicine.

(n) "Physician Rehabilitation Program" means the program of the Board or the nonprofit entity with which the Board contracts under § 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.

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

(i) Diagnosis;

(ii) Healing;

(iii) Treatment; or

(iv) Surgery.

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

(i) Diagnosing, healing, treating, preventing, prescribing for, or

removing any physical, mental, or emotional ailment or supposed ailment of an individual:

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

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

(ii) Ending of a human pregnancy; and

(iii) Performing acupuncture as provided under § 14–504 of this title.

(3) "Practice medicine" does not include:

(i) Selling any nonprescription drug or medicine;

(ii) Practicing as an optician; or

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

(p) "Related institution" has the meaning stated in § 19–301 of the Health – General Article.

§14–101.1.

The Board may approve a public or private board including a multidisciplinary board as a certifying board only if the certifying board requires that, in order to be certified, a physician:

(1) Complete a postgraduate training program that:

(i) Provides complete training in the specialty or subspecialty being certified; and

(ii) Is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; and

(2) Be certified by the American Board of Medical Specialties or the American Osteopathic Association in the same training field.

§14–102.

(a) This title does not limit the right of:

(1) An individual to practice a health occupation that the individual is authorized to practice under this article; or

(2) A Christian Science practitioner, who is accredited by the First Church

of Christ, Scientist, in Boston, Massachusetts, from:

(i) Dealing with human ills in accordance with the tenets of Christian Science; and

(ii) Charging for services.

(b) This title does not prohibit a licensed dentist or any other individual authorized to practice dentistry under Title 4 of this article, who has administered anesthesia regularly in hospitals in this State for at least 15 years before June 1, 1962, from practicing anesthesiology or administering anesthesia for medical purposes.

§14–201.

There is a State Board of Physicians in the Department.

§14–202.

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

(2) Of the 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 licensed physician assistant appointed at the Governor's discretion as provided in subsections (f) and (g) of this section;

(v) 2 shall be practicing licensed physicians with full–time faculty appointments appointed to serve as representatives of academic medical institutions in the State 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.

(b) (1) Each consumer or public member of the Board:

(i) Shall be a member of the general public;

(ii) Shall be a resident of the State for at least 5 years;

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

(iv) May not have a household member who is a physician or in training to become a physician;

(v) May not have a household member who participates in a commercial or professional field related to medicine; and

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

(2) A consumer member of the Board may not have a substantial personal, business, professional, or pecuniary connection with a medical field or with an institution of medical education or a health care facility.

(c) While serving as a member of the Board, each consumer member and the public member shall continue to meet the requirements of subsection (b) of this section.

(d) (1) For each vacancy of a practicing licensed physician appointed in accordance with subsection (a)(2)(i) of this section, the Board shall:

(i) Notify all practicing licensed physicians and professional organizations representing at least 25 licensed physicians in the State of the vacancy;

(ii) Provide information regarding the selection process as provided under subsection (a)(2)(i) of this section;

(iii) Solicit nominations for the vacancy; and

(iv) Forward to the Governor:

1. Valid nominations submitted by professional organizations representing at least 25 licensed physicians in the State; and

2. Valid petitions submitted by practicing licensed physicians.

(2) The Board shall meet the requirements of paragraph (1) of this subsection within:

(i) 4 months prior to an upcoming vacancy on the Board; or

(ii) 2 months after a vacancy exists on the Board.

(e) For each vacancy of a practicing licensed physician appointed in accordance with subsection (a)(2)(i) of this section, the Governor:

(1) May:

(i) Reappoint a member who has not served for more than 2 consecutive full terms; or

(ii) Appoint a practicing licensed physician in accordance with subsection (a)(2)(i) of this section from lists submitted by the Board as provided in subsection (d)(1)(iv) of this section; and

(2) May not reappoint or appoint a practicing licensed physician from a particular medical specialty if there are two current members serving on the Board from the same medical specialty.

(f) (1) For the vacancy of a certified physician assistant appointed in accordance with subsection (a)(2)(iv) of this section, the Board shall:

(i) Notify all practicing certified physician assistants and professional organizations representing at least 25 certified physician assistants in the State of the vacancy;

(ii) Provide information regarding the selection process as provided under subsection (a)(2)(iv) of this section;

(iii) Solicit nominations for the vacancy; and

(iv) Forward to the Governor:

1. Valid nominations submitted by professional organizations representing at least 25 certified physician assistants in the State; and

2. Valid petitions submitted by practicing certified physician assistants supporting the appointment of the certified physician assistant to the Board that are signed by at least 25 practicing certified physician assistants in the State.

(2) The Board shall meet the requirements of paragraph (1) of this subsection within:

(i) 4 months prior to an upcoming vacancy on the Board; or

(ii) 2 months after a vacancy exists on the Board.

(g) For each vacancy of a certified physician assistant appointed in accordance

with subsection (a)(2)(iv) of this section, the Governor may:

(1) Reappoint a member who has not served for more than two consecutive full terms; or

(2) Appoint a certified physician assistant in accordance with subsection (a)(2)(iv) of this section from lists submitted by the Board as provided in subsection (f)(1)(iv) of this section.

(h) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(i) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on August 1, 2003.

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

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

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

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

(k) (1) On the recommendation of the Board, the Secretary may remove any member of the Board for neglect of duty, misconduct, malfeasance, or misfeasance in office.

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

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

§14–203.

(a) (1) The Governor shall appoint the chair of the Board.

(2) The term of office of the chair is 2 years.

(b) From among its members, the Board shall elect any officers, other than the chair, that it considers necessary.

(c) The Board shall determine:

(1) The manner of election of officers;

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

(3) The duties of each officer.

§14–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall meet:

(1) At the times and places that it determines; and

(2) As requested by the Secretary.

(c) Each member of the Board is entitled to:

(1) Compensation in accordance with the State budget; and

(2) Reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) (1) (i) The Secretary may employ a staff for the Board in accordance with the State budget.

(ii) The Secretary may designate one of the staff as an executive director.

(2) The Secretary may set the compensation of an employee of the Board in a position that:

(i) Is unique to the Board;

(ii) Requires specific skills or experience to perform the duties of the position; and

(iii) Does not require the employee to perform functions that are comparable to functions performed in other units of the Executive Branch of State government.

(3) The Secretary of Budget and Management, in consultation with the Secretary, shall determine the positions for which the Secretary may set compensation under paragraph (2) of this subsection.

(e) To provide adequate assistance in the investigation, development, and prosecution of cases referred to the Board, the Board shall be assigned a sufficient number of:

(1) Assistant Attorneys General by the Attorney General; and

(2) Investigators and hearing officers by the Secretary.

§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) Develop and implement methods to:

(i) Assess and improve licensee practices; and

(ii) Ensure the ongoing competence of licensees;

(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;

(10) Adjudicate nondisciplinary matters within the Board's jurisdiction;

(11) Report on all disciplinary actions, license denials, and license surrenders;

(12) Establish appropriate fees that are adequate to fund the effective regulation of physicians and allied health professionals;

(13) Make recommendations that benefit the health, safety, and welfare of the public;

(14) Provide ongoing education and training for Board members to ensure that the Board members can competently discharge their duties;

(15) Direct educational outreach to and communicate with licensees and the public;

(16) Develop and adopt a budget that reflects revenues and supports the costs associated with each allied health profession regulated by the Board;

(17) Develop and approve an annual report and other required reports for submission to the Secretary, the Governor, the General Assembly, and the public;

(18) Approve contracts as needed and within budgetary limits;

(19) Appoint standing and ad hoc committees from among Board members as necessary;

(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

(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 regulations to 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.

(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.

(a) Over the signature of an officer, the executive director, or the deputy director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(b) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(c) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(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) Public premises.

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

(3) 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.

(e) The Board may issue a cease and desist order or obtain injunctive relief against an individual for:

(1) Practicing medicine without a license; or

(2) Taking any action:

(i) For which the Board determines there is a preponderance of evidence of grounds for discipline under § 14–404 of this title; and

(ii) That poses a serious risk to the health, safety, and welfare of a patient.

(f) The Board shall adopt regulations to carry out the provisions of this section, including hearing procedures and sanctions for noncompliance with a cease and desist order.

§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.

(a) There is a Board of Physicians Fund.

(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.

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

(2) (i) If the Governor does not include in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute:

1. Except as provided in subparagraph (ii) of this paragraph, 12 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

A. One–half to make grants under the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article; and

B. One–half to make grants under the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants under Title 18, Subtitle 28 of the Education Article to physicians and physician assistants engaged in primary care or to medical residents specializing in primary care who agree to practice for at least 2 years as primary care physicians in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved; and

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

(ii) For fiscal 2008, if the Governor does not include in the State budget the funds specified under subparagraph (i) of this paragraph, the Comptroller shall distribute 14 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as provided under subparagraph (i) of this paragraph.

(iii) If the Governor includes in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute the fees to the Board of Physicians Fund.

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

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

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

(3) Interest or other income earned on the investment of moneys in the

Fund shall be paid into the Fund.

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

(e) (1) In addition to the requirements of subsection (d) of this section, the Board shall fund the budget of the Physician Rehabilitation Program with fees set, collected, and distributed to the Fund under this title.

(2) After review and approval by the Board of a budget submitted by the Physician Rehabilitation Program, the Board may allocate moneys from the Fund to the Physician Rehabilitation Program.

(f) (1) The chair of the Board or the designee of the chair shall administer the Fund.

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

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

§14–208.

The executive director and the Board chair shall be bonded in an amount fixed by the Board.

§14–301.

Except as otherwise provided in this title or § 13-516 of the Education Article, an individual shall be licensed by the Board before the individual may practice medicine in this State.

§14–302.

Subject to the rules, regulations, and orders of the Board, the following individuals may practice medicine without a license:

(1) A medical student or an individual in a postgraduate medical training program that is approved by the Board, while doing the assigned duties at any office of a licensed physician, hospital, clinic, or similar facility;

(2) A physician licensed by and residing in another jurisdiction, if the physician:

(i) Is engaged in consultation with a physician licensed in the State about a particular patient and does not direct patient care; or

(ii) Meets the requirements of § 14–302.1 of this subtitle;

(3) A physician employed in the service of the federal government while performing the duties incident to that employment;

(4) A physician who resides in and is authorized to practice medicine by any state adjoining this State and whose practice extends into this State, if:

(i) The physician does not have an office or other regularly appointed place in this State to meet patients; and

(ii) The same privileges are extended to licensed physicians of this State by the adjoining state; and

(5) An individual while under the supervision of a licensed physician who has specialty training in psychiatry, and whose specialty training in psychiatry has been approved by the Board, if the individual submits an application to the Board on or before October 1, 1993, and either:

(i) 1. Has a master's degree from an accredited college or university; and

2. Has completed a graduate program accepted by the Board in a behavioral science that includes 1,000 hours of supervised clinical psychotherapy experience; or

(ii) 1. Has a baccalaureate degree from an accredited college or university; and

2. Has 4,000 hours of supervised clinical experience that is approved by the Board.

§14–302.1.

A physician who is licensed and resides in another jurisdiction may practice medicine without a license while engaged in clinical training with a licensed physician if:

(1) The Board finds, on application by a hospital in the State, that:

(i) The physician possesses a skill or uses a procedure that:

1. Is advanced beyond those skills or procedures normally taught or exercised in the hospital and in standard medical education or training;

2. Could not be otherwise conveniently taught or demonstrated in standard medical education or training in that hospital; and

3. Is likely to benefit Maryland patients in this instance;

(ii) The demonstration of the skill or procedure would take no more

than 14 consecutive days within a calendar year;

(iii) A licensed physician who practices at a hospital in the State has certified to the Board that the licensed physician will be responsible for the medical care provided by that visiting physician to patients in the State;

(iv) The visiting physician has no history of any medical disciplinary action in any other state, territory, nation, or any branch of the United States uniformed services or the Veterans Administration, and has no significant detrimental malpractice history in the judgment of the Board;

(v) The physician is covered by malpractice insurance in the jurisdiction in which the physician practices; and

(vi) The hospital assures the Board that the patients will be protected by adequate malpractice insurance; or

(2) The Board finds, on application by a Maryland hospital, that:

(i) The hospital provides training in a skill or uses a procedure that:

1. Is advanced beyond those skills or procedures normally taught or exercised in standard medical education or training;

2. Could not be otherwise conveniently taught or demonstrated in the visiting physician's practice; and

3. Is likely to benefit Maryland patients in this instance;

(ii) The demonstration or exercise of the skill or procedure will take no more than 14 consecutive days within a calendar year;

(iii) A hospital physician licensed in the State has certified to the Board that the physician will be responsible for the medical care provided by that visiting physician to patients in the State;

(iv) The visiting physician has no history of any medical disciplinary action in any other state, territory, nation, or any branch of the United States uniformed services or the Veterans Administration, and has no significant detrimental malpractice history in the judgment of the Board;

(v) The physician is covered by malpractice insurance in the jurisdiction where the physician practices; and

(vi) The hospital assures the Board that the patients will be protected by adequate malpractice insurance.

§14–306.

(a) To the extent permitted by the rules, regulations, and orders of the Board, an individual to whom duties are delegated by a licensed physician may perform those duties without a license as provided in this section.

(b) The individuals to whom duties may be delegated under this section include any individual authorized to practice any other health occupation regulated under this article or § 13-516 of the Education Article.

(c) The Board shall adopt rules and regulations to delineate the scope of this section. Before it adopts any rule or regulation under this section, the Board shall invite and consider proposals from any individual or health group that could be affected by the rule or regulation.

(d) (1) If a duty that is to be delegated under this section is a part of the practice of a health occupation that is regulated under this article by another board, any rule or regulation concerning that duty shall be adopted jointly by the Board of Physicians and the board that regulates the other health occupation.

(2) If the two boards cannot agree on a proposed rule or regulation, the proposal shall be submitted to the Secretary for a final decision.

(e) Except as otherwise provided in this section, an individual may perform X–ray duties without a license only if the duties:

(1) Do not include:

(i) Computerized or noncomputerized tomography;

(ii) Fluoroscopy;

(iii) Invasive radiology;

(iv) Mammography;

(v) Nuclear medicine;

(vi) Radiation therapy; or

(vii) Xerography;

(2) Are limited to X–ray procedures of the:

(i) Chest, anterior–posterior and lateral;

(ii) Spine, anterior–posterior and lateral; or

(iii) Extremities, anterior–posterior and lateral, not including the

head; and

(3) Are performed:

(i) By an individual who is not employed primarily to perform X–ray duties;

(ii) In the medical office of the physician who delegates the duties; and

(iii) 1. By an individual who, before October 1, 2002, has:

A. Taken a course consisting of at least 30 hours of training in performing X–ray procedures approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; and

B. Successfully passed an examination based on that course that has been approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; or

2. By a licensed physician assistant who has completed a course that includes anterior–posterior and lateral radiographic studies of extremities on at least 20 separate patients under the direct supervision of the delegating physician or radiologist using a mini C–arm or similar low–level radiation machine to perform nonfluoroscopic X–ray procedures, if the duties:

A. Include only the X–ray procedures described in paragraph (2)(iii) of this subsection; and

B. Are performed pursuant to a Board–approved delegation agreement that includes a request to perform advanced duties under § 15–302(c)(2) of this article.

§14–307.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) Except as provided in § 14–308 of this subtitle, the applicant shall:

(1) (i) Have a degree of doctor of medicine from a medical school that is accredited by an accrediting organization that the Board recognizes in its regulations; and

(ii) Submit evidence acceptable to the Board of successful completion

of 1 year of training in a postgraduate medical training program that is accredited by an accrediting organization that the Board recognizes in its regulations; or

(2) (i) Have a degree of doctor of osteopathy from a school of osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada that has standards for graduation equivalent to those established by the American Osteopathic Association; and

(ii) Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program accredited by an accrediting organization that the Board recognizes in its regulations.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination required by the Board.

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

(g) An otherwise qualified applicant who passes the examination after having failed the examination or any part of the examination 3 or more times may qualify for a license only if the applicant:

(1) Has successfully completed 2 or more years of a residency or fellowship accredited by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association;

(2) (i) Has a minimum of 5 years of clinical practice of medicine:

1. In the United States or in Canada;

2. With at least 3 of the 5 years having occurred within 5 years of the date of the application; and

3. That occurred under a full unrestricted license to practice medicine; and

(ii) Has no disciplinary action pending and has had no disciplinary action taken against the applicant that would be grounds for discipline under § 14–404 of this title; or

(3) Is board certified.

(h) (1) The Board shall require as part of its examination or licensing procedures that an applicant for a license to practice medicine demonstrate an oral competency in the English language.

(2) Graduation from a recognized English–speaking undergraduate school or high school, including General Education Development (GED), after at least 3 years

of enrollment, or from a recognized English–speaking professional school is acceptable as proof of proficiency in the oral communication of the English language under this section.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charges or action that involves a problem with the oral communication of the English language are brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

§14–308.

(a) (1) In this section the following terms have the meanings indicated.

(2) "Fifth pathway program" means a program that the Board approves in its regulations for a student who:

(i) Has studied medicine at a foreign medical school;

(ii) Was a United States citizen when the student enrolled in the foreign medical school; and

(iii) Has completed all of the formal requirements for graduation from the foreign medical school, except for any social service or postgraduate requirements.

(3) "Foreign medical school" means a medical school located outside of the United States, its territories or possessions, Puerto Rico, or Canada.

(b) An applicant for a license is exempt from the educational requirements of § 14-307 of this subtitle, if the applicant:

(1) Has studied medicine at a foreign medical school;

(2) Is certified by the Educational Commission for Foreign Medical Graduates or by its successor as approved by the Board;

(3) Passes a qualifying examination for foreign medical school graduates required by the Board;

(4) Meets any other qualifications for foreign medical school graduates that the Board establishes in its regulation for licensing of applicants;

(5) Submits acceptable evidence to the Board of the requirements set in the Board's regulations; and

(6) Meets one of the following requirements:

(i) The applicant graduated from any foreign medical school and submits evidence acceptable to the Board of successful completion of 2 years of training in a postgraduate medical education program accredited by an accrediting organization recognized by the Board; or

(ii) The applicant successfully completed a fifth pathway program and submits evidence acceptable to the Board that the applicant:

1. Has a document issued by the foreign medical school certifying that the applicant completed all of the formal requirements of that school for the study of medicine, except for the postgraduate or social service components as required by the foreign country or its medical school;

2. Has successfully completed a fifth pathway program; and

3. Has successfully completed 2 years of training in a postgraduate medical education program following completion of a Board approved fifth pathway program.

§14–309.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

(b) The Board may not release a list of applicants for licensure.

§14–311.

(a) An applicant who otherwise qualifies for a license under this title is entitled to sit for an examination as provided under this section or any regulations adopted to carry out this section.

(b) An applicant shall:

(1) Attain on the federation licensing examination or the United States Medical Licensing Examination a passing score as set by the Board under its rules and regulations; or

(2) Hold a certificate of proficiency and professional standing of:

(i) The National Board of Medical Examiners;

(ii) The board of medical examiners of this State or any other state that was issued before January 1, 1985;

(iii) The National Board of Examiners for Osteopathic Physicians and Surgeons, if the certificate is issued after January 1, 1971; or

(iv) The Licentiate of the Medical Council of Canada.

§14–312.

(a) In this section, "approved school of osteopathy" means a school of osteopathy that is approved by the American Osteopathic Association.

(b) Subject to the provisions of this section, the Board shall waive the examination requirements of this subtitle for an applicant who is licensed to practice osteopathy.

(c) If the applicant is licensed to practice osteopathy in this State under § 14-321 of this subtitle, the Board may grant a waiver under this section only if the applicant:

(1) Submits the application fee required by the Board under § 14-309 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) 1. Practiced osteopathy and resided in this State on June 1, 1967;

2. Graduated in or after 1940 from an approved school of osteopathy; or

3. Graduated before 1940 from an approved school of osteopathy and completed a refresher education course approved by the Board.

(d) If the applicant is licensed as a doctor of osteopathy to practice medicine in another state, the Board may grant a waiver under this section only if:

(1) The applicant submits the application fee set by the Board under § 14-309 of this subtitle;

(2) The applicant provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title;

(ii) Graduated after January 1, 1960 from an approved school of osteopathy; and

(iii) Became licensed in the other state after passing in that state an examination for the practice of medicine given by the appropriate authority in the other state to graduates of approved medical schools; and

(3) The other state waives the examination of licensees of this State to a similar extent as this State waives the examination of individuals licensed in that state.

§14–313.

The Board shall issue a license to any applicant who meets the requirements of this title.

§14–314.

(a) Except as otherwise provided in this title, a license authorizes the licensee to practice medicine while the license is effective.

(b) A licensee may practice medicine using only the name in which the license is issued.

§14–315.

(a) The Board shall issue a license free of charge to any physician who:

(1) Provides medical services to patients for which the physician receives no personal remuneration;

(2) Is not engaged in the private practice of medicine; and

(3) Otherwise qualifies for a license under this title.

(b) Except as provided in subsection (c) of this section, each license issued under this section expires on the second anniversary of the date on which it is issued and may be renewed every 2 years on application to the Board.

(c) (1) If, at any time, a physician licensed under this section ceases to meet the requirements of subsection (a)(1) or (2) of this section, the licensee shall notify the Board of the status change.

(2) On receipt of this notice, the Board shall charge the physician the license fee otherwise required under this subtitle.

§14–316.

(a) (1) The Board shall provide for the term and renewal of licenses under this section.

(2) The term of a license may not be more than 3 years.

(3) A license expires at the end of its term, unless the license is renewed for a term as provided by the Board.

(b) (1) Subject to paragraph (2) of this subsection, at least 1 month before the

license expires, the Board shall send to the licensee, by electronic or first–class mail to the last known electronic or physical address of the licensee:

(i) A renewal notice that states:

1. The date on which the current license expires;

2. The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

3. The amount of the renewal fee; and

(ii) A blank panel data sheet supplied by the Health Care Alternative Dispute Resolution Office.

(2) If the Board chooses to send renewal notices exclusively by electronic mail under paragraph (1) of this subsection, the Board shall send a renewal notice by first–class mail to a licensee on request of the licensee.

(c) Before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.

(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.

(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.

(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.

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

(f) (1) Each licensee shall notify the secretary of the Board in writing of any change in the licensee's name or address within 60 days after the change.

(2) If a licensee fails to notify the secretary of the Board within the time required under this section, the licensee is subject to an administrative penalty of $100.

§14–317.

The Board shall reinstate the license of a physician who has failed to renew the license for any reason if the physician:

(1) Meets the renewal requirements of § 14-316 of this subtitle;

(2) Pays to the Board a reinstatement fee set by the Board; and

(3) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this title for license reinstatements.

§14–318.

(a) If an applicant is qualified as a postgraduate teacher, the Board may:

(1) Waive the examination requirements of this subtitle for the applicant; and

(2) Issue to the applicant a limited license to practice medicine for postgraduate teaching.

(b) Each limited license issued under this section expires on the first anniversary of its effective date.

§14–319.

(a) The Board may:

(1) License an applicant by virtue of the conceded eminence and authority of the applicant in the profession if the applicant:

(i) Is recommended to the Board by:

1. The dean of a school of medicine in the State; or

2. The Director of the National Institutes of Health;

(ii) Is to receive an appointment at the institution making the recommendation under item (i) of this paragraph; and

(iii) Meets any other requirement the Board may adopt by regulation under this section;

(2) Define by regulation the term "conceded eminence and authority in the profession" and, for this purpose, shall consider such criteria as:

(i) Academic appointments;

(ii) Length of time in the profession;

(iii) Scholarly publications; and

(iv) Professional accomplishments;

(3) Adopt regulations concerning the further qualifications of an applicant for licensure, including conditions of employment, application procedures, and fees under this section;

(4) Allow an exception to the general education and examination requirements of § 14–307(d) and (e) of this subtitle, but may not permit waiver of the requirements of § 14–307(a) through (c) of this subtitle;

(5) Qualify, restrict, or otherwise limit a license granted under this section; and

(6) Require a 6–month probationary period during which the medical services performed by the applicant granted a license under this section are supervised by another licensed physician.

(b) Upon judicial review, a determination by the Board under this section shall be accorded the maximum deference permitted by law.

§14–320.

(a) The Board may place a licensee on inactive status, if the licensee submits to the Board:

(1) An application for inactive status on the form required by the Board; and

(2) The inactive status fee set by the Board.

(b) The Board shall issue a license to an individual who is on inactive status if the individual:

(1) Submits to the Board:

(i) Satisfactory evidence of compliance with the continuing education requirements the Board adopts for this purpose; and

(ii) A reinstatement fee set by the Board; and

(2) Is otherwise entitled to be licensed.

§14–321.

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

(2) "Practice osteopathy" means to treat a disease or ailment of the human body by manipulation.

(3) "Restricted license" means a license issued by the Board to practice osteopathy.

(b) The Board shall issue a restricted license only to an applicant who:

(1) Was licensed to practice osteopathy in this State or in another state on June 30, 1980;

(2) Is licensed to practice osteopathy in this State or in another state on the date that the application for a restricted license is submitted to the Board;

(3) Submits an application to the Board on the form that the Board requires;

(4) Pays to the Board the restricted license fee set by the Board; and

(5) Meets any other requirement set by the Board.

(c) A restricted license authorizes the license holder to practice osteopathy while the restricted license is effective.

(d) The term and renewal of a restricted license shall be as provided for a license under § 14-316 of this subtitle.

(e) (1) Subject to the requirements of the Administrative Procedure Act, the Board on the affirmative vote of a majority of its quorum, may reprimand a restricted license holder, may place any restricted license holder on probation, or suspend or revoke a restricted license for any of the grounds for Board action under § 14-404 of this title.

(2) The Board may only dismiss a case against a restricted license holder on the affirmative vote of a majority of its quorum.

§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 7 members.

§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 allegation is assigned to 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 of this subtitle, § 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 being assigned a complaint under subsection (a) of this section, the disciplinary panel may:

(i) Refer 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 being assigned a complaint, the 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 being assigned a complaint, the disciplinary panel determines that an allegation involving fees for professional or ancillary services does not constitute grounds for disciplinary or other action, the 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, 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) A disciplinary panel may not enter into an agreement for corrective action with a licensee if patient safety is an issue.

(iii) The disciplinary panel shall subsequently evaluate the licensee and shall:

1. Terminate the corrective action if the 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 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) 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.

(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) 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.

(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 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.

§14–402.

(a) In reviewing an application for licensure, certification, or registration or in investigating an allegation brought against a licensed physician or any allied health professional regulated by the Board under this title, the Physician Rehabilitation Program may request the Board to direct, or the Board on its own initiative may direct, the licensed physician or any allied health professional regulated by the Board under this title to submit to an appropriate examination.

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

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

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

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

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

(e) (1) The Board or the entity or entities with which the Board contracts shall appoint the members of the Physician Rehabilitation Program.

(2) The chair of the Board shall appoint one member of the Board to serve as a liaison to the Physician Rehabilitation Program.

(f) The Legislative Auditor shall every 2 years audit the accounts and transactions of the Physician Rehabilitation Program as provided in § 2–1220 of the State Government Article.

§14–403.

(a) Unless 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) 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, 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 Healthcare 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, 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, 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, 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 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 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 a disciplinary panel finds that there are grounds for action under § 14–404 of this subtitle, the disciplinary panel shall pass an order in accordance with the Administrative Procedure Act.

(b) After the charges are filed, if 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 disciplinary panel:

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

(2) (i) Except as provided in item (ii) of this 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 a disciplinary panel files it under this title.

(b) On suspension or revocation of any license, the holder shall surrender the license certificate to the Board.

(c) At the end of the suspension period, the Board shall return to the licensee any license certificate surrendered under this section.

(d) The Board shall keep a copy of the order of suspension or revocation as a permanent record.

§14–408.

(a) 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 take a direct judicial appeal as provided 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 an order

of the Board or a disciplinary panel.

§14–409.

(a) (1) Except as provided in subsection (b) of this section, a disciplinary panel may reinstate the license of an individual whose license has been suspended or revoked under this title only in accordance with:

(i) The terms and conditions of the order of suspension or revocation;

(ii) An order of reinstatement issued by the disciplinary panel; or

(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.

(b) An individual whose license has been suspended or revoked under this title and who seeks reinstatement shall meet the continuing medical education requirements established for the renewal of licenses as if the individual were licensed during the period of suspension or revocation.

(c) If an order of suspension or revocation is based on § 14-404(b) of this subtitle, and the conviction or plea subsequently is overturned at any stage of an appeal or other postconviction proceeding, the suspension or revocation ends when the conviction or plea is overturned.

§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.

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

(1) General licensure, certification, or registration information maintained by the Board, if the request for release complies with the criteria of § 4–333 of the General Provisions Article;

(2) Profile information collected and disseminated under § 14–411.1 of this subtitle; or

(3) Personal and other identifying information of a licensee, as required by the National Practitioner Data Bank for participation in the proactive disclosure service.

(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:

(i) The committee of a medical hospital staff concerned with physician discipline or other committee of a hospital, health maintenance organization, or related institution requests the information in writing;

(ii) A disciplinary panel has issued an order as to a licensed physician on whom the information is requested; and

(iii) The Board determines that the information requested is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician; or

(2) The Secretary, the Office of Health Care Quality in the Department, the Maryland Health Care Commission, or the Health Services Cost Review Commission for the purpose of investigating quality or utilization of care in any entity regulated by the Office of Health Care Quality or the Health Services Cost Review Commission.

(e) On or before January 1, 2013, the Board, the Secretary, the Maryland Health Care Commission, and the Health Services Cost Review Commission jointly shall adopt regulations for the efficient and secure transfer, under subsection (d)(2) of this section,

of any information in a record that may indicate that an investigation of an entity regulated by the Office of Health Care Quality, the Maryland Health Care Commission, or the Health Services Cost Review Commission may be appropriate.

(f) Subsection (d)(2) of this section may not be construed to alter the authority of the Secretary under § 1–203(a) of this article or § 2–106(c) of the Health – General Article.

(g) (1) The Board shall notify all hospitals, health maintenance organizations, or other health care facilities where a physician or an allied health professional regulated by the Board has privileges, has a provider contract with a health maintenance organization, or is employed of a complaint or report filed against that physician, if:

(i) The Board determines, in its discretion, that the hospital, health maintenance organization, or health care facility should be informed about the report or complaint;

(ii) The nature of the complaint suggests a reasonable possibility of an imminent threat to patient safety; or

(iii) The complaint or report was as a result of a claim filed in the Health Care Alternative Dispute Resolution Office and a certificate of a qualified expert is filed in accordance with § 3–2A–04(b)(1) of the Courts Article.

(2) The Board shall disclose any information pertaining to a physician's competency to practice medicine contained in record to a committee of a hospital, health maintenance organization, or other health care facility if:

(i) The committee is concerned with physician discipline and requests the information in writing; and

(ii) The Board has received a complaint or report pursuant to paragraph (1)(i) and (ii) of this subsection on the licensed physician on whom the information is requested.

(3) The Board shall, after formal action is taken pursuant to § 14–406 of this subtitle, notify those hospitals, health maintenance organizations, or health care facilities where the physician has privileges, has a provider contract with a health maintenance organization, or is employed of its formal action within 10 days after the action is taken and shall provide the hospital, health maintenance organization, or health care facility with periodic reports as to enforcement or monitoring of a formal disciplinary order against a physician within 10 days after receipt of those reports.

(h) On the request of a person who has made a complaint to the Board regarding a physician, the Board shall provide the person with information on the status of the complaint.

(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:

(1) The licensing or disciplinary authority of another state that regulates licensed physicians in that state requests the information in writing; and

(2) The disclosure of any information is limited to the pendency of an allegation of a ground for disciplinary or other action by a disciplinary panel until:

(i) The disciplinary panel has passed an order under § 14–406 of this subtitle; or

(ii) A licensed physician on whom the information is requested authorizes a disclosure as to the facts of an allegation or the results of an investigation before the Board.

(k) The Board may disclose any information contained in a record to a person if:

(1) A licensed physician on whom any information is requested authorizes the person to receive the disclosure;

(2) The person requests the information in writing; and

(3) The authorization for the disclosure is in writing.

(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:

(1) (i) The State Medical Assistance Compliance Administration or any health occupational regulatory board requests the information in writing; or

(ii) The Secretary of the U.S. Department of Health and Human Services or the Secretary's designee is entitled to receive the information or have access to the information under 42 U.S.C. § 1396r–2;

(2) (i) 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

(3) The Board determines that the requested information is necessary for the proper conduct of the business of that administration or board.

(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.

(n) The Board may permit inspection of records for which inspection otherwise is not authorized by a person who is engaged in a research project if:

(1) The researcher submits to the executive director and the Board approves a written request that:

(i) Describes the purpose of the research project;

(ii) Describes the intent, if any, to publish the findings;

(iii) Describes the nature of the requested personal records;

(iv) Describes the safeguards that the researcher would take to protect the identity of the persons in interest; and

(v) States that persons in interest will not be contacted unless the executive director approves and monitors the contact;

(2) The executive director is satisfied that the proposed safeguards will prevent the disclosure of the identity of persons in interest; and

(3) The researcher makes an agreement with the executive director that:

(i) Defines the scope of the research project;

(ii) Sets out the safeguards for protecting the identity of the persons in interest; and

(iii) States that a breach of any condition of the agreement is a breach of contract.

(o) On the request of a person who has testified in a Board or Office of Administrative Hearings proceeding, the Board shall provide to the person who testified a copy of the portion of the transcript of that person's testimony.

(p) (1) The Board may publish a summary of any allegations of grounds for disciplinary or other action.

(2) A summary may not identify:

(i) Any person who makes an allegation to the Board or any of its investigatory bodies;

(ii) A licensed physician about whom an allegation is made; or

(iii) A witness in an investigation or a proceeding before the Board or any of its investigatory bodies.

(q) The Board shall disclose information in a record upon the request of the Governor, Secretary, or Legislative Auditor, in accordance with § 2–1223(a) of the State Government Article. However, the Governor, Secretary, or Auditor, or any of their employees may not disclose personally identifiable information from any of these records which are otherwise confidential by law.

(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.

(a) In this section, "health maintenance organization" has the meaning stated in § 19–701 of the Health – General Article.

(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;

(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) 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;

(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 § 14–416 of this subtitle; and

(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:

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

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

(ii) To the appropriate portion of the Internet site of the American Medical Association;

(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

(3) Provide on the Board's Internet site:

(i) Notification that a person may contact the Board by telephone, electronic mail, or written request to find out whether the number of medical malpractice settlements involving a particular licensee totals three or more with a settlement amount of $150,000 or greater within the most recent 5–year period as

reported to the Board; and

(ii) A telephone number, electronic mail address, and physical address through which a person may contact the Board to request the information required to be provided under item (i) of this item.

(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;

(2) Shall maintain a Web site that serves as a single point of entry where all physician profile information is available to the public on the Internet; and

(3) On receipt of a verbal, electronic, or written request in accordance with subsection (c)(3) of this section, shall provide the information within 2 business days of the request.

(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.

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

§14–412.

(a) If a person is a member of the Board or a legally authorized agent of the Board and is investigating, prosecuting, participating in a hearing, or otherwise acting on an allegation of a ground for Board action made to the Board or the Faculty, the person shall have the immunity from liability described under § 5-715(b) of the Courts and Judicial Proceedings Article.

(b) A person who makes an allegation of a ground for Board action to the Board or the Faculty shall have the immunity from liability described under § 5-715(c) of the Courts and Judicial Proceedings Article.

§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 item for any reasons that might be grounds for disciplinary action under § 14–404 of this subtitle.

(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) The Board may enforce this section by subpoena.

(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.

(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.

(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.

(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) The Board may enforce this section by subpoena.

(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.

(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.

(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.

§14–415.

If a physician is engaged in the private practice of medicine in this State, the physician shall display the notice developed under § 1-207 of this article conspicuously in each office where the physician is engaged in practice.

§14–416.

(a) 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.

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

§14–501.

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

(2) "Accrediting organization" means an organization that awards accreditation to managed care organizations, other health care organizations, hospitals, or other related institutions.

(3) "Primary source verification" means a procedure used by a hospital, related institution, or health maintenance organization to ensure the truth and accuracy of objective verifiable information submitted to the hospital, related institution, or health maintenance organization by a physician who is applying for practice privileges, entering into contract, or seeking employment with a hospital, related institution, or health maintenance organization.

(b) On or before January 1, 1997, the Secretary shall adopt regulations for a credentialing primary source verification information system that is available for all physicians licensed under this article.

(c) After the Secretary reviews the standards of appropriate accrediting organizations and consults with the Faculty, the Maryland Hospital Association, and the Maryland Association of Health Maintenance Organizations, the regulations adopted by the Secretary under subsection (b) of this section shall:

(1) Provide for a procedure for the collection and release of primary source verification information;

(2) Include standards by which any organization, including the Faculty, may qualify to perform primary source verification; and

(3) Provide for the monitoring by the Secretary of any organization that qualifies to administer primary source verification.

(d) The Secretary may authorize hospitals, related institutions, or health

maintenance organizations to rely on primary source verification information provided by an organization qualified to perform primary source verification in accordance with regulations adopted by the Secretary under this section instead of requiring a hospital, related institution, or health maintenance organization to use its own primary source verification procedure to test the truth and accuracy of information submitted.

(e) This section does not prohibit a hospital, related institution, or health maintenance organization from using its own primary source verification procedure.

§14–502.

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

(b) This section applies to:

(1) The Faculty;

(2) A component medical society of the Faculty;

(3) A committee of the Faculty or of a component medical society of the Faculty;

(4) A committee appointed by or established in the Maryland Institute for Emergency Medical Services Systems;

(5) A hospital, related institution, or other health care facility staff committee;

(6) A hospital, related institution, or other health care facility credentials committee or its equivalent;

(7) The chief executive officer of a hospital, related institution, or other health care facility;

(8) The dean of any medical school in this State;

(9) A member of the Board;

(10) A casualty insurer writing medical professional liability insurance in this State;

(11) A utilization committee of:

(i) A nonprofit health service plan; or

(ii) A health insurer doing business in this State;

(12) The chief executive officer of an alternative health system;

(13) The medical director of an alternative health system;

(14) A medical review committee appointed by or established in an alternative health system; and

(15) A physician.

(c) A person described in subsection (b) of this section shall have the immunity from liability described under § 5-638 of the Courts and Judicial Proceedings Article for giving information to any hospital, hospital medical staff, related institution, or other health care facility, alternative health system, professional society, medical school, or professional licensing board.

§14–503.

(a) A physician may not represent to the public that the physician is board certified unless:

(1) The physician is board certified; and

(2) The physician discloses the full name of the board from which the physician is certified and the name of the specialty or subspecialty in which the physician is certified.

(b) A physician may advertise only as permitted by the rules and regulations of the Board and subject to subsection (a) of this section.

§14–504.

(a) This section does not apply to a dentist performing acupuncture in connection with the practice of dentistry if the dentist is licensed or otherwise authorized to practice dentistry under Title 4 of this article.

(b) Unless licensed under Title 1A of this article, a physician shall be registered by the Board before the physician may perform acupuncture in this State.

(c) The Board shall register to perform acupuncture any physician who meets the following requirements:

(1) (i) Successful completion of at least 200 hours of training in a program of study in acupuncture, including any examinations required under the program, approved for category 1 continuing medical education credit by an institution accredited or recognized by the Accreditation Council on Continuing Medical Education; or

(ii) Successful completion of a course of study approved by the Board which includes at least 200 hours of instruction in:

1. General and basic aspects of acupuncture;

2. Specific uses and techniques of acupuncture; and

3. Indications and contraindications of acupuncture administration;

(2) Ability to communicate in the English language;

(3) Payment of application and registration fees; and

(4) Other reasonable conditions determined by the Board.

(d) A physician who is registered under this section may perform acupuncture on or off the premises of the physician's office.

(e) A physician who performs acupuncture may advertise only as permitted by the rules and regulations of the Board.

(f) The Board may adopt rules and regulations to carry out the provisions of this section.

(g) Subject to the hearing provisions of § 14–405 of this title, 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.

(h) If a physician who performs acupuncture is engaged in the private practice of acupuncture in this State, the physician who performs acupuncture shall display the notice developed under § 1-207 of this article conspicuously in each office where the physician is engaged in practice.

§14–505.

(a) (1) A licensed physician or registered nurse who is primarily responsible for the treatment of an individual for a burn injury described in paragraph (2) of this subsection shall as soon as practicable notify the county fire chief or administrator, or designee, or, if neither office exists, the State Fire Marshal or designee. If treatment

occurs at a hospital, the treating physician or designee shall be responsible for giving the notice required by this section.

(2) The provisions of paragraph (1) of this subsection apply to a burn injury:

(i) Causing 2nd or 3rd degree burns to 5 percent or more of the patient's body;

(ii) To the upper respiratory tract or laryngeal edema caused by inhaling super-heated air;

(iii) Which causes death; or

(iv) Which is likely to cause death.

(3) The provisions of paragraph (1) of this subsection do not apply to a sunburn.

(b) Notice under this section shall include:

(1) The name and address of the patient, if known;

(2) A description of the burn injury;

(3) The reported cause of the burn injury, if given;

(4) The patient's prognosis; and

(5) Any other fact concerning the burn injury which might assist in detecting arson.

(c) If an investigation is conducted after notification is given under subsection (a) of this section, the investigating agency shall report its findings on an incident reporting system report and send it to the State Fire Marshal's office for retention.

§14–506.

(a) In this section, "the Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13–503 of the Education Article.

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

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

(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 § 14–401.1 of this title as to an allegation of grounds for disciplinary or other action.

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

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

§14–507.

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

(2) "Immediate follow–up care" is that period of contact lens fitting time required to reach a contact lens prescription that is appropriate to the documented clinical needs of the patient.

(3) "Replacement contact lens prescription" means a prescription prepared by a licensed physician containing the information specified in this section and written expressly for the purpose of providing lenses which have already been properly fitted.

(b) A licensed physician shall ensure that each replacement contact lens prescription that the licensed optometrist prescribes for contact lenses:

(1) Contains all the information necessary for the replacement contact lens prescription to be properly dispensed, including but not limited to the:

(i) Lens manufacturer;

(ii) Type of lens;

(iii) Power of the lens;

(iv) Base curve;

(v) Lens size;

(vi) Name of the patient;

(vii) Date the prescription was given to the patient;

(viii) Name and office location of the licensed physician who writes the replacement contact lens prescription; and

(ix) Expiration date of the replacement contact lens prescription; and

(2) Is reduced to writing and placed in the patient's permanent file.

(c) (1) (i) After a licensed physician releases the patient from immediate follow–up care, the patient may request the replacement contact lens prescription from the licensed physician.

(ii) If, after examination, the patient's prescription has not changed since the last examination, a licensed physician shall comply with the provisions of paragraph (2) of this subsection without requiring the patient to purchase contact lenses or to undergo immediate follow–up care.

(2) (i) Upon the request of a patient of a licensed physician, and without cost to the patient, the licensed physician shall provide the patient's replacement contact lens prescription to the patient or the patient's designee.

(ii) In responding to a request under paragraph (1)(i) of this subsection, a licensed physician shall transmit the contact lens prescription by mail, telephone, facsimile, e–mail, or any other means of communication that will, under normal circumstances, result in the designee receiving the information within 7 business days after the patient's request.

(iii) The replacement contact lens prescription that the licensed physician provides the patient under subparagraph (i) of this paragraph:

1. Shall contain the information necessary for the proper duplication of the current prescription of the patient;

2. Shall contain, subject to the provisions of subsection (d) of this section, an expiration date for the replacement contact lens prescription of not more than 24 months from the time the patient was first examined; and

3. May contain wearing guidelines or specific instructions for use of the contact lenses by the patient, or both.

(d) The licensed physician shall enter into the patient's medical record the valid clinical reasons for a shorter expiration date and shall provide the patient with a written and oral explanation of the clinical reasons for a shorter expiration date.

(e) When a patient's prescription is dispensed by a person other than the licensed physician or a person associated directly or indirectly with the licensed physician, the licensed physician is not liable for any injury to or condition of a patient caused solely by the negligence of the dispenser.

(f) A licensed physician who releases a replacement contact lens prescription to a patient may provide the patient with a written statement that wearing improperly fitted contact lenses may cause harm to the patient's eyes and that the patient should have an eye examination if there are any changes in the patient's vision, including pain or vision loss.

(g) (1) A licensed physician who fills or provides a contact lens prescription

shall maintain a record of that prescription in accordance with § 4–403 of the Health – General Article.

(2) A person other than a licensed physician who fills a contact lens prescription shall maintain a record of that prescription for 5 years.

(h) The Board may impose a civil fine of no more than $1,000 on a licensed physician who fails to provide a replacement contact lens prescription or who knowingly dispenses contact lenses without a valid and unexpired replacement contact lens prescription, or who otherwise fails to comply with this title.

§14–5A–01.

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

(b) "Board" means the State Board of Physicians.

(c) "Committee" means the Respiratory Care Professional Standards Committee established under § 14–5A–05 of this subtitle.

(d) "License" means a license issued by the Board to practice respiratory care.

(e) "Licensed respiratory care practitioner" means a respiratory care practitioner who is licensed by the Board to practice respiratory care.

(f) "Licensee" means a licensed respiratory care practitioner.

(g) "National certifying board" means the National Board for Respiratory Care or a certifying organization that has certification requirements equivalent to the National Board for Respiratory Care and that has been approved by the Board.

(h) (1) "Practice respiratory care" means to evaluate, care for, and treat, including the diagnostic evaluation of, individuals who have deficiencies and abnormalities that affect the pulmonary system and associated aspects of the cardiopulmonary and other systems under the supervision of and in collaboration with a physician.

(2) "Practice respiratory care" includes:

(i) Providing direct and indirect respiratory care services that are safe, aseptic, preventive, and restorative;

(ii) Practicing the principles, techniques, and theories derived from cardiopulmonary medicine;

(iii) Evaluating and treating individuals whose cardiopulmonary functions have been threatened or impaired by developmental defects, the aging process, physical injury, disease, or actual or anticipated dysfunction of the

cardiopulmonary system;

(iv) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to respiratory care procedures and determining if initiation, modification, or discontinuation of a treatment regimen is warranted;

(v) Transcribing and implementing written or oral orders regarding the practice of respiratory care;

(vi) Using evaluation techniques that include cardiopulmonary function assessments, gas exchange, the need and effectiveness of therapeutic modalities and procedures, and the assessment and evaluation of the need for extended care and home care procedures, therapy, and equipment; and

(vii) Applying the use of techniques, equipment, and procedures involved in the administration of respiratory care, including:

1. Except for general anesthesia, therapeutic and diagnostic gases;

2. Prescribed medication for inhalation or direct tracheal installation;

3. The administration of analgesic agents by subcutaneous injection or inhalation for the performance of respiratory care procedures;

4. Nonsurgical insertion, maintenance, and removal of artificial airways;

5. Advanced cardiopulmonary measures;

6. Cardiopulmonary rehabilitation;

7. Mechanical ventilation or physiological life support systems;

8. Collection of body fluids and blood samples for evaluation and analysis;

9. Insertion of diagnostic arterial access lines; and

10. Collection and analysis of exhaled respiratory gases.

(i) "Supervision" means the responsibility of a physician to exercise on–site or immediately available direction for a licensed respiratory care practitioner performing delegated medical acts.

§14–5A–02.

This subtitle does not limit:

(1) The right of an individual to practice a health occupation that the individual is authorized to practice under this article; or

(2) The right of a licensed home medical equipment provider to provide home medical equipment services as defined under Title 19, Subtitle 4A of the Health – General Article.

§14–5A–03.

The Board shall adopt regulations for the licensure and practice of respiratory care.

§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.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller of the State.

(2) The Comptroller shall distribute all fees to the Board established under § 14-201 of this title.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§14–5A–05.

There is a Respiratory Care Professional Standards Committee within the Board.

§14–5A–06.

(a) The Committee consists of seven members appointed by the Board as follows:

(1) Three respiratory care practitioners;

(2) Three physicians:

(i) One of whom is a specialist in thoracic surgery;

(ii) One of whom is a specialist in pulmonary medicine; and

(iii) One of whom is a specialist in anesthesiology; and

(3) One consumer member.

(b) The consumer member of the Committee:

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

(2) May not be or ever have been:

(i) A respiratory care practitioner;

(ii) Any health care professional; or

(iii) In training to be a respiratory care practitioner or other health professional; and

(3) May not:

(i) Participate or ever have participated in a commercial or professional field related to respiratory care;

(ii) Have a household member who participates in a commercial or professional field related to respiratory care;

(iii) Have had within 2 years before appointment a financial interest in a person regulated by the Board; or

(iv) Have had within 2 years before appointment a financial interest in the provision of goods or services to respiratory care practitioners or to the field of respiratory care.

(c) (1) The term of a member is 3 years.

(2) The terms of members are staggered.

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

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

(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;

(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–08.

(a) Except as otherwise provided in this subtitle, an individual shall be licensed by the Board before the individual may practice respiratory care in this State.

(b) This section does not apply to:

(1) An individual employed by the federal government as a respiratory care practitioner while the individual is practicing within the scope of that employment; or

(2) A respiratory care practitioner student enrolled in an education program which is accredited by an approved accrediting organization while practicing respiratory care in the program.

§14–5A–09.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall:

(1) Meet any educational, training, or examination requirements established by the Board including:

(i) Graduation from an appropriate educational program as determined by the Board; and

(ii) Certification by a national certifying board approved by the Board; and

(2) Demonstrate oral and written competency in English as required by the Board.

§14–5A–10.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§14–5A–11.

The Board shall issue the appropriate license to an applicant who meets the requirements of this subtitle for that license.

§14–5A–12.

A respiratory care practitioner license authorizes the licensee to practice respiratory care while the license is effective.

§14–5A–13.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Except as otherwise provided in this subtitle, before a license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Pays to the Board a renewal fee set by the Board;

(2) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements set under this section for license renewal; and

(3) Meets any additional renewal requirements established by the Board.

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

(2) The Board may impose a civil penalty of up to $100 per continuing education credit in lieu of a sanction under § 14–5A–17 of this subtitle, for a first offense, for the failure of a licensee to obtain the continuing education credits required by the Board.

(e) (1) The Board shall renew the license of each licensee who meets the requirements of this section.

(2) A license may not be renewed for a term longer than 2 years.

(f) The Board shall reinstate the license of a respiratory care practitioner who has failed to renew the license for any reason if the respiratory care practitioner:

(1) Meets the renewal requirements of this section;

(2) Submits to the Board:

(i) A reinstatement application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements; and

(3) Meets any additional requirements established by the Board for reinstatement.

§14–5A–14.

(a) A licensee shall notify the Board in writing of a change in name or address within 60 days after the change.

(b) A licensee who fails to comply with subsection (a) of this section is subject to an administrative penalty of $100.

§14–5A–16.

Unless 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) 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, 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, 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 an order of the Board or a disciplinary panel.

§14–5A–18.

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

(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensed respiratory care practitioner has committed an action or has a condition that might be grounds for reprimand or probation of the licensed respiratory care practitioner or suspension or revocation of the license because the licensed respiratory care practitioner is alcohol impaired or drug impaired is not required to report the practitioner to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensed respiratory care practitioner is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

(2) The hospital, related institution, alternative health system, or employer is able to verify that the licensed respiratory care practitioner remains in the treatment program until discharge; and

(3) The action or condition of the licensed respiratory care practitioner has not caused injury to any person while the practitioner is practicing as a licensed respiratory care practitioner.

(c) (1) If the licensed respiratory care practitioner enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensed respiratory care practitioner shall notify the hospital, related institution, alternative health system, or employer of the licensed respiratory care practitioner's decision to enter the treatment program.

(2) If the licensed respiratory care practitioner fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensed respiratory care practitioner has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed respiratory care practitioner has entered a treatment program and has failed to provide the required notice.

(3) If the licensed respiratory care practitioner is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed respiratory care practitioner's noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensed respiratory care practitioner shall report the licensed respiratory care practitioner's noncompliance to the Board.

(d) A person is not required under this section to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.

(e) The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.

(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.

(g) (1) The Board may impose a civil penalty of up to $1,000 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.

§14–5A–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, 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–20.

Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice respiratory care in this State unless licensed to practice respiratory care by the Board.

§14–5A–21.

(a) Unless authorized to practice respiratory care under this subtitle, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice respiratory care in this State.

(b) Unless authorized to practice respiratory care under this subtitle, a person may not use the abbreviation "R.C.P." or any other words, letters, or symbols with the intent to represent that the person practices respiratory care.

§14–5A–22.

A person may not provide, attempt to provide, offer to provide, or represent that the person provides respiratory care unless the respiratory care is provided by an individual who is authorized to practice respiratory care under this subtitle.

§14–5A–22.1.

(a) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing respiratory care without a license.

(b) Except as otherwise provided in this subtitle, a hospital, related institution, alternative health system, or employer may not employ an individual practicing respiratory care without a license.

(c) The Board may impose a civil penalty of up to $1,000 for a violation of this section.

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

§14–5A–23.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) Any person who violates a provision of this subtitle is subject to a civil fine of not more than $5,000 to be levied by the Board.

(c) The Board shall pay any penalty collected under this section into the Board of Physicians Fund.

§14–5A–24.

This subtitle may be cited as the "Maryland Respiratory Care Practitioners Act".

§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, 2018.

§14–5B–01.

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

(b) "Board" means the State Board of Physicians.

(c) "Certification" means recognition of an individual who has satisfied certain standards required by a national certifying board.

(d) "Committee" means the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee of the Board.

(e) Repealed.

(f) "License" means a license issued by the Board to practice as a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant.

(g) "Licensed nuclear medicine technologist" means a nuclear medicine technologist who is licensed by the Board to practice nuclear medicine technology.

(h) "Licensed radiation therapist" means a radiation therapist who is licensed by the Board to practice radiation therapy.

(i) "Licensed radiographer" means a radiographer who is licensed by the Board to practice radiography.

(j) "Licensed radiologist assistant" means an individual who is licensed to practice radiology assistance under the supervision of a licensed physician who:

(1) Specializes in radiology; and

(2) Is certified by:

(i) The American Board of Radiology;

(ii) The American Osteopathic Board of Radiology;

(iii) The British Royal College of Radiology; or

(iv) The Canadian College of Physicians and Surgeons.

(k) "Licensee" means an individual who is licensed by the Board to practice as a radiation therapist, a radiographer, a nuclear medicine technologist, or radiologist assistant.

(l) "National certifying board" means:

(1) The American Registry of Radiologic Technologists;

(2) The Nuclear Medicine Technology Certifying Board; or

(3) Another certifying organization approved by the Board.

(m) "Practice nuclear medicine technology" means to:

(1) Prepare and administer radiopharmaceuticals to human beings; or

(2) Conduct in vivo detection and measurement of radioactivity for medical purposes to assist in the diagnosis and treatment of disease or injury.

(n) "Practice radiation therapy" means to perform tumor localization radiography and apply therapeutic doses of radiation for the treatment of disease or injury.

(o) "Practice radiography" means to use ionizing radiation to:

(1) Demonstrate portions of the human body to assist in the diagnosis or localization of disease or injury; or

(2) Perform tumor localization radiography.

(p) "Practice radiology assistance" means to practice radiography and to perform:

(1) Fluoroscopy and selected radiology procedures;

(2) Patient assessment; and

(3) Patient management.

(q) "Supervision" means the responsibility of a licensed physician to exercise on–site or immediately available direction for licensees or holders of temporary licenses.

§14–5B–02.

This subtitle does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§14–5B–03.

The Board shall adopt regulations to carry out the provisions of this subtitle.

§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.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the State Comptroller.

(2) The Comptroller shall distribute all fees to the Board established under § 14–201 of this title.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§14–5B–05.

(a) There is a Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee within the Board.

(b) (1) The Committee consists of 10 members appointed by the Board.

(2) Of the 10 members:

(i) One shall be a licensed physician who specializes in radiology;

(ii) One shall be a licensed physician who specializes in radiology and

who supervises a radiologist assistant;

(iii) One shall be a licensed physician who specializes in nuclear medicine;

(iv) One shall be a licensed physician who specializes in radiation oncology;

(v) One shall be a radiation therapist;

(vi) One shall be a radiographer;

(vii) One shall be a radiologist assistant;

(viii) One shall be a nuclear medicine technologist;

(ix) One shall be a consumer member; and

(x) One shall be a member of the Board.

(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.

(d) The consumer member of the Committee:

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

(2) May not be or ever have been a health care professional or in training to be a health care professional; and

(3) May not:

(i) Participate or ever have participated in a commercial or professional field related to radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

(ii) Have a household member who participates in a commercial or professional field related to radiation therapy, radiography, nuclear medicine technology, or radiology assistance; or

(iii) Have had within 2 years before appointment a financial interest in a person regulated by the Board.

(e) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by regulation.

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

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

§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;

(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–07.

(a) (1) A licensee may only practice under the supervision of a licensed physician.

(2) The failure of a licensed physician to properly supervise a licensee is unprofessional conduct in the practice of medicine under § 14–404(a)(3) of this title.

(b) (1) Except as provided in paragraph (2) of this subsection, the practice of a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant is limited to those procedures, operations, preparations, and practices listed in regulation.

(2) A radiologist assistant may not:

(i) Interpret images;

(ii) Make diagnoses; or

(iii) Prescribe medications or therapies.

§14–5B–08.

(a) (1) Except as otherwise provided in this subtitle, an individual shall be licensed by the Board before the individual may practice radiation therapy, radiography, nuclear medicine technology, or radiology assistance in this State.

(2) A radiologist assistant may not:

(i) Interpret images;

(ii) Make diagnoses; or

(iii) Prescribe medications or therapies.

(b) This section does not apply to:

(1) An individual employed by the federal government as a radiation therapist, radiographer, a nuclear medicine technologist, or radiologist assistant while the individual is practicing within the scope of that employment; or

(2) A radiation therapy student, a radiography student, a nuclear medicine technology student, or a radiology assistant student enrolled in an education program which is accredited by an approved accrediting organization while practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance in that program.

§14–5B–09.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) Except as provided in subsection (c) of this section, the applicant shall:

(1) Be of good moral character;

(2) Be at least 18 years old;

(3) Demonstrate oral and written competency in English as required by the Board; and

(4) Meet any educational, training, or examination requirements established by the Board, including:

(i) Graduation from an appropriate educational program as determined by the Board; and

(ii) Certification.

(c) To qualify for a license to practice as a radiologist assistant, an applicant shall:

(1) Be issued a general license to perform radiography;

(2) Complete an advanced academic program with a nationally recognized radiology curriculum that results in a baccalaureate degree, post baccalaureate certificate, or graduate degree and incorporates a radiologist–directed clinical preceptorship;

(3) Be certified in advanced cardiac life support; and

(4) Be certified as a radiologist assistant by the American Registry of Radiologic Technologists.

(d) Except for requirements adopted by the Board for license renewal under § 14–5B–12 of this subtitle, nothing in this subtitle may be construed to require an individual who is certified by the Board as a radiation oncology/therapy technologist, medical radiation technologist, or nuclear medicine technologist as of October 1, 2008, to meet additional education, training, or examination requirements.

§14–5B–10.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

(b) The Board shall issue the appropriate license to an applicant who meets the requirements of this subtitle for that license.

§14–5B–11.

(a) Licensure as a radiation therapist authorizes an individual to practice radiation therapy while the license is effective.

(b) Licensure as a radiographer authorizes an individual to practice radiography while the license is effective.

(c) Licensure as a nuclear medicine technologist authorizes an individual to practice nuclear medicine technology while the license is effective.

(d) Licensure as a radiologist assistant authorizes an individual to practice radiology assistance while the license is effective.

§14–5B–12.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Except as otherwise provided in this subtitle, before a license expires, the licensed individual may periodically renew it for an additional term, if the individual:

(1) Pays to the Board a renewal fee set by the Board;

(2) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements required by the Board for license renewal; and

(3) Meets any additional renewal requirements established by the Board.

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

(2) The Board may impose a civil penalty of up to $100 per continuing medical education credit in lieu of a sanction under § 14–5B–14 of this subtitle, for a first offense, for the failure of a licensee to obtain the continuing medical education credits required by the Board.

(e) (1) The Board shall renew the license of each individual who meets the renewal requirements of this section.

(2) A license may not be renewed for a term longer than 2 years.

(f) The Board shall reinstate the license of a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant who has failed to renew a license for any reason if the radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant:

(1) Submits to the Board:

(i) A reinstatement application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements; and

(2) Meets any additional requirements established by the Board for reinstatement.

§14–5B–12.1.

(a) A licensee shall notify the Board in writing of a change in name or address within 60 days after the change.

(b) A licensee who fails to comply with subsection (a) of this section is subject to an administrative penalty of $100.

§14–5B–13.

Unless a disciplinary panel agrees to accept the surrender of a license, a licensee may not surrender the license and the license may not lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

§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 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, licensed individual, or for another;

(2) Fraudulently or deceptively uses a 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) 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 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 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, a disciplinary panel shall order the suspension of a licensee 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, a disciplinary panel shall order the revocation of a 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 the order of the Board or a disciplinary panel.

§14–5B–15.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1–401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensee for any reason that might be grounds for disciplinary action

under § 14–5B–14 of this subtitle.

(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensee has committed an action or has a condition that might be grounds for reprimand or probation of the licensee or suspension or revocation of the licensure because the licensee is alcohol impaired or drug impaired is not required to report the licensee to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensee is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensee remains in the treatment program until discharge; and

(ii) The action or condition of the licensee has not caused injury to any person while the licensee is practicing.

(c) (1) If the licensee enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensee shall notify the hospital, related institution, alternative health system, or employer of the licensee's decision to enter the treatment program.

(2) If the licensee fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensee has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensee has entered a treatment program and has failed to provide the required notice.

(3) If the licensee is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensee's noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensee shall report the licensee's noncompliance to the Board.

(d) A person is not required under this section to make any report that would be

in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.

(e) The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.

(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.

(g) (1) The Board may impose a civil penalty of up to $1,000 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.

§14–5B–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, 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–17.

(a) Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice radiation therapy in this State unless licensed to practice radiation therapy by the Board.

(b) Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice nuclear medicine technology in this State unless licensed to practice nuclear medicine technology by the Board.

(c) Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice radiography in this State unless licensed to practice radiography by the Board.

(d) Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice radiology assistance in this State unless licensed to practice radiology assistance by the Board.

§14–5B–18.

(a) Unless authorized to practice radiation therapy, radiography, nuclear medicine technology, or radiology assistance under this subtitle, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice radiation therapy, radiography,

nuclear medicine technology, or radiology assistance in this State.

(b) A person may not provide, attempt to provide, offer to provide, or represent that the person provides radiation therapy, radiography, nuclear medicine technology, or radiology assistance care unless the radiation therapy, radiography, nuclear medicine technology, or radiology assistance care is provided by an individual who is authorized to practice radiation therapy, radiography, nuclear medicine technology, or radiology assistance under this subtitle.

§14–5B–18.1.

(a) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance without a license.

(b) Except as otherwise provided in this subtitle, a hospital, related institution, alternative health system, or employer may not employ an individual practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance without a license.

(c) The Board may impose a civil penalty of up to $1,000 for employing an individual without a license under this section.

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

§14–5B–19.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) Any person who violates this subtitle is subject to a civil fine of not more than $5,000 to be levied by the Board.

(c) The Board shall pay any penalty collected under this section into the Board of Physicians Fund.

§14–5B–20.

This subtitle may be cited as the "Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act".

§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, 2018.

§14–5C–01.

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

(b) "Board" means the State Board of Physicians.

(c) "Committee" means the Polysomnography Professional Standards Committee established under § 14–5C–05 of this subtitle.

(d) "License" means a license issued by the Board.

(e) "Licensed polysomnographic technologist" means a polysomnographic technologist who is licensed by the Board under this subtitle to practice polysomnography under the supervision of a licensed physician.

(f) (1) "Practice polysomnography" means:

(i) Monitoring and recording physiologic data during sleep, including sleep–related respiratory disturbances under the supervision of a licensed physician; or

(ii) Using data collected under item (i) of this paragraph for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.

(2) "Practice polysomnography" includes:

(i) Providing polysomnography services that are safe, aseptic, preventive, and restorative;

(ii) Diagnosing and treating individuals who suffer from sleep disorders as a result of developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction;

(iii) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted;

(iv) Using evaluation techniques that include limited cardiopulmonary function assessments, the need and effectiveness of therapeutic modalities and procedures, and the assessment and evaluation of the need for extended care; and

(v) Applying the use of techniques, equipment, and procedures involved in the evaluation of polysomnography, including:

1. Continuous positive airway pressure or bi–level positive airway pressure titration on spontaneously breathing patients;

2. Supplemental low flow oxygen therapy during polysomnogram;

3. Capnography during polysomnogram;

4. Cardiopulmonary resuscitation;

5. Pulse oximetry;

6. PH probe placement and monitoring;

7. Esophageal pressure;

8. Sleep staging including surface electroencephalography, surface electrooculography, and surface submental electromyography;

9. Surface electromyography of arms and legs;

10. Electrocardiography;

11. Respiratory effort including thoracic and abdominal;

12. Plethysmography blood flow;

13. Snore monitoring;

14. Audio or video monitoring;

15. Implementation of a written or verbal order from a licensed physician that requires the practice of polysomnography;

16. Monitoring the effects a nasal device, used to treat sleep apnea, has on sleep patterns provided that the device does not extend into the trachea; and

17. Monitoring the effects an oral device, used to treat sleep apnea, has on sleep patterns, provided that:

A. The device does not extend into the trachea;

B. A dentist has evaluated the structures of the patient's oral and maxillofacial region for purposes of fitting;

C. A dentist made or directed the making of the oral device; and

D. A dentist directs the use of the oral device.

(g) "Registered polysomnographic technologist" means a polysomnographic technologist who is registered by the Board of Registered Polysomnographic Technicians.

(h) "Student" means an individual who, in accordance with section 14–5C–09(c) of this subtitle, is:

(1) Enrolled in an accredited educational program in order to qualify for a license under this title; and

(2) Performing polysomnography services within the accredited program under the supervision of a licensed physician and without compensation.

(i) "Supervision" means general or direct supervision of a licensed polysomnographic technologist by a licensed physician.

§14–5C–02.

This subtitle does not limit:

(1) The right of an individual to practice a health occupation that the individual is authorized to practice under this article;

(2) The right of a licensed home medical equipment provider to provide home medical equipment services as defined under Title 19, Subtitle 4A of the Health – General Article; or

(3) The right of a licensed respiratory care practitioner to practice respiratory care within the scope of practice of the respiratory care practitioner's license, including practicing respiratory care in a sleep laboratory.

§14–5C–03.

The Board shall adopt regulations for the licensure and practice of polysomnography.

§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.

(b) (1) The Board shall pay all fees collected under the provisions of this

subtitle to the Comptroller.

(2) The Comptroller shall distribute all fees to the Board.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§14–5C–05.

There is a Polysomnography Professional Standards Committee within the Board.

§14–5C–06.

(a) The Committee consists of seven members appointed by the Board as follows:

(1) (i) On or before September 30, 2009, three registered polysomnographic technologists; or

(ii) On or after October 1, 2009, three licensed polysomnographic technologists;

(2) Three physicians who are board certified in sleep medicine:

(i) One of whom is a specialist in psychiatry or internal medicine;

(ii) One of whom is a specialist in pulmonary medicine; and

(iii) One of whom is a specialist in neurology; and

(3) One consumer member.

(b) The consumer member of the Committee:

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

(2) May not be or ever have been:

(i) A polysomnographic technologist;

(ii) Any health care professional; or

(iii) In training to be a polysomnographic technologist or other health care professional;

(3) May not have a household member who is a health care professional or is in training to be a health care professional; and

(4) May not:

(i) Participate or ever have participated in a commercial or professional field related to polysomnography;

(ii) Have a household member who participates in a commercial or professional field related to polysomnography;

(iii) Have had within 2 years before appointment a financial interest in a person regulated by the Board; or

(iv) Have had within 2 years before appointment a financial interest in the provision of goods or services to polysomnographic technologists or to the field of polysomnography.

(c) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2006.

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

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

(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–08.

(a) Except as otherwise provided in this subtitle, on or after October 1, 2013, an individual shall be licensed by the Board before the individual may practice polysomnography in this State.

(b) This section does not apply to a student enrolled in an education program under § 14–5C–09(c)(3) of this subtitle while practicing polysomnography in that program.

(c) This section does not apply to a respiratory care practitioner who was licensed by the Board to practice respiratory care on or before December 31, 2012, and

whose duties include practicing polysomnography.

§14–5C–09.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character; and

(2) Be at least 18 years old.

(c) An applicant for a polysomnographic technologist license shall:

(1) Have passed the national certifying examination given by the Board of Registered Polysomnographic Technologists or another examination approved by the Board;

(2) Submit to the Board proof of certification as a registered polysomnographic technologist or other national certification approved by the Board;

(3) (i) 1. Have graduated from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; or

2. A. Have graduated from a sleep technologist educational program that is accredited by the American Academy of Sleep Medicine; and

B. Have completed a clinical component of an educational program as established by the Committee and approved by the Board;

(ii) 1. Have graduated from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

2. Have completed the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; or

(iii) 1. Have graduated from an electroneuro–diagnostic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

2. Have completed additional units, modules, and courses of instruction focused on polysomnographic technology that are accredited by the Commission on Accreditation of Allied Health Education Programs; and

(4) Meet any other educational or clinical requirements established by the Committee and approved by the Board.

§14–5C–10.

(a) The Board shall waive the education requirement under § 14–5C–09(c)(3) of this subtitle if on or before September 30, 2013, an individual:

(1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists or another examination approved by the Board;

(2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;

(3) Has submitted an application for licensure to the Board; and

(4) Meets all of the requirements under § 14–5C–09(b) and (c)(1) and (2) of this subtitle.

(b) (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, 2013, the individual may petition the Board for an extension.

(2) The Board shall determine whether to grant an extension under this subsection on a case–by–case basis.

§14–5C–11.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§14–5C–12.

The Board shall issue a license to an applicant who meets the requirements of this subtitle.

§14–5C–13.

(a) A license authorizes a polysomnographic technologist to practice polysomnography in this State while the license is effective.

(b) A licensed polysomnographic technologist may practice polysomnography in:

(1) A hospital sleep laboratory; or

(2) A stand-alone sleep center.

§14–5C–14.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before a license expires, the Board shall send to the licensed polysomnographic technologist, by first-class mail to the last known address of the licensed polysomnographic technologist, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Except as otherwise provided in this subtitle, before a license expires, the licensed polysomnographic technologist periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements set under this section for license renewal.

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

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

(f) The Board may reinstate the license of a polysomnographic technologist who has failed to renew the license for any reason, and who applies for reinstatement after the license has expired, if the polysomnographic technologist:

(1) Meets the renewal requirements of this section;

(2) Pays to the Board the reinstatement fee set by the Board; and

(3) Meets any other requirements established by regulation.

§14–5C–16.

Unless 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;

(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; or

(28) Fails to cooperate with a lawful investigation conducted by the Board.

(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, 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, a disciplinary panel shall order the revocation of a license on the certification by the Office of the Attorney General.

§14–5C–18.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1–401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed polysomnographic technologist for any reason that might be grounds for disciplinary action under § 14–5C–17 of this subtitle.

(b) A hospital, related institution, alternative health system, or employer that

has reason to know that a licensed polysomnographic technologist has committed an action or has a condition that might be grounds for reprimand or probation of the licensed polysomnographic technologist or suspension or revocation of the license because the licensed polysomnographic technologist is alcohol impaired or drug impaired is not required to report the technologist to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensed polysomnographic technologist is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse; and

(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensed polysomnographic technologist remains in the treatment program until discharge; and

(ii) The action or condition of the licensed polysomnographic technologist has not caused injury to any person while the technologist is practicing as a licensed polysomnographic technologist.

(c) (1) If the licensed polysomnographic technologist enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensed polysomnographic technologist shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's decision to enter the treatment program.

(2) If the licensed polysomnographic technologist fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensed polysomnographic technologist has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed polysomnographic technologist has entered a treatment program and has failed to provide the required notice.

(3) If the licensed polysomnographic technologist is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist's noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensed polysomnographic technologist shall report the licensed polysomnographic

technologist's noncompliance to the Board.

(d) A person is not required under this section to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.

(e) The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.

(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.

(g) (1) The Board may impose a civil penalty of up to $1,000 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.

§14–5C–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, 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–20.

Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice polysomnography in this State unless licensed to practice polysomnography by the Board.

§14–5C–21.

(a) Unless authorized to practice polysomnography under this subtitle, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice polysomnography in this State.

(b) Unless authorized to practice polysomnography under this subtitle, a person may not use the abbreviation "P.S.G." or any other words, letters, or symbols with the intent to represent that the person practices polysomnography.

§14–5C–22.

A person may not provide, attempt to provide, offer to provide, or represent that

the person provides polysomnography unless the polysomnography is provided by an individual who is authorized to practice polysomnography under this subtitle.

§14–5C–22.1.

(a) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing polysomnography without a license.

(b) Except as otherwise provided in this subtitle, a hospital, a related institution, an alternative health system, or an employer may not employ an individual practicing polysomnography without a license.

(c) The Board may impose a civil penalty of not more than $5,000 for a violation of this section.

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

§14–5C–23.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) Any person who violates a provision of this subtitle is subject to a civil fine of not more than $5,000 to be levied by the Board.

(c) The Board shall pay any penalty collected under this section into the Board of Physicians Fund.

§14–5C–24.

This subtitle may be cited as the "Maryland Polysomnography Act".

§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, 2018.

§14–5D–01.

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

(b) "Alternate supervising physician" means one or more physicians designated by the supervising physician to provide supervision of an athletic trainer:

(1) During the absence of the supervising physician; and

(2) In accordance with the evaluation and treatment protocol on file with the Board.

(c) "Athlete" means an individual who participates in an athletic activity.

(d) "Athletic activity" means exercise, recreation, sport, competition, or game that:

(1) Requires physical strength, range of motion, flexibility, control, speed, stamina, or agility; and

(2) Is associated with a setting as defined under this section, an educational institution, or a professional, amateur, or recreational sports club or athletic organization.

(e) "Athletic injury" means an injury that affects an athlete's participation or performance in an athletic activity.

(f) "Board" means the State Board of Physicians.

(g) "Committee" means the Athletic Trainer Advisory Committee established under § 14–5D–04 of this subtitle.

(h) "Educational institution" includes:

(1) The schools in the public elementary and secondary education system of the State;

(2) A noncollegiate educational institution governed under § 2–206 of the Education Article; and

(3) An institution of higher education as defined in § 10–101 of the Education Article.

(i) "Evaluation and treatment protocol" means a document that is executed by a physician and an athletic trainer that meets the requirements of § 14–5D–11 of this subtitle.

(j) "License" means a license issued by the Board to practice athletic training.

(k) "Licensed athletic trainer" means an individual who is licensed by the Board to practice athletic training.

(l) "Licensed health care practitioner" means an individual licensed, certified, or otherwise authorized to practice a health occupation under this article.

(m) "National certifying board" means the National Athletic Trainers' Association Board of Certification, Inc., or its successor organization.

(n) "Nonsupervising physician" means a physician licensed by the Board who is not the supervising physician of the licensed athletic trainer.

(o) "Outside referral" means a request for treatment from a nonsupervising physician or licensed health care practitioner.

(p) (1) "Practice athletic training" means application of the following principles and methods for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician:

(i) Prevention;

(ii) Clinical evaluation and assessment;

(iii) Immediate care; and

(iv) Treatment, rehabilitation, and reconditioning.

(2) "Practice athletic training" includes:

(i) Organization and administration of an athletic training program; and

(ii) Instruction to coaches, athletes, parents, medical personnel, and community members regarding the care and prevention of athletic injuries.

(3) "Practice athletic training" does not include:

(i) The practice of:

1. Chiropractic, including adjustments, manipulation, or high velocity mobilizations of the spine or extremities;

2. Massage therapy;

3. Medicine;

4. Occupational therapy;

5. Physical therapy; or

6. Podiatry;

(ii) The reconditioning of systemic neurologic injuries, conditions, or disease; or

(iii) Except for the conditioning of an athlete under the supervision of a treating physician, the treatment, rehabilitation, or reconditioning of nonathletic injuries or disease.

(q) "Setting" means a:

(1) Location where an athletic activity, as defined in subsection (d) of this section, is being held;

(2) Health or fitness club;

(3) Clinic or hospital;

(4) Corporation; or

(5) Government agency.

(r) "Supervising physician" means a physician who has been approved by the Board to supervise one or more athletic trainers.

(s) "Supervision" means the responsibility of a physician to provide ongoing and immediately available instruction, in person, by telephone, or by other electronic means, that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.

§14–5D–02.

This subtitle does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§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.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.

(2) The Comptroller shall distribute all fees to the Board.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§14–5D–04.

There is an Athletic Trainer Advisory Committee within the Board.

§14–5D–05.

(a) The Committee consists of 11 members appointed by the Board as follows:

(1) (i) On or before September 30, 2011, three athletic trainers who:

1. Are certified by a national certifying board; and

2. Have a minimum of 5 years of clinical experience; and

(ii) On or after October 1, 2011, three licensed athletic trainers who:

1. Are certified by a national certifying board; and

2. Have a minimum of 5 years of clinical experience;

(2) Three licensed physicians:

(i) At least one of whom is a specialist in orthopedic or sports medicine; and

(ii) Two of whom previously or currently have partnered with or directed an athletic trainer;

(3) One licensed chiropractor who has sports medicine experience;

(4) One licensed physical therapist;

(5) One licensed occupational therapist; and

(6) Two consumer members.

(b) (1) The athletic trainer members may be appointed by the Board from a list of qualified individuals submitted to the Board by the Maryland Athletic Trainers Association, Inc.

(2) The Board may request an additional list of nominees for each vacancy.

(c) The consumer member of the Committee:

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

(2) May not be or ever have been:

(i) An athletic trainer;

(ii) A health care professional; or

(iii) In training to be an athletic trainer or other health professional;

and

(3) May not:

(i) Participate or ever have participated in a commercial or professional field related to athletic training;

(ii) Have had within 2 years before appointment a financial interest in a person regulated by the Board; or

(iii) Have had within 2 years before appointment a financial interest in the provision of goods or services to athletic trainers or to the field of athletic training.

(d) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2009.

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

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

(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;

(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–07.

(a) Except as otherwise provided in this subtitle, on or after October 1, 2011, an individual shall be licensed by the Board before the individual may practice athletic training in the State.

(b) This section does not apply to:

(1) An individual employed by the federal government as an athletic trainer while the individual is practicing within the scope of that employment;

(2) An individual employed by or under contract with an entity located in another state who represents that entity:

(i) At an athletic event in the State;

(ii) For a period of time not to exceed 45 days within a calendar year; and

(iii) By providing athletic training services to individuals representing the entity at the event; or

(3) A student enrolled in an education program that meets the criteria of § 14–5D–08(c)(2) of this subtitle while engaged in an unpaid, clinical educational experience of athletic training.

§14–5D–08.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character; and

(2) Be at least 18 years old.

(c) The applicant shall:

(1) Have a current certification by a national certifying board approved by the Board;

(2) Have received a bachelor's or master's degree from an athletic training educational program that is accredited by the Commission on Accreditation of Athletic Training Education or its successor;

(3) Demonstrate oral and written competency in English as required by the Board; and

(4) Meet any other requirements established by the Board.

(d) The Board shall waive the education requirements under this section if an individual was certified by the National Athletic Trainers' Association Board of Certification, Inc., on or before October 1, 2012, and is currently in good standing.

§14–5D–09.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

(b) The Board shall issue the appropriate license to an applicant who meets the requirements of this subtitle for that license.

§14–5D–10.

(a) An athletic trainer license authorizes the licensee to practice athletic training services in an approved setting while the license is effective.

(b) A licensed athletic trainer shall practice athletic training in accordance with the evaluation and treatment protocol between the athletic trainer and a licensed physician.

§14–5D–11.

(a) Nothing in this title may be construed to authorize an athletic trainer to practice except under the supervision of a licensed physician and in an approved setting.

(b) Before an athletic trainer may practice athletic training, the athletic trainer shall:

(1) Obtain a license under this subtitle;

(2) Enter into a written evaluation and treatment protocol with a licensed physician; and

(3) Obtain Board approval of the evaluation and treatment protocol.

(c) An evaluation and treatment protocol shall:

(1) Describe the qualifications of the licensed physician and licensed athletic trainer;

(2) Describe the settings where the athletic trainer may practice;

(3) Describe the physician supervision mechanisms that the physician will use to give direction to the athletic trainer;

(4) Specify the treatment procedures the athletic trainer may perform;

(5) Describe tasks the athletic trainer may not perform;

(6) Describe specialized tasks the supervising physician is delegating to the athletic trainer to perform with documentation of competencies, certification, credentials, or any other requirements established by the Board to support the delegation of the specialized tasks;

(7) Indicate whether the athletic trainer may accept outside referrals from nonsupervising physicians and other licensed health care practitioners;

(8) Designate an alternate supervising physician, if appropriate or necessary; and

(9) Contain an attestation that states the supervising physician will be responsible for providing ongoing and immediately available instruction that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.

(d) An athletic trainer may accept an outside referral from a nonsupervising physician or licensed health care practitioner if:

(1) The supervising physician specifies in the evaluation and treatment protocol that the athletic trainer may accept referrals from a nonsupervising physician or licensed health care practitioner;

(2) The nonsupervising physician or licensed health care practitioner has seen the athlete and has written an order for the care of the athlete; and

(3) The treatment procedures to be used by the athletic trainer are:

(i) Within the scope of practice of an athletic trainer; and

(ii) Included in the evaluation and treatment protocol that the

athletic trainer has entered into with the supervising physician.

(e) In the event of a sudden departure, incapacity, or death of a supervising physician, a designated alternate supervising physician may assume the role of the supervising physician by submitting an evaluation and treatment protocol to the Board within 15 days of the event.

§14–5D–11.1.

(a) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing athletic training without a license or without an approved evaluation and treatment protocol.

(b) Except as otherwise provided in this subtitle, a hospital, an institution, an alternative health system, or any other employer may not employ an individual practicing athletic training without a license or without an approved evaluation and treatment protocol.

(c) The Board may impose a civil penalty of up to $1,000 on a person who employs or supervises an individual without a license or without an approved evaluation and treatment protocol.

§14–5D–11.2.

(a) A physician or an employer shall notify the Board within 10 days of the termination of an athletic trainer for reasons that would be grounds for discipline under this subtitle.

(b) A supervising physician and an athletic trainer shall notify the Board of the termination of the relationship under an evaluation and treatment protocol.

§14–5D–12.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before a license expires, the Board shall send to the licensee a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Except as otherwise provided in this subtitle, before a license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires;

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements; and

(iii) Any other requirements set under this section for license renewal.

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

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

(f) The Board shall reinstate the license of an athletic trainer who has failed to renew the license for any reason if the athletic trainer:

(1) Applies for reinstatement;

(2) Meets renewal and reinstatement requirements; and

(3) Pays to the Board the reinstatement fee set by the Board.

(g) The Board may impose a civil penalty of up to $100 per continuing education credit in lieu of a sanction under § 14–5D–14 of this subtitle, for a first offense for failure of a licensee to obtain the continuing education credits required by the Board.

§14–5D–12.1.

(a) A licensee shall notify the Board in writing of a change in name or address within 60 days after the change.

(b) A licensee who fails to comply with subsection (a) of this section is subject to an administrative penalty of $100.

§14–5D–13.

Unless the Board agrees to accept the surrender of a license, a licensed athletic trainer 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.

§14–5D–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) 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, 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, 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, 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 an order of the Board or a disciplinary panel.

§14–5D–16.

(a) On the application of an individual whose license has been revoked, 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–17.

Unless authorized to practice athletic training under this subtitle, a person may not:

(1) Practice athletic training in this State;

(2) Attempt to practice or offer to practice athletic training in this State;

(3) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice athletic training in this State; or

(4) Use the abbreviation "A.T.", "A.T.L.", "L.A.T.", or any other words, letters, or symbols with the intent to represent that the person practices athletic training.

§14–5D–18.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) Any person who violates any provision of this subtitle is subject to a civil fine of not more than $5,000 to be levied by the Board.

(c) The Board shall pay any penalty collected under this section into the Board of Physicians Fund.

§14–5D–19.

This subtitle may be cited as the "Maryland Athletic Trainers Act".

§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, 2018.

§14–5E–01.

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

(b) "Board" means the State Board of Physicians.

(c) "Committee" means the Perfusion Advisory Committee established under § 14–5E–05 of this subtitle.

(d) "License" means a license issued by the Board to practice perfusion.

(e) "Licensed perfusionist" means a perfusionist who is licensed by the Board under this subtitle to practice perfusion.

(f) (1) "Practice perfusion" means to perform the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, or respiratory systems, or other organs to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and the supervision of a licensed physician.

(2) "Practice perfusion" includes:

(i) Cardiopulmonary bypass for adult, pediatric, and neonatal patients;

(ii) Extracorporeal circulatory support for renal, neurological, hepatic, and vascular surgery;

(iii) Extracorporeal resuscitation;

(iv) Extracorporeal circulation for long–term support of failing respiratory or cardiac function;

(v) Extracorporeal membrane oxygenation;

(vi) Extracorporeal carbon dioxide removal;

(vii) Myocardial protection;

(viii) Perfusion–assisted direct coronary artery bypass;

(ix) Hemofiltration and hemodialysis;

(x) Anticoagulation and hemostasis monitoring, analysis, and intervention;

(xi) Thermal regulation;

(xii) Blood gas and blood chemistry monitoring, analysis, and

intervention;

(xiii) Physiological monitoring, analysis, and intervention;

(xiv) Administration of blood components and pharmaceuticals;

(xv) Administration of anesthetic agents through a heart lung machine at the direction of an anesthesiologist;

(xvi) Ventricular assist device and mechanical circulatory support management;

(xvii) Intra–aortic balloon counterpulsation;

(xviii) Temporary pacemaker management;

(xix) Periodic flow augmentation therapy;

(xx) Autotransfusion;

(xxi) Platelet gel production, autologous hemocyte tissue matrix production;

(xxii) Nondifferentiated progenitor cell harvest bone marrow aspirate concentrate;

(xxiii) Acute normovolemic hemodilution;

(xxiv) Isolated limb or organ delivery of chemotherapeutics, progenitor cells, gene therapy vectors, and other items;

(xxv) Organ procurement and preservation;

(xxvi) Thermogenic lavage;

(xxvii) Electrophysiological analysis;

(xxviii) Therapeutic hyperthermia;

(xxix) Intravascular membrane oxygenation; and

(xxx) Renal perfusion.

(g) "Student" means an individual who, in accordance with § 14–5E–09(c) of this subtitle, is:

(1) Enrolled in an accredited educational program to qualify for a license under this subtitle; and

(2) Performing perfusion services within the accredited program under the supervision of a licensed perfusionist and without compensation.

(h) "Supervision" means the responsibility of a licensed physician to exercise on site or immediately available direction for a licensed perfusionist to ensure the safety and welfare of patients during the course of perfusion.

§14–5E–02.

This subtitle does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§14–5E–03.

The Board shall adopt regulations for the licensure and practice of perfusion.

§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.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.

(2) The Comptroller shall distribute all fees to the Board.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§14–5E–05.

There is a Perfusion Advisory Committee within the Board.

§14–5E–06.

(a) The Committee consists of seven members, appointed by the Board as follows:

(1) (i) On or before September 30, 2013, three individuals who practice perfusion and who:

1. Are certified by a national certifying board; and

2. Have a minimum of 2 years experience; and

(ii) On or after October 1, 2013, three licensed perfusionists;

(2) Three physicians, at least one of whom performs cardiac or cardio–thoracic surgery or is a cardiac anesthesiologist; and

(3) One consumer member.

(b) The consumer member of the Committee:

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

(2) May not practice or ever have practiced perfusion or any health care profession;

(3) May not be or ever have been in training to practice perfusion or any other health care profession;

(4) May not have a household member who is a health care professional or is in training to be a health care professional; and

(5) May not:

(i) Participate or ever have participated in a commercial or professional field related to perfusion;

(ii) Have a household member who participates in a commercial or professional field related to perfusion;

(iii) Have had within 2 years before appointment a financial interest in a person regulated by the Board; or

(iv) Have had within 2 years before appointment a financial interest in the provision of goods or services to perfusionists or to the field of perfusion.

(c) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2012.

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

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

(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;

(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–08.

(a) Except as otherwise provided in this subtitle, on or after October 1, 2013, an individual shall be licensed by the Board before the individual may practice perfusion in this State.

(b) This section does not apply to a student enrolled in an education program under § 14–5E–09(c)(2) of this subtitle while practicing perfusion in that program.

§14–5E–09.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character; and

(2) Be at least 18 years old.

(c) An applicant for a license to practice perfusion shall:

(1) (i) Submit to the Board satisfactory evidence of certification as a certified perfusionist or other national certification approved by the Board; and

(ii) Meet any other educational or clinical requirements established by the Committee and approved by the Board; or

(2) (i) Submit to the Board satisfactory evidence of graduation from a perfusion educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs, or the Commission's predecessor or successor; and

(ii) Meet any other educational or clinical requirements established by the Committee and approved by the Board.

§14–5E–10.

(a) Except as provided in subsection (b) of this section, an applicant who otherwise qualifies for a license under § 14–5E–09(c)(2) of this subtitle is entitled to be licensed for a single 2–year term before taking the national certifying examination given by the American Board of Cardiovascular Perfusion or its successor organization or another examination given or approved by the Board.

(b) (1) If an applicant was prevented from taking the national certifying examination before the single 2–year license expires because of extenuating circumstances, the applicant may apply to the Board for an extension of the term of the license.

(2) The Board shall adopt regulations to carry out paragraph (1) of this subsection that include:

(i) Criteria that an applicant must meet to receive an extension under paragraph (1) of this subsection; and

(ii) Provisions as to the length of time that a license may be extended.

§14–5E–11.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

(b) The Board shall issue a license to an applicant who meets the requirements

of this subtitle.

§14–5E–12.

A license authorizes an individual to practice perfusion in this State while the license is effective.

§14–5E–13.

(a) (1) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(2) A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensed perfusionist a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and sent before the license expires;

(3) The amount of the renewal fee; and

(4) For licensees who qualified for an initial license under § 14–5E–09(c)(2) of this subtitle, that the licensee must submit satisfactory evidence of a passing score on the examination as required under subsection (c)(2) of this section.

(c) (1) Except as otherwise provided in this subtitle, before a license expires, the licensed perfusionist periodically may renew it for an additional term, if the licensee:

(i) Otherwise is entitled to be licensed;

(ii) Pays to the Board a renewal fee set by the Board; and

(iii) Except as provided in paragraph (2) of this subsection, submits to the Board:

1. A renewal application on the form that the Board requires; and

2. Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements set under this section for license renewal.

(2) A licensee who qualified for an initial license under § 14–5E–09(c)(2) of this subtitle shall submit to the Board satisfactory evidence of a passing score on the national certifying examination given by the American Board of Cardiovascular

Perfusion or its successor organization or another examination given or approved by the Board.

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

(e) (1) The Board shall renew the license of each licensee who meets the requirements of this section.

(2) The Board may not renew the license of a licensee who fails to submit satisfactory evidence of a passing score on the examination as required under subsection (c)(2) of this section.

(f) The Board shall reinstate the license of an individual who has failed to renew the license for any reason if the individual:

(1) Applies for reinstatement after the date the license expires;

(2) Meets the renewal requirements of this section; and

(3) Pays to the Board the reinstatement fee set by the Board.

§14–5E–14.

(a) (1) A licensed perfusionist shall notify the Board in writing of a change in name or address within 60 days after the change.

(2) A licensed perfusionist who fails to comply with the requirements of paragraph (1) of this subsection is subject to an administrative penalty of $100.

(b) Each licensed perfusionist shall:

(1) Keep a copy of the license in the licensee's employment file; and

(2) Make the license available for inspection on request.

§14–5E–15.

Unless 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, 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, a disciplinary panel shall order the revocation of a license on the certification by the Office of the Attorney General.

§14–5E–17.

(a) (1) Any person aggrieved by a final decision of the Board 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 Title 10, Subtitle 2 of the State Government Article.

(b) An order of the Board may not be stayed pending review.

(c) The Board may appeal from any decision that reverses or modifies its order.

§14–5E–18.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1–401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed perfusionist for any reason that might be grounds for disciplinary action under § 14–5E–16 of this subtitle.

(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensed perfusionist has committed an act or has a condition that might be grounds for reprimand or probation of the licensed perfusionist or suspension or revocation of the license because the licensed perfusionist is

alcohol–impaired or drug–impaired is not required to report the licensed perfusionist to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensed perfusionist is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission or its successor, or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse; and

(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensed perfusionist remains in the treatment program until discharge; and

(ii) The action or condition of the licensed perfusionist has not caused injury to any person while the perfusionist is practicing as a licensed perfusionist.

(c) (1) If the licensed perfusionist enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensed perfusionist shall notify the hospital, related institution, alternative health system, or employer of the licensed perfusionist's decision to enter the treatment program.

(2) If the licensed perfusionist fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensed perfusionist has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed perfusionist has entered a treatment program and has failed to provide the required notice.

(3) If the licensed perfusionist is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed perfusionist's noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensed perfusionist shall report the licensed perfusionist's noncompliance to the Board.

(d) A person is not required under this section to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol– and drug abuse–related patient records.

(e) The hospital, related institution, alternative health system, or employer

shall submit the report within 10 days of any action described in this section.

(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.

(g) (1) The Board may impose a civil penalty of up to $1,000 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.

§14–5E–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, 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–20.

Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice perfusion in this State unless licensed to practice perfusion by the Board.

§14–5E–21.

(a) Unless authorized to practice perfusion under this subtitle, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice perfusion in this State.

(b) Unless authorized to practice perfusion under this subtitle, a person may not use the titles "certified clinical perfusionist", "licensed perfusionist", or "licensed clinical perfusionist", the abbreviations "C.C.P.", "L.P.", or "L.C.P.", or any other words, letters, or symbols with the intent to represent that the person practices perfusion, holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor entity, or holds a license as a licensed perfusionist issued by the Board.

§14–5E–22.

A person may not provide, attempt to provide, offer to provide, or represent that the person provides perfusion services unless the perfusion is provided by an individual who is authorized to practice perfusion under this subtitle.

§14–5E–23.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) A person who violates any provision of this subtitle is subject to a civil fine of not more than $5,000 to be levied by the Board.

(c) The Board shall pay any penalty collected under this section into the Board of Physicians Fund.

§14–5E–24.

This subtitle may be cited as the Maryland Perfusion Act.

§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, 2018.

§14–5F–01.

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

(b) "Approved naturopathic medical program" means a naturopathic medical education program:

(1) In the United States that:

(i) Provides the degree of Doctor of Naturopathy or Doctor of Naturopathic Medicine;

(ii) Offers a 4–year graduate–level, full–time didactic and supervised clinical training;

(iii) Is accredited, or has achieved candidacy status for accreditation, by the Council on Naturopathic Medical Education or an equivalent federally and Board–recognized accrediting body for naturopathic medical programs; and

(iv) Is part of an institution of higher education that is either accredited, or is a candidate for accreditation, by a regional or national institutional accrediting agency recognized by the United States Secretary of Education; or

(2) In a diploma–granting, degree–equivalent college or university in Canada that:

(i) Offers graduate–level, full–time didactic and supervised clinical training;

(ii) Is accredited, or has achieved candidacy status for accreditation, by the Council on Naturopathic Medical Education or an equivalent federally and Board–recognized accrediting body for naturopathic medical programs; and

(iii) Has provincial approval for participation in government–funded student aid programs.

(c) "Board" means the State Board of Physicians.

(d) "Committee" means the Naturopathic Medicine Advisory Committee.

(e) "Licensed naturopathic doctor" means a naturopathic doctor who is licensed to practice naturopathic medicine.

(f) "Naturopathic doctor" means an individual who practices naturopathic medicine.

(g) (1) "Naturopathic medicine" means the prevention, diagnosis, and treatment of human health conditions, injury, and disease using only patient education and naturopathic therapies and therapeutic substances recognized by the Council of Naturopathic Medical Education.

(2) "Naturopathic medicine" includes:

(i) Counseling;

(ii) The practice of the mechanical sciences of healing, including mechanotherapy, articular manipulation, corrective and orthopedic gymnastics, hydrotherapy, electrotherapy, and phototherapy; and

(iii) The practice of the material sciences of healing, including nutrition, phytotherapy, treatment by natural substances, and external applications.

(h) "Naturopathic musculoskeletal mobilization" means the treatment by manual and other mechanical means of all body tissues exclusive of high–velocity thrusts at or beyond the end range of normal joint motion.

(i) "Prescription drug" means any drug defined in § 503(b) of the federal Food, Drug, and Cosmetic Act if the drug's label is required to bear the statement "Rx only".

§14–5F–02.

The purposes of this subtitle are to:

(1) Protect the health, safety, and welfare of the public, and specifically protect individuals who are the direct recipients of services regulated by this subtitle;

(2) Maintain standards in the delivery of naturopathic medical services to the public;

(3) Ensure that the health care provided by qualified naturopathic doctors is accessible and available to the residents of the State; and

(4) Provide a means of identifying qualified naturopathic doctors in the State.

§14–5F–03.

This subtitle does not limit the right of:

(1) An individual to practice a health occupation that the individual is authorized to practice under this article;

(2) An individual from treating the individual or the individual's family based on the individual's religious or health beliefs; or

(3) A person that sells vitamins and herbs from providing information about the person's products.

§14–5F–04.

The Board shall adopt regulations for the licensure and practice of naturopathic medicine.

§14–5F–05.

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

(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 naturopathic doctors.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.

(2) The Comptroller shall distribute all fees to the Board established under § 14–201 of this title.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§14–5F–06.

There is a Naturopathic Medicine Advisory Committee within the Board.

§14–5F–07.

(a) (1) The Committee consists of five members appointed by the Board as follows:

(i) Two shall be individuals who practice naturopathic medicine and who:

1. On or after October 1, 2014:

A. Are certified by the North American Board of Naturopathic Examiners; and

B. Have a minimum of 2 years experience; and

2. On or after March 1, 2016, are licensed naturopathic doctors;

(ii) One shall be a practicing licensed physician or practicing doctor of osteopathy who is a member of the Board;

(iii) One shall be a practicing licensed physician or practicing licensed doctor of osteopathy with experience working with naturopathic doctors; and

(iv) One shall be a consumer member.

(2) The Board shall appoint the naturopathic doctor members from a list of names submitted by the Maryland Association of Naturopathic Physicians.

(b) Each naturopathic doctor member of the Committee shall be:

(1) In good standing with the Board; and

(2) A resident of the State who has been engaged actively in the practice or instruction of naturopathic medicine for at least 5 years immediately before appointment.

(c) The physician or doctor of osteopathy members of the Committee shall be in good standing with the Board.

(d) The consumer member of the Committee:

(1) Shall be a resident of the State and a member of the general public;

(2) May not be or ever have been licensed to practice a health occupation under this article; and

(3) May not have a substantial personal, business, professional, or pecuniary connection with naturopathic education, business, or practice.

(e) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2014.

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

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

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

§14–5F–08.

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 procedures for the issuance of licenses to applicants who qualify for licensure by reciprocity;

(3) Evaluate the content of any clinical, practical, or residency requirement for licensure;

(4) Provide any service and perform any function that is necessary to fulfill its purposes;

(5) Develop and recommend to the Board examination standards, consistent with the standards enumerated in this subtitle, for licensure and times at which the examinations will be given;

(6) Develop and recommend to the Board a code of ethics for licensed naturopathic doctors; and

(7) Develop and recommend to the Board continuing education requirements for license renewal.

§14–5F–09.

A person shall have the immunity from liability described under § 5–725 of the Courts and Judicial Proceedings Article for giving information to the Committee or otherwise participating in its activities.

§14–5F–10.

(a) Beginning March 1, 2016, except as otherwise provided in this subtitle, an individual shall be licensed by the Board before the individual may practice naturopathic medicine in the State.

(b) This section does not apply to:

(1) An individual who is employed by the United States government to practice naturopathic medicine while practicing within the scope of that employment;

(2) A student who is enrolled in an approved naturopathic medical program while the student is participating in a course of study under the supervision of a licensed naturopathic doctor or a licensed professional in the field of study;

(3) An individual who is licensed in another state to practice naturopathic medicine and whose practice of naturopathic medicine in the State is limited to examination, recommendation, or testimony in litigation; or

(4) A naturopathic doctor licensed by and residing in another jurisdiction, if the naturopathic doctor is engaged in consultation with the naturopathic doctor in the State about a particular patient and does not direct patient care.

(c) The Board may not discriminate, in any manner, against any applicant or licensee for reason of sex, age, race, color, creed, sexual orientation, gender identity, or national origin.

§14–5F–11.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 21 years old.

(d) Except as provided in § 14–5F–12 of this subtitle, the applicant shall:

(1) Have a doctorate in naturopathic medicine from an approved naturopathic medical program; and

(2) Pass the competency–based national naturopathic licensing examination Part I and Part II administered by the North American Board of Naturopathic Examiners, or its successor agency that has been nationally recognized to administer a naturopathic examination that represents federal standards of education and training.

(e) An applicant shall be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation.

(f) If an applicant is licensed, certified, or registered to practice naturopathic medicine or any other health occupation in another state, the applicant shall be in good standing with the applicable state licensing, certification, or registration authority.

§14–5F–12.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on a form that the Board requires;

(2) Pay to the Board an application fee set by the Board;

(3) If the applicant has been licensed, certified, or registered to practice naturopathic medicine in another state, submit all evidence relating to:

(i) Any disciplinary action taken or any administrative penalties assessed against the applicant by the appropriate state licensing, certification, or registration authority; and

(ii) Any consent agreements the applicant entered into that contain conditions placed on the applicant's professional conduct and practice, including any voluntary surrender of a license;

(4) Complete and submit to the Board a Board–approved written attestation that:

(i) States that the applicant has a collaboration and consultation agreement with a physician licensed under this article;

(ii) Includes the name and license number of the physician with whom the applicant has a collaboration and consultation agreement;

(iii) States that the applicant will refer patients to and consult with physicians and other health care providers licensed or certified under this article as needed; and

(iv) States that the applicant will require patients to sign a consent form that states that the applicant's practice of naturopathic medicine is limited to the scope of practice identified in § 14–5F–14 of this subtitle; and

(5) Inform the physician named in the attestation that the physician has been named.

§14–5F–13.

The Board shall issue a license to any applicant who meets the requirements of this subtitle.

§14–5F–14.

(a) A license authorizes a licensee, consistent with naturopathic education and training and competence demonstrated by passing the naturopathic physician licensing examination, to:

(1) Order and perform physical and laboratory examinations for diagnostic purposes, including phlebotomy, clinical laboratory tests, orificial examinations, electrocardiograms with over read by a cardiologist, and physiological function tests;

(2) Order diagnostic imaging studies and interpret the reports of diagnostic imaging studies;

(3) Dispense or order natural medicines of mineral, animal, or botanical origin, including food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical medicines, homeopathic medicines, and all dietary supplements and nonprescription drugs as defined by the federal Food, Drug, and Cosmetic Act that use various routes of administration, including oral, nasal, auricular, ocular, rectal, vaginal, transdermal, and intramuscular;

(4) Administer natural medicines of mineral, animal, or botanical origin, including food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical medicines, homeopathic medicines, and all dietary supplements and nonprescription drugs as defined by the federal Food, Drug, and Cosmetic Act using transdermal routes of administration;

(5) Administer or perform hot or cold hydrotherapy, naturopathic physical medicine, electromagnetic energy, and therapeutic exercise for the purpose of providing basic therapeutic care services, except that if a referral to another licensed provider is appropriate for ongoing rehabilitation or habilitation services, the naturopathic doctor shall make the referral;

(6) Provide health education and health counseling; and

(7) Perform naturopathic musculoskeletal mobilization.

(b) A license does not authorize a licensee to:

(1) Prescribe, dispense, or administer any prescription drug;

(2) Perform surgical procedures;

(3) Practice or claim to practice as a medical doctor or physician, an osteopath, a dentist, a podiatrist, an optometrist, a psychologist, a nurse practitioner, a physician assistant, a chiropractor, a physical therapist, an acupuncturist, or any other health care professional unless licensed under this article;

(4) Use general or spinal anesthetics;

(5) Administer ionizing radioactive substances for therapeutic purposes;

(6) Perform chiropractic adjustments or manipulations that include high–velocity thrusts at or beyond the end range of normal joint motion unless the

licensee is also a licensed chiropractor; or

(7) Perform acupuncture unless the licensee is also a licensed acupuncturist.

§14–5F–15.

(a) (1) The term of a license issued by the Board is 2 years.

(2) A license expires at the end of its term unless the license is renewed as provided by the Board.

(b) At least 1 month before the license expires, the Board shall send to the licensee a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) The Board shall renew the license of a licensee who:

(1) Submits a renewal application on the form that the Board requires;

(2) Pays a renewal fee set by the Board;

(3) Is otherwise entitled to be licensed;

(4) Meets the continuing education requirements adopted by the Board; and

(5) Provides evidence of biennial cardiopulmonary resuscitation certification.

§14–5F–16.

(a) (1) The Board may place a licensee on inactive status if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall issue a license to a naturopathic doctor who is on inactive status if the individual is otherwise entitled to be licensed under this subtitle and submits to the Board:

(i) Satisfactory evidence of compliance with the continuing education requirements the Board adopts for this purpose; and

(ii) A reinstatement fee set by the Board.

(b) The Board shall reinstate the license of a naturopathic doctor who has failed to renew the license for any reason if the naturopathic doctor:

(1) Meets the renewal requirements of § 14–5F–15 of this subtitle;

(2) Pays to the Board a reinstatement fee set by the Board; and

(3) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements adopted by the Board under this subtitle for license reinstatements.

§14–5F–17.

(a) Unless the Board agrees to accept the surrender of a license, a licensed naturopathic doctor 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.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§14–5F–18.

(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 of any licensee if the applicant or licensee:

(1) Is habitually intoxicated, or is addicted to or habitually abuses any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or any drug without a valid prescription or indication, or provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article;

(2) Has been found to be mentally incompetent by a physician if the mental incompetence impairs the ability of the applicant or licensee to undertake the practice of naturopathic medicine in a manner consistent with the safety of the public;

(3) Has entered into a consent agreement with or has been assessed an administrative penalty by a licensing authority in another state;

(4) Fraudulently or deceptively obtains, attempts to obtain, or uses a

license for the applicant, the licensee, or another;

(5) Has a license revoked or suspended, or was otherwise acted against, including the denial of licensure, by the licensing authority of another state;

(6) Uses false, deceptive, or misleading advertising;

(7) Advertises, practices, or attempts to practice under a name other than the applicant's or licensee's own name;

(8) Aids, assists, employs, or advises any unlicensed individual to practice naturopathic medicine in violation of this subtitle;

(9) Willfully makes or files a false report or record in the practice of naturopathic medicine;

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

(11) Pays or receives any commission, bonus, kickback, or rebate, or engages in any split–fee arrangement in any form with a licensed physician, organization, agency, or other person, either directly or indirectly, for patients referred to health care providers;

(12) Exercises influence within a patient–doctor relationship for purposes of engaging a patient in sexual activity;

(13) Engages in sexual misconduct with a patient;

(14) Fails to keep written medical records justifying the course of treatment of a patient;

(15) Engages in an act or omission that does not meet generally accepted standards of practice of naturopathic medicine or of safe care of patients, whether or not actual injury to a patient is established;

(16) Delegates professional responsibilities to an individual when the licensee delegating the responsibilities knows or has reason to know that the individual is not qualified by training, experience, or licensure to perform the responsibilities;

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

(18) Breaches patient confidentiality;

(19) Is guilty of unprofessional or immoral conduct in the practice of naturopathic medicine;

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

(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 purposes;

(23) 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;

(24) Fails to cooperate with a lawful investigation of the Board;

(25) Abandons a patient; or

(26) Violates any provision of this title or any regulation adopted by the Board.

(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, 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, a disciplinary panel shall order the revocation of a license on the certification by the Office of the Attorney General.

§14–5F–19.

(a) This section applies to:

(1) A licensed naturopathic doctor;

(2) A licensed health care practitioner;

(3) A health care facility, as defined in § 19–114 of the Health – General Article, located in the State; and

(4) A State agency.

(b) A person listed in subsection (a) of this section shall file a written report with the Board if the person has information that gives the person reason to believe that a licensed naturopathic doctor is or may be:

(1) Medically or legally incompetent;

(2) Engaged in the unauthorized practice of naturopathic medicine;

(3) Guilty of unprofessional conduct; or

(4) Mentally or physically unable to engage safely in the practice of naturopathic medicine.

(c) A person required to file a report under subsection (b) of this section shall file the report within 30 days after becoming aware of the information.

(d) A health care facility shall report promptly to the Board if:

(1) A licensed naturopathic doctor voluntarily resigns from the staff of the health care facility, voluntarily limits the licensee's staff privileges, or fails to reapply for hospital privileges at the health care facility; and

(2) The action of the licensee occurs while the licensee is under formal or informal investigation by the health care facility for possible medical incompetence, unprofessional conduct, or mental or physical impairment.

§14–5F–20.

(a) The Board shall investigate any complaint filed with the Board that alleges that there are grounds for action under § 14–5F–18 of this subtitle.

(b) After its investigation, the Board, on the affirmative vote of a majority of its members then serving, may commence action on any of the grounds set forth in § 14–5F–18 of this subtitle.

(c) (1) Except as provided in paragraph (2) of this subsection, until the Board passes an order under § 14–5F–22 of this subtitle, each related investigation, report, and recommendation is confidential.

(2) On the request of a person who has made a complaint to the Board, the Board shall provide the person with information on the status of the complaint.

§14–5F–21.

(a) The Board shall give notice and hold a hearing in accordance with the Administrative Procedure Act.

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

(c) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this subtitle and any hearings or proceedings before the Board.

(d) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(e) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(f) If, after a hearing, an individual is found in violation of § 14–5F–18 of this subtitle, the individual shall pay the costs of the hearing as specified in a regulation adopted by the Board.

§14–5F–22.

(a) If the Board finds that there are grounds for action under § 14–5F–18 of this subtitle, the Board shall pass an order in accordance with the Administrative Procedure Act.

(b) (1) If a license is revoked or suspended, the holder shall surrender the license to the Board on demand.

(2) At the end of a suspension period, the Board shall return to the licensee any license surrendered under this section.

§14–5F–23.

(a) (1) Any person aggrieved by a final decision of the Board or a disciplinary panel under this subtitle in a contested case, as defined in the Administrative Procedure Act, 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 judicial review.

(c) The Board may appeal from any decision that reverses or modifies an order of the Board or a disciplinary panel.

§14–5F–24.

(a) If the Board has revoked or suspended the license of a licensee, the Board

may not reinstate the license until the Board is satisfied that the individual:

(1) Has complied with all the terms and conditions in the final order; and

(2) Is capable of safely engaging in the practice of naturopathic medicine.

(b) The Board may not reinstate the license of an individual whose license was revoked by the Board within 6 months after the date of the revocation.

§14–5F–25.

The Board may issue a cease and desist order for:

(1) Practicing naturopathic medicine without a license or with an unauthorized person; or

(2) Supervising or aiding an unauthorized person in the practice of naturopathic medicine.

§14–5F–26.

A licensed naturopathic doctor shall follow any federal, State, or local law that governs:

(1) The control of contagious and infectious diseases; and

(2) The reporting of births and deaths.

§14–5F–27.

A licensed naturopathic doctor may receive a fee for professional consultation services.

§14–5F–28.

If a naturopathic doctor is engaged in the private practice of naturopathic medicine in the State, the naturopathic doctor shall display the notice developed under § 1–207 of this article conspicuously in each office where the naturopathic doctor is engaged in practice.

§14–5F–29.

(a) Except as otherwise provided in this subtitle, an individual may not practice, attempt to practice, or offer to practice naturopathic medicine in this State without a license.

(b) An individual who violates this section is guilty of a felony and on conviction is subject to:

(1) A fine not exceeding $10,000 or imprisonment not exceeding 5 years or both; and

(2) A civil fine of no more than $50,000 to be levied by the Board.

§14–5F–30.

(a) Unless an individual is licensed to practice naturopathic medicine, the individual may not:

(1) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is licensed by the Board to practice naturopathic medicine;

(2) Use the title "doctor of naturopathic medicine", "doctor of naturopathy", "naturopathic doctor", or "naturopath"; or

(3) Use the initials "N.D.", "ND", "NMD", or "N.M.D." after the name of the individual.

(b) An individual licensed to practice naturopathic medicine in the State may not use the title "physician".

§14–5F–31.

This subtitle may be cited as the Maryland Naturopathic Medicine Act.

§14–5F–32.

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

§14–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board.

§14–602.

(a) Unless authorized to practice medicine under this title, a person may not represent to the public, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice medicine in this State.

(b) Except as otherwise provided in this article, a person may not use the words or terms "Dr.", "doctor", "physician", "D.O.", or "M.D." with the intent to represent that the person practices medicine, unless the person is:

(1) Licensed to practice medicine under this title;

(2) A physician licensed by and residing in another jurisdiction, while engaging in consultation with a physician licensed in this State;

(3) A physician employed by the federal government while performing duties incident to that employment;

(4) A physician who resides in and is licensed to practice medicine by any state adjoining this State and whose practice extends into this State; or

(5) An individual in a postgraduate medical program that is approved by the Board.

(c) An unlicensed individual who acts under § 14-302 or § 14-306 of this title may use the word "physician" together with another word to describe the occupation of the individual as in phrases such as "physician's assistant" or "physician's aide".

§14–603.

A person may not make any false statement, report, or representation to the Board or a disciplinary panel.

§14–605.

(a) This section does not apply to a physician or group of physicians who:

(1) Have exclusive contracts with a health maintenance organization;

(2) Treat only the patients of the health maintenance organization; and

(3) Agree to accept full assignment for covered services rendered.

(b) If a physician is engaged in the private practice of medicine in this State, the physician shall display a notice written in English that is plainly visible to patients in the office of the physician concerning whether the physician:

(1) Is a participating physician under the Medicare program and, therefore, accepts assignment for all Medicare claims;

(2) Accepts Medicare assignment on a case-by-case basis; or

(3) Does not accept Medicare assignment in any case.

§14–606.

(a) (1) Except as provided in paragraph (4) of this subsection, a person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

(2) A person who violates any provision of § 14–503 of this title is guilty of

a misdemeanor and on conviction is subject to a fine not exceeding $500.

(3) A person who is required to give notice under § 14–505 ("Reporting burn treatment") of this title, and who fails to give the required notice, is liable for a civil penalty of not more than $100.

(4) Except as provided in paragraph (5) of this subsection, a person who violates § 14–601 or § 14–602 of this subtitle is:

(i) Guilty of a felony and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both; and

(ii) Subject to a civil fine of not more than $50,000 to be levied by the Board.

(5) The provisions of paragraph (4) of this subsection do not apply to a licensee who has failed to renew a license under § 14–316 of this title if:

(i) Less than 60 days have elapsed since the expiration of the license; and

(ii) The licensee has applied for license renewal, including payment of the renewal fee.

(b) The Board shall pay any penalty collected under this section into the Board of Physicians Fund.

§14–607.

(a) Knowingly selling or dispensing replacement contact lenses without a valid and unexpired replacement contact lens prescription shall be considered a violation of this title.

(b) The Board shall investigate any alleged violation of this section or § 14-507 of this title and may enforce any provision of this title by injunction or other appropriate proceedings.

(c) An action under this section is in addition to and not instead of criminal prosecution under § 14-606 of this subtitle.

§14–701.

This title may be cited as the "Maryland Medical Practice Act".

§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, 2018.

§15–101.

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

(b) "Alternate supervising physician" means one or more physicians designated by the primary supervising physician to provide supervision of a physician assistant in accordance with the delegation agreement on file with the Board.

(c) "Ambulatory surgical facility" means a facility:

(1) Accredited by:

(i) The American Association for Accreditation of Ambulatory Surgical Facilities;

(ii) The Accreditation Association for Ambulatory Health Care; or

(iii) The Joint Commission on Accreditation of Healthcare Organizations; or

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

(d) "Board" means the State Board of Physicians, established under § 14–201 of this article.

(e) "Committee" means the Physician Assistant Advisory Committee.

(f) "Controlled dangerous substances" has the meaning stated in § 5–101 of the Criminal Law Article.

(g) "Correctional facility" includes a State or local correctional facility.

(h) "Delegated medical acts" means activities that constitute the practice of medicine delegated by a physician under Title 14 of this article.

(i) "Delegation agreement" means a document that is executed by a primary supervising physician and a physician assistant containing the requirements of § 15–302 of this title.

(i–1) "Disciplinary panel" means a disciplinary panel of the Board established under § 14–401 of this article.

(j) "Dispense" means to dispense drug samples or starter dosages.

(k) "Drug sample" means a unit of a prescription drug that is intended to promote the sale of the drug and is not intended for sale.

(l) "Hospital" means:

(1) A hospital as defined under § 19–301 of the Health – General Article;

(2) A comprehensive care facility that:

(i) Meets the requirements of a hospital–based skilled nursing facility under federal law; and

(ii) Offers acute care in the same building; and

(3) An emergency room that is physically connected to a hospital or a freestanding medical facility that is licensed under Title 19, Subtitle 3A of the Health – General Article.

(m) "License" means a license issued by the Board to a physician assistant under this title.

(n) "National certifying examination" means the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants or its successor.

(o) "Physician assistant" means an individual who is licensed under this title to practice medicine with physician supervision.

(p) "Practice as a physician assistant" means the performance of medical acts that are:

(1) Delegated by a supervising physician to a physician assistant;

(2) Within the supervising physician's scope of practice; and

(3) Appropriate to the physician assistant's education, training, and experience.

(q) "Prescriptive authority" means the authority delegated by a primary or alternate supervising physician to a physician assistant to:

(1) Prescribe and administer controlled dangerous substances, prescription drugs, medical devices, and the oral, written, or electronic ordering of medications; and

(2) Dispense as provided under § 15–302.2(b), (c), and (d) of this title.

(r) "Primary supervising physician" means a physician who:

(1) Completes a delegation agreement that meets the requirements under §§ 15–301(d) and (e) and 15–302 of this title and files a copy with the Board;

(2) Acts as the physician responsible to ensure that a physician assistant practices medicine in accordance with this title and the regulations adopted under this

title;

(3) Ensures that a physician assistant practices within the scope of practice of the primary supervising physician or any designated alternate supervising physician; and

(4) Ensures that a list of alternate supervising physicians is maintained at the practice setting.

(s) "Public health facility" means a site where clinical public health services are rendered under the auspices of the Department, a local health department in a county, or the Baltimore City Health Department.

(t) "Starter dosage" means an amount of a drug sufficient to begin therapy:

(1) Of short duration of 72 hours or less; or

(2) Prior to obtaining a larger quantity of the drug to complete therapy.

(u) (1) "Supervision" means the responsibility of a physician to exercise on–site supervision or immediately available direction for physician assistants performing delegated medical acts.

(2) "Supervision" includes physician oversight of and acceptance of direct responsibility for the patient services and care rendered by a physician assistant, including continuous availability to the physician assistant in person, through written instructions, or by electronic means and by designation of one or more alternate supervising physicians.

§15–102.

(a) A physician assistant may not practice within the scope of practice of any of the following health occupations authorized under this article:

(1) Nursing;

(2) Optometry;

(3) Physical therapy; or

(4) Psychology.

(b) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§15–103.

(a) In this section, "alternative health care system" has the meaning stated in § 1–401 of this article.

(b) An employer of a physician assistant shall report to the Board, on the form prescribed by the Board, any termination of employment of the physician assistant if the cause of termination is related to a quality of care issue.

(c) Except as otherwise provided under subsections (b) and (d) of this section, a hospital, a related institution, an alternative health care system, or an employer of a physician assistant shall report to the Board any limitation, reduction, or other change of the terms of employment of the physician assistant or any termination of employment of the physician assistant for any reason that might be grounds for disciplinary action under § 15–314 of this title.

(d) A hospital, related institution, alternative health system, or employer that has reason to know that a physician assistant has committed an action or has a condition that might be grounds for reprimand or probation of the physician assistant or suspension or revocation of the license of the physician assistant under § 15–314 of this title because the physician assistant is alcohol– or drug–impaired is not required to report to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the physician assistant is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on the Accreditation of Healthcare Organizations or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

(2) The hospital, related institution, alternative health system, or employer is able to verify that the physician assistant remains in the treatment program until discharge; and

(3) The action or condition of the physician assistant has not caused injury to any person while the physician assistant is practicing as a licensed physician assistant.

(e) (1) If the physician assistant enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the physician assistant shall notify the hospital, related institution, alternative health system, or employer of the physician assistant's decision to enter the treatment program.

(2) If the physician assistant fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the physician assistant has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the physician assistant has entered a treatment program and has failed to provide the required notice.

(3) If the physician assistant is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the physician assistant's noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the physician assistant shall report the physician assistant's noncompliance to the Board.

(f) A person is not required under this section to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol– and drug–abuse patient records.

(g) The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.

(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.

(i) (1) The Board may impose a civil penalty of up to $1,000 for failure to report under this section.

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

(j) An employer shall make the report required under this section to the Board within 5 days after the date of termination of employment.

(k) The Board shall adopt regulations to implement the provisions of this section.

§15–201.

(a) There is a Physician Assistant Advisory Committee within the Board.

(b) The Committee shall function as a subunit of the Board.

§15–202.

(a) (1) The Committee shall consist of 7 members appointed by the Board.

(2) Of the 7 Committee members:

(i) 3 shall be licensed physicians;

(ii) 3 shall be licensed physician assistants; and

(iii) 1 shall be a consumer.

(3) Of the licensed physician members:

(i) At least 1 shall specialize in general surgery or a surgical subspecialty;

(ii) At least 1 shall specialize in internal medicine, family practice, or a similar primary care specialty; and

(iii) 1 shall be a Board member.

(4) The Board shall appoint the physician assistant members from a list of names submitted by:

(i) The Maryland Academy of Physician Assistants; and

(ii) The State institutions of higher education with approved physician assistant programs.

(5) The consumer member:

(i) Shall be a member of the general public;

(ii) May not be a physician, former physician, physician assistant, or a person in training to become a physician or physician assistant;

(iii) May not have a household member who is a physician or physician assistant, or a person in training to become a physician assistant; and

(iv) May not have had within 2 years before appointment a substantial financial interest in a process regulated by the Board.

(6) Each member of the Committee shall be a resident of the State.

(b) Of the three physician members of the Committee, two shall be previously or currently serving as supervising physicians of a physician assistant under a Board–approved delegation agreement.

(c) (1) The physician assistant members shall be licensed as a physician assistant under this title.

(2) The physician assistant members shall be currently practicing as a physician assistant or employed as a faculty member of an accredited physician assistant program.

(3) Of the 3 physician assistant members of the Committee:

(i) At least 1 shall be currently practicing in a hospital; and

(ii) At least 1 shall be currently practicing in a nonhospital setting.

(d) A Committee chair and a secretary shall be selected every 2 years by a majority vote of the membership of the Committee.

(e) The chair, or the chair's designee, shall serve in an advisory capacity to the Board as a representative of the Committee.

§15–203.

(a) The Board shall adopt regulations governing:

(1) The term of office for Committee members;

(2) The procedure for filling vacancies on the Committee;

(3) The removal of Committee members; and

(4) The duties of each officer.

(b) In addition to the regulations on removal of members adopted by the Board, upon the recommendation of the Board the Governor may remove a member whom the Board finds to have been absent from 2 successive Committee meetings without adequate reason.

§15–204.

Funds for compensation, expenses, and staff for the Committee shall be allocated to the Board in the State budget.

§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.

(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 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.

(b) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) (i) If the Governor does not include in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute:

1. 12 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

A. One–half to make grants under the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article; and

B. One–half to make grants under the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants under Title 18, Subtitle 28 of the Education Article to physicians and physician assistants engaged in primary care or to medical residents specializing in primary care who agree to practice for at least 2 years as primary care physicians in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved; and

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

(ii) If the Governor includes in the State budget at least $750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute the fees to the Board of Physicians Fund.

§15–301.

(a) Nothing in this title may be construed to authorize a physician assistant to practice independent of a primary or alternate supervising physician.

(b) A license issued to a physician assistant shall limit the physician assistant's scope of practice to medical acts:

(1) Delegated by the primary or alternate supervising physician;

(2) Appropriate to the education, training, and experience of the physician assistant;

(3) Customary to the practice of the primary or alternate supervising physician; and

(4) Consistent with the delegation agreement filed with the Board.

(c) Patient services that may be provided by a physician assistant include:

(1) (i) Taking complete, detailed, and accurate patient histories; and

(ii) Reviewing patient records to develop comprehensive medical status reports;

(2) Performing physical examinations and recording all pertinent patient data;

(3) Interpreting and evaluating patient data as authorized by the primary or alternate supervising physician for the purpose of determining management and treatment of patients;

(4) Initiating requests for or performing diagnostic procedures as indicated by pertinent data and as authorized by the supervising physician;

(5) Providing instructions and guidance regarding medical care matters to patients;

(6) Assisting the primary or alternate supervising physician in the delivery of services to patients who require medical care in the home and in health care institutions, including:

(i) Recording patient progress notes;

(ii) Issuing diagnostic orders; and

(iii) Transcribing or executing specific orders at the direction of the primary or alternate supervising physician; and

(7) Exercising prescriptive authority under a delegation agreement and in accordance with § 15–302.2 of this subtitle.

(d) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice as a physician assistant.

(2) Except as otherwise provided in this title, a physician may not supervise a physician assistant in the performance of delegated medical acts without filing a completed delegation agreement with the Board.

(3) Except as otherwise provided in this title or in a medical emergency, a physician assistant may not perform any medical act for which:

(i) The individual has not been licensed; and

(ii) The medical acts have not been delegated by a primary or

alternate supervising physician.

(e) A physician assistant is the agent of the primary or alternate supervising physician in the performance of all practice–related activities, including the oral, written, or electronic ordering of diagnostic, therapeutic, and other medical services.

(f) Except as provided in subsection (g) of this section, the following individuals may practice as a physician assistant without a license:

(1) A physician assistant student enrolled in a physician assistant educational program that is accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor and approved by the Board; or

(2) A physician assistant employed in the service of the federal government while performing duties incident to that employment.

(g) A physician may not delegate prescriptive authority to a physician assistant student in a training program that is accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor.

(h) (1) If a medical act that is to be delegated under this section is a part of the practice of a health occupation that is regulated under this article by another board, any rule or regulation concerning that medical act shall be adopted jointly by the State Board of Physicians and the board that regulates the other health occupation.

(2) If the two boards cannot agree on a proposed rule or regulation, the proposal shall be submitted to the Secretary for a final decision.

§15–302.

(a) A physician may delegate medical acts to a physician assistant only after:

(1) A delegation agreement has been executed and filed with the Board; and

(2) Any advanced duties have been authorized as required under subsection (c) of this section.

(b) The delegation agreement shall contain:

(1) A description of the qualifications of the primary supervising physician and physician assistant;

(2) A description of the settings in which the physician assistant will practice;

(3) A description of the continuous physician supervision mechanisms that are reasonable and appropriate to the practice setting;

(4) A description of the delegated medical acts that are within the primary or alternate supervising physician's scope of practice and require specialized education or training that is consistent with accepted medical practice;

(5) An attestation that all medical acts to be delegated to the physician assistant are within the scope of practice of the primary or alternate supervising physician and appropriate to the physician assistant's education, training, and level of competence;

(6) An attestation of continuous supervision of the physician assistant by the primary supervising physician through the mechanisms described in the delegation agreement;

(7) An attestation by the primary supervising physician of the physician's acceptance of responsibility for any care given by the physician assistant;

(8) A description prepared by the primary supervising physician of the process by which the physician assistant's practice is reviewed appropriate to the practice setting and consistent with current standards of acceptable medical practice;

(9) An attestation by the primary supervising physician that the physician will respond in a timely manner when contacted by the physician assistant;

(10) The following statement: "The primary supervising physician and the physician assistant attest that:

(i) They will establish a plan for the types of cases that require a physician plan of care or require that the patient initially or periodically be seen by the supervising physician; and

(ii) The patient will be provided access to the supervising physician on request"; and

(11) Any other information deemed necessary by the Board to carry out the provisions of this subtitle.

(c) (1) The Board may not require prior approval of a delegation agreement that includes advanced duties, if an advanced duty will be performed in a hospital or ambulatory surgical facility, provided that:

(i) A physician, with credentials that have been reviewed by the hospital or ambulatory surgical facility as a condition of employment, as an independent contractor, or as a member of the medical staff, supervises the physician assistant;

(ii) The physician assistant has credentials that have been reviewed by the hospital or ambulatory surgical facility as a condition of employment, as an independent contractor, or as a member of the medical staff; and

(iii) Each advanced duty to be delegated to the physician assistant is reviewed and approved within a process approved by the governing body of the health care facility before the physician assistant performs the advanced duties.

(2) (i) In any setting that does not meet the requirements of paragraph (1) of this subsection, a primary supervising physician shall obtain the Board's approval of a delegation agreement that includes advanced duties, before the physician assistant performs the advanced duties.

(ii) 1. Before a physician assistant may perform X–ray duties authorized under § 14–306(e) of this article in the medical office of the physician delegating the duties, a primary supervising physician shall obtain the Board's approval of a delegation agreement that includes advanced duties in accordance with subsubparagraph 2 of this subparagraph.

2. The advanced duties set forth in a delegation agreement under this subparagraph shall be limited to nonfluoroscopic X–ray procedures of the extremities, anterior–posterior and lateral, not including the head.

(3) Notwithstanding paragraph (1) of this subsection, a primary supervising physician shall obtain the Board's approval of a delegation agreement before the physician assistant may administer, monitor, or maintain general anesthesia or neuroaxial anesthesia, including spinal and epidural techniques, under the agreement.

(d) For a delegation agreement containing advanced duties that require Board approval, the Committee shall review the delegation agreement and recommend to the Board that the delegation agreement be approved, rejected, or modified to ensure conformance with the requirements of this title.

(e) The Committee may conduct a personal interview of the primary supervising physician and the physician assistant.

(f) (1) On review of the Committee's recommendation regarding a primary supervising physician's request to delegate advanced duties as described in a delegation agreement, the Board:

(i) May approve the delegation agreement; or

(ii) 1. If the physician assistant does not meet the applicable education, training, and experience requirements to perform the specified delegated acts, may modify or disapprove the delegation agreement; and

2. If the Board takes an action under item 1 of this item:

A. Shall notify the primary supervising physician and the physician assistant in writing of the particular elements of the proposed delegation agreement that were the cause for the modification or disapproval; and

B. May not restrict the submission of an amendment to the delegation agreement.

(2) To the extent practicable, the Board shall approve a delegation agreement or take other action authorized under this subsection within 90 days after receiving a completed delegation agreement including any information from the physician assistant and primary supervising physician necessary to approve or take action.

(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 refer the matter to a disciplinary panel for the purpose of taking other disciplinary action under § 14–404 or § 15–314 of this article.

(h) A primary supervising physician may not delegate medical acts under a delegation agreement to more than four physician assistants at any one time, except in a hospital or in the following nonhospital settings:

(1) A correctional facility;

(2) A detention center; or

(3) A public health facility.

(i) A person may not coerce another person to enter into a delegation agreement under this subtitle.

(j) A physician may supervise a physician assistant:

(1) As a primary supervising physician in accordance with a delegation agreement approved by the Board under this subtitle; or

(2) As an alternate supervising physician if:

(i) The alternate supervising physician supervises in accordance with a delegation agreement filed with the Board;

(ii) The alternate supervising physician supervises no more than four physician assistants at any one time, except in a hospital, correctional facility, detention center, or public health facility;

(iii) The alternate supervising physician's period of supervision, in the absence of the primary supervising physician, does not exceed:

1. The period of time specified in the delegation agreement; and

2. A period of 45 consecutive days at any one time; and

(iv) The physician assistant performs only those medical acts that:

1. Have been delegated under the delegation agreement filed with the Board; and

2. Are within the scope of practice of the primary supervising physician and alternate supervising physician.

(k) In the event of a sudden departure, incapacity, or death of a primary supervising physician, a designated alternate supervising physician may assume the role of the primary supervising physician by submitting a new delegation agreement to the Board within 15 days.

(l) Individual members of the Board are not civilly liable for actions regarding the approval, modification, or disapproval of a delegation agreement described in this section.

(m) A physician assistant may practice in accordance with a delegation agreement filed with the Board under this subtitle.

§15–302.1.

(a) If a delegation agreement does not include advanced duties or the advanced duties have been approved under § 15–302(c)(1) of this subtitle, a physician assistant may assume the duties under a delegation agreement on the date of receipt by the Board of the delegation agreement.

(b) In this section, "pending" means that a delegation agreement that includes delegation of advanced duties in a setting that does not meet the requirements under § 15–302(c)(1) of this subtitle has been executed and submitted to the Board for its approval, but:

(1) The Committee has not made a recommendation to the Board; or

(2) The Board has not made a final decision regarding the delegation agreement.

(c) Subject to subsection (d) of this section, if a delegation agreement is pending, on receipt of a temporary practice letter from the staff of the Board, a physician assistant may perform the advanced duty if:

(1) The primary supervising physician has been previously approved to supervise one or more physician assistants in the performance of the advanced duty; and

(2) The physician assistant has been previously approved by the Board to

perform the advanced duty.

(d) If the Committee recommends a denial of the pending delegation agreement or the Board denies the pending delegation agreement, on notice to the primary supervising physician and the physician assistant, the physician assistant may no longer perform the advanced duty that has not received the approval of the Board.

(e) The Board may disapprove any delegation agreement if it believes that:

(1) The agreement does not meet the requirements of this subtitle; or

(2) The physician assistant is unable to perform safely the delegated duties.

(f) If the Board disapproves a delegation agreement or the delegation of any function under an agreement, the Board shall provide the primary supervising physician and the physician assistant with written notice of the disapproval.

(g) A physician assistant who receives notice that the Board has disapproved a delegation agreement or an advanced function under the delegation agreement shall immediately cease to practice under the agreement or to perform the disapproved function.

§15–302.2.

(a) A primary supervising physician may not delegate prescribing, dispensing, and administering of controlled dangerous substances, prescription drugs, or medical devices unless the primary supervising physician and physician assistant include in the delegation agreement:

(1) A notice of intent to delegate prescribing of controlled dangerous substances, prescription drugs, or medical devices;

(2) An attestation that all prescribing activities of the physician assistant will comply with applicable federal and State regulations;

(3) An attestation that all medical charts or records will contain a notation of any prescriptions written by a physician assistant in accordance with this section;

(4) An attestation that all prescriptions written under this section will include the physician assistant's name and the supervising physician's name, business address, and business telephone number legibly written or printed;

(5) An attestation that the physician assistant has:

(i) Passed the physician assistant national certification exam administered by the National Commission on the Certification of Physician Assistants within the previous 2 years; or

(ii) Successfully completed 8 category 1 hours of pharmacology education within the previous 2 years; and

(6) An attestation that the physician assistant has:

(i) A bachelor's degree or its equivalent; or

(ii) Successfully completed 2 years of work experience as a physician assistant.

(b) (1) A primary supervising physician may not delegate the prescribing of substances that are identified as Schedule I controlled dangerous substances under § 5–402 of the Criminal Law Article.

(2) A primary supervising physician may delegate the prescribing of substances that are identified as Schedules II through V controlled dangerous substances under § 5–402 of the Criminal Law Article, including legend drugs as defined under § 503(b) of the Federal Food, Drug, and Cosmetic Act.

(3) A primary supervising physician may not delegate the prescribing of controlled dangerous substances to a physician assistant unless the physician assistant has a valid:

(i) State controlled dangerous substance registration; and

(ii) Federal Drug Enforcement Agency (DEA) registration.

(c) A physician assistant personally may dispense a starter dosage or dispense drug samples of any drug the physician assistant is authorized to prescribe to a patient of the physician assistant if:

(1) The starter dosage or drug sample complies with the labeling requirements of § 12–505 of this article;

(2) No charge is made for the starter dosage; and

(3) The physician assistant enters an appropriate record in the patient's medical record.

(d) A physician assistant who personally dispenses a drug sample or starter dosage in the course of treating a patient as authorized under subsection (c) of this section shall comply with the requirements under Titles 12 and 14 of this article and applicable federal law and regulations.

(e) Before a physician assistant may renew a license for an additional 2–year term under § 15–307 of this subtitle, the physician assistant shall submit evidence to the Board of successful completion of 8 category 1 hours of pharmacology education within the previous 2 years.

§15–302.3.

(a) On a quarterly basis, the Board shall provide to the Board of Pharmacy a list of physician assistants whose delegation agreements include the delegation of prescriptive authority.

(b) The list required under subsection (a) of this section shall specify whether each physician assistant has been delegated the authority to prescribe controlled dangerous substances, prescription drugs, or medical devices.

(c) If a primary supervising physician who has delegated authority to exercise prescriptive authority to a physician assistant subsequently restricts or removes the delegation, the primary supervising physician shall notify the Board of the restriction or removal within 5 business days.

§15–303.

(a) To qualify for a license, an applicant shall:

(1) Be of good moral character;

(2) Demonstrate oral and written competency in the English language as required by the Board;

(3) Be at least 18 years old; and

(4) (i) Be a graduate of a physician assistant training program approved by the Board; or

(ii) Have passed the physician assistant national certifying examination administered by the National Commission on Certification of Physician Assistants prior to 1986, maintained all continuing education and recertification requirements, and been in continuous practice since passage of the examination.

(b) Except as otherwise provided in this title, the applicant shall pass a national certifying examination approved by the Board.

(c) An applicant who graduates from a physician assistant training program after October 1, 2003 shall have a bachelor's degree or its equivalent.

§15–304.

An applicant for a license shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

§15–305.

The Board shall issue a license to an applicant who meets the requirements of this title.

§15–306.

A license authorizes the licensee to practice as a physician assistant under a delegation agreement while the license is effective.

§15–307.

(a) (1) Unless a license is renewed for an additional term as provided in this section, the license expires on the date set by the Board.

(2) A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by first–class mail to the last known address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) Is otherwise entitled to be issued a license;

(2) Pays to the Board the renewal fee, set by the Board;

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with the continuing education requirements for license renewal set by the Board under this section; and

(4) Meets any additional requirements set by the Board for renewal of a license.

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

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

(f) For the failure of a licensee to obtain continuing medical education credits as required by the Board, the Board may impose a civil penalty not to exceed $100 for each medical education credit not obtained by the licensee.

§15–308.

The Board, in accordance with its regulations, shall reinstate the license of a physician assistant who has failed to renew the license for any reason if the physician assistant:

(1) Meets the renewal requirements of § 15–307 of this subtitle;

(2) Pays to the Board the reinstatement fee set by the Board;

(3) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this subtitle for license reinstatements; and

(4) Meets any additional requirements set by the Board for reinstatement.

§15–309.

(a) Each licensee shall keep a license and delegation agreement for inspection at the primary place of business of the licensee.

(b) (1) Each licensee shall give the Board written notice of any change of name or address within 60 days of the date of the change.

(2) A licensee who fails to comply with this subsection is subject to an administrative penalty of $100.

§15–310.

(a) In reviewing an application for licensure or in investigating an allegation brought under § 15–314 of this subtitle, the Committee may request the Board to direct, or the Board on its own initiative may direct, the physician assistant to submit to an appropriate examination.

(b) In return for the privilege given to the physician assistant to perform delegated medical acts in the State, the physician assistant is deemed to have:

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

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

(c) The unreasonable failure or refusal of the licensed physician assistant or applicant to submit to an examination is prima facie evidence of the licensed physician assistant's inability to perform delegated medical acts and is cause for denial of the application or immediate suspension of the license.

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

§15–311.

Subject to the hearing provisions of § 15–313 of this subtitle, the Board, on the affirmative vote of a majority of a quorum, may deny a license to any applicant for any of the reasons that are grounds for disciplinary action under § 15–314 of this subtitle.

§15–312.

(a) Unless 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) A disciplinary panel may set conditions on its agreement to accept surrender of a license.

§15–313.

(a) (1) Except as otherwise provided under § 10–226 of the State Government Article, before the Board takes any action to deny a license or to reject or modify a delegation agreement or advanced duty, the Board shall give the applicant or licensee the opportunity for a hearing before the Board.

(2) The Board shall give notice and hold the hearing under Title 10, Subtitle 2 of the State Government Article.

(3) The Board may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice shall be sent to the last known address of the applicant or licensee.

(b) Any applicant aggrieved under this subtitle by a final decision of the Board denying a license or rejecting or modifying a delegation agreement or advanced duty may petition for judicial review as allowed by the Administrative Procedure Act.

§15–314.

(a) Subject to the hearing provisions of § 15–315 of this subtitle, 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, 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, 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 a disciplinary panel takes any action under § 15–314(a) of this subtitle, 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) 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, 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 reprimand a licensed physician assistant, the 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.

§15–317.

(a) A physician assistant in this State or in any other state is authorized to perform acts, tasks, or functions as a physician assistant under the supervision of a physician licensed to practice medicine in the State during a disaster as defined by the Governor, within a county in which a state of disaster has been declared, or counties contiguous to a county in which a state of disaster has been declared.

(b) The physician assistant shall notify the Board in writing of the names, practice locations, and telephone numbers for the physician assistant and each primary supervising physician within 30 days of the first performance of medical acts, tasks, or functions as a physician assistant during the disaster.

(c) A team of physicians and physician assistants or physician assistants practicing under this section may not be required to maintain on–site documentation describing supervisory arrangements as otherwise required under this title.

§15–401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a license issued by the Board.

(b) Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope of the license and which is consistent with a delegation agreement filed with the Board.

§15–402.

(a) Except as otherwise provided under this title, a person may not represent or imply to the public by use of the title "licensed physician assistant", by other title, or by description of services, methods, or procedures that the person is licensed to practice as a physician assistant in the State.

(b) Unless licensed to practice as a physician assistant under this title, a person may not use the words or terms "physician assistant", "licensed physician assistant", or "P.A.".

§15–402.1.

(a) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing as a physician assistant who does not have a license.

(b) Except as otherwise provided in this subtitle, a hospital, related institution, alternative health care system, or employer may not employ an individual practicing as a physician assistant who does not have a license.

(c) The Board may impose a civil penalty in an amount not exceeding $1,000 for a violation of this section.

(d) The Board shall remit any penalty collected under this subsection into the Board of Physicians Fund.

§15–403.

(a) A person who violates § 15–401 or § 15–402 of this subtitle:

(1) Is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both; and

(2) Shall lose licensure as a physician assistant under this title.

(b) (1) In addition to the penalties under subsection (a) of this section, a person who violates § 15–401 of this subtitle may be subject to a civil penalty assessed by the Board in an amount not exceeding $5,000.

(2) In addition to the penalties under paragraph (1) of this subsection, a person who violates § 15–309 of this title may be subject to a civil penalty assessed by the Board in an amount not exceeding $100.

(3) The Board shall pay any civil penalty collected under this subsection into the Board of Physicians Fund.

§15–501.

This title may be cited as the "Maryland Physician Assistants Act".

§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, 2018.

§16–101.

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

(b) "Board" means the State Board of Podiatric Medical Examiners.

(c) "License" means, unless the context requires otherwise, a license issued by the Board to practice podiatry.

(d) "Licensed podiatrist" means, unless the context requires otherwise, a podiatrist who is licensed by the Board to practice podiatry.

(e) "Podiatrist" means an individual who practices podiatry.

(f) (1) "Practice podiatry" means to diagnose or surgically, medically, or mechanically treat the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid–calf.

(2) "Practice podiatry" does not include administration of an anesthetic, other than a local anesthetic.

§16–102.

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(b) This title does not affect the commercial sale or fitting of shoes or foot appliances.

§16–103.

(a) All osseous surgical procedures of the ankle, arthrodeses of 2 or more tarsal bones, and complete tarsal osteotomies that are performed by a licensed podiatrist shall be performed in a licensed hospital or ambulatory surgical center, subject to the provisions of § 19-351 of the Health - General Article.

(b) A licensed podiatrist who performs an osseous surgical procedure of the ankle, arthrodesis of 2 or more tarsal bones, or a complete tarsal osteotomy in a licensed ambulatory surgical center must:

(1) Have current surgical privileges at a licensed hospital for the same procedure; and

(2) Meet the requirements of the ambulatory surgical center.

(c) Nothing in this title shall prohibit a licensed hospital or ambulatory surgical center from establishing qualifications or delineating privileges for the performance of surgical procedures of the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid-calf by a licensed podiatrist in the hospital or ambulatory surgical center.

§16–201.

There is a State Board of Podiatric Medical Examiners in the Department.

§16–202.

(a) (1) The Board consists of 7 members.

(2) Of the 7 Board members:

(i) 5 shall be licensed podiatrists; and

(ii) 2 shall be consumer members.

(3) The Governor shall appoint the podiatrist members, with the advice of the Secretary, from a list of names submitted by the Maryland Podiatric Medical Association. The number of names on the list shall be twice the number of vacancies.

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

(b) (1) The list submitted by the Maryland Podiatric Medical Association shall consist of names of nominees chosen by a majority of its members present at a meeting called for that purpose.

(2) At least 2 weeks before the meeting required by paragraph (1) of this subsection, the Secretary of the Association shall mail to its members, at the addresses that appear on the records of the Association, notice stating the time, place, and purpose of the meeting.

(c) Each podiatrist member of the Board shall be:

(1) A licensed practicing podiatrist of recognized ability and integrity;

(2) A resident of this State who has practiced actively in this State for at least 5 years immediately before appointment; and

(3) A licensed podiatrist with peer review experience.

(d) Each consumer member of the Board:

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

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

(3) May not have a household member who is a podiatrist or in training to become a podiatrist;

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

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

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

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

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 1981.

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

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

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

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

(h) (1) The Governor shall remove a member for continued neglect of duty, incompetence, or unprofessional or dishonorable conduct.

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

§16–203.

(a) From among its members, the Board shall elect a president and a secretary-treasurer.

(b) The Board shall determine:

(1) The manner of election of officers;

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

(3) The duties of each officer.

§16–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) Each member of the Board is entitled to:

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

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

(d) The Board may employ a staff in accordance with the budget of the Board.

§16–205.

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

(1) Adopt rules and regulations to carry out the provisions of this title;

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

(3) On receipt of a written and signed allegation, investigate the same for any possible violation of this title.

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

(1) Keep a complete record of all its transactions;

(2) Investigate any alleged unauthorized practice of podiatry and, if the results of the investigation indicate that the allegation has merit, report it to the State's Attorney of the county where the alleged violation occurred;

(3) On receipt of a written and signed allegation, including a referral from the Commissioner of Labor and Industry:

(i) Investigate the allegation for possible violations of this title;

(ii) Provide notice to the licensed podiatrist that an allegation has been received and forward a copy of the allegation to the licensed podiatrist within 60 days of receipt of the allegation, unless the Board:

1. Makes an affirmative determination that the disclosure would prejudice the investigation of the allegation and notifies the licensee of the determination;

2. Disposes of the allegation within 60 days of the date of receipt of the allegation; or

3. Makes an affirmative determination that any action that the Board may take as a result of the investigation into the allegation will most likely not result in formal disciplinary action; and

(iii) Periodically notify the licensed podiatrist and all persons of interest of the status of the allegation until such time as the allegation is resolved; and

(4) Except for an office of a podiatrist in a hospital, related institution, freestanding medical facility, or freestanding birthing center, conduct an unannounced inspection of the office of a podiatrist against whom a complaint has been filed with the Board regarding a violation of the Centers for Disease Control and Prevention's guidelines on universal precautions to determine compliance at that office with the guidelines.

§16–206.

(a) There is a State Board of Podiatric Medical Examiners Fund.

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

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

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Podiatric Medical Examiners Fund.

(d) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided

by the provisions of this article.

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§16–207.

A person shall have the immunity from liability described under § 5-716 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§16–301.

An individual shall be licensed by the Board before the individual may practice podiatry in this State.

§16–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall be a graduate of a school or college of podiatry that is accredited by the Council on Education of the American Podiatric Medical Association and approved by the Board.

(e) Except as otherwise provided in this title, the applicant shall pass an examination given by the Board under this subtitle.

(f) The Board may require an applicant to complete a postgraduate podiatric residency program in:

(1) A health care facility licensed or approved by the Department;

(2) A program approved by the Council on Education of the American Podiatric Medical Association or its successor; or

(3) A program approved by the Board.

(g) (1) The Board shall require as part of its examination or licensing procedures that an applicant for a license to practice podiatry demonstrate an oral competency in the English language.

(2) Graduation from a recognized English-speaking undergraduate school after at least 3 years of enrollment, or from a recognized English-speaking professional school is acceptable as proof of proficiency in the oral communication of the English language under this section.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charges or action that involves a problem with the oral communication of the English language are brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

§16–303.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

(b) If the applicant is licensed and has practiced in another state, the applicant shall submit proof of practice that is sufficient to demonstrate current clinical proficiency, as specified in regulations adopted by the Board.

§16–304.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least twice a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) For examinations given under this subtitle, the Board shall:

(1) Provide the books and forms necessary to conduct the examinations;

(2) Conduct the examinations in writing, but may use supplementary oral and clinical examinations; and

(3) Except as otherwise provided in this subsection, determine the scope, form, and passing score for the examinations.

(e) An examination given under this subtitle may include only subjects normally taught at an accredited school or college of podiatry or chiropody.

(f) The Board shall:

(1) Act on each examination promptly; and

(2) Record the results of each examination in the Board's minutes.

§16–305.

(a) The Board shall issue a license to any applicant who, by the affirmative vote of a majority of the full authorized membership of the Board, meets the requirements of this title.

(b) The Board shall include on each license that the Board issues:

(1) The signature of the Secretary of the Department of Health and Mental Hygiene attesting that the individual meets the requirements of this title; and

(2) A serial number that corresponds to an entry in the registration records of the Board.

§16–306.

A license authorizes the licensee to practice podiatry while the license is effective.

§16–307.

(a) Except as provided for a limited license in § 16-317 of this subtitle, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, a licensee periodically may renew it for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this subtitle for license renewal.

(d) The Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

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

(f) (1) A podiatrist has a grace period of 30 days after the podiatrist's license expires in which to renew the license retroactively, if the podiatrist:

(i) Otherwise is entitled to have the license renewed; and

(ii) Pays to the Board the renewal fee and any late fee set by the Board.

(2) After the grace period of 30 days:

(i) The expired license lapses into a nonrenewal status; and

(ii) The Board may require the licensee to meet the requirements of § 16-308 to be reinstated.

§16–308.

(a) (1) The Board may place a licensee on inactive status, if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall issue a license to an individual who is on inactive status if the individual is otherwise entitled to be licensed under this title and submits to the Board:

(i) Satisfactory evidence of compliance with the continuing education requirements the Board adopts for this purpose;

(ii) A reinstatement fee set by the Board;

(iii) A licensure affidavit;

(iv) Federation of boards certification of good standing;

(v) The response to an inquiry to the national Healthcare Integrity and Protection Data Bank;

(vi) History of malpractice cases;

(vii) Proof of out-of-state practice preceding the request for reinstatement that is sufficient to demonstrate current clinical proficiency, as specified in regulations adopted by the Board; and

(viii) Proof of passing the Ethics-Jurisprudence Examination as administered by the Board within the last licensing cycle preceding the individual's reinstatement application.

(3) The Board shall reinstate the license of a podiatrist who has been on inactive status and who does not meet the requirements of paragraph (2)(vii) of this subsection, if the podiatrist meets the continuing medical education requirements prescribed by the Board.

(b) The Board shall reinstate the license of a podiatrist who has been on inactive status and who has failed to renew the license for 1 licensing cycle or a 2-year period, whichever is longer, for any reason, if the podiatrist:

(1) Meets the renewal requirements of § 16-307(c) through (f) of this subtitle and subsection (a) of this section;

(2) Pays to the Board all past-due renewal fees and the reinstatement fee set by the Board; and

(3) Meets the requirements for obtaining a new license under this subtitle.

§16–309.

(a) Each licensee shall notify the Board of any change of address within 30 days of the change of address.

(b) The Board shall assess a fee against any licensee who fails to notify the

Board of a change of address as required by subsection (a) of this section.

§16–310.

(a) Unless the Board agrees to accept the surrender of a license, a licensed podiatrist or holder of a limited license 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.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§16–311.

(a) Subject to the hearing provisions of § 16–313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or a limited license to any applicant, reprimand any licensee or holder of a limited license, impose an administrative monetary penalty not exceeding $50,000 on any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or a limited license if the applicant, licensee, or holder:

(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 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;

(4) Abandons a patient;

(5) 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Has a condition, illness, or disease that may impair the ability of the individual to perform podiatric services;

(7) Personally uses a controlled dangerous substance in violation of the law;

(8) Prescribes or distributes a controlled dangerous substance to any other person in violation of the law;

(9) Promotes the sale to a patient of drugs, devices, appliances, or goods in a manner that exploits the patient for financial gain;

(10) Willfully makes or files a false report or record of podiatric services rendered;

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

(12) Submits a false statement to collect a fee;

(13) Fails to provide the details of the medical records of a patient to a licensed health care practitioner or institution or an authorized insurance carrier on proper request;

(14) Pays or agrees to pay any sum to any person for bringing or referring a patient;

(15) Practices podiatry with an unauthorized person or aids an unauthorized person in the practice of podiatry;

(16) Grossly overutilizes health care services;

(17) Behaves fraudulently, immorally, or unprofessionally in the practice of podiatry;

(18) Is professionally or mentally incompetent;

(19) Violates any provision of this title;

(20) Advertises in a false or misleading manner;

(21) Has been disciplined by a licensing or disciplinary authority of any state or country 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 United States Veterans Administration for an act that would be grounds for disciplinary action under this section;

(22) Violates any rules or regulations adopted by the Board;

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

(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) 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;

(26) Fails to display the notice required under § 16–404 of this title; or

(27) Fails to cooperate with a lawful investigation conducted by the Board.

(b) Subject to the hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may revoke the license of a podiatrist who practices podiatry while the podiatrist's license is suspended.

(c) On an affirmative vote of the majority of its members then serving, the Board may issue advisory opinions when:

(1) The Board determines that the licensee should modify or eliminate certain practices and that continuation of the practices may result in an action against the licensee's license; or

(2) The Board determines that there is not sufficient evidence to reprimand the licensee, place the licensee on probation, or suspend or revoke the license of the licensee.

(d) The Board may impose a monetary penalty under this section alone or in addition to a reprimand, probation, suspension, or revocation.

(e) By regulation, the Board shall establish standards for the imposition of penalties under this section.

§16–312.

(a) The Board may investigate any complaint filed with the Board that alleges that there are grounds for action under § 16-311 of this subtitle.

(b) After its investigation, the Board, on the affirmative vote of a majority of its members then serving, may commence action on any of the grounds set forth in § 16-311 of this subtitle.

(c) (1) Except as provided in paragraph (2) of this subsection, until the Board passes an order under § 16-314 of this subtitle, each related investigation, report, and recommendation is confidential.

(2) On the request of a person who has made a complaint to the Board, the Board shall provide the person with information on the status of the complaint.

§16–313.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 16-311 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(e) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(g) If, after a hearing, an individual is found in violation of § 16-311 of this subtitle, the individual shall pay the costs of the hearing as specified in a regulation adopted by the Board.

§16–314.

(a) (1) If the Board finds that there are grounds for action under § 16-311 of this subtitle, the Board shall pass an order in accordance with the Administrative Procedure Act.

(2) If the Board dismisses all charges, the Board shall expunge all record of the charges 3 years after the charges are dismissed.

(3) If the Board issues an advisory opinion, the Board, at the request of the licensee, shall expunge all record of the matter 5 years after the determination is made.

(b) (1) If a license is revoked or suspended, the holder shall surrender it to the Board on demand.

(2) At the end of a suspension period, the Board shall return to the licensee any license surrendered under this section.

§16–315.

(a) Except as provided in this section for an action under § 16–311 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 16–311 of

this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§16–316.

(a) The Board may reinstate the license of any individual whose license has been suspended or revoked under this title only in accordance with:

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

(2) A final judgment in any proceeding for review; or

(3) Subsection (b) of this section.

(b) If the license was revoked under § 16-311(b) of this subtitle for practicing with a suspended license, it may be reinstated at the discretion of the Board.

§16–317.

(a) The Board may issue a limited license for training to an applicant who:

(1) Meets all the requirements of this title for a license to practice podiatry, except the National Board of Podiatric Medical Examiners - Part III examination;

(2) Has an appointment for postgraduate clinical training in podiatry or as a podiatric instructor in:

(i) A health care facility licensed or approved by the Department;

(ii) A program approved by the Council on Education of the American Podiatry Association;

(iii) A program approved by the Board; or

(iv) A program affiliated with the Council of Podiatric Medical Education;

(3) Submits an application to the Board on the form that the Board requires; and

(4) Pays to the Board the application fee set by the Board.

(b) The Board shall include on any limited license that the Board issues:

(1) The name of the health care facility or program to which the individual holds an appointment; and

(2) The expiration date of the limited license.

(c) A limited license temporarily authorizes the licensee to practice podiatry, while the license is effective, only on:

(1) Patients of the health care facility or program named on the license; or

(2) Patients of a health care facility or program that is:

(i) Affiliated for training purposes with the health care facility or program named on the limited license; and

(ii) Approved by the Board.

(d) A limited license may be issued for a term of 1 year and may be renewed annually.

§16–318.

(a) The Board may issue a temporary license to a podiatrist licensed in another state to practice or teach podiatry in this State if:

(1) The license issued from the other state has licensing requirements equivalent to those in this State; and

(2) The licensed podiatrist pays a temporary license fee as determined by the Board.

(b) A temporary license temporarily authorizes the licensee to practice podiatry, while the license is effective, only on:

(1) Patients of the health care facility or program named on the license; or

(2) Patients of a health care facility or program that is:

(i) Affiliated for training purposes with the health care facility or program named on the temporary license; and

(ii) Approved by the Board.

(c) A temporary license may be issued for a term of 3 months and may be renewed at the discretion of the Board.

§16–319.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of podiatry; or

(2) Conduct that is a ground for disciplinary action under § 16-311 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the act sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of podiatry under § 16-501 of this title.

§16–319.1.

The Board may issue a cease and desist order or obtain injunctive relief for a violation of § 16–501 of this title.

§16–320.

(a) While investigating an allegation against a licensee under this title, the Board may require the licensee to submit to an appropriate examination by a health care provider designated by the Board if the Board has reason to believe that the licensee may cause harm to a person.

(b) In return for the privilege given to a licensee to practice podiatry in the State, the licensee is deemed to have:

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

(2) Waived any claim of privilege as to the testimony or report of a health care provider who examines the licensee.

(c) The failure or refusal of the licensee to submit to an examination required under this section is prima facie evidence of the licensee's inability to practice podiatry competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

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

§16–401.

A licensed podiatrist may not append to the name of the licensee or use as a title any word or abbreviation that suggests that the licensee is licensed to practice medicine rather than podiatry.

§16–402.

(a) Except as otherwise provided in this section, a podiatrist may practice only under the name on the license of the podiatrist.

(b) This section does not prohibit a podiatrist from practicing in a professional association, limited liability company, or in any other group practice otherwise allowed by law.

(c) This section does not prohibit a podiatrist from advertising under a trade name in connection with the practice of podiatry if:

(1) The use of the trade name is not deceptive or misleading;

(2) The advertisement in which the trade name appears includes:

(i) The name of the licensed podiatrist; or

(ii) The name of the licensed podiatrist and the name of the business entity under which podiatric services are provided;

(3) The name of the licensed podiatrist who provides podiatric services appears on:

(i) The billing invoices; and

(ii) Any billing receipts given to a patient; and

(4) Treatment records are maintained and clearly identify the licensed podiatrist who performed the podiatric treatment or service for any patient.

§16–403.

(a) In this section, "podiatrist rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a podiatrist rehabilitation committee is a committee of the Board or a committee of the Maryland Podiatry Association that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to podiatrists.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a podiatrist rehabilitation committee evaluates and provides assistance to any podiatrist, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the podiatrist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the podiatrist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the podiatrist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in any arbitration or civil proceeding.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of the podiatrist rehabilitation committee is not civilly liable for any action as a member of the podiatrist rehabilitation committee or for giving information to, participating in, or contributing to the function of the podiatrist rehabilitation committee.

§16–404.

If a podiatrist is engaged in the private practice of podiatry in this State, the podiatrist shall display the notice developed under § 1-207 of this article conspicuously in each office where the podiatrist is engaged in practice.

§16–501.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice podiatry in this State unless licensed by the Board.

§16–502.

Unless authorized to practice podiatry under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice podiatry in this State.

§16–505.

(a) Any person who practices, attempts to practice, or offers to practice podiatry in this State without complying with the provisions of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 90 days.

(b) Any person who violates § 16–501 of this subtitle is subject to a civil fine of not more than $50,000 to be assessed by the Board in accordance with regulations adopted by the Board.

§16–601.

This title may be cited as the "Maryland Podiatry Act".

§16–602.

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, 2022.

§17–101.

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

(b) "Alcohol and drug counseling" means assisting an individual, family, or group through the client–counselor relationship:

(1) To develop understanding of intrapersonal and interpersonal substance abuse problems;

(2) To define goals relating to substance abuse;

(3) To make decisions relating to substance abuse;

(4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group relating to substance abuse; and

(5) To use informational and community substance abuse resources relating to personal, social, emotional, educational, and vocational development and adjustment.

(c) (1) "Appraisal" means:

(i) Selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics; and

(ii) Using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations.

(2) "Appraisal" does not include instruments which require specialized psychological training for administration and interpretation unless the licensed counselor or therapist has completed the training required under § 17–310 of this title.

(d) "Art therapy" means the integrated use of psychotherapeutic principles, art media, and the creative process to assist individuals, families, or groups in:

(1) Increasing awareness of self and others;

(2) Coping with symptoms, stress, and traumatic experiences;

(3) Enhancing cognitive abilities; and

(4) Identifying and assessing clients' needs in order to implement therapeutic intervention to meet developmental, behavioral, mental, and emotional needs.

(e) "Board" means the State Board of Professional Counselors and Therapists.

(f) "Certificate" means a certificate issued by the Board to practice professional counseling.

(g) "Certified professional counselor" means a professional counselor who is certified by the Board.

(h) "Certified professional counselor–marriage and family therapist" means an individual who is certified by the Board to practice marriage and family therapy in the State.

(i) (1) "Certified supervised counselor–alcohol and drug" means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in § 17–404 of this title.

(2) "Certified associate counselor–alcohol and drug" means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in § 17–403 of this title.

(3) "Certified professional counselor–alcohol and drug" means an individual who is certified by the Board to practice alcohol and drug counseling in the State.

(j) "Counseling" means assisting an individual, family, or group through the client–counselor relationship:

(1) To develop understanding of intrapersonal and interpersonal problems;

(2) To define goals;

(3) To make decisions;

(4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group; and

(5) To use informational and community resources, as these procedures are related to personal, social, emotional, educational, and vocational development and adjustment.

(k) "Fund" means the State Board of Professional Counselors and Therapists Fund.

(l) "License" means, unless the context requires otherwise, one of six types of licenses issued by the Board authorizing an individual to practice:

(1) Clinical alcohol and drug counseling;

(2) Clinical marriage and family therapy;

(3) Clinical professional art therapy;

(4) Clinical professional counseling;

(5) Graduate alcohol and drug counseling;

(6) Graduate marriage and family therapy;

(7) Graduate professional art therapy; or

(8) Graduate professional counseling.

(m) "Licensed graduate alcohol and drug counselor" means an individual approved by the Board to practice graduate alcohol and drug counseling.

(n) "Licensed graduate marriage and family therapist" means an individual approved by the Board to practice graduate marriage and family therapy.

(o) "Licensed graduate professional art therapist" means an individual approved by the Board to practice graduate professional art therapy.

(p) "Licensed graduate professional counselor" means an individual approved

by the Board to practice graduate professional counseling.

(q) "Marriage and family therapy" means applying marriage and family systems theory, principles, methods, therapeutic techniques, and research in:

(1) Resolving emotional conflict and modifying perception and behavior in the context of marriage and family life; and

(2) The identification and assessment of client needs and the implementation of therapeutic intervention.

(r) "Practice alcohol and drug counseling" means to engage professionally and for compensation in alcohol and drug counseling activities while representing oneself to be a certified professional counselor–alcohol and drug, a certified supervised counselor–alcohol and drug, or a certified associate counselor–alcohol and drug.

(s) "Practice clinical alcohol and drug counseling" means to engage professionally and for compensation in alcohol and drug counseling and appraisal activities by providing services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

(t) "Practice clinical marriage and family therapy" means to engage professionally and for compensation in marriage and family therapy and appraisal activities by providing services involving the application of therapy principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

(u) "Practice clinical professional art therapy" means to engage professionally and for compensation in art therapy and appraisal activities by providing services involving the application of art therapy principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

(v) "Practice clinical professional counseling" means to engage professionally and for compensation in counseling and appraisal activities by providing services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

(w) "Practice graduate alcohol and drug counseling" means to practice clinical alcohol and drug counseling:

(1) Under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under §

17–302 of this title.

(x) "Practice graduate marriage and family therapy" means to practice clinical marriage and family therapy:

(1) Under the supervision of a licensed clinical marriage and family therapist or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17–303 of this title.

(y) "Practice graduate professional art therapy" means to practice clinical professional art therapy:

(1) Under the supervision of a licensed clinical professional art therapist or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17–304.1 of this title.

(z) "Practice graduate professional counseling" means to practice clinical professional counseling:

(1) Under the supervision of a licensed clinical professional counselor or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17–304 of this title.

(aa) "Practice marriage and family therapy" means to engage professionally and for compensation in marriage and family therapy activities while representing oneself to be a certified professional counselor–marriage and family therapist.

(bb) "Practice professional counseling" means to engage professionally and for compensation in counseling and appraisal activities while representing oneself to be a certified professional counselor.

§17–102.

(a) The General Assembly finds that the profession of counseling and therapy profoundly affects the lives and health of the people of this State.

(b) The purpose of this title is to protect the public by:

(1) Setting qualifications, education, training, and experience standards for counselors and therapists; and

(2) Promoting high professional standards for the practice of counseling and therapy.

§17–103.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§17–201.

There is a State Board of Professional Counselors and Therapists.

§17–202.

(a) (1) The Board consists of 13 members appointed by the Governor with the advice of the Secretary.

(2) Of the 13 Board members:

(i) Four shall be licensed as clinical professional counselors;

(ii) Three shall be licensed as clinical marriage and family therapists;

(iii) Three shall be licensed as clinical alcohol and drug counselors;

(iv) One shall be licensed as a clinical professional art therapist; and

(v) Two shall be consumer members.

(3) The composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State.

(4) The Governor shall appoint the counselors and therapists from a list submitted to the Governor by the Secretary. Any association representing professional counselors, marriage and family therapists, alcohol and drug counselors, or professional art therapists may submit recommendations for Board members to the Secretary.

(b) The consumer members of the Board:

(1) Shall be members of the general public;

(2) May not be or ever have been certified or licensed as a counselor or therapist or in training to become certified or licensed as a counselor or therapist;

(3) May not have a household member who is certified or licensed as a counselor or therapist or in training to become certified or licensed as a counselor or therapist;

(4) May not participate or ever have participated in a commercial or

professional field related to professional counseling, marriage and family therapy, alcohol and drug counseling, or professional art therapy;

(5) May not have a household member who participates in a commercial or professional field related to professional counseling, marriage and family therapy, alcohol and drug counseling, or professional art therapy;

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

(7) While members of the Board, may not have a substantial financial interest in a person regulated by the Board.

(c) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) (1) The term of a member is 4 years.

(2) The terms of the members of the Board are staggered as required by the terms of the members of the Board serving on July 1, 1988.

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

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

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

(e) (1) The Governor may remove a member for incompetency, misconduct, or neglect of duty.

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

§17–203.

(a) From among its members, the Board annually shall elect:

(1) A chairperson;

(2) A vice chairperson; and

(3) A secretary.

(b) The Board shall determine:

(1) The manner of election of officers;

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

(3) The duties of each officer.

§17–204.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall meet at least once a year, at the times and places that it determines.

(c) Each member of the Board is entitled to reimbursement for expenses at a rate determined by the Board.

(d) The Board may employ a staff in accordance with the budget of the Board.

§17–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt rules and regulations to carry out the provisions of this title.

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

(1) Maintain a registry of all counselors or therapists currently licensed or certified by the Board and all individuals currently working as trainees in accordance with § 17–406(b) of this title;

(2) Submit an annual report to the Governor and the Secretary;

(3) Adopt a code of ethics that the Board considers to be appropriate and applicable to the counselors or therapists currently certified or licensed by the Board and the individuals currently working as trainees in accordance with § 17–406(b) of this title;

(4) Establish continuing education requirements for the counselors or therapists currently certified or licensed by the Board;

(5) Adopt an official seal; and

(6) Create committees as it deems appropriate to advise the Board on special issues.

(c) (1) The Board may take action against a marriage and family therapist only if:

(i) Before taking action against the marriage and family therapist, the Board discusses the proposed action with a Board member who is a licensed clinical marriage and family therapist; and

(ii) A Board member who is a licensed clinical marriage and family therapist votes, either in the affirmative or in the negative, on the proposed action.

(2) The Board may take action against an alcohol and drug counselor only if:

(i) Before taking action against the alcohol and drug counselor, the Board discusses the proposed action with a Board member who is a licensed clinical alcohol and drug counselor; and

(ii) A Board member who is a licensed clinical alcohol and drug counselor votes, either in the affirmative or in the negative, on the proposed action.

(3) The Board shall investigate all complaints filed against licensed counselors and therapists if, at the time of the violation, the licensed counselor or therapist has also registered and qualified for psychology associate status by virtue of holding a master's degree under Title 18 (Maryland Psychologists Act) of this article.

(4) The Board shall notify the Board of Examiners of Psychologists of the complaint in writing within 60 days of receipt of the complaint if an investigation of the supervising licensed psychologists is warranted.

(5) The Board shall initiate disciplinary action against any licensed counselor or therapist who also registers as a psychology associate and violates any portion of this statute.

(d) The Board shall establish or select examinations that the Board considers appropriate to determine the ability of an applicant to be licensed or certified by the Board.

§17–206.

(a) There is a State Board of Professional Counselors and Therapists Fund.

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

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

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

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the Fund.

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

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§17–207.

A person shall have immunity from the liability described under § 5–722 of the Courts Article for giving information to the Board or otherwise participating in its activities.

§17–301.

(a) Except as otherwise provided in subsection (b) of this section, an individual may not practice, attempt to practice, or offer to practice clinical alcohol and drug counseling, clinical marriage and family therapy, clinical professional art therapy, or clinical professional counseling in the State unless licensed by the Board.

(b) Subject to the regulations of the Board, subsection (a) of this section does not apply to:

(1) A student working under the supervision of a licensed mental health care provider while pursuing a supervised course of study in counseling that the Board approves as qualifying training and experience under this title; or

(2) An individual who, in accordance with § 17–406 of this title, is working as a trainee under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed or certified under this article and approved by the Board while fulfilling the experiential or course of study requirements under § 17–302 of this subtitle or § 17–403 or § 17–404 of this title.

(c) This subtitle may not be construed to limit the scope of practice of any

individual who is duly licensed under this article.

§17–302.

(a) To qualify for a license to practice clinical alcohol and drug counseling, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) Except as provided in § 17–305 of this subtitle, the applicant shall:

(i) Hold a master's or doctoral degree in a health and human services counseling field from an accredited educational institution that is approved by the Board; or

(ii) Have completed a program of studies judged by the Board to be substantially equivalent in subject matter and extent of training as required under this section.

(2) (i) In the case of an applicant holding a doctoral degree, the applicant shall have completed a minimum of 90 graduate credit hours approved by the Board.

(ii) In the case of an applicant holding only a master's degree, the applicant shall have completed a minimum of 60 graduate credit hours approved by the Board.

(3) The applicant shall have completed a minimum of 26 credit hours in alcohol and drug counselor training, including:

(i) Medical aspects of chemical dependency;

(ii) Group counseling;

(iii) Individual counseling;

(iv) Family counseling;

(v) Assessment and treatment planning;

(vi) Ethics for alcohol and drug counselors;

(vii) Human development;

(viii) Abnormal psychology; and

(ix) Courses pertaining to counselor core functions of screening,

intake, orientation, case management, crisis intervention, education and prevention, referral, consultation, reports and record keeping, and special alcohol and drug dependency topics.

(e) The applicant shall have completed not less than 3 years with a minimum of 2,000 hours of supervised experience in alcohol and drug counseling approved by the Board, 2 years of which shall have been completed after the award of the master's or doctoral degree or its substantial equivalent.

(f) The applicant shall provide documentation to the Board evidencing the completion of 60 hours of graduate course work, completed at an accredited college or university approved by the Board that included training in:

(1) Personality development;

(2) Diagnosis and treatment of mental and emotional disorders;

(3) Psychopathology; and

(4) Psychotherapy in alcohol and drug disorders.

(g) The applicant shall provide documentation evidencing the completion of 2 years of postgraduate supervised clinical experience as required by the Board.

(h) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board.

§17–303.

(a) To qualify for a license to practice clinical marriage and family therapy, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) Except as provided in § 17–306 of this subtitle, the applicant shall hold a master's or doctoral degree in a marriage and family field from an accredited educational institution that is approved by the Board or have completed a program of studies judged by the Board to be substantially equivalent in subject matter and extent of training as required under this section.

(2) In the case of an applicant holding a doctoral degree, the applicant shall have completed a minimum of 90 graduate credit hours in training in marriage and family therapy approved by the Board that includes instruction in the following specialized areas:

(i) Analysis of family systems;

(ii) Family therapy, theory, and techniques;

(iii) Couples therapy, theory, and techniques;

(iv) Gender and ethnicity in marriage and family therapy; and

(v) Sexual issues in marriage and family therapy.

(3) In the case of an applicant holding only a master's degree, the applicant shall have completed a minimum of 60 graduate credit hours in training in marriage and family therapy approved by the Board that includes instruction in the specialized areas set forth in paragraph (2) of this subsection.

(e) The applicant shall have completed not less than 2 years with a minimum of 2,000 hours of supervised experience in marriage and family therapy approved by the Board, 2 years of which shall have been completed after the award of the master's or doctoral degree or its substantial equivalent.

(f) The applicant shall provide documentation to the Board evidencing the completion of 60 hours of graduate course work completed at an accredited college or university approved by the Board, that included training in:

(1) Personality development;

(2) Diagnosis and treatment of mental and emotional disorders;

(3) Psychopathology;

(4) Family therapy; and

(5) Psychotherapy.

(g) The applicant shall provide documentation evidencing the completion of 2 years of postgraduate supervised clinical experience as required by the Board.

(h) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board.

§17–304.

(a) Except as provided in § 17–307 of this subtitle, to qualify for a license to practice clinical professional counseling, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) The applicant shall hold a master's or doctoral degree in a professional

counseling field from an accredited educational institution that is approved by the Board.

(2) In the case of an applicant holding a doctoral degree, the applicant shall have completed:

(i) A minimum of 90 graduate credit hours in counselor training approved by the Board, including instruction in:

1. Counseling theory and ethics;

2. Counseling techniques;

3. Human growth and development and maladaptive behaviors;

4. Group dynamics, processing, and counseling;

5. Social and cultural foundations;

6. Lifestyle and career development;

7. Appraisal of individuals;

8. Research and evaluation;

9. Participation in a supervised practicum in professional counseling;

10. Marriage and family therapy; and

11. Alcohol and drug counseling; and

(ii) Not less than 2 years of supervised experience in counseling approved by the Board, 1 year of which shall have been completed after the award of the doctoral degree.

(3) In the case of an applicant holding only a master's degree, the applicant shall have completed:

(i) A minimum of 60 graduate credit hours in counselor training in the areas set forth in paragraph (2) of this subsection; and

(ii) Not less than 3 years, with a minimum of 3,000 hours, of supervised experience in counseling approved by the Board, 2 years of which shall have been completed after the award of the master's degree.

(e) The applicant shall provide documentation to the Board evidencing the completion of 60 hours of graduate course work in the applicant's respective area of

practice from an accredited college or university program approved by the Board, including training in:

(1) Personality development;

(2) Diagnosis and treatment of mental and emotional disorders;

(3) Psychopathology; and

(4) Psychotherapy.

(f) The applicant shall provide documentation evidencing the completion of 2 years of postgraduate supervised experience as required by the Board.

(g) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board.

§17–304.1.

(a) Except as provided in §§ 17–304.2 and 17–307.1 of this subtitle, to qualify for a license to practice clinical professional art therapy, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) The applicant shall hold a master's or doctoral degree in art therapy from an accredited educational institution that is approved by the Board.

(2) In the case of an applicant holding a doctoral degree, the applicant shall have completed:

(i) A minimum of 90 graduate credit hours in an art therapy program accredited by the American Art Therapy Association and approved by the Board; and

(ii) Not less than 2 years of supervised experience in art therapy approved by the Board, 1 year of which shall have been completed after the award of the doctoral degree.

(3) In the case of an applicant holding only a master's degree, the applicant shall have completed:

(i) A minimum of 60 graduate credit hours in an art therapy program accredited by the American Art Therapy Association and approved by the Board; and

(ii) Not less than 3 years, with a minimum of 3,000 hours, of

supervised experience in art therapy approved by the Board, 2 years of which shall have been completed after the award of the master's degree.

(e) The applicant shall provide documentation to the Board evidencing the completion of 60 hours of graduate course work in art therapy from an accredited college or university program that is accredited by the American Art Therapy Association, approved by the Board, and includes training in:

(1) Personality development;

(2) Diagnosis and treatment of mental and emotional disorders;

(3) Psychopathology;

(4) Psychotherapy;

(5) Marriage and family therapy;

(6) Addictions; and

(7) Lifestyle and career development.

(f) The applicant shall provide documentation evidencing the completion of 2 years of postgraduate supervised experience as required by the Board.

(g) Except as otherwise provided in this title, the applicant shall pass the Art Therapy Credentials Board Exam.

§17–304.2.

The Board shall waive the requirements for the practice of licensed clinical professional art therapy under § 17–304.1(d) through (g) of this subtitle if, on or before October 1, 2014, the applicant provides the Board with documentation showing:

(1) Current certification by the Art Therapy Credentials Board, Inc.; and

(2) Completion of 3 years of full–time experience providing art therapy.

§17–305.

(a) The Board shall waive the requirements for licensure for an applicant to practice clinical alcohol and drug counseling if the applicant:

(1) Is licensed or certified as a clinical alcohol and drug counselor in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17–302 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

(b) The Board shall adopt regulations to implement this section.

§17–306.

(a) The Board shall waive the requirements for licensure for an applicant to practice clinical marriage and family therapy if the applicant:

(1) Is licensed or certified as a clinical marriage and family therapist in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17–303 of this subtitle;

(2) Submits an application on the form that the Board requires; and

(3) Pays to the Board the application fee set by the Board.

(b) The Board shall adopt regulations to implement this section.

§17–307.

(a) The Board shall waive the requirements for licensure for an applicant to practice clinical professional counseling if the applicant:

(1) Is licensed or certified as a clinical professional counselor in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17–304 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

(b) The Board shall adopt regulations to implement this section.

§17–307.1.

(a) The Board shall waive the requirements for licensure for an applicant to practice clinical professional art therapy if the applicant:

(1) Is licensed as a clinical professional art therapist in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17–304.1 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

(b) The Board shall adopt regulations to implement this section.

§17–308.

(a) A license authorizes the licensee to practice clinical alcohol and drug counseling, clinical marriage and family therapy, clinical professional counseling, or clinical professional art therapy while the license is effective.

(b) An individual licensed under this subtitle may provide services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems, emotional conditions, or mental conditions of individuals or groups.

§17–309.

(a) The Board may adopt regulations to allow an individual to practice under supervision as a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, a licensed graduate professional counselor, or a licensed graduate professional art therapist.

(b) To qualify to practice as a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, a licensed graduate professional counselor, or a licensed graduate professional art therapist, an individual shall be:

(1) Of good moral character; and

(2) At least 18 years old.

(c) An individual may practice graduate alcohol and drug counseling under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a health and human services counseling field that meets the educational requirements of § 17–302 of this subtitle; and

(2) Passed the National Alcohol and Drug Counselor Examination approved by the Board.

(d) An individual may practice graduate marriage and family therapy under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a marriage and family field that meets the educational requirements of § 17–303 of this subtitle; and

(2) Passed the National Marriage and Family Therapy Examination approved by the Board.

(e) An individual may practice graduate professional counseling under

supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a professional counseling field that meets the educational requirements of § 17–304 of this subtitle; and

(2) Passed the National Professional Counselor Examination approved by the Board.

(f) An individual may practice graduate professional art therapy under supervision for a limited period of time if the individual has a master's or doctoral degree in art therapy that meets the educational requirements of § 17–304.1 of this subtitle.

(g) An individual may not practice without approval by the Board.

§17–310.

A licensed counselor or therapist may engage in appraisal activities that include instruments that require specialized psychological training for administration and interpretation if the licensed counselor or therapist has completed training that includes:

(1) Possession of a doctoral or master's degree in counseling or a related field that includes a minimum of nine graduate courses of at least 3 semester hours in each of the following courses:

(i) Psychopathology;

(ii) Biological bases of behavior;

(iii) Research methods;

(iv) Advanced statistics;

(v) Tests and measures;

(vi) Intellectual assessment;

(vii) Personality assessment;

(viii) Ethics; and

(ix) Practicum in advanced assessment;

(2) Completion of 500 hours of supervised, direct, client–related, advanced assessment testing that is completed not less than 2 years following the completion of the master's degree, of which a minimum of 100 hours shall include face–to–face supervision by a supervisor who is:

(i) A licensed mental health professional;

(ii) Proficient in the use of advanced assessment tests; and

(iii) Approved by the Board; and

(3) Passage of a national examination that includes items on advanced assessment that evaluate knowledge of advanced assessment procedures.

§17–401.

(a) (1) This subsection only applies to individuals certified by the Board as a certified professional counselor or certified professional counselor–marriage and family therapist on or before September 30, 2008.

(2) (i) An individual shall be certified as a professional counselor by the Board before the individual may:

1. Use the title "certified professional counselor";

2. Use the initials "C.P.C." after the name of the individual; or

3. Represent to the public that the individual is certified as a professional counselor.

(ii) A certificate to practice professional counseling issued by the Board authorizes the certificate holder to practice professional counseling while the certificate is effective.

(3) (i) An individual shall be certified as a professional counselor–marriage and family therapist by the Board before the individual may:

1. Use the title "certified professional counselor–marriage and family therapist";

2. Use the initials "C.P.C.–M.F.T." after the name of the individual; or

3. Represent to the public that the individual is certified as a certified professional counselor–marriage and family therapist.

(ii) A certificate to practice marriage and family therapy issued by the Board authorizes the certificate holder to practice marriage and family therapy while the certificate is effective.

(b) (1) An individual shall be certified as a certified professional counselor–alcohol and drug by the Board before the individual may:

(i) Use the title "certified professional counselor–alcohol and drug";

(ii) Use the initials "C.P.C.–A.D." after the name of the individual; or

(iii) Represent to the public that the individual is certified as a certified professional counselor–alcohol and drug.

(2) An individual shall be certified as a certified associate counselor–alcohol and drug by the Board before the individual may:

(i) Use the title "certified associate counselor–alcohol and drug";

(ii) Use the initials "C.A.C.–A.D." after the name of the individual; or

(iii) Represent to the public that the individual is certified as a certified associate counselor–alcohol and drug.

(3) An individual shall be certified as a certified supervised counselor–alcohol and drug by the Board before the individual may:

(i) Use the title "certified supervised counselor–alcohol and drug";

(ii) Use the initials "C.S.C.–A.D." after the name of the individual; or

(iii) Represent to the public that the individual is certified as a certified supervised counselor–alcohol and drug.

(4) A certificate to practice alcohol and drug counseling issued by the Board authorizes the certificate holder to practice alcohol and drug counseling while the certificate is effective.

§17–403.

(a) Except as provided in § 17–405 of this subtitle, to qualify as a certified associate counselor–alcohol and drug, an applicant shall:

(1) Hold a bachelor's degree from an accredited educational institution approved by the Board in a health and human services counseling field or have completed a program of studies judged by the Board to be substantially equivalent in subject matter and extent of training to such a program of studies;

(2) Have completed not less than 3 years, with a minimum of 2,000 hours of clinically supervised experience in alcohol and drug counseling approved by the Board, 2 years of which shall have been completed after the award of the bachelor's degree;

(3) Have a minimum of 21 credit hours in alcohol and drug counselor training, including instruction in:

(i) Medical aspects of chemical dependency;

(ii) Group counseling;

(iii) Individual counseling;

(iv) Family counseling;

(v) Assessment and treatment planning;

(vi) Ethics for alcohol and drug counselors;

(vii) Human development;

(viii) Abnormal psychology; and

(ix) Courses pertaining to counselor core functions of screening, intake, orientation, case management, crisis intervention, education and prevention, referral, consultation, reports and record keeping, and special alcohol and drug dependency topics; and

(4) (i) Practice alcohol and drug counseling under the supervision of a certified professional counselor–alcohol and drug or another health care provider approved by the Board; or

(ii) Provide alcohol and drug counseling as an employee of an agency or facility that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified under Title 8, Subtitle 4 of the Health – General Article.

(b) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board under this title.

§17–404.

(a) To qualify as a certified supervised counselor–alcohol and drug, an applicant shall:

(1) Hold an associate's degree in a health and human services counseling field or have completed a program of studies judged by the Board to be substantially equivalent in subject matter to such a program of studies;

(2) Have completed not less than 2 years, with a minimum of 2,000 hours of clinically supervised experience in alcohol and drug counseling approved by the Board, 1 year of which shall have been completed after the award of the associate's degree;

(3) Have a minimum of 15 credit hours in alcohol and drug counselor training, including instruction in:

(i) Medical aspects of chemical dependency;

(ii) Group counseling;

(iii) Individual counseling;

(iv) Family counseling;

(v) Assessment and treatment planning;

(vi) Ethics for alcohol and drug counselors;

(vii) Human development;

(viii) Abnormal psychology; and

(ix) Courses pertaining to counselor core functions of screening, intake, orientation, case management, crisis intervention, education and prevention, referral, consultation, reports and record keeping, and special alcohol and drug dependency topics; and

(4) Practice alcohol and drug counseling under the supervision of a certified professional counselor–alcohol and drug or another health care provider approved by the Board and provide alcohol and drug counseling as an employee of an agency or facility that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified under Title 8, Subtitle 4 of the Health – General Article.

(b) Except as otherwise provided in this title, the applicant shall pass an examination approved by the Board under this title.

§17–405.

(a) The Board shall waive the requirements for certification for an applicant to practice alcohol and drug counseling if the applicant meets the requirements of this section.

(b) If the applicant is licensed or certified to practice as an associate counselor–alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17–403 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

(c) If the applicant is licensed or certified to practice as a supervised

counselor–alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17–404 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

(d) The Board shall adopt regulations to carry out this section.

§17–406.

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

(2) "Approved alcohol and drug supervisor" means:

(i) A certified professional counselor–alcohol and drug;

(ii) A licensed clinical alcohol and drug counselor; or

(iii) A health care provider licensed or certified under this article with documented expertise in alcohol and drug counseling, as approved by the Board.

(3) "Under the supervision of an approved alcohol and drug supervisor" means engaging in an ongoing process that includes direct, on–site, face–to–face, individual or group meetings with an approved alcohol and drug supervisor focused on quality of delivery of alcohol and drug counseling services and improvement of counseling skills for a minimum of 1 documented hour for each 40–hour workweek but not less than 2 documented hours per month for less than a 40–hour workweek.

(b) (1) An individual may practice clinical alcohol and drug counseling without a license for a limited period of time, as determined by the Board, if the individual is working as a trainee under the supervision of an approved alcohol and drug supervisor while fulfilling the experiential or course of study requirements under § 17–302 of this title or § 17–403 or § 17–404 of this subtitle.

(2) An individual may practice alcohol and drug counseling without certification for a limited period of time, as determined by the Board, if the individual is working as a trainee under the supervision of an approved alcohol and drug supervisor while fulfilling the experiential or course of study requirements under § 17–302 of this title or § 17–403 or § 17–404 of this subtitle.

§17–407.

The Board may waive the requirement that an applicant under § 17–403 or § 17–404 of this subtitle complete the requisite amount of clinically supervised experience in alcohol and drug counseling after the award of the applicant's required degree if the applicant, prior to the award of the required degree, obtained a minimum of 5 years of clinically supervised experience in alcohol and drug counseling approved by the Board.

§17–501.

To apply for a license or certificate, an applicant shall:

(1) Submit an application on the form that the Board requires;

(2) Pay to the Board the application fee set by the Board; and

(3) Submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

§17–501.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) A complete set of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and the applicant the criminal history record information of the applicant.

(d) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as allowed by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) Information obtained from the Central Repository under this section:

(1) Shall be confidential;

(2) May not be redisseminated; and

(3) Shall be used only for the licensing or certification purpose authorized by this title.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§17–502.

(a) An applicant who otherwise qualifies for a license or certificate is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least twice a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) The Board may not limit the number of times an applicant may take an examination required under this title.

(2) The applicant shall pay to the Board a reexamination fee set by the Board for each reexamination.

(e) The examination shall include a portion that tests an applicant's knowledge of the Maryland Professional Counselors and Therapists Act.

§17–503.

(a) The Board shall issue a license or certificate to any applicant who meets the requirements of this title.

(b) The Board shall include on each license and certificate that the Board issues:

(1) The kind of license or certificate;

(2) The full name of the licensee or certificate holder;

(3) A serial number;

(4) The signatures of the chairman and the secretary of the Board; and

(5) The seal of the Board.

(c) The Board may issue a license or certificate to replace a lost, destroyed, or

mutilated license or certificate if the licensee or certificate holder pays the replacement fee set by the Board.

(d) (1) On receipt of the criminal history record information of an applicant for licensure or certification forwarded to the Board in accordance with § 17–501.1 of this subtitle, in determining whether to grant a license or certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license or certificate if the criminal history record information required under § 17–501.1 of this subtitle has not been received.

§17–504.

(a) (1) A license or certificate expires on the date set by the Board, unless the license or certificate is renewed for an additional term as provided in this section.

(2) A license or certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license or certificate expires, the Board shall send to the licensee or certificate holder, by electronic means or first–class mail to the last known electronic or physical address of the licensee or certificate holder, a renewal notice that states:

(1) The date on which the current license or certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license or certificate expires; and

(3) The amount of the renewal fee.

(c) Each licensee or certificate holder shall notify the Board of any change in the address of the licensee or certificate holder.

(d) Before the license or certificate expires, the licensee or certificate holder

periodically may renew it for an additional 2–year term, if the licensee or certificate holder:

(1) Otherwise is entitled to be licensed or certified;

(2) Pays to the Board the renewal fee set by the Board;

(3) Submits to the Board a renewal application on the form that the Board requires; and

(4) Submits satisfactory evidence of compliance with any continuing education requirements as required by the Board for license or certificate renewal.

(e) (1) The Board shall renew the license or certificate of and issue a renewal license or certificate to each licensee or certificate holder who meets the requirements of this section.

(2) The Board shall include the term of the renewal on each renewal license or certificate that the Board issues.

(f) (1) (i) Beginning with the renewal cycle in 2015, the Board shall begin a process of requiring criminal history records checks in accordance with § 17–501.1 of this subtitle on:

1. Selected renewal applicants as determined by regulations adopted by the Board; and

2. Each former licensee who files for reinstatement under § 17–505 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 6 years after the initial records check required under subparagraph (i) of this paragraph.

(2) (i) On receipt of the criminal history record information of an applicant for license or certificate renewal forwarded to the Board in accordance with § 17–501.1 of this subtitle, in determining whether to renew a license or certificate, the Board shall consider:

1. The age at which the crime was committed;

2. The circumstances surrounding the crime;

3. The length of time that has passed since the crime;

4. Subsequent work history;

5. Employment and character references; and

6. Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(ii) The Board may not renew a license or certificate if the criminal history record information required under § 17–501.1 of this subtitle has not been received.

§17–505.

(a) (1) Except as provided in paragraph (3) of this subsection, the Board shall place a licensee or certificate holder on inactive status, if the licensee or certificate holder:

(i) Submits to the Board an application for inactive status on the form required by the Board; and

(ii) Pays the inactive status fee set by the Board.

(2) The Board shall issue a license or certificate to an individual who is on inactive status if the individual complies with the renewal requirements that are in effect when the individual requests the renewal of the license or certificate.

(3) The Board may not place a certified professional counselor–alcohol and drug, a certified professional counselor–marriage and family therapist, or a certified professional counselor on inactive status.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board, in accordance with its regulations, may reinstate the license of a licensee or the certificate of a certificate holder who has failed to renew the license or certificate for any reason.

(2) The Board may not reinstate the certificate of a certified professional counselor–alcohol and drug, a certified professional counselor–marriage and family therapist, or a certified professional counselor who has failed to renew the certificate for any reason.

§17–506.

Each licensee or certificate holder shall display the license or certificate conspicuously in the licensee's or certificate holder's office or place of employment.

§17–507.

(a) Any individual who is licensed under Subtitle 3 of this title or certified under Subtitle 4 of this title may not charge a client or receive remuneration for counseling or therapy services unless:

(1) Before the performance of those services, the client is furnished a copy of a professional disclosure statement; or

(2) (i) This professional disclosure statement is displayed in a conspicuous location at the place where the services are performed; and

(ii) A copy of the statement is provided to the client on request.

(b) The professional disclosure statement shall contain:

(1) The name, title, business address, and business telephone number of the licensee or certificate holder performing the services;

(2) The formal professional education of the licensee or certificate holder, including the institutions attended and the degrees received from them;

(3) The areas of specialization of the licensee or certificate holder and the services provided;

(4) In the case of an individual licensed under Subtitle 3 of this title or certified under Subtitle 4 of this title who is engaged in a private individual practice, partnership, or group practice, the individual's fee schedule listed by type of service or hourly rate;

(5) At the bottom of the first page of the disclosure statement, the words, "This information is required by the Board of Professional Counselors and Therapists, which regulates all licensed and certified counselors and therapists."; and

(6) Immediately beneath the statement required by item (5) of this subsection, the name, address, and telephone number of the Board.

§17–508.

(a) In this section, "regulated counselor or therapist" means:

(1) A licensed clinical alcohol and drug counselor;

(2) A licensed clinical marriage and family therapist;

(3) A licensed clinical professional art therapist;

(4) A licensed clinical professional counselor;

(5) A licensed graduate alcohol and drug counselor;

(6) A licensed graduate marriage and family therapist;

(7) A licensed graduate professional art therapist;

(8) A licensed graduate professional counselor;

(9) A certified professional counselor–alcohol and drug counselor;

(10) A certified associate counselor–alcohol and drug counselor;

(11) A certified supervised counselor–alcohol and drug counselor;

(12) A certified professional counselor–marriage and family therapist; and

(13) A certified professional counselor.

(b) Unless the Board agrees to accept the surrender of a license or certificate, while the licensee or certificate holder is under investigation or while charges are pending against the licensee or certificate holder, a regulated counselor or therapist may not:

(1) Surrender the license or certificate; or

(2) Allow the license or certificate to lapse by operation of law.

(c) The Board may set conditions on its agreement with the regulated counselor or therapist under investigation or against whom charges are pending to accept surrender of the license or certificate.

§17–509.

Subject to the hearing provisions of § 17–511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

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

(2) Habitually is intoxicated;

(3) 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;

(4) Aids or abets an unauthorized individual in practicing clinical or nonclinical counseling or therapy or representing to be an alcohol and drug counselor, marriage and family therapist, professional counselor, or professional art therapist;

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

(6) Willfully makes or files a false report or record in the practice of counseling or therapy;

(7) Makes a willful misrepresentation while counseling or providing therapy;

(8) Violates the code of ethics adopted by the Board;

(9) Knowingly violates any provision of this title;

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

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

(12) Submits a false statement to collect a fee;

(13) Violates any rule or regulation adopted by the Board;

(14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(15) 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 or the certificate holder is certified and qualified to render because the individual is HIV positive;

(16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;

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

(18) Fails to cooperate with a lawful investigation conducted by the Board; or

(19) Fails to submit to a criminal history records check in accordance with § 17–501.1 of this subtitle.

§17–510.

(a) If after a hearing under § 17–511 of this subtitle the Board finds that there are grounds under § 17–509 of this subtitle to place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license or certificate, the Board may impose a penalty not exceeding $5,000:

(1) Instead of placing the licensee or certificate holder on probation,

reprimanding the licensee or certificate holder, or suspending or revoking the license or certificate; or

(2) In addition to placing the licensee or certificate holder on probation, reprimanding the licensee or certificate holder, or suspending or revoking the license or certificate.

(b) The Board shall adopt regulations to set standards for the imposition of penalties under this section.

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

§17–511.

(a) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board takes any action under § 17–509 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) The hearing notice to be given to the individual shall be served personally or by registered mail to the last known address of the individual at least 30 days before the hearing.

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

(e) (1) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(2) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

§17–512.

(a) Except as provided in this section for an action under § 17–409 of this title, any person aggrieved by a final decision of the Board in a contested case, as defined in § 10–201 of the State Government Article, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 17–509 of this subtitle may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) An order of the Board may not be stayed pending judicial review.

(d) The Board may petition for judicial review of any decision that reverses or modifies its order.

§17–513.

(a) The Board may issue a cease and desist order or obtain injunctive relief for a violation of any provision of § 17–301 or §§ 17–601 through 17–603 of this title.

(b) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, professional counseling and clinical professional counseling, or clinical professional art therapy; or

(2) Conduct that is a ground for disciplinary action under § 17–509 of this subtitle.

(c) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(d) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the acts sought to be enjoined.

(e) Proof of actual damages or that any person will sustain any damages if an injunction is not granted is not required for an action under this section.

(f) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, professional counseling and clinical professional counseling, or clinical professional art therapy, under § 17–301, § 17–601, § 17–602, or § 17–603 of this title or disciplinary action under § 17–509 of this subtitle.

§17–514.

For reasons the Board considers sufficient, and on the affirmative vote of a majority of its members then serving, the Board may:

(1) Reinstate a license or certificate that has been revoked;

(2) Reduce the period of a suspension or probation; or

(3) Withdraw a reprimand.

§17–515.

(a) In this section, "counselor and therapist rehabilitation committee" means a committee that:

(1) Is described in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a counselor and therapist rehabilitation committee is a committee of the Board or a committee of any association or associations representing alcohol and drug counselors, marriage and family therapists, professional counselors, or professional art therapists that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to alcohol and drug counselors, marriage and family therapists, professional counselors, and professional art therapists.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a counselor and therapist rehabilitation committee evaluates and provides assistance to any alcohol and drug counselor, marriage and family therapist, professional counselor, professional art therapist, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the counselor and therapist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of the matters that are being or have been reviewed and evaluated by the counselor and

therapist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the counselor and therapist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a counselor and therapist rehabilitation committee is not civilly liable for any action as a member of the counselor and therapist rehabilitation committee or for giving information to, participating in, or contributing to the function of the counselor and therapist rehabilitation committee.

§17–601.

Unless an individual is licensed to practice clinical alcohol and drug counseling, clinical marriage and family therapy, clinical professional counseling, or clinical professional art therapy, an individual may not:

(1) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is licensed by the Board to provide clinical alcohol and drug counseling services, clinical marriage and family therapy services, clinical professional counseling services, or clinical professional art therapy services in the State;

(2) Use any title, abbreviation, sign, card, or other representation that the individual is a licensed clinical alcohol and drug counselor, licensed clinical marriage and family therapist, licensed clinical professional counselor, licensed clinical professional art therapist; or

(3) Use the title "L.C.A.D.C.", "L.C.M.F.T.", "L.C.P.C.", or "L.C.P.A.T." or the words "licensed clinical alcohol and drug counselor", "licensed clinical marriage and family therapist", "licensed clinical professional counselor", or "licensed clinical professional art therapist" with the intent to represent that the individual practices clinical alcohol and drug counseling, clinical marriage and family therapy, clinical professional counseling, or clinical professional art therapy.

§17–602.

Except as otherwise provided in this title, unless an individual has been approved by the Board to practice as a licensed graduate alcohol and drug counselor, a licensed graduate professional counselor, a licensed graduate marriage and family therapist, or a licensed graduate professional art therapist the individual may not:

(1) Use the title "licensed graduate alcohol and drug counselor", "licensed

graduate professional counselor", "licensed graduate marriage and family therapist", or "licensed graduate professional art therapist";

(2) Use the initials "L.G.A.D.C.", "L.G.P.C.", "L.G.M.F.T.", or "L.G.P.A.T." after the name of the individual;

(3) Represent to the public that the individual is approved by the Board to practice alcohol and drug counseling, professional counseling, marriage and family therapy, or professional art therapy; or

(4) Use any title, abbreviation, sign, card, or other representation that the individual is a licensed graduate alcohol and drug counselor, a licensed graduate professional counselor, a licensed graduate marriage and family therapist, or a licensed graduate professional art therapist.

§17–603.

Except as otherwise provided in this title, unless an individual is certified to practice alcohol and drug counseling, marriage and family therapy, or professional counseling, the individual may not:

(1) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is certified by the Board to provide counseling or therapy services in this State;

(2) Use any title, abbreviation, sign, card, or other representation that the individual is a certified professional counselor, certified professional counselor–marriage and family therapist, certified professional counselor–alcohol and drug, certified associate counselor–alcohol and drug, or certified supervised counselor–alcohol and drug; or

(3) Use the title "C.P.C.", "C.P.C.–M.F.T.", "C.P.C.–A.D.", "C.A.C.–A.D.", or "C.S.C.–A.D.", the words "certified professional counselor" or "certified professional counselor–marriage and family therapist", or the words "certified counselor" or "certified marriage and family therapist" with the intent to represent that the individual practices professional counseling or marriage and family therapy, or the words "certified professional counselor–alcohol and drug", "certified associate counselor–alcohol and drug", "certified supervised counselor–alcohol and drug" with the intent to represent that the individual practices alcohol and drug counseling.

§17–604.

(a) A person who violates any provision of this subtitle or § 17–301 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(b) A person who violates any provision of this subtitle or § 17–301 of this title is subject to a civil fine not exceeding $50,000 to be assessed by the Board in accordance

with regulations adopted by the Board.

(c) Each violation of this subtitle is a separate offense.

§17–6A–01.

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

(b) "Committee" means the Behavior Analyst Advisory Committee established under § 17–6A–05 of this subtitle.

(c) "License" means a license issued by the Board to practice behavior analysis.

(d) "Licensed behavior analyst" means an individual who is licensed by the Board to practice behavior analysis.

(e) "Licensee" means a licensed behavior analyst.

(f) (1) "Practice of behavior analysis" means the design, implementation, and evaluation of systematic instructional and environmental modifications to produce socially significant improvements in human behavior.

(2) "Practice of behavior analysis" includes:

(i) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis; and

(ii) Interventions based on scientific research and the direct observation and measurement of behavior and environment.

(3) "Practice of behavior analysis" does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, counseling, or any subdiscipline of psychology as treatment modalities.

§17–6A–02.

(a) This subtitle does not limit the use of the terms "behavior analysis" or "behavioral analysis" by an individual authorized to practice under this article who is practicing within the individual's scope of practice.

(b) This subtitle does not limit the right of an individual to practice a health occupation that the individual is licensed, certified, or otherwise authorized to practice under this article.

§17–6A–03.

The Board shall adopt:

(1) Regulations for the licensure and practice of behavior analysis; and

(2) A code of ethics for the practice of behavior analysis.

§17–6A–04.

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

(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 behavior analysts.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller.

(2) The Comptroller shall distribute all fees to the Board.

(c) The fees shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this subtitle.

§17–6A–05.

There is a Behavior Analyst Advisory Committee within the Board.

§17–6A–06.

(a) The Committee consists of five members appointed by the Board as follows:

(1) (i) On or before December 31, 2014, four behavior analysts who:

1. Are certified by the Behavior Analyst Certification Board; and

2. Have a minimum of 5 years of clinical experience; and

(ii) On or after January 1, 2015, four licensed behavior analysts who:

1. Are certified by the Behavior Analyst Certification Board; and

2. Have a minimum of 5 years of clinical experience; and

(2) One consumer member who is receiving services, has received services, or has a child who is receiving services for a behavioral disorder, including an autism spectrum disorder.

(b) The consumer member of the Committee:

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

(2) May not be or ever have been a behavior analyst or in training to become a behavior analyst;

(3) May not have a household member who is a behavior analyst or in training to become a behavior analyst;

(4) May not participate or ever have participated in a commercial or professional field related to behavior analysis;

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

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

(c) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2014.

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

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

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

(d) The Board may remove a member for incompetence or misconduct.

§17–6A–07.

(a) From among its members, the Committee annually shall elect a chair and a vice chair.

(b) The Committee shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§17–6A–08.

(a) A majority of the members then serving on the Committee is a quorum.

(b) (1) The Committee shall meet at least once a year, at the times and places that it determines.

(2) The Committee may hold special meetings if:

(i) Requested by the Board; or

(ii) The chair or a majority of the members then serving on the Committee consider a meeting to be necessary or advisable.

(3) Reasonable notice of all Committee meetings shall be given in the manner determined by the Committee.

(c) A member of the Committee:

(1) May not receive compensation as a member of the Committee; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§17–6A–09.

In addition to the powers and duties 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 a code of ethics for the practice of behavior analysis;

(3) Develop and recommend to the Board the requirements for licensure as a behavior analyst, including:

(i) Criteria for the educational and clinical training of licensed behavior analysts; and

(ii) Criteria for a professional competency examination and testing of applicants for a license to practice behavior analysis;

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

(5) Provide the Board with recommendations concerning the practice of behavior analysis;

(6) Keep a record of its proceedings; and

(7) Report to the Board as required in regulations adopted by the Board.

§17–6A–10.

(a) Except as otherwise provided in this subtitle, beginning January 1, 2015, an individual shall be licensed by the Board before the individual may practice behavior analysis in the State.

(b) This section does not apply to a student enrolled in an educational program that meets the criteria of § 17–6A–11(c)(2) of this subtitle while engaged in an unpaid, clinical educational experience of behavior analysis.

§17–6A–11.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character; and

(2) Be at least 18 years old.

(c) The applicant shall:

(1) Have a current certification by the Behavior Analyst Certification Board or its successor organization;

(2) Have received a master's degree or higher from a behavior analysis educational program that is accredited by the Behavior Analyst Certification Board or its successor organization;

(3) Demonstrate oral and written competency in English as required by the Board; and

(4) Meet any other requirements established by the Board.

(d) The Board shall waive the education requirements under subsection (c)(2) of this section if an individual was certified by the Behavior Analyst Certification Board on or before December 31, 2014, and is currently in good standing.

§17–6A–12.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) Pay to the Board the application fee set by the Board; and

(3) Submit to a criminal history records check in accordance with §

17–501.1 of this title.

§17–6A–13.

(a) The Board shall issue a license to any applicant who meets the requirements of this subtitle.

(b) The Board shall include on each license that the Board issues:

(1) The full name of the licensed behavior analyst;

(2) The dates of issuance and expiration;

(3) A serial number;

(4) The signatures of the chair and the vice chair of the Board; and

(5) The seal of the Board.

(c) (1) On receipt of the criminal history record information of an applicant for licensure forwarded to the Board in accordance with § 17–501.1 of this title, in determining whether to grant a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license if the criminal history record information required under § 17–501.1 of this title has not been received.

§17–6A–14.

A behavior analyst license authorizes the licensee to practice behavior analysis while the license is effective.

§17–6A–15.

(a) A license expires on a date set by the Board unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by first–class mail or electronic mail to the last known address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before a license expires, the licensee periodically may renew the license for an additional term if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements established by the Board under subsection (d) of this section.

(d) The Board may establish continuing education requirements as a condition of the renewal of licenses under this section.

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

§17–6A–16.

(a) (1) The Board shall place a licensee on inactive status if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) (i) The Board shall license an individual on inactive status who applies for a license if the individual:

1. Complies with the renewal requirements that exist at the time the individual changes from inactive status to active status; and

2. Meets any continuing education requirements established by the Board.

(ii) The Board may not require payment of a late fee by an individual as a condition to licensing under this paragraph.

(b) The Board shall reinstate the license of a behavior analyst who has not been put on inactive status and who has failed to renew the license for any reason if the behavior analyst:

(1) Meets the renewal requirements of § 17–6A–15 of this subtitle;

(2) Pays to the Board a reinstatement fee set by the Board; and

(3) Applies to the Board for reinstatement of the license within 5 years after the license expires.

(c) (1) The Board may not reinstate the license of a behavior analyst who fails to apply for reinstatement of the license within 5 years after the license expires.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a behavior analyst may become licensed by meeting the current requirements for obtaining a new license under this subtitle.

§17–6A–17.

(a) A licensee shall notify the Board in writing of a change in name or address within 60 days after the change.

(b) A licensee who fails to comply with subsection (a) of this section is subject to an administrative penalty of $100.

§17–6A–18.

Unless the Board accepts the surrender of a license, the license may not lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

§17–6A–19.

Subject to the hearing provisions of § 17–6A–21 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee 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 convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to

have the conviction or plea set aside;

(4) Aids or abets an unauthorized person in practicing behavior analysis or representing oneself to be a behavior analyst;

(5) Practices behavior analysis fraudulently or deceitfully;

(6) Violates the code of ethics adopted by the Board under § 17–6A–03 of this subtitle;

(7) 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;

(8) Submits a false statement to collect a fee;

(9) Willfully makes or files a false report or record in the practice of behavior analysis;

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

(11) Violates any provision of this subtitle or any regulation adopted by the Board;

(12) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

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

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

(15) Behaves immorally in the practice of behavior analysis;

(16) Commits an act of unprofessional conduct in the practice of behavior analysis;

(17) 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;

(18) Fails to cooperate with a lawful investigation conducted by the Board;

(19) Commits an act that is inconsistent with generally accepted professional standards in the practice of behavior analysis;

(20) Fails to submit to a criminal history records check in accordance with § 17–501.1 of this title;

(21) Habitually is intoxicated;

(22) Provides professional services while under the influence of alcohol or 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; or

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

§17–6A–20.

(a) If, after a hearing under § 17–6A–21 of this subtitle, the Board finds that there are grounds under § 17–6A–19 of this subtitle to suspend or revoke a license or to reprimand a licensee, the Board may impose a monetary penalty not exceeding $10,000:

(1) Instead of suspending the license; or

(2) In addition to suspending or revoking the license.

(b) The Board shall adopt regulations to set standards for the imposition of monetary penalties under this section.

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

§17–6A–21.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 17–6A–19 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) The hearing notice to be given to the individual shall be served personally or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the individual at least 30 days before the hearing.

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

(e) (1) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this subtitle and any hearings or proceedings before the Board.

(2) The Board shall issue subpoenas on behalf of the individual if the individual:

(i) Requests that the Board do so; and

(ii) States under oath that the testimony or evidence sought is necessary to the individual's defense.

(3) If, without lawful excuse, an individual disobeys a subpoena from the Board or an order by the Board to take an oath, testify, or answer a question, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

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

§17–6A–22.

(a) Except as provided in this section for an action under § 17–6A–19 of this subtitle, any person aggrieved by a final decision of the Board 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 under § 17–6A–19 of this subtitle may not appeal to the Secretary or the 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) A decision of the Board to deny a license, enforce a suspension of a license for more than 1 year, or revoke a license may not be stayed pending judicial review.

§17–6A–23.

For reasons the Board considers sufficient, and on the affirmative vote of a majority of its members then serving, the Board may:

(1) Reinstate a license that has been revoked;

(2) Reduce the period of a suspension; or

(3) Withdraw a reprimand.

§17–6A–24.

The Board may issue a cease and desist order for a violation of this subtitle.

§17–6A–25.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of behavior analysis; or

(2) Conduct that is a ground for disciplinary action under § 17–6A–19 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the acts sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of behavior analysis under § 17–6A–27 of this subtitle or disciplinary action under § 17–6A–19 of this subtitle.

§17–6A–26.

(a) In this section, "behavior analyst rehabilitation subcommittee" means a subcommittee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a behavior analyst rehabilitation subcommittee is a subcommittee of the Committee that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to behavior analysts.

(c) A rehabilitation subcommittee of the Committee or recognized by the Committee may function:

(1) Solely for the Committee; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a behavior analyst rehabilitation subcommittee evaluates and provides assistance to any behavior analyst in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the behavior analyst rehabilitation subcommittee are not discoverable and are not admissible in evidence in any civil action arising out of the matters that are being or have been reviewed and evaluated by the behavior analyst rehabilitation subcommittee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the behavior analyst rehabilitation subcommittee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of the behavior analyst rehabilitation subcommittee is not civilly liable for any action as a member of the behavior analyst rehabilitation subcommittee or for giving information to, participating in, or contributing to the function of the behavior analyst rehabilitation subcommittee.

§17–6A–27.

(a) Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice behavior analysis in this State unless licensed by the Board.

(b) Each violation of this section is a separate offense.

§17–6A–28.

Unless authorized to practice behavior analysis under this subtitle, a person may

not:

(1) Represent to the public that the person is a licensed behavior analyst; or

(2) Use any title, abbreviation, sign, card, or other representation that the person is a licensed behavior analyst.

§17–6A–29.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both.

(b) A person who violates § 17–6A–27 of this subtitle is subject to a civil fine of not more than $50,000 to be assessed by the Board in accordance with regulations adopted by the Board.

§17–6A–30.

This subtitle may be cited as the Maryland Behavior Analysts Act.

§17–6A–31.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, 2024.

§17–701.

This title may be cited as the "Maryland Professional Counselors and Therapists Act".

§17–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules or regulations adopted under this title shall terminate and be of no effect after July 1, 2019.

§18–101.

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

(b) "Board" means the State Board of Examiners of Psychologists.

(c) (1) "Doctoral degree in psychology" means:

(i) A degree received from a program that at the time the degree was awarded:

1. Is accredited by the American Psychological Association or the Canadian Psychological Association; or

2. Is listed in the designated doctoral programs in psychology published by the Council for the National Register of Health Service Providers in Psychology; or

(ii) A doctoral degree in psychology that the Council for the National Register of Health Service Providers in Psychology determines meets its criteria for a doctoral degree in psychology, if the degree was received from a doctoral program in psychology that:

1. Is located outside the United States and Canada;

2. Is currently accredited or designated in accordance with item (i) of this paragraph, but was not accredited or designated at the time the degree was awarded;

3. Was completed prior to 1981 for United States programs;

4. Was completed prior to 1988 for Canadian programs; or

5. Is no longer in existence.

(2) (i) A determination by the Council under paragraph (1)(ii) of this subsection that a doctoral degree in psychology meets its criteria shall be considered by the Board as prima facie evidence that the degree meets those criteria.

(ii) In determining whether the degree in psychology meets the criteria described in paragraph (1)(ii) of this subsection and subparagraph (i) of this paragraph, the Board may consider the completion of postdoctoral course work in psychology, not to exceed 9 semester hours.

(d) "License" means, unless the context requires otherwise, a license issued by the Board to practice psychology as a psychologist.

(e) "Licensed psychologist" means an individual who meets the requirements in § 18–302(f) of this title and is licensed by the Board to practice psychology.

(f) (1) "Practice psychology" means to provide to any person:

(i) Any service for compensation involving the application of psychological principles, psychological methods, or psychological procedures for understanding, predicting, or influencing behavior, including the principles that relate to learning, perception, motivation, emotions, organizational relationships, and interpersonal relationships;

(ii) Any service for compensation involving the application of

psychological methods or psychological procedures for interviewing, counseling, psychotherapy, behavior modification, or hypnosis; or

(iii) Any service for compensation involving the application of psychological methods or psychological procedures for constructing, administering, or interpreting tests of mental abilities, neuropsychological functioning, aptitudes, interests, attitudes, personality characteristics, emotions, or motivations.

(2) "Practice psychology" includes:

(i) The application of psychological principles and psychological methods in the diagnosis, prevention, treatment, and amelioration of psychological problems, emotional conditions, or mental conditions of individuals or groups;

(ii) The use of psychological methods to assist an individual in acquiring greater human effectiveness or to modify feelings, conditions, attitudes, or behavior that is emotionally, intellectually, or socially ineffectual or maladjusted; and

(iii) The use of biofeedback instruments that do not pierce or cut the skin to measure physical and mental functioning.

(3) In this subsection, "psychological methods", "psychological principles", and "psychological procedures" include the body of information that can be derived from a graduate program in psychology, and other education or training recognized by the Board as prerequisites for a license under this title, and that does not amount to the practice of medicine.

(g) "Registered psychology associate" means an individual who meets the requirements in § 18–302(g) of this title and is registered by the Board to practice psychology.

(h) "Registration" means, unless the context requires otherwise, a registration issued by the Board to practice psychology as a psychology associate.

§18–102.

Unless the individual uses as a title or describes the services the individual provides by use of the words "psychological", "psychologist", or "psychology", this title does not limit:

(1) The right of an individual to practice a health occupation that the individual is licensed, certified, or otherwise authorized to practice under this article;

(2) The right of an individual to provide vocational rehabilitation services as authorized under Title 9, Subtitle 6 of the Labor and Employment Article; or

(3) The nonprofit activities and services of a bona fide religious organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue

Code.

§18–201.

There is a State Board of Examiners of Psychologists in the Department.

§18–202.

(a) (1) The Board consists of 9 members.

(2) Of the 9 Board members:

(i) 2 shall be consumer members; and

(ii) 7 shall be licensed psychologists, of whom:

1. At least 2 shall be engaged primarily in providing psychological services; and

2. At least 2 shall be engaged primarily in teaching, training, or research in psychology.

(3) The Governor shall appoint the psychologist members, with the advice of the Secretary and the advice and consent of the Senate, from a list of names submitted to the Secretary by the Maryland Psychological Association.

(4) For each vacancy of a psychologist member, the Maryland Psychological Association shall:

(i) Notify all licensed psychologists in the State of the vacancy to solicit nominations to fill the vacancy; and

(ii) Conduct a balloting process where every licensed psychologist is eligible to vote to select the names of the licensed psychologists that will be submitted to the Governor.

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

(b) Each psychologist member of the Board shall be:

(1) A licensed psychologist who has practiced, taught, or engaged in research in psychology for at least 5 years;

(2) A citizen of the United States; and

(3) A resident of this State.

(c) Each consumer member of the Board:

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

(2) May not be or ever have been a psychologist or psychology associate or in training to become a psychologist or psychology associate;

(3) May not have a household member who is a psychologist or psychology associate or in training to become a psychologist or psychology associate;

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

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

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

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

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

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

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

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

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

(g) (1) The Governor may remove a member for incompetence or misconduct.

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

§18–203.

(a) From among its members, the Board annually shall elect a chairman and a vice chairman.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§18–204.

(a) A majority of the members then serving on the Board is a quorum.

(b) (1) The Board shall meet at least once a year, at the times and places that it determines.

(2) The Board may hold special meetings, if:

(i) Requested by the Secretary; or

(ii) The chairman or a majority of the members then serving on the Board consider a meeting to be necessary or advisable.

(3) Reasonable notice of all Board meetings shall be given in the manner determined by the Board.

(c) A member of the Board is entitled to:

(1) Compensation, in accordance with the budget of the Board, for each day on which the member is engaged in performing the duties of the member's office; and

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

(d) (1) The Board may designate one of its staff as Board administrator.

(2) The Board administrator may be compensated in accordance with the budget of the Board.

(3) The Board may employ other staff in accordance with the budget of the Board.

§18–205.

A person shall have the immunity from liability described under § 5-717 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§18–206.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt rules and regulations to carry out the provisions of this title.

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

(1) Establish procedures for receiving and investigating complaints, including:

(i) Providing notice to the licensee or registrant that a complaint has been filed against the licensee or registrant and forwarding a copy of the complaint to the licensee or registrant within 120 days of receipt of the complaint, unless the Board:

1. Makes an affirmative determination that the disclosure would prejudice the investigation of the complaint and notifies the licensee or registrant of the determination; or

2. Disposes of the complaint within 120 days of the date of receipt of the complaint; and

(ii) Notifying, at least every 3 months, the licensee or registrant and the complainant as to the status of any outstanding complaint;

(2) Submit an annual report of its activities to the Secretary as soon as practicable after the end of each fiscal year; and

(3) Adopt an official seal.

§18–206.1.

(a) The Board may disclose any information contained in a record of the Board to any other health occupations regulatory board of this State or another state if the health occupations regulatory board of this State or another state requests the information in writing.

(b) The Board, its executive director or administrator, or the Office of the Attorney General, may disclose to any licensing or disciplinary authority or other law enforcement, prosecutorial, or judicial authority, any information in the investigatory files of the Board.

§18–207.

(a) There is a State Board of Examiners for Psychologists Fund.

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

(2) The fees charged shall be set so as to produce revenues that approximate the cost of maintaining the Board.

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

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Examiners for Psychologists Fund.

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

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

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

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

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§18–301.

(a) Except as otherwise provided in this section, an individual shall be licensed or registered by the Board before the individual may practice psychology as a psychologist or psychology associate in this State.

(b) A registered psychology associate may practice psychology in this State only if:

(1) The registered psychology associate is supervised by a licensed psychologist in accordance with regulations adopted by the Board;

(2) The supervising licensed psychologist is jointly responsible for the provision of psychological services by the registered psychology associate; and

(3) The registered psychology associate does not use any title other than "registered psychology associate".

(c) Subject to the rules and regulations of the Board, this section does not apply to:

(1) The activities and services of and the use of an official title by

an individual employed by any agency of the federal government, this State, or any political subdivision of this State, or a chartered educational institution while performing the duties of that employment;

(2) The education–related services described in regulations adopted by the State Department of Education that are performed by a certified school psychologist:

(i) While performing the duties of employment of the certified school psychologist; or

(ii) While conducting staff development and training workshops for compensation;

(3) The activities and services of a student, intern, resident or fellow while pursuing a supervised course of study in psychology that the Board approves as qualifying training and experience under this title; and

(4) The activities and services of an individual licensed or certified as a psychologist in any state who recently has become a resident of this State and has an application for a license approved by the Board, provided that the individual passes the first scheduled examination for which the applicant is eligible.

(d) If, for good cause, an applicant for a license under subsection (c)(4) of this section is unable to take the first scheduled examination for which the applicant is eligible, the Board may grant an extension to the individual to take the next scheduled examination for which the applicant is eligible.

(e) The Board may authorize an unlicensed individual to practice psychology, subject to any limitations the Board imposes, if:

(1) The Board finds that the circumstances warrant; and

(2) The individual:

(i) Is not a resident of this State; and

(ii) Meets the qualifications, other than residence and examination, for a license.

(f) (1) The exceptions of subsection (c)(1) of this section do not apply to individuals who are employed by the Department, a county health department, the Baltimore City Health Department, the Department of State Police, or the Department of Public Safety and Correctional Services after July 1, 1985.

(2) An individual who is employed by any of the departments under this subsection on July 1, 1985 but who is not licensed by the Board shall function under the direct supervision of a licensed psychologist who takes full responsibility for the psychological services provided by the individual.

§18–302.

(a) To qualify for a license or registration, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) Except as provided in this subsection, an applicant shall reside or practice, or intend to reside or practice, in this State.

(2) The Board may issue a license or registration to an applicant who is neither a resident of this State nor practicing in this State if the applicant shows that issuing the license or registration would be in the interest of the citizens or government of this State.

(e) The applicant shall submit to a criminal history records check in accordance with § 18–302.1 of this subtitle.

(f) In addition to the other requirements of this section, to qualify to be a licensed psychologist, an applicant shall:

(1) Have a doctoral degree in psychology; and

(2) Have at least 2 years of professional, supervised experience in psychology that is approved by the Board in accordance with regulations adopted by the Board.

(g) Except as provided in subsection (i) of this section and in addition to the other requirements of this section, to qualify to be a registered psychology associate, an applicant shall:

(1) Have a master's degree in clinical psychology, counseling psychology, or school psychology from a program accredited by the Council for Higher Education Accreditation;

(2) Have a master's degree in education with a field of specialization in psychology or counseling psychology from a program accredited by the Council for Higher Education Accreditation;

(3) Be admitted to candidacy for a doctoral degree in clinical psychology, counseling psychology, school psychology, or education with a field of specialization in psychology or counseling psychology in a program accredited by the Council for Higher Education Accreditation, after having satisfactorily:

(i) Completed at least 3 years of postgraduate education in psychology; and

(ii) Passed preliminary doctoral examinations;

(4) Have completed a doctoral degree in psychology or in education with a field of specialization in psychology or counseling psychology from a program accredited by the Council for Higher Education Accreditation; or

(5) Have at least a master's level degree from a program outside the United States that has been determined by the Board to be equivalent to a degree listed in item (1), (2), or (4) of this subsection.

(h) (1) An applicant for a psychologist license shall successfully pass:

(i) A national examination in the practice of psychology; and

(ii) The State jurisprudence examination.

(2) Except as provided in subsection (i) of this section, an applicant for a psychology associate registration shall successfully pass the State jurisprudence examination.

(i) The Board shall grant a waiver of the requirements of subsections (g) and (h)(2) of this section to an applicant for a psychology associate registration if the applicant was approved by the Board before October 1, 2014, to practice psychology as a psychology associate under the supervision of a licensed psychologist.

§18–302.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and the applicant the criminal history record information of the applicant.

(d) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as allowed by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) Information obtained from the Central Repository under this section:

(1) Shall be confidential;

(2) May not be redisseminated; and

(3) Shall be used only for the licensing purpose authorized by this title.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§18–303.

To apply for a license or registration to practice psychology, an applicant shall:

(1) Submit a verified application to the Board on the form that the Board requires;

(2) Pay to the Board the application fee set by the Board; and

(3) Submit to a criminal history records check in accordance with § 18–302.1 of this subtitle.

§18–304.

(a) An applicant who otherwise qualifies for a license or registration is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least once a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) The Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(e) (1) The Board may not limit the number of times an applicant may take an examination required under this subtitle.

(2) The applicant shall pay to the Board a reexamination fee set by the Board for each reexamination.

§18–305.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this title for an individual who is licensed or certified as a psychologist in any other state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee required by the Board under § 18-303 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) Became licensed or certified in the other state under requirements substantially equivalent to the licensing requirements of this title.

§18–306.

(a) The Board shall issue a license or registration to any applicant who meets the requirements of this title.

(b) The Board shall include on each license or registration that the Board issues:

(1) The full name of the licensee or registrant;

(2) The dates of issuance and expiration;

(3) A serial number;

(4) The signatures of the chairman and the vice chairman of the Board; and

(5) The seal of the Board.

(c) (1) On receipt of the criminal history record information of an applicant for licensure or registration forwarded to the Board in accordance with § 18–302.1 of this subtitle, in determining whether to grant a license or registration, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license or registration if the criminal history record information required under § 18–302.1 of this subtitle has not been received.

§18–307.

(a) Except as otherwise provided in this section, a license or registration authorizes the licensee or registrant to practice psychology while the license or registration is effective.

(b) An individual licensed by the Board is authorized to use the words "psychological", "psychologist", or "psychology" to describe the services the individual provides, for purposes of reimbursement, but not for any other purpose, if:

(1) The individual originally was certified without examination because the individual had at least 25 years of experience as an instructor in psychiatry on the teaching staff of an accredited school of medicine in this State and applied for certification without examination before January 1, 1979; and

(2) When the individual was certified, the Board stipulated that the use of those words by the individual was so limited.

§18–308.

(a) The Board shall maintain a roster that contains the name and address of each psychologist and psychology associate currently licensed or registered, listed alphabetically by name and geographically by address, and any other information the Board considers desirable.

(b) The Board shall:

(1) Respond to inquiries from the public regarding information contained in the roster; and

(2) Provide copies of the roster by mail to the public on request.

§18–309.

(a) (1) A license or registration expires on the date set by the Board, unless it is renewed for an additional term as provided in this section.

(2) A license or registration may not be renewed for a term longer than 2 years.

(b) (1) (i) At least 90 days before a license expires, the Board shall send a

renewal notice to the licensee:

1. By first–class mail to the last known address of the licensee; or

2. If requested by the licensee, by electronic means to the last known electronic mail address of the licensee.

(ii) If a renewal notice sent by electronic means under subparagraph (i)2 of this paragraph is returned to the Board as undeliverable, the Board shall send a renewal notice to the licensee by first–class mail to the last known address of the licensee.

(2) At least 90 days before a registration expires, the Board shall send a renewal notice to the registrant:

(i) By first–class mail to the last known address of the registrant; or

(ii) By electronic means to the last known electronic mail address of the registrant.

(c) The renewal notice sent under subsection (b) of this section shall state:

(1) The date on which the current license or registration expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license or registration expires; and

(3) The amount of the renewal fee.

(d) Each licensee or registrant shall notify the Board in writing of any change in the licensee's or registrant's address or electronic mail address within 30 days after the change occurs.

(e) Before the license or registration expires, the licensee or registrant periodically may renew it for an additional 2–year term, if the licensee or registrant:

(1) Otherwise is entitled to be licensed or registered;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license or registration renewal.

(f) (1) The Board may establish continuing education requirements as a condition to the renewal of licenses or registrations under this section.

(2) The requirements established under this subsection shall be set by the Board as to the amount and type of study required.

(g) The Board shall renew the license or registration of each licensee or registrant who meets the requirements of this section.

§18–310.

(a) (1) The Board shall place a licensee on inactive status, if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) (i) The Board shall license an individual on inactive status who applies for a license if the individual:

1. Complies with the renewal requirements that exist at the time the individual changes from inactive status to active status; and

2. Meets the continuing education requirements set by the Board.

(ii) The Board may not require payment of a late fee by an individual as a condition to licensing under this paragraph.

(b) The Board shall reinstate the license or registration of a psychologist or psychology associate who has failed to renew the license or registration for any reason if the psychologist or psychology associate:

(1) Meets the renewal requirements of § 18–309 of this subtitle;

(2) Pays to the Board a reinstatement fee set by the Board; and

(3) Applies to the Board for reinstatement of the license or registration within 5 years after the license or registration expires.

(c) (1) The Board may not reinstate the license or registration of a psychologist or psychology associate who fails to apply for reinstatement of the license or registration within 5 years after the license or registration expires.

(2) A psychologist or psychology associate who fails to apply for reinstatement of the license or registration within 5 years after the license or registration expires may become licensed or registered by meeting the current

requirements for obtaining a new license or registration under this title.

§18–311.

(a) (1) The Board shall adopt a code of ethics for psychologists and psychology associates in this State.

(2) The code of ethics adopted under paragraph (1) of this subsection shall be designed to protect the public interest.

(b) In adopting the code of ethics, the Board shall consider:

(1) The ethical standards of psychologists published by the American Psychological Association; and

(2) The professional character of psychological services.

(c) In adopting the code of ethics, the Board shall announce and hold public hearings on the subject.

§18–312.

(a) Unless the Board agrees to accept the surrender of a license or registration, a licensed psychologist or registered psychology associate may not surrender the license or registration nor may the license or registration lapse by operation of law while the licensee or registrant is under investigation or while charges are pending against the psychologist or psychology associate.

(b) The Board may set conditions on its agreement with the psychologist or psychology associate under investigation or against whom charges are pending to accept surrender of the psychologist's license or psychology associate's registration.

§18–313.

Subject to the hearing provisions of § 18–315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or registration to any applicant, reprimand any licensee or registrant, place any licensee or registrant on probation, or suspend or revoke a license or registration of any licensee or registrant if the applicant, licensee, or registrant:

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

(2) Fraudulently or deceptively uses a license or registration;

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

(4) Is or has been addicted to any narcotic or habitually intoxicated;

(5) Aids or abets an unauthorized person in practicing psychology or representing oneself to be a psychologist or a psychology associate;

(6) Practices psychology fraudulently or deceitfully;

(7) Violates the code of ethics adopted by the Board under § 18–311 of this subtitle;

(8) 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;

(9) Submits a false statement to collect a fee;

(10) Willfully makes or files a false report or record in the practice of psychology;

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

(12) Violates any provision of this title or any regulation adopted by the Board;

(13) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

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

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

(16) Behaves immorally in the practice of psychology;

(17) Commits an act of unprofessional conduct in the practice of psychology;

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

(19) Fails to cooperate with a lawful investigation conducted by the Board;

(20) Does an act that is inconsistent with generally accepted professional standards in the practice of psychology;

(21) Fails to submit to a criminal history records check in accordance with § 18–302.1 of this subtitle; or

(22) Fails to supervise a registered psychology associate in accordance with regulations adopted by the Board.

§18–313.1.

(a) If, after a hearing under § 18–315 of this subtitle, the Board finds that there are grounds under § 18–313 of this subtitle to suspend or revoke a license or registration or to reprimand a licensee or registrant, the Board may impose a monetary penalty not exceeding $10,000:

(1) Instead of suspending the license or registration; or

(2) In addition to suspending or revoking the license or registration.

(b) The Board shall adopt regulations to set standards for the imposition of monetary penalties under this section.

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

§18–314.

(a) If, in investigating an allegation brought against a licensee or registrant under this title, the Board has reason to believe that the licensee or registrant may cause harm to persons affected by the licensee's or registrant's practice of psychology, the Board, on its own initiative, may direct the licensee or registrant to submit to an appropriate examination by a psychologist or physician designated by the Board.

(b) In return for the privilege given to a licensee or registrant to practice psychology in the State, the licensee or registrant is deemed to have:

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

(2) Waived any claim of privilege as to the testimony or examination reports of the examining psychologist or physician.

(c) The failure or refusal of the licensee or registrant to submit to an examination required under subsection (b) of this section is prima facie evidence of the licensee's or registrant's inability to practice psychology competently, unless the Board finds that the failure or refusal was beyond the control of the licensee or registrant.

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

§18–315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 18-313 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) The hearing notice to be given to the individual shall be served personally or by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the individual at least 10 days before the hearing.

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

(e) (1) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before the Board.

(2) The Board shall issue subpoenas on behalf of the individual if the individual:

(i) Requests that the Board do so; and

(ii) States under oath that the testimony or evidence sought is necessary to the individual's defense.

(3) If, without lawful excuse, an individual disobeys a subpoena from the Board or an order by the Board to take an oath, testify, or answer a question, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

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

§18–316.

(a) Except as provided in this section for an action under § 18–313 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 18–313 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as

provided in the Administrative Procedure Act.

(c) A decision of the Board to deny a license or registration, enforce a suspension of a license or registration for more than 1 year, or revoke a license or registration may not be stayed pending judicial review.

§18–317.

For reasons the Board considers sufficient, and on the affirmative vote of a majority of its members then serving, the Board may:

(1) Reinstate a license or registration that has been revoked;

(2) Reduce the period of a suspension; or

(3) Withdraw a reprimand.

§18–317.1.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of psychology; or

(2) Conduct that is a ground for disciplinary action under § 18-313 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the acts sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of psychology under § 18-401 of this title or disciplinary action under § 18-313 of this subtitle.

§18–318.

(a) In this section, "psychologist rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a psychologist rehabilitation committee is a committee of the Board or a committee of the Maryland Psychological Association that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to psychologists.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a psychologist rehabilitation committee evaluates and provides assistance to any psychologist, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the psychologist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of the matters that are being or have been reviewed and evaluated by the psychologist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the psychologist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of the psychologist rehabilitation committee is not civilly liable for any action as a member of the psychologist rehabilitation committee or for giving information to, participating in, or contributing to the function of the psychologist rehabilitation committee.

§18–401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice psychology in this State unless licensed or registered by the Board.

(b) Each violation of this section is a separate offense.

§18–402.

(a) Unless authorized to practice psychology under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice psychology in this State.

(b) Unless authorized or permitted to do so by this title, a person may not use as a title or describe the services the person provides by use of the words "psychological", "psychologist", or "psychology".

§18–404.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment in jail not exceeding 1 year or both.

(b) (1) A person who violates § 18–401 of this subtitle is subject to a civil fine of not more than $50,000 to be assessed by the Board in accordance with regulations adopted by the Board.

(2) The Board shall pay any penalty collected under this subsection into the State Board of Examiners for Psychologists Fund.

§18–501.

This title may be cited as the "Maryland Psychologists Act".

§18–502.

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, 2023.

§19–101.

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

(b) "Board" means the State Board of Social Work Examiners.

(c) "Certified" means having demonstrated to the satisfaction of the Board that the individual has completed 2 years of supervised social work practice as defined in §

19–302(d) or (e) of this title.

(d) "License" means, unless the context requires otherwise, one of four types of licenses issued by the Board authorizing an individual to practice:

(1) Bachelor social work;

(2) Graduate social work;

(3) Certified social work; or

(4) Certified social work–clinical.

(e) "Licensed bachelor social worker" means an individual licensed by the Board to practice bachelor social work.

(f) "Licensed certified social worker" means an individual licensed by the Board to practice certified social work.

(g) "Licensed certified social worker–clinical" means an individual licensed by the Board to practice clinical social work.

(h) "Licensed graduate social worker" means an individual licensed by the Board to practice graduate social work.

(i) "Practice bachelor social work" means to practice social work:

(1) Under the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the conditions specified in regulations; and

(2) Utilizing the education and training required under § 19–302(b) of this title.

(j) "Practice certified social work" means to practice social work utilizing the education, training, and experience required under § 19–302(d) of this title.

(k) "Practice clinical social work" means to practice social work utilizing the specialized education, training, and experience required under § 19–302(e) of this title.

(l) "Practice graduate social work" means to practice social work:

(1) Under the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the conditions specified in regulations; and

(2) Utilizing the education and training required under § 19–302(c) of this title.

(m) (1) "Practice social work" means to apply the theories, knowledge, procedures, methods, or ethics derived from a formal educational program in social work to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through:

(i) Assessment;

(ii) Planning;

(iii) Intervention;

(iv) Evaluation of intervention plans;

(v) Case management;

(vi) Information and referral;

(vii) Counseling that does not include diagnosis or treatment of mental disorders;

(viii) Advocacy;

(ix) Consultation;

(x) Education;

(xi) Research;

(xii) Community organization; or

(xiii) Development, implementation, and administration of policies, programs, and activities.

(2) For an individual licensed as a graduate social worker, "practice social work" also includes:

(i) Supervision of other social workers if the graduate social worker meets the requirements set out in regulations;

(ii) Formulating a diagnosis, under the direct supervision of a licensed certified social worker–clinical;

(iii) Treatment of biopsychosocial conditions; and

(iv) Treatment of mental disorders and the provision of psychotherapy under the direct supervision of a licensed certified social worker–clinical.

(3) For an individual licensed as a certified social worker, "practice social

work" also includes:

(i) Supervision of other social workers;

(ii) Formulating a diagnosis, under the direct supervision of a licensed certified social worker–clinical;

(iii) Treatment of biopsychosocial conditions; and

(iv) Treatment of mental disorders and the provision of psychotherapy under the direct supervision of a licensed certified social worker–clinical.

(4) For an individual licensed as a certified social worker–clinical, "practice social work" also includes:

(i) Supervision of other social workers;

(ii) Evaluation, diagnosis, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and mental disorders as defined in § 10–101(f) of the Health – General Article;

(iii) Petitioning for emergency evaluation under Title 10, Subtitle 6 of the Health – General Article; and

(iv) The provision of psychotherapy.

(n) "Psychotherapy" means the assessment and treatment of mental disorders and behavioral disturbances.

(o) "Supervision" means a formalized professional relationship between a supervisor and a supervisee that:

(1) Provides evaluation and direction of the supervisee; and

(2) Promotes continued development of the supervisee's knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

§19–102.

(a) The General Assembly finds that the profession of social work profoundly affects the lives, health, safety, and welfare of the people of this State.

(b) The purpose of this title is to protect the public by:

(1) Setting minimum qualification, education, training, and experience standards for the licensing of individuals to practice social work; and

(2) Promoting and maintaining high professional standards for the

practice of social work.

§19–103.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§19–201.

There is a State Board of Social Work Examiners in the Department.

§19–202.

(a) (1) The Board consists of 12 members.

(2) Of the 12 Board members:

(i) 10 shall be licensed social workers of whom:

1. Subject to paragraph (3) of this subsection, 1 is a licensed bachelor social worker;

2. Subject to paragraph (3) of this subsection, 1 is a licensed graduate social worker at the time of appointment;

3. Subject to paragraph (3) of this subsection, at least 1 is a licensed certified social worker;

4. Subject to paragraph (3) of this subsection, at least 4 are licensed certified social workers–clinical;

5. 1 is a licensed social worker employed by the Department of Human Resources; and

6. Subject to paragraph (3) of this subsection, 1 is a licensed social worker who is:

A. Primarily engaged in social worker education at a social work program accredited by the Council on Social Work Education; and

B. Nominated from a list of names submitted by the deans and directors of the Maryland Social Work Education Programs; and

(ii) 2 shall be consumer members.

(3) If a licensed bachelor social worker, a licensed graduate social worker, a licensed certified social worker, a licensed certified social worker–clinical, or a licensed social worker is not appointed to the Board under paragraph (2)(i) of this subsection within 3 months of a vacancy, a licensee of any license level shall be

appointed immediately if that licensee is qualified to be a member of the Board under subsections (b) and (d) of this section.

(4) The Governor shall appoint all members of the Board with the advice of the Secretary and the advice and consent of the Senate.

(5) The Governor shall appoint all social work members of the Board from a list of nominees containing names submitted by:

(i) Professional social work associations in the State;

(ii) Any person who provides a statement of nomination signed by at least 15 social workers licensed in the State;

(iii) The secretaries of public agencies of the State where social workers are employed; or

(iv) The corporate executive officers or executive directors of private organizations where social workers are employed.

(b) Each member of the Board shall be a resident of this State.

(c) Each consumer member of the Board:

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

(2) May not be or ever have been a social worker or in training to become a social worker;

(3) May not have a household member who is a social worker or in training to become a social worker;

(4) May not participate or ever have participated in a commercial or professional field related to social work;

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

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

(d) Except for the licensed bachelor social worker member and the licensed graduate social worker member, each social worker member of the Board shall have been licensed in the State for 5 years immediately preceding the appointment and actively employed in the field of social work for at least 3 of the 5 years immediately preceding the appointment.

(e) While a member of the Board, a consumer member may not have a

substantial financial interest in a person regulated by the Board or a person that employs a person regulated by the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

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

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

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

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

(h) (1) The Governor may remove a member for incompetence, misconduct, or neglect of duty.

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

§19–203.

(a) (1) From among its members, the Board shall elect a chair, vice chair, and secretary–treasurer every 2 years.

(2) The Board may elect other officers as necessary to fulfill the duties and responsibilities of the Board.

(b) The Board shall determine:

(1) The manner of election of the chair, vice chair, secretary–treasurer, and other officers; and

(2) The duties of each officer.

§19–204.

(a) A majority of the appointed members of the Board is a quorum to do business.

(b) The Board shall meet at least once a year, at the times and places that it determines.

(c) Each member of the Board is entitled to reimbursement for expenses at a rate determined by the Board.

(d) The Board may employ a staff in accordance with the budget of the Board.

(e) (1) The Board shall appoint an executive director.

(2) The executive director:

(i) Serves at the pleasure of the Board;

(ii) Is the executive officer of the Board; and

(iii) Has the powers and duties assigned by the Board.

§19–205.

In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To adopt a code of ethics;

(3) To adopt an official seal;

(4) To hold hearings and keep records and minutes necessary for the orderly conduct of business;

(5) To issue a list annually of all currently licensed social workers and all social workers disciplined by the Board in the past year in accordance with § 4–333 of the General Provisions Article; and

(6) To investigate an alleged violation of this title.

§19–206.

(a) There is a State Board of Social Work Examiners Fund.

(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 to produce funds so as to approximate the cost of maintaining the Board.

(3) The Board may set fees for the issuance and renewal of each type of

license.

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

(c) An application fee may be charged by the Board.

(d) The Board shall provide a list of the fees set under this section to each applicant for a license.

(e) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Social Work Examiners Fund.

(f) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

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

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

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

(g) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

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

§19–207.

A person shall have the immunity from liability described under § 5-718 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§19–301.

(a) Except as otherwise provided in this title, an individual shall be:

(1) Licensed by the Board before the individual may practice social work in this State while representing oneself as a social worker; or

(2) Licensed as a certified social worker–clinical before the individual may practice clinical social work in this State.

(b) This section does not apply to:

(1) An individual employed by any agency of the federal government while performing the duties of that employment;

(2) An individual licensed as a social worker in another state while responding to an emergency in this State;

(3) An individual who:

(i) Is licensed to practice social work in any other state;

(ii) Has an application for a license pending before the Board; and

(iii) Meets requirements established by the Board in regulations; or

(4) A student while pursuing a supervised course of study in a social work program that is accredited or is a candidate for accreditation by the Council on Social Work Education.

(c) An individual may not practice social work without a license under subsection (b)(3) of this section for more than 6 months.

§19–302.

(a) To obtain a license, an applicant shall demonstrate to the satisfaction of the Board that the applicant:

(1) Has submitted a complete written application in the form prescribed by the Board;

(2) Is at least 18 years old;

(3) Is of good moral character;

(4) Except as otherwise provided in this title, has successfully passed an examination or examinations prescribed by the Board pertinent to the license sought;

(5) Has paid all applicable fees specified by the Board;

(6) Has completed a criminal history records check in accordance with § 19–302.2 of this subtitle at the applicant's expense; and

(7) Has submitted to an examination if required under § 19–302.3 of this subtitle.

(b) To obtain a bachelor social worker license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section; and

(2) Have received a baccalaureate degree in social work from a program that is accredited or is a candidate for accreditation by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.

(c) To obtain a graduate social worker license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section; and

(2) Have received a master's degree from a program that is accredited or is a candidate for accreditation by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.

(d) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section;

(2) Have received a master's degree from a program accredited by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education; and

(3) Provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours after receiving the master's degree with a minimum of 100 hours of periodic face–to–face supervision in the practice of social work under the terms and conditions that the Board determines by regulation.

(e) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker–clinical license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section;

(2) Have received a master's degree in social work and documentation of completion of 12 academic credits in clinical course work from a program accredited by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education, with a minimum of 6 of the 12 academic credits obtained in a master's degree program; and

(3) Provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours, of which 1,500 hours are in face–to–face client contact, after receiving the master's degree with a minimum of 144 hours of periodic face–to–face supervision in the assessment, formulation of a diagnostic impression, and treatment of mental disorders and other

conditions and the provision of psychotherapy under the terms and conditions that the Board determines by regulation.

§19–302.1.

To obtain a certified social worker license or a certified social worker–clinical license, an out–of–state applicant shall:

(1) Meet the requirements of § 19–302(a) of this subtitle;

(2) Be licensed or registered to practice social work in another state at a level of licensure that is equivalent to a certified social worker license or a certified social worker–clinical license;

(3) Have passed an examination in that state as a condition of licensure; and

(4) Have performed at least 1,000 hours of compensated social work practice per year for 5 years out of the 10 years preceding application to the Board.

§19–302.2.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) A complete set of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) (1) Information obtained from the Central Repository under this section:

(i) Is confidential and may not be redisseminated; and

(ii) May be used only for the licensing purpose authorized by this title.

(2) In using information obtained from the Central Repository under this section to determine whether to issue a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime was committed;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§19–302.3.

(a) The Board may require an applicant to submit to a mental or physical examination by a health care practitioner designated by the Board if the Board:

(1) Has reason to believe that the applicant may cause harm to the applicant or to another person;

(2) Makes a written request for the applicant to submit to the examination;

(3) Provides the applicant with a list of three health care practitioners from which the applicant may choose a health care practitioner to conduct the examination; and

(4) Pays the cost of the examination.

(b) An applicant required to submit to an examination under subsection (a) of this section shall be deemed to have:

(1) Consented to submit to the examination; and

(2) Waived any claim or privilege as to the examination report.

(c) The refusal of an applicant to submit to the examination required under subsection (a) of this section shall be prima facie evidence of the applicant's inability to practice social work competently, unless the Board finds that the refusal was beyond the control of the applicant.

§19–303.

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

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

(b) The Board shall:

(1) Review each application; and

(2) Notify each applicant whether the applicant has been approved to take the pertinent licensure examination within 60 days from the date the Board received a completed application from the applicant.

§19–304.

(a) An approved applicant is entitled to be examined for licensure as provided in this section.

(b) The Board shall ensure that a Board–approved examination for each category of license is made available for an applicant to take at least twice a year, at the times and places that the Board determines.

(c) The Board shall notify each approved applicant of the procedures for taking the examination.

(d) (1) The Board shall approve the subjects, scope, form, and passing score for each type of examination given under this subtitle.

(2) The examinations given under this subtitle shall strive to be free of cultural bias.

(e) (1) The Board, by regulation, may limit:

(i) The number of times an applicant may be reexamined after failing an examination required under this subtitle; and

(ii) The interval between reexaminations.

(2) If an applicant is permitted to be reexamined under paragraph (1) of this subsection, the applicant shall pay a fee to the examining body approved by the Board.

(f) The examination shall be prepared to measure the competence of the applicant to engage in the pertinent practice of social work.

(g) In the preparation, administration, and grading of an examination, the Board may employ, cooperate, or contract with an organization or consultant.

§19–306.

(a) The Board shall maintain on its Web site a roster of all licensees who meet the requirements of this title.

(b) The Board shall include on each electronic license record:

(1) The kind of license;

(2) The full name of the licensee;

(3) A license number;

(4) The license status;

(5) The expiration date; and

(6) The original date of issuance.

§19–307.

(a) Subject to the provisions of subsections (b) and (c) of this section, a license authorizes the licensee to practice social work while the license is effective.

(b) A licensed social worker may practice social work only within the scope of the specific type of license issued by the Board.

(c) (1) A licensed bachelor social worker may not:

(i) Practice social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;

(ii) Make a clinical diagnosis of a mental or emotional disorder;

(iii) Provide psychotherapy; or

(iv) Engage in private practice.

(2) A licensed graduate social worker may not:

(i) Practice graduate social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;

(ii) Treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed certified social worker–clinical;

(iii) Diagnose a mental disorder without the direct supervision of a licensed certified social worker–clinical; or

(iv) Engage in private practice without the direct supervision of a licensed certified social worker–clinical.

(3) A licensed certified social worker may not:

(i) Treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed certified social worker–clinical; or

(ii) Diagnose a mental disorder without the direct supervision of a licensed certified social worker–clinical.

§19–308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license expires, the Board shall send to the licensee, at the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Each licensee shall notify the Board of any change in the address of the licensee within 60 days after the change occurs.

(d) Before the license expires, the licensee periodically may renew it for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board the appropriate renewal fee specified by this subtitle;

and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirement set under this section for license renewal.

(e) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The Board shall maintain the same information on each licensee.

(f) The Board may not renew a bachelor social worker license or a graduate social worker license of a licensee who holds a baccalaureate degree or master's degree from a program that was a candidate for accreditation but was denied accreditation.

§19–309.

(a) (1) Except as provided in subsections (b) and (c) of this section, the Board shall place a licensee on inactive status for a maximum of 5 years, if the licensee submits to the Board:

(i) A written application for inactive status in a form prescribed by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall provide a licensee who has complied with the requirements of paragraph (1) of this subsection with written notification of:

(i) The date that the license expired;

(ii) The date that the licensee's inactive status becomes effective;

(iii) The date that the licensee's inactive status expires; and

(iv) The consequences of not resuming active status before expiration of inactive status.

(3) The Board shall reactivate a license for an individual on inactive status who:

(i) Applies to the Board for reactivation of the license;

(ii) Complies with the renewal requirements that are in effect when the individual requests the reactivation of the license;

(iii) Has completed the number of credit hours of approved continuing education in social work set by the Board in the 2 years preceding the licensee's application for an active license;

(iv) Pays to the Board the reactivation processing fee set by the Board; and

(v) Has been on inactive status for less than 5 years.

(b) (1) Except as provided in subsection (c) of this section, the Board shall place a licensee on nonrenewed status for a maximum of 5 years if the licensee:

(i) Does not renew the licensee's license under subsection (a) of this section; and

(ii) Submits to the Board:

1. A written application for nonrenewed status in a form prescribed by the Board; and

2. The applicable fee set by the Board.

(2) The Board shall provide a licensee who has complied with the requirements of paragraph (1) of this subsection with written notification of:

(i) The date that the license expired;

(ii) The date that the inactive status expired;

(iii) The date that the licensee's nonrenewed status becomes effective;

(iv) The date that the licensee's nonrenewed status expires; and

(v) The fact that the licensee may not practice social work in the State.

(3) The Board shall reactivate a license for an individual on nonrenewed status who:

(i) Applies to the Board for reactivation of the license;

(ii) Pays to the Board the reactivation processing fee set by the Board;

(iii) Complies with the renewal requirements that are in effect when the individual requests the reactivation of the license;

(iv) Has completed the number of credit hours of approved continuing education in social work set by the Board in the 2 years preceding the individual's

application for an active license; and

(v) Has been on nonrenewed status for less than 5 years.

(c) Notwithstanding subsections (a) and (b) of this section, the Board shall reactivate the license of an individual who:

(1) Applies to the Board for reactivation of the license;

(2) Pays to the Board the reactivation processing fee set by the Board and any other fees required by the Board;

(3) Provides any documentation required by the Board, in a form prescribed by the Board; and

(4) Passes the respective examination required for initial licensure.

§19–310.

(a) Unless the Board agrees to accept the surrender of a license, a licensed social worker 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 social worker.

(b) The Board may set conditions on its agreement with the social worker under investigation or against whom charges are pending to accept surrender of the social worker's license.

§19–311.

Subject to the hearing provisions of § 19–312 of this subtitle, the Board may deny a license to any applicant, fine a licensee, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

(1) Obtained or attempted to obtain a license for the applicant or licensee or for another through fraud, deceit, or misrepresentation;

(2) Fraudulently or deceptively uses a license;

(3) Is mentally or physically incompetent to practice social work;

(4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;

(5) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;

(6) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board;

(7) 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;

(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 other drug that is in excess of prescribed amounts or without valid medical indication;

(9) Is disciplined by a licensing or disciplinary authority of any state, country, or branch of the armed services, or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

(10) Practices social work with an unauthorized person or supervises or aids an unauthorized person in the practice of social work;

(11) Makes or files a false report or record in the practice of social work;

(12) Fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file the report;

(13) Submits a false statement to collect a fee;

(14) Fails to report suspected child abuse or neglect in violation of § 5–704 of the Family Law Article;

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services on the basis of race, age, gender, sexual orientation, disability, religion, or ethnic origin or because the individual is HIV positive;

(16) Fails to cooperate with a lawful investigation conducted by the Board;

(17) By threats, force, or improper means, intimidates or influences, or attempts to intimidate or influence, for the purpose of:

(i) Causing any person to withhold or change testimony in hearings or proceedings before the Board or otherwise delegated to the Office of Administrative Hearings; or

(ii) Hindering, preventing, or otherwise delaying a person from making information available to the Board in furtherance of an investigation by the Board;

(18) Fails to report suspected abuse or neglect of a vulnerable adult in violation of § 3–604 or § 3–605 of the Criminal Law Article;

(19) Fails to comply with the requirements of any order entered by the Board as a result of any disciplinary matter with the Board, including payment of costs as required by § 19–312 of this subtitle;

(20) Fails to maintain adequate patient records; or

(21) Fails to comply with the maintenance, disclosure, and destruction of medical records as required under Title 4, Subtitles 3 and 4 of the Health – General Article.

§19–311.1.

(a) If after a hearing under § 19–312 of this subtitle the Board finds that there are grounds under § 19–311 of this subtitle to reprimand a licensee, place a licensee on probation, or suspend or revoke a license, the Board may impose a fine on the licensee in an amount not exceeding $10,000:

(1) Instead of reprimanding the licensee, placing the licensee on probation, or suspending or revoking the social worker's license; or

(2) In addition to reprimanding the licensee, placing the licensee on probation, or suspending or revoking the social worker's license.

(b) The Board shall adopt regulations to set standards for the imposition of fines under this section.

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

§19–312.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 19-311 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) Over the signature of an officer or the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(d) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt

of court.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(f) If, after a hearing, an individual is found in violation of § 19-311 of this subtitle, the individual shall pay the costs of the hearing as specified in a regulation adopted by the Board.

§19–313.

(a) Except as provided in this section for an action under § 19–311 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 19–311 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§19–314.

If a license has been suspended or revoked under § 19–311 of this subtitle, the Board may reinstate that license only in accordance with:

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

(2) An order of reinstatement issued by the Board.

§19–315.

(a) In this section, "social worker rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a social worker rehabilitation committee is a committee of the Board or a committee with representatives from one or more professional social work organizations that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to social workers.

(c) A rehabilitation committee of the Board or recognized by the Board may function to assist persons referred:

(1) Solely by the Board;

(2) Jointly with a rehabilitation committee representing another board or boards; or

(3) By the licensee.

(d) For purposes of this section, the social worker rehabilitation committee:

(1) Evaluates and provides assistance to any social worker, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, substance abuse or dependency, or other physical, emotional, or mental condition; and

(2) Provides information and resources to address impairment.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the social worker rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the social worker rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the social worker rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of the social worker rehabilitation committee is not civilly liable for any action as a member of the social worker rehabilitation committee or for giving information to, participating in, or contributing to the function of the social worker rehabilitation committee.

§19–316.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of social work; or

(2) Conduct that is a ground for disciplinary action under § 19-311 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the act sought to be enjoined.

(d) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for unauthorized practice of social work under § 19-401 of this title or disciplinary action under § 19-311 of this subtitle.

§19–317.

(a) While investigating an allegation against a licensee under this title, the Board may require the licensee to submit to an appropriate examination by a health care provider designated by the Board if the Board has reason to believe that the licensee may cause harm to a person.

(b) In return for the privilege given to a licensee to practice social work in the State, the licensee is deemed to have:

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

(2) Waived any claim of privilege as to the testimony or report of a health care provider who examines the licensee.

(c) The failure or refusal of the licensee to submit to an examination required under this section is prima facie evidence of the licensee's inability to practice social work competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

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

§19–318.

(a) Before a licensee in a private individual, partnership, or group practice provides social work services to a client, the licensee shall provide to the client the following disclosures:

(1) The licensee's professional identity;

(2) The services which are or may be provided by the licensee and the fees for each service or the hourly rate; and

(3) Sufficient information for a patient to give informed consent regarding the nature of the services to be provided.

(b) The manner of providing these disclosures shall be as follows:

(1) The licensee's professional identity may be provided by business card or display of license in a conspicuous location;

(2) The licensee's services and fees may be provided by documented discussion or printed fee schedule; and

(3) Informed consent may be provided by documented discussion or a written form signed by the client which is kept in the client's file.

§19–401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice social work in this State while representing oneself to be a social worker unless licensed by the Board.

(b) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice clinical social work in this State unless licensed by the Board as a certified social worker-clinical.

§19–402.

Unless authorized to practice social work under this title, a person may not:

(1) Represent to the public that the person is a licensed social worker; or

(2) Use any title, abbreviation, sign, card, or other representation that the person is a licensed social worker, including the use of the words "social worker" or "social work" and the use of the abbreviations "LBSW", "LGSW", "LCSW", or "LCSW–C".

§19–403.

A person may not intentionally:

(1) Use or attempt to use the license of another person who is a licensed social worker; or

(2) Impersonate another person who is a licensed social worker.

§19–404.

In an attempt to obtain a license, a person may not intentionally give false information to the Board.

§19–407.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years.

§19–501.

This title may be cited as the "Maryland Social Workers Act".

§19–502.

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, 2024.

§20–101.

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

(b) (1) "Agency" means:

(i) The Developmental Disabilities Administration in the Department;

(ii) The Department;

(iii) The Department of Human Resources;

(iv) The Department of Juvenile Services; and

(v) The Behavioral Health Administration in the Department.

(2) "Agency" includes the State Superintendent of Schools.

(c) "Board" means the State Board for Certification of Residential Child Care Program Professionals.

(d) "Certificate" means, unless the context requires otherwise, a certificate issued by the Board to practice as a program administrator or as a residential child and youth care practitioner.

(e) "Certified program administrator" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a program administrator.

(f) "Certified residential child and youth care practitioner" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a residential child and youth care practitioner.

(g) "Program administrator" means the individual responsible for the day–to–day management and operation of a residential child care program and for assuring the care, treatment, safety, and protection of the children in the residential child care program.

(h) (1) "Residential child and youth care practitioner" means an individual assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills in a residential child care program under the direction of a certified program administrator.

(2) "Residential child and youth care practitioner" does not include an individual assigned to perform direct responsibilities related to activities of daily living, self–help, and socialization skills in a residential child care program licensed by the Developmental Disabilities Administration.

(i) (1) "Residential child care program" means an entity that provides for children 24–hour per day care within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.

(2) "Residential child care program" includes a program:

(i) Licensed by:

1. The Department of Health and Mental Hygiene;

2. The Department of Human Resources; or

3. The Department of Juvenile Services; and

(ii) That is subject to the licensing regulations of the Governor's Office for Children governing the operations of residential child care programs.

§20–201.

There is a State Board for Certification of Residential Child Care Program Professionals in the Department.

§20–202.

(a) (1) The Board consists of 12 members.

(2) Of the 12 Board members:

(i) Six members shall be appointed as follows:

1. Two by the Secretary of Health and Mental Hygiene, one each for the Developmental Disabilities Administration and the Behavioral Health

Administration;

2. One by the Secretary of Juvenile Services for the agency;

3. One by the Secretary of Human Resources for the agency;

4. One by the State Superintendent of Schools; and

5. One by the Subcabinet; and

(ii) Six shall be appointed by the Governor.

(3) Of the six appointed by the Governor:

(i) Three shall be program administrators;

(ii) One shall be a residential child and youth care practitioner; and

(iii) Two shall be consumer members.

(b) The Governor shall appoint members with the advice and consent of the Senate.

(c) Each Board member shall:

(1) Be a United States citizen; and

(2) Have resided in this State for at least 1 year before appointment to the Board.

(d) A consumer member of the Board:

(1) May not be a program administrator or a residential child and youth care practitioner;

(2) May not have a household member who is a program administrator or a residential child and youth care practitioner;

(3) May not have a household member who participates in a commercial or professional field related to administering a program; and

(4) May not have had within 2 years before appointment a substantial financial interest in a program regulated by an agency.

(e) While a member of the Board, a consumer member may not have a substantial financial interest in a program regulated by an agency.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 2004.

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

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

(5) A member may not serve more than two consecutive full terms.

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

(h) (1) The Governor may remove a member for incompetence, misconduct, incapacity, or neglect of duty.

(2) On the recommendation of the Children's Cabinet, the Governor may remove a member whom the Children's Cabinet finds to have been absent from two successive Board meetings without adequate reason.

§20–203.

(a) From among its members, the Board annually shall elect a chairman, vice chairman, and executive secretary.

(b) The Board shall determine:

(1) The manner of election of officers;

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

(3) The duties of each officer.

§20–204.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall meet at least twice a year, at the times and places that it determines.

(c) Each member of the Board is entitled to reimbursement for expenses at a rate determined by the Board.

(d) The Board may employ staff in accordance with the budget of the Board.

(e) The Board may appoint an executive director.

(f) The executive director:

(1) Serves at the pleasure of the Board;

(2) Serves as the executive officer of the Board; and

(3) Has the powers and duties assigned by the Board.

§20–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board in consultation with the Children's Cabinet shall:

(1) Adopt regulations to carry out the provisions of this subtitle;

(2) Establish standards for the certification of applicants;

(3) Conduct a continuing study and investigation of program administrators and residential child and youth care practitioners to improve:

(i) Certification standards; and

(ii) Procedures for enforcing these standards;

(4) Establish a tiered certification structure for residential child and youth care practitioners; and

(5) Devise examinations and adopt investigative procedures to:

(i) Determine whether program administrators and residential child and youth care practitioners meet the standards adopted by the Board; and

(ii) Assure that program administrators and residential child and youth care practitioners continue to meet these standards.

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

(1) Maintain a registry of all program administrators and residential child and youth care practitioners certified by the Board;

(2) Submit an annual report to the Governor and Children's Cabinet;

(3) Adopt a code of ethics that the Board considers appropriate and applicable to the program administrators and residential child and youth care practitioners certified by the Board;

(4) Establish continuing education requirements for the program administrators certified by the Board;

(5) Establish training and continuing education requirements for the residential child and youth care practitioners certified by the Board;

(6) Adopt an official seal; and

(7) Create committees as it deems appropriate to advise the Board on special issues.

§20–206.

(a) The Board:

(1) Shall set reasonable fees for:

(i) The issuance and renewal of certificates;

(ii) Approving training programs for residential child and youth care practitioners; and

(iii) Its other services;

(2) May waive the fees, based on demonstrated need, as determined by the Board; and

(3) May not require fees for the examination of qualified certified residential child and youth care practitioner applicants under this title.

(b) The Board shall pay all money collected under this title into the General Fund of the State.

§20–207.

A person shall have the immunity from liability described under § 5-710 of the Courts Article for giving information to the Board or otherwise participating in its activities.

§20–208.

A person shall have immunity from the liability described under § 5–723 of the Courts Article for giving information to the Board or otherwise participating in its activities.

§20–301.

(a) (1) Except as otherwise provided in this subsection, on or after October 1, 2007, an individual shall receive a certificate from the Board before the individual may be a program administrator in this State.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, if a

program administrator leaves or is removed from a position as program administrator by death or for any other unexpected cause, the owner of a residential child care program or other appropriate program authority shall immediately designate a certified program administrator to serve in that capacity.

(ii) 1. In the event a certified program administrator is not available, the owner or other appropriate program authority may appoint a noncertified person to serve in the capacity of acting program administrator for a period not to exceed 180 days.

2. The owner or other appropriate program authority shall immediately notify the Board of the appointment and forward the credentials of the person appointed to the Board for evaluation to assure that the person appointed is experienced, trained, and competent.

3. The 180–day period begins on the date that the program administrator leaves or is removed from the position as a program administrator.

4. The Board may extend the 180–day period for a further period of not more than 30 days.

(b) (1) Except as provided in paragraph (2) of this subsection, on or before October 1, 2015, an individual shall receive a certificate from the Board before the individual may be a residential child and youth care practitioner in this State.

(2) This subsection does not apply to:

(i) An employee of the Maryland School for the Blind who is a residential child and youth care practitioner and holds a current paraprofessional certificate; or

(ii) For up to 180 days, an individual participating in a Board–approved training program.

§20–302.

(a) To qualify for a certificate as a program administrator, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall have completed a State and national criminal history records check.

(d) The applicant shall be at least 21 years old.

(e) The applicant shall have:

(1) (i) A bachelor's degree from an accredited college or university; and

(ii) At least 4 years experience in the human service field with at least 3 years in a supervisory or administrative capacity; or

(2) (i) A master's degree from an accredited college or university; and

(ii) At least 2 years experience in the human service field with at least 1 year in a supervisory or administrative capacity.

(f) Except as otherwise provided in this title, the applicant shall pass an examination given by the Board under this subtitle.

§20–302.1.

(a) To qualify for a certificate as a residential child and youth care practitioner, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall have completed a State and national criminal history records check.

(d) The applicant shall be:

(1) At least 21 years old; or

(2) At least 18 years old and have earned at least an associate's or bachelor's degree from an accredited college or university.

(e) The applicant shall have:

(1) A high school diploma or equivalent and have successfully completed an approved training program;

(2) At least 2 years experience in the human service field and sponsorship from a certified program administrator; or

(3) An associate's or bachelor's degree from an accredited college or university.

(f) (1) Except as provided in paragraph (2) of this subsection, the applicant shall have successfully completed a training program approved under § 20–302.2 of this subtitle.

(2) (i) An applicant who has an associate's or bachelor's degree from an accredited college or university may be waived from the training program requirement, if the applicant passes an examination and meets other requirements established by the Board under this subtitle.

(ii) The Board shall establish requirements and procedures for waiving the training program requirement for an applicant under subparagraph (i) of this paragraph.

(g) The applicant shall pass an examination given by the Board under this subtitle.

(h) The Board shall waive the education, experience, training, and examination requirements of this section for an applicant who:

(1) Applies for certification on or before October 1, 2015; and

(2) Presents to the Board satisfactory evidence that the applicant worked as a residential child and youth care practitioner in the State for at least 2 years before October 1, 2015.

§20–302.2.

(a) The Board shall adopt regulations for approved training programs for residential child and youth care practitioners.

(b) Successful completion of an approved training program shall prepare an individual for certification as a residential child and youth care practitioner.

(c) The regulations shall:

(1) Require an approved training program to provide a fundamental working knowledge of the varied aspects of performing the direct responsibilities related to activities of daily living, self–help, and socialization to children and youth in residential child care programs;

(2) Establish a process for approving residential child and youth care practitioner training programs; and

(3) Establish the contact hours, curriculum, format, and fees for approved training programs.

(d) The Board shall post a list of approved training programs on its Web site.

§20–303.

(a) To apply for a certificate, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) Pay to the Board the application fee set by the Board; and

(3) Provide fingerprints for use by the Criminal Justice Information

System Central Repository of the Department of Public Safety and Correctional Services to conduct a State and national criminal history records check.

(b) (1) An applicant required to provide fingerprints under subsection (a)(3) of this section shall pay any processing or other fees required by the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) The results of the criminal history records check shall be provided to the Board and the applicant.

§20–304.

(a) The Board shall keep a file of each certificate application made under this subtitle.

(b) The file shall contain:

(1) The name, address, and age of the applicant;

(2) The date of the application;

(3) Complete and current information on the educational, training, and experience qualifications of the applicant;

(4) The date the Board reviewed and acted on the application;

(5) The action taken by the Board on the application;

(6) The identifying numbers of any certificate or renewal certificate issued to the applicant; and

(7) Any other information that the Board considers necessary.

(c) The application files shall be open to public inspection.

§20–305.

(a) An applicant who otherwise qualifies for a certificate is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least four times a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) Subject to the provisions of this subsection, for qualified certified program administrator applicants, the Board shall determine the subjects, scope,

form, and passing score for examinations given under this subtitle.

(2) The subjects of examination shall be related to:

(i) Health and safety issues, including:

1. Nutritional standards;

2. Water safety;

3. Preventative and acute health care standards;

4. Suicide assessment;

5. Prevention of abuse and neglect; and

6. Crisis intervention and problem solving;

(ii) The importance of staff training in appropriate observation techniques, including educational and psychological tests and social histories;

(iii) Rights of the child, including:

1. Educational and recreational needs; and

2. Establishment of and compliance with appropriate grievance procedures;

(iv) Physical plant requirements;

(v) Criminal history records checks of personnel;

(vi) Fiscal accountability;

(vii) Record keeping that complies with federal requirements and State regulations;

(viii) Emergency planning; and

(ix) Other standards established in the regulations.

(3) Each applicant shall be required to show knowledge of the laws, rules, and regulations that apply to programs.

(4) The scope, content, and form of an examination shall be the same for all certificate applicants who take the examination at the same time.

(e) For qualified certified residential child and youth care practitioner applicants, the Board shall determine the subjects, scope, form, and passing score for

examinations given under this subtitle.

(f) (1) The Board may limit the number of times an applicant may take an examination required under this subtitle.

(2) To qualify for a certificate, an applicant shall pass the examination within 3 years of the first time the applicant takes the examination.

§20–306.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this title for an individual who is certified as a program administrator in any other state that the Board determines has a comparable certification process to the one established in this title.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Is of good moral character;

(2) Pays the application fee required by the Board under § 20-303 of this subtitle; and

(3) Provides adequate evidence that:

(i) At the time the applicant was certified in the other state, the applicant was qualified to take the examination that then was required by the laws of this State;

(ii) The applicant qualified for a certificate in the other state by passing an examination given in that or any other state; and

(iii) The applicant has completed a State criminal history records check.

(c) The Board shall waive the requirements for certification as a certified program administrator under § 20-302 of this subtitle for any person who:

(1) Has filed a letter of intent with the Board by October 1, 2007;

(2) Has completed not less than 8 years' experience in the human service field with at least 4 years in a supervisory or administrative capacity; and

(3) Has by October 1, 2007, successfully passed an examination approved by the Board.

§20–307.

(a) The Board shall issue a certificate to any applicant who meets the requirements of this title.

(b) The Board shall include on each certificate that the Board issues:

(1) The full name of the certificate holder;

(2) A serial number; and

(3) The seal of the Board.

(c) The Board may issue a certificate to replace a lost, destroyed, or mutilated certificate if the certificate holder pays the certificate replacement fee set by the Board.

§20–308.

The applicant may petition for judicial review of a decision of the Board that relates to issuing or renewing a certificate as allowed by the Administrative Procedure Act.

§20–309.

A certificate authorizes:

(1) An individual who is a program administrator to administer a residential child care program while the certificate is effective; or

(2) An individual who is a residential child and youth care practitioner to perform direct responsibilities related to activities of daily living, self–help, and socialization skills in a residential child care program while the certificate is effective.

§20–310.

(a) (1) A certificate expires on a date set by the Board, unless the certificate is renewed for an additional term as provided in this section.

(2) A certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the certificate expires, the Board shall send to the certified program administrator or certified residential child and youth care practitioner, by electronic means or first–class mail to the last known electronic or physical address of the certified program administrator or certified residential child and youth care practitioner, a renewal notice that states:

(1) The date on which the current certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(3) The amount of the renewal fee.

(c) Before the certificate expires, the certified program administrator or

certified residential child and youth care practitioner periodically may renew it for an additional 2–year term, if the certified program administrator or certified residential child and youth care practitioner:

(1) Otherwise is entitled to obtain a certificate;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education and other qualifications and requirements set under this section for certificate renewal.

(d) In addition to any other qualifications and requirements established in consultation with the Children's Cabinet, the Board may set continuing education requirements as a condition for the renewal of certificates under this section.

(e) The Board shall renew the certificate of each certified program administrator or certified residential child and youth care practitioner who meets the requirements of this section.

§20–311.

(a) The Board shall reinstate the certificate of a program administrator or residential child and youth care practitioner who has failed to renew the certificate for any reason, if the individual:

(1) Has not had the certificate suspended or revoked;

(2) Meets the renewal requirements of § 20–310 of this subtitle;

(3) Pays to the Board the reinstatement fee set by the Board;

(4) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this title for certificate reinstatements; and

(5) Applies to the Board for reinstatement of the certificate within 5 years after the certificate expires.

(b) (1) The Board may not reinstate the certificate of a program administrator or residential child and youth care practitioner who fails to apply for reinstatement of the certificate within 5 years after the certificate expires.

(2) However, the program administrator or residential child and youth care practitioner may be certified by meeting the current requirements for obtaining a

new certificate under this title.

§20–312.

(a) Unless the Board agrees to accept the surrender of a certificate, a certified program administrator or certified residential child and youth care practitioner may not surrender the certificate nor may the certificate lapse by operation of law while the certified program administrator or certified residential child and youth care practitioner is under investigation or while charges are pending against the certified program administrator or certified residential child and youth care practitioner.

(b) The Board may set conditions on its agreement with the certified program administrator or certified residential child and youth care practitioner under investigation or against whom charges are pending to accept surrender of the certified program administrator's certificate or the certified residential child and youth care practitioner's certificate.

§20–313.

(a) The Board shall investigate and take appropriate action as to any complaint filed with the Board that alleges that a certified program administrator or certified residential child and youth care practitioner has failed to meet any standard of the Board.

(b) Subject to the hearing provisions of § 20–314 of this subtitle, the Board may deny a certificate to any applicant, reprimand any certified program administrator or certified residential child and youth care practitioner, place any certified program administrator or certified residential child and youth care practitioner on probation, or suspend or revoke a certificate if the applicant, certified program administrator, or certified residential child and youth care practitioner:

(1) Fraudulently or deceptively obtains or attempts to obtain a certificate for a program administrator or residential child and youth care practitioner, or for another;

(2) Fraudulently or deceptively uses a certificate;

(3) Otherwise fails to meet substantially the standards for certification adopted by the Board under § 20–205 of this title;

(4) 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;

(5) Performs the duties of a program administrator or residential child and youth care practitioner 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 other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(7) Performs the duties of a program administrator or residential child and youth care practitioner with an unauthorized person or supervises or aids an unauthorized person in performing the duties of a program administrator or residential child and youth care practitioner;

(8) Willfully makes or files a false report or record while performing the duties of a program administrator or residential child and youth care practitioner;

(9) 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;

(10) Commits an act of unprofessional conduct in performing the duties of a program administrator or residential child and youth care practitioner; or

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

§20–314.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 20-313 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

(c) Over the signature of an officer or the executive secretary of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(d) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

§20–315.

(a) Except as provided in this section for an action under § 20–313 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 20–314 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§20–401.

Except as otherwise provided in this title, an individual may not:

(1) Perform the duties of, attempt to perform the duties of, or offer to perform the duties of a program administrator or residential child and youth care practitioner in this State unless certified by the Board; or

(2) Supervise, direct, induce, or aid an uncertified individual to perform the duties of a program administrator or residential child and youth care practitioner.

§20–402.

(a) Unless authorized to perform the duties of a program administrator or residential child and youth care practitioner under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is a program administrator or residential child and youth care practitioner in this State.

(b) Unless authorized to practice under this title, a person may not use the title "residential child care program administrator", "residential child and youth care practitioner", or any other designation, title, or abbreviation with the intent to represent that the person is authorized to perform the duties of a program administrator or residential child and youth care practitioner.

§20–403.

A person may not:

(1) Sell or fraudulently obtain or furnish or aid in selling or fraudulently obtaining or furnishing a certificate issued under this title; or

(2) Perform the duties of a program administrator or residential child and youth care practitioner under any certificate unlawfully or fraudulently obtained or issued.

§20–404.

Except when a program administrator is removed from the position by death or for any other unexpected cause as provided in § 20-301 of this title, a program may not be operated unless it is under the day-to-day management and operation of a certified program administrator.

§20–405.

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to:

(1) A fine not exceeding $1,000 for a first offense; and

(2) A fine not exceeding $5,000 or imprisonment not exceeding 6 months or both for any subsequent violation of the same provision.

§20–501.

This title may be cited as the "Maryland Certification of Residential Child Care Program Professionals Act".

§20–502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, 2024.

§21–101.

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

(b) "Board" means the State Board of Environmental Health Specialists.

(c) "Environmental health specialist" means an individual who practices as an environmental health specialist.

(d) "Environmental health specialist–in–training" means an individual who meets the educational qualifications required under this title but has not yet completed the environmental health specialist–in–training program required under § 21–305 of this title.

(e) "Environmental health specialist–in–training program" means a program of training and experience under the supervision of a licensed environmental health specialist or other individual acceptable to the Board.

(f) "Hours of approved training" means the value given to participation in continuing education or experience as approved by the Board.

(g) "License" means, unless the context requires otherwise, a license issued by the Board to practice as an environmental health specialist.

(h) "Licensed environmental health specialist" means an individual licensed by the Board to practice as an environmental health specialist.

(i) "Practice as an environmental health specialist" means, as a major component of employment, to apply academic principles, methods and procedures of the environmental, physical, biological, and health sciences to the inspections and investigations necessary to collect and analyze data and to make decisions necessary to secure compliance with federal, State, and local health and environmental laws and regulations specifically relating to control of the public health aspects of the environment including:

(1) The manufacture, preparation, handling, distribution, or sale of food and milk;

(2) Water supply and treatment;

(3) Wastewater treatment and disposal;

(4) Solid waste management and disposal;

(5) Vector control;

(6) Insect and rodent control;

(7) Air quality;

(8) Noise control;

(9) Product safety;

(10) Recreational sanitation; and

(11) Institutional and residential sanitation.

§21–102.

This title does not prohibit an individual from practicing any other profession or occupation that the individual is authorized to practice under the laws of the State.

§21–201.

There is a State Board of Environmental Health Specialists in the Department.

§21–202.

(a) (1) The Board consists of 9 members appointed by the Governor with the

advice of the Secretary, and with the advice and consent of the Senate.

(2) Of the 9 Board members:

(i) 7 shall be licensed environmental health specialists appointed as follows:

1. 1 shall be employed by private industry;

2. 1 shall be employed by the Department of the Environment;

3. 1 shall be employed by the Department;

4. 1 shall be employed by a local health department and be employed under the State Personnel Management System;

5. 1 shall be employed by a local government and not be employed under the State Personnel Management System; and

6. 2 shall be appointed at large; and

(ii) 2 shall be consumer members.

(3) All Board members shall be residents of the State.

(b) The members appointed at large shall reasonably reflect the geographic diversity of the State.

(c) (1) The consumer members of the Board:

(i) Shall be members of the general public;

(ii) May not be licensed environmental health specialists;

(iii) May not have a household member who is a licensed environmental health specialist;

(iv) May not participate or ever have participated in a related commercial or professional field;

(v) May not have a household member who participates in a related commercial or professional field; and

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

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

(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2012.

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

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

(5) A member may not serve more than 2 consecutive terms.

(f) For each vacancy of a licensed environmental health specialist member, the Board shall:

(1) Solicit nominations by notifying all licensed environmental health specialists of the vacancy; and

(2) Submit to the Secretary a list of at least three candidates for each vacancy.

(g) On the recommendation of the Secretary, the Governor may remove a member for incompetence, misconduct, neglect of duty, or other sufficient cause.

§21–203.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) The Board shall determine:

(1) The manner of election of officers; and

(2) The duties of each officer.

§21–204.

(a) A majority of the Board is a quorum.

(b) The Board shall meet at least twice a year, at the times and places that the Board determines.

(c) A member of the Board:

(1) May receive compensation as provided in the State budget; and

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the budget of the Board.

§21–205.

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

(1) Adopt rules, regulations, and bylaws to carry out the provisions of this title;

(2) Sue to enforce any provision of this title by injunction; and

(3) Issue subpoenas, summon witnesses, administer oaths, take affidavits, and take testimony about matters that relate to the jurisdiction of the Board.

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

(1) Keep a current record of all licensed environmental health specialists;

(2) Collect and account for fees provided under this title;

(3) Pay all necessary expenses of the Board in accordance with the State budget;

(4) Keep a complete record of its proceedings;

(5) File an annual report of its activities, including a financial statement, with the Governor and the Secretary; and

(6) Adopt an official seal.

§21–206.

(a) In this section, "Fund" means the State Board of Environmental Health Specialists Fund.

(b) There is a State Board of Environmental Health Specialists Fund.

(c) (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.

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

(d) (1) The Board shall remit all fees collected under this title to the Comptroller.

(2) The Comptroller shall distribute the fees to the Fund.

(e) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided under this article.

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

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

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

(f) (1) A designee of the Board shall administer the Fund.

(2) Money in the Fund may be expended only for any lawful purpose authorized under this article.

(g) The legislative auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

§21–207.

A person shall have the immunity from liability described under § 5–702 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§21–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice as an environmental health specialist in this State.

(b) This section does not apply to:

(1) An environmental health specialist–in–training as provided for under § 21–305 of this subtitle;

(2) A student participating in a field experience as part of an educational program; and

(3) A qualified individual in any of the following job classifications:

(i) Industrial hygienists as defined by the American Industrial

Hygiene Association;

(ii) Certified industrial hygienists and industrial hygienists in training as defined by the American Board of Industrial Hygiene;

(iii) Health planners or natural resource planners;

(iv) Building and housing inspectors;

(v) Geologists;

(vi) Chemists;

(vii) Meteorologists;

(viii) Laboratory scientists;

(ix) Professional engineers who are licensed in this State under Title 14 of the Business Occupations and Professions Article and whose normal professional activities are among the activities specified in § 21–101(i) of this title;

(x) Public health engineers and water resources engineers employed by the State or a local subdivision;

(xi) Hydrographers and hydrographic engineers;

(xii) Natural resources managers;

(xiii) Natural resources biologists;

(xiv) Program administrators, administration directors, administrators, administrative officers, and administrative specialists;

(xv) Paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data;

(xvi) Persons employed by the Department of Natural Resources or related county departments who perform duties and responsibilities under the Natural Resources Article;

(xvii) Persons employed by the Department of the Environment or related county departments who perform duties and responsibilities for:

1. Erosion and sediment control, stormwater management, or oil pollution control under Title 4 of the Environment Article;

2. Motor vehicle pollution control under Title 2 of the Environment Article or Title 23 of the Transportation Article; or

3. Sewage sludge, water pollution control, or drinking water under Title 9 of the Environment Article;

(xviii) Persons employed by the Department of the Environment and classified as either:

1. A regulatory and compliance engineer or architect; or

2. An environmental compliance specialist;

(xix) Persons employed by the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation who perform duties and responsibilities under the Maryland Occupational Safety and Health Act;

(xx) Occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals;

(xxi) Safety professionals as defined by the American Society of Safety Engineers;

(xxii) Certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals;

(xxiii) Persons employed by industrial operations whose environmental services are performed solely for their employer; and

(xxiv) State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department.

§21–302.

To apply for licensure as an environmental health specialist, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) (i) Submit verification from the applicant's employer or supervisor on forms required by the Board that the applicant has successfully completed an environmental health specialist–in–training program; or

(ii) Provide independent written verification from the applicant's employer or any prior work experience in the field of environmental health used by the applicant to satisfy the environmental health specialist–in–training requirement of this title; and

(3) Pay to the Board the required fees set by the Board.

§21–303.

(a) To qualify for licensure under this title, an applicant shall meet the requirements of this section.

(b) The applicant must be of good moral character.

(c) The applicant must be at least 18 years old.

(d) An applicant shall be licensed by the Board if the applicant:

(1) Qualifies for the examination required under § 21–304 of this subtitle; and

(2) Takes and attains a passing score on the examination.

(e) The Board may waive any examination requirement under this section if the Board considers the applicant to be recognized as outstanding in the field of environmental health.

§21–304.

(a) An applicant who otherwise qualifies for licensure is entitled to be examined as provided in this section.

(b) An applicant qualifies to take the examination if the applicant:

(1) (i) Has graduated from an accredited college or university with a baccalaureate degree in environmental science or environmental health; and

(ii) Has obtained 12 months of experience in an environmental health specialist–in–training program approved by the Board;

(2) (i) Has graduated from an accredited college or university with a baccalaureate degree in the physical, biological, or environmental sciences including:

1. A minimum of 60 semester credit hours or the equivalent quarter credit hours of physical, biological, and environmental sciences acceptable to the Board which includes at least one laboratory course in two of the following fields:

A. Chemistry;

B. Physics; and

C. Biology; and

2. A course in mathematics; and

(ii) Has obtained 12 months of experience in an environmental

health specialist–in–training program approved by the Board;

(3) (i) Has graduated from an accredited college or university with a baccalaureate degree that includes:

1. 30 semester credit hours or the equivalent quarter credit hours in the physical, biological, and environmental sciences acceptable to the Board, which includes at least one laboratory course in two of the following fields:

A. Chemistry;

B. Physics; and

C. Biology; and

2. A course in mathematics; and

(ii) Has obtained 24 months of experience in an environmental health specialist–in–training program approved by the Board; or

(4) Has graduated from an accredited college or university with a master's degree in public or environmental health science that includes:

(i) 30 semester credit hours or 45 quarter credit hours of physical, biological, or environmental sciences acceptable to the Board and obtained at the baccalaureate or master's level, which includes at least one laboratory course in two of the following fields:

1. Chemistry;

2. Physics; and

3. Biology;

(ii) A course in mathematics; and

(iii) 3 months of internship approved by the Board if not previously completed.

(c) (1) This subsection does not alter the requirement that an applicant demonstrate completion of a baccalaureate or master's degree to qualify for examination.

(2) The Board may waive any of the specific course requirements for an applicant to qualify for examination in subsection (b) of this section if the Board determines that an applicant:

(i) Has obtained an equivalent number of credit hours in a course relevant to practice as an environmental health specialist; or

(ii) Has work experience that is an acceptable substitute for a course required in subsection (b) of this section.

(3) The Board may waive the experience requirement in subsection (b)(3)(ii) of this section if the Board determines that an applicant:

(i) Has obtained at least 12 months of experience in an environmental health specialist–in–training program; and

(ii) Has the written support of the applicant's employer.

(d) The examination shall include a written examination in the physical, biological, and environmental sciences that relates to practices and principles of environmental health.

(e) The Board shall give examinations to applicants at least once a year, at the times and places that the Board determines.

(f) The Board shall notify each qualified applicant of the time and place of examination.

(g) (1) Except as otherwise provided in this subtitle, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(2) The Board shall use professional examinations prepared by recognized examination agencies.

(3) Examination papers shall identify the applicant only by a number assigned by the Board secretary.

(h) Examination papers shall be filed with the Board secretary and kept at least 1 year.

(i) (1) An applicant who fails an examination may retake the examination as provided in the rules and regulations adopted by the Board.

(2) An applicant for reexamination shall:

(i) Submit to the Board an application on the form the Board requires; and

(ii) Pay to the Board a reexamination fee set by the Board.

(j) Unless authorized by the Board, the consumer members of the Board may not participate in any activity related to examinations under this subtitle.

§21–305.

The Board shall adopt regulations that include:

(1) (i) The establishment of an environmental health specialist–in–training program for applicants to obtain the necessary experience to qualify to take the examination; and

(ii) A condition that a person may not participate in an environmental health specialist–in–training program for more than 3 years, unless granted an extension by the Board; and

(2) (i) The establishment of a seasonal environmental health specialist–in–training program for individuals to be temporarily employed as environmental health specialists; and

(ii) A condition that an individual may not participate in a seasonal environmental health specialist–in–training program for more than 6 months within a consecutive 12–month period.

§21–306.

(a) Subject to subsection (b) of this section, the Board may waive any examination requirement of this title for an applicant who is licensed or registered as an environmental health specialist or its equivalent in another state.

(b) The Board may grant a waiver only if the applicant:

(1) Pays the application fee required by § 21–302 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title;

(ii) Became licensed or registered to practice as an environmental health specialist or its equivalent in the other state after passing in that state an examination as a condition of licensure or registration; and

(iii) Has performed at least 24 months of compensated work as an environmental health specialist or its equivalent in the other state.

§21–307.

(a) The Board shall license and issue the appropriate licensure to any applicant who meets the requirements of this title.

(b) The Board shall include on each license that it issues:

(1) The designation "licensed environmental health specialist";

(2) The name of the license holder;

(3) The date of issue and serial number of the license;

(4) The Board seal; and

(5) The signature of the Board's representative.

(c) The Board shall issue a new license to replace a lost, destroyed, or mutilated license if the license holder pays a fee that is set by the Board.

§21–308.

Licensure authorizes an individual to practice as an environmental health specialist while the license is in effect.

§21–309.

(a) A license expires on the date specified on the license, unless it is renewed for a 2–year term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by first–class mail or electronic means to the last known address or electronic mail address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires;

(3) The amount of the renewal fee; and

(4) The hours of approved training required for renewal of licensure.

(c) Before the license expires, the licensee may renew it for an additional 2–year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board the renewal fee set by the Board;

(3) Submits to the Board a renewal application on the form that the Board requires; and

(4) Submits to the Board proof that during the previous 2–year period, the licensee has acquired 20 hours of approved training in environmental health or other equivalent education as approved by the Board.

(d) The renewal license shall bear the same serial number assigned to the

licensee at the time of the original registration or licensure.

§21–310.

(a) (1) The Board shall place a licensed environmental health specialist on inactive status for a period not to exceed 4 years if the licensed environmental health specialist:

(i) Submits to the Board a written application for inactive status on a form the Board requires; and

(ii) Pays to the Board the inactive status fee set by the Board.

(2) The Board shall provide to a licensed environmental health specialist who is placed on inactive status written notification of:

(i) The date the license has expired or will expire;

(ii) The date the licensed environmental health specialist's inactive status became effective;

(iii) The date the licensed environmental health specialist's inactive status expires; and

(iv) The consequences of not reactivating the license before the inactive status expires.

(3) The Board shall reactivate the license of a licensed environmental health specialist who is on inactive status if the licensed environmental health specialist:

(i) Applies to the Board for reactivation of the license before the inactive status expires;

(ii) Complies with the license renewal requirements that are in effect when the licensed environmental health specialist applies for reactivation;

(iii) Has completed the number of credit hours of approved continuing education set by the Board; and

(iv) Pays to the Board the reactivation processing fee set by the Board.

(b) (1) The Board shall place a licensed environmental health specialist on nonrenewed status for a period not to exceed 4 years if the licensed environmental health specialist failed to renew the license for any reason.

(2) The Board shall provide to a licensed environmental health specialist who is placed on nonrenewed status written notification of:

(i) The date the license expired;

(ii) The date the licensed environmental health specialist's nonrenewed status became effective;

(iii) The date the licensed environmental health specialist's nonrenewed status expires; and

(iv) The consequences of not reactivating the license before the nonrenewed status expires.

(3) The Board shall reactivate the license of a licensed environmental health specialist who is placed on nonrenewed status if the licensed environmental health specialist:

(i) Applies to the Board for reactivation of the license before the nonrenewed status expires;

(ii) Complies with the license renewal requirements that are in effect when the individual applies for reactivation;

(iii) Has completed the number of credit hours of approved continuing education set by the Board; and

(iv) Pays to the Board the reactivation processing fee set by the Board.

(c) Notwithstanding subsection (a) or (b) of this section, the Board shall reactivate the license of a licensed environmental health specialist who was placed on inactive or nonrenewed status if the licensed environmental health specialist:

(1) Applies to the Board for reactivation after the inactive or nonrenewed status expired;

(2) Pays to the Board the reactivation processing fee set by the Board and any other fees required by the Board;

(3) Provides any documentation required by the Board on the form the Board requires; and

(4) Passes the examination, if any, that is required by the Board in regulation.

§21–311.

(a) The Board shall keep a current record of each application for licensure.

(b) The record shall include:

(1) The name, residence address, and age of each applicant;

(2) The name and address of the applicant's employer;

(3) The date of the application;

(4) Complete information on the education and experience qualifications of each applicant;

(5) The date the Board reviewed and acted on the application;

(6) The action taken by the Board on the application;

(7) The serial number of any registration or license issued to the applicant; and

(8) Any other information that the Board considers necessary.

§21–312.

(a) The Board shall adopt a code of ethics designed to protect the public's interest.

(b) Subject to the hearing provisions of § 21–313 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny any applicant licensure, reprimand any licensee, or place any individual who is licensed 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 license holder or another;

(2) Fraudulently or deceptively uses a license;

(3) Knowingly violates any provision of this title, or any rule or regulation adopted under this title;

(4) Commits any gross negligence, incompetence, or misconduct while performing the duties of an environmental health specialist;

(5) 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;

(6) 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 other drug that is in excess of therapeutic

amounts or without valid medical indication;

(7) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(8) Willfully makes or files a false report or record while performing the duties of an environmental health specialist;

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

(10) Submits a false statement to collect a fee;

(11) Promotes the sale of land, devices, appliances, or goods provided for a person in such a manner as to exploit the person for financial gain of the licensed environmental health specialist;

(12) Willfully alters a sample, specimen, or any test procedure to cause the results upon analysis to represent a false finding;

(13) Violates any rule or regulation adopted by the Board;

(14) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

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

(16) Fails to cooperate with a lawful investigation conducted by the Board.

(c) Except as provided in subsection (d) of this section, any person, including a Board employee, may make a written, specific charge of a violation under this section, if the person:

(1) Swears to the charge; and

(2) Files the charge with the Board secretary.

(d) (1) If a licensed environmental health specialist knows of an action or condition that might be grounds for action under subsection (b) of this section, the licensed environmental health specialist shall report the action or condition to the Board; and

(2) An individual shall have the immunity from liability described under § 5–702 of the Courts and Judicial Proceedings Article for making a report as required by this subsection.

§21–313.

(a) (1) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 21–312 of this subtitle, it shall give the individual against whom this action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held within a reasonable time not to exceed 6 months after charges have been brought.

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

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

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(e) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(f) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(g) (1) The Board shall maintain a record of all disciplinary matters that includes:

(i) The date the matter was referred to the Board;

(ii) A detailed description of the specific allegations;

(iii) A copy of any written evidence reviewed by the Board in evaluating the matter; and

(iv) A written summary of the final action of the Board including the date of the action and the basis for the action.

(2) The Board shall maintain an electronic database of all disciplinary matters considered by the Board that is searchable, at a minimum, by:

(i) The date of the Board's final action;

(ii) The name of the affected licensee; and

(iii) The type of final action taken by the Board, including no action.

§21–314.

Except as provided in this section for an action under § 21–312 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in § 10–202 of the State Government Article, may take an appeal as allowed in §§ 10–222 and 10–223 of the State Government Article.

§21–315.

The Board, on the affirmative vote of a majority of its full appointed membership, may reinstate the license of an individual whose license has been revoked.

§21–401.

(a) Except as otherwise provided in this title, unless a person is licensed under this title, the person may not practice as an environmental health specialist.

(b) Unless a person is licensed under this title, the person may not use the title "environmental health specialist" or "licensed environmental health specialist" or the initials "E.H.S." or "L.E.H.S." after the name of the person or any other title with the intent to represent that the person is licensed to practice as an environmental health specialist.

§21–402.

A person who violates any provision of § 21–301 of this title or § 21–401 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

§21–501.

This title may be cited as the "Maryland Environmental Health Specialists Act".

§21–502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this title and of any rule or regulation adopted under this title shall terminate and be of no effect after July 1, 2017.