STATE OF MARYLAND
DHMH
Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201
Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

DEC 0 8 2010

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

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

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

Dear President Miller and Speaker Busch:

It is my pleasure to respectfully submit to the Legislative Policy Committee the Maryland Board of Physicians Fiscal Year 2010 Annual Report as required by HB 1325, Section 6 of Chapter 662, Laws of Maryland 1994.

Should you have any questions concerning the attached report, please do not hesitate to have your staff contact Mr. C. Irving Pinder, Jr., Executive Director of the Maryland Board of Physicians, at 410-764-4757. Again, thank you for your continued support of the Department and the Maryland Board of Physicians.

Sincerely,

John M. Colmers
Secretary

Attachment

cc: C. Irving Pinder, Jr.

MARYLAND
BOARD OF PHYSICIANS

ANNUAL REPORT TO
LEGISLATIVE POLICY COMMITTEE

FISCAL YEAR 2010

John M. Colmers, Secretary

Department of Health and Mental Hygiene

HISTORY

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

During the 2010 Session of the General Assembly, legislation was passed to make changes that apply to all of Maryland health occupation licensing boards. Many of the provisions were already reflected in the Board's law: notifying all licensees of Board vacancies, DHMH Secretary confirming appointment of a Board Executive Director (the Secretary appoints MBP Executive Director), establishment of a disciplinary subcommittee, and posting final public orders on the website of the respective boards. Other requirements or recommendations reflect ideas that have been part of the ongoing discussions of health regulatory boards, including sanctioning guidelines, statute of limitations for disciplinary actions, closer monitoring by the Secretary of the timeline for disciplinary actions. Implementation of the legislation will begin in FY 2011.

MISSION

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

BOARD COMPOSITION

The Board currently consists of 21 members, appointed by the Governor, based on specific criteria found in the statute. The 21 members include:

- 11 practicing licensed physicians, including 1 Doctor of Osteopathy, appointed by the Governor with the advice of the Secretary of Health and Mental Hygiene and the advice and consent of the Senate;
- 1 practicing licensed physician appointed at the Governor's discretion;
- 1 representative of the Department nominated by the Secretary;
- 1 certified physician assistant appointed at the Governor's discretion;
- 1 practicing licensed physician with a full-time faculty appointment to serve as a representative of an academic medical institution, nominated by one of those institutions;

- 5 consumer members; and
- 1 public member knowledgeable in risk management or quality assurance matters appointed from a list submitted by the Maryland Hospital Association.

The listing of Board members appears as Exhibit 1. Five Board member appointments expired at the end of fiscal year 2010, three physicians, one public member, and one consumer member. In addition, there were two other vacancies on the Board at the end of the fiscal year, the doctor of osteopathy and the physician representing one of the medical academic institutions.

EXECUTIVE DIRECTOR'S STATEMENT

During FY 2010, the Board of Physicians continued its efforts to process and close complaints more efficiently to reduce the "backlog" of open cases. Since complaints are filed throughout the year, there will always be open cases. Therefore, for clarity, the Board has defined "backlog" as cases that have been open in excess of 18 months. In FY 2010, the percentage of "backlogged" cases remained constant with FY 2009 at 12 percent.

Under the 2003 Sunset bill (SB 500), complaints involving alleged failure to meet the standard of care are required to be reviewed by peer reviewers under a contract between the Board and one or more nonprofit organization(s). The first three-year contracts for peer review services ended November 30, 2006. Therefore, the Board issued an Invitation for Bid and solicited bids from a variety of vendors. This process resulted in new contractors for peer review services. The contracts became effective December 1, 2006. Under the 2007 Sunset bill (SB 255), the Board has the option of contracting with a non-profit or for profit entities and directly with specialty groups for peer review services within the specialty. New peer review contracts began in early 2009. Two specialties, psychiatry and anesthesiology, were sole sourced.

The 2007 Sunset bill also required the Board to request proposals from non-profit agencies to operate the Board's physician rehabilitation program by January 1, 2008. If no responsive proposal was received, the Board had the option to provide those services in-house. Bids were requested in 2008 and 2009. A third bidding process was successful. A contract for operation of the Maryland Professional Rehabilitation Program by the Center for a Healthy Maryland, an affiliate of MedChi, is effective for the period January 2, 2010 through December 31, 2014.

The Board continued activities in recruitment of a force of volunteer physicians and allied health practitioners who have indicated their willingness to serve in a volunteer capacity in the event of a disaster such as bioterrorism, hurricane, flood or other catastrophic health emergency. With the emergence of the H1N1 flu virus and possibility of a flu pandemic, the volunteer corps has taken on new importance. As of July 31, 2010, more than 600 volunteers were registered with the Maryland Board of Physicians Volunteer Corps. In addition to the volunteer corps, the Board has participated in DHMH sponsored educational initiatives to keep physicians and early responders up to date on current trends in H1N1 activity. This includes providing DHMH with an information and electronic conduit by which information is passed directly to active practitioners.

Beginning in July 2009, the Board required physicians renewing their licenses to use the online renewal system, with the caveat that if a physician needed assistance, assistance would be provided by appointment at the Board. Of renewing physicians, 90% used the online system in

FY 2009, a 2% increase from FY 2008. The Maryland Board of Physicians has partnered with the Maryland Health Care Commission to implement 100% online renewal of all physician licenses in FY 2010, and augment the data gathering methods to support the mission of the Task Force on Health Care Access and Reimbursement. This initiative included changes to the current renewal application that helped to identify physician shortage issues and identifiers.

The Board has also initiated a 100% online renewal system for allied health professionals. Such efforts toward efficiency are crucial for the Board to keep up with its expanding allied health programs. The Board has begun to license polysomnographic technologists and radiologist assistants and will establish an advisory committee, develop regulations, and begin licensing athletic trainers in FY 2011.

HB 323 (Chapter 274, Acts of 2010), Licensure of Physician Assistants made extensive changes in the physician assistant practice act (Health Occupations Article, Title 15). The intent was to streamline the process that a physician assistant must complete to begin working. Once the physician assistant (PA) has been licensed, the PA and supervising physician must submit to the Board, a delegation agreement describing the practice site, duties to be delegated, etc, and receive acknowledgement of receipt before the PA can begin working. PAs who work in a hospital setting may go through an extensive, time-consuming process of credentialing within the hospital. The legislation attempts to eliminate duplication by depending upon the hospital's credentialing process in lieu of the Board's prior approval of a delegation agreement. Other significant changes include an increase in the number of PAs a physician can supervise, allowing a PA to dispense drug samples or starter dosages, authorizing a fine of up to $100 per CMEs if a PA fails to earn the required continuing education, and allowing the Board to conduct worksite audits of PA practices.

Two other issues with respect to non-physician health care providers performing medical services were also addressed by the legislature this year. The practice of certified nurse practitioners, previously defined through regulation, is now delineated in Health Occupations Article, Title 8. The requirements for collaboration with a physician are unchanged; but the Board of Physicians is no longer required to approve each collaborative agreement.

The Board continued to work with the Board of Pharmacy on the Drug Therapy Management Joint Committee (HB 781, 2002 Chapter 249). The authority for this program was extended through September 30, 2010 by HB 233 (Chapter 650, Acts of 2008) in order to allow more time for program evaluation. This program is designed to allow certain pharmacists to participate in providing care to individuals with chronic conditions which must be monitored over time. With the consent of physician, pharmacist, and patient, and using a protocol approved by both the physicians' and pharmacists' licensing boards, the pharmacist can order diagnostic tests, evaluate the patient, and make changes to the patient's treatment plan, such as increasing or decreasing medication under the direction of the physician.

The expansion of allied health professions will likely continue as a means to provide access to services and maintain quality in the future. While the Board recognizes that licensure, by mandating education and professional exams, elevates a profession and increases the likelihood for quality care, the addition of new professions has stretched existing allied health unit resources. Board staff continues to share information with other state Boards to ensure a smooth transition and to reduce the learning curve when adopting new allied health professions.

LICENSURE DIVISION

The Licensure Division is responsible for processing applications for Initial, Reinstatement, Post Graduate Teaching, Conceded Eminence, and Volunteer Licenses. It also registers unlicensed medical practitioners (UMPs) - a medical school graduate enrolled in an internship, residency or fellowship program and administers Exceptions from Licensure for visiting physician consultants licensed in other jurisdictions.

Each application for medical licensure is reviewed by an analyst to assure that the applicant meets minimum qualifications for licensure, and that the documents presented are accurate and authentic. Minimum qualifications for an initial medical license include: primary source verification of a Medical Doctor or Doctor of Osteopathy degree and medical licensure examination scores, the successful completion of one year of clinical post graduate medical training in an ACGME/AOA- accredited training program for an applicant who graduated from a Board recognized medical school in the United States, two years of training for a graduate of a foreign medical school, and the review of physician information from the Federation of State Medical Boards and the National Practitioner's Data Bank. Licensure staff performs initial inquiries for compliance investigations on applicants who present with questionable character or fitness issues and malpractice claims. Following guidelines, a compliance issue may be administratively closed by the Licensure Division, or as appropriate, referred to the Compliance Division for further investigation and presentation to the Board, or a committee of the Board, for consideration.

In FY 2010, the Licensure Division issued 1,575 initial medical licenses, 174 reinstated licenses, and registered 2.638 UMPs – interns, residents and fellows. These figures represent a 2.2% increase in new physicians licensed in Maryland and a 9.2% increase in the number of medical school graduates that have entered their post graduate training programs, a prerequisite to becoming a physician. The UMPs data is an indicator of the potential growth of the physician population. The unit continues to work in collaboration with medical facilities by receiving UMP data electronically, thus reducing the amount of staff time and other resources needed to perform this administrative function.

NEW MEDICAL LICENSES	**FY 2009**	**FY 2010**
Licensed	1,541	1,575
Closed (denied, withdrawn, ineligible)	44	52
Total Applications Completed	1,585	1,627
REINSTATED LICENSES		
Licensed	184	174
Closed (denied, withdrawn, ineligible)	5	4
Total Applications Completed	189	178
TOTAL APPLICATIONS PROCESSED	1,774	1,805
UMPs REGISTERED	2,418	2,638
TOTAL	4,192	4,443

Licensure staff continues to refine and improve this process to insure accuracy and efficiency. This year, the Licensure Unit experienced several key position vacancies; however, the unit was able to issue licenses to 97% of qualified applicants within 10 days of receipt of the last qualifying document.

EXECUTIVE SERVICES DIVISION

The Executive Services Division provides financial and personnel support for the Board's internal and external customers. The Licensure and Allied Health Divisions, rely on the Executive Services Division to collect, identify and organize promptly and efficiently the initial applications received for licensing health care practitioners, and accounting for fees: initial licensing, renewals, reinstatements and fines. The Division is also responsible for processing payment of Board expenses.

The Division maintains physician and allied health profiles, which provide consumers with useful information via the Internet about physicians and allied health practitioners, hospital privileges and other information to help consumers make informed decisions about their health care. Currently, there are 39,053 profiles of active practitioners on the Board's Internet site at www.mbp.state.md.us.

The Executive Services Division and the Information Systems Division continue to collaborate to improve web-based programs that allow physicians to change certain profile information on the Internet, including their public address. The changes appear on the website within 24 hours and the physician receives an e-mail confirmation notice of the changes. In FY 2004, Senate Bill 500 required the Board to include certain malpractice information on the physician profiles. The Executive Services Division continues to work closely with the insurance carriers to collect this information.

The Board continued to successfully utilize the credit card option in addition to personal checks and third party payment options for the physician FY 2010 online renewal system. The system also provides a mechanism for physician feed-back concerning satisfaction with the online renewal process.

During FY 2010, 11,788 physicians with last names beginning with letters "M" through "Z" renewed their license, representing an increase of 8% for the same pool of renewals (FY 2008). Of the physicians that renewed, 100% renewed online. Of the physicians that renewed online, 87% of these renewed by credit card. FY 2010 showed an online renewal increase of 10% over FY 2009.

Type of Renewal	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Paper Renewal	28%	19%	16%	12%	10%	0%
Online Renewal	72%	81%	84%	88%	90%	100%

ALLIED HEALTH DIVISION

Physician Assistants

The Board regulates over 2,300 physician assistants in Maryland. The Physician Assistant Advisory Committee (the Committee), a subcommittee of the Board created in 1986 by the Maryland Physician Assistant's Act, works in conjunction with Board staff to evaluate and process the various transactions associated with credentialing Physician Assistants.

In FY 2010, the Committee met monthly, reviewed, and made recommendations for approval to the Board concerning 828 delegation agreements. These documents contain a description of the qualifications of the supervising physician and physician assistants and the setting and supervision mechanisms that will be employed as well as certain attestations about the delegated medical acts. The Committee also made recommendations to the Board to approve 34 requests to perform advanced duties. These duties require additional education and training beyond what physician assistants receive through their training programs, and are generally added to an existing delegation agreement. Documentation includes a description of the procedure(s), training certificates, procedure logs indicating the number of times the physician assistant performed the procedure during training, supervision mechanisms, and if applicable, delineation of hospital privileges.

During the 2010 legislative session, the Maryland Academy of Physician Assistants (MAPA) submitted a bill amending the Physician Assistant Act. The bill changed the term "certification" to "licensure" and permits a physician assistant (PA) to practice under a delegation agreement that does not include advanced duties once the Board has acknowledged receipt of the agreement. Additionally, the bill repealed temporary PA certification. The Board reserves the right to disapprove the delegation agreement. The Board must approve a delegation agreement that includes advanced duties unless the duties are performed in a hospital or ambulatory surgical facility that meets certain specific conditions. The Board must approve a delegation agreement or take other action within 90 days after receipt. A physician must obtain the Board's approval of a delegation agreement before a PA may administer, monitor, or maintain general anesthesia or neuroaxial anesthesia under the agreement. The physician named in the delegation agreement must be a primary supervising physician. The bill altered the number of PAs to whom a physician may delegate medical acts in an office setting from two to four and permits PAs to prescribe or dispense starter dosages or drug samples in accordance with a delegation agreement. The bill expanded the grounds for disciplining PAs and requires employers of PAs to report changes in the terms of a PA's employment. This bill will go into effect on October 1, 2010.

In response to the proposed changes in the delegation agreement process in proposed legislation during the 2009 legislative session, the Chair of the Committee developed a hospital-based PA survey to gather information about credentialing and performance monitoring of physician assistants at each hospital. The purpose of the survey is to get a better grasp of the credentialing process at the hospital level, as well as gain understanding of the mechanisms by which hospitals monitor performance of their physician assistants. Board staff mailed the survey to the medical staff office representatives of approximately 50 Maryland hospitals. The Board received 17 responses to the survey. The Chair is in the process of compiling the data from the survey.

The Committee welcomed Cherilyn Hendrix, PA-C to Committee. Ms. Hendrix filled the physician assistant position vacated by Priscilla Warnock, PA-C.

Certified	FY 2009	FY 2010
Initial Certification	200	272
Reinstatements	36	44
Delegation Agreements	828	867
Renewals	2066	N/A*

* These practitioners renew in odd numbered years only.

Committee Members:

Mark Dills, PA-C, Chair
Vacant, Board Liaison
Cherilyn Hendrix, PA-C
Richard Bittner, Esq., Consumer Member
Matthias Goldstein, PA-C
Vacant, Internal Medicine
J. Lawrence Fitzpatrick, M.D., Surgeon

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

The Board regulates over 6,500 radiation therapists, radiographers, and nuclear medicine technologists.

The Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiologist Assistance Advisory Committee of the Board met four times during FY 2010. Topics included scope of practice issues, nuclear medicine advanced education, evaluating non-accredited educational programs and regulations amending the process of evaluating non-accredited educational programs.

The Board is planning to repeal the process for evaluating non-accredited radiation therapy, radiography and nuclear medicine programs. The Committee currently reviews the credentials of students who graduate from non-accredited educational programs. In FY 2010, the Committee evaluated the credentials of four applicants. If the proposed regulations repealing the equivalency process go into effect, the Committee will no longer review the credentials of applicants from non-accredited schools. To be fair to the students who are currently enrolled in non-accredited programs, there is a provision in the proposed regulations that will allow the Committee to review the credentials of students who were enrolled in a program in April 2010 and will graduate by June 30, 2011. These students will be eligible for licensure if they meet all of the other requirements for licensure.

There are two schools in Maryland whose programs have not been accredited by a national accrediting agency the Board recognizes in its regulations. One is Frederick Community College's Nuclear Medicine Program and the other one is Howard Community College's Radiography Program. Both programs are currently seeking national accreditation for their respective programs.

The Committee welcomed Dr. Darrell McIndoe as the new nuclear medicine physician committee member. Dr. McIndoe replaced Dr. Frederic Yeganeh.

Certified	FY 2009	FY 2010
Initial Licensure	524	472
Reinstatements	85	81
Renewals	5,951	N/A*
Interns	N/A	N/A

* These practitioners renew in odd numbered years only.

Committee Members:

John Wojtowycz, R.T.(R) Radiographer, Chair
Richard Hudes, M.D., Radiation Oncologist
Anthony Chiaramonte, M.D., Radiologist
Carmen Contee, Consumer Member
Darrell McIndoe, Nuclear Medicine Radiologist Supervising Radiologist Assistant – Vacant
Board Member - Vacant
Robin Krug, R.T.(T), Radiation Therapist
Harish Vaiydia, C.N.M.T. Nuclear Medicine Technologist
Radiologist Assistant - Vacant

Respiratory Care Practitioners

The Board regulates over 2,400 respiratory care practitioners. The Respiratory Care Professional Standards Committee met twice during FY 2010. Topics discussed included respiratory care practitioners performing advanced procedures, administration of controlled drugs and emergency preparedness.

During FY 2010, the Board implemented an online renewal process for respiratory care practitioners. The renewal process began in early April 2010 and ended on May 30, 2010. The online application system was available 24 hours a day, seven days a week. Licensees had three payment options: paying online by credit card, sending a personal check or having a third-party payer send payment.

Licensed	FY 2009	FY 2010
Initial Licensure	200	199
Reinstatements	57	33
Renewals	N/A*	2461**

These practitioners renew in even numbered years only.

** Includes 13 psychiatric assistants that renewed during FY 2008.

Committee Members:

Gary Poole, RRT, Chair
Thomas P. McCarthy, RRT
Robert L. Joyner, Ph. D., RRT
Ernest Crofoot, Consumer Member
Clifford Boehm, M.D, Anesthesiologist
Vacant, Cardiovascular and Thoracic Surgeon
William Krimsky, M.D., Pulmonologist

Polysomnography

The Polysomnography Professional Standards Committee met twice during FY 2010. The Committee discussed issues concerning scope of practice, respiratory therapists and physician assistants practicing polysomnography, and a new examination administered by the Board of Registered Polysomnographic Technologist leading to a new entry level credential.

Committee Members:

Nancy Collop, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine
Brian Bohner, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine
Marc Raphaelson, M.D., Neurology and Sleep Medicine
Anne Harter, RRT, RPSGT
Michael DeLayo, RPSGT
Douglas Rousseau, RRT, RPSGT
Stanley Gordon, Consumer Member

Licensed	FY 2009	FY 2010
Initial Licensure	19	24
Reinstatements	N/A	0
Renewals	N/A*	39

Athletic Trainers

The Board is in the process of staffing the Athletic Trainers Advisory Committee. The Board is required to appoint 11 members to the Committee. The Committee consists of the following:

1. On or before September 30, 2011, three athletic trainers who:
   a. Are certified by a national certifying board; and
   b. Have a minimum of 5 years of clinical experience; and
2. On or after October 1, 2011, three licensed athletic trainers who:
   a. Are certified by a national certifying board; and
   b. Have a minimum of 5 years of clinical experience;
3. Three licensed physicians:
   a. At least one of whom is a specialist in orthopedic or sports medicine; and
   b. Two of whom previously or currently have partnered with or directed an athletic trainer;
4. One licensed chiropractor who has sports medicine experience;
5. One licensed physical therapist;
6. One licensed occupational therapist; and
7. Two consumer members.

Once the Committee is established, they may begin creating regulations.

INFORMATION SYSTEMS DIVISION

The Practitioner Profile System provides a valuable service to Maryland citizens. This Internet based system enables Maryland citizens to become more informed consumers about their health care providers. Information such as facility privileges, specialties and disciplinary actions are listed on the profile pages. Medical practitioners may also update their personal profile information online, saving the Board a significant amount of resources. Practitioners may update their confidential, practice and public addresses as well as areas of concentration, specialties and postgraduate training programs.

There are currently 87,030 total practitioner records in the profile system. This includes 39.053 active practitioners.

FY 2010 marked the eighth year of the Internet-based renewal system, requiring physicians to renew medical licenses online. This system has reduced the time it takes a practitioner to complete the license renewal process, and has greatly increased the accuracy of data collection. The online renewal system has been expanded to include Allied Health practitioners as well. This system saves the Board thousands of dollars by eliminating the costs of printing and mailing paper renewal forms, and greatly simplifies and streamlines the process. This project was undertaken as a cooperative venture between the Board and the Maryland Health Care Commission.

The Division has been helping the Department disseminate important health information to Maryland physicians. Important health bulletins and educational materials are available at the Board's website www.mbp.state.md.us.

The Division continues to maintain its "Facility Page" website. This is a "permissions only" website, designed to communicate directly with Maryland health care facilities and to facilitate their credentialing work. Activities of the Physician Privilege Data System are summarized in Exhibit 2.

Facility Page Activity Pursuant to HO§14.411 Access Restricted to Maryland Facilities		
	FY 2009	**FY 2010**
Number of logins	7,127	7,418
Number of Practitioners searched	23,785	23,112
Number of active facilities	27	28

POLICY UNIT

Titles 14 and 15 of the Health Occupations Article form the legal basis for the Board. The Policy Unit supports the work of the Board, its committees, and its staff by researching and drafting policies, regulations, and legislative proposals on issues within the purview of the Board. The Policy Unit of the Board reviews proposed legislation, drafts position papers and fiscal impact estimates for legislative proposals, and coordinates Board representation at legislative hearings.

This unit is also responsible for developing regulations and declaratory rulings. The unit handles telephone inquiries and correspondence related to policy issues, coordinating with appropriate subcommittees of the Board.

During FY 2010, regulations were amended in the following areas: physician licensure, licensure of polysomnographic technologists, radiologic technologists, and radiologist assistants. In addition, two new chapters of regulations were proposed, regulations on telemedicine (adopted effective December 28, 2009) and regulations on cosmetic medical procedures (not finalized at the end of FY 2010).

PHYSICIAN REHABILITATION

In FY 2010, the Board of Physicians continued to directly administer the Professional Rehabilitation Program (PRP) until December 2009. In September the Department of Health and Mental Hygiene offered a Request for Proposals for the Maryland Board of Physicians Rehabilitation Program. The Center for a Healthy Maryland was awarded the contract and administers the Board's program now known as the Maryland Professional Rehabilitation Program (MPRP). The contract term is from January 1, 2010, to December 31, 2014. The Board's program provides services to those who are in need of treatment and rehabilitation for alcoholism, chemical dependency, or other physical, or psychological conditions. The MPRP offers information, evaluation, and referral for treatment. On October 1, 2007, pursuant to legislation passed during the 2007 Legislative Session, the MPRP shall provide services to only those individuals who the Board refers in writing. The referrals can include any individual licensed or certified by the Board or applicants for licensure or certification.

Statistics for the Physician Rehabilitation Program are as follows:

At the end of FY 2010 there were a total of 34 participants in the MPRP. The presenting problems (more than 1 in at least one instance in the MPRP) are as follows:

Participants

Category of Problem	FY 2009	Category of Problem **	FY 2010
Chemical Dependence	11	Alcohol	6
Alcoholism	6	Drug	11
Psychiatric Diagnoses	11	Psychiatric Diagnosis	8
Dual Diagnoses *	6	Dual Diagnoses	8
		Other-Boundary/Behavioral	2
Total	**34**		**35**

* Dual Diagnoses is any psychiatric diagnoses with any other substance abuse problem(s).

** The categories were changed under the new contract.

MPRP Staff
The Maryland Physician Health Program
1202 Maryland Avenue, 2nd Fl.
Baltimore, MD 21201-5512

Chae Kwak, L.C.S.W.-C
Director of Physician Health and Rehabilitation Programs

Susan Bailey, M.D.
Medical Director, Physician Health Program

Fred Gager, Psy.D
Case Manager

Laura Berg, L.G.S.W.
Clinical Case Manager

LITIGATION

The Office of the Attorney General provides day-to-day legal advice to the Board regarding ongoing cases, investigations, procedures, contractual and procurement issues, and the writing of decisions. The office also advises the Board on regulations and legislation. In addition, the office was involved in the following litigation on behalf of the Board in FY 2010.

Jeffrey R. Beck, D.O. v. State Board of Physicians (Court of Special Appeals No. 02692, September Term, 2008). The Board revoked Dr. Beck's license for immoral and unprofessional conduct in the practice of medicine. The Circuit Court for Baltimore City affirmed the Board's decision, as did the Court of Special Appeals. The Court of Appeals denied Dr. Beck's petition for *certiorari* on June 21, 2010.

Choe v. Maryland State Board of Physicians (Cir. Ct. Fred. Co. No. 10-C-09-2978). Dr. Choe appealed the Board's decision sanctioning him for alleged unprofessional conduct. The circuit court reversed the Board's decision. The Board did not appeal.

Mark Davis, M.D. v. Maryland State Board of Physicians (Court of Special Appeals No. 1894, September Term, 2007). Dr. Davis sued the Board again, alleging malicious prosecution in the same matter as in three previous civil cases he had filed. The Court of Special Appeals affirmed the Baltimore City Circuit Court's decision dismissing the case on July 31, 2009. The mandate was issued on August 31, 2009.

Davis v. Knipp, et al, Circuit Court for Harford County, Case Number 12-C-09-004203. Dr. Davis then sued ten current and ten previous members of the Board, the Executive Director,

the Administrative Prosecutor, and the Department of Health and Mental Hygiene for a total of $78 million in damages and reinstatement of his license, based on allegations of negligence, gross negligence, malice, libel, and violations of his civil rights. All defendants filed a motion to dismiss in March of 2010, and the court has taken the motion under advisement

Mark Davis, M.D. v. Maryland State Board of Physicians (Court of Special Appeals No. 2587, September Term, 2009). The Board revoked Dr. Davis's license for violating the standard of quality care and for keeping inadequate medical records. The Circuit Court of Harford County affirmed the Board's ruling on the substantive issues but vacated the Board's ruling and remanded the case to the Administrative Law Judge for further proceedings on procedural issues. The Board filed an appeal, and Dr. Davis filed a cross-appeal.

Nelson DeLara, M.D. v. Maryland State Board of Physicians (Court of Special Appeals No. 02840, September Term, 2009). Dr. DeLara appealed the Board's sanction for dictating an inaccurate medical report concerning which kidney needed to be removed. The circuit court affirmed the Board's decision. Dr. Delara then filed an appeal to the Court of Special Appeals. The case is pending in that court.

In *Harold I. Eist, M.D. v. Maryland State Board of Physicians*, 176 Md. App. 82 (2007), the Court of Special Appeals ruled that the Board cannot obtain medical records in its investigations of physicians without the patient's consent and that the investigated physician can deny the consent on behalf of the patient. The Board petitioned the Court of Appeals, which granted *certiorari*. The case was briefed and was argued by the Solicitor General before the Court of Appeals on May 6, 2008. No decision has been issued.

Greenberg v. Maryland Board of Physicians (Circuit Court of Montgomery County No. 331558-V). Dr. Greenberg, who had been summarily suspended by the Board and who had not filed an appeal of that summary suspension, is asking the court for an injunction reinstating his license on the ground that he did not get adequate notice of his appeal rights from the Board. The Board has moved to dismiss the case.

Cheryl Harris-Chin v. Maryland State Board of Physicians (Court of Special Appeals No. 437, September Term, 2009). Dr. Harris-Chin appealed the Board's order sanctioning her for her failure to comply with the terms of a previous order of the Board. The Circuit Court of Baltimore City reversed the Board's decision on April 2, 2009. The Board filed an appeal to the Court of Special Appeals, and argument was scheduled for September 3, 2010.

*Charles Y. Kim v. State Board of Physician*s (Court of Special Appeals, No. 1749, September Term, 2009). Dr. Kim appealed a Board decision sanctioning him for making false statements on his application for renewal of his license. The Circuit Court for Frederick County affirmed the Board's decision on September 4, 2009. Dr. Kim then filed this appeal to the Court of Special Appeals.

Ian Kirk v. Maryland v. Maryland State Board of Physicians (Court of Special Appeals Case No. 834, September Term, 2008). The Board denied Dr. Kirk's application for licensure. The Circuit Court for Baltimore City affirmed the Board's decision and Dr. Kirk appealed to the Court of Special Appeals. That court also affirmed the Board's decision. Dr. Kirk then petitioned for *certiorari* to the Court of Appeals.

Lakner v. Maryland State Board of Physicians (Court of Special Appeals No. 2298, September Term, 2009). Dr. Lakner appealed the Board's decision sanctioning him for making false statements and for altering a document of the California medical board and submitting it to a prospective employer. The circuit court dismissed his appeal as untimely on June 15, 2009. Dr. Lakner filed a Motion for Reconsideration, but the court denied that motion also. Dr. Lakner asserted that he filed an appeal of the denial of reconsideration to the Court of Special Appeals. Dr. Lakner then filed a motion in the circuit court to "Reinstate Appeal Previously Filed." The circuit court denied that motion, and Dr. Lakner appealed that denial to the Court of Special Appeals also.

Kathy Mesbahi, M.D., Mina Nazemzadeh and Aghdas Ramati v. Maryland State Board of Physicians (Court of Special Appeals No. 2791, September Term, 2009). The Board fined Dr. Mesbahi and placed her on probation for one year, and fined each of her two sisters, for practicing medicine without a license and for aiding the practice of medicine without a license. The Circuit Court for Montgomery County affirmed all of the Board's findings and conclusions but remanded the case to the Board for an explanation of the reasoning for its sanction imposed on Dr. Mesbahi. Dr. Mesbahi, Ms. Nazemzadeh and Ms. Ramati filed an appeal to the Court of Special Appeals, and the Board filed a cross-appeal.

Potomac Valley Associates, et al v. Maryland State Board of Physicians, (Court of Appeals, No. 18, September Term, 2008). This is an appeal of the Board's Declaratory Ruling on a self-referral issue: whether a physician may refer a patient to have an MRI scan at a facility in which the physician has a financial interest. The Board ruled that Maryland's self-referral statute, Md. Health Occ. Code Ann. § 1-301 et seq., prohibits this type of referral. Potomac Valley Associates and several of the other parties petitioned for judicial review of the Board's ruling. The Maryland Radiological Society joined the case as a party, requesting that the Board's decision be upheld. The Circuit Court of Montgomery County affirmed the Board's Declaratory Ruling in May of 2008. Potomac Valley filed an appeal to the Court of Special Appeals, but the Court of Appeals on its own motion granted *certiorari* and took jurisdiction over the case. Six briefs, the briefs of three parties and three amici, were filed. Oral argument took place on October 6, 2008.

William A. Rohde, M.D. v. State Board of Physicians (Circuit Court for Frederick County No. 10-C-08-003815). After the Board denied his application for reinstatement based upon the actions he had taken in Massachusetts for which he was sanctioned by the Massachusetts Board. Dr. Rohde appealed. The Circuit court issued a decision on September 4, 2009 affirming the Board's decision. Dr. Rohde did not file a further appeal.

Binyamin H. Rothstein, D.O. v. Maryland State Board of Physicians (Court of Special Appeals No. 2008, September Term, 2008). Dr. Rothstein appealed the Board's final order which revoked his medical license for five years based on standard of care violations, failure to cooperate with a lawful Board investigation, and violations of the probationary terms of a previous Consent Order. The Circuit Court for Baltimore County affirmed the Board's decision on September 23, 2008. The Court of Special Appeals dismissed Dr. Rothstein's further appeal on June 9, 2009 because of his failure to file a brief. The mandate was issued on September 11, 2009.

Mahmoud Shirazi v. Maryland State Board of Physicians (Court of Special Appeals No. 1715, September Term, 2009). After the Board permanently revoked his medical license for sexual assaults against four female patients, Dr. Shirazi appealed to the Circuit Court for Wicomico County. That court affirmed the Board's decision. Dr. Shirazi then filed this appeal to the Court of Special Appeals. The case is to be argued on October 5, 2010.

State Board of Physicians v. Rudman, 185 Md. App. 1 (2009) Dr. Rudman pled guilty (by an *Alford* plea) to a crime which the Board considered to be a crime of moral turpitude, *i.e.*, second-degree assault with underlying facts of an improper sexual touching of a patient. The Circuit Court of Frederick County reversed the Board's decision. Upon the Board's appeal, the Court of Special Appeals reversed the order of the circuit court and ordered the Board's decision reinstated. *State Board of Physicians v. Rudman,* 185 Md. App. 1 (2009) The Court of Appeals, however, reversed again, reversing the Board's finding that the crime was a crime of moral turpitude. *Rudman v. Maryland State Board of Physicians*, 414 Md. 243 (2010).

Oparaugo I. Udebiuwa, M.D. v. Maryland State Board of Physicians (Court of Special Appeals No. 1784, September Term, 2008). Dr. Udebiuwa appealed the Board's decision revoking him for being convicted of Medicaid fraud. The Circuit Court for Baltimore City affirmed the Board's decision, as did the Court of Special Appeals.

David J. Zuckerman, M.D. v. Maryland State Board of Physicians (Cir. Ct. for Montgomery County No. 318635V). During the pendency of administrative proceedings before the Board, Dr. Zuckerman requested that the court issue a temporary restraining order and a preliminary injunction reversing the Board's decision to summarily suspend his license. After hearing argument, the court denied the request for a temporary restraining order. The Board then moved to dismiss the case entirely and, after briefing and argument, the court dismissed the entire case by an order dated October 10, 2009.

COMPLIANCE DIVISION

The Compliance Division is responsible for investigating all complaints, reports, and information involving licensees of the Board. Compliance investigates to determine if there has been a potential violation of the law governing physicians and other health care providers regulated by the Board.

There are major stages in the investigation of a complaint: a preliminary investigation, a full investigation stage, prosecution after a board vote to charge, and after the resolution of the case, monitoring by the Probation Unit of Compliance.

Monitoring by the Probation analysts will include further investigation that results in new charges, orders to show cause, summary suspensions, and surrenders for violations of probation and other provisions of the Medical Practice Act.

As a result of the investigation of the original complaint the Board after a review of the investigatory information at the end of any stage of the process, may determine to close an investigation or to continue the investigation and ultimately take some form of action against a practitioner's license.

In FY 2010, Compliance received and resolved the following complaints as set out in the table below along with data for 2009:

Performance Measures	FY 2009	FY 2010
New Complaints Received	995	994
Complaints Pending from Previous Fiscal Year	656	702
Total Complaints	1,651	1,696
Complaints Closed with No Action	632	628
Complaints Closed with Advisory Opinion	222	227
Complaints Closed with Formal Action	95	102
Total Complaints Closed	949	957
Complaints Pending	702	739
Participants Under Monitoring in Probation	110	110

Intake Unit

Complaints come to the Board's attention from a wide variety of sources which include patient and consumer complaints, hospital and health care facility adverse actions, other federal, state, and local agencies, such as the Drug Enforcement Administration, the State Division of Drug Control, media, other Board referrals and federal, state, and local criminal authorities.

During the intake process, a complaint is reviewed and analyzed, relevant records are subpoenaed, the respondent is requested to respond to the complaint, and in most standards of quality care complaints a medical consultant will review all the materials obtained. Thereafter, the investigation is presented to the Investigative Review Panel (IRP). Most complaints are closed at this stage; others will go to a full investigation.

The Intake unit (Intake) received and processed 994 complaints during Fiscal Year 2010. Intake's responsibilities include performing preliminary investigations on all complaints where the Board has jurisdiction. To accomplish this task, Intake reviews and analyzes each complaint to determine the Board's jurisdiction with respect to allegations. The Intake Unit presented 651 cases for review by the Investigative Review Panel (IRP). 152 advisory letters were generated by the Intake Unit, prepared 13 Orders in Reciprocal cases and processed 17 cases involving deficiencies of Continuing Medical Education credits.

Grounds and issues pursuant to the Maryland Medical Practice Act for physicians and allied health practitioners are assigned at intake. Through review of the complaint and attachments, Intake also identifies any other practitioners who may have provided care in the case. Intake determines the priority of the case, particularly whether the case will proceed through the regular course or by special assignment.

Intake determines and conducts any additional investigation need as requested by the IRP, drafts advisory letters for the Board Chairman's signature and the simple closure letters for the Executive Director's signature.

Intake also compiles a list of cases opened for full investigation, including the case name, case number, specialty and synopsis of allegations for statistical purposes, and compiles the list of standard of care cases opened for full investigation for inclusion in peer review processing.

Investigations Unit

The Investigative unit (Unit) is responsible for conducting full investigations into allegations filed against Physicians and Allied Health Care Providers that may involve violations of the Maryland Medical Practice Act (Act). Complaints are received from a wide variety of sources, including but not limited to, patients, family members, hospitals, physicians, other healthcare providers, hospitals, pharmacies, pharmacists, other state agencies, law enforcement, and the media. The Board also reviews anonymous complaints.

The unit is responsible for fully developing the cases through objective investigative fact finding directed towards proving or disproving a violation of the Act. The full investigation includes, but is not limited to, analysis of the complaint, planning the investigation approach, development of investigative leads, implementing investigative steps and strategies in each case, and analysis of the case material. Analysts are required to develop investigative strategies which assist in the development of each case.

At the commencement of the case, the investigations include the review of the complainant to determine the issues and the applicable grounds under the Act. The analysts make initial contact with the complainants and respondent in the cases. Analysts also identify fact witnesses to interview for essential information. All of this material is received pursuant to chain of custody protocol in the unit for the cases. Through their review of the materials, analysts extract and analyze relevant information pertinent to the development of the cases.

The unit determines which entities and individuals are relevant and necessary to advance the Board's investigation. A significant amount of correspondence is drafted by the Unit at the beginning and throughout the investigation. As the investigation progresses, the need for subpoenas is assessed and multiple subpoenas for documents and testimony are also prepared and sent. All material received is handled pursuant to chain of custody protocol. The Unit maintains systems to keep track of and ensure the compliance by third parties with the Board's subpoenas and requests for information.

The Unit conducts in-depth and comprehensive interviews of individuals including the Respondents, complainants and relevant witnesses to elicit information pertinent to the investigation. Prior to the interviews, the information obtained during the full investigation is subject to thorough review and analysis by the analysts to assist with the interview process. Investigations also involve field assignments and site inspections.

The investigative findings and information obtained during the course of the investigation is also periodically reviewed by the analysts to determine completeness of the investigations. Comprehensive investigative reports reflecting the investigative findings are drafted as the investigation progresses. Through the course of the investigation, the Unit interacts with and consults with medical consultants, experts, physicians, attorneys, and law enforcement where applicable. Packets of material on investigations are prepared for the Board and Board panels.

During the course of the investigation as directed by the facts, analysts present cases to IRP with recommendations for further directive by IRP. To accomplish this, packets with sufficient information are presented to the panel. For the development of standard of care and or documentation cases, the analysts are responsible for preparing the peer review record and transmittal of the peer review record to the peer reviewers. These transmittals include a detailed and organized compilation of the entire peer review record developed in the cases. In furtherance of Board cases, analysts also prepare transmittals of the cases for expert review. Analysts are responsible for assuring the completeness of the record transmitted for peer and or expert review. The Unit presents the cases and the investigative findings with recommendations at Board and panel meetings. The investigative findings, presentations and recommendations by the Unit are considered by the Board and Board panels when making the decisions on the cases.

In addition, analysts testify on Board matters at evidentiary hearings held before Administrative Law Judges at the Office of Administrative Hearings. Prior to the evidentiary hearing, analysts review the entire record and the exhibit book to prepare for the hearing.

At the commencement of certain cases it is evident that there are serious issues indicating a substantial likelihood of risk of imminent danger to the public health, safety and welfare. In other cases this determination is made as the case evolves. In either case, the full investigations into such matters proceed rapidly to ensure that facts can be presented to the Board in a timely manner permitting the Board to act as expeditiously as possible to mitigate the danger that may be posed by such licensees.

The unit continues to recruit staff with varying experience and background to facilitate the investigation of Board cases. The unit has also developed systems, research techniques, formats and templates directed towards ensuring that the Board cases are fully and thoroughly investigated. The unit is committed to continuous quality improvement initiatives which include expanded training strategies for new staff, in-house training sessions and sending staff to training sessions offered by third parties and continuous assessment of initiatives and outcomes. To further enhance presentation skills and delivery of testimony, the unit offers in-house programs targeted to those needs.

Probation Unit

At the end of FY 2010, two full time employees were dedicated to actively monitoring 110 respondents who practice under terms and conditions of probation and investigate potential violations of their orders issued by the Board.

The unit is also responsible for monitoring those licensees who are suspended and not allowed to practice for a specified period of time. These Respondents are required to complete terms and conditions before they are allowed to petition the Board to practice while on probation subject to additional terms and conditions.

The Probation Analysts handle the reinstatement process for those who petition the Board for reinstatement of licensure after a revocation or surrender of license. Reinstatement is a detailed process that involves a review of all the application materials and further investigation of the applicant, transmittal to the Office of the Attorney General for comment on the petition, and participation in a Reinstatement Inquiry Panel of the Board to review the petition prior to the

full Board's review. The process involves the gathering and vetting of numerous documents and investigation before the case is submitted to a Reinstatement Inquiry Panel.

Licensees are responsible for compliance with their orders and rehabilitation agreements with the Board. However, the active monitoring and investigating that this unit performs assists the licensees to improve and meet the requirements the Board has set for them. More importantly, it enables staff to quickly learn about non-compliance with the orders and agreements so that staff can investigate the potential violations. Based on these investigations, the Board can take the appropriate action which includes issuing charges for violations of probation and show cause hearings, all of which may result in further sanctioning by the Board to further protect the public.

Peer Review

Since July 1, 2003, the Medical Practice Act has required that the Board contract with a nonprofit entity or entities for physician peer review of allegations based on Health Occupations Article §14-404(a)(22). The Board has utilized the services of contractors since September 1, 2003, as a result of its first Invitation for Bid (IFB). A second IFB was offered in July 2006, and six contractors were awarded contracts. The third IFB was offered in September 2008. Three responsive bidders were awarded contracts for a five-year term. Two specialties, psychiatry and anesthesiology, were not included in the IFB. The Board entered into sole source contracts with the Maryland Psychiatric Society and the Maryland Society of Anesthesiologists for three year terms.

1. **The peer review contractors from July 1, 2009 To June 30, 2010:**

	FY 2009	FY 2010[1] Contractor 1	FY 2010 Contractor 2	FY 2010 Contractor 3[2]	FY 2010 Contractor 4
Number of Cases Referred	80	90	7	8	2
Number of Cases Returned	69	63	2	6	2
Average Number of Days for Return of Report to Board	76	105	40	68	73

Obtaining consultants and expert witnesses in standard of care cases is highly regulated in Maryland. Unlike other states, the Maryland statute governing the medical board from 2003 to June 1, 2007 specified, that in standard of care cases, the following:

1. The medical board may only obtain consultants and expert witnesses (known as "peer reviewers" in Maryland) by way of contracting with an outside entity or entities.
2. Two peer reviewers are required.
3. During the first half of FY 2007, in the event of a disagreement between the two peer reviewers, the Board had to obtain a third reviewer (to break the tie) from the same contractor non-profit entity. This becomes highly likely when the Board sends multiple cases for review as the chances become greater for two reviewers to disagree on some

[1] During FY 2010 there were 4 contractors utilized by the Board for Peer Review. On or about June 30, 2010, the Board terminated one of the contracts. The above data reflects the performance of the 4 contractors.
[2] Contractors 3 and 4 are sole source contractors.

aspect of the case. Thus, the requirements of the statute offer a disincentive to refer multiple cases. Senate Bill 255, Chapter 539, passed during the 2007 legislative session, lifted the requirement of the third review and left that to the discretion of the Board.

4. There is no exception to this process.
5. During the first half of FY 2007, the Board could not obtain its own peer reviewers even if the non-profit entity could not find the peer reviewer(s). The Board was required to ask any other qualified non-profit entity. Only if it has exhausted all qualified non-profit entities, may it find its own peer reviewers. Senate Bill 255 has allowed the Board to enter into a written contract with either an entity or individual for peer review. Should our contractors fail to provide timely review of allegations, the Board has the authority to contract with individual reviewers.

The Legislative Report

The following data corresponds to elements of Chapter 109 of the Acts of 1988, as amended by §1, Ch 271 of the Acts, 1992 effective October 1, 1992, and by §6, Ch 662, of the Acts of 1994 effective October 1, 1994.

- **Complaints Filed**

In FY 2010, the Board received 679 consumer complaints and 315 complaints from other sources, for a total of 994 complaints. When added to the complaints pending from FY 2009, the total number of complaints requiring investigation was 1696.

The Board dismissed 628 complaints with no action and closed 227 with Advisory Opinions. The Board issued fines totaling $202,950 and closed 102 complaints with formal actions, resulting in 957 complaints closed in FY 2010.

In addition to the 102 complaints closed with formal actions (86 involving physicians; 16 involving allied health providers) the Board terminated 19 probations, orders and agreements (18 involving physicians and 1 involving an allied health provider), and issued 22 other orders, including but not limited to interim orders (for example, summary suspension orders), denials of reinstatement, violations of probations, terminations of suspensions and probation after suspension, and reinstatement orders. Therefore, the Board took action on a total of 143 licenses.

- **Advisory Opinions**

During FY 2010, the Board sent 227 advisory opinions to practitioners, which are letters that inform, educate, or admonish a health care provider in regard to the practice of medicine under the Medical Practice Act. The various issues addressed in these letters included: the importance of legibility of medical records and the advisability of consideration of a typed or electronic version of the records, the importance of ensuring the accuracy of all reports that the physician signs, the timely communication with patients, and the appropriate follow up after a patient undergoes a surgical procedure.

A. The number of physicians investigated under each of the disciplinary grounds enumerated under Section 14-404 of the Health Occupations Article.

In FY 2010, the Board opened investigations on 886 physician licensees. The total allegations against the physicians are 1,181 as found in Table A.

B. The average length of time spent investigating allegations brought against physicians under each of the disciplinary grounds enumerated under Section 14-404 of the Health Occupations Article.

During FY 2010, the Board completed investigations of 1,106 allegations for discipline. The allegations brought against physicians and the average length of time spent investigating these allegations appears in Table B. Table B includes the number of days from initial complaint until final disposition.

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

As of July 1, 2010, 162 cases have not been resolved within 18 months. The following breakdown shows the last stage of each of these cases at the end of the fiscal year.

Case Management (full investigation)	69
Peer Review	16
Attorney General's Office	77
Board Counsel	0
Total Cases	162

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

Peer Review: The 16 cases in the peer review category are those for which the Board is waiting for a completed peer review from the peer review contractor. Most of those cases were withdrawn from one peer review contractor after not being able to complete the cases in a timely manner and referred to another contractor.

Attorney General's Office: Although the process of Case Review instituted by the Board and the Office of the Attorney General (OAG) continues to be effective in maintaining the timely resolution of charged cases, because of the productivity of the Investigative Unit in bringing cases to the Board for charging and a number of cases that required emergency action and the summary suspension process, the OAG has received a significant increase in the number of referrals to its office. In addition the respondents may take cases to trial which significantly extends the time before a case can be resolved.

The 77 cases at the Office of the Attorney General at the end of the fiscal year were transmitted as follows:

FY 2008:	4 cases
FY 2009	22 cases
FY 2010	51 cases

D. The number of physicians who were reprimanded or placed on probation, or who had their licenses suspended or revoked during FY 2010

Permanent Revocation	1
Revocation	10
Permanent Surrender	3
Surrender	2
Summary Suspension	5
Summary Suspension continued	2
Stay of Summary Suspension lifted	1
Summary Suspension terminated; Probation	2
Suspension	1
Suspension and Probation	15
Denial of Application for Initial Medical License	2
Denial of Reinstatement of License	3
Denial of Reinstatement of License; Fine	1
Application of Initial Medical License granted; Reprimand	1
Probation	3
Reprimand	5
Reprimand and Probation	13
Reprimand and Fine	3
Reprimand and Permanent Restriction on Practice	2
Reprimand and Condition	1
Reprimand and Terms and Conditions	1
Reprimand, Terms and Conditions, and Fine	1
Fines	21
Termination of Probation	16
Revocation Order vacated by Circuit Court	1
Termination of Disposition Agreement	2
Total	118

Additional information regarding sanctions filed against physicians by the Board of Physicians can be found at the following Board website:
http://www.mbp.state.md.us/pages/newsletters.html

- Other Activities with Regard to all Licensees

Informal Disciplinary Action (Advisory Letters)	227
Total Number of Probation Cases	110
Charges Issued	76
Charges Dismissed	1
Total Fines for all Respondents	$92,950
Total Fines for Physicians	$89,450
Fines for Fraudulent Representation As Physicians and Practicing Medicine	$110,000

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

A total of 1,207 allegations (in 636 cases) remain unresolved and are pending before the Board as of July 1, 2010.

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

The following summarizes the investigations opened concerning allied health practitioners during FY 2010:

Allied Health Practitioners	Number of Investigations
Physician Assistant (C)	32
Radiographer and Radiation Therapist (R,O,M)	3
Nuclear Medicine Technologist (N)	3
Respiratory Care Practitioner (L)	7
Total	**45**

There were a variety of allegations that included drug and or alcohol abuse, termination of employment for being unavailable to patients, continuing to practice after expiration of certification, allowing a non-licensed radiographer to perform CT scans, and competency issues due to hearing and vision impairments.

In FY 2010, the Board issued 19 formal actions in regard to allied health practitioners.

Physician Assistant — (4) Administrative fine for practicing as a Physician Assistant without certification; (1) Suspension and Probation for writing prescriptions for individuals who were not patients; (1) Termination of Suspension and Probation; the practitioner progressing in rehabilitation.

Radiographer and Radiation Therapist— (3) Administrative fine for practicing prior to licensure; (1) Summary Suspension for aiding the unlicensed practice of medicine; and (1) Termination of Probation.

Nuclear Medicine Technologist— (1) Fine for practicing beyond the scope of practice.

Respiratory Care Practitioner — (2) Denial of Initial Licensure; (4) Suspension and Probation because of substance abuse issues; and (1) Suspension with conditions.

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

The expansion of allied health professionals is making a significant impact on our health care system, the Board and its resources. In addition to its primary mission, the Board of Physicians currently oversees well-established allied health professions and is in the process of completing the setup of licensure and disciplinary structures for polysomnographers and athletic

trainers. The management of these new professions has been absorbed within the current staffing resources in the Allied Health unit of the Board. The Board anticipates additional professions being added in future legislative sessions that will further tax the existing resources of the Board. Additional staffing is needed to address the ongoing expansion of health professions regulated by the Board.

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

Please refer to the report from the Office of the Attorney General. See Exhibit 3.

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

Please refer to the report from the Office of the Attorney General. See Exhibit 3.

J. Corrective Action Agreement

During FY 2010, the Board entered into no Corrective Action agreements with physician licensees.

TABLE A		
NUMBER OF ALLEGATIONS AGAINST PHYSICIANS INVESTIGATED UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER H.O. §14-404 COMPLAINTS FILED DURING FY 10		
Grounds	Description	Physicians
404(a)1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	1
2	Fraudulently or deceptively uses a license.	2
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	527
4	Is professionally, physically, or mentally incompetent.	0
5	Solicits or advertises in violation of H.O.§14-503.	0
6	Abandons a patient.	16
7	Habitually is intoxicated.	2
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	7
9	Provides professional services while under the influence of alcohol; or while using any narcotic or controlled dangerous substance, as defined in Section 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication.	6
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	0
11	Willfully makes or files a false report or record in the practice of medicine.	28
12	Fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to file or record the report.	0
13	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health General Article, fails to provide details of a patient's medical record to another physician or hospital.	55
14	Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician.	0
15	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient.	0
16	Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient unless the licensed physician discloses on the bill to the patient or third-party payor: the name of the laboratory; the amount paid to the laboratory for the test or test series; and the amount of procurement or processing charge of the licensed physician, if any, for each specimen taken.	0
17	Makes a willful misrepresentation in treatment.	1

18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	17
19	Grossly over utilizes health care services.	6
20	Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine.	0
21	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section.	54
22	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.	382
23	Willfully submits false statements to collect fees for which services are not provided.	20
24	Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee: (i) surrendered the license...; or (ii) allowed the license ...to expire or lapse.	0
25	Knowingly fails to report suspected child abuse in violation of §5-704 of the Family Law Article.	0
26	Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by §20-113 of the Health-General Article.	0
27	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes.	27
28	Fails to comply with the provisions of HO§12-102 (Physician Dispensing).	0
29	Refuses, withholds from, denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.	0
30	Except as to an association that has remained in continuous existence since July 1, 1963: (i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy, (ii) Employs a pharmacist for the purpose of operating a pharmacy, or (iii) Contracts with a pharmacist for the purpose of operating a pharmacy.	0
31	Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions.	0
32	Fails to display the notice required under HO§14-415.	0
33	Fails to cooperate with a lawful investigation conducted by the Board.	0
34	Is convicted of insurance fraud as defined in §27-801 of the Insurance Article.	0
35	Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education.	0
36	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.	23

37	By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0
38	By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board in furtherance of any investigation of the Board.	0
39	Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0
40	Fails to keep adequate medical records as determined by appropriate peer review.	5
404(b)	Crimes of moral turpitude	2
		..
	TOTAL ALLEGATIONS AGAINST PHYSICIANS	1181

TABLE B

ALLEGATIONS BROUGHT AGAINST PHYSICIANS UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER H.O. §14-404- COMPLAINTS RESOLVED DURING FY 10

Grounds	Description	Physicians	Days
1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	0	0
2	Fraudulently or deceptively uses a license.	1	2031
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	495	286
4	Is professionally, physically, or mentally incompetent.	5	667
5	Solicits or advertises in violation of H.O.§14-503.	0	0
6	Abandons a patient.	13	276
7	Habitually is intoxicated.	4	693
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	6	884
9	Provides professional services while under the influence of alcohol; or while using any narcotic or controlled dangerous substance, as defined in Section 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication.	5	63
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	0	0
11	Willfully makes or files a false report or record in the practice of medicine.	31	494
12	Fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to file or record the report.	0	0
13	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health General Article, fails to provide details of a patient's medical record to another physician or hospital.	57	139
14	Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician.	0	0
15	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient.	0	0

16	Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient unless the licensed physician discloses on the bill to the patient or third-party payor: the name of the laboratory; the amount paid to the laboratory for the test or test series; and the amount of procurement or processing charge of the licensed physician, if any, for each specimen taken.	0	0
17	Makes a willful misrepresentation in treatment.	2	1786
18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	12	990
19	Grossly over utilizes health care services.	6	846
20	Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine.	0	0
21	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section.	55	159
22	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.	336	452
23	Willfully submits false statements to collect fees for which services are not provided.	18	785
24	Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee: (i) surrendered the license...; or (ii) allowed the license ...to expire or lapse.	0	0
25	Knowingly fails to report suspected child abuse in violation of §5-704 of the Family Law Article.	0	0
26	Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by §20-113 of the Health-General Article.	0	0
27	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes.	24	769
28	Fails to comply with the provisions of HO§12-102 (Physician Dispensing).	0	0
29	Refuses, withholds from, denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.	0	0

30	Except as to an association that has remained in continuous existence since July 1, 1963: (i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy, (ii) Employs a pharmacist for the purpose of operating a pharmacy, or (iii) Contracts with a pharmacist for the purpose of operating a pharmacy.	1	918
31	Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions.	0	0
32	Fails to display the notice required under HO§14-415.	0	0
33	Fails to cooperate with a lawful investigation conducted by the Board.	2	718
34	Is convicted of insurance fraud as defined in §27-801 of the Insurance Article.	0	0
35	Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education.	0	0
36	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.	25	133
37	By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0	0
38	By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board in furtherance of any investigation of the Board.	0	0
39	Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0	0
40	Fails to keep adequate medical records as determined by appropriate peer review.	4	1027
40(b)	Crimes of moral turpitude	4	405
	TOTAL RESOLVED ALLEGATIONS AGAINST PHYSICIANS	**1,106**	

EXHIBIT 1

Roster of Members of Board of Physicians

NAME	SPECIALTY/CATEGORY	TERM ENDS
Paul T. Elder, M.D. Chairman	Physician Anesthesiology	2012
Harry C. Knipp, M.D.	Physician Radiology	2013
Laura E. Henderson, M.D.	Physician Internal Medicine/Pediatrics	2011
Habib A. Bhutta, M.D.	Physician Surgeon-General	2011
Kevin B. Gerold, D.O., J.D.	Physician Anesthesiology, Critical Care	2009
Suresh K. Gupta, M.D.	Physician Internal Medicine/Geriatrics	2010
Robert G. Hennessy. M.D., M.B.A.	Physician Neurosurgeon	2011
Jonathan A. Lerner, PA-C	Physician Assistant	2013
Hilary T. O'Herlihy, M.D.	Physician Cardiology	2010
Nallan C. Ramakrishna, M.D.	Physician Cardiology	2012
Susan T. Strahan, M.D.	Physician Psychiatry DHMH Representative	2012
Laurie S. Y. Tyau, M.D.	Physician OB/Gyn	2013
Rosaire Verna, M.D.	Physician Family Medicine	2012
Douglas Wright, M.D.	Physician Orthopaedic Surgery	2010
Samuel K. Himmelrich, Sr.	Public Member with Experience in Risk Management	2013
Brenda G. Baker	Consumer	2012
Evelyn T. Beasley	Consumer	2011
Richard Bittner, Esquire	Consumer	2010
Carmen M. Contee	Consumer	2012
Harold A. Rose	Consumer	2013
Vacant	Doctor of Osteopathy	
Vacant	Full-time Faculty Appointment	

EXHIBIT 2

ANNUAL REPORT TO LEGISLATIVE POLICY COMMITTEE – FY 2009

PHYSICIAN PRIVILEGE DATA SYSTEM

The following summarizes the key activities of the Board of Physicians clearinghouse activities pursuant to Health Occupations Article Section 14-411(e). This legislation, initiated in 1986, requires the Board to maintain a database of current physician privileges and contractual employment, physician discipline and malpractice information, and to report this information to hospitals, nursing homes and alternative health care systems, including health maintenance organizations and preferred provider organizations.

A. Number of licensed physicians in MD in FY 2010: 27,434

B. Participation: 63 hospitals, 234 nursing homes and health maintenance organizations report information on privileges, and request data generated by the system.

C. Malpractice Data: 463 certificates of merit records were added to the malpractice component of the data system, involving 426 physicians. The Board generated 4,115 notices of malpractice claims and sent these to the hospitals, nursing homes and alternative health care organizations where the affected physician has privileges.

D. Disciplinary Actions Taken by Hospitals, Nursing Homes and Alternative Health Care Systems: The Board sent 116 notification letters to health care facilities originating from reports of disciplinary action taken by hospitals, nursing homes and alternative health care systems.

E. Board Disciplinary Actions: The Board sent 688 letters to health care facilities informing them of disciplinary actions and or charges against 175 physicians who have privileges at their facilities.

F. Inquiries from Health Care Facilities: 12 responses to written inquiries from Maryland hospitals, nursing homes and alternative health care systems were processed by the Board.

G. Verification Letters: The Board generated 4,932 letters verifying the status of physician licenses.

EXHIBIT 3

A. The Legislative Report

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

> SECTION 5. AND BE IT FURTHER ENACTED, that the Department, on or before October 1 of each year, shall submit a report to the Legislative Policy Committee that contains the following information for the previous year:
>
> * * *
>
> 8. A detailed explanation of the criteria used to accept and reject cases for prosecution....

B. The Attorney General's Response

The Office of the Attorney General received and accepted one hundred and eight **(108)** cases for prosecution in fiscal year 2010, if there was a legally sufficient basis for going forward based upon the facts and circumstances of each case. The measure of legal sufficiency is generally found in Health Occupations Article, §14-404(a), which sets forth 40 enumerated grounds for prosecution; in §14-404(b), which provides for prosecution of physicians convicted of crimes involving moral turpitude; §14-205, which provides for denial of a license for reasons that are grounds for action under §14-404; and in the terms of consent orders executed between the Board and individual physicians. Evaluation of the facts and circumstances of individual cases involved review of Board files, conferences with peer reviewers, conferences with investigators, meetings with witnesses, and additional follow-up investigations.

The Office filed ninety **(90)** charging documents, of which eight **(8)** were summary suspensions: **(Frontera, G. Dauer (RT), Shah, Ferrer, Mitchell, Lazaro, Fieldson and Fioretti).**

In fiscal year 2010, the Office also prosecuted and/or closed a total of ninety-five **(95)** cases: thirty-six **(36)** Final Orders; forty-six **(46)** Consent Orders; six **(6)** Letters of Surrender - **Folashade, Potash, Loot-Gayoso, Barahona, Prendergast, and Kordon**; four **(4)** Return to Board ("RTB") – **Khan** (charges rescinded), **Lahr, Evans and Gurbel**; there was one **(1)** License Granted – **Osei-Tutu**. There were fourteen **(14)** Fines: **Blank** ($10,000); **Rosas** ($500); **Jamshidi** ($8,000); **Gibson** ($10,000); **Nwodim** ($5,000); **Shuman** ($50,000); **Brown** ($25,000); **Targan** - unlicensed ($30,000); **Salahmand** – unlicensed ($50,000); **Ben-Yehudah**

(10,000); **Dadgar** ($5,000); **Adrian Mitchell** ($5,000); **Kahan** ($5,000); **Anderson** ($10,000); and the eleven **(11)** Revocations were: **Sheridan, Gravesande, Kastigar, Berman, Harney, Greer, Levitt, Marsh, Ganz, Weaver, and Frontera.** Four **(4)** Charges were Dismissed: **Arrison, Radden, Korangy, and Golubev.** Eight **(8)** Reinstatements or Applications were Denied – **Villabona, Harness, Momah, House, Brown, Jemsek, Preston, and Singh;** one **(1)** Default Order was issued – **Shuman**; and there was also one **(1)** Cease and Desist order – **Ben-Yehudah**.

A. The Legislative Report

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

> SECTION 5. AND BE IT FURTHER ENACTED, that the Department, on or before October 1 of each year, shall submit a report to the Legislative Policy Committee that contains the following information of the previous year:
>
> * * *
>
> 9. The number of cases prosecuted and dismissed each year and on what grounds.

B. The Attorney General's Response

The Office of the Attorney General received one hundred and eight (108) cases in fiscal year 2010. The Office filed ninety (90) charging documents of which eight (8) were summary suspensions. Thirty-six (36) were closed with final orders, and forty-six (46) cases were closed with consent orders, six (6) were letters of surrender, four (4) return to board, one (1) cease and desist. and fourteen (14) fines. The grounds for prosecution were as follows:

Grounds	No. of Cases
Under §14-404(a):	
(1)	0
(2)	2
(3)	4
(3)(a)(i)	16
(3)(a)(ii)	36
(4)	5
(6)	3
(7)	0
(8)	4
(9)(i)	1

(9)(ii)	4
(10)	0
(11)	11
(12)	1
(13)	1
(17)	3
(18)	4
(19)	2
(21)	1
(22)	35
(23)	1
(24)	0
(27)	5
(31)	0
(33)	6
(36)	6
(40)	29
14-404:	
(b)(1)	1
(b)(2)	1
14-205	2
COMAR 10.32.03.11B(18)	1
COMAR 10.32.03.11B(7), (10)(11)&(25)	1
COMAR 10.32.10.07(4)(c)(1)(j)5	1
COMAR 10.32.11.05A(3) & .05B	1
COMAR 10.32.11C	1
15-314(3)	1
15-403(b)(1)	1
COMAR 10.32.17	1
COMAR 10.32.17.02(a)(b)(i)	1
COMAR 10.32.17B(b)(3)(c)	1
COMAR 10.32.17B(b)(4)	1
COMAR 10.32.17.03(A)(B); & (b)(c) & (4)(a)(b)(ii)(iv)(v)(vii) & (ix)	1
14-5A-09(b)	1
14-5A-14(a)(1) &(3)	1
14-5A-17(a)(3)	3
14-5A-17(a)(3)(ii)	1
14-5A-17(a)(10)	2
14-5A-17(a)(14)	1
14-5A-17(a)(18)	1
14-5A-17(a)(22)	1
14-5A-17(a)(26)	3

14-5A-20	1
14-5A-21	1
14-5A-22	1
14-5B-14(a)(3)	1
14-5B-14(a)(3) & (8)(i)	1
14-5B-17(c)	1
14-5B-17(d)	1
14-5B-18(b)	1
14-5B-18.1(b)	1
14-5(a)(15) & 14-5B-12.1(a)	1
14-601 Practicing w/o License	7
14-602	4
14-606	1
Violation of Consent Orders	2
Violation of Rehab Agreement	1
Pet. to Suspend Medical License	1
Petition for Reinstatement	1
Petition to Lift Suspension	2
Intent to Deny	8
Summary Suspensions	8
Letters of Surrender	6