

CHAPTER 539

(Senate Bill 255)

AN ACT concerning

State Board of Physicians – Sunset Extension and Program Evaluation

FOR the purpose of authorizing certain regulatory boards to investigate certain claims; continuing the State Board of Physicians in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; repealing a provision of law requiring the Board to elect a secretary-treasurer; authorizing the Board's executive director or other duly authorized agent or investigator of the Board to enter certain premises under certain circumstances; altering the percentages of certain fees required to be distributed in certain fiscal years from the Board to the Office of Student Financial Assistance within the Maryland Higher Education Commission for certain uses under certain circumstances; ~~requiring applicants for licensure by the Board to submit to a certain criminal history records check; prohibiting a certain applicant who has a certain disciplinary order in another state from qualifying for a license under certain circumstances; requiring certain applicants to submit certain fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward certain information to the Board and to certain applicants; providing that certain information is confidential and may be used only for certain purposes; authorizing certain subjects to contest certain contents of certain printed statements; requiring certain applicants for licensure to submit certain evidence to the Board; prohibiting the Board from issuing certain licenses if certain criminal history record information has not been received; requiring the Board to begin a process of requiring certain criminal history records checks as a condition of certain licensure renewal as determined by certain regulations~~; authorizing the Board to impose a certain civil penalty in lieu of certain sanctions for a licensee's failure to obtain the required continuing medical education credits under certain circumstances; ~~requiring the Board to develop a pilot program for continuing competency for licensed physicians that addresses a physician's ability to practice medicine; authorizing a certain pilot program to be implemented in a certain teaching~~

~~hospital; authorizing the Board to provide technical assistance and financial support to a certain teaching hospital for a continuing competency pilot program; requiring the Board to issue a certain report on or before a certain date including certain information; altering the persons with which the Board must contract for peer review services; requiring the Board to obtain a certain number of peer review reports for certain allegations; altering certain qualifications a peer reviewer must meet; authorizing the Board to consult with certain societies to establish a list of physicians qualified to provide peer review services; authorizing the Board to use sole source procurement under certain circumstances; prohibiting certain stays of challenges because of the selection of certain peer reviewers prior to certain filings; repealing a provision requiring the Physician Rehabilitation Committee to report certain noncompliance by a physician to the Board; requiring the Board to provide services for physician rehabilitation or contract with an entity or entities for physician rehabilitation; requiring the Board to issue a request for proposals and enter into a certain contract with a nonprofit entity to provide certain rehabilitation services on or before a certain date; requiring the Board to directly provide certain rehabilitation services under certain circumstances; altering certain requirements that the Board contract with an entity or entities for further investigation and physician peer review investigatory, mediation, and related services; repealing provisions of law requiring the Board to assess certain applicants a fee for physician rehabilitation and peer review activities; establishing separate grounds for disciplinary action for immoral conduct and unprofessional conduct; authorizing the Board to disclose certain licensee information to the National Practitioner Data Bank under certain circumstances; modifying the criteria for the reporting of medical malpractice claims and settlement information on the individual licensee profiles repealing the requirement that certain medical malpractice settlement information be available as part of a licensee's public individual profile; requiring the Board to provide certain notification regarding certain malpractice settlement information on the Board's Internet site; requiring the Board to provide certain information within a certain period of time; requiring proceedings of the Board or the hearing officer to be open to the public under certain circumstances; authorizing the Board or hearing officer to close proceedings under certain circumstances; requiring the Board to adopt certain regulations; requiring the Administrative Office of the Courts and the Chief Judge of the District Court, in collaboration with the Board, to develop a certain procedure for required reporting; altering certain confidentiality requirements so as to require that certain records and other information relating to the records of a proceeding or transaction before an entity or entities individual that contract contracts with the Board are confidential; authorizing the Board to impose a certain civil penalty for failure to file certain reports with the Board; prohibiting certain~~

entities from employing certain individuals without a certificate; authorizing the Board to impose a certain civil penalty for employing certain uncertified individuals; ~~requiring the Comptroller to distribute certain funds for certain programs administered by the Maryland Higher Education Committee under certain circumstances~~; repealing provisions of law requiring the Comptroller to distribute certain fees received from the Board to the General Fund; ~~providing that the Insurance Commissioner, instead of certain regulatory boards, determines if certain payments were provided as a result of a prohibited referral~~; extending to a certain date the termination provision relating to the statutory and regulatory authority of the Polysomnography Professional Standards Committee; altering certain definitions; defining a certain term; making technical changes; repealing certain provisions requiring the Board to establish or designate a training program for certain physicians on or before a certain date; repealing certain provisions requiring the Board to inform physicians about the availability of certain training and experience; authorizing the Board to adopt certain regulations to qualify certain physicians to practice certain opioid addiction therapy; repealing certain provisions of law relating to the use of peer reviewers by a certain entity or entities and the Board; ~~requiring the Board to utilize a certain peer reviewer to affirm a certain decision~~; requiring the Board to make certain regulatory changes on or before a certain date; requiring the Secretary of Health and Mental Hygiene to standardize investigator job classifications within the Board on or before a certain date; requiring the Board to provide certain training to certain personnel of the Office of Administrative Hearings; requiring the Department of Health and Mental Hygiene and the Office of the Attorney General to review a certain process for investigating self-referral cases and make certain recommendations on or before a certain date; requiring the Board to submit a certain report regarding certain disagreement among certain peer reviewers on or before a certain date; ~~requiring the Governor to include funding for certain new regular positions for the Board in the annual budget bill for a certain fiscal year~~; requiring the Chief Administrative Law Judge to designate certain administrative law judges to hear certain cases referred by the Board; exempting the Board from certain provisions of law requiring a certain preliminary evaluation; and generally relating to the State Board of Physicians.

BY repealing and reenacting, with amendments,

Article – Health Occupations

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

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article – Health Occupations

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

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

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

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

~~Article – Insurance~~

~~Section 15-110~~

~~Annotated Code of Maryland~~

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

BY repealing and reenacting, with amendments,

Article – State Government

Section 8-403(b)(49) and (53)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Chapter 220 of the Acts of the General Assembly of 2003

Section 1

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

Chapter 252 of the Acts of the General Assembly of 2003

Section 8

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

Article – Health Occupations

1-306.

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

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

14-101.

- (a) In this title the following words have the meanings indicated.
- (b) “Board” means the State Board of Physicians.
- (c) “Civil action” includes a health care malpractice claim under Title 3, Subtitle 2A of the Courts Article.
- (d) “Faculty” means the Medical and Chirurgical Faculty of the State of Maryland.
- (e) “Hospital” has the meaning stated in § 19-301 of the Health – General Article.
- (f) “License” means, unless the context requires otherwise, a license issued by the Board to practice medicine.
- (g) “Licensed physician” means, unless the context requires otherwise, a physician, including a doctor of osteopathy, who is licensed by the Board to practice medicine.
- (h) “Licensee” means an individual to whom a license is issued, including an individual practicing medicine within or as a professional corporation or professional association.
- (i) “Perform acupuncture” means to stimulate a certain point or points on or near the surface of the human body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of ailments or conditions of the body.
- (j) “Physician” means an individual who practices medicine.

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

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

- (i) Diagnosis;
- (ii) Healing;
- (iii) Treatment; or
- (iv) Surgery.

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

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

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

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

(ii) Ending of a human pregnancy; and

(iii) Performing acupuncture **AS PROVIDED UNDER § 14–504**

OF THIS TITLE.

(3) “Practice medicine” does not include:

- (i) Selling any nonprescription drug or medicine;
- (ii) Practicing as an optician; or

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

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

14-203.

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

14-206.

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

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

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

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

14-207.

(a) There is a Board of Physicians Fund.

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

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

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

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

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

1. ~~14~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, 10 12** percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

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

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

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

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

~~**2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER PARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT**~~

~~**FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**~~

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

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

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

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

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

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

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

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

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

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

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

~~14-307.~~

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

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

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

~~14-307.1.~~

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

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

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

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

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

~~(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD~~

~~TO THE BOARD AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.~~

~~(D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION SHALL BE:~~

~~(1) CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND~~

~~(2) USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS TITLE.~~

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

~~14-309.~~

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

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

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

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

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

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

~~14-313.~~

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

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

14-316.

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

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

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

(4) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$100 PER CONTINUING MEDICAL EDUCATION CREDIT IN LIEU OF A SANCTION UNDER § 14-404 OF THIS TITLE, FOR A FIRST OFFENSE, FOR THE FAILURE OF A LICENSEE TO OBTAIN THE CONTINUING MEDICAL EDUCATION CREDITS REQUIRED BY THE BOARD.

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

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

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

~~(2) IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD MAY NOT RENEW A LICENSE IF THE CRIMINAL HISTORY RECORD~~

~~INFORMATION REQUIRED UNDER § 14-307.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.~~

~~14-322.~~

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

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

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

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

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

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

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

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

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

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

14-401.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A PEER REVIEWER SHALL:

- (i) ~~Are~~ **BE** Board certified;
- (ii) Have special qualifications to judge the matter at hand;
- (iii) Have received a specified amount of medical experience and training;
- (iv) Have no formal actions against ~~their own licenses~~ **THE PEER REVIEWER'S OWN LICENSE**;
- (v) Receive training in peer review; ~~and~~
- (vi) Have a standard format for peer review reports; **AND**

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

(3) ~~The [nonprofit] entity or entities shall make a reasonable effort to employ physicians that are licensed in the State.~~ **THE BOARD MAY CONSULT WITH THE APPROPRIATE SPECIALTY HEALTH CARE PROVIDER SOCIETIES IN THE STATE TO OBTAIN A LIST OF PHYSICIANS QUALIFIED TO PROVIDE PEER REVIEW SERVICES.**

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

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

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

[(ii)] (2) The [nonprofit] entity or ~~entities~~ **INDIVIDUAL PEER REVIEWER** may apply to the Board for an extension of up to 30 days to the time limit

imposed under [subparagraph (i) of this paragraph] **PARAGRAPH (1) OF THIS SUBSECTION.**

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

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

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

~~**(C) THE BOARD SHALL:**~~

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

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

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

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

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

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

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

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

- (i) Investigators;
- (ii) Attorneys;
- (iii) Accountants;
- (iv) Expert witnesses;
- (v) Consultants; and
- (vi) Mediators.

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

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

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

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

14-402.

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

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

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

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

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

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

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

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

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

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

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

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

14-404.

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

(3) Is guilty of:

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

(II) UNPROFESSIONAL CONDUCT IN THE PRACTICE OF MEDICINE;

14-411.

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

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

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

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

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

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

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

14-411.1.

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

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

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

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

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

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

~~[(6)]~~ (5) Medical education and practice information about the licensee including:

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) A TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, AND PHYSICAL ADDRESS THROUGH WHICH A PERSON MAY CONTACT THE BOARD

TO REQUEST THE INFORMATION REQUIRED TO BE PROVIDED UNDER ITEM (I) OF THIS ITEM.

(d) The Board:

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

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

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

~~14-411.2.~~

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

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

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

~~14-413.~~

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

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

~~(3) THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE CHIEF JUDGE OF THE DISTRICT COURT, IN COLLABORATION WITH THE BOARD,~~

~~SHALL DEVELOP A PROCEDURE FOR REPORTING AS REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

~~14-414.~~

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

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

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

14-506.

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

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

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

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

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

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

14-5A-18.

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

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

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

14-5B-08.

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

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

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

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

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

14-5B-15.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article,

and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist for any reasons that might be grounds for disciplinary action under § 14-5B-13 of this subtitle.

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

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

14-5C-18.

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

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

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

14-5C-25.

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

14-702.

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

15-206.

- (a) The Board shall set reasonable fees for:
- (1) The issuance and renewal of certificates; and
 - (2) The other services rendered by the Board in connection with physician assistants.
- (b) (1) The Board shall pay all [funds] FEES collected under this title to the Comptroller of the State.

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

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

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

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

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

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

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

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

[(c) The Comptroller shall distribute:

- (1) 20 percent of the fees received from the Board to the General Fund of the State; and
- (2) The balance of the fees to the Board of Physicians Fund.]

~~Article — Insurance~~

~~15-110.~~

- ~~(a) (1) In this section the following words have the meanings indicated:~~
- ~~(2) “Health care practitioner” has the meaning stated in § 1-301 of the Health Occupations Article.~~

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

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

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

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

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

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

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

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

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

Article – State Government

8–403.

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

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

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

Chapter 220 of the Acts of 2003

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 252 of the Acts of 2003

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

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

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

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

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

SECTION 6. AND BE IT FURTHER ENACTED, That, on or before October 1, 2007, the Department of Health and Mental Hygiene and the Office of the Attorney General shall:

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

(2) recommend a revised investigative process for self-referral cases that includes the determination of investigative resources for the health occupations boards in the investigation of self-referral cases; and

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

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

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

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

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

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

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

Approved by the Governor, May 17, 2007.