

HOUSE BILL 282

J2

7lr1109

By: **Delegate Hammen (Chair, Health and Government Operations Committee)**

Introduced and read first time: January 31, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

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; requiring that an evaluation of the Board and
7 the statutes and regulations that relate to the Board be performed on or before
8 a certain date; repealing a provision of law requiring the Board to elect a
9 secretary–treasurer; authorizing the Board’s executive director or other duly
10 authorized agent or investigator of the Board to enter certain premises under
11 certain circumstances; requiring applicants for licensure by the Board to submit
12 to a certain criminal history records check; prohibiting a certain applicant who
13 has a certain disciplinary order in another state from qualifying for a license
14 under certain circumstances; requiring certain applicants to submit certain
15 fingerprints and certain fees to the Criminal Justice Information System
16 Central Repository of the Department of Public Safety and Correctional
17 Services under certain circumstances; requiring the Central Repository to
18 forward certain information to the Board and to certain applicants; providing
19 that certain information is confidential and may be used only for certain
20 purposes; authorizing certain subjects to contest certain contents of certain
21 printed statements; requiring certain applicants for licensure to submit certain
22 evidence to the Board; prohibiting the Board from issuing certain licenses if
23 certain criminal history record information has not been received; authorizing
24 the Board to impose a certain civil penalty for a licensee’s failure to obtain the
25 required continuing medical education credits under certain circumstances;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requiring the Board to develop a pilot program for continuing competency for
2 licensed physicians that addresses a physician's ability to practice medicine;
3 authorizing a certain pilot program to be implemented in a certain teaching
4 hospital; authorizing the Board to provide technical assistance and financial
5 support to a certain teaching hospital for a continuing competency pilot
6 program; requiring the Board to issue a certain report on or before a certain
7 date including certain information; repealing a provision requiring the
8 Physician Rehabilitation Committee to report certain noncompliance by a
9 physician to the Board; requiring the Board to provide services for physician
10 rehabilitation or contract with an entity or entities for physician rehabilitation;
11 altering certain requirements that the Board contract with an entity or entities
12 for further investigation and physician peer review; repealing provisions of law
13 requiring the Board to assess certain applicants a fee for physician
14 rehabilitation and peer review activities; authorizing the Board to disclose
15 certain licensee information to the National Practitioner Data Bank under
16 certain circumstances; modifying the criteria for the reporting of medical
17 malpractice claims and settlement information on the individual licensee
18 profiles; requiring proceedings of the Board or the hearing officer to be open to
19 the public under certain circumstances; authorizing the Board or hearing officer
20 to close proceedings under certain circumstances; requiring the Board to adopt
21 certain regulations; requiring the Administrative Office of the Courts and the
22 Chief Judge of the District Court, in collaboration with the Board, to develop a
23 certain procedure for required reporting; altering certain confidentiality
24 requirements so as to require that certain records and other information
25 relating to the records of a proceeding or transaction before an entity or entities
26 that contract with the Board are confidential; authorizing the Board to impose a
27 certain civil penalty for failure to file certain reports with the Board; prohibiting
28 certain entities from employing certain individuals without a certificate;
29 authorizing the Board to impose a certain civil penalty for employing certain
30 uncertified individuals; requiring the Comptroller to distribute certain funds for
31 certain programs administered by the Maryland Higher Education Commission
32 under certain circumstances; repealing provisions of law requiring the
33 Comptroller to distribute certain fees received from the Board to the General
34 Fund; providing that the Insurance Commissioner, instead of certain regulatory
35 boards, determines if certain payments were provided as a result of a prohibited
36 referral; extending to a certain date the termination provision relating to the
37 statutory and regulatory authority of the Polysomnography Professional
38 Standards Committee; altering certain definitions; defining a certain term;
39 making technical changes; repealing certain provisions requiring the Board to
40 establish or designate a training program for certain physicians on or before a
41 certain date; repealing certain provisions requiring the Board to inform
42 physicians about the availability of certain training and experience; requiring
43 the Board to make certain regulatory changes on or before a certain date;

1 requiring the Secretary of Health and Mental Hygiene to standardize
2 investigator job classifications within the Board on or before a certain date;
3 exempting the Board from certain provisions of law requiring a certain
4 preliminary evaluation; and generally relating to the State Board of Physicians.

5 BY repealing and reenacting, with amendments,

6 Article – Health Occupations

7 Section 14–101, 14–203(a), 14–206(d)(1), 14–207, 14–307(a) and (f), 14–309(a),
8 14–313, 14–316(d), 14–401, 14–402, 14–405, 14–411(b) and (c),
9 14–411.1(b)(4), 14–413(b), 14–414(b), 14–506, 14–5B–08, 14–5C–25,
10 14–702, and 15–206

11 Annotated Code of Maryland

12 (2005 Replacement Volume and 2006 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article – Health Occupations

15 Section 14–316(e), 14–411(a), 14–411.1(b)(3), 14–5A–18(a), 14–5B–15(a), and
16 14–5C–18(a)

17 Annotated Code of Maryland

18 (2005 Replacement Volume and 2006 Supplement)

19 BY adding to

20 Article – Health Occupations

21 Section 14–307.1, 14–322, 14–411.2, 14–5A–18(g), 14–5B–15(g), and
22 14–5C–18(g)

23 Annotated Code of Maryland

24 (2005 Replacement Volume and 2006 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Insurance

27 Section 15–110

28 Annotated Code of Maryland

29 (2006 Replacement Volume and 2006 Supplement)

30 BY repealing and reenacting, with amendments,

31 Article – State Government

32 Section 8–403(b)(49) and (53)

33 Annotated Code of Maryland

34 (2004 Replacement Volume and 2006 Supplement)

35 BY repealing and reenacting, with amendments,

36 Chapter 220 of the Acts of the General Assembly of 2003

37 Section 1

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

3 **Article – Health Occupations**

4 14–101.

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

6 (b) “Board” means the State Board of Physicians.

7 (c) “Civil action” includes a health care malpractice claim under Title 3,
8 Subtitle 2A of the Courts Article.

9 (d) “Faculty” means the Medical and Chirurgical Faculty of the State of
10 Maryland.

11 (e) “Hospital” has the meaning stated in § 19–301 of the Health – General
12 Article.

13 (f) “License” means, unless the context requires otherwise, a license issued
14 by the Board to practice medicine.

15 (g) “Licensed physician” means, unless the context requires otherwise, a
16 physician, including a doctor of osteopathy, who is licensed by the Board to practice
17 medicine.

18 (h) “Licensee” means an individual to whom a license is issued, including an
19 individual practicing medicine within or as a professional corporation or professional
20 association.

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

25 (j) “Physician” means an individual who practices medicine.

26 (k) “Physician Rehabilitation [Committee] **PROGRAM**” means the
27 [committee] **PROGRAM** of the **BOARD OR THE** entity or entities with whom the Board
28 contracts under [§ 14–401(e)] § **14–401(G)** of this title that evaluates and provides

1 assistance to impaired physicians **AND OTHER HEALTH PROFESSIONALS**
2 **REGULATED BY THE BOARD** in need of treatment and rehabilitation for alcoholism,
3 chemical dependency, or other physical, emotional, or mental conditions.

4 (1) (1) "Practice medicine" means to engage, with or without
5 compensation, in medical:

- 6 (i) Diagnosis;
- 7 (ii) Healing;
- 8 (iii) Treatment; or
- 9 (iv) Surgery.

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

12 (i) Diagnosing, healing, treating, preventing, prescribing for, or
13 removing any physical, mental, or emotional ailment or supposed ailment of an
14 individual:

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

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

18 (ii) Ending of a human pregnancy; and

19 (iii) Performing acupuncture **AS PROVIDED UNDER § 14-504**
20 **OF THIS TITLE.**

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

- 22 (i) Selling any nonprescription drug or medicine;
- 23 (ii) Practicing as an optician; or
- 24 (iii) Performing a massage or other manipulation by hand, but
25 by no 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 14–206.

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

10 (I) [a] **A** place of business of a licensed physician;

11 (II) **PRIVATE PREMISES WHERE THE BOARD SUSPECTS**
12 **THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING,**
13 **ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE, BASED ON A**
14 **FORMAL COMPLAINT; or**

15 (III) [public] **PUBLIC** premises.

16 14–207.

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

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

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

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

24 (c) (1) [Except for fees assessed in accordance with the provisions of
25 § 14–402(e) of this title, the] **THE** Board shall pay all fees collected under the
26 provisions of this title to the Comptroller of the State.

27 (2) (i) If the Governor does not include in the State budget at least
28 \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive

1 **GRANT** Program under § 18–803 of the Education Article and the Loan Assistance
2 Repayment Program for primary care services under § 18–1502(c) of the Education
3 Article, as administered by the Maryland Higher Education Commission, the
4 Comptroller shall distribute:

5 1. 14 percent of the fees received from the Board to the
6 Office of Student Financial Assistance to be used as follows:

7 A. One-half to make grants under the Health
8 [Manpower] **PERSONNEL** Shortage Incentive Grant Program under § 18–803 of the
9 Education Article; and

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

16 2. The balance of the fees to the Board of Physicians
17 Fund.

18 (ii) If the Governor includes in the State budget at least
19 \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive
20 **GRANT** Program under § 18–803 of the Education Article and the Loan Assistance
21 Repayment Program for primary care services under § 18–1502(c) of the Education
22 Article, as administered by the Maryland Higher Education Commission, the
23 Comptroller shall distribute the fees to the Board of Physicians Fund.

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

27 (2) (i) The Fund is a continuing, nonlapsing fund, not subject to §
28 7–302 of the State Finance and Procurement Article.

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

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

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

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

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

(f) (1) The [chairman] **CHAIR** of the Board or the designee of the [chairman] **CHAIR** shall administer the Fund.

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

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

14–307.

(a) To qualify for a license, an applicant shall be an individual who **SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 14–307.1 OF THIS SUBTITLE AND** meets the requirements of this section.

(f) (1) The applicant shall meet any other qualifications that the Board establishes in its regulations for license applicants.

(2) **AN APPLICANT WHO HAS AN ACTIVE DISCIPLINARY ORDER ON A LICENSE IN ANOTHER STATE THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER § 14–404 OF THIS TITLE MAY NOT QUALIFY FOR A LICENSE.**

14–307.1.

(A) **IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

1 **(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A**
2 **STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT**
3 **SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

4 **(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS OF THE**
5 **APPLICANT TAKEN IN A FORMAT APPROVED BY THE DIRECTOR OF THE**
6 **CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF**
7 **INVESTIGATION;**

8 **(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**
9 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY**
10 **RECORDS; AND**

11 **(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU**
12 **OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

13 **(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE**
14 **CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD**
15 **TO THE BOARD AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD**
16 **INFORMATION OF THE APPLICANT.**

17 **(D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER**
18 **THIS SECTION SHALL BE:**

19 **(1) CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND**

20 **(2) USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY**
21 **THIS TITLE.**

22 **(E) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER**
23 **THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT**
24 **ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE**
25 **CRIMINAL PROCEDURE ARTICLE.**

26 14-309.

27 (a) To apply for a license, an applicant shall:

28 **(1) (I) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN**
29 **ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE; OR**

1 **(II) HAVE COMPLETED A CRIMINAL HISTORY RECORDS**
2 **CHECK IN ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE THROUGH**
3 **ANOTHER STATE MEDICAL BOARD WITHIN THE 5 YEARS PRECEDING THE DATE**
4 **OF APPLICATION;**

5 **(2)** Submit an application to the Board on the form that the Board
6 requires; [and]

7 **(3) SUBMIT WRITTEN, VERIFIED EVIDENCE THAT THE**
8 **REQUIREMENT OF ITEM (1) OF THIS SUBSECTION IS BEING MET OR HAS BEEN**
9 **MET; AND**

10 [(2)] **(4)** Pay to the Board the application fee set by the Board.
11 14-313.

12 **(A) [The] SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE** Board
13 shall issue a license to any applicant who meets the requirements of this title.

14 **(B) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY**
15 **RECORD INFORMATION REQUIRED UNDER § 14-307.1 OF THIS SUBTITLE HAS**
16 **NOT BEEN RECEIVED.**

17 14-316.

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

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

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

27 **(4) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$100**
28 **PER CONTINUING MEDICAL EDUCATION CREDIT, FOR A FIRST OFFENSE, FOR**

1 **THE FAILURE OF A LICENSEE TO OBTAIN THE CONTINUING MEDICAL**
2 **EDUCATION CREDITS REQUIRED BY THE BOARD.**

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

5 **14-322.**

6 (A) **THE BOARD SHALL DEVELOP A PILOT PROGRAM FOR CONTINUING**
7 **COMPETENCY FOR LICENSED PHYSICIANS THAT ADDRESSES:**

8 (1) **AN ASSESSMENT OF A LICENSED PHYSICIAN'S ABILITY TO**
9 **PRACTICE MEDICINE;**

10 (2) **THE DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A**
11 **LEARNING PLAN BASED ON THE ASSESSMENT IN ITEM (1) OF THIS SUBSECTION;**
12 **AND**

13 (3) **PERIODIC DEMONSTRATIONS OF CONTINUING COMPETENCE**
14 **THROUGH EVIDENCE-BASED METHODS.**

15 (B) **THE PILOT PROGRAM MAY BE IMPLEMENTED IN A STATE-BASED**
16 **TEACHING HOSPITAL SYSTEM THAT:**

17 (1) **ELECTS TO IMPLEMENT THE PILOT PROGRAM;**

18 (2) **DEMONSTRATES THE CAPACITY TO IMPLEMENT THE PILOT**
19 **PROGRAM; AND**

20 (3) **AGREES TO COLLECT OUTCOME MEASURES TO COMPARE THE**
21 **COMPETENCY OF INDIVIDUALS ON ENTRY INTO THE PROGRAM AND ON**
22 **COMPLETION OF THE PROGRAM.**

23 (C) **THE BOARD MAY PROVIDE TECHNICAL ASSISTANCE AND FINANCIAL**
24 **SUPPORT TO A STATE-BASED TEACHING HOSPITAL SYSTEM THAT IMPLEMENTS**
25 **A PILOT PROGRAM UNDER THIS SUBSECTION.**

26 (D) **THE BOARD SHALL ISSUE A REPORT ON THE STATUS OF, AND THE**
27 **BENEFITS ACCRUED FROM, THE PILOT PROGRAM, TO THE GOVERNOR AND, IN**
28 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE**

1 **GENERAL ASSEMBLY WITHIN 2 YEARS AFTER THE DATE THE PILOT PROGRAM IS**
2 **IMPLEMENTED UNDER THIS SECTION.**

3 14-401.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) The Board shall provide a summary of the corrective action agreements in the executive director's report of Board activities.

(d) The entity or entities with which the Board contracts under subsection (e) of this section, all committees of the entity or entities, [except for the Physician Rehabilitation Committee,] and all county medical societies shall refer to the Board all complaints that set forth allegations of grounds for disciplinary action under § 14–404 of this subtitle.

(e) (1) Except as provided in subsection (f) of this section, the Board shall enter into a written contract with [a nonprofit] **AN** entity or entities for further [investigation, physician rehabilitation,] **INVESTIGATION** and physician peer review of allegations based on § 14-404(a)(22) of this subtitle.

(2) The [nonprofit] entity or entities shall employ reviewers that:

(i) Are Board certified;

- 1 (ii) Have special qualifications to judge the matter at hand;
- 2 (iii) Have received a specified amount of medical experience and
3 training;
- 4 (iv) Have no formal actions against their own licenses;
- 5 (v) Receive training in peer review; and
- 6 (vi) Have a standard format for peer review reports.

7 (3) The [nonprofit] entity or entities shall make a reasonable effort to
8 employ physicians that are licensed in the State.

9 (f) (1) [(i)] The [nonprofit] entity or entities with which the Board
10 contracts under subsection (e) of this section shall have 90 days for completion of peer
11 review.

12 [(ii)] (2) The [nonprofit] entity or entities may apply to the
13 Board for an extension of up to 30 days to the time limit imposed under [subparagraph
14 (i) of this paragraph] **PARAGRAPH (1) OF THIS SUBSECTION.**

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

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

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

22 **(G) THE BOARD SHALL:**

23 **(1) PROVIDE SERVICES FOR PHYSICIAN REHABILITATION; OR**

24 **(2) ENTER INTO A WRITTEN CONTRACT WITH AN ENTITY OR**
25 **ENTITIES FOR PHYSICIAN REHABILITATION.**

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

1 (i) Contract] **CONTRACT** with [the Faculty, its committees, and
2 the component medical societies] **AN ENTITY OR ENTITIES** for the purchase of
3 investigatory, mediation, and related services[; and

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

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

9 (i) Investigators;

10 (ii) Attorneys;

11 (iii) Accountants;

12 (iv) Expert witnesses;

13 (v) Consultants; and

14 (vi) Mediators.

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

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

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

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

28 14-402.

1 (a) In reviewing an application for licensure, certification, or registration or
2 in investigating an allegation brought against a licensed physician or any allied health
3 professional regulated by the Board under this title, the Physician Rehabilitation
4 [Committee] **PROGRAM** may request the Board to direct, or the Board on its own
5 initiative may direct, the licensed physician or any allied health professional regulated
6 by the Board under this title to submit to an appropriate examination.

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

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

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

14 (c) The unreasonable failure or refusal of the licensed, certified, or registered
15 individual to submit to an examination is prima facie evidence of the licensed,
16 certified, or registered individual's inability to practice medicine or the respective
17 discipline competently, unless the Board finds that the failure or refusal was beyond
18 the control of the licensed, certified, or registered individual.

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

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

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

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

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

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

4 [(g)] **(F)** The Legislative Auditor shall every 2 years audit the accounts and
5 transactions of the Physician Rehabilitation [Committee] **PROGRAM** as provided in §
6 2–1220 of the State Government Article.

7 14–405.

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

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

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

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

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

20 (e) After performing any necessary hearing under this section, the hearing
21 officer shall refer proposed factual findings to the Board for the Board’s disposition.

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

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

26 14–411.

27 (a) In this section, “record” means the proceedings, records, or files of the
28 Board.

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

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

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

(2) Profile information collected and disseminated under § 14–411.1 of this subtitle;

(3) DISCIPLINARY INFORMATION DISCLOSED UNDER § 14–411.2 OF THIS SUBTITLE; OR

(4) PERSONAL AND OTHER IDENTIFYING INFORMATION OF A LICENSEE, AS REQUIRED BY THE NATIONAL PRACTITIONER DATA BANK FOR PARTICIPATION IN THE PROACTIVE DISCLOSURE SERVICE.

~~14–411.1.~~

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

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

(4) The number of medical malpractice settlements involving the licensee if there are three or more [with a settlement amount of \$150,000 or greater] within the most recent [5–year] **10–YEAR** period as reported to the Board;

~~14–411.2.~~

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE PROCEEDINGS OF THE BOARD OR THE HEARING OFFICER FOLLOWING THE ISSUANCE OF FORMAL CHARGES BY THE BOARD SHALL BE OPEN TO THE PUBLIC.

1 **(B) THE BOARD OR A HEARING OFFICER MAY CONDUCT A PROCEEDING**
2 **IN CLOSED SESSION ON REQUEST BY THE LICENSEE OR THE COMPLAINANT, FOR**
3 **GOOD CAUSE SHOWN.**

4 **(C) THE BOARD SHALL ADOPT REGULATIONS THAT SPECIFY WHEN A**
5 **PROCEEDING MAY BE CLOSED FOR GOOD CAUSE.**

6 14-413.

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

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

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

16 14-414.

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
21 or entry of the plea.

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

26 14-506.

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

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

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

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

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

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

13 14-5A-18.

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

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

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

24 14-5B-08.

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

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

1 **(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL,**
2 **RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER MAY**
3 **NOT EMPLOY AN INDIVIDUAL PRACTICING RADIATION ONCOLOGY/THERAPY**
4 **TECHNOLOGY, MEDICAL RADIATION TECHNOLOGY, OR NUCLEAR MEDICINE**
5 **TECHNOLOGY WITHOUT A CERTIFICATE.**

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

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

10 14-5B-15.

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

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

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

22 14-5C-18.

23 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
24 related institutions, alternative health systems as defined in § 1-401 of this article,
25 and employers shall file with the Board a report that the hospital, related institution,
26 alternative health system, or employer limited, reduced, otherwise changed, or
27 terminated any licensed polysomnographic technologist for any reason that might be
28 grounds for disciplinary action under § 14-5C-17 of this subtitle.

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

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

3 14-5C-25.

4 Subject to the evaluation and reestablishment provisions of the Maryland
5 Program Evaluation Act and subject to the termination of this title under § 14-702 of
6 this title, this subtitle and all regulations adopted under this subtitle shall terminate
7 and be of no effect after July 1, [2011] **2013**.

8 14-702.

9 Subject to the evaluation and reestablishment provisions of the Program
10 Evaluation Act, this title and all rules and regulations adopted under this title shall
11 terminate and be of no effect after July 1, [2007] **2013**.

12 15-206.

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

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

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

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

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

26 **1. 14 PERCENT OF THE FEES RECEIVED FROM THE**
27 **BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS**
28 **FOLLOWS:**

1 **A. ONE-HALF TO MAKE GRANTS UNDER THE**
2 **HEALTH PERSONNEL SHORTAGE INCENTIVE GRANT PROGRAM UNDER §**
3 **18-803 OF THE EDUCATION ARTICLE; AND**

4 **B. ONE-HALF TO MAKE GRANTS UNDER THE JANET**
5 **L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM UNDER § 18-1502(C)**
6 **OF THE EDUCATION ARTICLE TO PHYSICIANS ENGAGED IN PRIMARY CARE OR**
7 **TO MEDICAL RESIDENTS SPECIALIZING IN PRIMARY CARE WHO AGREE TO**
8 **PRACTICE FOR AT LEAST 2 YEARS AS PRIMARY CARE PHYSICIANS IN A**
9 **GEOGRAPHIC AREA OF THE STATE THAT HAS BEEN DESIGNATED BY THE**
10 **SECRETARY OF HEALTH AND MENTAL HYGIENE AS BEING MEDICALLY**
11 **UNDERSERVED; AND**

12 **2. THE BALANCE OF THE FEES TO THE BOARD OF**
13 **PHYSICIANS FUND.**

14 **(II) IF THE GOVERNOR INCLUDES IN THE STATE BUDGET AT**
15 **LEAST \$750,000 FOR THE OPERATION OF THE HEALTH PERSONNEL SHORTAGE**
16 **INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE**
17 **AND THE LOAN ASSISTANCE REPAYMENT PROGRAM FOR PRIMARY CARE**
18 **SERVICES UNDER § 18-1502(C) OF THE EDUCATION ARTICLE, AS**
19 **ADMINISTERED BY THE MARYLAND HIGHER EDUCATION COMMISSION, THE**
20 **COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE BOARD OF PHYSICIANS**
21 **FUND.**

22 [(c) The Comptroller shall distribute:

23 (1) 20 percent of the fees received from the Board to the General Fund
24 of the State; and

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

26 **Article – Insurance**

27 15-110.

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

29 (2) “Health care practitioner” has the meaning stated in § 1-301 of the
30 Health Occupations Article.

1 (3) “Health care service” has the meaning stated in § 1–301 of the
2 Health Occupations Article.

3 (4) “Prohibited referral” means a referral prohibited by § 1–302 of the
4 Health Occupations Article.

5 (b) This section applies to insurers and nonprofit health service plans that
6 issue or deliver individual or group health insurance policies in the State.

7 (c) An entity subject to this section may seek repayment from a health care
8 practitioner of any moneys paid for a claim, bill, or other demand or request for
9 payment for health care services that the [appropriate regulatory board]
10 **COMMISSIONER** determines were provided as a result of a prohibited referral.

11 (d) Each individual and group health insurance policy that is issued for
12 delivery in the State by an entity subject to this section and that provides coverage for
13 health care services shall include a provision that excludes payment of any claim, bill,
14 or other demand or request for payment for health care services that the [appropriate
15 regulatory board] **COMMISSIONER** determines were provided as a result of a
16 prohibited referral.

17 (e) An entity subject to this section shall report to the Commissioner and the
18 appropriate regulatory board any pattern of claims, bills, or other demands or requests
19 for payment submitted for health care services provided as a result of a prohibited
20 referral within 30 days after the entity has knowledge of the pattern.

21 (f) (1) Notwithstanding any other provision of this section, an entity
22 subject to this section that reimburses for health care services is not required to audit
23 or investigate a claim, bill, or other demand or request for payment for health care
24 services to determine whether those services were provided as a result of a prohibited
25 referral.

26 (2) An audit or investigation of a claim, bill, or other demand or
27 request for payment for health care services to determine whether those services were
28 provided as a result of a prohibited referral is not grounds to delay payment or waive
29 the provisions of §§ 15–1004 and 15–1005 of this title.

30 (g) In accordance with § 1–305 of the Health Occupations Article, an entity
31 subject to this section may seek a refund of a payment made for a claim, bill, or other
32 demand or request for payment that is subsequently determined to be for a health care
33 service provided as a result of a prohibited referral.

1 **Article – State Government**

2 8–403.

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

7 (49) Physicians, State Board of (§ 14–201 of the Health Occupations
8 Article: July 1, [2006] **2012**);

9 (53) Polysomnography Professional Standards Committee (§ 14–5C–05
10 of the Health Occupations Article: July 1, [2010] **2012**);

11 **Chapter 220 of the Acts of 2003**

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That:

14 (a) [On or before November 1, 2003, the State Board of Physician Quality
15 Assurance shall establish or designate a program to train Maryland physicians who
16 wish to apply for a waiver from SAMHSA to practice office–based, medication–assisted
17 opioid addiction therapy.

18 (b) In establishing or designating a training program required under
19 subsection (a) of this section, the Board shall:

20 (1) consult the Model Policy Guidelines for Opioid Addiction
21 Treatment in the Medical Office adopted by the Federation of State Medical Boards of
22 the United States, Inc.; and

23 (2) adopt regulations regarding the specific experience or training
24 qualifications required to:

25 (i) demonstrate the ability of the physician to treat and manage
26 opiate–dependent patients in an office–based setting; and

27 (ii) qualify a physician for certification by the Board to apply for
28 a waiver from SAMHSA to practice office–based, medication–assisted opioid addiction
29 therapy.

1 (c) In addition to establishing or designating a program as required under
2 subsection (a) of this section, the] **THE** Board shall, through its website, newsletter,
3 and other correspondence with licensed physicians:

4 (1) educate licensed physicians about provisions of the federal Drug
5 Addiction Treatment Act of 2000 that authorize qualifying physicians to practice
6 office-based, medication-assisted opioid addiction therapy under a waiver from
7 SAMHSA; **AND**

8 (2) encourage family practitioners and primary care providers to
9 consider participating in office-based, medication-assisted opioid addiction therapy[;
10 and

11 (3) inform licensed physicians about the availability of training and
12 experience to qualify for a waiver to practice office-based, medication-assisted opioid
13 addiction therapy that:

14 (i) addresses the treatment and management of
15 opiate-dependent patients in an office-based setting; and

16 (ii) satisfies the training requirements that the Board
17 establishes in the regulations adopted under subsection (b)(2) of this section].

18 [(d)] **(B)** To the extent feasible, the Board shall, in cooperation with the
19 Alcohol and Drug Abuse Administration, develop an outreach strategy to educate
20 opioid addicts about the availability of office-based, medication-assisted opioid
21 addiction therapy.

22 **SECTION 2. AND BE IT FURTHER ENACTED,** That the State Board of
23 Physicians shall make regulatory changes necessary to reflect the procedures of the
24 Board, including exceptions from licensure, and to implement the recommendations
25 made in the “Report on the Maryland Board of Physicians’ Investigative Processes and
26 Optimal Caseloads” on or before September 1, 2007.

27 **SECTION 3. AND BE IT FURTHER ENACTED,** That, on or before July 1,
28 2007, the Secretary of Health and Mental Hygiene shall standardize job classifications
29 for investigators at the State Board of Physicians by increasing the base salary grade
30 to a Grade 16.

1 SECTION 4. AND BE IT FURTHER ENACTED, That the provisions of § 8-404
2 of the State Government Article requiring a preliminary evaluation do not apply to the
3 State Board of Physicians prior to the evaluation required on or before July 1, 2012.

4 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 June 1, 2007.