
By: **Senator Hollinger (Chair, Education, Health, and Environmental Affairs Committee)**

Introduced and read first time: February 1, 2006

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2006

CHAPTER _____

1 AN ACT concerning

2 **State Board of Physicians - Sunset Extension and Program Evaluation**

3 FOR the purpose of continuing the State Board of Physicians in accordance with the
 4 provisions of the Maryland Program Evaluation Act (Sunset Law) by extending
 5 to a certain date the termination provisions relating to the statutory and
 6 regulatory authority of the Board; repealing a provision of law requiring the
 7 Board to elect a secretary-treasurer; authorizing the Board to conduct a
 8 show-cause proceeding under certain circumstances; repealing the requirement
 9 that the Board enter into a written contract with a nonprofit entity to provide
 10 physician rehabilitation; repealing a provision requiring the Physician
 11 Rehabilitation Committee to report certain noncompliance by a physician to the
 12 Board; requiring the Board to provide services for physician rehabilitation or
 13 contract with an entity or entities for physician rehabilitation; repealing
 14 provisions of law requiring the Board to assess certain applicants a fee for
 15 physician rehabilitation and peer review activities; requiring proceedings of the
 16 Board or the hearing officer to be open to ~~the public~~ certain complainants under
 17 certain circumstances; authorizing the Board or hearing officer to close
 18 proceedings under certain circumstances; prohibiting certain complainants from
 19 attending certain deliberations of the Board regarding disciplinary matters;
 20 requiring the Board to adopt certain regulations; requiring the Administrative
 21 Office of the Courts and the Chief Judge of the District Court, in collaboration
 22 with the Board, to develop a certain procedure for required reporting; repealing
 23 the requirement that certain records and information relating to the records of a
 24 proceeding or transaction before the Medical and Chirurgical Faculty of the
 25 State of Maryland that relates to a certain investigation or report are
 26 confidential; requiring that certain records and other information relating to the
 27 records of a proceeding or transaction before an entity or entities that contract

1 with the Board are confidential; authorizing the Board to impose a certain civil
2 penalty for failure to file certain reports with the Board; prohibiting certain
3 entities from employing certain individuals without a certificate; authorizing
4 the Board to impose a certain civil penalty for employing certain uncertified
5 individuals; requiring the Comptroller to distribute certain funds for certain
6 programs administered by the Maryland Higher Education Committee under
7 certain circumstances; repealing provisions of law requiring the Comptroller to
8 distribute certain fees received from the Board to the General Fund; altering
9 certain definitions; requiring the Department of Legislative Services to submit a
10 certain report on the Board's complaint resolution process and certain other
11 matters on or before a certain date; authorizing the Board to appoint certain
12 physician reviewers to perform certain additional evaluations for certain peer
13 reviews under certain circumstances; requiring the Board to make certain
14 regulatory changes on or before a certain date; requiring the Department of
15 Health and Mental Hygiene and the Department of Budget and Management to
16 review certain job classifications, make certain determinations and
17 recommendations, and submit a certain report on or before a certain date;
18 requiring the Board and the Department of Health and Mental Hygiene to
19 submit a certain report on a jointly developed strategy to reduce investigative
20 caseloads and complaint backlogs of the Board on or before a certain date;
21 requiring the Board to reduce investigative caseloads and complaint backlogs on
22 or before a certain date; requiring the Department of Health and Mental
23 Hygiene and the Office of the Attorney General to review a certain process for
24 the investigation of self-referral cases, make certain recommendations, and
25 submit a certain report on or before a certain date; ~~requiring the Board to return~~
26 ~~certain funds to certain licensees~~; and generally relating to the State Board of
27 Physicians.

28 BY repealing and reenacting, with amendments,
29 Article - Health Occupations
30 Section 14-101, 14-203(a), 14-207, 14-401, 14-402, 14-405(a), 14-411(b) and
31 (c), 14-413(b), 14-414(b), 14-506, 14-5B-08, 14-702, and 15-206
32 Annotated Code of Maryland
33 (2005 Replacement Volume)

34 BY repealing and reenacting, without amendments,
35 Article - Health Occupations
36 Section 14-411(a), 14-5A-18(a), and 14-5B-15(a)
37 Annotated Code of Maryland
38 (2005 Replacement Volume)

39 BY adding to
40 Article - Health Occupations
41 Section 14-411.2, 14-5A-18(g), and 14-5B-15(g)
42 Annotated Code of Maryland
43 (2005 Replacement Volume)

1 BY repealing and reenacting, with amendments,
2 Article - State Government
3 Section 8-403(b)(49)
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2005 Supplement)

6 BY adding to
7 Article - State Government
8 Section 8-403(c)
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2005 Supplement)

11 BY repealing and reenacting, with amendments,
12 Chapter 252 of the Acts of the General Assembly of 2003
13 Section 8

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

16 **Article - Health Occupations**

17 14-101.

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

19 (b) "Board" means the State Board of Physicians.

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

22 (d) "Faculty" means the Medical and Chirurgical Faculty of the State of
23 Maryland.

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

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

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

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

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

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

6 (k) "Physician Rehabilitation [Committee] PROGRAM" means the
 7 [committee] PROGRAM of the BOARD OR THE entity or entities with whom the Board
 8 contracts under [§ 14-401(e)] § 14-401(G) of this title that evaluates and provides
 9 assistance to impaired physicians in need of treatment and rehabilitation for
 10 alcoholism, chemical dependency, or other physical, emotional, or mental conditions.

11 (l) (1) "Practice medicine" means to engage, with or without compensation,
 12 in medical:

13 (i) Diagnosis;

14 (ii) Healing;

15 (iii) Treatment; or

16 (iv) Surgery.

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

19 (i) Diagnosing, healing, treating, preventing, prescribing for, or
 20 removing any physical, mental, or emotional ailment or supposed ailment of an
 21 individual:

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

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

25 (ii) Ending of a human pregnancy; and

26 (iii) Performing acupuncture AS PROVIDED UNDER § 14-504 OF THIS
 27 TITLE.

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

29 (i) Selling any nonprescription drug or medicine;

30 (ii) Practicing as an optician; or

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

1 (m) "Related institution" has the meaning stated in § 19-301 of the Health -
2 General Article.

3 14-203.

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

6 14-207.

7 (a) There is a Board of Physicians Fund.

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

10 (2) The fees charged shall be set so as to approximate the cost of
11 maintaining the Board.

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

14 (c) (1) [Except for fees assessed in accordance with the provisions of §
15 14-402(e) of this title, the] THE Board shall pay all fees collected under the provisions
16 of this title to the Comptroller of the State.

17 (2) (i) If the Governor does not include in the State budget at least
18 \$750,000 for the operation of the Health Manpower Shortage Incentive Program
19 under § 18-803 of the Education Article and the Loan Assistance Repayment Program
20 for primary care services under § 18-1502(c) of the Education Article, as administered
21 by the Maryland Higher Education Commission, the Comptroller shall distribute:

22 1. 14 percent of the fees received from the Board to the Office
23 of Student Financial Assistance to be used as follows:

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

26 B. 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 2. The balance of the fees to the Board of Physicians Fund.

33 (ii) If the Governor includes in the State budget at least \$750,000
34 for the operation of the Health Manpower Shortage Incentive Program under §
35 18-803 of the Education Article and the Loan Assistance Repayment Program for
36 primary care services under § 18-1502(c) of the Education Article, as administered by

1 the Maryland Higher Education Commission, the Comptroller shall distribute the
2 fees to the Board of Physicians Fund.

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

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

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

11 (3) Interest or other income earned on the investment of moneys in the
12 Fund shall be paid into the Fund.

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

14 (e) (1) In addition to the requirements of subsection (d) of this section, the
15 Board shall fund the budget of the Physician Rehabilitation [Committee] PROGRAM
16 with fees set, collected, and distributed to the Fund under this title.

17 (2) After review and approval by the Board of a budget submitted by the
18 Physician Rehabilitation [Committee] PROGRAM, the Board may allocate moneys
19 from the Fund to the Physician Rehabilitation [Committee] PROGRAM.

20 (f) (1) The [chairman] CHAIR of the Board or the designee of the
21 [chairman] CHAIR shall 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 (g) The Legislative Auditor shall audit the accounts and transactions of the
25 Fund as provided in § 2-1220 of the State Government Article.

26 14-401.

27 (a) (1) ~~The~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
28 THE Board shall perform any necessary preliminary investigation before the Board
29 refers to an investigatory body an allegation of grounds for disciplinary or other
30 action brought to its attention.

31 (2) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE
32 BOARD RECEIVES WRITTEN PROOF FROM A LICENSING ENTITY IN ANOTHER STATE
33 THAT A LICENSEE HAS A SUSPENDED OR REVOKED LICENSE IN THAT STATE DUE TO
34 A STANDARD OF CARE VIOLATION OR A CHARGE OF SEXUAL ABUSE OR DRUG OR
35 ALCOHOL ADDICTION, THE BOARD MAY CONDUCT A SHOW-CAUSE PROCEEDING
36 INSTEAD OF A PRELIMINARY OR FULL INVESTIGATION.

1 (II) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
2 PARAGRAPH.

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

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

12 (i) Refer the allegation for further investigation to the entity that
13 has contracted with the Board under subsection (e) of this section;

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

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

17 (2) After performing any necessary preliminary investigation of an
18 allegation of grounds for disciplinary or other action, the Board shall refer any
19 allegation based on § 14-404(a)(22) of this subtitle to the entity or entities that have
20 contracted with the Board under subsection (e) of this section for further investigation
21 and physician peer review within the involved medical specialty or specialties.

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

26 (4) (i) Except as provided in subparagraph (ii) of this paragraph, if an
27 allegation is based on § 14-404(a)(40) of this subtitle, the Board:

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

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

33 (ii) The Board may not enter into an agreement for corrective
34 action with a licensee if patient safety is an issue.

35 (iii) The Board shall subsequently evaluate the licensee and shall:

- 1 1. Terminate the corrective action if the Board is satisfied
- 2 that the licensee is in compliance with the agreement for corrective action and has
- 3 corrected the deficiencies; or
- 4 2. Pursue disciplinary action under § 14-404 of this subtitle
- 5 if the deficiencies persist or the licensee has failed to comply with the agreement for
- 6 corrective action.
 - 7 (iv) An agreement for corrective action under this paragraph may
 - 8 not be made public or considered a disciplinary action under this title.
 - 9 (v) The Board shall provide a summary of the corrective action
 - 10 agreements in the executive director's report of Board activities.
- 11 (d) The entity or entities with which the Board contracts under subsection (e)
- 12 of this section, all committees of the entity or entities, [except for the Physician
- 13 Rehabilitation Committee,] and all county medical societies shall refer to the Board
- 14 all complaints that set forth allegations of grounds for disciplinary action under §
- 15 14-404 of this subtitle.
- 16 (e) (1) Except as provided in subsection (f) of this section, the Board shall
- 17 enter into a written contract with a nonprofit entity or entities for further
- 18 [investigation, physician rehabilitation,] INVESTIGATION and physician peer review
- 19 of allegations based on § 14-404(a)(22) of this subtitle.
 - 20 (2) The nonprofit entity or entities shall employ reviewers that:
 - 21 (i) Are Board certified;
 - 22 (ii) Have special qualifications to judge the matter at hand;
 - 23 (iii) Have received a specified amount of medical experience and
 - 24 training;
 - 25 (iv) Have no formal actions against their own licenses;
 - 26 (v) Receive training in peer review; and
 - 27 (vi) Have a standard format for peer review reports.
 - 28 (3) The nonprofit entity or entities shall make a reasonable effort to
 - 29 employ physicians that are licensed in the State.
- 30 (f) (1) [(i)] The nonprofit entity or entities with which the Board contracts
- 31 under subsection (e) of this section shall have 90 days for completion of peer review.
- 32 [(ii)] (2) The nonprofit entity or entities may apply to the Board
- 33 for an extension of up to 30 days to the time limit imposed under [subparagraph (i) of
- 34 this paragraph] PARAGRAPH (1) OF THIS SUBSECTION.

1 [(iii)] (3) If an extension is not granted, and 90 days have elapsed,
2 the Board may contract with any other entity for the services of peer review.

3 [(iv)] (4) If an extension has been granted, and 120 days have
4 elapsed, the Board may contract with any other entity for the services of peer review.

5 [(2) If a physician has been noncompliant with a Physician Rehabilitation
6 Committee for 60 days, the Physician Rehabilitation Committee shall report this
7 noncompliance to the Board.]

8 (G) THE BOARD SHALL:

9 (1) PROVIDE SERVICES FOR PHYSICIAN REHABILITATION; OR

10 (2) ENTER INTO A WRITTEN CONTRACT WITH AN ENTITY OR ENTITIES
11 FOR PHYSICIAN REHABILITATION.

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

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

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

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

22 (i) Investigators;

23 (ii) Attorneys;

24 (iii) Accountants;

25 (iv) Expert witnesses;

26 (v) Consultants; and

27 (vi) Mediators.

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

30 [(i)] (J) Those individuals not licensed under this title but covered under §
31 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of §
32 14-405 of this subtitle.

1 [(j)] (K) (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 any
4 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 Physician Rehabilitation
12 [Committee] PROGRAM may request the Board to direct, or the Board on its own
13 initiative may direct, the licensed physician or any allied health professional
14 regulated by the Board under this title to submit to an appropriate examination.

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

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

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

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

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

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

32 (2) The fee is to be used to fund the physician rehabilitation program and
33 peer review activities.

34 (3) The Board shall set a fee under this subsection in accordance with
35 the budget submitted by the entity or entities with which the Board contracts.

36 (f) (E) (1) The BOARD OR THE entity or entities with which the Board
37 contracts shall appoint the members of the Physician Rehabilitation [Committee]
38 PROGRAM.

1 (2) The [chairman] CHAIR of the Board shall appoint one member of the
2 Board to serve as a liaison to the Physician Rehabilitation [Committee] PROGRAM.

3 [(g)] (F) The Legislative Auditor shall every 2 years audit the accounts and
4 transactions of the Physician Rehabilitation [Committee] PROGRAM as provided in §
5 2-1220 of the State Government Article.

6 14-405.

7 (a) Except as otherwise provided in the Administrative Procedure Act, before
8 the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a) OR §
9 14-5B-14(A) of this title, it shall give the individual against whom the action is
10 contemplated an opportunity for a hearing before a hearing officer.

11 14-411.

12 (a) In this section, "record" means the proceedings, records, or files of the
13 Board.

14 (b) Except as otherwise expressly provided in this section and [§ 14-411.1] IN
15 §§ 14-411.1 AND 14-411.2 of this subtitle, the Board or any of its investigatory bodies
16 may not disclose any information contained in a record.

17 (c) Nothing in this section shall be construed to prevent or limit the disclosure
18 of:

19 (1) General licensure, certification, or registration information
20 maintained by the Board, if the request for release complies with the criteria of §
21 10-617(h) of the State Government Article; [or]

22 (2) Profile information collected and disseminated under § 14-411.1 of
23 this subtitle; OR

24 (3) DISCIPLINARY INFORMATION DISCLOSED UNDER § 14-411.2 OF THIS
25 SUBTITLE.

26 14-411.2.

27 (A) EXCEPT AS PROVIDED IN ~~PARAGRAPH (B)~~ SUBSECTIONS (B) AND (C) OF
28 THIS SECTION, THE PROCEEDINGS OF THE BOARD OR THE HEARING OFFICER
29 FOLLOWING THE ISSUANCE OF FORMAL CHARGES BY THE BOARD SHALL BE OPEN TO
30 THE PUBLIC COMPLAINANT.

31 (B) THE BOARD OR A HEARING OFFICER MAY CONDUCT A PROCEEDING IN
32 CLOSED SESSION ON REQUEST BY THE LICENSEE OR THE COMPLAINANT, FOR GOOD
33 CAUSE SHOWN.

34 (C) A COMPLAINANT MAY NOT ATTEND BOARD DELIBERATIONS REGARDING
35 DISCIPLINARY MATTERS.

1 (D) THE BOARD SHALL ADOPT REGULATIONS THAT SPECIFY WHEN A
2 PROCEEDING MAY BE CLOSED FOR GOOD CAUSE.

3 14-413.

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

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

9 (3) THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE CHIEF
10 JUDGE OF THE DISTRICT COURT, IN COLLABORATION WITH THE BOARD, SHALL
11 DEVELOP A PROCEDURE FOR REPORTING AS REQUIRED IN PARAGRAPH (1) OF THIS
12 SUBSECTION.

13 14-414.

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

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

19 (3) THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE CHIEF
20 JUDGE OF THE DISTRICT COURT, IN COLLABORATION WITH THE BOARD, SHALL
21 DEVELOP A PROCEDURE FOR REPORTING AS REQUIRED IN PARAGRAPH (1) OF THIS
22 SUBSECTION.

23 14-506.

24 (a) In this section, "the Maryland Institute for Emergency Medical Services
25 Systems" means the State agency described in § 13-503 of the Education Article.

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

27 (1) Any record and other information obtained by the Faculty, a
28 component society of the Faculty, the Maryland Institute for Emergency Medical
29 Services Systems, a hospital staff committee, or a national medical society or group
30 organized for research, if that record or information identifies any person; and

31 (2) Any record of a proceeding or transaction before the [Faculty]
32 ENTITY OR ENTITIES THAT CONTRACT WITH THE BOARD or one of its committees that
33 relates to any investigation or report under § 14-401 of this title as to an allegation of
34 grounds for disciplinary or other action.

35 (c) Access to and use of any confidential record described in subsection (b) of
36 this section is regulated by §§ 5-601 and 10-205(b) of the Courts Article.

1 (d) This section does not restrict the publication of any statistics or other
2 information that does not disclose the identity of any person.

3 14-5A-18.

4 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
5 related institutions, alternative health systems as defined in § 1-401 of this article,
6 and employers shall file with the Board a report that the hospital, related institution,
7 alternative health system, or employer limited, reduced, otherwise changed, or
8 terminated any licensed respiratory care practitioner for any reasons that might be
9 grounds for disciplinary action under § 14-5A-17 of this subtitle.

10 (G) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR
11 FAILURE TO REPORT UNDER THIS SECTION.

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

14 14-5B-08.

15 (a) Except as otherwise provided in this subtitle, an individual shall be
16 certified by the Board before the individual may practice radiation oncology/therapy
17 technology, medical radiation technology, or nuclear medicine technology in this
18 State.

19 (b) Except as otherwise provided in this subtitle, a licensed physician may not
20 employ or supervise an individual practicing radiation oncology/therapy technology,
21 medical radiation technology, or nuclear medicine technology without a certificate.

22 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL,
23 RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER MAY NOT
24 EMPLOY AN INDIVIDUAL PRACTICING RADIATION ONCOLOGY/THERAPY
25 TECHNOLOGY, MEDICAL RADIATION TECHNOLOGY, OR NUCLEAR MEDICINE
26 TECHNOLOGY WITHOUT A CERTIFICATE.

27 (D) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR
28 EMPLOYING AN UNCERTIFIED INDIVIDUAL UNDER THIS SECTION.

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

31 14-5B-15.

32 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
33 related institutions, alternative health systems as defined in § 1-401 of this article,
34 and employers shall file with the Board a report that the hospital, related institution,
35 alternative health system, or employer limited, reduced, otherwise changed, or
36 terminated any radiation oncology/therapy technologist, certified medical radiation
37 technologist, or certified nuclear medicine technologist for any reasons that might be
38 grounds for disciplinary action under § 14-5B-13 of this subtitle.

1 (G) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR
2 FAILURE TO REPORT UNDER THIS SECTION.

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

5 14-702.

6 Subject to the evaluation and reestablishment provisions of the Program
7 Evaluation Act, this title and all rules and regulations adopted under this title shall
8 terminate and be of no effect after July 1, [2007] 2009.

9 15-206.

10 (a) The Board shall set reasonable fees for:

11 (1) The issuance and renewal of certificates; and

12 (2) The other services rendered by the Board in connection with
13 physician assistants.

14 (b) (1) The Board shall pay all [funds] FEES collected under this title to the
15 Comptroller of the State.

16 (2) (I) IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET
17 AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH MANPOWER SHORTAGE
18 INCENTIVE PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND THE LOAN
19 ASSISTANCE REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES UNDER §
20 18-1502(C) OF THE EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND
21 HIGHER EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE:

22 1. 14 PERCENT OF THE FEES RECEIVED FROM THE BOARD
23 TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS FOLLOWS:

24 A. ONE-HALF TO MAKE GRANTS UNDER THE HEALTH
25 MANPOWER SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE
26 EDUCATION ARTICLE; AND

27 B. ONE-HALF TO MAKE GRANTS UNDER THE JANET L.
28 HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM UNDER § 18-1502(C) OF THE
29 EDUCATION ARTICLE TO PHYSICIANS ENGAGED IN PRIMARY CARE OR TO MEDICAL
30 RESIDENTS SPECIALIZING IN PRIMARY CARE WHO AGREE TO PRACTICE FOR AT
31 LEAST 2 YEARS AS PRIMARY CARE PHYSICIANS IN A GEOGRAPHIC AREA OF THE
32 STATE THAT HAS BEEN DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL
33 HYGIENE AS BEING MEDICALLY UNDERSERVED; AND

34 2. THE BALANCE OF THE FEES TO THE BOARD OF
35 PHYSICIANS FUND.

1 (II) IF THE GOVERNOR INCLUDES IN THE STATE BUDGET AT LEAST
 2 \$750,000 FOR THE OPERATION OF THE HEALTH MANPOWER SHORTAGE INCENTIVE
 3 PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND THE LOAN ASSISTANCE
 4 REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE
 5 EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER EDUCATION
 6 COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE BOARD OF
 7 PHYSICIANS FUND.

8 [(c) The Comptroller shall distribute:

9 (1) 20 percent of the fees received from the Board to the General Fund of
 10 the State; and

11 (2) The balance of the fees to the Board of Physicians Fund.]

12 **Article - State Government**

13 8-403.

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

19 (49) Physicians, State Board of (§ 14-201 of the Health Occupations
 20 Article: July 1, [2006] 2008);

21 (C) ON OR BEFORE NOVEMBER 1, 2007, THE DEPARTMENT OF LEGISLATIVE
 22 SERVICES SHALL REPORT TO THE GOVERNOR, THE SENATE EDUCATION, HEALTH,
 23 AND ENVIRONMENTAL AFFAIRS COMMITTEE, AND THE HOUSE HEALTH AND
 24 GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE
 25 STATE GOVERNMENT ARTICLE, ON:

26 (1) THE COMPLAINT RESOLUTION PROCESS OF THE STATE BOARD OF
 27 PHYSICIANS INCLUDING:

28 (I) THE TIMELINESS OF COMPLAINT RESOLUTION;

29 (II) THE BACKLOG OF COMPLAINTS; AND

30 (III) INVESTIGATIVE CASELOADS; AND

31 (2) ANY OTHER MATTER THAT THE DEPARTMENT OF LEGISLATIVE
 32 SERVICES DETERMINES.

33 **Chapter 252 of the Acts of 2003**

34 **SECTION 8. AND BE IT FURTHER ENACTED, That the entity or entities**
 35 **with which the State Board of Physicians contracts under § 14-401(e) of the Health**

1 Occupations Article for further investigation and peer review of allegations based on
2 § 14-404(a)(22) of the Health Occupations Article shall utilize two peer reviewers,
3 and in the event of a lack of agreement between the two reviewers, the Board shall
4 [utilize] APPOINT a third PHYSICIAN reviewer WITHIN THE INVOLVED MEDICAL
5 SPECIALTY OR SPECIALTIES to [render] PERFORM AN ADDITIONAL EVALUATION OF
6 THE MEDICAL OR SURGICAL CARE THAT IS THE SUBJECT OF THE BOARD'S PEER
7 REVIEW BEFORE RENDERING a final peer review decision.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
9 Physicians shall make regulatory changes necessary to reflect the procedures of the
10 Board and to implement the recommendations made in the "Report on the Maryland
11 Board of Physicians' Investigative Processes and Optimal Caseloads" on or before
12 September 1, 2006.

13 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before September
14 1, 2006, the Department of Health and Mental Hygiene and the Department of
15 Budget and Management shall:

16 (1) review job classifications for investigators at the State Board of
17 Physicians and other health occupations boards;

18 (2) determine if job classifications for investigative positions are
19 appropriate to the skill levels required by investigators;

20 (3) recommend revised job classifications if it is determined to be
21 appropriate; and

22 (4) in accordance with § 2-1246 of the State Government Article, report
23 to the Governor, the Senate Education, Health, and Environmental Affairs
24 Committee and the House Health and Government Operations Committee on the
25 findings, recommendations, and any changes necessary to implement the
26 recommended changes.

27 SECTION 4. AND BE IT FURTHER ENACTED, That the State Board of
28 Physicians and the Department of Health and Mental Hygiene shall report to the
29 Governor, the Senate Education, Health, and Environmental Affairs Committee, and
30 the House Health and Government Operations Committee on or before July 1, 2006,
31 in accordance with § 2-1246 of the State Government Article, on a jointly developed
32 strategy to reduce investigative caseloads and complaint backlogs at the State Board
33 of Physicians.

34 SECTION 5. AND BE IT FURTHER ENACTED, That the State Board of
35 Physicians shall reduce investigative caseloads and complaint backlogs on or before
36 July 1, 2007.

37 SECTION 6. AND BE IT FURTHER ENACTED, That, on or before July 1, 2006,
38 the Department of Health and Mental Hygiene and the Office of the Attorney General
39 shall:

1 (1) review the process for the investigation of self-referral cases by the
2 health occupations boards;

3 (2) recommend a revised investigative process for self-referral cases that
4 includes the determination of an existing central unit within the Office of the
5 Attorney General or the Department of Health and Mental Hygiene that can provide
6 investigative resources for the health occupations boards in the investigation of
7 self-referral cases; and

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

13 ~~SECTION 7. AND BE IT FURTHER ENACTED, That, on or before October 30,~~
14 ~~2006, the State Board of Physicians shall return \$25 to each licensee to account for~~
15 ~~unused funds originally collected for the provision of physician rehabilitation services.~~

16 ~~SECTION 7.~~ AND BE IT FURTHER ENACTED, That this Act shall take
17 effect June 1, 2006.