

SENATE BILL 500

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2003 Regular Session
3lr0645
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By: **Senator Hollinger**

Introduced and read first time: January 31, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - State Board of Physicians**

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

1 agreement for corrective action from being used except under certain
2 circumstances; specifying that the members of the Physician Rehabilitation
3 Committee are appointed by the Faculty; requiring the chairman of the Board to
4 appoint a member to serve as a liaison to the Physician Rehabilitation
5 Committee; authorizing the chairman of the Board to appoint a certain
6 subcommittee of the Board to conduct certain hearings in a certain manner;
7 requiring a certain vote of the Board in order to dismiss certain charges against
8 a licensee; altering certain requirements for licensee profiles created by the
9 Board; requiring the Board to maintain a single website containing certain
10 information; modifying the termination provision for the Maryland Respiratory
11 Care Practitioners Act; defining a certain term; specifying the terms of certain
12 members of the Board; requiring the Board to submit a certain report on the
13 financial condition of the Board by a certain date; requiring the Board to submit
14 a certain report on investigative caseloads by a certain date; requiring the Board
15 and the Office of the Attorney General to review a certain process, make certain
16 recommendations, and submit a certain report by a certain date; requiring the
17 Board to implement certain changes to the exceptions hearing process; requiring
18 the Board to utilize an additional reviewer if certain peer reviewers do not reach
19 an agreement; exempting the Board from certain provisions of law requiring a
20 certain preliminary evaluation; requiring the Governor to include certain funds
21 for certain programs administered by the Maryland Higher Education
22 Commission in a certain fiscal year; delaying the effective date of certain
23 provisions of this Act and providing that certain provisions of this Act are
24 contingent on the Governor's including certain funds in the budget in a certain
25 fiscal year; making a technical change; requiring the publisher of the Annotated
26 Code, in consultation with, and subject to the approval of the Department of
27 Legislative Services, to correct certain references rendered incorrect by this Act;
28 and generally relating to the State Board of Physicians.

29 BY repealing and reenacting, with amendments,
30 Article - Courts and Judicial Proceedings
31 Section 3-2A-04(a)
32 Annotated Code of Maryland
33 (2002 Replacement Volume)

34 BY repealing and reenacting, with amendments,
35 Article - Health Occupations
36 Section 14-101, 14-202, 14-203, 14-207, 14-321(e), 14-401, 14-402, 14-405,
37 14-406, 14-411.1, 14-5A-25, and 14-702
38 Annotated Code of Maryland
39 (2000 Replacement Volume and 2002 Supplement)

40 BY repealing and reenacting, without amendments,
41 Article - Health Occupations
42 Section 14-404 and 14-413
43 Annotated Code of Maryland

1 (2000 Replacement Volume and 2002 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - State Government

4 Section 8-403(b)(51)

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2002 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Health Occupations

9 Section 14-207(c)

10 Annotated Code of Maryland

11 (2000 Replacement Volume and 2002 Supplement)

12 (As enacted by Section 1 of this Act)

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

15 **Article - Courts and Judicial Proceedings**

16 3-2A-04.

17 (a) (1) A person having a claim against a health care provider for damage
18 due to a medical injury shall file his claim with the Director, and, if the claim is
19 against a physician, the Director shall forward copies of the claim to the State Board
20 of [Physician Quality Assurance and the Medical and Chirurgical Faculty of the State
21 of Maryland] PHYSICIANS. The Director shall cause a copy of the claim to be served
22 upon the health care provider by the appropriate sheriff in accordance with the
23 Maryland Rules. The health care provider shall file a response with the Director and
24 serve a copy on the claimant and all other health care providers named therein within
25 the time provided in the Maryland Rules for filing a responsive pleading to a
26 complaint. The claim and the response may include a statement that the matter in
27 controversy falls within one or more particular recognized specialties.

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

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

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

Article - Health Occupations

1 14-101.

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

3 (b) "Board" means the State Board of [Physician Quality Assurance]
4 PHYSICIANS.

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

7 (d) "Faculty" means the Medical and Chirurgical Faculty of the State of
8 Maryland.

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

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

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

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

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

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

24 (k) "PHYSICIAN REHABILITATION COMMITTEE" MEANS THE COMMITTEE OF
25 THE FACULTY THAT EVALUATES AND PROVIDES ASSISTANCE TO IMPAIRED
26 PHYSICIANS IN NEED OF TREATMENT AND REHABILITATION FOR ALCOHOLISM,
27 CHEMICAL DEPENDENCY, OR OTHER PHYSICAL, EMOTIONAL, OR MENTAL
28 CONDITIONS.

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

31 (i) Diagnosis;

32 (ii) Healing;

33 (iii) Treatment; or
34

1 (iv) Surgery.

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

4 (i) Diagnosing, healing, treating, preventing, prescribing for, or
5 removing any physical, mental, or emotional ailment or supposed ailment of an
6 individual:

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

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

10 (ii) Ending of a human pregnancy; and

11 (iii) Performing acupuncture.

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

13 (i) Selling any nonprescription drug or medicine;

14 (ii) Practicing as an optician; or

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

17 [(L)] (M) "Related institution" has the meaning stated in § 19-301 of the
18 Health - General Article.

19 14-202.

20 (a) (1) The Board shall consist of [15] 21 members appointed by the
21 Governor WITH THE ADVICE OF THE SECRETARY.

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

23 (i) [10] 11 shall be practicing licensed physicians, AT LEAST ONE
24 OF WHOM SHALL BE A DOCTOR OF OSTEOPATHY, appointed [from a list submitted by
25 the Faculty] BY THE GOVERNOR AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;

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

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

30 (IV) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN WHO
31 PRACTICES COMPLEMENTARY AND ALTERNATIVE METHODS OF CARE APPOINTED AT
32 THE GOVERNOR'S DISCRETION WITH THE ADVICE OF THE SECRETARY;

1 (V) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN APPOINTED
2 TO SERVE AS A REPRESENTATIVE OF AN ACADEMIC MEDICAL INSTITUTION IN THIS
3 STATE APPOINTED FROM A LIST CONTAINING:

4 1. 3 NAMES SUBMITTED BY THE JOHNS HOPKINS
5 UNIVERSITY SCHOOL OF MEDICINE; AND

6 2. 3 NAMES SUBMITTED BY THE UNIVERSITY OF MARYLAND
7 SCHOOL OF MEDICINE;

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

10 [(v)] (VII) 1 shall be a [consumer] PUBLIC member knowledgeable in
11 risk management or quality assurance matters appointed from a list submitted by the
12 Maryland Hospital Association.

13 (b) (1) Each consumer OR PUBLIC member of the Board:

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

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

16 [(3)] (III) May not be or ever have been a physician or in training to
17 become a physician;

18 [(4)] (IV) May not have a household member who is a physician or in
19 training to become a physician;

20 [(5)] (V) May not participate or ever have participated in a commercial or
21 professional field related to medicine;

22 [(6)] (VI) May not have a household member who participates in a
23 commercial or professional field related to medicine; and

24 [(7)] (VII) May not have had within 2 years before appointment a
25 substantial financial interest in a person regulated by the Board.

26 (2) A CONSUMER MEMBER OF THE BOARD MAY NOT HAVE A
27 SUBSTANTIAL PERSONAL, BUSINESS, PROFESSIONAL, OR PECUNIARY CONNECTION
28 WITH A MEDICAL FIELD OR WITH AN INSTITUTION OF MEDICAL EDUCATION OR A
29 HEALTH CARE FACILITY.

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

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

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

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

6 (e)] While SERVING AS a member of the Board, [a] EACH consumer member
7 [may not have a substantial financial interest in a person regulated by the Board]
8 AND THE PUBLIC MEMBER SHALL CONTINUE TO MEET THE REQUIREMENTS OF
9 SUBSECTION (B) OF THIS SECTION.

10 (D) (1) FOR EACH VACANCY OF A PRACTICING LICENSED PHYSICIAN
11 APPOINTED BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY UNDER
12 SUBSECTION (A)(2)(I) OF THIS SECTION, THE BOARD SHALL:

13 (I) NOTIFY ALL PRACTICING LICENSED PHYSICIANS AND
14 PROFESSIONAL ORGANIZATIONS REPRESENTING AT LEAST 25 LICENSED PHYSICIANS
15 IN THE STATE OF THE VACANCY;

16 (II) PROVIDE INFORMATION REGARDING THE SELECTION PROCESS
17 AS PROVIDED UNDER SUBSECTION (A)(2)(I) OF THIS SECTION;

18 (III) SOLICIT NOMINATIONS FOR THE VACANCY; AND

19 (IV) FORWARD TO THE GOVERNOR:

20 1. VALID NOMINATIONS SUBMITTED BY PROFESSIONAL
21 ORGANIZATIONS REPRESENTING AT LEAST 25 LICENSED PHYSICIANS IN THE STATE;
22 AND

23 2. VALID PETITIONS SUBMITTED BY PRACTICING LICENSED
24 PHYSICIANS.

25 (2) THE BOARD SHALL MEET THE REQUIREMENTS OF PARAGRAPH (1) OF
26 THIS SUBSECTION WITHIN:

27 (I) 4 MONTHS PRIOR TO AN UPCOMING VACANCY ON THE BOARD;
28 OR

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

30 (E) FOR EACH VACANCY OF A PRACTICING LICENSED PHYSICIAN APPOINTED
31 BY THE GOVERNOR UNDER SUBSECTION (A)(2)(I) OF THIS SECTION, THE GOVERNOR:

32 (1) MAY:

33 (I) REAPPOINT A MEMBER WHO HAS NOT SERVED FOR MORE THAN
34 2 CONSECUTIVE FULL TERMS; OR

1 (II) APPOINT A PRACTICING LICENSED PHYSICIAN IN ACCORDANCE
2 WITH SUBSECTION (A)(2)(I) OF THIS SECTION FROM LISTS SUBMITTED BY THE BOARD
3 AS PROVIDED IN SUBSECTION (D)(1)(IV) OF THIS SECTION; AND

4 (2) MAY NOT REAPPOINT OR APPOINT A PRACTICING LICENSED
5 PHYSICIAN FROM A PARTICULAR MEDICAL SPECIALTY IF THERE ARE TWO CURRENT
6 MEMBERS SERVING ON THE BOARD FROM THE SAME MEDICAL SPECIALTY.

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

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

11 (2) The terms of members are staggered as required by the terms
12 provided for members of the Board on [July 1, 1988] AUGUST 1, 2003.

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

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

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

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

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

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

27 (3) The Governor may remove a member for incompetence or
28 misconduct.

29 14-203.

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

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

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

35 (1) The manner of election of officers;

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

2 (3) The duties of each officer.

3 14-207.

4 (a) There is a Board of [Physician Quality Assurance] PHYSICIANS Fund.

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

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

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

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

14 (2) The Comptroller shall distribute:

15 (i) 14 percent of the fees received from the Board to the Office of
16 Student Financial Assistance to be used as follows:

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

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

25 (ii) The balance of the fees to the Board of [Physician Quality
26 Assurance] PHYSICIANS Fund.

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

30 (2) (i) The Fund is a continuing, nonlapsing fund, not subject to §
31 7-302 of the State Finance and Procurement Article.

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

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

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

4 (e) (1) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (D) OF THIS
5 SECTION, THE BOARD SHALL FUND THE BUDGET OF THE PHYSICIAN
6 REHABILITATION COMMITTEE WITH FEES SET, COLLECTED, AND DISTRIBUTED TO
7 THE FUND UNDER THIS TITLE.

8 (2) AFTER REVIEW AND APPROVAL BY THE BOARD OF A BUDGET
9 SUBMITTED BY THE PHYSICIAN REHABILITATION COMMITTEE, THE BOARD MAY
10 ALLOCATE MONEYS FROM THE FUND TO THE PHYSICIAN REHABILITATION
11 COMMITTEE.

12 (F) (1) The chairman of the Board or the designee of the chairman shall
13 administer the Fund.

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

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

18 14-321.

19 (e) (1) Subject to the requirements of the Administrative Procedure Act, the
20 Board on the affirmative vote of its full authorized membership, may reprimand a
21 restricted license holder, may place any restricted license holder on probation, or
22 suspend or revoke a restricted license for any of the grounds for Board action under §
23 14-404 of this title.

24 (2) THE BOARD MAY ONLY DISMISS A CASE AGAINST A RESTRICTED
25 LICENSE HOLDER ON THE AFFIRMATIVE VOTE OF ITS FULL AUTHORIZED
26 MEMBERSHIP.

27 14-401.

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

31 (b) If an allegation of grounds for disciplinary or other action is made by a
32 patient or a family member of a patient [in a standard of care case] BASED ON §
33 14-404(A)(22) OF THIS SUBTITLE and a full investigation results from that allegation,
34 the full investigation shall include an offer of an interview with the patient or a
35 family member of the patient who was present on or about the time that the incident
36 that 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 SUBTITLE 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, IF AN ALLEGATION IS BASED ON § 14-404(40) OF THIS SUBTITLE,
31 THE BOARD:

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

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

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

1 [(ii)] (III) The Board shall subsequently evaluate the licensee and
2 shall:

3 1. Terminate the corrective action if the Board is satisfied
4 that the licensee is in compliance with the agreement for corrective action and has
5 corrected the deficiencies; or

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

9 (IV) AN AGREEMENT FOR CORRECTIVE ACTION UNDER THIS
10 PARAGRAPH MAY NOT BE MADE PUBLIC OR CONSIDERED A DISCIPLINARY ACTION
11 UNDER THIS TITLE.

12 [(iii)] (V) The Board shall provide a summary of the corrective
13 action agreements in the executive director's report of Board activities.

14 (d) [(1)] The Faculty, all committees of the Faculty, except the physician
15 rehabilitation committee, and all county medical societies shall refer to the Board all
16 complaints that set forth allegations of grounds for disciplinary action under § 14-404
17 of this subtitle.

18 [(2)] If the Faculty determines that 3 or more malpractice claims have
19 been filed against an individual licensed physician under § 3-2A-04(a) of the Courts
20 and Judicial Proceedings Article within a 5-year period, the Faculty shall submit the
21 name of the individual licensed physician to the Board and, subject to the approval of
22 the Board, shall refer the claims to the Faculty's appropriate committee for
23 investigation and report to the Board as if the Board had referred the claims to the
24 committee of the Faculty.

25 (e) (1) (i) Unless the Board grants an extension, the medical society or
26 Faculty committee shall report to the Board on its investigation within 90 days after
27 the referral.

28 (ii) However, if the investigatory body does not complete its report
29 within 90 days, the Board may refer the allegation to another investigatory body.

30 (2) The report shall contain the information and recommendations
31 necessary for appropriate action by the Board.

32 (3) On receipt of the report, the Board shall consider the
33 recommendations made in the report and take the action, including further
34 investigation, that it finds appropriate under this title.]

35 (E) THE BOARD SHALL ENTER INTO A WRITTEN CONTRACT WITH AN ENTITY
36 OR ENTITIES FOR FURTHER INVESTIGATION AND PHYSICIAN PEER REVIEW OF
37 ALLEGATIONS BASED ON § 14-404(A)(22) OF THIS SUBTITLE.

1 (f) (1) To facilitate the investigation and prosecution of disciplinary matters
2 and the mediation of fee disputes coming before it, the Board may:

3 (i) Contract with the Faculty, its committees, and the component
4 medical societies for the purchase of investigatory, mediation, and related services;
5 and

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

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

11 (i) Investigators;

12 (ii) Attorneys;

13 (iii) Accountants;

14 (iv) Expert witnesses;

15 (v) Consultants; and

16 (vi) Mediators.

17 (g) The Board may issue subpoenas and administer oaths in connection with
18 any investigation under this section and any hearing or proceeding before it.

19 (h) Those individuals not licensed under this title but covered under §
20 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of §
21 14-405 of this subtitle.

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

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

29 14-402.

30 (a) In reviewing an application for licensure, certification, or registration or in
31 investigating an allegation brought against a licensed physician or any allied health
32 professional regulated by the Board under this title, the [medical society or Faculty
33 committee] PHYSICIAN REHABILITATION COMMITTEE may request the Board to
34 direct, or the Board on its own initiative may direct, the licensed physician or any
35 allied health professional regulated by the Board under this title to submit to an
36 appropriate examination.

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

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

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

8 (c) The unreasonable failure or refusal of the licensed, certified, or registered
9 individual to submit to an examination is prima facie evidence of the licensed,
10 certified, or registered individual's inability to practice medicine or the respective
11 discipline competently, unless the Board finds that the failure or refusal was beyond
12 the control of the licensed, certified, or registered individual.

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

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

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

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

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

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

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

32 14-404.

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

- 1 (1) Fraudulently or deceptively obtains or attempts to obtain a license
2 for the applicant or licensee or for another;
- 3 (2) Fraudulently or deceptively uses a license;
- 4 (3) Is guilty of immoral or unprofessional conduct in the practice of
5 medicine;
- 6 (4) Is professionally, physically, or mentally incompetent;
- 7 (5) Solicits or advertises in violation of § 14-503 of this title;
- 8 (6) Abandons a patient;
- 9 (7) Habitually is intoxicated;
- 10 (8) Is addicted to, or habitually abuses, any narcotic or controlled
11 dangerous substance as defined in § 5-101 of the Criminal Law Article;
- 12 (9) Provides professional services:
 - 13 (i) While under the influence of alcohol; or
 - 14 (ii) While using any narcotic or controlled dangerous substance, as
15 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
16 therapeutic amounts or without valid medical indication;
- 17 (10) Promotes the sale of drugs, devices, appliances, or goods to a patient
18 so as to exploit the patient for financial gain;
- 19 (11) Willfully makes or files a false report or record in the practice of
20 medicine;
- 21 (12) Willfully fails to file or record any medical report as required under
22 law, willfully impedes or obstructs the filing or recording of the report, or induces
23 another to fail to file or record the report;
- 24 (13) On proper request, and in accordance with the provisions of Title 4,
25 Subtitle 3 of the Health - General Article, fails to provide details of a patient's
26 medical record to the patient, another physician, or hospital;
- 27 (14) Solicits professional patronage through an agent or other person or
28 profits from the acts of a person who is represented as an agent of the physician;
- 29 (15) Pays or agrees to pay any sum to any person for bringing or referring
30 a patient or accepts or agrees to accept any sum from any person for bringing or
31 referring a patient;
- 32 (16) Agrees with a clinical or bioanalytical laboratory to make payments
33 to the laboratory for a test or test series for a patient, unless the licensed physician
34 discloses on the bill to the patient or third-party payor:

- 1 (i) The name of the laboratory;
- 2 (ii) The amount paid to the laboratory for the test or test series; and
- 3 (iii) The amount of procurement or processing charge of the licensed
4 physician, if any, for each specimen taken;
- 5 (17) Makes a willful misrepresentation in treatment;
- 6 (18) Practices medicine with an unauthorized person or aids an
7 unauthorized person in the practice of medicine;
- 8 (19) Grossly overutilizes health care services;
- 9 (20) Offers, undertakes, or agrees to cure or treat disease by a secret
10 method, treatment, or medicine;
- 11 (21) Is disciplined by a licensing or disciplinary authority or convicted or
12 disciplined by a court of any state or country or disciplined by any branch of the
13 United States uniformed services or the Veterans' Administration for an act that
14 would be grounds for disciplinary action under this section;
- 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 (23) Willfully submits false statements to collect fees for which services
19 are not provided;
- 20 (24) Was subject to investigation or disciplinary action by a licensing or
21 disciplinary authority or by a court of any state or country for an act that would be
22 grounds for disciplinary action under this section and the licensee:
- 23 (i) Surrendered the license issued by the state or country to the
24 state or country; or
- 25 (ii) Allowed the license issued by the state or country to expire or
26 lapse;
- 27 (25) Knowingly fails to report suspected child abuse in violation of § 5-704
28 of the Family Law Article;
- 29 (26) Fails to educate a patient being treated for breast cancer of
30 alternative methods of treatment as required by § 20-113 of the Health - General
31 Article;
- 32 (27) Sells, prescribes, gives away, or administers drugs for illegal or
33 illegitimate medical purposes;
- 34 (28) Fails to comply with the provisions of § 12-102 of this article;

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

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

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

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

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

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

15 (32) Fails to display the notice required under § 14-415 of this title;

16 (33) Fails to cooperate with a lawful investigation conducted by the
17 Board;

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

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

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

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

28 (38) By corrupt means, threats, or force, hinders, prevents, or otherwise
29 delays any person from making information available to the Board in furtherance of
30 any investigation of the Board;

31 (39) Intentionally misrepresents credentials for the purpose of testifying
32 or rendering an expert opinion in hearings or proceedings before the Board or those
33 otherwise delegated to the Office of Administrative Hearings; or

34 (40) Fails to keep adequate medical records as determined by appropriate
35 peer review.

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

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

10 14-405.

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

16 (B) THE CHAIRMAN OF THE BOARD MAY DELEGATE THE AUTHORITY TO
17 CONDUCT A HEARING TO A SUBCOMMITTEE CONSISTING OF THREE OR MORE BOARD
18 MEMBERS.

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

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

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

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

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

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

34 14-406.

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

1 (b) After the charges are filed, if the Board finds, ON AN AFFIRMATIVE VOTE
2 OF ITS FULL AUTHORIZED MEMBERSHIP, that there are no grounds for action under §
3 14-404 of this subtitle, the Board:

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

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

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

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

11 14-411.1.

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

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

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

19 (2) A description of any final disciplinary action taken by a licensing
20 board in any other state or jurisdiction against the licensee within the most recent
21 10-year period as reported to the National Practitioner Data Bank;

22 (3) THE NUMBER OF MEDICAL MALPRACTICE COURT JUDGMENTS AND
23 ARBITRATION AWARDS AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR
24 PERIOD;

25 (4) THE NUMBER OF MEDICAL MALPRACTICE SETTLEMENTS INVOLVING
26 THE LICENSEE WITH A SETTLEMENT AMOUNT OF \$150,000 OR GREATER WITHIN THE
27 MOST RECENT 10-YEAR PERIOD;

28 (5) A DESCRIPTION OF ANY ACTIONS RELATING TO THE LICENSEE THAT
29 MIGHT BE GROUNDS FOR DISCIPLINARY ACTION UNDER § 14-404 OF THIS SUBTITLE
30 THAT ARE REPORTED TO THE BOARD BY HOSPITALS OR RELATED INSTITUTIONS
31 UNDER § 14-413(A) OF THIS SUBTITLE WITHIN THE MOST RECENT 10-YEAR PERIOD;

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

35 (7) MEDICAL EDUCATION AND PRACTICE INFORMATION ABOUT THE
36 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, INCLUDING FACTORS TO CONSIDER WHEN EVALUATING A
25 LICENSEE'S MALPRACTICE DATA.

26 (d) The Board:

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

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

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

34 (1) Unless the licensee authorizes and requests a copy of the licensee's
35 profile by electronic means, provide a licensee with a written copy of the licensee's
36 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 the hospital or related institution for reasons that might be grounds for disciplinary
 2 action under § 14-404 of this subtitle; or

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

7 (2) The hospital or related institution shall:

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

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

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

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

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

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

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

23 (d) Any person shall have the immunity from liability described under §
 24 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the
 25 information required by this section.

26 (e) A report made under this section is not subject to subpoena or discovery in
 27 any civil action other than a proceeding arising out of a hearing and decision of the
 28 Board under this title.

29 (f) Failure to report pursuant to this section shall result in imposition of a
 30 civil penalty of up to \$5,000 by a circuit court of this State.

31 14-5A-25.

32 Subject to the evaluation and reestablishment provisions of the Maryland
 33 Program Evaluation Act AND SUBJECT TO THE TERMINATION OF THIS TITLE UNDER
 34 § 14-702 OF THIS TITLE, this subtitle and all rules and regulations adopted under this
 35 subtitle shall terminate and be of no effect after July 1, 2006.

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] 2007.

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 (51) [Physician Quality Assurance] PHYSICIANS, State Board of (§
12 14-201 of the Health Occupations Article: July 1, [2002] 2006);

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
14 read as follows:

15 **Article - Health Occupations**

16 14-207.

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

19 (2) The Comptroller shall distribute[:

20 (i) 14 percent of the fees received from the Board to the Office of
21 Student Financial Assistance to be used as follows:

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

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

30 (ii) The balance of] the fees to the Board of [Physician Quality
31 Assurance] PHYSICIANS Fund.

32 SECTION 3. AND BE IT FURTHER ENACTED, That the term of office of each
33 member of the State Board of Physicians who is serving on the Board on the effective
34 date of this Act shall expire on July 30, 2003.

1 SECTION 4. AND BE IT FURTHER ENACTED, That on August 1, 2003, the
2 Governor, with the advice of the Secretary of Health and Mental Hygiene, shall
3 appoint a new State Board of Physicians in accordance with the provisions of §
4 14-202 of the Health Occupations Article.

5 SECTION 5. AND BE IT FURTHER ENACTED, That the terms of the members
6 of the State Board of Physicians appointed on August 1, 2003 shall expire as follows:

- 7 (1) four physician members and one consumer member in 2005;
- 8 (2) four physician members and one consumer member in 2006;
- 9 (3) four physician members and one consumer member in 2007; and
- 10 (4) four physician members and two consumer members in 2008.

11 SECTION 6. AND BE IT FURTHER ENACTED, That the State Board of
12 Physicians shall report to the Governor, the Senate Education, Health, and
13 Environmental Affairs Committee, the Senate Budget and Taxation Committee, the
14 House Health and Government Operations Committee, and the House Appropriations
15 Committee on or before November 1, 2003, in accordance with § 2-1246 of the State
16 Government Article, on the financial condition of the Board, including a review of the
17 impact of any legislation enacted in 2003 and a review of the impact of any
18 procedural, regulatory, or other changes implemented by the Board. If the Board
19 determines that legislation enacted in 2003 will not resolve the financial condition of
20 the Board, the report shall detail how the Board intends to:

- 21 (1) stabilize long-term finances of the Board;
- 22 (2) achieve necessary fund balances; and
- 23 (3) fully meet the responsibilities and mission of the Board.

24 SECTION 7. AND BE IT FURTHER ENACTED, That the State Board of
25 Physicians shall report to the Governor, the Senate Education, Health, and
26 Environmental Affairs Committee, and the House Health and Government
27 Operations Committee on or before January 1, 2004, in accordance with § 2-1246 of
28 the State Government Article, on investigative caseloads of Board investigators
29 including:

- 30 (1) the optimal level of caseloads;
- 31 (2) additional tools required to improve investigator productivity;
- 32 (3) a fiscal estimate of the resources required to meet optimal caseload levels
33 and provide necessary tools to improve productivity; and
- 34 (4) a detailed plan to address the expenditures identified in the fiscal
35 estimate.

1 SECTION 8. AND BE IT FURTHER ENACTED, That on or before January 1,
2 2004, the State Board of Physicians and the Office of the Attorney General (OAG)
3 shall:

4 (1) review all aspects of the Board investigative processes;

5 (2) recommend a revised investigative process that will ensure in a consistent
6 manner that all cases transmitted to the OAG are fully investigated and developed to
7 the satisfaction of both the Board and the OAG so that cases can proceed with the
8 minimum of additional delay after transmittal; and

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

14 SECTION 9. AND BE IT FURTHER ENACTED, That the State Board of
15 Physicians, in conducting an Exceptions Hearing as provided in COMAR
16 10.32.02.03F, shall provide an opportunity to appear before the Board to both the
17 licensee who has been charged and the individual who has filed the complaint against
18 the licensee giving rise to the charge and shall adopt regulations to implement this
19 section.

20 SECTION 10. AND BE IT FURTHER ENACTED, That the entity or entities
21 with which the State Board of Physicians contracts under § 14-401(e) of the Health
22 Occupations Article for further investigation and peer review of allegations based on
23 § 14-404(a)(22) of the Health Occupations Article shall utilize two peer reviewers, and
24 in the event of a lack of agreement between the two reviewers, the Board shall utilize
25 a third reviewer to render a final peer review decision.

26 SECTION 11. AND BE IT FURTHER ENACTED, That the provisions of §
27 8-404 of the State Government Article requiring a preliminary evaluation do not
28 apply to the State Board of Physicians prior to the evaluation required on or before
29 July 1, 2006.

30 SECTION 12. AND BE IT FURTHER ENACTED, That Section 2 of this Act
31 shall take effect July 1, 2004 contingent on the Governor including in the budget for
32 fiscal year 2005 at least \$750,000 for the operation of the Health Manpower Shortage
33 Incentive Grant Program and the Loan Assistance Repayment Program - Primary
34 Care Services administered by the Maryland Higher Education Commission.

35 SECTION 13. AND BE IT FURTHER ENACTED, That the publisher of the
36 Annotated Code, in consultation with, and subject to the approval of the Department
37 of Legislative Services, shall correct all references to the Board of Physician Quality
38 Assurance rendered incorrect by this Act.

39 SECTION 14. AND BE IT FURTHER ENACTED, That, except as provided in
40 Section 12 of this Act, this Act shall take effect July 1, 2003.