

SENATE BILL 255

J2

71r1927

By: **Senator Conway**

Introduced and read first time: January 29, 2007

Assigned to: Education, Health, and Environmental Affairs

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; requiring the
24 Board to begin a process of requiring certain criminal history records checks as
25 a condition of certain licensure renewal as determined by certain regulations;
26 authorizing the Board to impose a certain civil penalty for a licensee’s failure to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

1 the Board to utilize a certain peer reviewer to affirm a certain decision;
2 requiring the Board to make certain regulatory changes on or before a certain
3 date; requiring the Secretary of Health and Mental Hygiene to standardize
4 investigator job classifications within the Board on or before a certain date;
5 requiring the Chief Administrative Law Judge to designate certain
6 administrative law judges to hear certain cases referred by the Board;
7 exempting the Board from certain provisions of law requiring a certain
8 preliminary evaluation; and generally relating to the State Board of Physicians.

9 BY repealing and reenacting, with amendments,

10 Article – Health Occupations

11 Section 14–101, 14–203(a), 14–206(d)(1), 14–207, 14–307(a) and (f), 14–309(a),
12 14–313, 14–316(d) and (e), 14–401, 14–402, 14–411(b) and (c),
13 14–411.1(b)(4), 14–413(b), 14–414(b), 14–506, 14–5B–08, 14–5C–25,
14 14–702, and 15–206

15 Annotated Code of Maryland

16 (2005 Replacement Volume and 2006 Supplement)

17 BY adding to

18 Article – Health Occupations

19 Section 14–307.1, 14–316(g), 14–322, 14–411.2, 14–5A–18(g), 14–5B–15(g), and
20 14–5C–18(g)

21 Annotated Code of Maryland

22 (2005 Replacement Volume and 2006 Supplement)

23 BY repealing and reenacting, without amendments,

24 Article – Health Occupations

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

26 Annotated Code of Maryland

27 (2005 Replacement Volume and 2006 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article – Insurance

30 Section 15–110

31 Annotated Code of Maryland

32 (2006 Replacement Volume and 2006 Supplement)

33 BY repealing and reenacting, with amendments,

34 Article – State Government

35 Section 8–403(b)(49) and (53)

36 Annotated Code of Maryland

37 (2004 Replacement Volume and 2006 Supplement)

1 BY repealing and reenacting, with amendments,
2 Chapter 220 of the Acts of the General Assembly of 2003
3 Section 1

4 BY repealing and reenacting, with amendments,
5 Chapter 252 of the Acts of the General Assembly of 2003
6 Section 8

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

9 **Article – Health Occupations**

10 14–101.

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

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

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

15 (d) “Faculty” means the Medical and Chirurgical Faculty of the State of
16 Maryland.

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

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

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

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

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

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

2 (k) “Physician Rehabilitation [Committee] **PROGRAM**” means the
3 [committee] **PROGRAM** of the **BOARD OR THE** entity or entities with whom the Board
4 contracts under [§ 14–401(e)] § **14–401(G)** of this title that evaluates and provides
5 assistance to impaired physicians **AND OTHER HEALTH PROFESSIONALS**
6 **REGULATED BY THE BOARD** in need of treatment and rehabilitation for alcoholism,
7 chemical dependency, or other physical, emotional, or mental conditions.

8 (l) (1) “Practice medicine” means to engage, with or without
9 compensation, in medical:

- 10 (i) Diagnosis;
- 11 (ii) Healing;
- 12 (iii) Treatment; or
- 13 (iv) Surgery.

14 (2) “Practice medicine” includes doing, undertaking, professing to do,
15 and attempting any of the following:

16 (i) Diagnosing, healing, treating, preventing, prescribing for, or
17 removing any physical, mental, or emotional ailment or supposed ailment of an
18 individual:

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

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

22 (ii) Ending of a human pregnancy; and

23 (iii) Performing acupuncture **AS PROVIDED UNDER § 14–504**
24 **OF THIS TITLE.**

25 (3) “Practice medicine” does not include:

26 (i) Selling any nonprescription drug or medicine;

1 (ii) Practicing as an optician; or

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

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

6 14-203.

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

9 14-206.

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

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

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

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

19 14-207.

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

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

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

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

1 (c) (1) [Except for fees assessed in accordance with the provisions of
2 § 14-402(e) of this title, the] **THE** Board shall pay all fees collected under the
3 provisions of this title to the Comptroller of the State.

4 (2) (i) If the Governor does not include in the State budget at least
5 \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive
6 **GRANT** Program under § 18-803 of the Education Article and the **JANET L.**
7 **HOFFMAN** Loan Assistance Repayment Program for primary care services under §
8 18-1502(c) of the Education Article, as administered by the Maryland Higher
9 Education Commission, the Comptroller shall distribute:

10 1. 14 percent of the fees received from the Board to the
11 Office of Student Financial Assistance to be used as follows:

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

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

21 2. The balance of the fees to the Board of Physicians
22 Fund.

23 (ii) If the Governor includes in the State budget at least
24 \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive
25 **GRANT** Program under § 18-803 of the Education Article and the **JANET L.**
26 **HOFFMAN** Loan Assistance Repayment Program for primary care services under §
27 18-1502(c) of the Education Article, as administered by the Maryland Higher
28 Education Commission, the Comptroller shall distribute the fees to the Board of
29 Physicians Fund.

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

33 (2) (i) The Fund is a continuing, nonlapsing fund, not subject to §
34 7-302 of the State Finance and Procurement Article.

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

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

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

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

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

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

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

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

19 14–307.

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

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

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

28 **14–307.1.**

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

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

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

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

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

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

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

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

23 (2) **USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY**
24 **THIS TITLE.**

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

1 14-309.

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

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

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

9 (2) Submit an application to the Board on the form that the Board
10 requires; [and]

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

14 [(2)] (4) Pay to the Board the application fee set by the Board.

15 14-313.

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

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

21 14-316.

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

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

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

4 **(4) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$100**
5 **PER CONTINUING MEDICAL EDUCATION CREDIT, FOR A FIRST OFFENSE, FOR**
6 **THE FAILURE OF A LICENSEE TO OBTAIN THE CONTINUING MEDICAL**
7 **EDUCATION CREDITS REQUIRED BY THE BOARD.**

8 (e) [The] **SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE** Board
9 shall renew the license of each licensee who meets the requirements of this section.

10 **(G) (1) (I) BEGINNING WITH THE 2009 RENEWAL CYCLE, THE**
11 **BOARD SHALL BEGIN A PROCESS REQUIRING CRIMINAL HISTORY RECORDS**
12 **CHECKS ON SELECTED ANNUAL RENEWAL APPLICANTS AS DETERMINED BY**
13 **REGULATIONS ADOPTED BY THE BOARD IN ACCORDANCE WITH § 14-307.1 OF**
14 **THIS SUBTITLE.**

15 **(II) AN ADDITIONAL CRIMINAL HISTORY RECORDS CHECK**
16 **SHALL BE PERFORMED EVERY 10 YEARS THEREAFTER.**

17 **(2) IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION,**
18 **THE BOARD MAY NOT RENEW A LICENSE IF THE CRIMINAL HISTORY RECORD**
19 **INFORMATION REQUIRED UNDER § 14-307.1 OF THIS SUBTITLE HAS NOT BEEN**
20 **RECEIVED.**

21 **14-322.**

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

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

26 **(2) THE DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A**
27 **LEARNING PLAN BASED ON THE ASSESSMENT IN ITEM (1) OF THIS SUBSECTION;**
28 **AND**

29 **(3) PERIODIC DEMONSTRATIONS OF CONTINUING COMPETENCE**
30 **THROUGH EVIDENCE-BASED METHODS.**

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

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

4 **(2) DEMONSTRATES THE CAPACITY TO IMPLEMENT THE PILOT**
5 **PROGRAM; AND**

6 **(3) AGREES TO COLLECT OUTCOME MEASURES TO COMPARE THE**
7 **COMPETENCY OF INDIVIDUALS ON ENTRY INTO THE PROGRAM AND ON**
8 **COMPLETION OF THE PROGRAM.**

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

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

17 14-401.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (i) Are Board certified;

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

15 (iii) Have received a specified amount of medical experience and
16 training;

17 (iv) Have no formal actions against their own licenses;

18 (v) Receive training in peer review; and

19 (vi) Have a standard format for peer review reports.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (i) Investigators;

23 (ii) Attorneys;

24 (iii) Accountants;

25 (iv) Expert witnesses;

26 (v) Consultants; and

1 (vi) Mediators.

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

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

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

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

15 14-402.

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

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

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

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

29 (c) The unreasonable failure or refusal of the licensed, certified, or registered
30 individual to submit to an examination is prima facie evidence of the licensed,
31 certified, or registered individual's inability to practice medicine or the respective

1 discipline competently, unless the Board finds that the failure or refusal was beyond
2 the control of the licensed, certified, or registered individual.

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

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

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

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

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

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

19 [(g) (F) The Legislative Auditor shall every 2 years audit the accounts and
20 transactions of the Physician Rehabilitation [Committee] **PROGRAM** as provided in §
21 2–1220 of the State Government Article.

22 14–411.

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

25 (b) Except as otherwise expressly provided in this section and [§ 14–411.1]
26 §§ **14–411.1 AND 14–411.2** of this subtitle, the Board or any of its investigatory
27 bodies may not disclose any information contained in a record.

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

1 (1) General licensure, certification, or registration information
2 maintained by the Board, if the request for release complies with the criteria of §
3 10–617(h) of the State Government Article; [or]

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

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

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

11 14–411.1.

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

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

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

20 **14–411.2.**

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

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

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

1 14-413.

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

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

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

11 14-414.

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

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

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

21 14-506.

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

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

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

29 (2) Any record of a proceeding or transaction before the [Faculty]
30 **ENTITY OR ENTITIES THAT CONTRACT WITH THE BOARD** or one of its committees

1 that relates to any investigation or report under § 14-401 of this title as to an
2 allegation of grounds for disciplinary or other action.

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

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

7 14-5A-18.

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

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

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

18 14-5B-08.

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

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

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

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

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

5 14-5B-15.

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

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

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

17 14-5C-18.

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

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

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

28 14-5C-25.

29 Subject to the evaluation and reestablishment provisions of the Maryland
30 Program Evaluation Act and subject to the termination of this title under § 14-702 of

1 this title, this subtitle and all regulations adopted under this subtitle shall terminate
2 and be of no effect after July 1, [2011] **2013**.

3 14-702.

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

7 15-206.

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

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

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

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

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

21 **1. 14 PERCENT OF THE FEES RECEIVED FROM THE**
22 **BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS**
23 **FOLLOWS:**

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

27 **B. ONE-HALF TO MAKE GRANTS UNDER THE JANET**
28 **L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM UNDER § 18-1502(C)**
29 **OF THE EDUCATION ARTICLE TO PHYSICIANS ENGAGED IN PRIMARY CARE OR**
30 **TO MEDICAL RESIDENTS SPECIALIZING IN PRIMARY CARE WHO AGREE TO**

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

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

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

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

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

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

28 **Article – State Government**

29 8–403.

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

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

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

5 **Chapter 220 of the Acts of 2003**

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That:

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

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

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

17 (2) adopt regulations regarding the specific experience or training
18 qualifications required to:

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

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

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

27 (1) educate licensed physicians about provisions of the federal Drug
28 Addiction Treatment Act of 2000 that authorize qualifying physicians to practice
29 office–based, medication–assisted opioid addiction therapy under a waiver from
30 SAMHSA; **AND**

1 SECTION 4. AND BE IT FURTHER ENACTED, That the Chief Administrative
2 Law Judge shall designate 15 specific administrative law judges in the Office of
3 Administrative Hearings to hear cases referred to it by the State Board of Physicians.

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

7 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 June 1, 2007.