MARYLAND
BOARD OF PHYSICIANS

ANNUAL REPORT TO
LEGISLATIVE POLICY COMMITTEE

FISCAL YEAR 2011

(MSAR #1414)
HB 1325/Ch. 662(6), 1994

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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 (MBP) (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 and closer monitoring by the Secretary of the timeline for disciplinary actions. During FY 2011, the Board began developing sanctioning guidelines and is drafting amendments to the Board's regulations governing the disciplinary process. The amendments will include both the sanctioning guidelines and the statute of limitations.

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 physician representative of the Department nominated by the Secretary;
- 1 licensed 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. Four Board member appointments expired at the end of fiscal year 2011, three physicians and one consumer member.

EXECUTIVE DIRECTOR'S STATEMENT

During FY 2011, 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.

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. 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. Three specialties, psychiatry, emergency medicine, and anesthesiology, are now covered under sole source contracts.

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.

Beginning in July 2009, the Board has required physicians renewing their licenses to use the online renewal system, with the stipulation 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 collected for the Maryland Health Care Commission and to support recommendations of the Task Force on Health Care Access and Reimbursement. This initiative included changes to the renewal application will help to identify physician shortage issues. In 2011, 100% of physicians reviewing their licenses did so through the online automated system.

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 is now licensing polysomnographic technologists and radiologist assistants. The Board has also established an advisory committee, developed regulations, and begun accepting applications for licensure from athletic trainers.

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 and other

information. The Board must acknowledge receipt of the delegation agreement before the PA may 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 and authorizing a fine of up to $100 per missing CME if a PA fails to earn and document the required continuing education. The law also allows the Board to conduct worksite audits of PA practices.

During the 2011 Session, the General Assembly passed HB 287 (Chapter 588), Maryland Perfusion Act establishing a program within the Board of Physicians to license and discipline persons who perform perfusion. Perfusionists perform the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, or respiratory systems, or other organs to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and the supervision of a licensed physician. During the next two years, the Board will establish an advisory committee, develop regulations, and begin licensing this new allied health profession.

The expansion of allied health professions will likely continue as a means to provide access to health care 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.

The Board continued to work with the Board of Pharmacy on the Drug Therapy Management Joint Committee (HB 781, 2002 Chapter 249). Originally approved as a pilot demonstration program with an abrogation date, the 2010 General Assembly removed the abrogation (Chapters 44 and 45). 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 the physician, pharmacist, and patient, and by 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.

LICENSURE DIVISION

The Licensure Division is responsible for processing applications for Initial, Reinstatement, Post Graduate Teaching, Conceded Eminence and Volunteer Licenses. This division 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 perform 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 2011, the Licensure Division issued 1,552 initial medical licenses, 178 reinstated licenses, and registered 2,817 UMPs – interns, residents and fellows.

Total licenses issued, including new and reinstated represented a flat trend when comparing 2011 to 2010. 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 2010	FY 2011
Licensed	1,575	1552
Closed (denied, withdrawn, ineligible)	52	50
Total Applications Completed	1,627	1602
REINSTATED LICENSES		
Licensed	174	178
Closed (denied, withdrawn, ineligible)	4	19
Total Applications Completed	178	197
TOTAL APPLICATIONS PROCESSED	1,805	1799
UMPs REGISTERED	2,638	2,817
TOTAL	4,443	4616

Licensure staff continues to refine and improve this process to insure accuracy and efficiency. This year, the Licensure Division experienced several key position vacancies; however, the division 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 including 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. At the end of FY 2011 there were 39,426 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. Senate Bill 500 (Chapter 252 of the Acts of 2003) 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 2011 online renewal system. The system also provides a mechanism for physician feed-back concerning satisfaction with the online renewal process.

During FY 2011, 14,124 physicians with last names beginning with letters "A" through "L" renewed their license, representing an increase of 4% for the same pool of renewals (FY 2009). Of the physicians that renewed, 100% renewed online. Of the physicians that renewed online, 87% of these renewed by credit card. The Board continued to receive 100% of renewal applications through our automated system.

Type of Renewal	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Paper Renewal	19%	16%	12%	10%	0%	0%
Online Renewal	81%	84%	88%	90%	100%	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 2011, the Committee met 11 times. They reviewed and recommended approval of delegation agreements from July 1, 2010, through October 6, 2010. The statute, which changed on October 1, 2010, now states that a delegation agreement without advanced duties does not require prior approval by the Board. Board staff began performing "desk approvals" of delegation agreements when the new law went into effect. These documents contain a description of the qualifications of the supervising physician and physician assistants, and the setting and supervision mechanisms that will be utilized as well as certain attestations about the delegated medical acts. The Committee and Board staff approved 825 delegation agreements.

The Board received 49 requests to perform advanced duties. These duties require additional education and training beyond what physician assistants receive through their initial physician assistant training program, and are generally added to an existing delegation agreement. Documentation of additional training 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, approved delineations of hospital privileges. The Committee recommended approval of 45 requests to perform advanced duties to the Board. Board staff approved the other four requests. The new

law also stated that if a physician assistant and the primary supervising physician are employed by an accredited hospital or ambulatory surgical center and meet certain criteria, the delegation agreement with advanced duties does not require prior Board approval.

The Board is authorized to disapprove any delegation agreement not meeting the requirements of the law or if the Board believes that a PA is unable to perform the delegated duties safely.

In addition to approving delegation agreements and delegation agreements with advanced duties, the Committee discussed draft regulations and scope of practice issues. Scope of practice issues included whether it was appropriate for physician assistants to use mini C-arms. Members of the Committee were invited to meet with the members of the Radiation Therapy, Radiography, Nuclear Medicine Technology and Radiologist Assistance Advisory Committee to discuss this issue.

The Committee welcomed Chimene Liburd, M.D. to the Committee. Dr. Liburd filled the vacant internal medicine physician position.

Licensed	FY 2010	FY 2011
Initial Licensed	272	236
Reinstatements	44	22
Delegation Agreements	867	825
Renewals	N/A*	2358

* 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

Chimene Liburd, M.D., Internal Medicine

J. Lawrence Fitzpatrick, M.D., Surgeon

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

The Board regulates approximately 6,500 radiation therapists, radiographers, nuclear medicine technologists, and Radiologist Assistants.

The Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiologist Assistance Advisory Committee of the Board met four times during FY 2011. Covered topics included scope of practice issues, radiographer advanced education, evaluating non-accredited educational programs, regulations amending the process of evaluating non-accredited educational programs and a meeting with the Physician Assistant Advisory Committee to discuss whether it is appropriate for physician assistants to use mini C-arms.

During FY 2011, the Board repealed the regulation that required the Committee to evaluate applicants from non-accredited radiation therapy, radiography and nuclear medicine

education programs. The Committee and Board did not feel that they had the expertise or time to determine whether the education provided by a non-accredited program was equivalent to an accredited program. To be fair to the students who were already enrolled in non-accredited programs, there is a provision in the regulations that allows the Committee to review the credentials of students who were enrolled in a non-accredited program in April 2011 and who graduate by June 30, 2011. These students have until December 31, 2011 to apply for a license.

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 is Howard Community College's Radiography Program. Both programs are currently seeking national accreditation for their respective programs.

In FY 2011, the Committee evaluated the credentials of 10 applicants.

The Committee welcomed Jonathan Lerner as the new Board representative.

Licensed	FY 2010	FY 2011
Initial Licensure	472	437
Reinstatements	81	74
Renewals	N/A*	6,035

* These practitioners renew in odd numbered years only.

Committee Members:

Anthony Chiaramonte, M.D., Radiologist

Richard Hudes, M.D., Radiation Oncologist

Darrell McIndoe, Nuclear Medicine

Clay Nuquist, C.N.M.T. Nuclear Medicine

Carmen Contee, Consumer Member

Vacant - Radiologist Supervising Radiologist Assistant

Kentricia McClease, RT(R), Radiographer

Robin Krug Enders, RT (T), Radiation Therapist

Jonathan Lerner, PA-C, Board Member

Vacant - Radiologist Assistant

Respiratory Care Practitioners

The Board regulates over 2,400 respiratory care practitioners. The Respiratory Care Professional Standards Committee met once during FY 2011. Topics of discussion included draft regulations and the feasibility of exempting respiratory care practitioners practicing polysomnography from the polysomnographer licensure requirement.

Licensed	FY 2010	FY 2011
Initial Licensure	199	200
Reinstatements	33	43
Renewals	2461	N/A*

*These practitioners renew in even numbered years only.

Committee Members:

Matthew Davis, RRT

Robin Smith, RRT

Kylie O'Haver, RRT

Ernest Crofoot, Consumer Member

Thomas Grissom, M.D, Anesthesiologist

Vacant, Cardiovascular and Thoracic Surgeon

Vacant, Pulmonologist

Polysomnography

The Polysomnography Professional Standards Committee met twice during FY 2011. This Committee discussed issues concerning scope of practice, exempting respiratory care practitioners from the polysomnography licensure requirement, and the Maryland Sleep Society (MSS) proposed amendments concerning education and examination equivalency and adding another practitioner level to the statute during the 2011 legislative session.

Licensed	FY 2010	FY 2011
Initial Licensure	24	68
Reinstatements	0	1
Renewals	39	N/A*

*These practitioners renew in even numbered years only.

Committee Members:

Susheel Patil, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine

Brian Bohner, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine

Helen Emsellem, M.D., Neurology and Sleep Medicine

Anne Harter, RRT, RPSGT

Michael DeLayo, RPSGT

Douglas Rousseau, RRT, RPSGT

Vacant, Consumer Member

Athletic Trainers

The Athletic Trainers Committee met five times during FY 2011 (February through June). During the five months of meetings, the Committee and staff diligently worked on drafting regulations which the Board approved at its June 22, 2011 meeting.

Committee Members:

Karl Bailey, ATC

Lori Bristow, M.Ed, ATC

John Bielawski, ATC

Valerie Cothran, M.D., CAQ, Family and Sports Medicine

Teri M. McCambridge, M.D., Pediatrics and Sports Medicine

Consumer Member,Vacant

Andrew Morris Tucker, M.D., Orthopedic and Sports Medicine

Steven Horwitz, D.C., Sports Medicine

Karen James, OTR/CHT - Occupational Therapist

Richard Peret, PT - Physical Therapist

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 94,223 total practitioner records in the profile system. This includes 39,426 active practitioners.

FY 2011 marked the ninth 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 Board also sends email notifications to select specialties during state emergencies in cooperation with the Department and the Office of Preparedness and Response.

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 2010	**FY 2011**
Number of logins	7,418	7,693
Number of Practitioners searched	23,112	31,982
Number of active facilities	28	27

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 other policy documents. The unit handles telephone inquiries and correspondence related to policy issues, coordinating with appropriate subcommittees of the Board.

During FY 2011, regulatory changes were adopted for licensure of radiation technologists (COMAR 10.32.10) and licensure of respiratory care practitioners (COMAR 10.32.11). A new chapter of regulations, relating to performance of cosmetic medical procedures, was also adopted. Extensive work was also conducted on amendments to the physician assistant licensing regulation and a new chapter of regulations relating to athletic trainers. Development of amendments to COMAR 10.32.02, regulations relating to disciplinary procedures and hearings, which was put off several years ago in light of anticipated legislative action relating to all of the health occupational boards, was re-initiated. Sanctioning guidelines, required by HB 114 (Chapter 534, Acts of 2010), are being developed.

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

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

Monitoring by the Probation analysts may include further investigation that results in new charges, orders to show cause, summary suspensions, and surrenders for violations of probation and other provisions of the Maryland 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 2011, the Compliance Division received and resolved the following complaints as set out in the table below along with data for 2009 and 2010:

Performance Measures	FY 2009	FY 2010	FY 2011
New Complaints Received	995	994	988
Complaints Pending from Previous Fiscal Year	656	702	739
Total Complaints	1,651	1,696	1727
Complaints Closed without Formal Disciplinary Action	632	628	589
Complaints Closed with Nonpublic Advisory Letter	222	227	167
Complaints Closed with Formal Action	95	102	180
Total Complaints Closed	949	957	936
Complaints Pending	702	739	791
Participants Under Monitoring in Probation	110	110	120

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, and the respondent (i.e. licensee who is the subject of the complaint) is requested to respond to the complaint. In most standards of quality care cases 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 because no violation of the Medical Practice Act occurred. Cases not closed will go to a full investigation.

The Intake Unit received and processed 988 complaints during FY 2011. 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). The Intake Unit generated 129 advisory letters, prepared 10 Orders in reciprocal cases (i.e. cases where Maryland takes action because another state took action against the licensee) and processed 12 cases involving deficiencies of continuing medical education credits (first-time offenders receive an administrative fine for missing CME/CEU hours).

Investigations Unit

The Investigations 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 and investigates anonymous complaints.

The complaints received at the Board cover a wide range of allegations, including but not limited to, boundary violations, sexual improprieties, substance abuse, standard of care and standard of documentation violations, illegal and illegitimate prescriptions, professional, physical or mental incompetency, misrepresentations in the medical record and in applications

and practicing without a medical license. The Unit is responsible for fully developing the cases through objective investigative fact finding directed towards proving or disproving each alleged 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.

Based on information gathered during an investigation, the Board may determine that there is a risk of imminent danger to the public health, safety and welfare posed by the licensee. The Board may vote to Summarily Suspend the practitioner's license. A Summary Suspension suspends the practitioner's license before the evidentiary hearing is held at the Office of Administrative Hearings. Following the Board's vote for summary suspension, the case is transmitted to the Office of the Attorney General (OAG). Upon receipt of the Summary Suspension documents from the OAG, Compliance handles service on the Respondent and prepares for the corresponding pre or post-deprivation hearings in the matter. These pre or post deprivation hearings are not full evidentiary hearings; no witnesses are permitted. The issue is whether or not the respondent is an imminent danger to the public. If the respondent is dissatisfied with the result, he or she can also request an evidentiary hearing at the Office of Administrative Hearings. Once the pre or post deprivation hearing at the Board is completed, a summary suspension case follows the usual track of issuing a formal charging document, offering a settlement conference, and if not settled, a full evidentiary hearing at the Office of Administrative Hearings.

In FY 2010, the Board issued 8 Summary Suspension Orders. In FY 2011 the Board issued 16 Summary Suspension Orders and held 16 hearings before the full Board on those orders.

In standard of care case(s), analysts also handle the supplemental response process required by HB 114/SB 291 (Chapters 533 and 534, Acts of 2010) whereby, in any peer review initiated after July 1, 2010, the Board provides the licensee under review with an opportunity to review the completed peer review report and provide a supplemental response to the Board before the Board decides whether to issue charges.

The unit reviews applications for dispensing permits if the Board has an open investigation on the applicant. These applications are reviewed by Compliance staff from the public protection perspective.

The unit also handles through the investigations arm, the review of Continuing Medical Education (CME) credit with concerns arising from the Board's full investigations processes. Investigations are conducted to determine compliance with or lack thereof of the CME requirement.

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.

Compliance Administration Unit

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

Notification of Board Disciplinary Actions and Mandated Reporting of Actions

The Unit provides notification to the public of the Board's disciplinary actions by updating the Physician and Practitioner profiles on the Board's website pursuant to §14-411.1 of the Health Occupations Article. The Unit notifies hospitals, health maintenance organizations or other health care facilities pursuant to §14-411 of the Health Occupations Article and other interested parties such as the State Medical Assistance Compliance Administration and prepares summaries of the Board's disciplinary actions for the newsletter. The Unit completes comprehensive reports of all disciplinary actions to the National Practitioner Data Bank (NPDB), a national information clearinghouse related to professional competence and conduct and the Healthcare Integrity and Protection Data Bank (HIPDB), a national data collection program for reporting and disclosing certain final adverse actions taken against health care practitioners and providers. The Board also reports all disciplinary actions related to physicians and the unauthorized practice of medicine to the Federation of State Medical Boards (FSMB), a national non-profit organization representing the 70 medical and osteopathic boards of the United States and its territories.

Case Resolution Conference

After service of charges, the Board offers the respondent a Case Resolution Conference (CRC) which is a voluntary, informal, and confidential proceeding to explore the possibility of a consent order or other expedited resolution of the matter. The Board has a designated CRC committee comprised of a panel of the Board which meets with the respondent and administrative prosecutor to negotiate such a settlement. A proposed consent order must be affirmed by a majority of the quorum of the Maryland Board of Physicians. During FY 2011, the CRC reviewed 75 charged cases and Compliance Administration staff presented 62 Consent Orders to the Board for ratification. Cases that are settled by a Consent Order do not proceed to a formal, evidentiary hearing.

Cases Proceeding to the Office of Administrative Hearings

A licensee may request an evidentiary hearing in lieu of CRC or following CRC. The Compliance Administration Unit is responsible for referring the case to the Office of Administrative Hearings (OAH). Following the evidentiary hearing, OAH issues a proposed decision which is received by the Unit. Both parties, the licensee and the administrative prosecutor, may file with the Board exceptions to the OAH decision. Once exceptions are filed by the parties, the case is set for an Exceptions Hearing before the full Board. After consideration, the Board may accept, reject or modify the proposed decision of the Administrative Law Judge (ALJ). During FY 2011, the Board had (7) Exceptions Hearings. In addition, the Board considered five (5) proposed ALJ decisions in cases where the parties did not file exceptions.

Probation and Active Monitoring of Licensees under Board Order

At the end of FY 2011, two Probation Analysts in the Unit were actively monitoring 120 licensees who are under a Board Order requiring terms and conditions for continued practice. Terms and conditions could include probation, chart review, peer review, enrollment in the Maryland Professional Rehabilitation Program (MPRP), completion of coursework, payment of fines and any other sanction imposed by the Board.

The unit is also responsible for monitoring those licensees who are suspended. These licensees are required to complete terms and conditions before they are allowed to petition the Board to terminate their suspension. After completion of terms and conditions of the Board's order, a licensee can request termination of probation and/or suspension. This process generally involves submitting a petition to the Board, further investigation by the Probation Analyst and verification of the conditions being met. The case is then presented to the Termination of Order Panel, comprised of a panel of the Board. In FY 2011, 26 cases (21 Termination of Probation and 5 Termination of Suspension) were presented by the Probation Analysts to the Termination of Order Panel. In FY 2011, the Probation Analysts presented five (5) cases to the Reinstatement Inquiry Panel.

Licensees are responsible for compliance with their orders and rehabilitation agreements with the Board. However, the active monitoring and investigating assists and encourages the licensees to improve and meet the requirements the Board has set for them. Any potential violations of Board Orders are investigated as violations of the order issued by the Board. Based on these investigations, the Board can take the appropriate action which could include issuing charges for violations of probation and show cause hearings, all of which may result in further sanctioning by the Board. The licensee is provided with a Show Cause hearing before the Board to demonstrate why the Board should not take further disciplinary action. In FY 2011, the Board held five (5) Show Cause Hearings.

Enforcement of Maryland's Self-referral law

The Maryland self-referral law, enacted in 1993, prohibits a health care practitioner from referring a patient to another health care entity in which the health care practitioner has a financial interest. This is a complicated law with many exceptions. The Board of Physicians issued a declaratory ruling in 2006 addressing particular fact patterns of alleged self-referrals, with the intent of indicating the Board's view on the propriety of certain referrals. The Board's ruling on MRI scans was appealed and was affirmed by Maryland's highest court, the Maryland Court of Appeals on January 24, 2011.

In March of 2011, the Board opened preliminary investigations on one hundred and forty (140) individual licensed physicians as a result of information known to the Board of possible violation of the self-referral statute with respect to MRI or CT scans. The physicians are affiliated with group practices where the Board had information that the practice owned or leased MRI equipment. In June of 2011, the Board opened preliminary investigations on additional forty-seven (47) physicians as a result of complaints concerning radiation therapy services. The Board is currently investigating a total of one hundred and eighty-seven (187) physicians for possible violations of the self-referral law.

Maryland Professional Rehabilitation Program

The Compliance Administration Unit monitors the contract awarded to The Center for a Healthy Maryland, the entity that administers the Board's rehabilitation program, 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 licensees who are in need of treatment and rehabilitation for alcoholism, chemical dependency, or other physical, or psychological conditions. The MPRP develops a comprehensive rehabilitation plan for participants which involve providing information, testing, evaluation, referral for treatment and monitoring of the licensees' adherence to the requirements.

Pursuant to SB 255 (Chapter 539) passed during the 2007 Legislative Session, the MPRP provides services only to individuals whom the Board refers in writing. The referrals can include any individual licensed by the Board or applicants for licensure. Compliance Administration staff and MPRP staff communicate frequently and have at least two meetings per quarter to discuss participants that have been referred by the Board.

At the end of FY 2011 there were a total of 43 participants in the MPRP.

Participants by Licensure Type

Licensure Type	Number of Participants
M.D. or D.O.	35
Physician Assistant	5
Nuclear Medicine Technologists	1
Respiratory Care Practitioners	2
Total Participants	43[1]

The presenting problems (more than 1 in at least one instance in the MPRP) are as follows:

Participants by Category of Problem

Category of Problem	FY 2010	FY 2011
Alcohol	6	6
Drug	11	20
Psychiatric Diagnosis	8	9
Dual Diagnoses*	8	8
Other-Boundary/Behavioral	2	0
	35	43

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

[1] Of the 43 participants, there are 34 active licensees and 9 licensees without licenses.

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.
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Case Manager

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

Peer Review

To determine whether care provided by a physician meets the standard of care, Maryland law mandates that the Board obtain independent (neither Board members or staff) peer reviews of the incident or care. The Compliance Administration Unit monitors the peer review contracts for the Board. This involves approving proposed peer reviewers, sending and receiving cases to the contractors, performing quality assurance on the peer review reports received and ensuring contract compliance and acceptable performance by the contractors.

Obtaining consultants and expert witnesses in standard of care cases is highly regulated in Maryland. The Maryland statute governing the peer review process from 2003 to June 1, 2007, specified that in obtaining peer reviews for standard of care cases, the following procedures had to be used:

1. The medical board could only obtain consultants and expert witnesses (known as "peer reviewers" in Maryland) by contracting with an outside entity or entities.
2. Two peer reviewers were required; if the reviewers split on the question of whether there was a violation of the standard of care, a third review was mandated.
3. There was no exception to this process.

Senate Bill 255 (Chapter 539, Acts of 2007) 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 or other qualified bidders. Senate Bill 255, also lifted the requirement of the third review and allowed the Board to contract on a sole source basis with specialty health care provider societies.

In 2008, three responsive bidders were awarded contracts for a five-year term. Two specialties, psychiatry and anesthesiology, were not included in the Invitation for Bid (IFB). The Board also entered into sole source contracts with the Maryland Psychiatric Society (MPS), the Maryland Society of Anesthesiologists (MSA) and the Maryland Society of Emergency Physicians (MAEP) for three year terms.

The peer review contractors' activity for FY 2010 and FY 2011 is as follows:

Contractor:	Permedion		Maryland Psychiatric Society		Maryland Society of Emergency Physicians		Maryland Society of Anesthesiologists	
	FY2010	FY2011	FY2010	FY2011	FY2010	FY2011	FY2010	FY2011
Total Number of Cases Referred	7	81	8	11	1	0	2	1
Total Number of Cases Returned	2	65	6	7	0	1	2	1
Average Number of Days for return	40	77	68	77	0	62	73	26

Notes: **1.** This does not reflect the FY 2010 activity of the contractor who was terminated. The FY 2010 activity for the contractor was: 90 cases referred; 63 returned; average time for return 105 days.
2. The peer review contractor is required to return completed reviews within 90 days. Reviews for Expedited review cases are to be returned to the Board within 30 days of referral. The average number of days for return includes both standard and expedited cases.

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 2011, the Board received 631 consumer complaints and 357 complaints from other sources, for a total of 988 complaints. When added to the complaints pending from FY 2010, the total number of complaints requiring investigation was 1727

The Board dismissed 589 complaints with no action and closed 167 with Advisory Opinions. The Board issued fines totaling $131,775 and closed 136 complaints with formal actions and 44 with other disciplinary orders, resulting in 936 complaints closed in FY 2011.

In addition to the 136 complaints closed with disciplinary actions (117 involving physicians; 19 involving allied health providers) the Board terminated 28 probations, orders and agreements (24 involving physicians and 4 involving an allied health provider), and issued 16 other orders, including but not limited to interim orders (for example, summary suspension orders), denials of reinstatement, cease and desist orders, violations of probations, terminations of suspensions and probation after suspension, and reinstatement orders. Therefore, the Board took action on a total of 180 licenses.

- **Advisory Opinions**

During FY 2011, the Board sent 167 advisory opinions to practitioners, which are confidential letters that inform, educate, or admonish a health care provider in regard to the practice of medicine under the MarylandMedical Practice Act. The various issues addressed in these letters include: 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 2011, the Board opened investigations on 750 physician licensees. The total allegations against the physicians are 1,118 as found in Table A beginning on page 23.

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

During FY 2011, the Board completed investigations of 1,130 allegations for discipline. The allegations brought against physicians and the average length of time spent investigating these allegations appears in Table B beginning on page 26. 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, 2011, 181 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.

	FY 2010	FY 2011
Case Management (full investigation)	69	73
Peer Review	16	6
Attorney General's Office	77	91
Prosecutor's Office (cases not yet charged)		42
Hearing Office (cases where charges have been issued, however, the charges have not yet been resolved)		49
Board Counsel	0	11
Total Cases	162	181*

*Note: In each category, these figures represent multiple case numbers on the same Respondent.

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

Peer Review: The 6 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 who did not complete the cases in a timely manner and referred to another contractor.

Attorney General's Office: 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. Productivity of the Investigative Unit in bringing cases to the Board for charging and a number of cases requiring emergency action and summary suspension processes resulting in the OAG receiving 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 91 cases at the Office of the Attorney General at the end of the fiscal year were transmitted as follows:

Prosecutor's Office (cases not yet charged)		Hearing Office (cases where charges have been issued, however, the charges have not yet been resolved)	
FY 2007	0	FY 2007	3
FY 2008	0	FY 2008	9
FY 2009	1	FY 2009	6
FY 2010	15	FY 2010	23
FY 2011	26	FY 2011	8
Total	42	Total	49

D. The number of physicians who were reprimanded or placed on probation, or who had their licenses suspended or revoked during FY 2011

Permanent Revocation	3
Revocation	5
Permanent Revocation and Fine	1
Permanent Surrender	4
Surrender	3
Summary Suspension	16
Summary Suspension continued	13
Stay of Summary Suspension lifted	3
Summary Suspension terminated; Probation	3
Suspension	14
Suspension and Fine	1
Suspension Stayed and Probation	1
Denial of Application for Initial Medical License	2
Denial of Reinstatement of License	2
Reinstatement of License; Probation	2
Probation	7
Reprimand	8
Reprimand and Probation	12
Reprimand, Probation and Fine	1
Reprimand and Fine	1
Administrative Fines	14
Fines for Unlicensed Practice	4
Termination of Probation	19
Board Order affirmed by Appellate Court	1
Entrance into MPRP	1
Cease and Desist Order	2
Total	143

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 Action (Advisory Letters)	167
Total Number of Probation Cases	120
Charges Issued	86
Charges Dismissed	3
Total Fines for all Respondents	$126,775
Total Fines for Physician & allied health licensees	$ 98,375
Fines for Fraudulent Representation as Physicians or Practicing Medicine w/o license	$ 29,400

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

A total of 959 allegations (in 791 cases) remain unresolved and are pending before the Board as of July 1, 2011.

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 2011:

Number of Allied Health Practitioners	**Investigations**
Physician Assistant (C)	27
Radiographer and Radiation Therapist (R,O,M)	16
Nuclear Medicine Technologist (N)	2
Respiratory Care Practitioner (L)	20
Total	**65**

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 2011, the Board issued 19 formal actions in regard to allied health practitioners.

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 Agreements

During FY 2011, the Board entered into 2 Corrective Action agreements, 6 Disposition agreements and 2 Termination of Disposition agreements with physician licensees.

TABLE A NUMBER OF ALLEGATIONS AGAINST PHYSICIANS INVESTIGATED UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER HO §14-404 COMPLAINTS FILED DURING FY 11		
Grounds	Description	Physicians
404(a)1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	0
2	Fraudulently or deceptively uses a license.	0
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	469
4	Is professionally, physically, or mentally incompetent.	8
5	Solicits or advertises in violation of HO§14-503.	0
6	Abandons a patient.	8
7	Habitually is intoxicated.	1
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	9
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.	2
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	1
11	Willfully makes or files a false report or record in the practice of medicine.	21
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.	64
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.	0
18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	24
19	Grossly over utilizes health care services.	10

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.	66
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.	337
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.	4
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.	37
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.	2
34	Is convicted of insurance fraud as defined in §27-801 of the Insurance Article.	
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.	27
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	0

	investigation of the Board.	
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
41	Performs a cosmetic surgical procedure in an office or a facility that is not accredited by the American Association for Accreditation of Ambulatory Surgical Facilities, the Accreditation Association for Ambulatory Health Care; or the Joint Commission on the Accreditation of Health Care Organizations or certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act.	0
404(b)	Crimes of moral turpitude	3
	TOTAL ALLEGATIONS AGAINST PHYSICIANS	1118

TABLE B			
ALLEGATIONS BROUGHT AGAINST PHYSICIANS UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER HO §14-404- COMPLAINTS RESOLVED DURING FY 11			
Grounds	**Description**	**Allegations**	**Days**
1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	8	713
2	Fraudulently or deceptively uses a license.	3	832
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	452	293
4	Is professionally, physically, or mentally incompetent.	8	713
5	Solicits or advertises in violation of HO§14-503.	1	1918
6	Abandons a patient.	15	157
7	Habitually is intoxicated.	2	627
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	10	377
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	462
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	1	1918
11	Willfully makes or files a false report or record in the practice of medicine.	29	504
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.	1	1918
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.	66	186
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.	1	1918
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.	1	1918

18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	10	920
19	Grossly over utilizes health care services.	8	986
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.	53	121
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.	373	419
23	Willfully submits false statements to collect fees for which services are not provided.	23	444
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.	29	622
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.	1	75
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	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	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.	0	0
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.	26	198
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.	3	1185
41	Performs a cosmetic surgical procedure in an office or a facility that is not accredited by the American Association for Accreditation of Ambulatory Surgical Facilities, the Accreditation Association for Ambulatory Health Care; or the Joint Commission on the Accreditation of Health Care Organizations or certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act.	0	0
404(b)	Crimes of moral turpitude	1	434
	TOTAL RESOLVED ALLEGATIONS AGAINST PHYSICIANS	**1130**	

Litigation

The Office of the Attorney General (OAG) provides day-to-day legal advice to the Board regarding ongoing cases, investigations, procedures, contractual and procurement issues, and the writing of decisions. The OAG 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 2011

Kermit Bonovich, M.D. v. Maryland State Board of Physicians (Circuit Court for Harford County, No. 12-C-11-000008). Dr. Bonovich filed a petition for judicial review of the Board's order revoking his medical license after he admitted at a Show Cause hearing that he violated the conditions of a previous Consent Order. The circuit court granted the Board's Motion to Dismiss Dr. Bonovich's petition for judicial review.

Mark Davis, M.D. v. Knipp, et al, Court of Special Appeals Case No. 1939, September Term, 2010. Dr. Davis 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. The circuit court dismissed all claims as to all defendants. Dr. Davis appealed to the Court of Special Appeals. Oral argument is scheduled for November of 2011.

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. In December, 2010, the Court of Special Appeals notified the parties that it would decide the case without oral argument. We are awaiting the Court's decision.

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.

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, petitioned 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 moved to dismiss the case, and the circuit court granted the Board's motion.

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 Court of Special Appeals, however, reversed the decision of the circuit court and reinstated the Board's decision.

Joseph G. Jemsek, M.D. v. Maryland State Board of Physicians (Court of Special Appeals, No. 02813 (September Term, 2011). The Board denied Dr. Jemsek a Maryland

medical license based on discipline by the State of North Carolina for violations of the standard of quality care and unprofessional conduct in that state. The circuit court affirmed the Board's decision. Dr. Jemsek then appealed to the Court of Special Appeals. The case will be argued in March of 2012.

*Charles Y. Kim v. Maryland State Board of Physician*s (Court of Appeals, No. 1, September Term, 2011). 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. On appeal, the Court of Special Appeals also affirmed the Board's decision. The Court of Appeals granted *certiorari*, and the case is scheduled to be argued in that court on August 31, 2011.

Ian Kirk 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, but the court denied certiorari.

George 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 did not file a timely appeal. Dr. Lakner then filed a motion in the circuit court to "Reinstate Appeal Previously Filed." The circuit court denied that motion, and the Court of Special Appeals affirmed that ruling, thus ending the appeal.

In *Maryland State Board of Physicians v. Eist*, 417 Md. 545 (2011), the Court of Appeals ruled that a physician who objects to a Board subpoena for medical records, issued in response to a complaint about the physician's treatment of a patient, has the burden of filing a motion to quash the subpoena in the circuit court; and that in the absence of such a motion, or the production of the subpoenaed records, the Board may charge the physician with a failure to cooperate with its investigation. Dr. Eist filed a petition for *certiorari* in the Supreme Court of the United States. The Supreme Court has not decided whether to grant *certiorari*.

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, 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. The Court of Special Appeals upheld the Board's decision in every respect.

Potomac Valley Associates, et al v. Maryland State Board of Physicians, 417 Md. 622 (2011) This was 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. The Circuit Court of Montgomery County affirmed the Board's Declaratory Ruling in May of 2008. The Court of Appeals took

jurisdiction of the case on its own motion and affirmed the Board's decision on January 24, 2011.

Mahmoud Shirazi v. Maryland State Board of Physicians, 23 A. 3d 269 (Md. 2011). 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, and that court also affirmed the Board's decision.

Howard I. Saiontz, M.D. v. Maryland State Board of Physicians (Circuit Court for Baltimore County, No. C-11-1314). Dr. Saiontz filed a petition for judicial review of the Board's final order which reprimanded him and placed him on a two-year probation with terms and conditions for unprofessional conduct in the practice of medicine and violation of the Board's regulations on sexual misconduct, based on his failure to provide two female patients with privacy for disrobing and his uninvited involvement in the removal of their clothing and in redressing them. The Board filed a Motion to Dismiss his petition because he filed it late, and Dr. Saiontz filed an Opposition to the Board's motion. The case is pending in that court.

Pradeep Srivastava, M.D. Maryland State Board of Physicians (Circuit Court for Montgomery County, No. 343136-V). Dr. Srivastava filed a petition for judicial review of the Board's order suspending his medical license on the ground of conviction of a crime of moral turpitude based on his criminal conviction for concealing more than $40 million in income taxes and willfully evading more than $16 million in income taxes. The case was briefed and is pending in that court.

In re Subpoena issued by the Maryland Board of Physicians to Union Memorial Hospital. (Circuit Court for Baltimore City, Case No. 24-C-11-000872). This hospital filed suit against the Board, challenging the Board's investigative subpoenas and seeking other relief limiting the Board's investigation. After the Board moved to dismiss and provided clarification regarding its process, the hospital dismissed its suit.

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	2015
Suresh K. Gupta, M.D.	Physician Internal Medicine/Geriatrics	2014
Tricia J. Thompson Handel, D.O	Physician Emergency Medicine	2013
Jonathan A. Lerner, PA-C	Physician Assistant	2013
John R. Lilly, M.D.	Physician Family Medicine	2014
Hilary T. O'Herlihy, M.D.	Physician Cardiology	2014
Nallan C. Ramakrishna, M.D.	Physician Cardiology	2012
Beryl J. Rosenstein, M.D.	Physician Pediatrics	2015
Devinder Singh, M.D.	Full-time Faculty Appointment	2015
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
Frederick W. Walker, M.D.	Physician Breast Surgery	2015
Samuel K. Himmelrich, Sr.	Public Member with Experience in Risk Management	2013
Brenda G. Baker	Consumer	2012
Deborah R. Harrison	Consumer	2015
Richard Bittner, Esquire	Consumer	2014
Carmen M. Contee	Consumer	2012
Harold A. Rose	Consumer	2013

EXHIBIT 2

ANNUAL REPORT TO LEGISLATIVE POLICY COMMITTEE – FY 2011

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 2011: 27,972

B. Participation: 62 hospitals, 232 nursing homes and health maintenance organizations report information on privileges, and request data generated by the system.

C. Malpractice Data: 259 certificates of merit records were added to the malpractice component of the data system, involving 358 physicians. The Board generated 3997 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 167 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 736 letters to health care facilities informing them of disciplinary actions and or charges against 126 physicians who have privileges at their facilities.

F. Inquiries from Health Care Facilities: 6 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 4,994 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 twenty-three **(123)** cases for prosecution in fiscal year 2011, after determining that 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 41 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; § 14-606, which provides for civil fines for unlicensed practice; 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 one hundred thirty **(130)** charging documents, of which seventeen **(17)** were summary suspensions: **(Schwartzberg (vacated), Tauraso, Reddy, Shepard, Riley,**

Hooper, Barson, Ziscovici, Mullings, Fernandes, Allen, Geier, Durocher, Paulson, Lankford, Hobelman, and Nyman).

In FY 2011, the Office also prosecuted and/or closed a total of one hundred and ten **(110)** cases: thirty-one **(31)** Final Orders; sixty-six **(66)** Consent Orders; five **(5)** Letters of Surrender – **Libre, Gill, Ferrer, Zuckerman, and Katon** three **(3)** Return to Board ("RTB") – **Blair, Srivastava, and Cohen, M.** (vote on summary suspension rescinded).There were ten **(10)** Fines: **Robertson** ($5,000); **McCabe** ($10,000); **Marinelli** ($5,000); **Williams**, ($12,400); **Dauer** ($2,500) **Wallace** ($5,000); **Luko** ($1,000); **Eslin** ($1,000); **Cohen** ($5,000); and **Tauraso** ($50,000); and also seven **(7)** Revocations - **Petty, Bonovich, Girgis, Shepard, Mitchell, Shah, and Greenberg.** There were four **(4)** Charges Dismissed: **Beals, Simlote, Fadul, Simmons-Clemmons.** Seven **(7)** Reinstatements or Applications were Denied – **Adam, Fullam, Jereis, Kidanie, Shamaeizadeh, Sunderland, and Toso**; two **(2)** Reinstatements were Granted: **McKenney, and Oltman;** and **(1)** License Granted – **Zedd**. There were two **(2)** administrative closures - **respondents deceased: Selden and Manns.**

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 twenty-three (123) cases in fiscal year 2011. The Office filed one hundred and thirty (130) charging documents of which seventeen (17) were summary suspensions. Thirty-one (31) were closed with final orders, and sixty-six (66) cases were closed with consent orders, five (5) letters of surrender, three (3) cases were returned to the Board, and ten (10) fines were imposed. The grounds for prosecution were as follows:

Grounds	No. of Cases
Under §14-404(a):	
(1)	1
(2)	1
(3)	1
(3)(a)(i)	9
(3)(a)(ii)	45
(4)	16
(5)	1
(6)	3
(8)	5
(9)(i)	1
(9)(ii)	3
(11)	7
(12)	1
(17)	3
(18)	7
(19)	10
(21)	1
(22)	38
(23)	4
(27)	16
(33)	5
(36)	5
(40)	34
14-404:	
(b)(1)	2
(b)(2)	0
14-204(a)(iii)	1
14-205(a)(iii)	1
14-307(b)	1
COMAR 10.32.01.12(B) (1), (3), (4)&(10)	1
COMAR 10.32.01.09	1

COMAR 10.32.01.12(B)(1), (3), (4) & (10)	1
COMAR 10.32.03.11B(3) & (5)	1
COMAR 10.32.03.11B(2), (3), (7), (8)(a) (b), (10), (22), (23) & (24)	1
COMAR: 10.32.10.14(B)(3), (10), (11), (12), (14), (17) & (28)	1
COMAR 10.32.01.09 & 14-401 (a)(3)(ii), (11), (33), & (36)	1
COMAR: 10.32.17B(b)(c)	1
COMAR: 10.32.17B(4)	1
CNMT – 5B(a)(3), (10), (11), (12), (14) & (18)	1
14-307(b)	1
14-316(d)(4)	1
14-4B-09(b)(1)	1
14-5A-17(a)(3)	1
14-5A-17(a)(4)	1
14-4B14(a)(3) & (7)	1
14-5B-14(a)(13), (4), (7) & (8)(ii)	1
14-316(d)(4)	1
14-601 Practicing w/o License	4
14-602	3
5B(a)(3)(10)(11)(12)(18)	1
15-314(2)(3)(4)&(5)	1
15-314(a)(3)(i) & (ii) & (36)	1
Violation of Consent Orders	6
Violation of Probation	1
Violation of Disposition Agreement	1
Petition for Reinstatement	7
Petition to Lift Suspension	1
Intent to Deny	6
Summary Suspensions	17
Letters of Surrender	5
Pre-Charge Consent Order	1