

SENATE BILL 255

J2

(7lr1927)

ENROLLED BILL

— *Education, Health, and Environmental Affairs / Health and Government Operations* —

Introduced by **Senator Conway**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of authorizing certain regulatory boards to investigate certain
4 claims; continuing the State Board of Physicians in accordance with the
5 provisions of the Maryland Program Evaluation Act (Sunset Law) by extending
6 to a certain date the termination provisions relating to the statutory and
7 regulatory authority of the Board; requiring that an evaluation of the Board and
8 the statutes and regulations that relate to the Board be performed on or before
9 a certain date; repealing a provision of law requiring the Board to elect a
10 secretary–treasurer; authorizing the Board’s executive director or other duly
11 authorized agent or investigator of the Board to enter certain premises under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 certain circumstances; altering the percentages of certain fees required to be
2 distributed in certain fiscal years from the Board to the Office of Student
3 Financial Assistance within the Maryland Higher Education Commission for
4 certain uses under certain circumstances; requiring applicants for licensure by
5 the Board to submit to a certain criminal history records check; prohibiting a
6 certain applicant who has a certain disciplinary order in another state from
7 qualifying for a license under certain circumstances; requiring certain
8 applicants to submit certain fingerprints and certain fees to the Criminal
9 Justice Information System Central Repository of the Department of Public
10 Safety and Correctional Services under certain circumstances; requiring the
11 Central Repository to forward certain information to the Board and to certain
12 applicants; providing that certain information is confidential and may be used
13 only for certain purposes; authorizing certain subjects to contest certain
14 contents of certain printed statements; requiring certain applicants for
15 licensure to submit certain evidence to the Board; prohibiting the Board from
16 issuing certain licenses if certain criminal history record information has not
17 been received; requiring the Board to begin a process of requiring certain
18 criminal history records checks as a condition of certain licensure renewal as
19 determined by certain regulations; authorizing the Board to impose a certain
20 civil penalty in lieu of certain sanctions for a licensee's failure to obtain the
21 required continuing medical education credits under certain circumstances;
22 requiring the Board to develop a pilot program for continuing competency for
23 licensed physicians that addresses a physician's ability to practice medicine;
24 authorizing a certain pilot program to be implemented in a certain teaching
25 hospital; authorizing the Board to provide technical assistance and financial
26 support to a certain teaching hospital for a continuing competency pilot
27 program; requiring the Board to issue a certain report on or before a certain
28 date including certain information; altering the persons with which the Board
29 must contract for peer review services; requiring the Board to obtain a certain
30 number of peer review reports for certain allegations; altering certain
31 qualifications a peer reviewer must meet; authorizing the Board to consult with
32 certain societies to establish a list of physicians qualified to provide peer review
33 services; authorizing the Board to use sole source procurement under certain
34 circumstances; prohibiting certain stays of challenges because of the selection of
35 certain peer reviewers prior to certain filings; repealing a provision requiring
36 the Physician Rehabilitation Committee to report certain noncompliance by a
37 physician to the Board; requiring the Board to provide services for physician
38 rehabilitation or contract with an entity or entities for physician rehabilitation;
39 requiring the Board to issue a request for proposals and enter into a certain
40 contract with a nonprofit entity to provide certain rehabilitation services on or
41 before a certain date; requiring the Board to directly provide certain
42 rehabilitation services under certain circumstances; altering certain
43 requirements that the Board contract with an entity or entities for further

1 ~~investigation and physician peer review~~ investigatory, mediation, and related
2 services; repealing provisions of law requiring the Board to assess certain
3 applicants a fee for physician rehabilitation and peer review activities;
4 establishing separate grounds for disciplinary action for immoral conduct and
5 unprofessional conduct; authorizing the Board to disclose certain licensee
6 information to the National Practitioner Data Bank under certain
7 circumstances; ~~modifying the criteria for the reporting of medical malpractice~~
8 ~~claims and settlement information on the individual licensee profiles~~ repealing
9 the requirement that certain medical malpractice settlement information be
10 available as part of a licensee's public individual profile; requiring the Board to
11 provide certain notification regarding certain malpractice settlement
12 information on the Board's Internet site; requiring the Board to provide certain
13 information within a certain period of time; ~~requiring proceedings of the Board~~
14 ~~or the hearing officer to be open to the public under certain circumstances~~;
15 ~~authorizing the Board or hearing officer to close proceedings under certain~~
16 ~~circumstances~~; ~~requiring the Board to adopt certain regulations~~; ~~requiring the~~
17 ~~Administrative Office of the Courts and the Chief Judge of the District Court, in~~
18 ~~collaboration with the Board, to develop a certain procedure for required~~
19 ~~reporting~~; altering certain confidentiality requirements so as to require that
20 certain records and other information relating to the records of a proceeding or
21 transaction before an entity or entities individual that ~~contract~~ contracts with
22 the Board are confidential; authorizing the Board to impose a certain civil
23 penalty for failure to file certain reports with the Board; prohibiting certain
24 entities from employing certain individuals without a certificate; authorizing
25 the Board to impose a certain civil penalty for employing certain uncertified
26 individuals; ~~requiring the Comptroller to distribute certain funds for certain~~
27 ~~programs administered by the Maryland Higher Education Committee under~~
28 ~~certain circumstances~~; repealing provisions of law requiring the Comptroller to
29 distribute certain fees received from the Board to the General Fund; ~~providing~~
30 ~~that the Insurance Commissioner, instead of certain regulatory boards,~~
31 ~~determines if certain payments were provided as a result of a prohibited~~
32 ~~referral~~; extending to a certain date the termination provision relating to the
33 statutory and regulatory authority of the Polysomnography Professional
34 Standards Committee; altering certain definitions; defining a certain term;
35 making technical changes; repealing certain provisions requiring the Board to
36 establish or designate a training program for certain physicians on or before a
37 certain date; repealing certain provisions requiring the Board to inform
38 physicians about the availability of certain training and experience; authorizing
39 the Board to adopt certain regulations to qualify certain physicians to practice
40 certain opioid addiction therapy; repealing certain provisions of law relating to
41 the use of peer reviewers by a certain entity or entities and the Board; ~~requiring~~
42 ~~the Board to utilize a certain peer reviewer to affirm a certain decision~~;
43 requiring the Board to make certain regulatory changes on or before a certain

1 date; requiring the Secretary of Health and Mental Hygiene to standardize
 2 investigator job classifications within the Board on or before a certain date;
 3 requiring the Board to provide certain training to certain personnel of the Office
 4 of Administrative Hearings; requiring the Department of Health and Mental
 5 Hygiene and the Office of the Attorney General to review a certain process for
 6 investigating self-referral cases and make certain recommendations on or
 7 before a certain date; requiring the Board to submit a certain report regarding
 8 certain disagreement among certain peer reviewers on or before a certain date;
 9 ~~requiring the Governor to include funding for certain new regular positions for~~
 10 ~~the Board in the annual budget bill for a certain fiscal year;~~ requiring the Chief
 11 Administrative Law Judge to designate certain administrative law judges to
 12 hear certain cases referred by the Board; exempting the Board from certain
 13 provisions of law requiring a certain preliminary evaluation; and generally
 14 relating to the State Board of Physicians.

15 BY repealing and reenacting, with amendments,

16 Article – Health Occupations

17 Section ~~1-306~~, 14-101, 14-203(a), 14-206(d)(1), 14-207, ~~14-307(a) and (f),~~
 18 ~~14-309(a), 14-313,~~ 14-316(d) and (e), 14-401, 14-402, ~~14-404(a)(3),~~
 19 ~~14-411(b) and (e)~~ 14-411(c), 14-411.1(b)(4), 14-411.1(b), (c), (d),
 20 ~~14-413(b), 14-414(b),~~ 14-506, 14-5B-08, 14-5C-25, 14-702, and
 21 15-206

22 Annotated Code of Maryland

23 (2005 Replacement Volume and 2006 Supplement)

24 BY adding to

25 Article – Health Occupations

26 Section ~~14-307.1, 14-316(g), 14-322, 14-411.2,~~ 14-5A-18(g), 14-5B-15(g), and
 27 14-5C-18(g)

28 Annotated Code of Maryland

29 (2005 Replacement Volume and 2006 Supplement)

30 BY repealing and reenacting, without amendments,

31 Article – Health Occupations

32 Section 14-316(e) 14-411(a) and (b), ~~14-411.1(b)(3),~~ 14-5A-18(a), 14-5B-15(a),
 33 and 14-5C-18(a)

34 Annotated Code of Maryland

35 (2005 Replacement Volume and 2006 Supplement)

36 ~~BY repealing and reenacting, with amendments,~~

37 ~~Article – Insurance~~

38 ~~Section 15-110~~

39 ~~Annotated Code of Maryland~~

1 ~~(2006 Replacement Volume and 2006 Supplement)~~

2 BY repealing and reenacting, with amendments,
 3 Article – State Government
 4 Section 8–403(b)(49) and (53)
 5 Annotated Code of Maryland
 6 (2004 Replacement Volume and 2006 Supplement)

7 BY repealing and reenacting, with amendments,
 8 Chapter 220 of the Acts of the General Assembly of 2003
 9 Section 1

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

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

15 **Article – Health Occupations**

16 1–306.

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

19 (B) THE APPROPRIATE REGULATORY BOARD MAY INVESTIGATE A
 20 CLAIM UNDER THIS SUBTITLE IN ACCORDANCE WITH THE INVESTIGATIVE
 21 AUTHORITY GRANTED UNDER THIS ARTICLE.

22 14–101.

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

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

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

27 (d) “Faculty” means the Medical and Chirurgical Faculty of the State of
 28 Maryland.

1 (e) "Hospital" has the meaning stated in § 19-301 of the Health – General
2 Article.

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

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

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

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

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

16 (k) "Physician Rehabilitation [Committee] **PROGRAM**" means the
17 [committee] **PROGRAM** of the **BOARD OR THE NONPROFIT** entity ~~or entities with~~
18 ~~whom~~ **WITH WHICH** the Board contracts under [§ 14-401(e)] **§ 14-401(G)** of this title
19 that evaluates and provides assistance to impaired physicians **AND OTHER HEALTH**
20 **PROFESSIONALS REGULATED BY THE BOARD** ~~in need of~~ **WHO ARE DIRECTED BY**
21 **THE BOARD TO RECEIVE** treatment and rehabilitation for alcoholism, chemical
22 dependency, or other physical, emotional, or mental conditions.

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

25 (i) Diagnosis;

26 (ii) Healing;

27 (iii) Treatment; or

28 (iv) Surgery.

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

1 (i) Diagnosing, healing, treating, preventing, prescribing for, or
2 removing any physical, mental, or emotional ailment or supposed ailment of an
3 individual:

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

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

7 (ii) Ending of a human pregnancy; and

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

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

11 (i) Selling any nonprescription drug or medicine;

12 (ii) Practicing as an optician; or

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

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

17 14-203.

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

20 14-206.

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

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

25 (II) **PRIVATE PREMISES WHERE THE BOARD SUSPECTS**
26 **THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING,**

1 **ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE, BASED ON A**
 2 **FORMAL COMPLAINT; or**

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

4 14–207.

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

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

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

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

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

15 (2) (i) If the Governor does not include in the State budget at least
 16 \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive
 17 **GRANT** Program under § 18–803 of the Education Article and the **JANET L.**
 18 **HOFFMAN** Loan Assistance Repayment Program for primary care services under §
 19 18–1502(c) of the Education Article, as administered by the Maryland Higher
 20 Education Commission, the Comptroller shall distribute:

21 1. ~~14~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)**
 22 **OF THIS PARAGRAPH, 10 12** 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
 25 [Manpower] **PERSONNEL** Shortage Incentive Grant Program under § 18–803 of the
 26 Education Article; and

27 B. One-half to make grants under the Janet L. Hoffman
 28 Loan Assistance Repayment Program under § 18–1502(c) of the Education Article to
 29 physicians engaged in primary care or to medical residents specializing in primary
 30 care who agree to practice for at least 2 years as primary care physicians in a

1 geographic area of the State that has been designated by the Secretary of Health and
2 Mental Hygiene as being medically underserved; and

3 2. The balance of the fees to the Board of Physicians
4 Fund.

5 **(II) 1. FOR FISCAL 2008, IF THE GOVERNOR DOES NOT**
6 **INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH**
7 **(I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT**
8 **OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT**
9 **FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER PARAGRAPH (I) OF**
10 **THIS PARAGRAPH.**

11 ~~2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT~~
12 ~~INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER PARAGRAPH (I)~~
13 ~~OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT OF~~
14 ~~THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT~~
15 ~~FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I)~~
16 ~~OF THIS PARAGRAPH.~~

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

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

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

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

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

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

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

14 ~~14-307.~~

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

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

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

23 ~~14-307.1.~~

24 (A) ~~IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL~~
25 ~~JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT~~
26 ~~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 ~~(H) 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 IN LIEU OF A SANCTION UNDER**
29 **§ 14-404 OF THIS TITLE, FOR A FIRST OFFENSE, FOR THE FAILURE OF A**

1 LICENSEE TO OBTAIN THE CONTINUING MEDICAL EDUCATION CREDITS
2 REQUIRED BY THE BOARD.

3 (e) ~~{The} SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE~~ Board
4 shall renew the license of each licensee who meets the requirements of this section.

5 ~~(G) (1) (I) BEGINNING WITH THE 2009 RENEWAL CYCLE, THE~~
6 ~~BOARD SHALL BEGIN A PROCESS REQUIRING CRIMINAL HISTORY RECORDS~~
7 ~~CHECKS ON SELECTED ANNUAL RENEWAL APPLICANTS AS DETERMINED BY~~
8 ~~REGULATIONS ADOPTED BY THE BOARD IN ACCORDANCE WITH § 14-307.1 OF~~
9 ~~THIS SUBTITLE.~~

10 ~~(H) AN ADDITIONAL CRIMINAL HISTORY RECORDS CHECK~~
11 ~~SHALL BE PERFORMED EVERY 10 YEARS THEREAFTER.~~

12 ~~(2) IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION,~~
13 ~~THE BOARD MAY NOT RENEW A LICENSE IF THE CRIMINAL HISTORY RECORD~~
14 ~~INFORMATION REQUIRED UNDER § 14-307.1 OF THIS SUBTITLE HAS NOT BEEN~~
15 ~~RECEIVED.~~

16 ~~14-322.~~

17 ~~(A) THE BOARD SHALL DEVELOP A PILOT PROGRAM FOR CONTINUING~~
18 ~~COMPETENCY FOR LICENSED PHYSICIANS THAT ADDRESSES:~~

19 ~~(1) AN ASSESSMENT OF A LICENSED PHYSICIAN'S ABILITY TO~~
20 ~~PRACTICE MEDICINE;~~

21 ~~(2) THE DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A~~
22 ~~LEARNING PLAN BASED ON THE ASSESSMENT IN ITEM (1) OF THIS SUBSECTION;~~
23 ~~AND~~

24 ~~(3) PERIODIC DEMONSTRATIONS OF CONTINUING COMPETENCE~~
25 ~~THROUGH EVIDENCE-BASED METHODS.~~

26 ~~(B) THE PILOT PROGRAM MAY BE IMPLEMENTED IN A STATE-BASED~~
27 ~~TEACHING HOSPITAL SYSTEM THAT:~~

28 ~~(1) ELECTS TO IMPLEMENT THE PILOT PROGRAM;~~

1 ~~(2) DEMONSTRATES THE CAPACITY TO IMPLEMENT THE PILOT~~
2 ~~PROGRAM; AND~~

3 ~~(3) AGREES TO COLLECT OUTCOME MEASURES TO COMPARE THE~~
4 ~~COMPETENCY OF INDIVIDUALS ON ENTRY INTO THE PROGRAM AND ON~~
5 ~~COMPLETION OF THE PROGRAM.~~

6 ~~(C) THE BOARD MAY PROVIDE TECHNICAL ASSISTANCE AND FINANCIAL~~
7 ~~SUPPORT TO A STATE-BASED TEACHING HOSPITAL SYSTEM THAT IMPLEMENTS~~
8 ~~A PILOT PROGRAM UNDER THIS SUBSECTION.~~

9 ~~(D) THE BOARD SHALL ISSUE A REPORT ON THE STATUS OF, AND THE~~
10 ~~BENEFITS ACCRUED FROM, THE PILOT PROGRAM, TO THE GOVERNOR AND, IN~~
11 ~~ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE~~
12 ~~GENERAL ASSEMBLY WITHIN 2 YEARS AFTER THE DATE THE PILOT PROGRAM IS~~
13 ~~IMPLEMENTED UNDER THIS SECTION.~~

14 14-401.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (d) ~~The entity or entities with which the Board contracts under subsection (e)~~
 2 ~~of this section, all committees of the entity or entities, [except for the Physician~~
 3 ~~Rehabilitation Committee,] and all county COUNTY medical societies shall refer to the~~
 4 Board all complaints that set forth allegations of grounds for disciplinary action under
 5 § 14-404 of this subtitle.

6 (e) (1) ~~(I) Except as provided in~~ **IN ACCORDANCE WITH** subsection (f)
 7 of this section, the Board shall enter into a written contract with [a nonprofit] **AN**
 8 entity or ~~entities~~ **INDIVIDUAL** for ~~further~~ [investigation, physician rehabilitation,]
 9 ~~INVESTIGATION~~ and **CONFIDENTIAL** physician peer review of allegations based on §
 10 14-404(a)(22) of this subtitle.

11 **(II) THE BOARD SHALL OBTAIN TWO PEER REVIEW**
 12 **REPORTS FOR EACH ALLEGATION IT REFERS FOR PEER REVIEW.**

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

14 **(2) A PEER REVIEWER SHALL:**

15 (i) ~~Are~~ **BE** Board certified;

16 (ii) Have special qualifications to judge the matter at hand;

17 (iii) Have received a specified amount of medical experience and
 18 training;

19 (iv) Have no formal actions against ~~their own licenses~~ **THE**
 20 **PEER REVIEWER'S OWN LICENSE;**

21 (v) Receive training in peer review; ~~and~~

22 (vi) Have a standard format for peer review reports; **AND**

23 **(VII) TO THE EXTENT PRACTICABLE, BE LICENSED AND**
 24 **ENGAGED IN THE PRACTICE OF MEDICINE ~~WITHIN THE PAST YEAR~~ IN THE**
 25 **STATE.**

26 (3) ~~The [nonprofit] entity or entities shall make a reasonable effort to~~
 27 ~~employ physicians that are licensed in the State.~~ **THE BOARD MAY CONSULT WITH**
 28 **THE APPROPRIATE SPECIALTY HEALTH CARE PROVIDER SOCIETIES IN THE**

1 **STATE TO OBTAIN A LIST OF PHYSICIANS QUALIFIED TO PROVIDE PEER REVIEW**
 2 **SERVICES.**

3 **(4) FOR PURPOSES OF PEER REVIEW, THE BOARD MAY USE SOLE**
 4 **SOURCE PROCUREMENT UNDER § 13-107 OF THE STATE FINANCE AND**
 5 **PROCUREMENT ARTICLE.**

6 **(5) THE HEARING OF CHARGES MAY NOT BE STAYED OR**
 7 **CHALLENGED BECAUSE OF THE SELECTION OF PEER REVIEWERS UNDER THIS**
 8 **SUBSECTION BEFORE THE FILING OF CHARGES.**

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

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

16 [(iii)] **(3)** If an extension is not granted, and 90 days have
 17 elapsed, the Board may contract with any other entity **OR INDIVIDUAL WHO MEETS**
 18 **THE REQUIREMENTS OF SUBSECTION (E)(2) OF THIS SECTION** for the services of
 19 peer review.

20 [(iv)] **(4)** If an extension has been granted, and 120 days have
 21 elapsed, the Board may contract with any other entity **OR INDIVIDUAL WHO MEETS**
 22 **THE REQUIREMENTS OF SUBSECTION (E)(2) OF THIS SECTION** for the services of
 23 peer review.

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

27 ~~**(G) THE BOARD SHALL:**~~

28 ~~**(1) PROVIDE SERVICES FOR PHYSICIAN REHABILITATION; OR**~~

29 ~~**(2) ENTER INTO A WRITTEN CONTRACT WITH AN ENTITY OR**~~
 30 ~~**ENTITIES FOR PHYSICIAN REHABILITATION.**~~

1 **(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION, ON OR BEFORE JANUARY 1, 2008, THE BOARD SHALL ISSUE A**
3 **REQUEST FOR PROPOSALS AND ENTER INTO A WRITTEN CONTRACT WITH A**
4 **NONPROFIT ENTITY TO PROVIDE REHABILITATION SERVICES FOR PHYSICIANS**
5 **OR OTHER ALLIED HEALTH PROFESSIONALS DIRECTED BY THE BOARD TO**
6 **RECEIVE REHABILITATION SERVICES.**

7 **(2) IF THE BOARD DOES NOT RECEIVE A RESPONSIVE PROPOSAL**
8 **UNDER PARAGRAPH (1) OF THIS SUBSECTION OR IS NOT ABLE TO CONTRACT**
9 **WITH A NONPROFIT ENTITY, THE BOARD SHALL PROVIDE DIRECTLY**
10 **REHABILITATION SERVICES FOR PHYSICIANS.**

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

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

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

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

21 (i) Investigators;

22 (ii) Attorneys;

23 (iii) Accountants;

24 (iv) Expert witnesses;

25 (v) Consultants; and

26 (vi) Mediators.

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

4 [(i)] (J) Those individuals not licensed under this title but covered under §
5 14–413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of § 14–405
6 of this subtitle.

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

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

14 14–402.

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

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

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

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

28 (c) The unreasonable failure or refusal of the licensed, certified, or registered
29 individual to submit to an examination is prima facie evidence of the licensed,
30 certified, or registered individual's inability to practice medicine or the respective
31 discipline competently, unless the Board finds that the failure or refusal was beyond
32 the control of the licensed, certified, or registered individual.

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

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

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

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

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

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

17 [(g) (F) The Legislative Auditor shall every 2 years audit the accounts and
18 transactions of the Physician Rehabilitation [Committee] **PROGRAM** as provided in §
19 2–1220 of the State Government Article.

20 14–404.

21 (a) Subject to the hearing provisions of § 14–405 of this subtitle, the Board,
22 on the affirmative vote of a majority of the quorum, may reprimand any licensee, place
23 any licensee on probation, or suspend or revoke a license if the licensee:

24 (3) Is guilty of:

25 (I) [immoral or unprofessional] IMMORAL conduct in the
26 practice of medicine; OR

27 (II) UNPROFESSIONAL CONDUCT IN THE PRACTICE OF
28 MEDICINE;

29 14–411.

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

3 (b) Except as otherwise expressly provided in this section and ~~§ 14-411.1~~
4 ~~§§ 14-411.1 AND 14-411.2~~ of this subtitle, the Board or any of its investigatory
5 bodies may not disclose any information contained in a record.

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

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

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

13 ~~(3) DISCIPLINARY INFORMATION DISCLOSED UNDER § 14-411.2~~
14 ~~OF THIS SUBTITLE; OR~~

15 ~~(4)~~ (3) **PERSONAL AND OTHER IDENTIFYING INFORMATION OF**
16 **A LICENSEE, AS REQUIRED BY THE NATIONAL PRACTITIONER DATA BANK FOR**
17 **PARTICIPATION IN THE PROACTIVE DISCLOSURE SERVICE.**

18 14-411.1.

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

21 (1) A description of any disciplinary action taken by the Board against
22 the licensee within the most recent 10-year period that includes a copy of the public
23 order;

24 (2) A description in summary form of any final disciplinary action
25 taken by a licensing board in any other state or jurisdiction against the licensee within
26 the most recent 10-year period;

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

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

4 [(5) (4) A description of a conviction or entry of a plea of guilty or
5 nolo contendere by the licensee for a crime involving moral turpitude reported to the
6 Board under § 14-413(b) of this subtitle; and

7 [(6) (5) Medical education and practice information about the
8 licensee including:

9 (i) The name of any medical school that the licensee attended
10 and the date on which the licensee graduated from the school;

11 (ii) A description of any internship and residency training;

12 (iii) A description of any specialty board certification by a
13 recognized board of the American Board of Medical Specialties or the American
14 Osteopathic Association;

15 (iv) The name of any hospital where the licensee has medical
16 privileges as reported to the Board under § 14-413 of this subtitle;

17 (v) The location of the licensee's primary practice setting; and

18 (vi) Whether the licensee participates in the Maryland Medical
19 Assistance Program.

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

22 (1) Provide appropriate and accessible Internet links from the Board's
23 Internet site:

24 (i) To the extent available, to the appropriate portion of the
25 Internet site of each health maintenance organization licensed in this State which will
26 allow the public to ascertain the names of the physicians affiliated with the health
27 maintenance organization; and

28 (ii) To the appropriate portion of the Internet site of the
29 American Medical Association; [and]

1 (2) Include a statement on each licensee's profile of information to be
 2 taken into consideration by a consumer when viewing a licensee's profile, including
 3 factors to consider when evaluating a licensee's malpractice data; AND

4 **(3) PROVIDE ON THE BOARD'S INTERNET SITE:**

5 **(I) NOTIFICATION THAT A PERSON MAY CONTACT THE**
 6 **BOARD BY TELEPHONE, ELECTRONIC MAIL, OR WRITTEN REQUEST TO FIND OUT**
 7 **WHETHER THE NUMBER OF MEDICAL MALPRACTICE SETTLEMENTS INVOLVING**
 8 **A PARTICULAR LICENSEE TOTALS THREE OR MORE WITH A SETTLEMENT**
 9 **AMOUNT OF \$150,000 OR GREATER WITHIN THE MOST RECENT ~~10-YEAR~~ 5-YEAR**
 10 **PERIOD AS REPORTED TO THE BOARD; AND**

11 **(II) A TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS,**
 12 **AND PHYSICAL ADDRESS THROUGH WHICH A PERSON MAY CONTACT THE BOARD**
 13 **TO REQUEST THE INFORMATION REQUIRED TO BE PROVIDED UNDER ITEM (I) OF**
 14 **THIS ITEM.**

15 (d) The Board:

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

18 (2) Shall maintain a website that serves as a single point of entry
 19 where all physician profile information is available to the public on the Internet; AND

20 **(3) ON RECEIPT OF A VERBAL, ELECTRONIC, OR WRITTEN**
 21 **REQUEST IN ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION, SHALL**
 22 **PROVIDE THE INFORMATION WITHIN 2 BUSINESS DAYS OF THE REQUEST.**

23 ~~14-411.2.~~

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

28 ~~(B) THE BOARD OR A HEARING OFFICER MAY CONDUCT A PROCEEDING~~
 29 ~~IN CLOSED SESSION ON REQUEST BY THE LICENSEE OR THE COMPLAINANT, FOR~~
 30 ~~GOOD CAUSE SHOWN.~~

1 ~~(C) 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~~
8 ~~or entry of the plea.~~

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

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

1 Services Systems, a hospital staff committee, or a national medical society or group
2 organized for research, if that record or information identifies any person; and

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

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

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

11 14-5A-18.

12 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
13 related institutions, alternative health systems as defined in § 1-401 of this article,
14 and employers shall file with the Board a report that the hospital, related institution,
15 alternative health system, or employer limited, reduced, otherwise changed, or
16 terminated any licensed respiratory care practitioner for any reasons that might be
17 grounds for disciplinary action under § 14-5A-17 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 14-5B-08.

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

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

30 **(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL,**
31 **RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER MAY**

1 NOT EMPLOY AN INDIVIDUAL PRACTICING RADIATION ONCOLOGY/THERAPY
2 TECHNOLOGY, MEDICAL RADIATION TECHNOLOGY, OR NUCLEAR MEDICINE
3 TECHNOLOGY WITHOUT A CERTIFICATE.

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

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

8 14-5B-15.

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

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

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

20 14-5C-18.

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

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

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

1 14-5C-25.

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

6 14-702.

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

10 15-206.

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

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

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

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

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

24 **1. ~~14~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)**
25 **OF THIS PARAGRAPH, ~~10~~ 12 PERCENT OF THE FEES RECEIVED FROM THE**
26 **BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS**
27 **FOLLOWS:**

28 **A. ONE-HALF TO MAKE GRANTS UNDER THE**
29 **HEALTH PERSONNEL SHORTAGE INCENTIVE GRANT PROGRAM UNDER §**
30 **18-803 OF THE EDUCATION ARTICLE; AND**

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

9 **2. THE BALANCE OF THE FEES TO THE BOARD OF**
 10 **PHYSICIANS FUND.**

11 **(II) 1. FOR FISCAL 2008, IF THE GOVERNOR DOES NOT**
 12 **INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH**
 13 **(I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT**
 14 **OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT**
 15 **FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER PARAGRAPH (I) OF**
 16 **THIS PARAGRAPH.**

17 ~~**2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT**~~
 18 ~~**INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER PARAGRAPH (I)**~~
 19 ~~**OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT OF**~~
 20 ~~**THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT**~~
 21 ~~**FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I)**~~
 22 ~~**OF THIS PARAGRAPH.**~~

23 ~~**(II)**~~ **(III) IF THE GOVERNOR INCLUDES IN THE STATE**
 24 **BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH PERSONNEL**
 25 **SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE EDUCATION**
 26 **ARTICLE AND THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT**
 27 **PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE**
 28 **EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER**
 29 **EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE THE FEES**
 30 **TO THE BOARD OF PHYSICIANS FUND.**

31 [(c) The Comptroller shall distribute:

32 (1) 20 percent of the fees received from the Board to the General Fund
 33 of the State; and

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

2 ~~Article Insurance~~

3 ~~15-110.~~

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

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

7 (3) ~~“Health care service” has the meaning stated in § 1-301 of the~~
8 ~~Health Occupations Article.~~

9 (4) ~~“Prohibited referral” means a referral prohibited by § 1-302 of the~~
10 ~~Health Occupations Article.~~

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

13 (e) ~~An entity subject to this section may seek repayment from a health care~~
14 ~~practitioner of any moneys paid for a claim, bill, or other demand or request for~~
15 ~~payment for health care services that the [appropriate regulatory board]~~
16 ~~COMMISSIONER determines were provided as a result of a prohibited referral.~~

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

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

27 (f) (1) ~~Notwithstanding any other provision of this section, an entity~~
28 ~~subject to this section that reimburses for health care services is not required to audit~~
29 ~~or investigate a claim, bill, or other demand or request for payment for health care~~

1 ~~services to determine whether those services were provided as a result of a prohibited~~
2 ~~referral.~~

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

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

11 **Article – State Government**

12 8-403.

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

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

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

21 **Chapter 220 of the Acts of 2003**

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That:

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

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

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

4 (2) adopt regulations regarding the specific experience or training
5 qualifications required to:

6 (i) demonstrate the ability of the physician to treat and manage
7 opiate-dependent patients in an office-based setting; and

8 (ii) qualify a physician for certification by the Board to apply for
9 a waiver from SAMHSA to practice office-based, medication-assisted opioid addiction
10 therapy.

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

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

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

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

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

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

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

1 (C) THE BOARD MAY ADOPT REGULATIONS REGARDING EXPERIENCE
2 OR TRAINING QUALIFICATIONS REQUIRED TO QUALIFY A PHYSICIAN TO
3 PRACTICE OFFICE-BASED, MEDICATION-ASSISTED OPIOID ADDICTION
4 THERAPY.

5 **Chapter 252 of the Acts of 2003**

6 ~~SECTION 8. AND BE IT FURTHER ENACTED, That the entity or entities~~
7 ~~with which the State Board of Physicians contracts under § 14-401(c) of the Health~~
8 ~~Occupations Article for further investigation and peer review of allegations based on §~~
9 ~~14-404(a)(22) of the Health Occupations Article shall utilize two peer reviewers, and~~
10 ~~in the event of a lack of agreement between the two reviewers, the Board shall utilize~~
11 ~~a third reviewer to [render a final peer review decision.] AFFIRM THE DECISION OF~~
12 ~~ONE OF THE PEER REVIEWERS.~~

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

18 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1,
19 2007, the Secretary of Health and Mental Hygiene shall standardize job classifications
20 for investigators at the State Board of Physicians by increasing the base salary grade
21 to a Grade 16.

22 SECTION 4. AND BE IT FURTHER ENACTED, That the Chief Administrative
23 Law Judge shall designate ~~15 specific~~ a pool of administrative law judges in the Office
24 of Administrative Hearings to hear cases referred to it by the State Board of
25 Physicians.

26 SECTION 5. AND BE IT FURTHER ENACTED, That the State Board of
27 Physicians shall provide training at least annually to the personnel of the Office of
28 Administrative Hearings in order to improve the quality and efficiency of the hearings
29 in physician discipline cases. The training shall include medical terminology, medical
30 ethics, and, to the extent practicable, descriptions of basic medical and surgical
31 procedures currently in use.

32 SECTION 6. AND BE IT FURTHER ENACTED, That, on or before October 1,
33 2007, the Department of Health and Mental Hygiene and the Office of the Attorney
34 General 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
4 that includes the determination of investigative resources for the health occupations
5 boards in the investigation of self-referral cases; and

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

11 SECTION 7. AND BE IT FURTHER ENACTED, That the State Board of
12 Physicians shall submit a report to the Governor and, in accordance with § 2-1246 of
13 the State Government Article, to the General Assembly, on or before December 31,
14 2008, regarding:

15 (1) how many complaints reviewed by two peer reviewers resulted in
16 disagreement between the peer reviewers; and

17 (2) of these complaints, how many resulted in charges being brought
18 against a licensee.

19 ~~SECTION 8. AND BE IT FURTHER ENACTED, That for fiscal 2009, the~~
20 ~~Governor shall include in the annual budget bill funding for an additional 7 new~~
21 ~~regular positions as compliance analysts for the State Board of Physicians, to be fully~~
22 ~~funded by the Board of Physicians Fund established under § 14-207 of the Health~~
23 ~~Occupations Article, in order to efficiently investigate complaints and protect the~~
24 ~~health, safety, and welfare of the public.~~

25 SECTION ~~5-9~~ 8. AND BE IT FURTHER ENACTED, That the provisions of
26 § 8-404 of the State Government Article requiring a preliminary evaluation do not
27 apply to the State Board of Physicians prior to the evaluation required on or before
28 July 1, 2012.

29 SECTION ~~6-10~~ 9. AND BE IT FURTHER ENACTED, That this Act shall take
30 effect June 1, 2007.