

HOUSE BILL 1265

J2

7lr3278
CF SB 549

By: **Chair, Health and Government Operations Committee**

Introduced and read first time: February 10, 2017

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physicians and Allied Health Advisory Committees – Sunset**
3 **Extension and Program Evaluation**

4 FOR the purpose of continuing the State Board of Physicians and the related allied health
5 advisory committees in accordance with the provisions of the Maryland Program
6 Evaluation Act (Sunset Law) by extending to a certain date the termination
7 provisions relating to statutory and regulatory authority of the State Board of
8 Physicians and the committees; altering the content of a certain statistical report
9 regarding complaints of sexual misconduct; authorizing certain health occupations
10 boards to enter into a certain agreement regarding prescriber–pharmacist
11 agreements with the State Board of Pharmacy; altering the definition of “allied
12 health professional” to include naturopathic doctors; requiring the State Board of
13 Physicians to submit an annual report on or before a certain date each year to the
14 Governor, the Secretary of Health and Mental Hygiene, and the General Assembly
15 that includes certain data on a fiscal year basis, codifying the requirement that the
16 State Board of Physicians provide certain training at least at certain intervals to the
17 Office of Administrative Hearings; authorizing the State Board of Physicians to
18 discipline individuals exempt from licensure under a certain provision of this Act in
19 a certain manner and for certain grounds; requiring the State Board of Physicians
20 to consider certain factors in determining whether to take disciplinary action based
21 on criminal history record information against certain physicians or allied health
22 professionals, rather than in determining whether to renew or reinstate the license;
23 altering the circumstances under which a disciplinary panel is required to refer an
24 allegation to peer review; repealing certain provisions of law rendered obsolete by
25 certain provisions of this Act; repealing the requirement that hospitals, related
26 institutions, and alternative health systems report certain information to the State
27 Board of Physicians at certain intervals; altering the circumstances under which
28 certain provisions of law related to penalties for the unlicensed practice of medicine
29 do not apply to certain licensees; making conforming and technical changes requiring
30 the State Board of Physicians, under certain circumstances, to submit a certain
31 proposal to certain committees of the General Assembly regarding moving certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



cases from the jurisdiction of the full State Board of Physicians to the jurisdiction of the disciplinary panels; requiring that the State Board of Physicians include certain information in certain reports; limiting the scope of a certain full evaluation to certain matters; and generally relating to the State Board of Physicians and the related allied health advisory committees.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 1–212(e), 12–6A–03(b), 14–101(a–1), 14–302(a), 14–316(g), 14–401.1(a)(5)(i), (c)(2), (k), and (l), 14–411.1(b)(6)(iv), 14–413(a)(1) and (2), 14–414(a)(1) and (2), 14–5A–13(g), 14–5A–25, 14–5B–12(g), 14–5B–21, 14–5C–14(g), 14–5C–25, 14–5D–12(h), 14–5D–20, 14–5E–13(g), 14–5E–25, 14–5F–15(d), 14–5F–32, 14–602(c), 14–606(a)(5), 14–702, 15–307(g), and 15–502

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – Health Occupations

Section 14–205.1, 14–205.2, and 14–302.2

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 14–401.1(c)(1) and 14–606(a)(4)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing

Article – Health Occupations

Section 14–401.1(j)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance

Section 24–201(a)

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 24–201(d)

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government
Section 8–405(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–405(b)(5)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing
Chapter 539 of the Acts of the General Assembly of 2007
Section 4 and 5

BY repealing
Chapter 109 of the Acts of the General Assembly of 1988, as amended by Chapter
271 of the Acts of 1992 and Chapter 662 of the Acts of 1994
Section 5

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

Article – Health Occupations

1–212.

(e) (1) (i) Each year, each health occupations board shall submit a
statistical report to the Secretary, indicating [the]:

**1. THE number of complaints of sexual misconduct received
[and the resolution of each complaint];**

**2. THE NUMBER OF LICENSEES, CERTIFICATE HOLDERS,
AND COMPLAINANTS INVOLVED IN THE COMPLAINTS OF SEXUAL MISCONDUCT
LISTED SEPARATELY BY CATEGORY;**

**3. THE NUMBER OF COMPLAINTS OF SEXUAL
MISCONDUCT STILL UNDER INVESTIGATION;**

**4. THE NUMBER OF COMPLAINTS OF SEXUAL
MISCONDUCT THAT WERE CLOSED WITH NO DISCIPLINARY ACTION;**

**5. THE NUMBER OF COMPLAINTS OF SEXUAL
MISCONDUCT THAT RESULTED IN INFORMAL OR NONPUBLIC ACTION;**

1 **6. THE NUMBER OF COMPLAINTS OF SEXUAL**
2 **MISCONDUCT THAT WERE REFERRED TO THE OFFICE OF THE ATTORNEY GENERAL**
3 **FOR PROSECUTORIAL ACTION;**

4 **7. THE NUMBER OF COMPLAINTS OF SEXUAL**
5 **MISCONDUCT THAT RESULTED IN EACH OF THE FOLLOWING:**

6 **A. LICENSE REVOCATION;**

7 **B. SUSPENSION;**

8 **C. PROBATION;**

9 **D. REPRIMAND; AND**

10 **E. DENIAL OF LICENSURE;**

11 **8. THE NUMBER OF COMPLAINTS OF SEXUAL**
12 **MISCONDUCT THAT WERE FORWARDED TO LAW ENFORCEMENT FOR POSSIBLE**
13 **CRIMINAL PROSECUTION; AND**

14 **9. FOR ANY OTHER ACTIONS TAKEN REGARDING**
15 **COMPLAINTS OF SEXUAL MISCONDUCT, A DETAILED BREAKDOWN OF THE TYPES OF**
16 **ACTIONS TAKEN.**

17 (ii) The report shall cover the period beginning October 1 and ending
18 the following September 30 and shall be submitted by the board not later than the
19 November 15 following the reporting period.

20 (2) The Secretary shall compile the information received from the health
21 occupations boards and submit an annual report to the General Assembly, in accordance
22 with § 2–1246 of the State Government Article, not later than December 31 of each year.

23 12–6A–03.

24 (b) (1) (I) [An] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
25 **PARAGRAPH, AN** authorized prescriber who has entered into a prescriber–pharmacist
26 agreement shall submit to the health occupations board that regulates the authorized
27 prescriber a copy of the prescriber–pharmacist agreement and any subsequent
28 modifications made to the prescriber–pharmacist agreement or the protocols specified in
29 the prescriber–pharmacist agreement.

30 **(II) A HEALTH OCCUPATIONS BOARD MAY ENTER INTO AN**
31 **AGREEMENT WITH THE BOARD OF PHARMACY THAT REQUIRES AUTHORIZED**

PRESCRIBERS REGULATED BY THE HEALTH OCCUPATIONS BOARD TO SUBMIT TO THE BOARD OF PHARMACY DOCUMENTATION THAT OTHERWISE WOULD BE REQUIRED TO BE SUBMITTED TO THE HEALTH OCCUPATIONS BOARD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) A licensed pharmacist who has entered into a prescriber–pharmacist agreement shall submit to the Board of Pharmacy a copy of the prescriber–pharmacist agreement and any subsequent modifications made to the prescriber–pharmacist agreement or the protocols specified in the prescriber–pharmacist agreement.

14–101.

(a–1) “Allied health professional” means an individual licensed by the Board under Subtitle 5A, 5B, 5C, 5D, [or] 5E, **OR 5F** of this title or Title 15 of this article.

14–205.1.

ON OR BEFORE OCTOBER 1 EACH YEAR, THE BOARD SHALL SUBMIT TO THE GOVERNOR, THE SECRETARY, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANNUAL REPORT THAT INCLUDES THE FOLLOWING DATA CALCULATED ON A FISCAL YEAR BASIS:

(1) RELEVANT DISCIPLINARY INDICATORS, INCLUDING:

(I) THE NUMBER OF PHYSICIANS INVESTIGATED UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER § 14–404 OF THE HEALTH OCCUPATIONS ARTICLE;

(II) THE NUMBER OF PHYSICIANS WHO WERE REPRIMANDED OR PLACED ON PROBATION OR WHO HAD THEIR LICENSES SUSPENDED OR REVOKED;

(III) THE NUMBER OF CASES PROSECUTED AND DISMISSED AND ON WHAT GROUNDS;

(IV) THE CRITERIA USED TO ACCEPT AND REJECT CASES FOR PROSECUTION; AND

(V) THE NUMBER OF UNRESOLVED ALLEGATIONS PENDING BEFORE THE BOARD;

(2) THE AVERAGE LENGTH OF THE TIME SPENT INVESTIGATING ALLEGATIONS BROUGHT AGAINST PHYSICIANS UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER § 14–404 OF THE HEALTH OCCUPATIONS ARTICLE;

(3) THE NUMBER OF CASES NOT COMPLETED WITHIN 18 MONTHS AND THE REASONS FOR THE FAILURE TO COMPLETE THE CASES IN 18 MONTHS;

(4) FOR BOTH PHYSICIANS AND ALLIED HEALTH PROFESSIONALS:

(I) THE NUMBER OF INITIAL AND RENEWAL LICENSES ISSUED;

(II) THE NUMBER OF POSITIVE AND NEGATIVE CRIMINAL HISTORY RECORDS CHECKS RESULTS RECEIVED;

(III) THE NUMBER OF INDIVIDUALS DENIED INITIAL OR RENEWAL LICENSURE DUE TO POSITIVE CRIMINAL HISTORY RECORDS CHECKS RESULTS; AND

(IV) THE NUMBER OF INDIVIDUALS DENIED INITIAL OR RENEWAL LICENSURE DUE TO REASONS OTHER THAN A POSITIVE CRIMINAL HISTORY RECORDS CHECK; AND

(5) THE ADEQUACY OF CURRENT BOARD STAFFING IN MEETING THE WORKLOAD OF THE BOARD.

14-205.2.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL PROVIDE TRAINING AT LEAST ONCE EVERY 3 YEARS TO THE PERSONNEL OF THE OFFICE OF ADMINISTRATIVE HEARINGS IN ORDER TO IMPROVE THE QUALITY AND EFFICIENCY OF THE HEARINGS IN PHYSICIAN DISCIPLINE CASES.

(B) THE TRAINING PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE MEDICAL TERMINOLOGY, MEDICAL ETHICS, AND, TO THE EXTENT POSSIBLE, DESCRIPTIONS OF BASIC MEDICAL AND SURGICAL PROCEDURES CURRENTLY IN USE.

14-302.

(a) Subject to the rules, regulations, and orders of the Board, the following individuals may practice medicine without a license if the individuals submit to a criminal history records check in accordance with § 14-308.1 of this subtitle:

[(1) A medical student or an individual in a postgraduate medical training program that is approved by the Board, while doing the assigned duties at any office of a licensed physician, hospital, clinic, or similar facility;]

1 **CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 14-308.1 OF THIS**
2 **SUBTITLE.**

3 **(B) THE BOARD MAY DISCIPLINE AN INDIVIDUAL WHO IS EXEMPT FROM**
4 **LICENSURE UNDER SUBSECTION (A) OF THIS SECTION IN THE SAME MANNER AND**
5 **BASED ON THE SAME GROUNDS AS IF THE INDIVIDUAL WERE A LICENSED PHYSICIAN.**

6 14-316.

7 (g) (1) Beginning October 1, 2016, the Board shall require a criminal history
8 records check in accordance with § 14-308.1 of this subtitle for:

9 (i) Annual renewal applicants as determined by regulations
10 adopted by the Board; and

11 (ii) Each former licensee who files for reinstatement under § 14-317
12 of this subtitle after failing to renew the license for a period of 1 year or more.

13 (2) On receipt of the criminal history record information of a licensee
14 forwarded to the Board in accordance with § 14-308.1 of this subtitle, in determining
15 whether [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN,**
16 **BASED ON THE CRIMINAL RECORD INFORMATION, AGAINST A LICENSEE WHO**
17 **RENEWED OR REINSTATED A LICENSE,** the Board shall consider:

18 (i) The age at which the crime was committed;

19 (ii) The nature of the crime;

20 (iii) The circumstances surrounding the crime;

21 (iv) The length of time that has passed since the crime;

22 (v) Subsequent work history;

23 (vi) Employment and character references; and

24 (vii) Other evidence that demonstrates whether the licensee poses a
25 threat to the public health or safety.

26 (3) The Board may not renew or reinstate a license if the criminal history
27 record information required under § 14-308.1 of this subtitle has not been received.

28 14-401.1.

29 (a) (5) (i) If a complaint proceeds to a hearing under § 14-405 of this
30 subtitle, § 14-5A-17, § 14-5B-14, § 14-5C-17, § 14-5D-15, [or] § 14-5E-16, **OR §**

1 **14-5F-21** of this title, or § 15-315 of this article, the chair of the disciplinary panel that
2 was assigned the complaint under paragraph (2)(i) of this subsection shall refer the
3 complaint to the other disciplinary panel.

4 (c) (1) Except as otherwise provided in this subsection, after being assigned a
5 complaint under subsection (a) of this section, the disciplinary panel may:

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

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

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

11 (2) (i) **[After] IF, AFTER** being assigned a complaint **AND**
12 **COMPLETING THE PRELIMINARY INVESTIGATION**, the disciplinary panel **FINDS THAT**
13 **THE LICENSEE MAY HAVE VIOLATED § 14-404(A)(22) OF THIS SUBTITLE, THE**
14 **DISCIPLINARY PANEL** shall refer **[any] THE** allegation **[in the complaint based on §**
15 **14-404(a)(22) of this subtitle]** to the entity or entities that have contracted with the Board
16 under subsection (e) of this section for further investigation and physician peer review
17 within the involved medical specialty or specialties.

18 (ii) A disciplinary panel shall obtain two peer review reports from
19 the entity or individual with whom the Board contracted under subsection (e) of this section
20 for each allegation the disciplinary panel refers for peer review.

21 **[(j)]** Those individuals not licensed under this title but covered under §
22 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of § 14-405 of
23 this subtitle.]

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

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

31 **[(l)] (K)** A disciplinary panel, in conducting a meeting with a physician or allied
32 health professional to discuss the proposed disposition of a complaint, shall provide an
33 opportunity to appear before the disciplinary panel to both the licensee who has been
34 charged and the individual who has filed the complaint against the licensee giving rise to
35 the charge.

1 14-411.1.

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

4 (6) Medical education and practice information about the licensee
5 including:

6 (iv) The name of any hospital where the licensee has medical
7 privileges [as reported], **IF KNOWN** to the Board [under § 14-413 of this subtitle];

8 14-413.

9 (a) (1) [Every 6 months, each] **EACH** hospital and related institution shall
10 [file with] **SUBMIT TO** the Board a report [that:

11 (i) Contains the name of each licensed physician who, during the 6
12 months preceding the report:

- 13 1. Is employed by the hospital or related institution;
14 2. Has privileges with the hospital or related institution; and
15 3. Has applied for privileges with the hospital or related
16 institution; and

17 (ii) States whether, as to each licensed physician, during the 6
18 months preceding the report] **WITHIN 10 DAYS AFTER:**

19 [1.] (I) The hospital or related institution denied the
20 application of a physician for staff privileges or limited, reduced, otherwise changed, or
21 terminated the staff privileges of a physician, or the physician resigned whether or not
22 under formal accusation, if the denial, limitation, reduction, change, termination, or
23 resignation is for reasons that might be grounds for disciplinary action under § 14-404 of
24 this subtitle;

25 [2.] (II) The hospital or related institution took any
26 disciplinary action against a salaried, licensed physician without staff privileges, including
27 termination of employment, suspension, or probation, for reasons that might be grounds
28 for disciplinary action under § 14-404 of this subtitle;

29 [3.] (III) The hospital or related institution took any
30 disciplinary action against an individual in a postgraduate medical training program,
31 including removal from the training program, suspension, or probation for reasons that
32 might be grounds for disciplinary action under § 14-404 of this subtitle;

1 [4.] (IV) A licensed physician or an individual in a
2 postgraduate training program voluntarily resigned from the staff, employ, or training
3 program of the hospital or related institution for reasons that might be grounds for
4 disciplinary action under § 14–404 of this subtitle; or

5 [5.] (V) The hospital or related institution placed any other
6 restrictions or conditions on any of the licensed physicians **OR INDIVIDUALS IN A**
7 **POSTGRADUATE TRAINING PROGRAM** as listed in items [1 through 4 of this item] **(I**
8 **THROUGH (IV) OF THIS PARAGRAPH** for any reasons that might be grounds for
9 disciplinary action under § 14–404 of this subtitle.

10 (2) The hospital or related institution shall[:

11 (i) Submit the report within 10 days of any action described in
12 paragraph (1)(ii) of this subsection; and

13 (ii) State] **STATE** in the report the reasons for its action or the nature
14 of the formal accusation pending when the physician resigned.

15 14–414.

16 (a) (1) [Every 6 months, each] **EACH** alternative health system as defined in
17 § 1–401 of this article shall [file with] **SUBMIT TO** the Board a report [that:

18 (i) Contains the name of each licensed physician who, during the 6
19 months preceding the report:

20 1. Is employed by the alternative health system;

21 2. Is under contract with the alternative health system; and

22 3. Has completed a formal application process to become
23 under contract with the alternative health system; and

24 (ii) States whether, as to each licensed physician, during the 6
25 months preceding the report] **WITHIN 10 DAYS AFTER:**

26 [1.] (I) The alternative health system denied the formal
27 application of a physician to contract with the alternative health system or limited,
28 reduced, otherwise changed, or terminated the contract of a physician, or the physician
29 resigned whether or not under formal accusation, if the denial, limitation, reduction,
30 change, termination, or resignation is for reasons that might be grounds for disciplinary
31 action under § 14–404 of this subtitle; or

1 [2.] (II) The alternative health system placed any other
2 restrictions or conditions on any licensed physician for any reasons that might be grounds
3 for disciplinary action under § 14–404 of this subtitle.

4 (2) The alternative health system shall[:

5 (i) Submit the report within 10 days of any action described in
6 paragraph (1)(ii) of this subsection; and

7 (ii) State] **STATE** in the report the reasons for its action or the nature
8 of the formal accusation pending when the physician resigned.

9 14–5A–13.

10 (g) (1) Beginning October 1, 2016, the Board shall require a criminal history
11 records check in accordance with § 14–308.1 of this title for:

12 (i) Annual renewal applicants as determined by regulations
13 adopted by the Board; and

14 (ii) Each former licensee who files for reinstatement under
15 subsection (f) of this section after failing to renew the license for a period of 1 year or more.

16 (2) On receipt of the criminal history record information of a licensee
17 forwarded to the Board in accordance with § 14–308.1 of this title, in determining whether
18 [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON**
19 **THE CRIMINAL HISTORY RECORD INFORMATION, AGAINST A LICENSEE WHO**
20 **RENEWED OR REINSTATED A LICENSE**, the Board shall consider:

21 (i) The age at which the crime was committed;

22 (ii) The nature of the crime;

23 (iii) The circumstances surrounding the crime;

24 (iv) The length of time that has passed since the crime;

25 (v) Subsequent work history;

26 (vi) Employment and character references; and

27 (vii) Other evidence that demonstrates whether the licensee poses a
28 threat to the public health or safety.

29 (3) The Board may not renew or reinstate a license if the criminal history
30 record information required under § 14–308.1 of this title has not been received.

1 14-5A-25.

2 Subject to the evaluation and reestablishment provisions of the Maryland Program
3 Evaluation Act and subject to the termination of this title under § 14-702 of this title, this
4 subtitle and all rules and regulations adopted under this subtitle shall terminate and be of
5 no effect after July 1, [2018] **2023**.

6 14-5B-12.

7 (g) (1) Beginning October 1, 2016, the Board shall require a criminal history
8 records check in accordance with § 14-308.1 of this title for:

9 (i) Annual renewal applicants as determined by regulations
10 adopted by the Board; and

11 (ii) Each former licensee who files for reinstatement under
12 subsection (f) of this section after failing to renew the license for a period of 1 year or more.

13 (2) On receipt of the criminal history record information of a licensee
14 forwarded to the Board in accordance with § 14-308.1 of this title, in determining whether
15 [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON**
16 **THE CRIMINAL HISTORY RECORD INFORMATION, AGAINST A LICENSEE WHO**
17 **RENEWED OR REINSTATED A LICENSE**, the Board shall consider:

18 (i) The age at which the crime was committed;

19 (ii) The nature of the crime;

20 (iii) The circumstances surrounding the crime;

21 (iv) The length of time that has passed since the crime;

22 (v) Subsequent work history;

23 (vi) Employment and character references; and

24 (vii) Other evidence that demonstrates whether the licensee poses a
25 threat to the public health or safety.

26 (3) The Board may not renew or reinstate a license if the criminal history
27 record information required under § 14-308.1 of this title has not been received.

28 14-5B-21.

29 Subject to the evaluation and reestablishment provisions of the Maryland Program
30 Evaluation Act, and subject to the termination of this title under § 14-702 of this title, this

1 subtitle and all rules and regulations adopted under this subtitle shall terminate and be of
2 no effect after July 1, [2018] **2023**.

3 14-5C-14.

4 (g) (1) Beginning October 1, 2016, the Board shall require a criminal history
5 records check in accordance with § 14-308.1 of this title for:

6 (i) Annual renewal applicants as determined by regulations
7 adopted by the Board; and

8 (ii) Each former licensee who files for reinstatement under
9 subsection (f) of this section after failing to renew the license for a period of 1 year or more.

10 (2) On receipt of the criminal history record information of a licensee
11 forwarded to the Board in accordance with § 14-308.1 of this title, in determining whether
12 [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON**
13 **THE CRIMINAL HISTORY RECORD INFORMATION, AGAINST A LICENSEE WHO**
14 **RENEWED OR REINSTATED A LICENSE**, the Board shall consider:

15 (i) The age at which the crime was committed;

16 (ii) The nature of the crime;

17 (iii) The circumstances surrounding the crime;

18 (iv) The length of time that has passed since the crime;

19 (v) Subsequent work history;

20 (vi) Employment and character references; and

21 (vii) Other evidence that demonstrates whether the licensee poses a
22 threat to the public health or safety.

23 (3) The Board may not renew or reinstate a license if the criminal history
24 record information required under § 14-308.1 of this title has not been received.

25 14-5C-25.

26 Subject to the evaluation and reestablishment provisions of the Maryland Program
27 Evaluation Act and subject to the termination of this title under § 14-702 of this title, this
28 subtitle and all regulations adopted under this subtitle shall terminate and be of no effect
29 after July 1, [2018] **2023**.

30 14-5D-12.

(h) (1) Beginning October 1, 2016, the Board shall require a criminal history records check in accordance with § 14–308.1 of this title for:

(i) Annual renewal applicants as determined by regulations adopted by the Board; and

(ii) Each former licensee who files for reinstatement under subsection (f) of this section after failing to renew the license for a period of 1 year or more.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 14–308.1 of this title, in determining whether [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON THE CRIMINAL HISTORY RECORD INFORMATION, AGAINST A LICENSEE WHO RENEWED OR REINSTATED A LICENSE**, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The nature of the crime;

(iii) The circumstances surrounding the crime;

(iv) The length of time that has passed since the crime;

(v) Subsequent work history;

(vi) Employment and character references; and

(vii) Other evidence that demonstrates whether the licensee poses a threat to the public health or safety.

(3) The Board may not renew or reinstate a license if the criminal history record information required under § 14–308.1 of this title has not been received.

14–5D–20.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14–702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2018] **2023**.

14–5E–13.

(g) (1) Beginning October 1, 2016, the Board shall require a criminal history records check in accordance with § 14–308.1 of this title for:

(i) Annual renewal applicants as determined by regulations adopted by the Board; and

(ii) Each former licensee who files for reinstatement under subsection (f) of this section after failing to renew the license for a period of 1 year or more.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 14–308.1 of this title, in determining whether [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON THE CRIMINAL HISTORY RECORD INFORMATION, AGAINST A LICENSEE WHO RENEWED OR REINSTATED A LICENSE**, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The nature of the crime;

(iii) The circumstances surrounding the crime;

(iv) The length of time that has passed since the crime;

(v) Subsequent work history;

(vi) Employment and character references; and

(vii) Other evidence that demonstrates whether the licensee poses a threat to the public health or safety.

(3) The Board may not renew or reinstate a license if the criminal history record information required under § 14–308.1 of this title has not been received.

14–5E–25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14–702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2018] **2023**.

14–5F–15.

(d) (1) Beginning October 1, 2016, the Board shall require a criminal history records check in accordance with § 14–308.1 of this title for:

(i) Annual renewal applicants as determined by regulations adopted by the Board; and

(ii) Each former licensee who files for reinstatement under § 14–5F–16(b) of this subtitle after failing to renew the license for a period of 1 year or more.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 14–308.1 of this title, in determining whether [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON THE CRIMINAL HISTORY RECORD INFORMATION, AGAINST A LICENSEE WHO RENEWED OR REINSTATED A LICENSE**, the Board shall consider:

- (i) The age at which the crime was committed;
- (ii) The nature of the crime;
- (iii) The circumstances surrounding the crime;
- (iv) The length of time that has passed since the crime;
- (v) Subsequent work history;
- (vi) Employment and character references; and
- (vii) Other evidence that demonstrates whether the licensee poses a threat to the public health or safety.

(3) The Board may not renew or reinstate a license if the criminal history record information required under § 14–308.1 of this title has not been received.

14–5F–32.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2018] **2023**.

14–602.

(c) An unlicensed individual who acts under § 14–302, **§ 14–302.2**, or § 14–306 of this title may use the word “physician” together with another word to describe the occupation of the individual as in phrases such as “physician’s assistant” or “physician’s aide”.

14–606.

(a) (4) Except as provided in paragraph (5) of this subsection, a person who violates § 14–601 or § 14–602 of this subtitle is:

- (i) Guilty of a felony and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both; and
- (ii) Subject to a civil fine of not more than \$50,000 to be levied by the Board.

(5) The provisions of paragraph (4) of this subsection do not apply to a **FORMER** licensee who has failed to renew a license under § 14–316 of this title if:

(i) Less than 60 days have elapsed since the expiration of the license; and

(ii) The **FORMER** licensee has applied for license [renewal] **REINSTATEMENT**, including payment of the [renewal] **REINSTATEMENT** fee.

14–702.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2018] **2023**.

15–307.

(g) (1) Beginning October 1, 2016, the Board shall require a criminal history records check in accordance with § 14–308.1 of this article for:

(i) Annual renewal applicants as determined by regulations adopted by the Board; and

(ii) Each former licensee who files for reinstatement under this title after failing to renew the license for a period of 1 year or more.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 14–308.1 of this article, in determining whether [to renew or reinstate a license] **DISCIPLINARY ACTION SHOULD BE TAKEN, BASED ON THE CRIMINAL HISTORY RECORD INFORMATION, AGAINST A LICENSEE WHO RENEWED OR REINSTATED A LICENSE**, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The nature of the crime;

(iii) The circumstances surrounding the crime;

(iv) The length of time that has passed since the crime;

(v) Subsequent work history;

(vi) Employment and character references; and

(vii) Other evidence that demonstrates whether the licensee poses a threat to the public health or safety.

(3) The Board may not renew or reinstate a license if the criminal history record information required under § 14–308.1 of this article has not been received.

15–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2018] **2023**.

Article – Insurance

24–201.

(a) In this subtitle the following words have the meanings indicated.

(d) “Physician” means an individual who:

(1) is licensed to practice medicine in the State; or

(2) lawfully practices medicine without a license under [§ 14–302(1) through (4)] **§ 14–302(1) THROUGH (3) OR § 14–302.2** of the Health Occupations Article.

Article – State Government

8–405.

(a) The Department shall:

(1) conduct a full evaluation of each governmental activity or unit to be evaluated under this section; and

(2) prepare a report on each full evaluation conducted.

(b) Each of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units are subject to full evaluation, in the evaluation year specified, without the need for a preliminary evaluation:

(5) Physicians, State Board of (§ 14–201 of the Health Occupations Article: [2016] **2021**), including:

(i) Athletic Training Advisory Committee (§ 14–5D–04 of the Health Occupations Article: [2016] **2021**);

(ii) Naturopathic Medicine Advisory Committee (§ 14–5F–04 of the Health Occupations Article: [2016] **2021**);

(iii) Perfusion Advisory Committee (§ 14–5E–05 of the Health Occupations Article: [2016] **2021**);

(iv) Physician Assistant Advisory Committee (§ 15–201 of the Health Occupations Article: [2016] **2021**);

(v) Polysomnography Professional Standards Committee (§ 14–5C–05 of the Health Occupations Article: [2016] **2021**);

(vi) Radiation Therapy, Radiography, Nuclear Medicine Technology Advisory, and Radiology Assistance Committee (§ 14–5B–05 of the Health Occupations Article: [2016] **2021**); and

(vii) Respiratory Care Professional Standards Committee (§ 14–5A–05 of the Health Occupations Article: [2016] **2021**).

Chapter 539 of the Acts of 2007

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

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

Chapter 109 of the Acts of 1988, as amended by Chapter 271 of the Acts of 1992 and Chapter 662 of the Acts of 1994

[SECTION 5. AND BE IT FURTHER ENACTED, That the Department, on or before October 1, of each year, shall report to the Legislative Policy committee for the previous fiscal year regarding:

(1) Relevant disciplinary indicators, including:

(i) The number of physicians investigated under each of the disciplinary grounds enumerated under § 14–404 of the Health Occupations Article;

(ii) The number of physicians who were reprimanded or placed on probation or who had their licenses suspended or revoked;

(iii) The number of cases prosecuted and dismissed and on what grounds;

(iv) The criteria used to accept and reject cases for prosecution; and

(v) The number of unresolved allegations pending before the Board;

(2) The average length of the time spent investigating allegations brought against physicians under each of the disciplinary grounds enumerated under § 14–404 of the Health Occupations Article;

(3) The number of cases not completed within 18 months and the reasons for the failure to complete the cases in 18 months;

(4) The number and nature of allegations filed with the Board concerning cardiac rescue technicians, aviation trauma technicians, emergency medical technicians, medical radiation technicians, and physician assistants; and

(5) The adequacy of current Board staffing in meeting the workload of the Board.]

SECTION 2. AND BE IT FURTHER ENACTED, That, in the annual report the State Board of Physicians is required to submit under § 14–205.1 of the Health Occupations Article, as enacted by Section 1 of this Act, on or before October 1, 2017, the Board shall include:

(1) a description of the efforts the Board has taken to meet the goal of issuing licenses within 10 days after the receipt of the last qualifying document, especially for the allied health professionals;

(2) the findings and recommendations of the Board and the Physician Assistant Advisory Committee regarding ways to expedite the process for physician assistants to assume the duties under a delegation agreement; and

(3) whether it is feasible to describe any underlying sexual misconduct in order summaries and, if it is not feasible, a description of other steps that the Board can take to make it easier for the public to determine whether a case involved sexual misconduct.

SECTION 3. AND BE IT FURTHER ENACTED, That, in the annual report the State Board of Physicians is required to submit under § 14–205.1 of the Health Occupations Article, as enacted by Section 1 of this Act, on or before October 1, 2018, the Board shall include:

(1) the results of the internal fiscal analysis and reassessment of fees that was recommended by the Department of Legislative Services in the December 2016

publication “Sunset Review: Evaluation of the State Board of Physicians and the Related Allied Health Advisory Committees”, including any possible changes to the fee schedules for physicians and allied health professionals;

(2) comments on the Board’s fund balance in light of the additional retained revenue that resulted from Chapter 178 of the Acts of the General Assembly of 2016; and

(3) steps the Board has taken to address ongoing issues with filling staff vacancies and the impact that filling vacancies will have on Board expenditures and the Board’s fund balance.

SECTION 4. AND BE IT FURTHER ENACTED, That, in the annual report the State Board of Physicians is required to submit under § 14–205.1 of the Health Occupations Article, as enacted by Section 1 of this Act, on or before December 1, 2019, the Board shall report:

(1) whether criminal history records checks are causing delays in licensure;

(2) whether existing Board staff are able to manage the criminal history records checks workload; and

(3) any other concerns the Board has regarding the criminal history records checks requirement.

SECTION 5. AND BE IT FURTHER ENACTED, That, if the State Board of Physicians determines it is practicable to move certain cases that are under the jurisdiction of the full Board to the jurisdiction of the disciplinary panels, the Board shall submit to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, a proposal that includes the following:

(1) a list of the types of cases that should be moved;

(2) the reasons that justify moving the cases; and

(3) any necessary draft legislation.

SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding § 8–405(e) of the State Government Article, the full evaluation required to be conducted by the Department of Legislative Services on or before December 1, 2021, shall be limited to evaluating:

(1) the implementation of recommendations made by the Department in the December 2016 publication “Sunset Review: Evaluation of the State Board of Physicians and the Related Allied Health Advisory Committees”;

1 (2) the efficacy of the two-panel disciplinary system;

2 (3) if a proposal is not submitted under Section 5 of this Act by April 1,
3 2021, whether certain cases should be moved from the jurisdiction of the full State Board
4 of Physicians to the jurisdiction of the disciplining panels; and

5 (4) the impact of the criminal history records checks on the State Board of
6 Physicians and its licensees.

7 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect June
8 1, 2017.