

---

**Model**  
**Guide for Drafting Governmental Units and**  
**Licensing Provisions**

**(Short title: Model Guide for Boards)**

---

**Department of Legislative Services**

**Annapolis, Maryland**

**July 2008**

For further information concerning this document contact:

Library and Information Services  
Office of Policy Analysis  
Department of Legislative Services  
90 State Circle  
Annapolis, Maryland 21401

Baltimore Area: 410-946-5400 • Washington Area: 301-970-5400

Other Areas: 1-800-492-7122, Extension 5400

TDD: 410-946-5401 • 301-970-5401

Maryland Relay Service: 1-800-735-2258

Email: [libr@mlis.state.md.us](mailto:libr@mlis.state.md.us)

Home Page: <http://mlis.state.md.us>

The Department of Legislative Services does not discriminate on the basis of race, color, national origin, sex, religion, or disability in the admission or access to its programs or activities. The Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice regulations. Requests for assistance should be directed to the Information Officer at the telephone numbers shown above.

**MODEL**  
**GUIDE FOR DRAFTING GOVERNMENTAL UNITS AND**  
**LICENSING PROVISIONS**

**(Short title: Model Guide for Boards)**

**I. Background; General Application; Organization.**

The following is a model for the standard revision of governmental units and licensing provisions in the Code. It was conceived in February, 1977, to provide guidance for the revision of the provisions of the Code that were designated for the Health Occupations Article. The Model has been updated several times and now serves as a general guide for revising any governmental unit and licensing statute. *It is written from the viewpoint of a revisor who must reflect the substance of existing laws and who must explain to the reader any real or apparent deviation from the content of those laws.* Consequently, the Model uses the working vernacular and various drafting devices of the staff of the Division of Statutory Revision of the Department of Legislative Reference. *However, the Model is a useful guide in drafting new provisions. A drafter who uses the Model for that or any other purpose beyond its original scope must understand the perspective from which the Model was written and apply it accordingly.*

The Model is not intended as a comprehensive statement of how to revise a subtitle. However, the Model serves as a guide for the uniform ordering of many provisions and the consideration of certain pertinent issues. In many instances, it provides the exact language to be used for a particular provision.

Except as otherwise indicated, there must be a specific provision in the existing statute to support the adoption of the uniform language contained in the Model, and any qualifying or unique provision of the existing law must be retained in the revision. In some instances, the Model does propose the adoption of a uniform provision although the existing law does not support expressly the provision. These uniform provisions are proposed only when the added language does nothing more than state a provision that is inherent in or fundamental to the organization or function of all of the governmental units to which the Model applies.

Most occupational licensing acts include sections that do not have corresponding section in the Model. Any provision of this kind must be revised according to its own peculiarities and integrated with the standard form in a logical manner.

## **II. Subtitle versus Title Organization.**

Since 1977, the format of the Model has varied from being organized as a subtitle to being organized as a title. It now is presented in a subtitle format, but may be converted to a title format by upgrading, as appropriate, the references from “part” to “subtitle” and from “subtitle” to “title”. For assistance in this regard, see Appendix A of the Model, which shows the Model organization in a title format. Also see the Health Occupations Article, which was drafted on the basis of a title organization.

**TABLE OF CONTENTS**  
**\_\_\_\_\_ ARTICLE**

TITLE 30. \_\_\_\_\_.

SUBTITLE [1.] \_\_\_\_\_.

PART I. DEFINITIONS; GENERAL PROVISIONS.

30-101. DEFINITIONS.

(A) IN GENERAL.

(B) BOARD.

(C) ENGAGE IN THE BUSINESS OF \_\_\_\_\_.

(D) LICENSE.

(E) LICENSED \_\_\_\_\_.

(F) LIMITED LICENSE.

(G) PRACTICE \_\_\_\_\_.

(H) REGULATED PERSON [i.e., name the class of person regulated under the subtitle; e.g., ACCOUNTANT, BARBER, PHYSICIAN].

30-102. LEGISLATIVE POLICY.

30-103. SCOPE OF SUBTITLE.

30-104. REVISED.

PART II. STATE BOARD OF \_\_\_\_\_.

30-105. ESTABLISHED.

30-106. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(B) QUALIFICATIONS OF OCCUPATIONAL/PRACTITIONER [e.g., ACCOUNTANT, BARBER, PHYSICIAN] MEMBERS.

(C) QUALIFICATIONS OF CONSUMER MEMBER[S].

(D) RESTRICTIONS ON CONSUMER MEMBER[S].

(E) OATH.

(F) TENURE; VACANCIES.

(G) REMOVAL.

30-107. OFFICERS.

(A) IN GENERAL.

(B) ELECTIONS AND TERMS OF OFFICE.

(C) PRESIDENT.

30-108. QUORUM; MEETINGS; COMPENSATION; STAFF.

(A) QUORUM.

(B) METINGS.

(C) [COMPENSATION AND] REIMBURSEMENT FOR EXPENSES.

(D) STAFF.

30-109. MISCELLANEOUS POWERS AND DUTIES.

(A) POWERS.

(B) DUTIES.

30-110. ESTABLISHMENT OF FEES; DISPOSITION OF MONEY.

(A) ESTABLISHMENT OF FEES.

(B) DISPOSITION OF MONEY.

30-111. RESERVED.

30-112. RESERVED.

PART III. LICENSING [LICENSE[S]].

30-113. LICENSE REQUIRED; EXCEPTIONS.

(A) IN GENERAL.

(B) EXCEPTIONS.

30-114. QUALIFICATIONS OF APPLICANTS.

(A) IN GENERAL.

(B) MORAL CHARACTER [CHARACTER AND REPUTATION].

(C) AGE.

(D) EDUCATION.

(E) EXAMINATION.

(F) ADDITIONAL REQUIREMENTS.

30-115. APPLICATIONS FOR LICENSES.

30-116. EXAMINATIONS.

(A) RIGHT TO EXAMINATION.

(B) TIME AND PLACE OF EXAMINATION.

(C) NOTICE OF EXAMINATION.

(D) SUBJECTS AND METHOD OF EXAMINATION.

(E) REEXAMINATION.

**ALT. A**

30-117. [RECIPROCAL] WAIVER OF [EXAMINATION] REQUIREMENTS.

(A) IN GENERAL.

(B) CONDITIONS.

(C) RECIPROCITY.

**ALT. B**

30-117. RECIPROCAL WAIVER OF [EXAMINATION] REQUIREMENTS.

(A) IN GENERAL.

(B) CONDITIONS.

(C) RECIPROCITY.

30-118. ISSUANCE [AND CONTENTS] OF LICENSE.

(A) ISSUANCE.

(B) CONTENTS.

30-119. SCOPE OF LICENSE.

30-120. TERM AND RENEWAL OF LICENSE.

(A) TERM OF LICENSE.

(B) RENEWAL NOTICE.

(C) APPLICATIONS FOR RENEWAL.

(D) CONTINUING EDUCATION.

(E) OTHER REQUIREMENTS.

(F) ISSUANCE OF RENEWAL.

30-121. INACTIVE STATUS; REINSTATEMENT OF EXPIRED LICENSES.

(A) INACTIVE STATUS.

(B) REINSTATEMENT OF EXPIRED LICENSES.

30-122. TEMPORARY/LIMITED LICENSE.

(A) AUTHORITY TO ISSUE.

(B) SCOPE.

(C) TERM.

(D) RENEWAL.

30-123. DISPLAY AND RECORDATION OF LICENSES; CHANGE OF ADDRESS.



(A) DISPLAY.

(B) RECORDATION.

(C) CHANGE OF ADDRESS.

30-124. DENIALS, REPRIMANDS, SUSPENSIONS, AND REVOCATIONS -- GROUNDS.

30-125. SAME -- HEARINGS.

(A) RIGHT TO HEARING.

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

(C) OATHS.

(D) SPECIFIC NOTICE REQUIREMENTS.

(E) RIGHT TO COUNSEL.

(F) ADDITIONAL RIGHTS ON HEARINGS.

(G) SUBPOENAS.

(H) FAILURE OR REFUSAL TO APPEAR.

30-126. [ADMINISTRATIVE AND] JUDICIAL REVIEW.

(A) IN GENERAL.

(B) STAY OF DECISION.

30-127. RESERVED.

30-128. RESERVED.

PART IV. PROHIBITED ACTS; PENALTIES.

30-129. ENGAGING IN BUSINESS/PRACTICING WITHOUT LICENSE.

30-130. MISREPRESENTATION.

(A) IN GENERAL.

(B) CERTAIN REPRESENTATIONS PROHIBITED.

30-131. & 30-132. [ADDITIONAL PROHIBITIONS].

30-133. RESERVED.

30-134. RESERVED.

30-135. PENALTIES.

PART V. SHORT TITLE; TERMINATION OF SUBTITLE.

30-136. SHORT TITLE.

30-137. TERMINATION OF SUBTITLE.

\_\_\_\_\_ ARTICLE.

TITLE 30. \_\_\_\_\_.

SUBTITLE [1.] \_\_\_\_\_.

PART I. DEFINITIONS; GENERAL PROVISIONS.

30-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language used as the standard introductory language to a definition section.

(B) BOARD.

“BOARD” MEANS THE STATE BOARD OF \_\_\_\_\_.

REVISOR'S NOTE: This subsection [formerly appeared as ... or is new language added to avoid repetition of the full title of the Board].

[Many current definitions of this kind refer to the statute under which a governmental unit is created. This reference should be deleted.

If this subsection is derived from existing law and the statutory name of a unit is changed, include the following note:

“The name of the Board is conformed to the substantive provision that creates the Board. *See* the revisor's note to § 30-105 of this subtitle.”]

(C) ENGAGE IN THE BUSINESS OF \_\_\_\_\_.

“ENGAGE IN THE BUSINESS OF \_\_\_\_\_” MEANS TO ENGAGE IN \_\_\_\_\_ [cite the regulated activity] FOR COMPENSATION.

REVISOR'S NOTE: This subsection is new language added to facilitate distinction between references to the commercial activity that is regulated under this subtitle and unregulated noncommercial activity.

[This definition is to be used only in those subtitles in which the term “practice”, as set forth under subsection (g) of this section, is not applicable.]

(D) LICENSE.

“LICENSE” MEANS [, UNLESS THE CONTEXT REQUIRES OTHERWISE,] A LICENSE ISSUED BY THE BOARD TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_].

REVISOR’S NOTE: This subsection is new language added to avoid repetition of phrases such as “license to practice \_\_\_\_\_”.

(E) LICENSED \_\_\_\_\_.

“LICENSED \_\_\_\_\_ MEANS [, UNLESS THE CONTEXT REQUIRES OTHERWISE,] A \_\_\_\_\_ WHO IS LICENSED BY THE BOARD TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_].

REVISOR’S NOTE: This subsection is new language added to avoid repetition of phrases such as “individual licensed to practice \_\_\_\_\_”. Occasionally, the term “licensee” is used in this title as a synonym for “licensed \_\_\_\_\_”. Since “license” is defined in subsection (d) of this section, “licensee” need not be defined separately.

[There may be instances in which it is more appropriate to place the above paragraph in the revisor’s note to subsection (d) of this section, which sets forth the definition of “license”. For example, HE § 6-401 does not include the term “licensed \_\_\_\_\_” and, thus, the paragraph was placed in the revisor’s note to the subsection that defines “license”. HO § 4-101 defines several different occupations and, therefore, the paragraph was included in the revisor’s note to the subsection defining “license” to avoid duplication of the same paragraph in several revisor’s note.]

(F) LIMITED LICENSE.

“LIMITED LICENSE” MEANS A LICENSE ISSUED BY THE BOARD TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_] AS LIMITED BY § 30-122 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of phrases such as “limited license to practice \_\_\_\_\_”.

(G) PRACTICE \_\_\_\_\_.

“PRACTICE \_\_\_\_\_” MEANS TO \_\_\_\_\_.

[Define this term only if the occupation that is the subject of the subtitle is considered a profession, e.g., accountants, lawyers, professional engineers, and health professionals. For examples of the proper use of the term, see the various titles of the Health Occupations Article.]

REVISOR’S NOTE: This subsection formerly appeared as ... [or, if a consolidation of more than a single present definition -- *see* notes after subsection (h) of this section: “... is new language derived without substantive change from ...”]

The definition is stated in the infinitive form to allow minor verb variations of the defined phrase without taking these variations out of the scope of the definition.

[NOTE: In defining the profession practiced, delete the word “of”. The form would be “‘practice audiology’ means to ... .”]

(H) [REGULATED PERSON -- i.e., name the class of person regulated under this subtitle; e.g., ACCOUNTANT, BARBER, PHYSICIAN].

“\_\_\_\_\_” MEANS A PERSON WHO [ENGAGES IN THE BUSINESS OF \_\_\_\_\_ or PRACTICES \_\_\_\_\_].

[Use the phrase “practices \_\_\_\_\_” only if the occupation regulated under the subtitle is a profession and, therefore, the term “practice \_\_\_\_\_” also is defined under this section.]

REVISOR’S NOTE: This subsection is new language added to allow concise and consistent reference to a person who practices \_\_\_\_\_, whether or not licensed to do so.

[A definition of the practitioner of a profession should not include any reference to licensing. If the existing law refers to a practitioner as “licensed”, delete the reference and add a revisor’s note explaining that the reference is deleted and that, where appropriate or otherwise required by the existing law, the defined term “licensed \_\_\_\_\_” will be used. *See*, e.g., the revisor’s note to BO § 3-101(b), which defines “architect”.

Under these circumstances, the revisor is advised to exercise caution throughout the subtitle to retain the intent of the existing law. If, for any reason, the existing law provision is concerned only with a practitioner licensed in this State, the terms “licensed \_\_\_\_\_” or “licensee” must be used in the revision of that provision.]

[GENERAL NOTE TO REVISOR:

CONSOLIDATION AND STANDIZATION OF TERMS.

I. Professional Occupations.

As to those occupations that are considered to be professions and, therefore, for which the practice is defined, the general approach of this section is to consolidate in the revised definition of “practice (whatever profession)” all of the substantive elements of the various defined terms that relate to the profession. For example, the former law for social workers defined “social work practice”, “social work”, and “social worker” by the elaborate use of descriptive terminology. The collective terminology was analyzed, and a composite of the elements was consolidated in the revision under the definition of “practice social work”. Then, as indicated in the Model, the term “social worker” simply was defined as a person “who practices social work” and the term “license” was defined as “a license to practice social work”. The definition of “social work” was deleted in light of the definition of “practice social work”. *See* HO § 18-101.

II. In general.

The current law lacks uniformity in the terminology used to specify the individuals who have been granted the right to practice or engage in various occupations. The lack of uniformity may be found even *within* the various statutes. The existing terms include “licensed”, “registered”, and “certified”. The problem is aggravated by the fact that forms of terms such as “registered” and “certified” have different and legitimate meanings within the statutes.

One goal of the revision of the occupational laws should be to require standardization of usage and to avoid indiscriminate use of these various terms. At least, insofar as the provision in question applies to individuals whose right to engage in the business of or practice the occupation is granted by *this* State, the following terms should be used as specified.

(1) “License” is the *only* term to be used to denote the privilege or right to practice that a State board issues. The adjective “licensed” should be the only term used to signify an individual who holds a license.

(2) “Certificate” may be used to signify the sheet of paper used for documentation, e.g., a license renewal certificate. “Certified” should not be used as a substitute for “licensed”.

(3) “Registration” is to be used only to denote the administrative procedure by which a licensed individual’s name is placed on a register (official roster). “Registered” should not be used as a substitute for “licensed”.

Also in regard to definitions, *see* the note to § 30-130 of the Model, “Misrepresentation”, on the removal of certain provisions from the definition and revising them as substantive prohibitions.]

REVISOR’S NOTE: [As to organization and form of the revisor’s notes under this section, *see* TR §§ 3-101 and 5-101.]

30-102. LEGISLATIVE POLICY.

[If existing law includes statements of legislative policy, they should be revised in this section.]

30-103. SCOPE OF SUBTITLE.

[This section should specify activities or persons that are included, excluded, or exempted from this subtitle. Generally, this section is used to state those activities of certain persons that are not “affected” or “limited” by the provisions of this subtitle. Note that generally the provisions should not be revised to say simply that “this subtitle does not apply to X”. Generally, the provision should say simply that the subtitle does not “affect” or “limit the rights of “ X *while* performing a specified function or duty.]

30-104. RESERVED.

[Reserve 2 sections if there is no section on “Legislative Policy” in this Part I of this subtitle; otherwise reserve a single section.]

PART II. STATE BOARD OF \_\_\_\_\_.

30-105. ESTABLISHED.

THERE IS A STATE [e.g., BOARD or COMMISSION] OF \_\_\_\_\_ [IN THE DEPARTMENT OF \_\_\_\_\_].

REVISOR’S NOTE: This section is new language derived without substantive change from ... .

It is set forth as a separate section for emphasis.

[The name of a governmental unit should be revised to conform to the form of this Model section. If this revision requires a change in former terminology, the

change must be explained in the revisor's note. If the change merely consists of adding the word "State" to the existing name, use the following explanation:

"The word 'State' is added to achieve uniformity among the names of the units that this article governs."

If the change requires the substitution of the word "State" for the word "Maryland" or the deletion of the word "Maryland", use the following explanation, as appropriate:

"The former word 'Maryland' is deleted from the name to avoid the use of the duplicative terms 'Maryland' and 'State' and to correspond with other designations used in this article."

Note the need for corresponding changes in the revision of any other provision that cites the full name of a unit, e.g., in the definition of "Board" under § 30-101(b) of the Model.

If there is a definition of the word "Department" that applies to the revised section, use the defined term "Department" alone, without the phrase "of \_\_\_\_\_".]

### 30-106. MEMBERSHIP.

#### (A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE BOARD CONSISTS OF \_\_\_\_\_ MEMBERS.

(2) OF THE \_\_\_\_\_ MEMBERS OF THE BOARD:

(I) \_\_\_\_\_ SHALL BE LICENSED \_\_\_\_\_[S]; AND

(II) \_\_\_\_\_ SHALL BE [A] CONSUMER MEMBER[S].

(3) THE GOVERNOR SHALL APPOINT THE [OCCUPATIONAL/PRACTITIONER, e.g., ACCOUNTANT, BARBER, OR PHYSICIAN MEMBERS,] WITH THE ADVICE OF THE SECRETARY AND THE ADVICE AND CONSENT OF THE SENATE[, FROM A LIST SUBMITTED TO either THE GOVERNOR or THE SECRETARY AND THE GOVERNOR BY \_\_\_\_\_. THE NUMBER OF NAMES ON THE LIST SHALL BE [e.g., 3] TIMES THE NUMBER OF VACANCIES].

[Use each of these provisions only if it is supported by the existing law. The idea is to include in this subsection, as contrasted with subsection (b) of this section.

(1) the method by which an individual becomes a member, whether by appointment or election; and



(2) those requirements that the unit as a whole must meet to establish the required composite, e.g., 2 members shall be physicians, 3 members shall be pharmacists, and 1 member shall be a citizen at large or, as revised, a “consumer member”.

If the existing law has appointed ex officio members, *see* Title 9 of the State Government Article for several examples of an appropriate revision.

Note that the phrase “with the advice of the Secretary” is to be used even if the existing law speaks in terms of the appointee being “recommended” by the Secretary. After considerable deliberation (in which representatives of the Governor’s Office, the Health Department, and the Attorney General participated) the former Commission to Revise the Annotated Code concluded that consistent use of “with the advice” would reflect the apparent intent of the law and, unquestionably, reflect the application of the law in practice. Of course, the use of a standard phrase also provides for uniformity of language in comparable provisions throughout the revised articles. The underlying assumption is that, even if the existing law speaks of the “recommendation” of the Secretary, the recommendation is only advisory in nature. During the former Commission’s presentation of the Health Occupations Article, this approach was brought to the attention of and approved by the General Assembly.]

(B) QUALIFICATIONS OF OCCUPATIONAL/PRACTITIONER [e.g., ACCOUNTANT, BARBER, PHYSICIAN] MEMBERS.

EACH [OCCUPATIONAL/PRACTITIONER] MEMBER:

[Unless a unit has an ex officio member or a consumer member who must meet separate qualifications, this subsection should be used to specify the requirements that apply to each and every member; e.g., each member shall be a resident of the State. If there is a separate consumer member classification, this subsection should set forth the requirements that apply to all of the occupational/practitioner members.]

(C) QUALIFICATIONS OF CONSUMER MEMBER[S].

[Most units with “consumer members” have already been revised. If you believe that the unit you are revising has “consumer members”, review your source law and this subsection carefully with your article supervisor to ensure that the model provisions are appropriate.]

[*Alternative A:* If the existing law imposes qualifications on consumer members, use the following, as appropriate:]

[THE/EACH] CONSUMER MEMBER OF THE BOARD:

[Here list any qualifications imposed on consumer members.

For examples of extensive provisions on the qualifications of professional and consumer members, *see* the corresponding sections of the titles regulating health professionals under the Health Occupations Article.]

[*Alternative B*: If the existing law deals with the consumer members of an occupational board under the Department of Licensing and Regulation, the provisions of Art. 41, § 8-102 that specify qualifications for these consumer members apply. Unless the revision involves a unit of the Department of Licensing and Regulation, do not include this alternative. In the proposed Business Occupations Article, the applicable provisions of Art. 41, § 8-102 have been incorporated as follows:]

[(41 § 8-102).\*

...

(c) ... For the purposes of this subsection, a consumer representative shall be a member of the general public who is not a licensee or subject to regulation and has not within the year prior to appointment had any financial interest in or compensation from any individual, association, unincorporated association, corporation, or any other entity subject to licensing or regulation by the board, commission, or council on which that person is serving or will serve. ...

...

(e) Any requirement that members of any board, commission, or council within the Department of Licensing and Regulation be licensed, experienced, or otherwise specially qualified shall not be applicable to consumer representatives provided for by subsection (c) of this section.

...

\* Shown for information only.]

EACH CONSUMER MEMBER OF THE BOARD:

(1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

(2) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO REGULATION BY THE BOARD;

(3) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR THE PROFESSIONAL MEMBERS OF THE BOARD; AND

(4) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE HAD A FINANCIAL INTEREST IN OR HAVE RECEIVED COMPENSATION FROM A PERSON REGULATED BY THE BOARD.

(D) RESTRICTIONS ON CONSUMER MEMBER[S].

[See explanation for Alternative B under subsection (c) of this section.]

WHILE A MEMBER OF THE BOARD, A CONSUMER MEMBER MAY NOT:

(1) HAVE A FINANCIAL INTEREST IN OR RECEIVE COMPENSATION FROM A PERSON REGULATED BY THE BOARD; OR

[(41 § 8-102).\*

...

(d) Consumer representatives provided for in subsection (c) of this section shall not participate in grading examinations administered by, or under the authority of, the boards, commissions, and councils within the Department of Licensing and Regulation.

...

\* Shown for information only.]

(2) GRADE ANY EXAMINATION GIVEN BY OR FOR THE BOARD.

(E) OATH.

BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

[As to the revision of a *standard occupational law* under which the board members, in fact, are considered to hold an office of profit or trust but that does not specify this oath requirement, add it and then indicate in the revisor's note that the requirement is added as standard language.

CAVEAT TO THE DRAFTER OF NEW LEGISLATION: If you are using this Model as an aid in drafting new legislation, the oath provision should be included only after consideration of the legal implications of the possible status of a board member as an officer of profit or trust. DO NOT ADD THE MODEL LANGUAGE AUTOMATICALLY.]

(F) TENURE; VACANCIES.

[Unless the existing law indicates the contrary, use paragraphs (1) through (4) of this subsection as standard provisions.]

(1) THE TERM OF A [AN APPOINTED] MEMBER IS \_\_\_\_ YEARS [AND BEGINS ON \_\_\_\_].

[The word "appointed" should be included only if the unit has an ex officio member and, therefore, it is necessary to distinguish between the appointed and ex officio members.]

(2) THE TERMS OF [APPOINTED] MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS IN EFFECT/PROVIDED FOR MEMBERS OF THE BOARD ON \_\_\_\_ [use the proposed effective date of the bill under which the revision is to be introduced, e.g., OCTOBER 1, 1990].

[The language of paragraph (2) of this subsection may be used unless the unit is so new that its members will not have been appointed as of the effective date of the bill.

To draft a revisor's note properly, the revisor must advise the reader of any deleted provisions on the existing terms of the members and then must specify exactly the stagger of expiration of terms of the members who will be serving on the effective date on the bill. The existing law may or may not provide a clear indication of the stagger. In any event, this information *must* be confirmed. To this end, check the *Maryland Manual* and, if necessary, contact the appropriate governmental unit. If the status of the stagger is still in question, check with the Appointments Office of the Governor.

For purposes of providing an appropriate explanation in the revisor's note, many examples may be found in the Education Article. *See*, for example, the revisor's notes to ED §§ 3-501, 13-102, 18-1004, 22-201, and 24-202. As these examples indicate, the explanation should vary depending on the particular situation. Generally, however, use one of the variations of the following explanatory note.

["Subsection (f)(2) of this section is standard language substituted for \_\_\_\_ [describe the existing statute], which provided for the terms of the initial members [or, if members have been added to the original board: the initial terms of the members] and was obsolete. This substitution is not intended to alter the term of any member of the Board. *See* § \_\_\_\_ of Ch. \_\_\_\_, Acts of 19\_\_\_\_ [i.e., the uncodified provision that appears in the bill under which the revision is to be introduced and preserve existing terms]. Accordingly, in subsection (f)(1) of this section, the specific reference to [e.g., "July 1"] is added. [Then, if the existing stagger is unequal: 'The terms of the members serving on [e.g.,] October 1, 1990, end as follows [e.g.,] (1) 2 in 1991; (2) 3 in 1992; and (3) 2 in 1993.'] [But if the existing stagger is equal: 'The terms of [e.g., one-third] of the members of the Board end each [even-numbered year.]"

Since 1984, revised articles have had delayed effective dates, becoming effective on October 1 or January 1 after enactment. Therefore, to avoid confusion, subsection (f)(1) has been modified to refer to the date on which the terms begin, if different from the effective date.]

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(G) REMOVAL.

THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

REVISOR'S NOTE: Subsections (a), (b), ... of this section formerly appeared as ... .

[If subsection (c) Alternative B and subsection (d) are used, include the following revisor's note to explain their derivation:

“Subsections (c) and (d)(2) of this section are new language that repeats the provisions of present Art. 41, § 8-102(d) and (e) and the second sentence of (c).

Subsection (d)(1) of this section is standard language added as an inherent and essential corollary to subsection (c)(4) of this section.]

[If subsection (e) of this section is added without an express provision to support the addition, include the following revisor's note to explain its derivation:

“Subsection (e) of this section is standard language added to state the requirement that an individual appointed to any office of profit or trust take the oath specified in Md. Constitution, Art. I, § 9”.]

[If there is no express provision supporting subsection (f)(3) of this section and the provisions of subsection (f)(4) on successors, include the following revisor's note to explain its derivation:

“Subsection (f)(3) [and the clause “until a successor is appointed and qualifies” in subsection (f)(4)] of this section is [are] standard language added to avoid gaps in membership by indicating that a member serves until a successor takes office. This [these] addition[s] is [are] supported by the cases of *Benson v. Mellor*, 152 Md. 481 (1927), and *Grooms v. LaVale Zoning Board*, 27 Md. App. 266 (1975).”]

[If no part of subsection (f)(4) of this section is supported by existing law, include the following revisor's note to explain its derivation:

“Subsection (f)(4) of this section also is added as standard language. It follows from the requirement that there be staggered terms. An inherent aspect of staggered terms is that they must begin and end at set intervals.”

Include as part of the above paragraph or, if that note is not used, at the end of the revisor's note, the following cross-reference:

“For circumstances under which subsection (f)(4) of this section applies, *see* the General Revisor's Note to this article.”]

[A note to the following effect will be included in the General Revisor's Note to the Article:

“Under the ‘Membership’ section of each [some] of the subtitles of this article, there is a subsection captioned ‘Tenure; Vacancies’. A standard paragraph included within each of those subsections provides that ‘A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies’. That paragraph applies:

(1) when a successor is appointed to replace a member who has died, been removed, or failed for any other reason to complete a term;

(2) when a member is appointed to succeed a member who has ‘held over’ to part of the next term, pending the delayed appointment or qualification of the successor; or

(3) when, in any other situation, a member takes office after a term has begun, e.g., at the completion of a term, there is a delay in the appointment of a successor, but the member who served the prior term does not ‘hold over’, thus creating, at the start of the next term, a vacancy that is associated neither with the replacement of a member who served part of the current term nor with the completion of a term started by a ‘holdover’.”]

Subsection (g) of this section is new language that repeats the provisions of Md. Constitution, Art. II, § 15. For other provisions on removal, *see*: Md. Constitution, Art. XV, § 2, on suspension and removal for crimes, and SG § 8-501, on removal for failure to attend meetings.

### 30-107. OFFICERS.

#### (A) IN GENERAL.

[FROM AMONG ITS MEMBERS,] THE BOARD [ANNUALLY] SHALL ELECT A \_\_\_\_\_, A \_\_\_\_\_, AND A \_\_\_\_\_.

Some article review committees have preferred this alternative:

[THE BOARD [ANNUALLY] SHALL ELECT A \_\_\_\_\_, A \_\_\_\_\_, AND A \_\_\_\_\_ FROM AMONG THE MEMBERS OF THE BOARD.]

(B) ELECTIONS AND TERMS OF OFFICE.

THE MANNER OF ELECTION OF OFFICERS [AND THEIR TERMS OF OFFICE] SHALL BE AS THE BOARD DETERMINES.

(C) PRESIDENT.

... .

[This section will contain the titles, tenure, and any specific duties of officers for which the subtitle provides.

Subsection (a) of this section sets forth the manner by which officers are chosen. In some instances, the Governor may be required to make appointments for some or all of the positions. *See*, e.g., HO § 8-203(a) and HG §§ 13-405 and 19-204.

Subsection (b) of this section also will be standard language added “to clarify the manner of election for officers of the Board”. If the existing law does not specify an annual or other specific term, include the phrase “and their terms of office”.

Subsection (c) of this section and, as appropriate, additional subsections will include any specific provisions that relate to these officers, as required by the existing law.]

30-108. QUORUM; MEETINGS; COMPENSATION; STAFF.

(A) QUORUM.

[*Alternative A:* If the existing law requires a specific number of members for a quorum, and that number does not coincide exactly with a simple majority of the authorized membership of the unit (e.g., “6” or “4” of “9” members), restate that provision as follows:]

SIX MEMBERS OF THE BOARD ARE A QUORUM.

[Retention of the specified number in the revision may be an obsolete reference to the majority of what was once a smaller unit. For example, assume that a board originally consisted of 10 members and the statute called for a quorum of 6; subsequently, the board was enlarged to 15 members, but the quorum provision was left unamended. Was this but an oversight, calling for a “corrective” change to require 7 members (i.e., Alternative B); or must we assume that the General Assembly (or, in the case of a regulation, the board) deliberately intended to

retain the 6-member quorum requirement? The revisor should flag any problem of this kind for a case-by-case determination by the General Assembly.]

[*Alternative B*: If the existing law -- whether by reference to a specific number that coincides with a simple majority of the authorized membership (e.g., “5” of “9” members) or by more general language -- requires a majority of the authorized membership for a quorum, restate that law as follows, with an explanatory revisor’s note as noted at the end of this section.]

A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE BOARD IS A QUORUM.

[*Alternative C*: If the existing law clearly requires only a majority of the members actually serving at a given time or is ambiguous (e.g., “a majority of the members”), state the quorum provision as follows, with an explanatory revisor’s note as appropriate:]

A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A QUORUM.

[If the existing law modifies the quorum requirement with a phrase such as “to do business”, retain the phrase. If the existing law does not include a quorum provision, do not add one in the revision.]

As to a revision where there is no source law for a quorum requirement, *see* the Revisor’s Note to BR § 9-305.

(B) MEETINGS.

[*Alternative A*: Even if the existing law has no provision for meetings, add the following “for clarity”:]

THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

[*Alternative B*: Otherwise follow the existing law, as follows:]

THE BOARD SHALL MEET AT LEAST \_\_\_\_ A YEAR, AT THE TIMES AND PLACES THAT IT DETERMINES.

(C) [COMPENSATION AND] REIMBURSEMENT FOR EXPENSES.

[Note that, under all of the following alternatives, in the absence of a provision to the contrary, an affirmative provision for reimbursement of expenses is to be included in each title. Note further that specific existing law may necessitate a modification of the following guidance.]



[*Alternative A*: If the existing law is silent both as to compensation and reimbursement for expenses, add the following as standard language:]

EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

[*Alternative B*: Whether the existing law has affirmative provisions for compensation and reimbursement for expenses or only for compensation, use the following:]

EACH MEMBER OF THE BOARD IS ENTITLED TO:

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET;  
AND

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

[*Alternative C*: If the existing law prohibits compensation and either is silent or has an affirmative supporting provision for reimbursement of expenses, use the following:]

A MEMBER OF THE BOARD:

(1) MAY NOT RECEIVE COMPENSATION [AS A MEMBER OF THE BOARD]; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) STAFF.

THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

[Subsection (d) of this section is to be added as standard language - absent source law to the contrary.]

REVISOR'S NOTE: This section formerly appeared as ... .

[Revisor's Note for subsection (a), Alternative B] In subsection (a) of this section, the former provision that called for a quorum of [e.g., "5 members of the Board"] is restated, without substantive change, in more general language that refers to a "majority of the authorized membership of the Board". This restatement conforms to similar provisions in other subtitles

of this article and will accommodate possible future legislative changes in the number of members to be appointed to the Board, without the necessity of enacting a conforming change here. As to the current “authorized membership” of the Board, *see* § 30-106(a)(1) of this subtitle.

Subsection (c)(2) of this section is standard language added to reflect that, under SF § 10-203, the Board of Public Works has adopted regulations for reimbursement of expenses. *See* COMAR 23.02.01.01 through 12.

## 30-109. MISCELLANEOUS POWERS AND DUTIES.

### [GENERAL NOTE TO REVISOR.

#### I. GENERAL CONTENT OF THIS SECTION.

The use of this section is to be limited. Its function is *not* to provide a comprehensive list of the powers and duties of a unit. Follow these basic rules.

(1) Delete a reference to a specific power or duty that will appear elsewhere in the subtitle. For example, references to providing for examinations of qualified applicants, establishing fees, or issuing licenses generally would be deleted in light of the more detailed provisions elsewhere in the subtitle.

(2) Try to consolidate provisions on a particular power or duty. Thus, e.g., if an existing list of miscellaneous duties includes the duty to administer examinations at particular times, while another provision delineates duties as to scope or form of examinations, all of the existing provisions should be revised in § 30-116 of the Model.

(3) If the existing law includes, in a miscellaneous list of powers and duties, a provision that has adequate substance to stand alone, it should not be included in this section but, rather, should be drafted as an independent section. Thus, for instance, if a general rulemaking power is tied to certain conditions and procedures, a separate section may be warranted.

#### II. PROVISIONS THAT RELATE TO INVESTIGATIONS, OATHS, SUBPOENAS, AND ENFORCEMENT POWERS.

Particular attention should be given to existing provisions on investigations, the administration of oaths, the issuance of subpoenas, and other powers to enforce the subtitle. The approach taken in the revision should vary depending on how many of these provisions are included in the particular subtitle and on the scope of the particular provisions. Follow these rules.

(1) If there are only a few of these provisions, they are uncomplicated, and their scope is general (i.e., their application is not limited to proceedings under § 30-124 of the Model, “Denials, Reprimands, Suspensions, and Revocations”, or to any other specific program), they may be drafted under this section as miscellaneous powers and duties.

(2) If the existing law contains a number of these *general* provisions or if there are only a few of these *general* provisions, but they have complicated provisions, they should be drafted under a new and separate section, which should precede immediately the section on “Denials, Reprimands, Suspensions, and Revocations” (§ 30-124 of the Model). However, in drafting the section, exercise caution not to limit inadvertently the general application of the powers involved -- i.e., make certain that the language used indicates clearly the general application of the provisions. For an example of a revision drafted under this approach, see HO § 2-312.

(3) If an existing provision relates only to a specific program or procedure (e.g., the typical administrative disciplinary procedure), it should be drafted in conjunction with the program or procedure to which it applies (as per general guidance provided in this section). Depending on how complicated the particular provision is, this may be accomplished simply by adding a subsection to the section that sets out the program. (See for example § 30-125(f) of the Model, which provides the proper place to draft oath and subpoena provisions that relate only to a proceeding brought under the “Hearing” section.) If the provision is too complicated to structure a workable subsection, a new section should be drafted to follow immediately the section that sets out the program. In this situation, exercise caution that appropriate language is used to show the direct relationship between the sections.]

(A) POWERS.

IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY:

(1) ADOPT ANY REGULATION TO CARRY OUT THIS SUBTITLE;

(2) SUE TO ENFORCE ANY PROVISION OF THIS SUBTITLE BY INJUNCTION; AND

(3) ... ;

[Place under this subsection any other of the provisions that are appropriate and discretionary and that are broken down as such in the existing law.

Note that item (1) of this subsection provides the standard language that is to be used to specify the general rulemaking power of a unit. There must be source law to support the inclusion of this provision.]

## (B) DUTIES.

IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE BOARD SHALL:

- (1) KEEP A LIST OF ALL LICENSED \_\_\_\_\_;
- (2) KEEP A RECORD [LIST] OF \_\_\_\_\_;
- (3) SUBMIT A [AN ANNUAL] REPORT TO \_\_\_\_\_; AND
- (4) ... ;

[These provisions will vary according to the existing law.

Generally, this section will list the powers and duties together unless the existing law separates them. If listed together, the introductory paragraph should read:]

“IN ADDITION TO ANY POWERS AND DUTIES SET FORTH ELSEWHERE, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

- (1) TO ... ;
- (2) TO ... ; AND
- (3) TO ... .”

## 30-110. ESTABLISHMENT OF FEES; DISPOSITION OF MONEY.

## (A) ESTABLISHMENT OF FEES.

[EXCEPT FOR THE FEES SPECIFICALLY SET BY THIS TITLE,] THE BOARD MAY SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES [AND ITS OTHER SERVICES].

[Use the variation of the Model language that is supported by the existing law and, if necessary, add further qualifying language. If the existing law does not include the power to set any fee, do not include this Model section in the revision.

If the existing law from which this section is to be derived has a specific reference to the establishment of “registration” or “reregistration” fees, those references should be deleted. For a detailed explanation of the basis of this change, *see* the General Note to the Revisor under § 30-120 of the Model. In the revisor’s note to this section, explain the deletion as follows:

“In subsection (a) of this section, the former reference to fees for [‘registration’ and] ‘reregistration’ is deleted to conform to changes in terminology made throughout this subtitle. *See* the General Revisor’s Note to this subtitle.”

The referenced General Revisor’s Note to the subtitle is set out in the General Note to the Revisor under § 30-120 of the Model.]

(B) DISPOSITION OF MONEY.

THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.

[NOTE: Subsection (b) of this section should be included in the revision, even in the absence of a comparable source provision. When this is done, the revisor’s note should explain that the new language is added “to conform to similar provisions in other subtitles of this article and to other requirements of law. *See* Md. Constitution, Art. III, §§ 32 and 52 and Title 7 of the State Finance and Procurement Article”.

If already in existing law, explain deletion of specifics as follows:

“In subsection (b) of this section, the former requirement that disbursement be in accordance with Md. Constitution, Art. III, §§ 32 and 52 or the State Finance and Procurement Article, which relate to disbursements from the General Fund of the State, is deleted as implicit in the requirement that the money is part of the General Fund of the State.”]

30-111. RESERVED.

30-112. RESERVED.

PART III. LICENSING [LICENSE[S]].

[NOTE: Some licensing provisions required issuance of “permits” as well as “licenses”. Thus, use “LICENSE[S]” if appropriate.]

30-113. LICENSE REQUIRED [; EXCEPTIONS].

[(A) IN GENERAL.]

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_] IN THE STATE.

[Some article review committees prefer the following alternative:]

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, [AN INDIVIDUAL/A PERSON] MUST HAVE A LICENSE WHENEVER THE [INDIVIDUAL/PERSON] [ENGAGES IN THE ...]

[(B) EXCEPTIONS.

THIS SECTION DOES NOT APPLY TO ... .]

[Add this section as a standard provision even if there is no supporting existing law. However, this section generally will be nothing more than a rephrased statement of the prohibition against practicing without a license. In that event, the pertinent source law should be reproduced both here and in § 30-129 of the Model, “Engaging in Business/Practicing Without License”.

If the supporting prohibition requires that an individual be licensed “and registered” to practice \_\_\_\_\_, delete -- as in § 30-129 of the Model -- the reference to being “registered”. Use the same explanation in the revisor’s note to this section as provided in § 30-129 of the Model.

As to the proposed reference to exceptions, this phrase should be included in subsection (a) if exceptions appear in this section, in the section corresponding to § 30-103 of the Model, or elsewhere.]

REVISOR’S NOTE: [If this section is based on an existing, general prohibition against engaging in a business or practicing a profession without a license use the following revisor’s note to explain its derivation:] This section is derived from \_\_\_\_\_ and rephrased in standard language to state affirmatively that an individual must be licensed to [engage in a regulated business/practice a professional occupation] in the State. *See also* § 30-129 of this subtitle.

[If this section is not based on an existing provision, use the following revisor’s note to explain its derivation:] This section is standard language added to state a fundamental prerequisite implicit through the former licensing provisions of Art. \_\_\_\_\_ that related to [engaging in the business of \_\_\_\_\_/practicing \_\_\_\_\_]. *See also* § 30-129 of this subtitle.

[If there are exceptions elsewhere:] As to the referenced exceptions, *see* [also] § 30-103 of this subtitle.

30-114. QUALIFICATIONS OF APPLICANTS.

(A) IN GENERAL.

TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) MORAL CHARACTER [CHARACTER AND REPUTATION].

THE APPLICANT SHALL BE OF [GOOD MORAL CHARACTER or GOOD CHARACTER AND REPUTATION].

(C) AGE.

THE APPLICANT SHALL BE [e.g.], AT LEAST 18 YEARS OLD.

(D) EDUCATION.

THE APPLICANT SHALL ... .

(E) EXAMINATION.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE APPLICANT SHALL PASS AN EXAMINATION GIVEN BY THE BOARD UNDER THIS SUBTITLE.

(F) ADDITIONAL REQUIREMENTS.

THE APPLICANT SHALL MEET ANY OTHER [e.g.] QUALIFICATIONS OR REQUIREMENTS THAT THE BOARD ESTABLISHES FOR LICENSE APPLICANTS.

REVISOR'S NOTE: This section formerly appeared as ... .

[Generally there will be existing law for subsection (e); however, even if there is not, subsection (e) is to be inserted as a standard provisions. Use the following revisor's note as applicable:

“Subsection (e) of this section is [rephrased in standard language / standard language added] to state expressly that which only was implied in the former law -- i.e., an applicant must not only take but pass the examination given by the Board, to be licensed under this subtitle.”]

[Often, the existing law for subsection (f) of this section is listed as a miscellaneous power or duty, in which case it should be transferred here.

Note that the terms “qualifications or requirements” are used here as an example; the specific language should track that of the existing law.]

## 30-115. APPLICATIONS FOR LICENSES.

AN APPLICANT FOR A LICENSE SHALL:

(1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD [PROVIDES/REQUIRES]; AND

[If, in fact, a unit provides the application form, use the word “provides” rather than “requires”.]

(2) PAY TO THE BOARD AN APPLICATION FEE OF \$\_\_\_\_\_ [or: THE APPLICATION FEE SET BY THE BOARD].

REVISOR’S NOTE: Item (1) of this section is standard language added to state expressly that which only was implied in the former law -- i.e., applications may be made only on the form that the Board [provides/requires].

[The above note illustrates the manner in which similar changes should be explained throughout the revised title or article when standard language has been added. There may be some subsections for which there is existing law or some subsections may reflect partially existing law and the rest revision. In either of these events, the note should be modified accordingly; *see* the sample note to § 30-116(d) of the Model.

The approach used in this section is to characterize the application and fee as an application and fee “for a license” rather than an application and fee “for examination”. Many of the current provisions are indiscriminate in their use of the terms “license application”, “examination application”, “license fee”, and “examination fee”. For any subtitle that provides for only a single application and a single fee, the Model language should be used regardless of the differing language in the existing law. By this standard, uniformity can be achieved throughout the vast majority of the relevant provisions.]

[If, under item (2) of this section, the phrase “the application fee set by the Board” is used, include the following cross-reference in the revisor’s note:

“As to the authority of the Board to set fees, *see* § 30-110 of this subtitle.”]



30-116. EXAMINATIONS.

(A) RIGHT TO EXAMINATION.

AN APPLICANT WHO OTHERWISE QUALIFIES FOR A LICENSE IS ENTITLED TO BE EXAMINED AS PROVIDED IN THIS SECTION.

(B) TIME AND PLACE OF EXAMINATION.

[*Alternative A*: If the existing law has no provision on this matter, add the following “for clarity”:]

THE BOARD PERIODICALLY SHALL GIVE EXAMINATIONS TO APPLICANTS AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

[*Alternative B*: Otherwise follow the existing law, as follows:]

THE BOARD SHALL GIVE EXAMINATIONS TO APPLICANTS AT LEAST A YEAR [or, as appropriate: EACH CALENDAR YEAR], AT THE TIME[S] AND PLACE[S] THAT THE BOARD DETERMINES.

(C) NOTICE OF EXAMINATION.

THE BOARD SHALL GIVE EACH QUALIFIED APPLICANT NOTICE OF THE TIME AND PLACE OF EXAMINATION.

[Even if there is no supporting source provision, include this subsection as standard language.]

(D) SUBJECTS AND METHOD OF EXAMINATION.

THE BOARD SHALL DETERMINE THE SUBJECTS, SCOPE, AND FORM OF AND THE PASSING SCORE FOR EXAMINATIONS [GIVEN UNDER THIS SUBTITLE].

[Unless the existing law has a specific conflicting provision, use this language as a standard provision.]

(E) REEXAMINATION.

[State here any provision that provides, qualifies, or limits a right to reexamination.]

REVISOR’S NOTE: Subsection (a) of this section is standard language added for clarity. See the General Revisor’s Note to this [subtitle/article].

[A note to the following effect will be included in the General Revisor’s Note to the revised subtitle/article:]

“The ‘Examinations’ section of the subtitles of this title/article include a standard subsection captioned ‘Right To Examination’. The subsection provides expressly that an applicant who otherwise qualifies for a license is entitled to an opportunity to meet the final requirement for licensing -- i.e., the opportunity to take the required examination. Stated from the other perspective, the subsection simply states that a governmental unit may not deny arbitrarily and otherwise qualified applicant an opportunity to take the license examination. This is a requirement of the former law that becomes clearer within the context of the revised form in the ‘Examinations’ sections of this title/article. In any event, this provision reflects the requirements of the due process clause under the 14th Amendment of the U.S. Constitution. *See Douglas v. Noble*, 261 U.S. 165 (1923); *Schwartz v. Board of Bar Examiners*, 353 U.S. 232 (1957); and *Willner v. Committee on Character and Fitness*, 373 U.S. 96 (1963).”

Subsection[s] (b) [and (c)] of this section formerly appeared as ... .

[If subsection (c) of this section is not based on an existing provision, use the following revisor’s note to explain its derivation:]

Subsection (c) of this section is standard language added to conform [to the practice of the Board and] to provisions elsewhere in this article. It provides an element of fundamental fairness by requiring the Board to give qualified applicants notice before the administration of examinations.

Subsection (d) of this section is derived without substantive change from ... [In the appropriate place, explain any additions to subsection (d), e.g., in subsection (d) of this section, the specific references to “scope” and “firm” of examinations are added to state expressly that which only was implied in the former law -- i.e., the Board has control over the content of the required examinations.]

### 30-117. [RECIPROCAL] WAIVER OF [EXAMINATION] REQUIREMENTS.

[NOTE ON CONTENT OF THIS SECTION:

The revisor is responsible for making certain that the revision reflects the intent of the existing law. In an area such as “waiver of examination”, the Model provisions are, at best, a guide that indicates how to revise that which essentially is provided for in the existing law. Before using the language set forth under either Alternative A or B of this section, be especially careful that there are substantiating provisions.]

ALTERNATIVE A: [Base the revision on this alternative unless the existing law requires a unit to make agreements with another state before the unit grants a waiver to a practitioner from that state.]

(A) IN GENERAL.

SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY WAIVER ANY EXAMINATION REQUIREMENT [or: SHALL WAIVE THE EXAMINATION REQUIREMENTS] OF THIS SUBTITLE FOR AN INDIVIDUAL WHO IS LICENSED TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_] IN ANOTHER STATE.

(B) CONDITIONS.

[*Variation I:* Use the following language unless the existing law requires that, at the time an applicant was licensed in another state, the applicant was qualified to take the examination that then was required by the law of this State -- i.e., unless the comparison of qualifications is to be made with regard to the time when the applicant first was licensed in the other state.]

THE BOARD MAY GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:

(1) PAYS TO THE BOARD THE APPLICATION FEE [REQUIRED or SET BY THE BOARD] UNDER § 30-115 OF THIS SUBTITLE; AND

(2) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

(I) MEETS THE QUALIFICATIONS OTHERWISE REQUIRED BY THIS SUBTITLE; AND

(II) BECAME LICENSED IN THE OTHER STATE AFTER PASSING, IN THAT [OR ANY OTHER] STATE, AN EXAMINATION THAT IS SIMILAR TO THE EXAMINATION FOR WHICH THE APPLICANT IS SEEKING THE WAIVER.

[*Variation II:* Use the following only if the existing law requires that the comparison of qualifications is to be made with regard to the time when the applicant first was licensed in the other state.]

THE BOARD MAY GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:

(1) IS OF GOOD [MORAL CHARACTER or CHARACTER AND REPUTATION];

(2) PAYS TO THE BOARD THE APPLICATION FEE [REQUIRED or SET BY THE BOARD] UNDER §130-115 OF THIS SUBTITLE; AND

(3) PROVIDES ADEQUATE EVIDENCE THAT:

(I) AT THE TIME THE APPLICANT WAS LICENSED IN THE OTHER STATE, THE APPLICANT WAS QUALIFIED TO TAKE THE EXAMINATION THAT THEN WAS REQUIRED UNDER THE LAWS OF THIS STATE; AND

(II) THE APPLICANT QUALIFIED FOR A LICENSE IN THE OTHER STATE BY PASSING AN EXAMINATION GIVEN IN THAT [OR ANY OTHER] STATE.

(C) RECIPROcity.

THE BOARD MAY GRANT A WAIVER ONLY IF THE STATE IN WHICH THE APPLICANT IS LICENSED WAIVES THE EXAMINATION OF LICENSEES OF THIS STATE TO A SIMILAR EXTENT AS THIS STATE WAIVES THE EXAMINATION REQUIREMENTS FOR INDIVIDUALS LICENSED IN THAT STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from \_\_\_\_\_ and rephrased in the standard language for provisions that allow or require waiver of examination requirements.

[As to subsection (b)(2)(ii) of this section, in Variation I of both Alternatives A and B and subsection (b)(3)(ii) of this section, in Variation II of both Alternatives A and B, give careful consideration to the addition of the phrase "in ... any other". The effect intended by this addition is to allow a practitioner who passed a licensing examination in a state and who was then waived into a second state, to qualify on the basis of the license in the second state for a waiver in Maryland -- the third state. Article Committee and former Commission guidance requires that each unit be questioned about the application of its respective current statute. Unless the existing law or practice is clearly contrary, the phrase should be included in the revision. The basis for this change is to be fair to a practitioner who, in the course of the practitioner's professional career, lives in several states.

In those subtitles in which the phrase "in ... any other" is added, include the following explanation in the revisor's note:

"In subsection [(b)(2)(ii) or (b)(3)(iii)] of this section, the phrase 'in ... any other state' is added to provide expressly that the Board may waive a licensing qualification for a [e.g., speech pathologist] on the basis of licensure in another state. This phrase, which is included in comparable provisions throughout the Code and which conforms to the practice of the Board, allows the Board to give fair consideration under this section to a [speech pathologist] who, in the course of a professional career, practices in several states before moving to this State to practice."

ALTERNATIVE B: [Base the revision on this alternative if the existing law requires a unit to make agreements with another state before the unit grants a waiver to a practitioner from that state.]

30-117. RECIPROCAL WAIVER OF [EXAMINATION] REQUIREMENTS.

(A) IN GENERAL.

SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY MAKE A RECIPROCAL AGREEMENT WITH ANY OTHER STATE TO WAIVE ANY EXAMINATION REQUIREMENT OF THIS SUBTITLE FOR AN INDIVIDUAL WHO IS LICENSED TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_] IN THAT STATE.

(B) CONDITIONS.

[*Variation I:* Use the following under the same circumstances described for Variation I under Alternative A.]

AN AGREEMENT MADE UNDER THIS SECTION MAY ALLOW THE BOARD TO GRANT A WAIVER ONLY IF THE APPLICANT:

(1) PAYS TO THE BOARD THE APPLICATION FEE [REQUIRED or SET BY THE BOARD] UNDER § 30-115 OF THIS SUBTITLE; AND

(2) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

(I) MEETS THE QUALIFICATIONS OTHERWISE REQUIRED BY THIS SUBTITLE; AND

(II) BECAME LICENSED IN THE OTHER STATE AFTER PASSING, IN THAT [OR ANY OTHER] STATE, AN EXAMINATION THAT IS SIMILAR TO THE EXAMINATION FOR WHICH THE APPLICANT IS SEEKING THE WAIVER.

[*Variation II:* Use the following only under the same circumstances described for Variation II under Alternative A.]

AN AGREEMENT MADE UNDER THIS SECTION MAY ALLOW THE BOARD TO GRANT A WAIVER ONLY IF THE APPLICANT:

(1) IS OF GOOD [MORAL CHARACTER or CHARACTER AND REPUTATION];

(2) PAYS TO THE BOARD THE APPLICATION FEE [REQUIRED or SET BY THE BOARD] UNDER § 30-115 OF THIS SUBTITLE; AND

(3) PROVIDES ADEQUATE EVIDENCE THAT:

(I) AT THE TIME THAT THE APPLICANT WAS LICENSED IN THE OTHER STATE, THE APPLICANT WAS QUALIFIED TO TAKE THE EXAMINATION THAT THEN WAS REQUIRED BY THE LAWS OF THIS STATE; AND

(II) THE APPLICANT QUALIFIED FOR A LICENSE IN THE OTHER STATE BY PASSING AN EXAMINATION GIVEN IN THAT [OR ANY OTHER] STATE.

(C) RECIPROcity.

AN AGREEMENT MAY BE MADE WITH ANOTHER STATE UNDER THIS SECTION ONLY IF, UNDER THE AGREEMENT, THE OTHER STATE WAIVES THE EXAMINATION OF LICENSEES OF THIS STATE TO A SIMILAR EXTENT AS THIS STATE WAIVES THE EXAMINATION REQUIREMENTS FOR INDIVIDUALS LICENSED IN THAT STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from ... and rephrased in the standard language for provisions that allow reciprocal agreements for the waiver of examination requirements.

[See notes following Alternative A.]

30-118. ISSUANCE [AND CONTENTS] OF LICENSE.

(A) ISSUANCE.

THE BOARD SHALL ISSUE A LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

[Either use the existing law or indicate that this is standard language added to express the formerly implied duty of a unit to issue a license to a qualified applicant.]

(B) CONTENTS.

THE BOARD SHALL INCLUDE ON EACH LICENSE THAT THE BOARD ISSUES

...

30-119. SCOPE OF LICENSE.

WHILE A LICENSE IS IN EFFECT, IT AUTHORIZES THE LICENSEE TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_].

REVISOR'S NOTE: This section is a standard provision added for clarity.

30-120. TERM AND RENEWAL OF LICENSE.

[GENERAL NOTE TO REVISOR.

I. LIFETIME VERSUS PERIODIC GRANT.

Possibly the most difficult problem in the unrevised occupational licensing statutes is the myriad, diverse schemes by which the existing law provides for the renewal of licenses.

The basic question is whether a "license" is to be treated as a lifetime grant - subject, of course, to suspension or revocation -- or a periodic "grant", which expires automatically at the end of a specified term unless renewed. Most of the statutes do not state explicitly that a license has a "term"; yet many of these do speak of the periodic "renewal" of the license or, in some cases, periodic "reregistration" under the license.

This section of the Model is premised on the existence of a periodic grant. However, for each subtitle, it will be necessary to examine independently the existing renewal sections and other provisions that might indicate the nature of the particular license. Some statutes may not be very definitive in this regard, and the revisor should use the Model form to fill any "conceptual gaps" in the existing law and advise the Article Review Committee about those points of the revision that do not seem to be supported clearly by the existing law.

II. REREGISTRATION.

Several statutes that were revised in the Health Occupations Article required a practitioner to be both licensed and "registered" and then -- rather than having a periodic "license renewal" requirement -- required the practitioner to "reregister" periodically. The former Commission to Revise the Annotated Code considered whether the privilege to practice (i.e., the license) differs conceptually from a privilege to practice under those statutes that merely provide that a practitioner must be licensed and that the license must be renewed periodically.

At first glance, a reader might have thought that the registration/reregistration procedure could relate only to a lifetime grant. However, on close analysis, it became clear that -- of themselves -- these extra procedures did not account for

any fundamental difference in the character of the grant. If the recipient were granted a privilege that expires automatically on failure to meet the renewal requirements, the privilege is “periodic” -- even if the renewal requirement was labeled “reregistration”. It was only a matter of semantics whether the renewal requirement is called a “license renewal” or “reregistration”. Moreover, regardless of whether the legislative intent was to create a lifetime or periodic grant, the inclusion of registration and reregistration provisions did not accomplish any substantive function that could not have been accomplished more directly without them.

While the registration/reregistration provisions did not give rise to any bona fide difference in the character of a health occupation license, the provisions were confusing and misleading. A licensee had every right to expect that the procedures were meaningful -- and, therefore, was very apt to believe that the procedures somehow made the license into a lifetime grant. Even if a licensee had no concern whether the license constituted a periodic or lifetime grant, the licensee was not well served by convoluted procedures and verbal distinctions that did not make any practical difference.

Clarity always has been a goal of any revision by the Division of Statutory Revision. Saying the same thing in the same way each time it has to be said, helps achieve that goal. With this concept as its basis, the former Commission to Revise the Annotated Code directed deletion of the former requirement that a health practitioner must be registered to practice and substitution of a license renewal procedure for any “reregistration” procedure. This approach was followed in the Health Occupations Article and should be considered for the revision of comparable statutes throughout the Code.

In any Health Occupation title in which the former Commission’s directive was relevant, changes to several sections were required. Each change was noted within the revisor’s note to the section involved. These notes were short and referenced the General Revisor’s Note of the title for more extensive explanation. In the section corresponding to this section of the Model, the following revisor’s note was used to explain the substitution of references to “license renewal” for the former references to “reregistration”:

“In subsection[s] \_\_\_\_\_ of this section, the former references to ‘registration’ are deleted and the term ‘license renewal’ is substituted for the former term ‘reregistration’. These changes conform to changes in terminology made throughout this title. *See* the General Revisor’s Note to this title.”

Examples of revisor’s notes to other sections affected by the directive are provided under §§ 30-110 and 30-129 of the Model. These examples were used as the basis for explaining associated changes in every affected section of the pertinent Health Occupation titles. The General Revisor’s Note of those titles --



which was cross-referenced in all the section revisor’s notes on this point -- included the following:

“The former provisions of Art. 43 that governed the practice of [e.g.] medicine provided that, before a physician may practice in this State, the physician must be both licensed and registered. The former statutes then provide for periodic reregistration -- i.e., periodic registration renewal. On analysis, the former Commission to Revise the Annotated Code found that these provisions served no substantive purpose that could not be accomplished more directly by the pattern formerly followed under Art. 43 for the licensing of most other health occupations. That pattern required that the practitioner have a license and renew the license periodically. An auxiliary procedure under which the practitioner also must be registered to practice and that then substitutes a periodic reregistration requirement for the periodic license renewal requirement is superfluous. Moreover, the references to registration and registration may mislead the [e.g.] physician by implying that the physician’s license differs fundamentally from the license of the other health practitioners who practice under statutes without references to registration.

It is a precept of the Commission to revise the law in a clear, straightforward manner, and once something is said, to say it the same way each time it is said. To obtain clarity and consistency and to avoid the superfluous and misleading aspect of the present references, throughout this title all references to the requirement that a [e.g.] physician must be registered are deleted and references to periodic license renewal are substituted for all references to periodic reregistration. These are changes in form only; no change in substance is intended.”

Note that the disposition of former references to “registration” and “reregistration” was complicated further when the existing provisions also intended to require that a unit maintain a register of licensed individuals -- i.e., keep a list of licensed individuals. In this instance, the revisor was instructed to revise that element of the existing provision as a duty under § 30-109 of the Model “Miscellaneous Powers and Duties”. Of course, the revisor’s note to the “License Renewal” section then was drafted to indicate where that element was placed in the particular revised Health Occupations title.]

(A) TERM OF LICENSE.

[*Alternative A:* If the existing law provides for a specific calendar date of expiration or renewal, use the following:]

UNLESS A LICENSE IS RENEWED FOR A [e.g.] 1-YEAR/2-YEAR TERM AS PROVIDED IN THIS SECTION, THE LICENSE EXPIRES ON [e.g.] THE FIRST

SEPTEMBER 30 AFTER ITS EFFECTIVE DATE/THE SECOND SEPTEMBER 30 AFTER ITS EFFECTIVE DATE.

[NOTE: If the existing law or established practice makes all licenses expire in the same even-numbered or odd-numbered year, *see* HO § 12-308 for guidance on form.]

[*Alternative B*: If the existing law does not provide for a specific calendar date, use the following:]

UNLESS A LICENSE IS RENEWED FOR A [e.g., 1-YEAR/2-YEAR TERM AS PROVIDED IN THIS SECTION, THE LICENSE EXPIRES ON THE [e.g., FIRST/SECOND ANNIVERSARY OF ITS EFFECTIVE DATE.

(B) RENEWAL NOTICE.

[All subtitles should include a renewal notice provision. Subject to any affirmative qualifications or more extensive requirements of the existing law, use the following:]

AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE[,] [: (1)] A RENEWAL [APPLICATION FORM; AND (2) A] NOTICE THAT STATES:

[If, in fact, a unit provides the application form, include the bracketed words.]

EXPIRES; [(1) or (I)] THE DATE ON WHICH THE CURRENT LICENSE

THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND [(2) or (II)] THE DATE BY WHICH THE BOARD MUST RECEIVE

[(3) or (III)] THE AMOUNT OF THE RENEWAL FEE.

[If the subsection is wholly or partly new, an explanation must be provided in the revisor's note. The following should be modified as necessary to address any of the separate components of the subsection:

“Subsection (b)[(1)] of this section is standard language added to conform to the practice of the Board and to similar provisions governing other State-regulated occupations. *See*, e.g., [give examples from relevant sections of the Health Occupations Article or elsewhere, as appropriate.”]

(C) APPLICATIONS FOR RENEWAL.

BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL [e.g., 2-YEAR] TERM, IF THE LICENSEE:

(1) [Here insert any specific, statutory prerequisites not covered otherwise in this section];

(2) OTHERWISE IS ENTITLED TO BE LICENSED;

(3) PAYS TO THE BOARD A RENEWAL FEE OF \$\_\_\_\_\_ [or: THE RENEWAL FEE SET BY THE BOARD]; AND

(4) SUBMITS TO THE BOARD:

(I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD [PROVIDES/REQUIRES]; AND

[If, in fact, the unit provides the application form, use the word “provides” rather than “requires”.]

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE [ANY] CONTINUING EDUCATION [AND OTHER QUALIFICATIONS AND] REQUIREMENTS SET UNDER THIS SECTION [SUBTITLE] FOR LICENSE RENEWAL.

[Item (2) of this subsection should be added uniformly “for clarity”. As to items (3) and (4)(i) of this section, *see* § 30-115 of the Model and its notes.

Item (4)(ii) should be added “for clarity” if the existing law sets or authorizes any qualifications *in addition* to items (2), (3), and (4)(i) of this section, e.g., as in subsection (d) of this section or in the “Miscellaneous Powers and Duties” section. Thus, the revisor’s note might state:

“Subsection (c)(3) and (4) of this section is added to restate the authority of the Board under § 30-109 of this subtitle and subsection (d) of this section to [e.g., adopt standards and qualifications for continued licensing] and under § 30-110 of this subtitle to establish fees for [e.g., renewal of licenses].”

If, under subsection (c)(3) of this section, the phrase “the renewal fee set by the Board” is used, include the following cross-reference in the revisor’s note:

“As to the authority of the Board to set fees, *see* § 30-110 of this subtitle.”]

## (D) CONTINUING EDUCATION.

[If the existing provisions for continuing education are extensive, the revisor should consider placing the provisions in a separate “Continuing Education” section to follow immediately after this section.]

(1) [IN ADDITION TO ANY OTHER QUALIFICATIONS AND REQUIREMENTS SET BY THE BOARD, THE BOARD, MAY/SHALL SET CONTINUING EDUCATION REQUIREMENTS AS A CONDITION TO THE RENEWAL OF LICENSES UNDER THIS SECTION.

(2) THE REQUIREMENTS UNDER THIS SUBSECTION MAY NOT/MAY/SHALL [INSERT APPROPRIATE QUALIFIERS HERE].

[As to the bracketed introductory phrase to paragraph (1) of this subsection, *see* notes to § 30-114(f) of the Model.]

## (E) [OTHER REQUIREMENTS.]

[As appropriate]

## (F) ISSUANCE OF RENEWAL.

THE BOARD SHALL RENEW THE LICENSE OF [AND ISSUE A RENEWAL CERTIFICATE TO] EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

[As to subsection (f) of this section, *see* note to its counterpart in § 30-118(a) of the Model. The reference to issuance of a renewal document shall be used only if supported by existing law; the term “renewal certificate” should be used uniformly in each subtitle in place of the diverse terms now used for the various occupations.]

## 30-121. INACTIVE STATUS; REINSTATEMENT OF EXPIRED LICENSES.

## (A) INACTIVE STATUS.

(1) THE BOARD SHALL PLACE A LICENSEE ON INACTIVE STATUS, IF THE LICENSEE:

(I) SUBMITS TO THE BOARD AN APPLICATION FOR INACTIVE STATUS ON THE FORM THAT THE BOARD [PROVIDES/REQUIRES]; AND

(II) PAYS TO THE BOARD THE INACTIVE STATUS FEE SET BY THE BOARD.

(2) THE BOARD SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO IS ON INACTIVE STATUS IF THE INDIVIDUAL COMPLIES WITH THE RENEWAL REQUIREMENTS THAT EXISTED WHEN THE INDIVIDUAL WAS PLACED ON INACTIVE STATUS.

[The preceding provisions on inactive status are by way of example only. Inclusion of such provisions must be based on and conform to the substance of existing law.]

(B) REINSTATEMENT OF EXPIRED LICENSES.

[*Alternative A*: If there are existing provisions for reinstatement, use the following, as appropriate:]

THE BOARD [IN ACCORDANCE WITH ANY REGULATIONS OF THE BOARD, IT] SHALL [MAY] REINSTATE THE LICENSE OF A \_\_\_\_\_ [WHO HAS NOT BEEN PUT ON INACTIVE STATUS AND] WHO HAS FAILED TO RENEW THE LICENSE FOR ANY REASON IF THE \_\_\_\_\_:

(1) [Here insert any specific, statutory prerequisites not covered otherwise in this section];

(2) MEETS THE RENEWAL REQUIREMENTS OF § 30-120 OF THIS SUBTITLE;

(3) PAYS TO THE BOARD A REINSTATEMENT FEE OF \$\_\_\_\_\_ [or: THE REINSTATEMENT FEE SET BY THE BOARD]; AND

(4) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE QUALIFICATIONS AND REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR LICENSE REINSTATEMENTS.

[In some instances, the existing law will contain lengthy, convoluted provisions that -- when analyzed carefully -- fit into the simple pattern suggested here. *CF.*, e.g., former Art. 43, § 774(d), which referred to a nursing home administrator “whose registration has expired because he has temporarily abandoned the practice ..., or has removed from the State, *or for any other reason ...*”; since the law nowhere provided that the registration expires solely because of abandonment of the practice or solely because of leaving this State, it was reasonable to assume that the effect of the former law was as stated in *Alternative A*.

Items (2) and (3) of this subsection should be standard. Item (4) of this subsection should be used only if the existing law sets or authorizes any qualifications *in addition to* items (2) and (3), e.g., under the “Miscellaneous Powers and Duties”

section. See sample revisor’s note in Alternative A to § 30-120(c)(3) and (4) of the *Model*.

NOTE: If the existing law for this section refers to the licensee being “registered” (e.g., that a licensee may place the license and the “registration” on inactive status, or that a licensee may reinstate an expired “registration”), delete the references to “registration” and substitute references to “license” as per the guidance provided in the General Note to Revisor under § 30-120 of the *Model*.]

[*Alternative B*: Even if the existing law has no express provision for the reinstatement of expired licenses, there is case law that, under certain circumstances, may provide a former licensee with the right to reinstatement without having to meet the initial qualification requirements. *Kahn v. State Board of Examiners of Optometry*, 162 Md. 667 (1932), held that, since the pertinent license renewal requirements was intended only as a revenue raising measure, a former licensee who merely had failed to renew the license and who then sought reinstatement could not be required to take again the examination that was required for new applicants.

The statutory scheme under which *Kahn* was decided neither provided for an inactive status nor expressly addressed, in any other way, the status of an individual who had allowed a license to expire. Thus, the case was decided in the absence of any affirmative indication by the General Assembly of what procedures were to be followed for the reinstatement of an individual who has allowed a license to expire.

Add the following note if the existing law does not:

(1) set any renewal requirement to establish the competence of a licensee to continue to practice, e.g., continuing education requirements; and

(2) specify any mechanism for individuals who do not renew, e.g., the setting of a procedure for changing the status of a license to “inactive” or the setting of any procedure for reinstatement of expired licenses:

“*See Kahn v. State Board of Examiners of Optometry*, 162 Md. 667 (1932), for possible application as to the status and rights of a former licensee who has failed to renew the license and who then seeks reinstatement.”]

### 30-122. TEMPORARY/LIMITED LICENSE.

[Use this section for provisions that provide for special licenses with qualified functions. The qualifications may relate to the term of the license, the scope of the

activity authorized under the license, or both. If the only variation from the regular license is the term of the special license, the special license should be set forth in this section as a “temporary” license. If the variation from the regular license is in scope or in both term and scope, the special license should be revised as a “limited” license. In applying these rules, note that, if a holder of a special license may engage in all aspects of a regulated practice or activity but, while doing so, must be supervised or directed by a “regular” licensee, the special license is a “limited” license.

While variations in existing substantive provisions have caused corresponding variations in the revisions, additional guidance may be obtained from the revisions of HO §§ 2-310, 9-313, 13-313, and 19-310.]

(A) AUTHORITY TO ISSUE.

THE BOARD MAY ISSUE A TEMPORARY/LIMITED LICENSE TO AN APPLICANT WHO ... .

[State here the conditions for issuance of the license, which may include a statement of the applicant’s qualifications, the procedures for making application, and the fee requirements.]

(B) SCOPE.

[State here the scope of the license, e.g., what the license authorizes a holder to do.]

(C) TERM.

[State here the term of the license.]

(D) RENEWAL.

[State here the provisions for renewal or any prohibition against renewal.]

30-123. DISPLAY AND RECORDATION OF LICENSES; CHANGE OF ADDRESS.

(A) DISPLAY.

EACH LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY IN THE OFFICE OR PLACE OF EMPLOYMENT [BUSINESS] OF THE LICENSEE.

(B) RECORDATION.

EACH LICENSEE SHALL RECORD THE LICENSE WITH THE \_\_\_\_\_.

## (C) CHANGE OF ADDRESS.

EACH LICENSEE SHALL GIVE THE BOARD WRITTEN NOTICE OF ANY CHANGE OF ADDRESS.

[Many statutes do not have any provisions subject to revision in this section. As to subsection (b) of this section, this provision is intended to refer to required recordation with entities other than the issuing unit, e.g., the Secretary of State.]

## 30-124. DENIALS, REPRIMANDS, SUSPENSIONS, AND REVOCATIONS [-- GROUNDS].

SUBJECT TO THE HEARING PROVISIONS OF § 30-125 OF THIS SUBTITLE, THE BOARD [e.g., ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING,/ ON THE UNANIMOUS VOTE OF ITS MEMBERS THEN SERVING,] MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(3) . . .

[Insert additional grounds as provided in the existing law.]

[The indicated alternatives as to voting should follow the requirements of the existing law. If the law is silent, no provision is necessary; in fact, if the law calls for a majority of a quorum, that provision should be deleted as an unnecessary statement of the normal rule of procedure.

The references to the powers to deny a license and to reprimand a licensee are to be included in all subtitles as standard. As to the statutes in which there are no express supporting provisions, use the following revisor's note to explain the additions:

[See also the Revisor's Note to BR § 4-310]

“In the introductory language of this section, the power to ‘deny a license to any applicant’ is a standard provision added to state expressly that which only was implied in the former law -- i.e., the Board may deny a license to an applicant who violates a disciplinary provision under this section.



Also in the introductory language of this section, the power to ‘reprimand any licensee’ is added to state specifically a power that is inherent in the express power to suspend or revoke a license. [This addition conforms to the practice of the Board.]”]

[Also, references to a “refusal to renew” should be deleted uniformly, with the following explanatory revisor’s note:

“Also in the introductory language of this section, the former power to ‘refuse to renew a license’ is deleted as needless and misleading. Under SG § 10-404, if a licensee makes timely application for renewal, the license does not expire until the Board has acted on the application and the time for appeal has run. Under both SC § 10-405 and § 30-125 of this subtitle, ordinarily the Board must give a licensee an opportunity for a hearing before taking disciplinary action under this section. If the Board finds grounds for disciplinary action, it may suspend or revoke the license, and there is no need for a power to refuse renewl.”]

[Items (1) and (2) of this section should be included in all subtitles as standard. If the language is new, use this revisor’s note:

“Items (1) and (2) of this section are new language added to conform to almost all of the occupational licensing acts adopted by the General Assembly in the past several years. *See, e.g.,* the comparable sections on disciplinary actions in the various titles of the Health Occupations Article. The General Assembly expressly decided that the language of these items was to be included in each of those sections as a fundamental ground for disciplining a licensee or applicant.”]

30-125. [SAME --] HEARINGS.

(A) RIGHT TO HEARING.

EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD [e.g., TAKES ANY FINAL ACTION UNDER § 30-124 OF THIS SUBTITLE], IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

THE BOARD SHALL GIVE NOTICED AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) OATHS.

THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDING UNDER THIS SECTION.

[(D) SPECIFIC NOTICE REQUIREMENTS.

THE HEARING NOTICE TO BE GIVEN TO THE INDIVIDUAL SHALL BE [e.g., SENT BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL AT LEAST \_\_\_ DAYS BEFORE THE HEARING.]]

[(E) RIGHT TO COUNSEL.

THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED MAY BE REPRESENTED AT THE HEARING BY COUNSEL.]

[(F) ADDITIONAL RIGHTS ON HEARING.

IN ADDITION TO THE OTHER RIGHTS AFFORDED BY TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE INDIVIDUAL MAY \_\_\_\_\_.]

[(G) SUBPOENAS.

(1) THE BOARD MAY ISSUE SUBPOENAS IN CONNECTION WITH ANY PROCEEDING UNDER THIS SECTION.

(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE BOARD, A CIRCUIT COURT MAY COMPEL COMPLIANCE WITH THE SUBPOENA.]

(H) FAILURE OR REFUSAL TO APPEAR.

IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED [FAILS OR REFUSES TO] [DOES NOT] APPEAR, NEVERTHELESS THE BOARD MAY HEAR AND DETERMINE THE MATTER.

Note that, in subsection (a) of this section, extreme caution must be exercised in determining the exact scope of applicability of the hearing provisions. Review and follow the existing law carefully.

Explain the introductory exception with the following revisor's note.

“The introductory language of subsection (a) of this section, “[e]xcept as otherwise provided in Title 10, Subtitle 4 of the State Government Article”, is added to clarify that the Board may act summarily under certain circumstances. *See* SG § 10-405(b).”

However, after the introductory clause, even if there is no express support in the existing law, the revised section should provide for a hearing before a unit may reprimand a licensee. If the existing law expressly provides the power to reprimand but omits coverage of that proceeding under the hearing provisions, the expanded coverage may be explained with the following revisor's note:

“Former Art. \_\_\_, § \_\_\_ does not require expressly a hearing before the Board may reprimand a licensee. However, in conformity with specific provisions of numerous other occupational laws and to meet fundamental requirements of fairness, this section is revised to clarify that the hearing requirements of this section and, consequently, the review procedures of § 30-126 of this subtitle apply to a proceeding to reprimand a license.”

If the existing law does not provide expressly the power to reprimand and, therefore, such a provision was added under § 30-124 of the Model, the corresponding change in the scope of this section can be explained in the revisor's note as follows:

“The express inclusion of the power to reprimand a licensee in § 30-124 of this subtitle ---- when read with this section -- results in new express requirements that a hearing be held before the Board may reprimand a licensee and, consequently, that the review procedures of § 30-126 of this subtitle be available to the licensee after a final Board decision to reprimand. This change is made to conform to other occupational board provisions found throughout the Code and to meet fundamental requirements of fairness.”

Also as to subsection (a) of this section, while the scope of procedures for which a hearing is provided will vary according to the existing law, the manner in which the hearing requirement is expressed always should be based on the Model.

Subsection (b) of this section should be included as standard language to indicate the application of Title 10, Subtitle 2 of the State Government Article with respect to hearings. If the existing law does not make a specific reference to the Act, include this explanation in the revisor's note:

“Subsection (b) of this section is standard language added to demonstrate clearly the intended application of the referenced subtitle to administrative hearings under this section.”

Subsection (c) of this section should be included as standard language in all subtitles. If there is no provision to support the subsection, include the following explanation in the revisor's note:

“Subsection (c) of this section is new language added to state expressly a power of the Board that is inherent under its authority to conduct a formal administrative hearing under this section.”

Subsections (d) through (g) of this section should specify elements of the source law that add to or modify the provisions of Title 10, Subtitle 2 of the State Government Article. (For an example of the application of this proposed scheme, see Title 12, “Pharmacists” of the Health Occupations Article.) Use the following revisor’s note as applicable and appropriately modified:

“Subsections (d), (f), and (g) of this section include only those provisions of the former law that seemed to add to the provisions of Title 10, Subtitle 2 of the State Government Article. Thus, in subsection (f) of this section, [e.g., the former references to the rights ‘to hear and examine the evidence’, ‘to cross-examine adverse witnesses’, ‘to present evidence and witnesses’, and ‘to testify in one’s own defense’] are deleted as essentially repetitious of rights already provided under Title 10, Subtitle 2 of the State Government Article.

As to subsection (e) of this section, the statement that the individual may appear with counsel is implicit in the scheme of the procedural provisions under Title 10, Subtitle 2 of the State Government Article; however, since this provision was stated explicitly in former Art. \_\_\_\_, § \_\_\_\_, it is retained in this section.”

If there is no provision in subsection (g) of this section or elsewhere in the subtitle providing generally for the issuance of subpoenas and there is appropriate authority for the Secretary elsewhere in the Code, add this note at the end of the revisor’s note to this section:

“As to the issuance of subpoenas for the conduct of a hearing, *see* Art. \_\_\_\_, § \_\_\_\_ of the Code, which gives this power to the Secretary [or a designee of the Secretary].”

Subsection (h) of this section should be included as standard language in all subtitles. If there is no express source provision to support the subsection, use the following revisor’s note to explain its derivation:

“Subsection (h) of this section is standard language added to clarify that, after an accused individual has been given proper notice, the Board may proceed with a hearing even if the individual fails to appear.”

30-126. [ADMINISTRATIVE AND] JUDICIAL REVIEW.

[NOTE: If the right to judicial review applies to, e.g., permit holders as well as licensees, place this section in Part II of this subtitle. This directive is particularly important if the right extends beyond “contested cases” to, e.g., “any final action of the Board”.]

(A) IN GENERAL.

[ANY PERSON] [A PARTY TO A PROCEEDING BEFORE THE \_\_\_\_\_] [WHO IS] AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

[This Model language is applicable only if the final decision of a unit is the final administrative decision -- i.e., only if the decision of a unit represents the exhaustion of the person’s available administrative remedies. It may be that the decision of a unit is subject to an administrative review by a board of review or by the Secretary or another official of the department to which the unit belongs. Under these circumstances, the unit generally may not take a direct judicial appeal, but first must take the intermediate, administrative appeal. Great care must be taken in drafting this section not to change the existing law inadvertently or otherwise mislead the reader.

It is quite possible that all of the applicable law will not be found in a particular statute and that provisions of other sections of the Code must be considered in order to restate correctly the manner by which a person may obtain judicial review. For example, pertinent provisions might be found under a section that relates to the powers and duties of the Secretary or some other administrator who has some authority regarding the actions of units or under a section providing for a board of review for the department. For examples of revisions that, by necessity, intergrated pertinent provisions from outside of the specific source section, see the “Administrative and Judicial Review” sections under the various titles in the Health Occupations Article.]

[(B) STAY OF DECISION.]

[Draft here as appropriate. Note that SG § 10-215(d) speaks to whether a stay of an agency decision is available pending judicial review. Subsection (d)(1) provides that: “The filing of a petition for judicial review does not automatically stay the enforcement of the final decision.” Subsection (d)(2) provides that: “Except as otherwise provided by law, the agency may grant or the reviewing court may order a stay of a enforcement of the final decision on terms that the agency or court considers proper.” Each statute must be read in close conjunction with this provision to determine the overall effect of the law in regard to that

particular statute. The existing provision then should be revised accordingly and, to this end, an explanation in the revisor’s note may be necessary.]

[The language of the introductory phrase of subsection (a) of this section should be used even if the existing law only provides that review may be obtained by a licensee whose license has been suspended or revoked.

The narrow provisions of some statutes are somewhat misleading because they appear to be an exhaustive statement of when there is a right to judicial review. However, under Title 10, Subtitle 2 of the State Government Article, there is a more general, independent right to review of a “contested case”. The standard Model language is keyed to that subtitle. The case of a licensee whose license has been suspended or revoked would be included -- in any event -- under the general provisions relating to a “contested case”.

A situation is a “contested case” if a party has a right to a hearing. It may be that within the context of a particular statute the only cases that qualify as “contested cases” are those specifically cited in the present review provisions of the title, because they are, in fact, the same cases for which a hearing presently is required. Even under these circumstances, use of the standard Model language would have no substantive effect on the present law.

Often an existing statute uses language similar to that adopted in the introductory phrase of subsection (a) of this section. While standardization of the review language will not result in uniformity as to who has a right to review under each subtitle (again, that is a function of when there is a right to a hearing) it will result in a clear and uniform statement of how that determination is to be made under each subtitle.

Use the following revisor’s note or an appropriate variation as necessary:

“Subsection (a) of this section is standard language substituted for former Art. \_\_\_\_, § \_\_\_\_.

The introductory phrase of subsection (a) of this section conforms to SG § 10-215, which provides a right of judicial review of any ‘final decision’ of an agency in a ‘contested case’. A situation is a contested case if a party has a right to a hearing (see the definition of ‘contested case’ in SG § 10-201(c)).”

Note that the guidance under § 30-125 of the Model requires the revisor to make certain that the revised section provides an opportunity for a hearing when a licensee has been reprimanded. (See the guidance concerning reprimands under §§ 30-124 and 30-125 of the Model.) Depending on the specific existing law, this directive will result in changes from the hearing provisions of some of the statutes.

Any change in the scope of actions covered under the hearing provisions will give rise to a corresponding change in the scope of actions covered under this section of the Model. (Note that once the change is made under the hearing provisions, such a change would follow under the “contested case” standard of Title 10, Subtitle 2 of the State Government Article, regardless of the adoption of the standard language used in this section of the Model.)

Discuss the stay provisions of this section as appropriate.]

30-127. RESERVED.

30-128. RESERVED.

#### PART IV. PROHIBITED ACTS; PENALTIES.

[NOTE: This part should contain only those prohibited acts that are subject to criminal penalties under § 30-135 of the Model. Also, if the existing law prohibits *any* violation of this subtitle, see the pertinent instructions under that section.]

30-129. ENGAGING IN BUSINESS/PRACTICING WITHOUT LICENSE.

[EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE,] A PERSON MAY NOT [ENGAGE, ATTEMPT TO ENGAGE, OR OFFER TO ENGAGE IN THE BUSINESS OF \_\_\_\_\_ OR PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE \_\_\_\_\_] IN THE STATE UNLESS [LICENSED BY THE BOARD] [THE PERSON HAS A LICENSE IN GOOD STANDING].

[Add this section as a standard provision, even if there is no supporting existing law. Thus:

“This section is standard language added to state a fundamental prohibition implicit throughout the former provisions of Art. \_\_\_\_ that related to [engaging in the business of \_\_\_\_/practicing \_\_\_\_].”

In some instances, there may be general supporting law but no reference to an “attempt” or “offer” to practice. These references should be added and explained with the following revisor’s note:

“... to conform to similar provisions governing other regulated occupations in the Code.”

If the existing provision requires that an individual be licensed “and registered” to practice, delete the reference to being “registered”. For a detailed explanation of

the basis of this change, *see* the General Note to the Revisor under § 30-120 of the Model. In the revisor’s note to this section, explain the deletion as follows:

“The former reference to being ‘registered’ to practice \_\_\_\_\_ is deleted to conform to changes in terminology made throughout this subtitle. *See* the General Revisor’s Note to this subtitle.”

The referenced General Revisor’s Note to the subtitle is set out in the General Note to the Revisor under § 30-120 of the Model.

As to the proposed “exception” clause, this should be added, as in § 30-113 of the Model, if exceptions appear in that section or elsewhere. Add the following cross-reference in the revisor’s note:

“As to the referenced exceptions, *see* § [§] 30-103 [and 30-113] of this subtitle.”]

### 30-130. MISREPRESENTATION.

#### [(A) IN GENERAL.]

UNLESS AUTHORIZED UNDER THIS SUBTITLE TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_/ PRACTICE \_\_\_\_\_ (e.g., MEDICINE)], A PERSON MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING “LICENSED \_\_\_\_\_”, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO [ENGAGE IN THE BUSINESS OF \_\_\_\_\_ or PRACTICE \_\_\_\_\_ (MEDICINE)] IN THE STATE.

#### (B) CERTAIN REPRESENTATIONS PROHIBITED.

UNLESS AUTHORIZED UNDER THIS SUBTITLE TO [ENGAGE IN THE BUSINESS OF \_\_\_/PRACTICE \_\_\_\_\_ (e.g., MEDICINE)], A PERSON MAY NOT USE [as per existing law, e.g., THE WORDS OR TERMS “DR.” OR “DOCTOR”] WITH THE INTENT TO REPRESENT THAT THE PERSON [ENGAGES IN THE BUSINESS OF \_\_\_ or PRACTICES \_\_\_\_\_ e.g., MEDICINE)].

[Add subsection (a) of this section as a standard provision. Absent supporting existing law, the above subsection (a) will constitute the entire section. If, in fact, it is a new provision, use the following revisor’s note:

“This section is standard language added as an inherent, if not essential, corollary to § 30-129 of this subtitle.”

If the existing law prohibits misrepresentation, use subsection (a) as drafted in the Model and draft a subsection (b) as appropriate to express any specific element of



the existing provision that is not covered under the general provisions of subsection (a). The revisor's note should explain.

“This section is new language derived without substantive change from and revised in the standard language used to express a prohibition against false representations of authority to [engage in a State-regulated occupation/practice a State-regulated occupation].

Subsection (b) of this section is derived from those specific elements of that are not covered clearly by the general language of subsection (a) of this section.”

Some statutes that do not have clear affirmative statements prohibiting misrepresentations nevertheless include, in *definitions*, a statement that indicates that a practitioner [e.g., “physician”] or the “practice of \_\_\_ “ includes a person who uses certain titles or symbols or who otherwise holds oneself out in a manner that represents that the person practices the occupation. In these instances, break down the revision as instructed above and include the above notes in the revisor's note followed by this explanation:

“Although the provisions that relate to [e.g.,] representation and the use of specified terms -- formerly drafted as part of the definition of ‘ \_\_\_ ’ -- were not expressed as substantive prohibitions, they nevertheless are just that, as becomes clear when reading the former definition in conjunction with former Art. \_\_\_, § \_\_\_, (now § 30-129 of this subtitle), which prohibits ‘ practicing ‘ without a license.’”]

30-131 and 30-132.

[Use as many sections as necessary for additional prohibitions, as per existing law.]

[The content of these sections will vary extensively from subtitle to subtitle. Indicative of the types of provisions that should be allocated to these sections are the prohibitions against wrongful obtainment of a license and against advertising, if subject to criminal penalties.

30-133. RESERVED.

30-134. RESERVED.

[Two sections should be reserved for any subsequently enacted prohibited acts.]

## 30-135. PENALTIES.

[The differing approaches of current statutes in specifying acts that are prohibited and subject to penalties make it particularly difficult to standardize the sections on “prohibited acts” and on “penalties”. Some statutes have misdemeanor provisions together with their respective -- but varying -- penalty provisions dispersed throughout the statute. Some statutes have a single section that enumerates the other sections of the statute that are misdemeanors and subject to specified fines; and still other statutes have a provision that states that *any* violation of the entire statute (i.e., title or subtitle) is a misdemeanor and subject to a specified fine. Except for the addition of the standard prohibitions set forth in §§ 30-129 and 30-130 of the Model, the scope and application of a penalty section should follow that of the existing law. Resulting inconsistencies and illogicality should be pointed out to the Committee by way of bracketed revisor’s notes. One of the following alternative approaches should apply in nearly all circumstances.]

[*Alternative A*: - If the existing law states that any violation of the entire statute (i.e., the entire revised subtitle or title) is a misdemeanor or if the penalty provision applies to either an entire part of a subtitle or an entire subtitle of a title, restate the provision as follows:]

A PERSON WHO VIOLATES [ANY PROVISION OF] THIS SUBTITLE/PART OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$\_\_\_ OR IMPRISONMENT NOT EXCEEDING \_\_\_ OR BOTH.

[NOTE TO ALTERNATIVE A: If the existing law prohibits a violation of any provision of the entire statute, that prohibition effectively is stated under this Alternative. Under these circumstances it is not necessary to separately state in a “prohibited act” section that any violation is a misdemeanor and such a “prohibited act” section should not be included in the revision.]

[*Alternative B*: If the penalty provision applies only to specific sections and those sections do not constitute the entire subtitle or an entire part of the subtitle, restate the provision as follows:]

A PERSON WHO VIOLATES § 30-XXX OR § 30-XXX OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$\_\_\_ OR IMPRISONMENT NOT EXCEEDING \_\_\_ OR BOTH.

[NOTE AS TO ALTERNATIVE B: Under this Alternative, a specific reference should be made to each section to which the penalty applies. In the published revised act, each cross-reference to a section will be followed by the catchline to the section, printed in brackets. However, bracketed catchlines may not be used in the bills that enact the drafts because the use of the brackets in these documents normally indicates matter to be deleted. *Therefore, do not show the bracketed*

*catchlines, in any bill.* By an arrangement with Michie Company, the bracketed catchline will be added to each referenced section on publication in the Annotated Code.]

[The existing law may provide different penalties for different violations or higher penalties for subsequent violations. The revision should set forth the penalties in order of their severity. To the extent applicable, organize the revision into the following 3 groups:

- (1) all penalties authorizing fines of \$500 or less, but no imprisonment;
- (2) all penalties authorizing fines of more than \$500, but no imprisonment; and
- (3) all penalties authorizing imprisonment, with or without a fine. *See* HO §§ 4-606, 7-710, and 12-707 for further guidance in setting forth complicated penalty provisions.]

[NOTE AS TO BOTH ALTERNATIVES A and B: If the existing law states a minimum penalty, delete that reference and include the following explanation in the revisor’s note:

“In subsection[s] \_\_\_ of the section, the former minimum penalty [penalties] is [are] deleted to conform to the statement of legislative policy in Art. 27, § 643 of the Code, which sets forth the general rule that, notwithstanding a statutory minimum penalty, a court may impose a lesser penalty of the same character.”

This deletion should be made only after examination of the respective dates on which Art. 27, § 643 and the minimum penalty were enacted.]

PART V. [SHORT TITLE;] TERMINATION OF SUBTITLE.

30-136. SHORT TITLE.

THIS SUBTITLE [MAY BE CITED AS] [IS] THE [e.g., [“]MARYLAND NURSING HOME ADMINISTRATORS ACT[“]].

[Many statutes do not contain a short title. However, unless there is a compelling reason, add this section as a standard provision in each subtitle. In the instances in which the section is not based on existing law, explain the addition in a revisor’s note as follows:

“This section is new language added [to conform to similar sections in other subtitles of this title/article and] to provide a convenient reference to this subtitle.”]

## 30-137. TERMINATION OF SUBTITLE.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS SUBTITLE AND ALL REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE [AND BE OF NO EFFECT AFTER] [ON] [e.g., JULY 1, 1990].

[NOTE: This section is to be used as standard language only if there is existing law to support it. Make certain that there is a complimentary provision under SG 8-403.

CAVEAT TO THE DRAFTER OF NEW LEGISLATION: If you are using the Model as an aid in drafting new legislation and you include a “Sunset” provision such as the Model provision, make certain to add a complimentary reference to SG § 8-403. The evaluation under SG § 8-403 should be completed 1 year before termination under this section.]

REVISOR’S NOTE: This section is new language derived without substantive change from Art. \_\_\_\_, § \_\_\_\_.

[As to the Md. Program Evaluation Act, *see* Title 8, Subtitle 4 of the State Government Article.][The Md. Program Evaluation Act is Title 8, Subtitle 4 of the State Government Article.]

**APPENDIX A**

The following table shows the *Model* organization as it appears when the basic unit is revised as a title, rather than as a subtitle. This organization was used throughout the Health Occupations and Business Occupations Articles.

TITLE 30. \_\_\_\_\_.

**SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

30-101. DEFINITIONS

30-102. LEGISLATIVE POLICY.

30-103. SCOPE OF TITLE.

**SUBTITLE 2. STATE BOARD OF \_\_\_\_\_.**

30-201. ESTABLISHED.

30-202. MEMBERSHIP.

30-203. OFFICERS.

30-204. QUORUM; MEETINGS; COMPENSATION; STAFF.

30-205. MISCELLANEOUS POWERS AND DUTIES.

30-206. ESTABLISHMENT OF FEES; DISPOSITION OF MONEY.

**SUBTITLE 3. LICENSING [LICENSE[S]].**

30-301. LICENSE REQUIRED[; EXCEPTIONS].

30-302. QUALIFICATIONS OF APPLICANTS.

30-303. APPLICATIONS FOR LICENSES.

30-304. EXAMINATIONS.

30-305. *ALT. A* [RECIPROCAL] WAIVER OF [EXAMINATION] REQUIREMENTS.

*ALT. B* RECIPROCAL WAIVER OF [EXAMINATION] REQUIREMENTS.

30-306. ISSUANCE [AND CONTENTS] OF LICENSE.

30-307. SCOPE OF LICENSE.

30-308. TERM AND RENEWAL OF LICENSE.

30-309. INACTIVE STATUS; REINSTATEMENT OF EXPIRED LICENSES.

30-310. TEMPORARY/LIMITED LICENSE.

30-311. DISPLAY AND RECORDATION OF LICENSES; CHANGE OF ADDRESS.

30-312. DENIALS, REPRIMANDS, SUSPENSIONS, AND REVOCATIONS [----  
GROUNDS].

30-313. [SAME ----] HEARINGS.

30-314. [ADMINISTRATIVE AND] JUDICIAL REVIEW.

#### **SUBTITLE 4. PROHIBITED ACTS; PENALTIES.**

30-401. ENGAGING IN BUSINESS/PRACTICING WITHOUT LICENSE.

30-402. MISREPRESENTATION.

30-403. & 30-404.

[Use as many sections as necessary for additional prohibitions, as per existing law.]

30-405. RESERVED

30-406. RESERVED

30-407. PENALTIES.

#### **SUBTITLE 5. [SHORT TITLE;] TERMINATION OF TITLE.**

30-501. SHORT TITLE.

30-502. TERMINATION OF TITLE.