
By: **Chairman, Environmental Matters Committee**
Introduced and read first time: February 7, 2002
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physician Quality Assurance - Sunset Extension and**
3 **Program Evaluation**

4 FOR the purpose of continuing the State Board of Physician Quality Assurance (the
5 Board) in accordance with the provisions of the Maryland Program Evaluation
6 Act by extending to a certain date the termination provisions relating to the
7 statutory and regulatory authority of the Board; requiring that an evaluation of
8 the Board and the statutes and regulations that relate to the Board be
9 performed on or before a certain date; repealing a provision requiring the Health
10 Claims Arbitration Office (HCAO) to forward certain information to the Medical
11 and Chirurgical Faculty of Maryland (the Faculty); adding certain members to
12 the membership of the Board; altering the requirements for the consumer
13 members of the Board; providing an exception from certain consumer
14 membership requirements for a certain member of the Board; altering the
15 appointment process for certain physician members of the Board; requiring the
16 Board to provide a certain notice of a vacancy of certain members of the Board,
17 to provide a certain process for a licensed physician to submit a certain petition,
18 and to forward a list of all licensed physicians submitting certain valid petitions
19 to the Governor; authorizing the Governor to make certain reappointments to
20 the Board or to make an appointment to the Board from lists submitted by
21 certain organizations or from a certain list forwarded by the Board; repealing a
22 provision of law requiring the chairman of the Board to be appointed by the
23 Governor; providing for the chairman of the Board to be elected by the members
24 of the Board; requiring fees charged by the Board to approximate the costs of
25 maintaining the Board; requiring certain interest and other investment income
26 to be paid into the Board of Physician Quality Assurance Fund (the Fund);
27 requiring the Board to fund the budget of the Physician Rehabilitation
28 Committee with fees collected and distributed to the Fund; authorizing the
29 Board to allocate moneys from the Fund after review and approval of a certain
30 budget; repealing provisions of law requiring the Faculty to conduct certain
31 investigations and peer review and to provide certain malpractice information to
32 the Board; requiring the Board to enter into a written contract with an entity to
33 provide certain investigation and peer review services; prohibiting a certain
34 agreement for corrective action from being used under certain circumstances;
35 specifying that the members of the Physician Rehabilitation Committee are

1 appointed by the Faculty; requiring the chairman of the Board to appoint a
2 member to serve as a liaison to the Physician Rehabilitation Committee;
3 authorizing the chairman of the Board to appoint a certain subcommittee of the
4 Board to conduct certain hearings in a certain manner; altering certain
5 requirements for licensee profiles created by the Board; requiring the Board to
6 maintain a single website containing certain information; modifying the
7 termination provision for the Maryland Respiratory Care Practitioners Act;
8 defining a certain term; specifying the terms of certain members of the Board;
9 requiring the Board to submit a certain report on investigative caseloads by a
10 certain date; requiring the Board and the Office of the Attorney General to
11 review a certain process, make certain recommendations, and submit a certain
12 report by a certain date; requiring the Board to submit a certain report on the
13 financial condition of the Board by a certain date; exempting the Board from
14 certain provisions of law requiring a certain preliminary evaluation; and
15 generally relating to the State Board of Physician Quality Assurance.

16 BY repealing and reenacting, with amendments,
17 Article - Courts and Judicial Proceedings
18 Section 3-2A-04(a)
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2001 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Health Occupations
23 Section 14-101, 14-202, 14-203, 14-207, 14-401, 14-402, 14-405, 14-411.1,
24 14-5A-25, and 14-702
25 Annotated Code of Maryland
26 (2000 Replacement Volume and 2001 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article - Health Occupations
29 Section 14-404(a)(22), 14-406, and 14-413
30 Annotated Code of Maryland
31 (2000 Replacement Volume and 2001 Supplement)

32 BY repealing and reenacting, with amendments,
33 Article - State Government
34 Section 8-403(b)(50)
35 Annotated Code of Maryland
36 (1999 Replacement Volume and 2001 Supplement)

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

1

Article - Courts and Judicial Proceedings

2 3-2A-04.

3 (a) (1) A person having a claim against a health care provider for damage
4 due to a medical injury shall file his claim with the Director, and, if the claim is
5 against a physician, the Director shall forward copies of the claim to the State Board
6 of Physician Quality Assurance [and the Medical and Chirurgical Faculty of the State
7 of Maryland]. The Director shall cause a copy of the claim to be served upon the
8 health care provider by the appropriate sheriff in accordance with the Maryland
9 Rules. The health care provider shall file a response with the Director and serve a
10 copy on the claimant and all other health care providers named therein within the
11 time provided in the Maryland Rules for filing a responsive pleading to a complaint.
12 The claim and the response may include a statement that the matter in controversy
13 falls within one or more particular recognized specialties.

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

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

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

23

Article - Health Occupations

24 14-101.

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

26 (b) "Board" means the State Board of Physician Quality Assurance.

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

29 (d) "Faculty" means the Medical and Chirurgical Faculty of the State of
30 Maryland.

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

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

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

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

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

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

12 (k) "PHYSICIAN REHABILITATION COMMITTEE" MEANS THE COMMITTEE OF
13 THE FACULTY THAT EVALUATES AND PROVIDES ASSISTANCE TO IMPAIRED
14 PHYSICIANS IN NEED OF TREATMENT AND REHABILITATION FOR ALCOHOLISM,
15 CHEMICAL DEPENDENCY, OR OTHER PHYSICAL, EMOTIONAL, OR MENTAL
16 CONDITIONS.

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

19 (i) Diagnosis;

20 (ii) Healing;

21 (iii) Treatment; or

22 (iv) Surgery.

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

25 (i) Diagnosing, healing, treating, preventing, prescribing for, or
26 removing any physical, mental, or emotional ailment or supposed ailment of an
27 individual:

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

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

31 (ii) Ending of a human pregnancy; and

32 (iii) Performing acupuncture.

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

34 (i) Selling any nonprescription drug or medicine;

- 1 (ii) Practicing as an optician; or
 2 (iii) Performing a massage or other manipulation by hand, but by no
 3 other means.

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

6 14-202.

7 (a) (1) The Board shall consist of [15] 21 members appointed by the
 8 Governor.

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

10 (i) [10] 13 shall be practicing licensed physicians appointed [from
 11 a list submitted by the Faculty] BY THE GOVERNOR AS PROVIDED IN SUBSECTION (D)
 12 OF THIS SECTION;

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

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

17 (iv) [2] 5 shall be consumer members appointed with the advice and
 18 consent of the Senate; and

19 (v) 1 shall be a consumer member knowledgeable in risk
 20 management or quality assurance matters appointed from a list submitted by the
 21 Maryland Hospital Association.

22 (b) (1) Each consumer member of the Board:

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

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

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

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

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

31 [(5)] (VI) May not have a household member who participates in a
 32 commercial or professional field related to medicine; and

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

3 (2) EXCEPT FOR THE CONSUMER MEMBER APPOINTED FROM A LIST
4 SUBMITTED BY THE MARYLAND HOSPITAL ASSOCIATION UNDER SUBSECTION
5 (A)(2)(V) OF THIS SECTION, EACH CONSUMER MEMBER OF THE BOARD MAY NOT HAVE
6 A SUBSTANTIAL PERSONAL, BUSINESS, PROFESSIONAL, OR PECUNIARY CONNECTION
7 WITH A MEDICAL FIELD OR WITH AN INSTITUTION OF MEDICAL EDUCATION OR A
8 HEALTH CARE FACILITY.

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

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

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

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

18 (e)] While SERVING AS a member of the Board, [a] EACH consumer member
19 [may not have a substantial financial interest in a person regulated by the Board]
20 SHALL CONTINUE TO MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS
21 SECTION.

22 (D) FOR EACH VACANCY OF A LICENSED PHYSICIAN APPOINTED BY THE
23 GOVERNOR UNDER SUBSECTION (A)(2)(I) OF THIS SECTION, THE GOVERNOR MAY:

24 (1) REAPPOINT A MEMBER WHO HAS NOT BEEN APPOINTED FOR MORE
25 THAN TWO CONSECUTIVE FULL TERMS; OR

26 (2) APPOINT A PRACTICING LICENSED PHYSICIAN FROM A LIST
27 SUBMITTED BY:

28 (I) A PROFESSIONAL ORGANIZATION REPRESENTING AT LEAST 25
29 LICENSED PHYSICIANS IN THE STATE; OR

30 (II) THE BOARD THAT CONTAINS THE NAMES OF THE LICENSED
31 PHYSICIANS WHO HAVE SUBMITTED A PETITION TO THE BOARD SIGNED BY AT LEAST
32 25 LICENSED PHYSICIANS IN THE STATE AS PROVIDED IN SUBSECTION (E) OF THIS
33 SECTION.

34 (E) (1) FOR EACH VACANCY OF A PRACTICING LICENSED PHYSICIAN
35 APPOINTED BY THE GOVERNOR UNDER SUBSECTION (A)(2)(I) OF THIS SECTION, THE
36 BOARD SHALL:

1 (I) NOTIFY ALL PRACTICING LICENSED PHYSICIANS IN THE STATE
2 OF THE VACANCY;

3 (II) PROVIDE A PROCESS FOR A PRACTICING LICENSED PHYSICIAN
4 TO SUBMIT A PETITION SUPPORTING THE APPOINTMENT OF THE PHYSICIAN TO THE
5 BOARD THAT IS SIGNED BY AT LEAST 25 LICENSED PHYSICIANS IN THE STATE; AND

6 (III) FORWARD TO THE GOVERNOR THE LIST OF ALL PRACTICING
7 LICENSED PHYSICIANS WHO HAVE SUBMITTED VALID PETITIONS UNDER ITEM (II) OF
8 THIS PARAGRAPH.

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

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

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

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

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

18 (2) The terms of members are staggered as required by the terms
19 provided for members of the Board on July 1, [1988] 2002.

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

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

23 (h) (1) If a vacancy occurs as to a member, the Governor shall appoint a new
24 member to serve only for the rest of the term and until a successor is appointed and
25 qualifies.

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

28 (i) (1) On the recommendation of the Board, the Secretary may remove any
29 member of the Board for neglect of duty, misconduct, malfeasance, or misfeasance in
30 office.

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

34 (3) The Governor may remove a member for incompetence or
35 misconduct.

1 14-203.

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

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

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

7 (1) The manner of election of officers;

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

9 (3) The duties of each officer.

10 14-207.

11 (a) There is a Board of Physician Quality Assurance Fund.

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

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

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

18 (c) (1) [Except for fees assessed in accordance with the provisions of §
19 14-402(e) of this title, the] THE Board shall pay all fees collected under the provisions
20 of this title to the Comptroller of the State.

21 (2) The Comptroller shall distribute:

22 (i) 14 percent of the fees received from the Board to the State
23 Scholarship Administration to be used as follows:

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

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

32 (ii) The balance of the fees to the Board of Physician Quality
33 Assurance Fund.

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

4 (2) (i) The Fund is a continuing, nonlapsing fund, not subject to §
5 7-302 of the State Finance and Procurement Article.

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

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

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

12 (e) (1) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (D) OF THIS
13 SECTION, THE BOARD SHALL FUND THE BUDGET OF THE PHYSICIAN
14 REHABILITATION COMMITTEE WITH FEES SET, COLLECTED, AND DISTRIBUTED TO
15 THE FUND UNDER THIS TITLE.

16 (2) AFTER REVIEW AND APPROVAL BY THE BOARD OF A BUDGET
17 SUBMITTED BY THE PHYSICIAN REHABILITATION COMMITTEE, THE BOARD MAY
18 ALLOCATE MONEYS FROM THE FUND TO THE PHYSICIAN REHABILITATION
19 COMMITTEE.

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

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

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

26 14-401.

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

30 (b) If an allegation of grounds for disciplinary or other action is made by a
31 patient or a family member of a patient [in a standard of care case] BASED ON
32 § 14-404(A)(22) OF THIS TITLE and a full investigation results from that allegation, the
33 full investigation shall include an offer of an interview with the patient or a family
34 member of the patient who was present on or about the time that the incident that
35 gave rise to the allegation occurred.

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

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

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

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

10 (2) [(i)] After performing any necessary preliminary investigation of an
11 allegation of grounds for disciplinary or other action, the Board shall refer any
12 allegation [involving standards of medical care, as determined by the Board, and any
13 allegation based on § 14-404(a)(19) to the Faculty] BASED ON § 14-404(A)(22) OF THIS
14 TITLE TO THE ENTITY OR ENTITIES THAT HAVE CONTRACTED WITH THE BOARD
15 UNDER SUBSECTION (E) OF THIS SECTION for further investigation and physician
16 peer review within the involved medical specialty or specialties.

17 [(ii)] The Faculty may refer the allegation for investigation and
18 report to the appropriate:

19 1. County medical society; or

20 2. Committee of the Faculty.]

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

25 (4) (i) [If the Board determines that an agreement for corrective
26 action is warranted and patient safety is not an issue, the Board shall notify the
27 licensee of the identified deficiencies and enter into an agreement for corrective
28 action, which may not be made public and which shall not be considered a disciplinary
29 action for purposes of this subtitle.] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF
30 THIS PARAGRAPH, THE BOARD:

31 1. MAY DETERMINE THAT AN AGREEMENT FOR CORRECTIVE
32 ACTION IS WARRANTED; AND

33 2. SHALL NOTIFY THE LICENSEE OF THE IDENTIFIED
34 DEFICIENCIES AND ENTER INTO AN AGREEMENT FOR CORRECTIVE ACTION WITH
35 THE LICENSEE AS PROVIDED IN THIS PARAGRAPH.

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

1 (F) THE WRITTEN CONTRACT ENTERED INTO UNDER SUBSECTION (E) OF THIS
2 SECTION SHALL REQUIRE, AT A MINIMUM, THAT THE PEER REVIEWERS
3 CONDUCTING THE PEER REVIEW:

4 (1) ARE SELECTED FROM THE SAME MEDICAL SPECIALTY AS THE
5 LICENSEE UNDER REVIEW;

6 (2) ARE BOARD CERTIFIED;

7 (3) HAVE A SPECIFIED AMOUNT OF MEDICAL EXPERIENCE;

8 (4) HAVE NO FORMAL BOARD ACTIONS AGAINST THEIR LICENSE;

9 (5) RECEIVE PEER REVIEW TRAINING; AND

10 (6) HAVE A STANDARD FORMAT FOR PEER REVIEW REPORTS.

11 [(f)] (G) (1) To facilitate the investigation and prosecution of disciplinary
12 matters and the mediation of fee disputes coming before it, the Board may:

13 (i) Contract with the Faculty, its committees, and the component
14 medical societies for the purchase of investigatory, mediation, and related services;
15 and

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

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

21 (i) Investigators;

22 (ii) Attorneys;

23 (iii) Accountants;

24 (iv) Expert witnesses;

25 (v) Consultants; and

26 (vi) Mediators.

27 [(g)] (H) The Board may issue subpoenas and administer oaths in connection
28 with any investigation under this section and any hearing or proceeding before it.

29 [(h)] (I) Those individuals not licensed under this title but covered under
30 § 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of
31 § 14-405 of this subtitle.

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

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

8 14-402.

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

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

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

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

23 (c) The unreasonable failure or refusal of the licensed, certified, or registered
24 individual to submit to an examination is prima facie evidence of the licensed,
25 certified, or registered individual's inability to practice medicine or the respective
26 discipline competently, unless the Board finds that the failure or refusal was beyond
27 the control of the licensed, certified, or registered individual.

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

29 (e) (1) (i) The Board shall assess each applicant for a license to practice
30 medicine or for renewal of a license to practice medicine a fee of not more than \$50 to
31 be set after the submission of a budget for the physician rehabilitation program and
32 peer review activities by the Faculty to the Board.

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

35 (iii) The Board shall set a fee under this subsection in accordance
36 with the budget submitted by the Faculty.] THE FACULTY SHALL APPOINT THE
37 MEMBERS OF THE PHYSICIAN REHABILITATION COMMITTEE.

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

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

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

10 14-404.

11 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on
12 the affirmative vote of a majority of its full authorized membership, may reprimand
13 any licensee, place any licensee on probation, or suspend or revoke a license if the
14 licensee:

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

18 14-405.

19 (a) Except as otherwise provided in the Administrative Procedure Act, before
20 the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a) or
21 § 14-606(f) of this title, it shall give the individual against whom the action is
22 contemplated an opportunity for a hearing before a hearing officer OR THE
23 SUBCOMMITTEE OF THE BOARD ESTABLISHED UNDER SUBSECTION (B) OF THIS
24 SECTION.

25 (B) THE CHAIRMAN OF THE BOARD MAY DELEGATE THE AUTHORITY TO
26 CONDUCT A HEARING TO A SUBCOMMITTEE CONSISTING OF THREE OR MORE BOARD
27 MEMBERS.

28 [(b)] (C) The hearing officer OR THE SUBCOMMITTEE OF THE BOARD shall
29 give notice and hold the hearing in accordance with the Administrative Procedure Act
30 [except that factual findings shall be supported by clear and convincing evidence].

31 [(c)] (D) The individual may be represented at the hearing by counsel.

32 [(d)] (E) If after due notice the individual against whom the action is
33 contemplated fails or refuses to appear, nevertheless the hearing officer OR THE
34 SUBCOMMITTEE OF THE BOARD may hear and refer the matter to the Board for
35 disposition.

36 [(e)] (F) After performing any necessary hearing under this section, the
37 hearing officer OR THE SUBCOMMITTEE OF THE BOARD shall refer proposed factual
38 findings to the Board for the Board's disposition.

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

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

5 14-406.

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

10 (b) After the charges are filed, if the Board finds that there are no grounds for
11 action under § 14-404 of this subtitle, the Board:

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

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

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

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

19 14-411.1.

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

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

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

27 (2) A description of any final disciplinary action taken by a licensing
28 board in any other state or jurisdiction against the licensee within the most recent
29 10-year period as reported to the National Practitioner Data Bank;

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

33 (4) MEDICAL EDUCATION AND PRACTICE INFORMATION ABOUT THE
34 LICENSEE INCLUDING:

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

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

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

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

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

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

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

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

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

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

22 (2) INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF
23 INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING
24 A LICENSEE'S PROFILE.

25 (d) The Board:

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

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

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

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

1 (2) Provide a reasonable period for the licensee to correct any factual
2 inaccuracies in the profile.] THE BOARD SHALL PROVIDE A MECHANISM FOR THE
3 NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A
4 LICENSEE'S PROFILE.

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

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

10 14-413.

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

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

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

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

21 1. The hospital or related institution denied the application
22 of a physician for staff privileges or limited, reduced, otherwise changed, or
23 terminated the staff privileges of a physician, or the physician resigned whether or
24 not under formal accusation, if the denial, limitation, reduction, change, termination,
25 or resignation is for reasons that might be grounds for disciplinary action under
26 § 14-404 of this subtitle;

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

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

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

1 14-702.

2 Subject to the evaluation and reestablishment provisions of the Program
3 Evaluation Act, this title and all rules and regulations adopted under this title shall
4 terminate and be of no effect after July 1, [2003] 2008.

5 **Article - State Government**

6 8-403.

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

11 (50) Physician Quality Assurance, State Board of (§ 14-201 of the Health
12 Occupations Article: July 1, [2002] 2007);

13 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the
14 additional 6 members appointed to the State Board of Physician Quality Assurance
15 shall expire as follows:

16 (1) 1 consumer member and 1 physician member in 2004; and

17 (2) 2 consumer members and 2 physician members in 2006.

18 SECTION 3. AND BE IT FURTHER ENACTED, That the State Board of
19 Physician Quality Assurance shall report to the Governor, the Senate Education,
20 Health, and Environmental Affairs Committee, the Senate Budget and Taxation
21 Committee, the House Environmental Matters Committee, and the House
22 Appropriations Committee on or before November 1, 2002, in accordance with §
23 2-1246 of the State Government Article, on the financial condition of the Board,
24 including a review of the impact of any legislation enacted in 2002 and a review of the
25 impact of any procedural, regulatory, or other changes implemented by the Board. If
26 the Board determines that legislation enacted in 2002 will not resolve the financial
27 condition of the Board, the report shall detail how the Board intends to:

28 (1) stabilize long-term finances of the Board;

29 (2) achieve necessary fund balances; and

30 (3) fully meet the responsibilities and mission of the Board.

31 SECTION 4. AND BE IT FURTHER ENACTED, That the State Board of
32 Physician Quality Assurance shall report to the Governor, the Senate Education,
33 Health, and Environmental Affairs Committee and the House Environmental Matters
34 Committee on or before January 1, 2003, in accordance with § 2-1246 of the State
35 Government Article, on investigative caseloads of Board investigators including:

36 (1) the optimal level of caseloads;

- 1 (2) additional tools required to improve investigator productivity;
- 2 (3) a fiscal estimate of the resources required to meet optimal caseload levels
- 3 and provide necessary tools to improve productivity; and
- 4 (4) a detailed plan to address the expenditures identified in the fiscal
- 5 estimate.

6 SECTION 5. AND BE IT FURTHER ENACTED, That on or before January 1,
7 2003, the State Board of Physician Quality Assurance and the Office of the Attorney
8 General (OAG) shall:

- 9 (1) review all aspects of the Board investigative processes;
- 10 (2) recommend a revised investigative process that will ensure in a consistent
- 11 manner that all cases transmitted to the OAG are fully investigated and developed to
- 12 the satisfaction of both the Board and the OAG so that cases can proceed with the
- 13 minimum of additional delay after transmittal; and
- 14 (3) in accordance with § 2-1246 of the State Government Article, report to the
- 15 Governor, the Senate Education, Health, and Environmental Affairs Committee and
- 16 the House Environmental Matters Committee on the findings, recommendations and
- 17 any legislative or regulatory changes necessary to implement the recommended
- 18 changes.

19 SECTION 6. AND BE IT FURTHER ENACTED, That the provisions of § 8-404
20 of the State Government Article requiring a preliminary evaluation do not apply to
21 the State Board of Physician Quality Assurance prior to the evaluation required on or
22 before July 1, 2007.

23 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2002.