



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Van Mitchell, Secretary

October 8, 2015

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House, Room H107
Annapolis, Maryland 21401

The Honorable Michael Erin Busch
Speaker of the House
State House, Room H101
Annapolis, Maryland 21401

RE: Board of Physicians Annual Report to the Legislative Policy Committee
(HB 1325, Section 6 of Chapter 662, Laws of Maryland 1994)

Dear President Miller and Speaker Busch:

It is my pleasure to respectfully submit to the Legislative Policy Committee the Board of Physicians Fiscal Year 2015 Annual Report as required by HB 1325, Section 6 of Chapter 662, Laws of Maryland 1994.

Should you have any questions concerning the attached report, please do not hesitate to have your staff contact Ms. Christine A. Farrelly, Executive Director of the Maryland Board of Physicians, at 410-764-4771. Again, thank you for your continued support of the Department and the Board of Physicians.

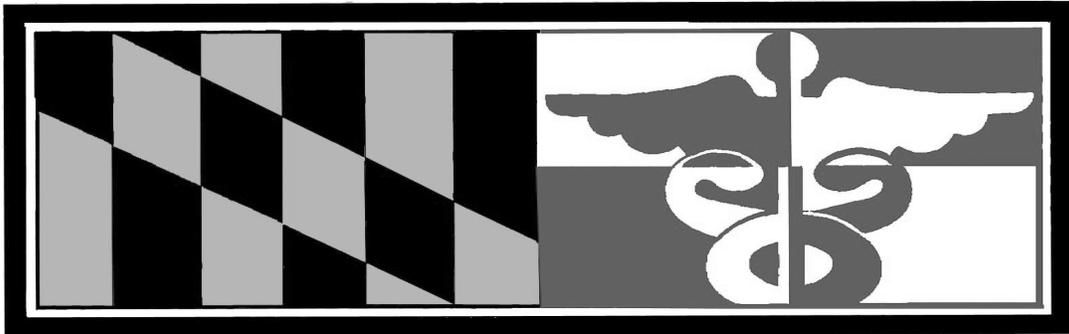
Sincerely,

Van T. Mitchell
Secretary

Enclosure

cc: Legislative Policy Committee Members
Ms. Lynne B. Porter, Department of Legislative Services
Christine A. Farrelly, Executive Director
Shawn Cain, Chief of Staff, Office of the Secretary
Ms. Sarah Albert, MSAR #1414

**MARYLAND
BOARD OF PHYSICIANS**



**ANNUAL REPORT TO
LEGISLATIVE POLICY COMMITTEE**

FISCAL YEAR 2015

Chapter 662 (Section6)/HB 1325, 1994

HISTORY

Medical licensure and discipline in Maryland dates back to 1789. Regulatory controls over the practice of medicine in Maryland have undergone many revisions since that time, from licensing anyone who collected fees for medical services, to establishing strict statutes and regulations governing licensure and compliance in the practice of medicine. Since July 1, 1988, the Maryland Board of Physicians (Board) (formerly known as the Maryland State Board of Physician Quality Assurance), has had the sole responsibility for the licensure and discipline of physicians and Allied Health (AH) practitioners under the Maryland Annotated Code, Health Occupations Article, Title 14 and Title 15. Chapter 252 of the Acts of 2003 (Senate Bill 500) – Department of Health and Mental Hygiene – State Board of Physicians reconstituted the Board and made other changes to the regulation of physicians by the State Medical Board. Chapter 539 of the Acts of 2007 (Senate Bill 255) State Board of Physicians – Sunset Extension and Program Evaluation, reauthorized the Board through July 1, 2013, and made a number of other changes in the laws governing the Board.

MISSION

The mission of the Board is to assure quality health care in Maryland, through the efficient licensure and effective discipline of health providers under its jurisdiction, by protecting and educating the clients/customers and stakeholders, and enforcing the Maryland Medical Practice Act.

BOARD COMPOSITION

Members of the Board are appointed by the Governor, based on specific criteria set forth in § 14-202 of the Health Occupations Article. The 22 member Board includes:

- 11 practicing licensed physicians, including 1 Doctor of Osteopathy, appointed by the Governor with the advice of the Secretary of the Department of Health and Mental Hygiene (DHMH) and the advice and consent of the Senate;
- 1 practicing licensed physician appointed at the Governor's discretion;
- 1 physician representative of DHMH nominated by the Secretary;
- 1 licensed physician assistant appointed at the Governor's discretion;
- 2 practicing licensed physicians with full-time faculty appointments to serve as representatives of academic medical institutions in the State, nominated by one of those institutions;
- 5 consumer members; and
- 1 public member knowledgeable in risk management or quality assurance matters appointed from a list submitted by the Maryland Hospital Association.

The list of current Board Members and the expiration dates of their terms appear in Exhibit 1 on page 32.

EXECUTIVE DIRECTOR'S STATEMENT

Promulgating regulations involved significant staff effort in 2014. The work focused on implementing legislative changes and where appropriate, creating consistency between statutory requirements and regulatory provisions, including:

- In 2013, the legislature passed a licensure bill that essentially triggered a complete overhaul of the physician licensure regulations, Chapter 583 of the Acts of 2013 (House Bill 1313) – State Board of Physicians – Consultation, Qualification for Licensure, License Renewal, and Representation to the Public. The physician licensure regulations were updated to reflect the statutory changes, terminology, references, current Board practices and other general information. The licensure regulations became final in the Fall of 2014.
- Initial planning and regulation development for the licensure and regulation of Naturopathic Doctors, Chapter 399 of the Acts of 2014 (House Bill 402) - Health Occupations - State Board of Physicians - Naturopathic Doctors, is underway.

The Board has also engaged in regular outreach efforts with hospitals and related institutions on reporting requirements under Md. Code Ann., Health Occupations Article §§14-413 and 14-414.

As the Board faces the year ahead, operational improvements will focus on the Information Technology system, facility upgrades and fiscal responsibility. Board staff has been essential in developing enhanced communication, innovation to the processing of work, advancing and refining Board procedures, as well as promoting greater focus on opportunities for education and training of staff to further enhance Board operations.

FISCAL SERVICES UNIT

The Fiscal Services Unit (Fiscal) is responsible for the oversight, administration and processing of all Board expenditures. The Compliance, Licensure and Allied Health staff collaborates with Fiscal staff to identify, collect, and account for all fees associated with the application process, fines levied and other related licensure and disciplinary actions. Fiscal staff prepares the Board's Budget Request and various other budgetary and fiscal reports for the Executive Director, Legislature, Department of Budget and Management and the Board.

The unit is also responsible for the procurement functions. In FY 15 renewals of the Peer Review and Physicians Rehabilitation contracts were finalized at a cost of \$812,250 and \$2,521,839.51, respectively. Both contracts are for three (3) years. The Peer Review contract has an option for two (2) additional years at a cost of \$286,875 in option year 1 and \$293,250 in option year two. The Project Manager for the development of the Board's new management information system was hired at the end of FY15.

INFORMATION TECHNOLOGY UNIT

The Information Technology (IT) staff continues to collaborate with all of the other Board unit personnel to improve data collection and retrieval processes. The Board maintains practitioner

profile data on all licensees on the Board’s website at www.mbp.state.md.us. The practitioner profile system currently contains profiles of 101,323 licensees (both active and non-active).

The chart below illustrates the details of these profiles.

Active physician licenses: 30,628
Non-active physician licenses (licenses are expired, inactive, suspended, revoked, etc.): 44,258
Active AH licenses: 13,507
Non-active AH licenses (licenses are expired, inactive, suspended, revoked, etc.): 12,930
Practitioner Profile Edits: 4,983

The web-based Practitioner Profile System provides a valuable service to Maryland citizens. This web-based system enables Maryland citizens to become more informed consumers about their health care providers by allowing them access to information including facility privileges, specialties and disciplinary actions from the profile pages. In order to eliminate some of the Board’s manual processes, the Practitioner Profile system was enhanced in FY15, to allow practitioners to make changes to their hospital privileges, post-graduate training, and to update “Other States Licensed.” It allows practitioners the opportunity to update their personal profile information, confidential practice and public addresses as well as areas of concentration, specialties and postgraduate training programs. Changes appear on the website within 24 hours of submission, and the practitioner receives an e-mail confirmation of the changes.

FY15 marked the thirteenth year of the online renewal system. This system has reduced the time it takes a practitioner to complete the license renewal process and has greatly increased the accuracy of data collection. The online renewal system includes AH practitioners as well. This system saves the Board thousands of dollars by eliminating the costs of printing and mailing paper renewal forms and greatly simplifies and streamlines the renewal process. This project was undertaken as a cooperative venture between the Board and the Maryland Health Care Commission.

To meet the Board's obligations pursuant to the 2011 Sunset Review and Perman Report recommendations, the Board continued the initiative to develop and procure a new and integrated medical licensure and investigation IT system to replace its current operating system that is approximately 20 years old. The planned new system will generate more accurate reports and data collection of ongoing and completed Board activities. It will also facilitate more internet based interactions, thereby allowing applicants and clients to receive more timely status reports. This system will also correct statistical deficiencies noted in the 2011 Sunset Review and Perman Report. At the end of FY15, a project manager was selected and approved to provide an analysis of the Board’s existing system and to recommend a path for change.

IT also assists DHMH and other organizations with the dissemination of important health information to Maryland physicians and AH practitioners. In FY15, the IT department processed over 150 requests for practitioner data from a variety of internal, external, non-profit, and private sector agencies. Important health bulletins and educational opportunities are available at the Board’s website www.mbp.state.md.us or may be sent via e-mail blast to practitioners.

COMMUNICATIONS, EDUCATION AND POLICY UNIT

The Communications, Education and Policy Unit (CEP) is responsible for leading the Board's communications, training and outreach initiatives. The unit provides ongoing education and training to the Board members on various matters and directs educational outreach to licensees and the public. During FY 15, the unit provided training to new Board members on the Board's processes and operations. The training was conducted on August 14 and 28, 2014, in collaboration with a Certified Parliamentarian, Board staff, DHMH, the Office of Administrative Hearings (OAH), and the Office of the Attorney General (OAG) specifically, Board Counsel and the Health Occupations Prosecution and Litigation (HOPL) Division's Principal Counsel. In FY 15, the unit also conducted training on the Open Meetings Act and mandated reporting requirements set forth in §§14-413 and 14-414 of the Health Occupations Article for the Board members.

In addition, the unit conducted educational outreach to several internal and external stakeholders on the mandated reporting requirements and updated educational material on the Board's website. Input from stakeholders was solicited and incorporated into the regulatory proposal. Regulations are also in the final stages of development.

The unit coordinates and facilitates several in-service training and external training opportunities for the professional development of staff.

CEP also prepares responses to Public Information Act requests, controlled correspondence, various subpoenas and coordinates the preparation and submission of various mandated reports. The unit is responsible for coordinating timely responses by the various Board units to several inquiries received in the Board's general e-mail account from the public, licensees, state and federal agencies and the media. In FY 15, the unit forwarded over 1,000 inquiries received in the Board's general e-mail account to the Board's units for processing. The unit responds to the inquiries on the Board's statutes, regulations and policies.

The CEP unit is also responsible for coordinating the Board's legislative agenda.

This unit provides leadership, guidance, consultation, and support to the Board in the areas of governmental affairs, legislation, regulations and policy issues pertaining to the regulation and licensure of all health care providers regulated by the Board.

Workgroups and Regulations

Outreach efforts included responding to inquiries and providing information regarding the new continuing medical education ("CME") mandate. In February 2015, Governor Larry Hogan issued two Executive Orders, establishing the Heroin and Opioid Emergency Task Force and a separate Inter-Agency Coordinating Council to address the state's growing heroin and opioid crisis. To support the effort the Board mandated that prescriber (physician and physician assistant) licensees complete one credit of CME dedicated to opioid prescribing (pain management, substance abuse, et cetera). To assist licensees in identifying appropriate courses, the CEP unit maintains a chart of acceptable CME courses and activities, although licensees are free to select opioid prescribing courses offered through other sources. The chart is posted on

the Board's website on a page that includes links to information on overdose prevention initiatives.

Naturopathic Doctors

As a result of 2014 legislation, the Board conducted a Naturopathic Doctor Formulary Workgroup in the interim. Chapters 153 and 399, Acts 2014 (SB 314 and HB 402), Section 3, required the State Board of Physicians to convene a workgroup to study the development of a naturopathic formulary in the State and the routes of administration that may be used by a naturopathic doctor when administering natural medicines.

The workgroup included key stakeholders, and the charge was to:

1. Review the naturopathic formularies developed in other states;
2. Make recommendations regarding the composition of a naturopathic formulary council; and make recommendations regarding the establishment of a naturopathic formulary, including the types of drugs, medicines, and devices to be included on the formulary and the method by which the council will decide which drugs, medicines, and devices will be included on the formulary; and the method by which the drugs, medicines and devices will be included in the formulary; and
3. Make recommendations regarding the routes of administration that may be used by a naturopathic doctor when administering natural medicines.

The workgroup made recommendations, however the work was not to be construed to authorize the establishment of a naturopathic formulary to regulate pharmaceuticals without further action by the General Assembly. The workgroup submitted its report to the General Assembly on July 1, 2015.

Concurrently, Board staff were also engaged in the development of comprehensive regulations for naturopathic doctors to implement the requirements of Chapter 399 of the Acts of 2014 (House Bill 402) – Health Occupations – State Board of Physicians – Naturopathic Doctors. The legislation established the Naturopathic Medicine Advisory Committee within the State Board of Physicians, which was completed by the end of 2014. The legislation required the Committee to develop and recommend regulations to the Board, which were drafted following the establishment of the Committee and throughout the spring and summer of 2015.

Generally, the purpose of the regulations is to add COMAR 10.32.21 licensure, regulation and discipline of naturopathic doctors to regulate how an individual becomes licensed as a naturopathic doctor, and to regulate and discipline naturopathic doctors.

In addition to the regulations on mandated reporting requirements and Naturopaths, the unit is also working towards updating regulations pertaining to the Perfusionists, Physician Assistants and Psychiatric Assistants.

The Board's Progress on Implementing Sunset Evaluation Recommendations

Chapter 401 of the Acts of 2013 (House Bill 1096) State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation, requested information regarding:

- Changes to the Board's discipline process and their effect on complaint backlog and resolution times;
- Progress in procuring and implementing a new information technology system to improve data management;
- A long-term financial plan;
- Financial Data for the preceding fiscal year; and
- Progress in implementing recommendations made by the Department of Legislative Services in November 2011 Sunset Review Publication.

Highlights from the update are:

- There is no backlog of disciplinary cases;
- The two-panel disciplinary system has been implemented;
- Criminal History Record Check legislation successfully passed and is being implemented;
- The Information Technology Project is progressing with the engagement of an IT manager;
- The fiscal issues are being addressed;
- Staff vacancies are reduced; and
- The majority of the Sunset recommendations are complete.

The 2015 Legislative Session – Statutory Changes Affecting the Board

Chapter 34 of the Acts of 2015 (SB 449) – State Board of Physicians – Physicians, Physician Assistants, and Allied Health Practitioners Licensure Requirements

This legislation will require all health care providers licensed by the Board of Physicians to submit to a criminal history record check as a condition of licensure.

Chapter 5 of the Acts of 2015 (SB 69) – State Board of Pharmacy – Sterile Compounding – Compliance by Nonresident Pharmacies and Repeal of Permit Requirement

This legislation repealed the sterile compounding law as it applies to physicians.

Chapter 44 of the Acts of 2015 (SB 626) – Registered Nurses – Local Health Departments – Requirements for Personally Preparing and Dispensing Drugs and Devices

The bill authorizes registered nurses who meet certain requirements to prepare, dispense, and prescribe prescription drugs from an approved formulary for various public health purposes noted in the bill in accordance with the Nurse Practice Act. The bill relieves the Board of

Physicians of certain requirements under Declaratory Ruling 01-1 regarding the review and approval of applications for the delegation of dispensing authority from physicians to nurses.

Chapter 468 of the Acts of 2015 (HB 999) – Certified Nurse Practitioners – Authority to Practice

This bill removes the requirement of an approved attestation that the nurse practitioner has an agreement for collaboration and consulting with a licensed physician.

LICENSURE UNIT

The Licensure Unit (Licensure) is responsible for processing applications for Initial, Reinstatement, Postgraduate Teaching, Conceded Eminence and Volunteer licenses. Licensure also registers unlicensed medical practitioners (UMPs) who are medical school graduates enrolled in internship, residency, or fellowship programs, and administers Exceptions from Licensure for visiting physician consultants licensed in other jurisdictions.

In FY 15, Licensure issued 1,911 initial medical licenses and closed 49 applications, issued 264 reinstated licenses and closed 36 applications, and registered 2552 UMPs. The chart below illustrates the total physician licenses processed, including new and reinstated.

NEW MEDICAL LICENSES	FY 14	FY 15
Licensed	1,765	1,911
Closed (denied, withdrawn, ineligible)	50	49
Total Applications Completed	1,815	1,960
REINSTATED LICENSES		
Licensed	153	264
Closed (denied, withdrawn, ineligible)	15	36
Total Applications Completed	168	300
TOTAL APPLICATIONS PROCESSED	1,983	2,260
UMPs Registered	1,934	2,552
TOTAL	3,917	4,812

Licensure staff continues to refine and improve the licensure process to ensure accuracy and efficiency. The unit issued licenses to 95% of qualified applicants within 10 days of receipt of the last qualifying document.

The average processing time for licensure is 46 days.

Due to the discontinuance of Physician late renewals, the reinstatement figure has increased significantly.

ALLIED HEALTH UNIT

The Allied Health (AH) Unit is responsible for licensing and reinstating Physician Assistants, Radiation Therapists, Radiographers, Nuclear Medicine Technologists, Radiologist Assistants, Respiratory Care Practitioners, Polysomnographic Technologists, Athletic Trainers, and Perfusionists. AH also reinstates a small number of Psychiatrist Assistants. AH issued licenses to 90% of qualified applicants within 10 days of receipt of the last qualifying document.

The AH Advisory Committees advise the Board on matters concerning their professions. Each Committee is required to submit an Annual Report to the Board. The following is an account of each AH Advisory Committee's activities for FY 15.

Physician Assistants

The Board regulates almost 3,000 Physician Assistants (PAs). The chart below illustrates the Board's application processing activities for FY 14 and FY 15.

Licensed	FY 14	FY 15
Initial License	360	349
Reinstatements	82	15
Delegation Agreements	1,099	1,241
Renewals	N/A*	2,945

* Physician Assistants renew in odd numbered years only.

In FY 15, the Physician Assistant Advisory Committee (PAAC) reviewed and recommended the approval of 125 delegation agreement addendums for advanced duties. Board staff preliminarily approved 1,241 delegation agreements. Delegation agreements contain a description of the qualifications of the supervising physician and PAs, the practice setting and supervision mechanisms that will be employed as well as certain attestations regarding the delegated medical acts. Advanced duties require additional education and training beyond the basic training the PAs receive through their educational programs and are added to an existing delegation agreement. Documentation for advanced duties include a description of the procedures, training certificates, procedure logs indicating the number of times the PA performed the procedure during training, supervision mechanisms, and if applicable, approved delineations of hospital privileges.

Committee Members

Anthony Raneri, M.D. Surgeon, Chair	Lee Schwab, M.D., Internal Medicine
Natalie Orbach, PA-C	George Sobieralski, PA
Gigi Leon, PA-C	Ahmad Nawaz, M.D., Physician Board Member
Brenda Baker, Consumer Board Member	

Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants

The Board regulates over 6,600 Radiation Therapists, Radiographers, Nuclear Medicine Technologists and five Radiologist Assistants. The chart below illustrates the Board's application processing activities for FY 14 and FY 15.

Licensed	FY 14	FY 15
Initial Licensure	385	365

Reinstatements	113	108
Renewals	N/A*	6,080

* Radiation Therapists, Radiographers, Nuclear Medicine Technologists and Radiologist Assistants renew in odd numbered years only.

The Committee recommended to Board approval on expanding the qualifications for licensure that went into effect on December 22, 2014. They also recommended amending regulations to allow radiographers with special training to perform the insertion peripherally inserted central catheters. This procedure may only be performed in a catheterization lab under the supervision of a physician.

Committee Members

Clay Nuquist, C.N.M.T. Nuclear Medicine Technologist Chair	Kentricia McCleave, RT(R), Radiographer
Matthew Snyder, M.D., Radiation Oncologist	Ryan Carroll RT(T), Radiation Therapist
Darrell McIndoe, M.D., DVM, Nuclear Medicine	Lynn Harris-McCorkle, MD – Radiologist
Carmen Contee, Consumer Board Member	Jonathan Lerner, PA-C, Physician Assistant Board Member
Vacant - Radiologist Supervising Radiologist Assistant	Amy Taylor, RRA, Radiologist Assistant

Respiratory Care Practitioners

The Board regulates over 2,800 Respiratory Care Practitioners (RCPs). The chart below illustrates the Board’s application processing activities for RCPs in FY 14 and FY15.

Licensed	FY 14	FY 15
Initial Licensure	187	202
Reinstatements	26	55
Renewals	2,659**	N/A*

*Respiratory care practitioners only renew in even years.

** This number includes 10 psychiatric assistants that renewed during FY 14.

In FY 15, the Respiratory Care Professional Standards Committee (RCPSC) discussed exceptions from licensure for RCPs transporting patients from out-of-state to Maryland; scope of practice issues; and whether to change the regulations to accept only a higher-level credential. The committee is also working on a position statement, for Board approval, that will delineate who may setup Bi-PAP and C-PAP equipment.

Committee Members

Matthew Davis, RRT, Chair	Thomas Grissom, M.D., Anesthesiologist
Robin Smith, RRT	Dilip Nath, M.D., Thoracic Surgeon
Kylie O'Haver, RRT	Vacant
John E. Brown, M.D., Pulmonologist	

Polysomnography

The Board regulates over 460 Polysomnographic Technologists. The chart below illustrates the Board’s application processing activities for FY 14 and FY 15.

Licensed	FY 14	FY 15
Initial Licensure	354	20
Reinstatements	6	3
Renewals	N/A*	327

*Due to a change in policy, polysomnographic technologists will renew in odd years beginning in 2015.

In FY 15, the Polysomnography Professional Standards Committee developed regulations for establishing a clinical component of an educational program, extension of the licensure deadline and licensure requirements for out-of-state applicants. The regulations passed on December 22, 2014.

Committee Members

Susheel Patil, M.D., Chair, Internal Medicine Pulmonary Disease and Sleep Medicine	Katherine Buki, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine
Theresa Banks, RRT, RPSGT	Norman Schubert, RPSGT
Helen Emsellem, M.D., Neurology and Sleep Medicine	Angela Dawson, RPSGT, RST
Brenda McKinley, Consumer Member	

Athletic Trainers

The Board regulates over 600 Athletic Trainers. The chart below illustrates the Board’s application processing activities for FY 14 and FY 15.

Licensed	FY 14	FY 15
Initial Licensure	106	120
Reinstatements	9	5
Renewals	435*	N/A
Evaluation and Treatment Protocols	126	203

*Athletic trainers renew in odd numbered years only.

In FY 15, the Athletic Trainer Advisory Committee (ATAC) discussed expanding the scope of practice to include tactical/industrial athletes, amending the statute to allow athletic trainers to practice prior to Board approval of the evaluation and treatment protocol and exceptions from licensure.

The Committee recommended approval of 203 evaluation and treatment protocols to the Board.

Committee Members

John Bielawski, ATC, Chair	Richard Peret, PT- Physical Therapist
Karl Bailey, ATC	John Michie, D.C., Chiropractor, Sports Medicine
Lori Bristow, M.Ed., ATC	Karen James, OTR/CHT-Occupational Therapist
Valerie Cothran, M.D., CAQ, Family and Sports Medicine	Andrew Morris Tucker, M.D., Orthopedic and Sports Medicine
Benjamin Petre, M.D., Orthopedics	Theresa Lewis, Consumer Member
Benita Wilson, Consumer Member	

Perfusionists

The Board regulates 100 Perfusionist-Advanced and Perfusionist-Basic licensees. The chart below illustrates the Board’s application processing activities for FY 14 and FY 15.

Licensed	FY 14	FY 15
Initial Licensure (Perfusion-Advanced)	76	11
Initial Licensure (Perfusion-Basic)	6	6
Reinstatements	N/A	N/A
Renewals	N/A	N/A

The licensing requirement for Perfusionists went into effect on October 1, 2013. The Board issues Perfusionist-Advanced licenses to individuals who have passed the perfusionist national certifying examination administered by the American Board of Cardiovascular Perfusion (ABCP).

The Board issues Perfusionist-Basic licensees to individuals who graduated from an accredited perfusion educational program but have not passed the ABCP examination. After submitting evidence of passing the ABCP examination, the Board issues a Perfusionist-Advanced license. Perfusionist-Advanced licenses expire on January 31, 2016. Perfusionist-Basic licenses expire two years after issued and are not eligible for renewal.

In FY 15, the Perfusion Advisory Committee (PAC) developed regulations due to Chapter 609 of the Acts of 2014 (House Bill 692) - Maryland Perfusion Act - Revisions, that addressed minor errors in the statute and added a provision for extending the term of a basic license under certain circumstances that went into effect on October 1, 2014.

Committee Members

Keith Amberman, CCP, Chair	Phillip E. F. Roman, M.D., MPH Cardiothoracic Anesthesiology
Murtaza Dawood, M.D., Cardio-Thoracic Surgery	Chad Wierscke, BS, CCP
Jeffrey T. Swett, M.D., Internal Medicine	Tim Moretz, CCP
Theresa Lewis, Consumer Member	

CUSTOMER SERVICE UNIT

In FY 15, the Board re-established the Customer Service (CS) Unit to better serve the needs of the Board’s internal and external customers. The Licensure and Allied Health units rely on the CS Unit to collect, identify and organize promptly all the credentials and data needed to license physician and allied health practitioners. The CS Unit assists both Licensure and Allied Health units in meeting their annual MFR goals and objectives relating to timeliness. In FY15, the CS Unit also received and processed 21,563 credentials for physicians applying for licensure and processed 6,091 credentials for allied health practitioners applying for licensure.

During FY 15, the Board renewed the licenses of 14,999 physicians with last names beginning with letters “A” through “L” that were scheduled to expire 9/30/15. The Board also renewed the licenses of 9,369 allied health practitioners through the online automated system during FY15.

The CS Unit will continue its goal of providing timely and efficient service to both its external and internal customers over the next fiscal year. Additionally the unit will evaluate the need for additional staff to meet the demands on the unit due to an increase in practitioner programs.

COMPLIANCE UNIT

The Compliance Unit (Compliance) is responsible for investigating all complaints, reports, and information involving licensees of the Board alleging violations of the Maryland Medical Practice Act (Act). The Board also investigates allegations of the unlicensed practice of the professions under its jurisdiction. Compliance staff conducts investigations to determine if there has been a potential violation of the law governing physicians and AH practitioners regulated by

the Board. If violations of the law are substantiated, a Disciplinary Panel may reprimand any licensee, place any licensee on probation, or suspend or revoke a license.

There are different stages involved in the investigation of a complaint: a preliminary investigation, a full investigation, prosecution after a Board/Disciplinary Panel vote to charge, and after the resolution of the investigation, monitoring by the Probation Unit (Probation). Monitoring by the Probation Analysts may include further investigation that results in new charges, orders to show cause, summary suspensions and surrenders for violations of probation and other provisions of the Act.

Intake Unit

Complaints are received from a wide variety of sources, including patients, family members, hospitals, physicians, other healthcare providers, hospitals, pharmacies, pharmacists, other state agencies, law enforcement and the media. The Board also reviews and investigates anonymous complaints.

The complaints received by the Board cover a wide range of allegations, including boundary violations, sexual improprieties, substance abuse, standard of care and standard of documentation violations, illegal and illegitimate prescriptions, professional, physical or mental incompetency, misrepresentations in the medical record and in applications and practicing without a medical license.

The Intake Unit (Intake) performs preliminary investigations on all complaints in which the Board has jurisdiction. To accomplish this task, Intake staff reviews and analyzes each complaint to determine the Board's jurisdiction with respect to allegations. During the intake process, a complaint is reviewed and analyzed, relevant records are subpoenaed and the Respondent (i.e. licensee who is the subject of the complaint) is provided with the opportunity to respond to the complaint. In standard quality care cases, a medical consultant will review all the material obtained. The findings of the preliminary investigation are presented to the Investigative Review Panel (IRP). Most complaints are closed at this stage because no violation of the Act occurred. Cases not closed will proceed to full investigation.

In FY 15, Intake received and processed 932 complaints, presented 586 cases to IRP for review, generated 108 advisory letters and prepared 12 Orders in reciprocal cases (i.e. cases where Maryland takes action because another state took action against the licensee). Intake also processed 8 cases involving deficiencies of continuing medical education/continuing education (CME/CE) credits. First-time offenders are offered an administrative fine for failure to obtain the required CME/CE hours.

Investigations Unit

The Investigations Unit (Investigations) is responsible for conducting full investigations into allegations filed against physicians and AH practitioners that may involve violations of the Act and for fully developing the cases through objective investigative fact finding directed towards proving or disproving each alleged violation of the Act.

Based on information gathered during an investigation, the Board may determine that there is a risk of imminent danger to the public health, safety and welfare posed by the licensee, and the

Board may vote to summarily suspend the practitioner’s license. A Summary Suspension suspends the practitioner’s license before the evidentiary hearing is held at OAH. Following the Board’s vote for a summary suspension, the case is transmitted to the OAG. The Board may also issue a Cease and Desist Order which prohibits the individual practitioner from practicing a certain area of medicine, but the practitioner can continue practicing other areas. In FY 15, the Board issued 4 Cease and Desist Orders.

Upon receipt of the Summary Suspension documents from the OAG, Compliance handles service on the Respondent and prepares for the corresponding pre or post-deprivation hearings in the matter. These pre or post-deprivation hearings are not full evidentiary hearings; no witnesses are permitted. The issue is whether or not the Respondent is an imminent danger to the public. If the Respondent is dissatisfied with the result, he or she can also request an evidentiary hearing at the OAH. Once the pre or post-deprivation hearing at the Board is completed, a summary suspension case follows the usual track of issuing a formal charging document, offering a settlement conference, and if not settled, a full evidentiary hearing at the OAH. In FY 15, the Board issued 5 Summary Suspension Orders and held 5 hearings before the full Board on those Orders.

In standard of care cases, analysts also handle the supplemental response process required by Chapters 534 and 533 of the Acts of 2010 (House Bill 114/Senate Bill 291) – Health Occupations Boards – Revisions, whereby the Board provides the physician under review with an opportunity to review the completed peer review report and provide a supplemental response to the Board before the Board decides whether to issue charges.

Compliance is also responsible for cases after completion of the Board’s investigation and oversees the cases from the time of issuance of charges until the case has a final disposition. Compliance processes all Charging documents, Final Orders, Disposition Agreements, Letters of Surrender, Suspensions, Orders for Summary Suspension and Revocations.

After reviewing the investigatory information at the end of any stage of the process, the Board/Disciplinary Panel may close an investigation or to continue the investigation and ultimately take some form of action against a practitioner’s license. In FY 15, Compliance received and resolved the following complaints, as illustrated in the table below along with data for FY 13, FY 14, and FY 15.

Performance Measures	FY 13	FY 14	FY 15
New Complaints Received	988	1,018	932
Complaints Pending from Previous Fiscal Years	254	254	248
Total Complaints	1,242	1,272	1,180
Complaints Resolved without Formal Disciplinary Action	633	553	498
Complaints Resolved with Nonpublic Advisory Letter	238	200	161
Complaints Resolved with Formal Action	342	271	227
Total Complaints Resolved	1,213	1,024	886
Participants Under Monitoring in Probation	211	152	150

Notification of Board Disciplinary Actions and Mandated Reporting of Actions

Compliance provides notification to the public of the Board's disciplinary actions by updating the physician and practitioner profiles on the Board's website pursuant to Md. Code Ann., Health Occupations Article § 14-411.1. The unit prepares summaries of the Board's disciplinary actions for the Board's newsletter. Compliance completes comprehensive reports of all disciplinary actions and forwards these reports to the National Practitioner Data Bank (NPDB), a national information clearinghouse related to professional competence and conduct, and the Healthcare Integrity and Protection Data Bank (HIPDB), a national data collection program for reporting and disclosing certain final adverse actions taken against health care practitioners and providers. The Board also reports all disciplinary actions related to physicians and the unauthorized practice of medicine to the Federation of State Medical Boards (FSMB), a national non-profit organization representing the 70 medical and osteopathic boards of the United States and its territories.

Disciplinary Committee for Case Resolution (DCCR)

After the service of charges, the Board offers the Respondent the opportunity to appear before a Disciplinary Committee for Case Resolution (DCCR) which is a voluntary, informal, and confidential proceeding to explore the possibility of a Consent Order or other expedited resolution of the matter. The DCCR meets with the Respondent and administrative prosecutor to negotiate such a settlement. Complainants are invited to attend the DCCR. During FY 15, the DCCR reviewed 58 charged cases. Cases that are settled through negotiation, by a Consent Order, do not proceed to a formal evidentiary hearing at OAH.

Cases Proceeding to the Office of Administrative Hearings (OAH)

A licensee may request an evidentiary hearing in lieu of DCCR or following the DCCR. Compliance is responsible for referring the case to the OAH. Following the evidentiary hearing, OAH issues a proposed decision which is received by Compliance. Both parties, the licensee and the administrative prosecutor, may file exceptions to the OAH decision with the Board. Once exceptions are filed by the parties, the case is set for an Exceptions Hearing before the Board. After consideration of the exceptions, the Board may accept, reject or modify the proposed decision of the Administrative Law Judge (ALJ). During FY 15, the Board held 6 Exceptions Hearings. In addition, the Board considered 2 proposed ALJ decisions in cases where the parties did not file exceptions.

Probation and Active Monitoring of Licensees under Board Order

At the end of FY 15, 3 Probation Analysts in the Probation Unit monitored 150 licensees who were under a Board Order imposing terms and conditions for continued practice. Terms and conditions can include probation, chart review, peer review, enrollment in the Maryland Professional Rehabilitation Program (MPRP), completion of coursework, payment of fines and any other sanctions imposed by the Board.

Compliance is also responsible for monitoring suspended licensees. These licensees are required to complete terms and conditions before they can petition the Board to terminate suspensions. After completion of terms and conditions of the Board's Order, a licensee can request

termination of probation and/or suspension. This process generally involves submitting a petition to the Board, further investigation by the Probation Analyst and verification of the conditions being met. The case is then presented to the Termination of Order Panel, comprised of a panel of the Board. In FY 15, 79 cases (3 Termination of Final Orders, 9 Fines Satisfied, 26 Terminations of Probation, 9 Terminations of Suspension, and 32 Terminations of Consent Orders) were resolved by the Probation Analysts.

Licenses are responsible for compliance with their Orders and rehabilitation agreements with the Board. However, the active monitoring and investigating assists and encourages the licensees to improve and meet the requirements set by the Board. Any potential violations of Board Orders are investigated as violations of the order issued by the Board. Based on these investigations, the Board can take the appropriate action which could include issuing charges for violations of probation and Show Cause Hearings, all of which may result in further sanctioning by the Board. The licensee is provided with a Show Cause Hearing before the Board to demonstrate why the Board should not take further disciplinary action. In FY 15, the Board held 4 Show Cause Hearings.

Maryland Professional Rehabilitation Program

Maryland law requires the Board to provide a Professional Rehabilitation Program (PRP) to physicians, physician assistants and other AH professionals. The program is intended to encourage physicians and all AH practitioners to seek assistance with addressing alcohol and drug abuse and other impairing conditions that may affect the safe practice of medicine.

The Center for a Healthy Maryland is the non-profit entity that administers the Board's rehabilitation program, known as the Maryland Professional Rehabilitation Program (MPRP). The MPRP provides services only to individuals whom the Board refers in writing. The referrals can include any individual licensed by the Board or applicants for licensure. The Board's program provides services to licensees who are in need of treatment and rehabilitation for alcoholism, chemical dependency, or other physical, or psychological conditions. The MPRP develops a comprehensive rehabilitation plan for each participant that involves providing information, testing, evaluation, referral for treatment and on-going monitoring of the licensees' adherence to the requirements. The Board relies on the clinical expertise of the MPRP in developing an appropriate rehabilitation plan.

Compliance staff and MPRP staff communicate frequently and have at least two meetings per quarter to discuss participants that have been referred by the Board. There are 64 male participants and 15 female participants in MPRP. The number of participants has increased over the past three years. At the end of FY 15, there were a total of 79 participants in the MPRP.

Participants by Licensure Type and Fiscal Year

Licensure Type	Number of Participants		
	FY 13	FY 14	FY 15
M.D. or D.O.	43	46	56
Physician Assistant	5	2	2
Athletic Trainer	0	0	1
Nuclear Medicine Technologists	3	3	1
Respiratory Care Practitioners	2	3	11
Radiographer	1	4	8
Polysomnographic Technician	0	1	0
Total Participants	54	59	79

The presenting problems are as follows:

Participants by Category

Category	Number of Participants		
	FY 13	FY 14	FY 15
Alcohol	8	10	26
Drug/Chemical	27	22	26
Psychiatric Diagnosis	4	9	5
Dual Diagnoses*	6	6	5
Other /Behavioral	9	12	17
Total	54	59	79

*Dual diagnoses mean an individual with both a psychiatric and a substance abuse diagnosis.

MPRP Staff:

Chae Kwak, LCSW-C
 Director of Professional
 Rehabilitation Programs

Laura Berg, LCSW-C
 Assistant Director

Susan Bailey, M.D.
 Medical Director
 Professional Rehabilitation Program

Linda Rodriguez, LCSW-C
 Clinical Case Manager

Tanya Bryant, LCSW-C
 Clinical Manager

Rachel Reisman
 Program Assistant

THE LEGISLATIVE REPORT

The following data corresponds to elements of Chapter 109 of the Acts of 1988, as amended by § 1, Ch. 271 of the Acts of 1992 an Act concerning the State Board of Physician Quality Assurance, effective October 1, 1992, and by §6, Ch. 662 of the Acts of 1994 effective October 1, 1994.

Complaints Filed

In FY 15, the Board received 574 consumer complaints and 358 complaints filed from other sources, for a total of 932 complaints. The Board resolved 498 complaints with no action and 161 with Advisory Letters. The Board issued fines totaling \$184,450. The Board issued 227 formal disciplinary actions (Details of the Board's Disciplinary Actions are on page 20).

Advisory Opinions

During FY 15, the Board sent 161 advisory opinions to practitioners, which are confidential letters that inform, educate, or admonish a health care provider with respect to the practice of medicine under the Maryland Medical Practice Act. The various issues addressed in these letters include: the importance of legible medical records and the advisability of consideration of a typed or electronic version of the records, the importance of ensuring the accuracy of all reports that the physician signs, the timely communication with patients and the appropriate follow-up after a patient undergoes a surgical procedure.

A. The number of physicians, allied health practitioners, and unlicensed individuals investigated under each of the disciplinary grounds enumerated under the Medical Practice Act.

In FY 15, the Board opened 932 new investigations on physician licensees, allied health practitioners, and unlicensed individuals. The total allegations against these individuals 1,195 as found in Table A beginning on page 21.

B. The average length of time spent investigating allegations brought against physicians, allied health practitioners, and unlicensed individuals under each of the disciplinary grounds enumerated in the Medical Practice Act.

During FY 15, the Board completed investigations of 752 complaints. The allegations brought against physicians, allied health practitioners, and unlicensed individuals and the average length of time spent investigating these allegations appear in Table B beginning on page 25 Table B includes the number of days from initial complaint until final disposition.

C. The number of cases not completed within 18 months and the reasons for the failure to complete the cases in 18 months.

As of July 1, 2015, one case at the board has not been resolved within 18 months. There are 23 cases at various stages at the OAG. The following charts illustrate the last stage of each of these cases at the end of FY 15.

Cases at the Board

	FY 12	FY 13	FY 14	FY 15
Case Management	18	1	0	0
Peer Review	7	0	0	1
Total	25	1	0	1

These figures may represent multiple case numbers on the same Respondent.

Cases at the OAG

	FY 12	FY13	FY 14	FY 15
Prosecutor's Office (cases not yet charged)	38	8	4	9
Prosecutor's Office (cases charged; DCCR held or failed; case may or may not be set for hearing at OAH)	67	26	6	8
Board Counsel's Office (awaiting Final Order)	5	8	8	6
Total	110	42	18	23

These figures may represent multiple case numbers on the same Respondent.

Case Management: Case management is the full investigation phase of a case, which includes collecting evidence, interviewing witnesses and Board deliberation.

Office of the Attorney General: The process of Case Review instituted by the Board and the OAG continues to be effective in maintaining the timely resolution of charged cases. Respondents may take cases to trial which significantly extends the time before a case can be resolved.

D. The number of physicians and AH practitioners who were reprimanded or placed on probation, or who had their licenses suspended or revoked during FY 15.

The details of the disciplinary actions taken in FY 15 are found in the FY 15 Disciplinary Actions chart on page 20.

FY15 DISCIPLINARY ACTIONS

Disciplinary Definitions	PHYSICIANS	PHYSICIAN ASSISTANTS	ALLIED HEALTH	UNLICENSED	TOTALS
<u>LOSS OF LICENSE:</u> Summary Suspension, Revocation, Suspension, Letter of Surrender & Denials	43	3	10	0	56
<u>RESTRICTION OF LICENSE:</u> Reprimand with Probation or Conditions, Probation, Conditions	10	0	1	0	11
<u>OTHER PREJUDICIAL ACTION:</u> Reprimand & Cease & Desist	40	0	0	1	40
<u>OTHER PREJUDICIAL ACTION:</u> Continuing Medical Education/Continuing Education Deficiencies	9	0	0	0	9
<u>OTHER PREJUDICIAL ACTION:</u> Practicing without a license	17	1	3	8	29
<u>NON-PREJUDICIAL ACTION:</u> Summary Suspension Lifted, License Granted, Termination & Non-Public Orders	133	1	5	5	144
TOTAL DISCIPLINARY ACTIONS	252	5	19	14	289
FINES (Disciplinary)	\$76,500	\$3,650	\$0	\$2,500	\$82,650
ADMINISTRATIVE FINES (CMEs)	\$13,800	0			\$13,800
FINES (Unlicensed Practice of Medicine)	\$23,500	\$0	\$3,500	\$61,000	\$88,000
TOTAL FINES	\$113,800	\$3,650	\$3,500	\$63,500	\$184,450

E. The number of unresolved allegations pending before the Board.

A total of 294 investigations remain unresolved and are pending before the Board as of June 30, 2015.

**TABLE A - NUMBER OF ALLEGATIONS INVESTIGATED UNDER EACH OF THE DISCIPLINARY GROUNDS
ENUMERATED HEALTH OCCUPATIONS FOR FY 15**

Ground	Description	Allegations
10-119.3	Child Support Enforcement Admin - Family Law Article 10-119.3	6
10320707(C)	Prohibited Conduct, Hearings, and Appeals for unlicensed medical practitioners	4
14-413	Fails to report	8
14-5A-17(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of respiratory care	4
14-5A-17(a)(7)	Is addicted to or habitually abuses any narcotic or controlled dangerous substance	1
14-5A-17(a)(8)	Provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance.	1
14-5A-20	Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice respiratory care in this State unless licensed to practice respiratory care by the Board.	2
14-5B-14(a)(15)	Practices with unauthorized individuals or aids unauthorized individual	1
14-5B-14(a)(18)	Fails to meet appropriate standards for the delivery of quality radiation oncology/therapy technology care, medical radiation technology care, or nuclear medicine technology care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State	2
14-5B-14(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology.	5
14-5B-14(c)2	After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a license on the certification by the Office of the Attorney General	1
14-5D-14(b)	Crimes of moral turpitude	1
14-5D-17	Practice [athletic training] without license prohibited.	11
14-601	Practicing without a license	64
15-314(3ii)	Is guilty of unprofessional conduct in the practice of medicine	51
15-314(a)(22)	Fails to meet appropriate standards for the delivery of quality care	6
15-314(a)(3)	PA - violates any provision of this title or any regulations...adopted under 14-404	6
15-314(a)(3)(i)	Is guilty of immoral conduct in the practice of medicine	4
15-314(a)(36)	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	1
15-314(b)(2)	After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, a disciplinary panel shall order the revocation of a license on the certification by the Office of the Attorney General.	1
15-401(a)	Except as otherwise provided in this title, a person may not practice, attempt to Practice, or offer to practice as a physician assistant in the State unless the person has a license issued by the Board.	2
15-401(b)	Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope of the license and which is consistent with a delegation agreement filed with the Board.	1
1900050	Health Care Agency/Facility/Hospital Report.	1
1900107	Response of YES to one of the "questions" on application form.	3
1900207	Response of YES to one of the "questions" on renewal form.	38
199414-404a009	Provides professional services while under the influence of alcohol or controlled drugs.	1
199414-404b001	Crimes involving moral turpitude.	1

1996-404a	In general-Subject to the hearing provisions of section 14-405 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend or revoke a licensee if the licensee:	1
1996-404a001	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;	3
1996-404a003	Is guilty of immoral or unprofessional conduct in the practice of medicine.	2
1996-404a004	Is professionally, physically, or mentally incompetent	32
1996-404a006	Abandons a patient	11
1996-404a007	Habitually is intoxicated	1
1996-404a008	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Article 27 of the Code	4
1996-404a009i	Provides professional services - while under the influence of alcohol;	1
1996-404a011	Willfully makes or files a false report or record in the practice of medicine	6
1996-404a012	Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report	1
1996-404a015	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient	1
1996-404a017	Makes a willful misrepresentation in treatment	1
1996-404a018	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine	16
1996-404a019	Grossly over utilizes health care services	9
1996-404a021	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch the US uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section	32
1996-404a022	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State	267
1996-404a023	Willfully submits false statements to collect fees for which services are not provided	13
1996-404a025	Knowingly fails to report suspected child abuse in violation of section 5-704 of the Family Law Article	2
1996-404a027	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	14
1996-404a028	Fails to comply with the provisions of section 12-102 of this article (these pertain to physician dispensing)	7
1996-404a029	Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	1
1996404a030ii	Except as to an Association that has remained in continuous existence since July 1, 1963 - Employs a pharmacist for the purpose of operating a pharmacy	1
1996404a030iii	Except as to an Association that has remained in continuous existence since July 1, 1963 - Contracts with a pharmacist for the purpose of operating a pharmacy	1
1996-404a036	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	5
1996-oth	Other ground than listed above-allied health, etc.	10
1997-404a013	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health-General Article, fails to provide details of a patient's medical record to the patient, another physician, or hospital	49
1997-404a040	Fails to keep adequate medical records as determined by appropriate peer review	30

1997-404b01	On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.	1
2007-404a003I	Is guilty of immoral conduct in the practice of medicine.	25
2007-404a003II	Is guilty of unprofessional conduct in the practice of medicine.	420
2007-404a041	Performs a cosmetic surgical procedure in an office or a facility that is not accredited by: The American Association for Accreditation of Ambulatory Surgical Facilities; The Accreditation Association for Ambulatory Health Care; or The Joint Commission on the Accreditation of Health Care Organizations.	1
TOTAL ALLEGATIONS AGAINST PRACTITIONERS		1,195

F. The number and nature of allegations filed with the Board concerning AH practitioners.

The following chart illustrates the investigations opened concerning AH practitioners during FY 15:

Allied Health Practitioners	Number of Investigations
Physician Assistant (C)	53
Radiographer and Radiation Therapist (R,O,M)	28
Nuclear Medicine Technologist (N)	0
Respiratory Care Practitioner (L)	25
Athletic Trainers (A)	10
Polysomnographic Technologists (Z)	1
Perfusionist	1
Total	118

There were a variety of allegations that included drug and/or alcohol abuse, termination of employment for being unavailable to patients, continuing to practice after expiration of certification, allowing a non-licensed radiographer to perform CT scans and competency issues due to hearing and vision impairments. In FY 15, the Board issued 24 formal actions in regard to AH practitioners.

G. The adequacy of current board staff in meeting the workload of the Board.

Currently, the Board has allocation of 70.1 full-time equivalent positions to conduct all Board business, the same number that was allocated in 2013. However, this level of staffing remains inadequate to meet the current and emergent work of the Board projected beyond FY 15.

A new health profession, the Naturopathic Doctors, will be licensed and regulated by the Board beginning March of 2016. This new health profession was added to the Board’s mandate without funding to manage the program. Existing staff performed all preliminary planning including developing regulations, an application, fee analysis, etc. This work took away resources from existing Board programs. The Board will establish appropriate fees for the Naturopaths that are adequate to fund the effective regulation of the

profession. The Board projects that additional staff will be required to administer the new program.

In its FY 16 Budget request, the Board asked for three additional positions in anticipation of beginning criminal history background checks (CHRC). The Board's request for positions was not approved. The CHRC legislation passed and is effective July 1, 2015; however, the Board does not have the positions to begin this program. In order for the Board to meet this new statutory requirement, the Board will require additional positions.

As it pertains to the Board's new IT system, the Board has contracted with a Project Manager who began in June of 2015. At this time, the Project Manager is performing a systems requirements analysis and once completed, will make recommendations to move the IT Project forward.

It should be noted that although the Board hopes to move to a more electronic, online system, there are certain elements of Board procedures that will remain paper-based and require data entry. For example, credentials for initial licensure are primary source verifications that are paper-based even if sent by electronic mail. At this time, there is no database that the Board can connect to in order to verify credentials, therefore, staff will have to continue to enter data, store, match, etc. more than 27,000 credentials on an annual basis. Additionally, all CHRCs are received via secure e-mail. State and Federal CHRCs are sent at different times and must be matched together for each applicant and/or licensee. All negative results must be entered into the database manually.

The Board has made significant improvements in its operational efficiency; however, additional staff are required. In its FY17 budget request, the Board requested 7 new positions.

The Board also anticipates that criminal history record checks will be required for its licensees through the passage of future law. The proposed legislation will require the Board to conduct criminal history background checks for the current 29,000 licensed physicians, 14,000 allied health practitioners and all the new applicants after the passage of the law. In order for the Board to meet this new requirement the Board will require 3 additional positions.

The Board has initiated the process of converting the antiquated, paper-based licensure/compliance system to a web-based operating system to enhance efficiencies, and additional efforts are intended to expand the outreach initiatives with stakeholders and licensees. Accordingly, the Board requested an additional 7 fully-funded positions in the FY 16 budget request process.

H. A detailed explanation of the criteria used to accept and reject cases for prosecution.

Please refer to the report from the OAG. See Exhibit 2 beginning on page 33.

I. The number of cases prosecuted and dismissed each year and on what grounds.

Please refer to the report from the OAG. See Exhibit 2 beginning on page 33.

J. Corrective Action Agreements

During FY 15, the Board had no Corrective Action Agreements.

TABLE B - RESOLVED ALLEGATIONS AGAINST PRACTITIONERS UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER HEALTH OCCUPATIONS FOR FY 15

Ground	Description	Allegations	Days
10-119.3	Child Support Enforcement Admin - Family Law Article 10-119.3	7	32
10320707(C)	Prohibited Conduct, Hearings, and Appeals for unlicensed medical practitioners	6	93
14-413	Fails to report	4	116
14-5A-17(a)(18)	Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State	1	275
14-5A-17(a)(20)	Resp. Care - subject to investigation or disciplinary action by another court or state which would be grounds under Maryland Medical Practice Act	1	234
14-5A-17(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of respiratory care	3	185
14-5A-20	Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice respiratory care in this State unless licensed to practice respiratory care by the Board.	2	41
14-5B-14(a)(10)	Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance	1	323
14-5B-14(a)(14)	Knowingly makes a misrepresentation while practicing radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology.	2	441
14-5B-14(a)(15)	Practices with unauthorized individuals or aids an unauthorized individual	1	78
14-5B-14(a)(2)	Fraudulently or deceptively uses a license	1	294
14-5B-14(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology.	4	170
14-5B-14(c)2	After completion of the appellate process if the conviction has not been reversed or the the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a license on the certification by the Office of the Attorney General	1	312
14-5B-17(c)	Except as otherwise provided in the subtitle, a person may not practice, attempt to practice, or offer to practice radiography in this State unless licensed to practice radiography by the Board.	1	279
14-5B-18(a)	Unless authorized to practice radiation therapy, radiography, nuclear medicine technology, or radiology assistance under this subtitle, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice radiation therapy, radiography, nuclear medicine technology, or radiology assistance in this State	1	294
14-5B-18(b)	A person may not provide, attempt to provide, offer to provide, or represent that the person provides radiation therapy, radiography, nuclear medicine technology, or radiology assistance care unless the radiation therapy, radiography, nuclear medicine technology, or radiology assistance care is provided by an individual who is authorized to practice radiation therapy, radiography, nuclear medicine technology, or radiology assistance under this subtitle	1	294

14-5D-14(3)	Is guilty of unprofessional or immoral conduct in the practice of athletic training	1	71
14-5D-17	Practice [athletic training] without license prohibited.	9	75
14-601	Practicing without a license	40	77
14-602	Misrepresentation as practitioner of medicine	1	435
15-314(3ii)	Is guilty of unprofessional conduct in the practice of medicine	35	99
15-314(a)(22)	Fails to meet appropriate standards for the delivery of quality care	5	87
15-314(a)(3)	PA - violates any provision of this title or any regulations...adopted under 14-404	10	202
15-314(a)(3)(i)	Is guilty of immoral conduct in the practice of medicine	4	56
15-401(a)	Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a license issued by the Board.	2	93
15-401(b)	Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope of the license and which is consistent with a delegation agreement filed with the Board.	1	109
1900050	Health Care Agency/Facility/Hospital Report.	1	1
1900101	Fails to meet good moral character requirement.	1	451
1900107	Response of YES to one of "Questions" on application form.	3	168
1900207	Response of YES to one of "questions" on renewal form.	30	87
1996-404a	In general-Subject to the hearing provisions of section 14-405 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend or revoke a licensee if the licensee:	1	134
1996-404a001	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;	2	139
1996-404a002	Fraudulently or deceptively uses a license;	1	438
1996-404a003	Is guilty of immoral or unprofessional conduct in the practice of medicine.	4	148
1996-404a004	Is professionally, physically, or mentally incompetent	22	149
1996-404a005	Solicits or advertises in violation of section 14-505 of this title	1	14
1996-404a006	Abandons a patient	12	84
1996-404a007	Habitually is intoxicated	2	233
1996-404a008	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Article 27 of the Code	2	136
1996-404a011	Willfully makes or files a false report or record in the practice of medicine	6	409
1996-404a012	Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report	1	21
1996-404a015	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient	2	126
1996-404a018	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine	11	269
1996-404a019	Grossly over utilizes health care services	9	243
1996-404a021	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch the US uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section	23	170
1996-404a022	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State	14	214
1996-404a023	Willfully submits false statements to collect fees for which services are not provided	9	126

1996-404a024ii	Reciprocal action based on - allowed the license issued by the state or country to expire or lapse	1	1456
1996-404a025	Knowingly fails to report suspected child abuse in violation of section 5-704 of the Family Law Article	3	189
1996-404a027	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	21	446
1996-404a028	Fails to comply with the provisions of section 12-102 of this article (these pertain to physician dispensing)	3	64
1996-404a029	Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	1	109
1996404a030ii	Except as to an Association that has remained in continuous existence since July 1, 1963 - Employs a pharmacist for the purpose of operating a pharmacy	1	76
1996-404a036	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	17	115
1996-oth	Other ground than listed above- allied health, etc.	9	82
1997-404a013	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health-General Article, fails to provide details of a patient's medical record to the patient, another physician, or hospital	37	44
1997-404a040	Fails to keep adequate medical records as determined by appropriate peer review	21	162
1997-404b01	On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.	1	158
2007-404a003I	Is guilty of immoral conduct in the practice of medicine.	29	313
2007-404a003II	Is guilty of unprofessional conduct in the practice of medicine.	173	190

TOTAL RESOLVED ALLEGATIONS AGAINST PRACTITIONERS
Average days to resolve allegations

752
200

BOARD COUNSEL'S REPORT

The Office of the Attorney General (“OAG”), through Board counsel, provided day-to-day legal advice to the Board regarding ongoing cases, investigations, procedures, contractual and procurement issues, memoranda of understanding, and assisted the Board in writing 47 decisions, including 13 letters of surrender. Following disciplinary panel meetings, the OAG also assisted in reviewing and finalizing 93 Consent Orders. The office also advised the Board on regulations and legislation. In addition, the office was involved in the following litigation on behalf of the Board in FY 15.

Karen Carr v. Maryland State Board of Physicians, (Circuit Court for Baltimore City, Case No. 24-C-13-006774). Karen Carr petitioned for judicial review of the Board’s decision fining her \$30,000 for the unlicensed practice of medicine based on her treatment of two pregnant woman and two of their newborn babies, one of whom died after Ms. Carr advised the mother, against the advice of emergency medical personnel on the scene, that the newborn did not need to be hospitalized. Following the filing of the administrative record and briefs, the Court heard oral arguments on June 20, 2014. The Court affirmed the Board’s decision on December 19, 2014.

Karen Carr v. Maryland State Board of Physicians, (Court of Special Appeals, No. 02458, September Term, 2014). Karen Carr filed with the Court of Special Appeals an appeal of the decision of the Baltimore City Circuit Court affirming the Board’s decision to fine Ms. Carr for the unlicensed practice of medicine. On May 4, 2015, Ms. Carr filed a Notice of Dismissal of her appeal, which the Court of Special Appeals granted on May 8, 2015.

James D. Clarke, M.D. v. Maryland State Board of Physicians, (Circuit Court for Baltimore County, Case No. C-15-003500AA). The Board reprimanded Dr. Clarke for unprofessional conduct in the practice of medicine based on his inappropriate prescribing to family members, as well as his inappropriate comments to and inappropriate touching of employees in his medical practice. Dr. Clarke filed a petition for judicial review in the Circuit Court for Baltimore County. The Board filed the administrative record in May, 2015. The Board’s brief is due July 30, 2015. The case is scheduled to be heard on September 11, 2015.

Barry Cohen, M.D. v. Board of Physicians (Court of Special Appeals No. 01935, September Term, 2013). Dr. Cohen was sanctioned by the Board for failing to keep adequate medical records. Dr. Cohen appealed to the Circuit Court for Montgomery County and that court reversed the Board’s decision. The Board appealed to the Court of Special Appeals. In an unreported opinion on December 15, 2014, the Court of Special Appeals reversed the Circuit Court for Montgomery County and affirmed the Board’s decision.

Lawrence D. Egbert, M.D. v. Maryland State Board of Physicians, (Circuit Court for Baltimore City, Case No. 24-C-15-000044 AA). The Board revoked Dr. Egbert’s medical license for his actions as the medical director of a right to death organization and his participation in six patient suicides. Dr. Egbert petitioned for judicial review in the Circuit Court for Baltimore City. The Board filed the administrative record in March, 2015 and filed a Motion to Dismiss based on Dr. Egbert’s failure to file a brief with the court. A hearing is scheduled on July 9, 2015.

David Geier v. Maryland Board of Physicians (Court of Special Appeals, No. 00709, September Term 2014). The Board found that Mr. David Geier practiced medicine without a license in the offices of his father, Dr. Mark Geier. Mr. David Geier filed an appeal to the Board of Review of DHMH, but that board affirmed the physicians' board's ruling. Mr. Geier then appealed to the circuit court. The circuit court affirmed the Board's decision. Mr. Geier appealed to the Court of Special Appeals where the case is pending.

Mark Geier, M.D. v. Maryland Board of Physicians (Court of Special Appeals, No. 1095, September Term, 2014). Dr. Mark Geier's license was revoked by the Board for multiple failures to meet standards for the appropriate treatment of patients. Dr. Geier then filed petitions for judicial review simultaneously in Baltimore City and in Baltimore and Montgomery Counties. After considerable litigation, Dr. Geier dismissed two of these suits, and the suit was argued in Montgomery County. The circuit court affirmed the Board's decision. Dr. Geier appealed to the Court of Special Appeals. In a reported opinion issued on May 29, 2015, the appellate court affirmed the Board's decision. Dr. Geier filed a motion for reconsideration which is pending in the Court of Special Appeals.

William Launder, M.D. v. Maryland State Board of Physicians (Circuit Court for Prince George's County, Case No. CAL14-14517). The Board revoked Dr. Launder's medical license and imposed a \$50,000 fine upon him for gross overutilization of medical services. Dr. Launder petitioned for judicial review in the Circuit Court for Prince George's County. The circuit court affirmed the Board's decision. Dr. Launder did not appeal.

Paul J. MacKoul, M.D. v. Maryland State Board of Physicians (Circuit Court for Montgomery County No. 392127-V). The Board reprimanded Dr. MacKoul for unprofessional conduct in the practice of medicine based on his failure to communicate with an 89-year old patient and her family about his delay of her surgery on the scheduled date of the surgery and his subsequent false and accusatory statements to the patient and her family. Dr. MacKoul petitioned for judicial review of the Board's sanction. In January, 2015, following briefing and oral argument, the circuit court affirmed the Board's decision.

Paul J. MacKoul, M.D. v. Maryland State Board of Physicians (Court of Special Appeals, No. 02607, September Term 2014). Dr. MacKoul appealed the decision of the Circuit Court of Montgomery County which affirmed the Board's decision reprimanding him for unprofessional conduct in the practice of medicine. The case is pending and oral argument is scheduled for December, 2015.

Marshall v. Carole Catalfo & Andrew Moultrie, M.D., et al., (Circuit Court for Anne Arundel County Lead Case No. C-14-191256). Plaintiff Gregory Marshall, an inmate at the North Branch Correctional Institution in Cumberland, Maryland, filed a complaint alleging medical negligence by health care practitioners during treatment he received in prison and included Ms. Catalfo, a former Executive Director of the Board in the complaint. He failed to allege any facts regarding a cause of action against Ms. Catalfo. The Board filed a Motion to Dismiss the complaint against Ms. Catalfo, and requested that she be removed as a named defendant. The case was consolidated with other pending cases by the Plaintiff against other physician defendants. A renewal of the motion to dismiss by the Board Defendant is pending.

Marshall v. Farrelly and Koya, et al., (Circuit Court for Baltimore City No. 24-C-14-0022405). Mr. Marshall filed a complaint against two Board employees claiming that they had refused to investigate medical abuse by two physicians. The Board filed a Motion to Dismiss which the court granted on September 16, 2014.

Marshall v. Andrea Mathias, M.D. & Christine Farrelly et al. (Circuit Court for Anne Arundel County Lead Case No. C-14-191256). Mr. Marshall filed two complaints against Board personnel Andrea Mathias, M.D. and Christine Farrelly, in the District Court of Maryland for Baltimore City, Case Nos. 0101-0011505-2014 and 0101-0015118-2014, alleging that they failed to investigate unlawful medical care by a physician. The cases were transferred to the Circuit Court of Baltimore City as Case Nos. 24-C-14-003831 and 24-C-14-004535, and the Board filed a motion to dismiss. The cases were subsequently transferred to the Circuit Court for Anne Arundel County, and consolidated with other cases pending by the Plaintiff against other defendants in Lead Case No. C-14-191256. A renewal of the motion to dismiss by the Board Defendants is pending.

Marshall v. Christine Farrelly & Maureen Sammons, et al. (Circuit Court for Anne Arundel County Lead Case No. C-14-191256). Mr. Marshall filed a complaint against Board personnel Christine Farrelly and Maureen Sammons, in the District Court of Maryland for Baltimore City, Case No. 0101-20632-2014, alleging that they refused to remedy a complaint he sent to the Board about a physician. The case was transferred to the Circuit Court of Baltimore City as Case No. 24-C-14-005766. The Board filed a motion to dismiss the complaint and to remove Ms. Farrelly and Ms. Sammons as defendants in the case. The case was subsequently transferred to the Circuit Court for Anne Arundel County, and consolidated with other cases pending by the Plaintiff against other defendants in Lead Case No. C-14-191256. A renewal of the motion to dismiss by the Board Defendants is pending.

Marshall v. Christine Farrelly & Maureen Sammons, et al. (District Court for Baltimore City No. 0101-0004811-2015). Mr. Marshall filed another complaint against Board personnel Christine Farrelly and Maureen Sammons, in the District Court of Maryland for Baltimore City, alleging that they did not investigate a complaint that he sent to the Board about a physician treating him at the prison. The Board filed a Motion to Dismiss on March 30, 2015. The case was transferred to the Circuit Court of Baltimore City (Case No. 24-C-15-001657) and subsequently transferred to the Circuit Court for Anne Arundel County and assigned Case No. C-02-CV-15-001921. The case is pending.

Shawn Loper v. Maryland State Board of Physicians (Circuit Court for Baltimore City, Case No. 24-C-14-000221). The Board imposed a \$10,000 fine upon Mr. Loper for practicing medicine without a license. Mr. Loper petitioned for judicial review in the Circuit Court for Baltimore City and the circuit court affirmed the Board's decision. Mr. Loper did not appeal.

Willie B. Mvemba, M.D. v. Maryland Board of Physicians (Circuit Court of Baltimore City No. 24-C-14-002913). The Board revoked Dr. Mvemba's license for violation of the terms of his previous consent order. Dr. Mvemba filed a petition for judicial review and the Board filed a motion to dismiss arguing that Dr. Mvemba was not legally entitled to judicial review. The court granted the Board's motion to dismiss on July 14, 2014.

Daniel Smithpeter, M.D. v. State Board of Physicians (Court of Special Appeals, No. 00819, September Term, 2012). After the Board suspended this psychiatrist for inappropriate sexual activities with a patient, he appealed to the Circuit Court of Baltimore City. The circuit court affirmed the Board's decision. Dr. Smithpeter then appealed that decision to the Court of Special Appeals. The Court of Special Appeals remanded the case to the Board to properly address Dr. Smithpeter's subpoena requests for the patient's records from mental health providers. The case was remanded to the Office of Administrative Hearing ("OAH"). OAH reissued the subpoenas, then quashed them. The Board ruled that the subpoenas were properly quashed and reinstated the 2011 suspension then terminated it as the suspension had been completed.

Daniel Smithpeter, M.D. v. State Board of Physicians (Circuit Court for Baltimore City, Case No. 24-C-15-002028). Dr. Smithpeter filed a petition for judicial review of Board's reinstatement of the sanction in the Circuit Court for Baltimore City. The Board has filed the administrative record, and the case is pending.

University of Maryland Medical System v. Maryland Board of Physicians & Albert L. Blumberg v. Maryland Board of Physicians (Court of Special Appeals, No. 211, Sept. Term 2014) UMMS and Dr. Blumberg filed three actions in the Circuit Court for Baltimore County to void a Consent Order between the Board and Sanford Siegel, M.D. resolving a complaint alleging that Chesapeake Urology was violating the Patient Referral Laws concerning its radiation therapy clinic for prostate cancer. The circuit court dismissed all three cases. Dr. Blumberg and UMMS appealed two of the dismissals. The Court of Special Appeals affirmed the two dismissals. Dr. Blumberg has petitioned for certiorari.

John L. Young, M.D. v. Maryland State Board of Physicians (Circuit Court for Montgomery County, Case No. 396420-V). The Board summarily suspended the medical license of Dr. Young and charged him with unprofessional conduct for treating patients of a physician whose license was suspended under the direction of that suspended physician. Dr. Young did not have any background or experience in treating the conditions he was treating. Ultimately, after lifting Dr. Young's summary suspension, the Board placed him on probation for one year (effective after his license was reinstated). Dr. Young petitioned for judicial review in the Circuit Court for Montgomery County, where the case is pending.

EXHIBIT 1**ROSTER OF MEMBERS OF THE BOARD OF PHYSICIANS (2015)**

NAME	SPECIALTY/CATEGORY	TERM ENDS
Devinder Singh, M.D., Board Chair	Physician Plastic Surgery, DHMH Representative Full-time Faculty Appointee	2015
Suresh K. Gupta, M.D., Vice Chair	Physician Internal Medicine/Geriatrics	2014
Jonathan A. Lerner, PA-C, Secretary	Physician Assistant	2017
Carmen M. Contee, Secretary	Consumer Member	2016
Brenda G. Baker	Consumer Member	2016
Edward J. Brody	Public/Risk Management	2014
Jacqueline B. Brown	Consumer Member	2014
Alexis J. Carras, M.D.	Physician Anesthesiology	2017
Gary J. Della'Zanna, D.O.	Osteopathic Surgeon	2017
Jacqueline M. Golden	Consumer Member	2017
Suresh C. Gupta, M.D.	Physician Internal Medicine	2015
Charles J. Gast	Consumer Member	2019
Avril M. Houston, M.D.	Physician Pediatrics	2016
John R. Lilly, M.D.	Physician Family Medicine	2014
Celeste M. Lombardi, M.D.	Physician Anesthesiology	2015
Mary G. Mussman, M.D.	DHMH Appointee-Pediatrics	2016
Ahmed Nawaz, M.D.	Physician Internal Medicine	2016
Hilary T. O'Herlihy, M.D.	Physician Cardiology	2014
Mark D. Olszyk, M.D.	Physician Emergency Medicine	2017
Robert P. Roca, M.D.	Physician Psychiatrist	2017
Beryl J. Rosenstein, M.D.	Physician Pediatrics Full-time Faculty Appointee	2015
Priti K. Sood, M.D.	Physician Cardiology	2015

EXHIBIT 2

A. The Legislative Report

Chapter 109 of the Acts of 1988, as amended by §1, ch. 271, Acts 1992, effective October 1, 1992, and by § 6, ch. 662, Acts 1994, effective October 1, 1994, provides:

SECTION 5. AND BE IT FURTHER ENACTED, that the Department, on or before October 1 of each year, shall submit a report to the Legislative Policy Committee that contains the following information for the previous year:

* * *

8. A detailed explanation of the criteria used to accept and reject cases for prosecution...

B. The Attorney General's Response

The Office of the Attorney General (“OAG”) accepted **one hundred sixteen (116) cases** for prosecution in Fiscal Year 2015. The OAG accepted the cases for prosecution after determining that there was a legally sufficient basis for prosecution based on the facts and circumstances of each individual case.

The measure of legal sufficiency is generally found in Md. Code Ann., Health Occ. § 14-404(a), which sets forth forty-one (41) enumerated grounds for discipline. In addition, Health Occ. § 14-404(b) provides for prosecution of licensees convicted of crimes involving moral turpitude, Health Occ. § 14-205 provides for the denial of a license for reasons that are grounds for discipline under Health Occ. § 14-404, and Health Occ. §§ 14-601 to 14-606 provide the standards for administrative prosecution of unlicensed practice.

The legal sufficiency evaluation includes the review of board investigative files, consultations with peer reviewers and other expert witnesses, meetings with board investigators, meetings with witnesses, and additional follow-up investigation. The legal sufficiency analysis may also include legal research, including the review of prior Board orders.

In Fiscal Year 2015, the OAG charged eighty-one (81) cases, of which five (5) were summary suspensions.

The OAG closed one hundred fifteen (115) cases during Fiscal Year 2015. The closed cases included the following:

- (a) Sixty-two (62) Consent Orders;
- (b) Thirty-nine (39) Final Orders;

- (c) Five (5) Summary Suspensions
- (d) Six (6) Letters of Surrender
- (e) One (1) Advisory Letter
- (f) Two (2) Administrative Closures
- (g) Twenty-eight (28) Fines were imposed on licensees:

Case 1 \$50,000	Case 2 \$1,000	Case 3 \$250	Case 4 \$10,000
Case 5 \$2,500	Case 6 \$1,000	Case 7 \$3,150	Case 8 \$4,000
Case 9 \$2,500	Case 10 \$3,500	Case 11 \$10,000	Case 12 \$500
Case 13 \$5,000	Case 14 \$1,250	Case 15 \$5,000	Case 16 \$5,000
Case 17 \$5,000	Case 18 \$10,000	Case 19 \$10,000	Case 20 \$2,500
Case 21 \$700	Case 22 \$1,500	Case 23 \$1,300	Case 24 \$2,000
Case 25 \$ 5,000	Case 26 \$1,000	Case 27 \$20,000	Case 28 \$2,500
Total Fines Imposed for the 28 Fines: \$ 166, 150.00			

- (h) Ten (10) Revocations;
- (i) Five (5) cases had Charges Dismissed;
- (j) Three (3) Cease & Desist Orders;
- (k) One (1) pre-charge consent order;
- (l) Thirty-one (31) licensees Reprimanded;
- (m) Twenty-seven (27) Probations imposed;
- (n) Three (3) Reinstatements Granted; and
- (o) Seven (7) Denials.

In Fiscal Year 2015, the Board continued to operate through a two-panel system with the assistance of the OAG. The two-panel system has ensured due process for licensees. The two-panel system has also streamlined the disciplinary process in that settlement proposals that

previously were required to be approved by the full Board can now be approved by a panel of the Board.

A. The Legislative Report

Chapter 109 of the Acts of 1988, as amended by §1, ch. 271, Acts 1992, effective October 1, 1992, and by § 6, ch. 662, Acts 1994, effective October 1, 1994, provides:

SECTION 5. AND BE IT FURTHER ENACTED, that the Department, on or before October 1 of each year, shall submit a report to the Legislative Policy Committee that contains the following information of the previous year:

* * *

9. The number of cases prosecuted and dismissed each year and on what grounds.

B. The Attorney General's Response

The Office of the Attorney General received **one hundred sixteen (116)** cases in fiscal year 2015. The Office filed **eighty-one (81)** charging documents of which **five (5)** were summary suspensions. **Thirty-nine (39)** cases were closed with final orders, and **sixty-two (62)** cases were closed with consent orders, **six (6)** were closed by letters of surrender, and **twenty-eight (28)** fines were imposed. Also included in those closings was (1) Advisory Letter and (2) Administrative Closures. The grounds for prosecution were as follows:

<u>Grounds</u>	<u>No. of Cases</u>
Under 12-102	0
Under 14-205(a)	0
Under §14-307(b)	0
Under §14-404(a):	
(1)	0
(2)	1
(3)(a)(i)	7
(3)(a)(ii)	35
(4)	3
(8)	1
(9)	1
(11)	1
(12)	1
(15)	1

(18)	5
(19)	3
(21)	3
(22)	31
(23)	1
(27)	2
(36)	1
(38)	2
(40)	21
(41)	1
14-316(f)(1)(2)	1
14-404 (b)(1)	0
14-404 (b)(2)	4
14-601	11
14-602(a)	1
14-603	0
Respiratory Care Pract./Rad Tech.	
14-5A-09(b) & 14-5A-17(a)(3)	1
14-5A-17(a)(3)	1
14-5A-17(a)(3)(ii)&(18)	1
14-5A-17(c)(2)	1
14-5B-17(c); 14-5B-18(a)	
14-5B-14(a)(1),(2), (10), &(14)	1
14.5B.14(a)(3)	2
14.5B.14(a)(3),(10), & (14)	1
14-5B-14(c)(1)	1
Athletic Trainer:	
14-5D-17	1

Physician Assistant:

15-314(a)(3)(ii) & Violat of Prob	1
15-314(a)(3)(i) & (ii)	1
15-314(a)(2), (3)(ii) & (27)	1
15-314(a)(1), (3)(ii) & (11) & (36)	1
15-314(a) (3)(ii), (36)	1
15-314(b)(2)	1
15-401 & 15-402	1
COMAR 10.32.17.02	1
COMAR: 10.32.17.(2)(4)(a)(b)(v)(iv)(vii), & (ix)	1
COMAR 10.32.17.V(4)(b)(v)	1
Cease & Desist Order (C&D)	3
Intent to Deny Rad Tech	1
Intent Deny Respirat. Care Lic	1
Intent to Revoke	2
Petition for Reinstatement	5
Representing as Physician	1
Request for Termination or...	
Modification of Cons. Ord	4
Summary Suspensions	7
Violation of Consent Orders	6
Violation of Disposition Agrmt	1