Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 32 BOARD OF PHYSICIANS

10.32.01 General Licensee and Initial Applicant Provisions

Authority: Health Occupations Article, §§1-212, 1-213, 1-221, 1-229, 1-230, 14-205, 14-206, 14-207. 14-208, 14-301, 14-306.3, 14.306.4, 14-307, 14-308.1, 14-309, 14-314, 14-316, 14-402, 14-414, 14-5A-03. 14-5A-04. 14-5A-08, 14-5A-09, 14-5A-10, 14-5A-13, 14-5A-14, 14-5A-17, 14-5A-18.1, 14-5A-20, 14-5A-21, 14-5A-22, 14-5A-23, 14-5B-03, 14-5B-04, 14-5B-08, 14-5B-09, 14-5B-10, 14-5B-12, 14-5B-12.1, 14-5B-14, 14-5B-15.1, 14-5B-17, 14-5B-18, 14-5B-19, 14-5C-03, 14-5C-04, 14-5C-09, 14-5C-09, 14-5C-11, 14-5C-14, 14-5C-14.1, 14-5C-17, 14-5C-18.1, 14-5C-20, 14-5C-21, 14-5C-22, 14-5C-23, 14-5E-04, 14-5E-04, -14-5E-08, 14-5E-09, 14-5E-11, 14-5E-13, 14-5E-14, 14-5E-18.1, 14-5E-20, 14-5E-21, 14-5F-04, 14-5F-05, 14-5F-10, 14-5F-11, 14-5F-12, 14-5F-15, 14-5F-15.1, 14-5F-18, 14-5F-20, 14-5F-29, 14-5F-30, 14-5G-03, 14-5G-04, 14-5G-08, 14-5G-09, 14-5G-10, 14-5G-13, 14-5G-15, 14-5G-18, 14-5G-21, 14-5G-23, 14-5G-24, 14-5G-25, 14-601, 14-602, 15-206, 15-301, 15-314, 15-316.1, and 15-402, Annotated Code of Maryland

.01 Scope.

A. This chapter governs certain requirements for all licensees and initial applicants regulated by the Maryland Board of Physicians under this subtitle.

B. Federal Employee Exception. This subtitle does not apply to an individual employed in the service of the federal government, while the individual is practicing a health care profession regulated by the Board within the scope of the employment.

.02 Definitions.

A. In this chapter, the following terms have the meanings as indicated.

B. Terms Defined.

(1) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(2) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(3) "Cease and desist order" means an order of the disciplinary panel issued under Health Occupations Article, §14-206(e), Annotated Code of Maryland that prohibits an individual from:

(a) Practicing a profession regulated under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland, without a license;

(b) Misrepresenting to the public that the individual is authorized to practice a profession regulated under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland; or

(c) Taking an action:

(i) For which there are grounds for discipline under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland; and

(ii) That poses a serious risk to the health, safety, and welfare of a patient.

(4) "Certifying or verifying authority" means a service that verifies an applicant's educational and examination documentation in accordance with Health Occupations, §1-201, Annotated Code of Maryland, and provides primary source information directly to the Board.

(5) "Controlled dangerous substance" means any drug listed as such in Criminal Law Article, §5-101, Annotated Code of Maryland.

(6) "Federal employee" means an individual who is employed by the United States government, including the executive, legislative, and judicial branches, and those employed by independent agencies and commissions.

(7) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(8) "Involuntarily terminated or restricted" means a termination, relinquishment, restriction, or reduction of an individual's privileges, employment, or a contract with an employer after:

(a) The employer notified the individual that discharge or termination of privileges, employment, or a contract, or that proceedings possibly leading to discharge or termination of privileges, employment, or a contract, would occur if the individual would not resign;

(b) The individual was notified that an investigation by the employer may begin; or

(c) The individual was asked to respond to a complaint made to the employer;

(9) "Licensee" means an individual to whom the Board issues a license or registration under this subtitle.

(10) "Licensure" means permission to engage in a health care profession regulated by the Board.

(11) "Oral Proficiency Interview" means the examination of the American Council on the Teaching of Foreign Languages designed to evaluate the spoken English proficiency of those whose native language is not English.

(12) "Orientation program" means a program of information approved by the Board which includes:

(a) The statutes and regulations governing the practice of the regulated profession in the State;

(b) Boundary issues; and

(c) The role and functions of the Board.

(13) "Professional school" means a school with a curricula that leads to a professional license, certification, or registration issued under Health Occupations Article, Annotated Code of Maryland, including the medical school of graduation or the medical school, where an applicant obtained medical education, that is affiliated with the institution that conferred the medical degree of on the applicant.

(14) "Rehabilitation program" has the meaning stated in Health Occupations Article, § 14-101, Annotated Code of Maryland.

(15) Reinstatement.

(a) "Reinstatement" means the reactivation of an inactive or expired license.

(b) "Reinstatement" does not include post-disciplinary reinstatement.

(16) "Speech impairment" means a disorder of the voice, articulation, speech sounds, or fluency in the speaker's native language.

(17) "USMLE" means United States Medical Licensing Examination.

(18) "Uniform Application" means a Web-based standard licensure application form that collects information in conjunction with the State-specified addendum, both parts of which are required for physicians applying for initial licensure.

.03 General Applicant Requirements.

A. An applicant shall:

(1) Be at least 18 years old, unless otherwise required by statute;

(2) Be of good moral character;

(3) Demonstrate oral and written competency in English in accordance with Regulation .04 of this chapter;

(4) Pay an application fee as established by the Board, except as provided in §L of this regulation; and

(5) Complete an application on the form approved by the Board.

B. Uniform Application Requirement.

(1) An applicant is exempt from the requirements of B(2) of this regulation if the applicant is applying for:

(a) Licensure by endorsement; or

(b) Licensure by reciprocity.

(2) An applicant for initial licensure as a physician shall complete a Uniform Application.

C. Certifying or Verifying Authorities.

(1) A certifying or verifying authority shall send all required certificates and verifications directly to the Board for an applicant.

(2) The Board shall not accept certificates and verifications sent to, or by, the applicant.

(3) The Board shall accept documentation from the Federation Credentials Verification Service as evidence of the applicant having met some of the requirements of this subtitle.

D. If any documents required under this chapter are in a language other than English, the applicant shall submit a *certified translation and bear the expense of translation by a certified translator.*

E. On forms supplied by the Board, an applicant shall agree to:

(1) Release to the Board relevant information from appropriate individuals, other institutions, and government agencies, including but not limited to, the National Practitioners Data Bank, employers, rehabilitation programs, medical schools, post-graduate training programs, and other licensing bodies;

(2) Allow the Board to release information that is not statutorily protected; and

(3) Provide any additional information needed by the Board to consider the application.

F. During the application process, if there are concerns regarding an applicant's physical, mental, or professional competency, the Board may request additional information regarding the applicant's competency from any government entity or person as defined in Health Occupations Article, §1-101, Annotated Code of Maryland.

G. Application Materials. The Board may:

(1) Conduct an investigation related to the application materials; and

(2) Contact any individuals, other institutions, or government agencies for recommendations or other information.

H. Criminal History Records Check.

(1) An applicant shall complete a criminal history records check in accordance with Health Occupations Article, §14–308.1, Annotated Code of Maryland.

(2) After receipt of the criminal history record information, the Board shall consider, if applicable:

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

(b) The nature of the crime;

(c) The circumstances surrounding the crime;

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

(e) Subsequent work history;

(f) Employment and character references; and

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

(3) The Board may not issue a license if the criminal history record information required under this subtitle and Health Occupations Article, §14-308.1, Annotated Code of Maryland, has not been received.

I. The Board has designated a 3-month period for action upon applications as follows:

(1) Within 60 days after receipt of an application, the Board or its Executive Director will determine whether an application is complete;

(2) If the Board or its Executive Director determines that the application is not complete, the Executive Director or the Executive Director's designee shall send a notice of deficiency to the applicant;

(3) Upon receipt of the notice, the applicant shall correct the deficiency within 30 days of the notice; and

(4) If the applicant fails to correct the deficiency within the required period, the application shall be closed, and the applicant shall be required to submit a new application and pay any required fees.

J. An applicant shall meet any additional license, renewal, and reinstatement requirements established by the Board.

K. The Board shall issue a license to an applicant that meets the requirements set forth in Health Occupation Article, Titles 14 and 15, Annotated Code of Maryland.

L. Fee Waiver.

(1) The Board shall waive the fee for qualified applicants who have completed a waiver application on a form approved by the Board.

(2) To qualify for the fee waiver, an applicant must be a verified:

(a) Service member who currently serves in the US Armed Forces, a reserve component of the Armed Forces, or the National Guard of any state;

(b) Veteran who has been discharged from active military duty under circumstances other than dishonorable within 1 year of submitting the application; or

(c) Spouse of a:

(i) Veteran;

(ii) Service member who died within 1 year before the date of submitting the application; or

(iii) Service member who currently serves in the US Armed Forces, a reserve component of the Armed Forces, or the National Guard of any state.

.04 English Proficiency Requirements.

A. An applicant who holds a valid, unrestricted license, certification, or registration issued by another state health occupations board that requires evidence of English proficiency for licensure, certification, or registration is exempt from the requirements of this regulation.

B. An applicant who holds an Education Commission for Foreign Medical Graduates Certification is exempt from the requirements of this regulation.

C. An applicant shall provide to the Board:

(1) Documentation of graduation from a recognized English-speaking high school or undergraduate school after at least 3 years of enrollment;

(2) Documentation of graduation from a recognized English-speaking professional school;

(3) Documentation of a passing score on the USMLE Step 2 Clinical Skills; or

(4) Receiving a score of:

(a) At least 5 on the "Speaking Section" of the Internet-based Test of English as a Foreign Language; and

(b) At least 5 on all other sections of the Internet-based Test of English as a Foreign Language; or

(c) Advanced or higher on the Oral Proficiency Interview.

D. Applicants wishing to claim a speech impairment after failing an English proficiency test shall submit a written request for a waiver of §C(4)(a) of this regulation on a Board-approved form.

.05 Withdrawal of Application.

A. An applicant may not withdraw an initial, renewal, or reinstatement application without permission of a disciplinary panel if:

(1) The applicant is currently charged in another jurisdiction with conduct which would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(2) The applicant is under investigation in another jurisdiction for an allegation concerning the conduct that would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(3) The Board is investigating the applicant; or

(4) The disciplinary panel has issued a notice of intent to deny licensure.

B. The disciplinary panel's decision regarding an applicant's withdrawal of application under §A of this regulation is discretionary.

C. In determining whether to allow the withdrawal of an application, the disciplinary panel may consider factors such as the following:

(1) Issues of competence or conduct that caused the matter to be investigated;

(2) The duty to protect the public in other jurisdictions from duplicative expenditures on investigations of applications;

(3) Honesty, candor, and cooperation of the applicant during the application process;

(4) Whether a notice of intent to deny licensure has been issued;

(5) Whether the applicant is licensed in multiple states; and

(6) Whether other states have taken public disciplinary action.

.06 Expedited Initial Licensure by Reciprocity or Endorsement.

A. Reciprocity. An applicant may apply for expedited initial licensure by reciprocity if the Board has:

(1) Approved the profession to be licensed by reciprocity; and

(2) Entered into a Board-approved agreement with the other jurisdiction.

B. Endorsement.

(1) An applicant may apply for expedited initial licensure by endorsement if the Board has approved the profession to be licensed or registered by endorsement.

(2) The Board shall accept an applicant's current license as sufficient evidence that the applicant has met some of the requirements for licensure.

C. Applicant Requirements for Reciprocity and Endorsement.

(1) An applicant shall:

(a) Have an active, unrestricted license to practice the profession in another jurisdiction that, at the time the applicant was licensed, had licensure requirements that were substantially similar to or exceeded those set forth in this subtitle;

(b) Be in good standing under the laws of every jurisdiction where the individual is licensed; and

(c) Submit to a State and national criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland.

(2) Documentation. An applicant shall submit to the Board:

(a) An application on the form provided by the Board;

(b) The application fee as set by the Board;

(c) Evidence of compliance with §C(1) of this regulation; and

(d) Any additional documentation that is needed for the Board to evaluate an application.

(3) Upon receipt of the documentation required in §C(2) of this regulation, the Board shall process the application in an expedited manner.

(4) The Board may not issue a license if the criminal history records information, pursuant to §C(1)(c) of this regulation has not been received.

(5) After a license is issued, the licensee is subject to the Board's jurisdiction and shall comply with all laws and regulations governing the practice of the profession in the State.

.07 License Term and Renewal.

A. This regulation applies to all licensees with the exception of:

(1) A perfusionist-basic, as set forth in COMAR 10.32.22.08;

(2) A supervised genetic counselor, as set forth in COMAR 10.32.24.08; or

(3) A physician:

(a) Licensed by conceded eminence;

(b) Who has a license on inactive or emeritus status; or

(c) Who is a holder of a limited license for postgraduate teaching.

B. License Term. The term of a license issued by the Board may not exceed 3 years.

C. License Expiration. A license expires on a date set by the Board unless it is renewed by the licensee for an additional term.

D. License Renewal.

(1) A licensee may apply for renewal of a license for an additional term before the license expires if the licensee meets the requirements set forth in Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(2) Before the expiration of a license, a licensee applying for renewal shall complete the application for renewal on a form approved by the Board.

(3). A licensee applying for renewal shall pay the renewal fee and any additional charges set by the Board.

(4) Renewal Notice.

(a) The Board shall send a renewal notice to the licensee or by email at least 1 month before the license expires and in accordance with Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(b) The Board may mail a renewal notice by first-class mail to a licensee upon request.

(c) Failure to receive a renewal notice does not excuse a licensee from complying with §D of this regulation.

(5) Orientation Program.

(a) A licensee applying for the first renewal shall have completed an orientation program approved by the Board.

(b) The Board may defer this requirement in cases of individual hardship.

(c) The licensee must notify the Board of any hardship prior to the first renewal and the initiation of the audit process.

(6) In accordance with Health Occupations Article, §1-213, Annotated Code of Maryland, the Board may not renew a license until the Comptroller of Maryland has verified that the licensee has paid all undisputed taxes and unemployment insurance contributions, or arranged for repayment.

(7) MHCC User Fee. In accordance with Health Occupations Article, §1-209, Annotated Code of Maryland and COMAR 10.25.02, the Board shall assess each applicant for a license or a renewal of a license a Maryland Health Care Commission fee unless otherwise waived from the fee in accordance with COMAR 10.25.02.03C.

(8) Continuing Education Waiver.

(a) The Board shall waive the continuing education requirement for qualified military applicants who have:

(i) Been deployed during the current renewal period; and

(ii) Completed a continuing education waiver application on a form approved by the Board.

(b) To qualify for the continuing education waiver, an applicant must be a verified:

(i) Service member who currently serves in the US Armed Forces, a reserve component of the Armed Forces, or the National Guard of any state; or

(ii) Veteran who has been discharged from active military service under circumstances other than dishonorable within 1 year of submitting the application.

.08 Code of Ethics.

A. A licensee shall comply with the applicable profession's current code of ethics if the profession has a current code of ethics.

B. A breach of ethical principles may be considered immoral or unprofessional conduct.

C. All services shall be provided with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems.

.09 Examination.

A. In reviewing an application for licensure or in investigating an allegation brought against a licensee, the Rehabilitation Program may request the Board to direct, or the Board or a disciplinary panel on its own initiative may direct, the applicant or licensee to submit to an appropriate examination under Health Occupations Article, §14-402, Annotated Code of Maryland.

B. In return for the privilege given by the State issuing a license, certification, or registration, the licensed, certified, or registered individual is deemed to have:

(1) Consented to submit to an examination under this regulation, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports.

C. The unreasonable failure or refusal of the applicant or licensee to submit to an examination is prima facie evidence of the applicant's or licensee's inability to practice the regulated profession competently, unless the Board or the disciplinary panel finds that the failure of refusal was beyond the control of the applicant or licensee.

D. Cost of Examination.

(1) The Board shall pay the costs of any examination made under this regulation for:

(a) A licensee; or

(b) An applicant who was not previously licensed by the Board.

(2) An applicant for reinstatement shall pay the cost of any examination directed by the Board under this regulation.

.10 Notification Requirements.

A. An applicant or licensee shall notify the Board by electronic or first-class mail of any of the circumstances listed in this section within 30 days of the occurrence of or notification about these circumstances:

(1) Any action, by a state licensing or disciplinary board, or a comparable body in the armed services, denying an application for licensure, reinstatement, or renewal;

(2) Any action taken by a state licensing or disciplinary board, or a comparable body in the armed services, including but not limited to limitations of practice, required education, admonishment, reprimand, suspension, surrender, or revocation for an act that would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(3) An investigation or charge brought by a licensing or disciplinary body or comparable body in the armed services;

(4) A withdrawal of an application for reasons that would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(5) An investigation or charge brought by an employer that would be grounds for action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(6) If the applicant or licensee's practice was involuntarily terminated or restricted by an employer for reasons that would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(7) A plea of guilty, nolo contendere, or no contest to a conviction, or receipt of probation before judgment for a criminal act;

(8) A plea of guilty, nolo contendere, or no contest to a conviction, or receipt of probation before judgment for an alcohol or controlled dangerous substance offense, including but not limited to driving while under the influence of alcohol or controlled dangerous substances;

(9) An arrest which would provide a basis for investigation or charge which would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(10) A physical, professional, or mental condition that currently impairs the ability to practice the regulated profession; or

(11) The filing or settling of a medical malpractice action in which the applicant or licensee is, or has been, named as a defendant within the past 5 years.

B. Failure to notify the Board of the circumstances in this §A of this regulation may result in disciplinary action.

.11 Internet Profiles.

The Board shall maintain an internet profile for licensees in accordance with Health Occupations Article, Title 14 and Title 15, Annotated Code of Maryland.

.12 Address, Name, and Badge Identification Requirements.

A. A licensee shall notify the Board in writing or through electronic means of a change in name or address within 30 days after the change.

B. A licensee who fails to comply with §A of this regulation is subject to an administrative penalty of $100.

C. Name under which a Licensee May Practice.

(1) A licensee shall be licensed to practice only under the name on the license.

(2) A licensee wishing to change the name under which the licensee practices shall obtain the Board's approval.

(3) The failure of a licensee to practice under the name on the license may be considered unprofessional conduct by the Board and grounds for disciplinary action.

D. Name Badge Identification.

(1) This section does not apply to licensed physicians.

(2) A licensee shall wear a badge that identifies them as a licensed professional when practicing as a licensed professional.

.13 Prohibitions.

A. This regulation does not apply to individuals who are exempt from licensure under Health Occupations Article, Annotated Code of Maryland, or this subtitle.

B. Prohibitions.

(1) Except as otherwise provided in this subtitle:

(a) A licensee may not supervise an individual without a license when a license is required by State or federal law or regulation; and

(b) A licensee may not practice with an unauthorized individual.

(2) A licensee is subject to disciplinary action for a violation of this section.

C. Unprofessional Conduct.

(1) Unprofessional conduct in the practice of medicine, under Health Occupations Article, §14-404(a)(3), Annotated Code of Maryland, includes the failure of a physician to comply with the statute and regulations governing the physician's duty to supervise.

(2) Unprofessional conduct in the practice of a supervisor's profession under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland, includes the failure of a supervisor to comply with the statute and regulations governing the supervisor's duty to supervise.

(3) Delegation of duties by a supervisor beyond the scope of practice or failure to appropriately supervise a licensee may be considered unprofessional conduct in the practice of the supervisor's profession.

D. Unauthorized Practice.

(1) An individual may not practice without a license when a license is required under State or federal law or regulation.

(2) A licensee who fails to renew a license cannot practice until the license is reinstated by the Board.

(3) An applicant may not practice until authorized by the Board.

(4) An individual may not represent to the public in any way that the individual is authorized to practice a regulated profession unless authorized by the Board.

(5) An individual in violation of this section may be subject to a cease and desist order.

(6) An individual in violation of this section may be subject to a civil penalty.

.14 Administrative Penalties.

A. The Board may impose an administrative penalty not exceeding $15,000 per occurrence on a licensee for:

(1) Failure to produce all documents in response to a Board subpoena;

(2) Dispensing a drug without the proper authority from a valid dispensing permit; and

(3) Failure to complete a supplemental application for a compact license.

B. The Board shall pay any penalty collected under this regulation to the Board of Physicians Fund.

.15 Setting of Fees.

A. All fees not set by statute will be set by the Board.

B. A copy of the current fee schedules are set forth in this subtitle.

C. Fees paid to the Board are non-refundable.

D. The Board may charge appropriate fees for any services required to adequately fund the statutory and regulatory duties of the Board prior to promulgation in the current fee schedule.

.16 Severability.

If any provision of the regulations in this subtitle is declared unconstitutional or invalid, or the application of these regulations to any person or circumstances is held invalid, the applicability of the provision to other persons and circumstances and the constitutionality or validity of every other provision of these regulations is not to be affected.

10.32.02 Hearings Before the Board of Physicians.

Authority: Health Occupations Article, §§1-307, 1-402, 1-602—1-604, 1-606, 14-205, 14-306.3, 14-306.4, 14-317, 14-404, 14-405, 14-405.1, 14-406—14-409, 14-411, 14-505, 14-5A-03, 14-5A-13(d), 14-5A-16, 14-5A-17, 14-5A-17.1, 14-5A-19, 14-5B-03, 14-5B-12(d), 14-5B-13, 14-5B-14, 14-5B-14.1, 14-5B-16, 14-5C-03, 14-5C-14(h), 14-5C-16, 14-5C-17, 14-5C-19, 14-5D-12(d), 14-5D-12(g), 14-5D-13—14-5D-16, 14-5E-03, 14-

5E-13(h), 14-5E-15, 14-5E-16, 14-5E-17, 14-5E-19, 14-5F-04, 14-5F-15(e), 14-5F-17, 14-5F-18, 14-5F-23, 14-5F-24, 14-5G-03, 14-5G-12(d)(2), 14-5G-16, 14-5G-18, 14-5G-19, 14-5G-22, 14-601, 14-606, 15-205(b), 15-307(f), 15-311, 15-312, 15-314, 15-315, 15-316 and 15-403; State Government Article, §§10-206, 10-216, and 10-226; Annotated Code of Maryland

.01 Scope.

This chapter governs procedures for disciplinary and licensing matters before the Board of Physicians.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Address of record" means the personal address the respondent maintains for purposes of licensure.

(2) "Administrative action" means an order issued by the Board for reasons other than the disciplinary grounds under Health Occupations Article, §14-404, Annotated Code of Maryland, and that is not considered a disciplinary action.

(3) "Administrative expungement" means the classification of a record by the Board as confidential, not for public release, and removed from the licensed individual's public profile.

(4) "Administrative law judge" means an individual appointed as an Administrative Law Judge pursuant to the requirements established under State Government Article, §9-1605, Annotated Code of Maryland.

(5) "Administrative Procedure Act" means State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(6) "Administrative prosecutor" means the attorney assigned from the Office of the Attorney General to prosecute administrative charges.

(7) "Advanced duties" means medical acts that require additional education, training, or experience that is beyond the physician assistant education program required for licensure.

(8) "Advisory letter" means a nonpublic letter issued by a disciplinary panel which informs, educates, or admonishes an individual licensed or regulated by the Board.

(9) "Allied health practitioner" means an individual who is not a physician and is licensed by the Board under:

(a) Health Occupations Article, Title 14, Annotated Code of Maryland; or

(b) Health Occupations Article, Title 15, Annotated Code of Maryland.

(10) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(11) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(12) "Board counsel" means the attorney assigned from the Office of the Attorney General for the purpose of providing advice on legal matters before the Board or a disciplinary panel.

(13) "Cease and desist order" means an order of the disciplinary panel issued under Health Occupations Article, §14-206(e), Annotated Code of Maryland that prohibits an individual from:

(a) Practicing a profession regulated under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland, without a license;

(b) Misrepresenting to the public that the individual is authorized to practice a profession regulated under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland; or

(c) Taking an action:

(i) For which there are grounds for discipline under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland; and

(ii) That poses a serious risk to the health, safety, and welfare of a patient.

(14) "Charges" means the accusations or grounds for action the Board alleges a respondent committed which concerns:

(a) A disciplinary action against a licensee that may result in sanctions against a licensee;

(b) Intent to deny an initial application for licensure;

(c) An action against an individual practicing without a license; or

(d) Other action authorized by statute or regulation against an individual, licensee, applicant, or employer.

(15) "Charging document" means the document that includes the charges that initiates a Board action against a respondent and gives formal notice of an action by the Board.

(16) Complaint.

(a) "Complaint" means an allegation or report that:

(i) A Board licensee has committed a prohibited act for which a disciplinary panel can take disciplinary action or impose a fine; or

(ii) An individual is practicing a profession regulated under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland without a license or representing to the public by title, description of services, methods, procedures, or otherwise, that the individual is authorized to practice without a license.

(b) "Complaint" includes, but is not limited to, the following:

(i) Issuance of a certificate of merit in a malpractice claim;

(ii) A report from an employer, pursuant to Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(iii) A law enforcement report;

(iv) A report from another country, state, or jurisdiction or the armed services of the United States;

(v) A malpractice insurance report;

(vi) A report from another federal or state agency or court in any country, state, or jurisdiction;

(vii) Consumer complaints;

(viii) Media publications;

(ix) Statements on applications for licensure, renewal, or reinstatement;

(x) A report from a healthcare practitioner;

(xi) Anonymous complaints; and

(xii) Other information, from any source, which warrants investigation by the Board.

(17) "Consent order" means a binding agreement, that is a public document, between a disciplinary panel and the respondent or applicant that resolves charges, a notice of action, or pre-charge allegations against the respondent or applicant.

(18) "Contested case" has the meaning stated in State Government Article, §10-202(d), Annotated Code of Maryland.

(19) "Disciplinary Committee for Case Resolution (DCCR)" means a voluntary, informed settlement proceeding to explore the possible resolution of disciplinary charges.

(20) "Disciplinary panel" means a panel established under Health Occupations Article, §14-401, Annotated Code of Maryland, which:

(a) Is composed of 11 Board members; and

(b) Makes determinations regarding:

(i) Complaints and disciplinary actions against licensed individuals, applicants, and unlicensed individuals; and

(ii) Post disciplinary reinstatements.

(21) "Disciplinary proceedings" means any matters that occur after the Board or disciplinary panel initiates an administrative action against a respondent and provides public notice.

(22) "Disposition agreement" means a formal non-public agreement by which the applicant or licensee agrees to comply with certain conditions set by the disciplinary panel.

(23) Expert Review.

(a) "Expert review" means a report by a qualified licensed physician, physician assistant, or other allied health provider or other individual with specific expertise to provide expert opinion on allegations for disciplinary grounds or the unlicensed practice of a profession.

(b) "Expert review" does not include the peer review process as described under Health Occupations Article, §14-401.1, Annotated Code of Maryland.

(24) "Final decision" means a final, written, public order of the Board or disciplinary panel which results from a contested case proceeding or other formal proceeding and which contains findings of fact, conclusions of law, sanction, order, and written statement of appeal rights.

(25) "Imperatively requires" means pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland, factual or investigative findings which raise a substantial likelihood of risk of serious harm to the public health, safety, or welfare.

(26) Investigation.

(a) "Investigation" means the gathering of information, materials, and evidence related to a complaint, application, request for declaratory ruling, or compliance with an order.

(b) "Investigation" includes:

(i) A preliminary investigation; and

(ii) A full investigation.

(27) "Involved medical specialty" means the area of medical specialty whose practitioners, in the disciplinary panel's opinion:

(a) Treat the medical or surgical ailment, symptom, or problem in question; and

(b) Would likely be familiar with the risks and benefits of treatments provided for that ailment, symptom, or problem.

(28) "Joint Commission" means the organization formerly known as the Joint Commission on the Accreditation of Health Care Organizations.

(29) "License" means a license or registration issued by the Board under this subtitle.

(30) "Licensee" means an individual to whom the Board issues a license or registration under this subtitle.

(31) "Licensure" means permission to engage in a health care profession regulated by the Board.;

(32) "Medical Practice Act" means the Maryland Medical Practice Act, Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(33) "Office of Administrative Hearings" means the independent unit that holds contested case hearings under COMAR 10.28 and issues proposed decisions;

(34) "Opposition hearing" means a hearing of the disciplinary panel scheduled after the disciplinary panel has issued an initial cease and desist order at which the respondent has the opportunity to explain why the disciplinary panel should terminate the initial cease and desist order.

(35) "Peer review" means an evaluation by a physician with special qualifications to judge the matter at hand, based on professional involvement within the involved medical specialty or specialties, of an act or acts of medical or surgical care, or other acts connected with medical practice, by an applicant or licensee.

(36) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(37) "Post deprivation hearing" means a disciplinary panel hearing scheduled after the disciplinary panel has issued an order for summary suspension pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland, at which the respondent has the opportunity to explain why the disciplinary panel should terminate the order of summary suspension.

(38) "Post disciplinary reinstatement" means:

(a) The reactivation of a revoked license; or

(b) The reactivation of a license surrendered while the licensee was under investigation or subject to disciplinary charges.

(39) "Pre-deprivation hearing" means a disciplinary panel hearing at which the respondent has the opportunity to explain why the disciplinary panel should not issue an order for summary suspension pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland.

(40) "Preliminary investigation" means the initial review of a complaint or application irregularity which is the basis for the decision on:

(a) Whether to assign the case to a disciplinary panel for a full investigation; or

(b) W*hether to close the investigation due to lack of jurisdiction or because, even if there were a full investigation, there still would not be a legal or factual basis for the issuance of a charging document.*

(41 "Proposed decision" means a recommended ruling by an administrative law judge that includes proposed findings of fact, proposed conclusions of law, and proposed disposition issued by the administrative law judge, unless otherwise directed by the disciplinary panel.

(42) "Public individual profile" means the licensee profile maintained by the Board in accordance with Health Occupations Article, §14-411.1, Annotated Code of Maryland.

(43) "Recusal" means disqualification by a Board or disciplinary panel member from participating in a proceeding because of a legal interest or prejudice in the matter before the Board or disciplinary panel.

(43) Reinstatement.

(a) "Reinstatement" means the reactivation of an inactive or expired license.

(b) "Reinstatement" does not include post-disciplinary reinstatement.

(44) "Respondent" means an individual who is under investigation or charged by the Board or disciplinary panel.

(45) "Revocation" means the removal of a license or registration to practice a health occupation.

(46) "Show cause" means a demand by letter or order issued by a disciplinary panel, which directs the respondent to:

(a) Respond either in writing or by an appearance before the Board or a disciplinary panel; and

(b) Present reasons and arguments why a particular order should not be entered.

(47) "Summary suspension" means a suspension of a license prior to or after a prompt opportunity to be heard based on a finding that the public health, safety, or welfare imperatively requires emergency action pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland.

(48) "Surrender" means the licensee's written, public removal of their license, which constitutes discipline, that a disciplinary panel agrees to accept in lieu of further investigation or disciplinary proceedings.

(49) "Suspension" means an action that terminates the right to practice under a particular license for a specified period of time or until such time as the Board or a disciplinary panel finds that the specified conditions in an order are satisfied.

.03 Service.

A. Unless otherwise required by law, service shall be made by:

(1) United States first-class mail;

(2) Certified mail;

(3) Personal or courier delivery;

(4) Delivery service with signature required;

(5) Subject to §B of this regulation, electronically to the email address on record or last known email address; or

(6) As otherwise agreed to by the parties.

B. If service is made electronically and no response of delivery received is obtained from the email address to which service was provided, the Board shall serve by another method.

C. Service shall be to the address of record with the Board, the last known address, or to the attorney.

.04 Prehearing Proceedings.

A. This regulation applies to:

(1) Proceedings under Health Occupations Article, §1-307, 14-405, 14-5A-17(b), 14-5B-14(b), 14-5C-17(b), 14-5D-15, 14-5E-16(b), 14-5F-18(b), 14-5G-18, 14-306.4, or 15-315, Annotated Code of Maryland; and

(2) Except as provided in Regulations .12—.15 of this chapter, this regulation applies to cease and desist orders, notices of intent to deny initial licenses, actions taken for alleged unlicensed practice, and actions taken for alleged misrepresentation that an individual is authorized to practice a profession regulated by the Board.

B. This regulation does not apply to procedures pursuant to Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), 14-5E-16(c), 14-5F-18(c), 14-5G-18(c), 14-306.4(c), or 15-314(b), Annotated Code of Maryland.

C. Investigation of Complaints.

(1) Designated Board staff shall undertake a preliminary investigation regarding an allegation of grounds for disciplinary or other action brought to the Board's attention before the allegation is assigned to a disciplinary panel.

(2) A complaint concerning alleged grounds for discipline of a Board licensee shall be assigned to a disciplinary panel which may:

(a) Review a complaint considering the preliminary investigation; and

(b) Direct further investigation, refer a case for peer review or expert review, close without charges, or close with an advisory letter.

(3) Participation in the complaint review process is not ordinarily a basis for recusal of a disciplinary panel member from further proceedings in the case under Regulation .17 of this chapter.

(4) Investigative Subpoenas.

(a) The Board may issue subpoenas requiring the attendance and testimony of witnesses, the production of documents, electronic files, or other tangible objects.

(b) Subpoenas may be served pursuant to Regulation .03 of this chapter.

(c) For subpoenas served pursuant to §C(4)(a) of this regulation, service shall, at minimum be to the individual's address of record with the Board, the last known address, or to the individual's attorney.

(d) A person may object to a subpoena by filing with the Circuit Court for the county where any party resides or has a principal place of business, a motion to quash or for other relief.

(e) If, without lawful excuse, a licensee disobeys a subpoena from the Board, the Board may charge the individual with a failure to cooperate with a Board investigation.

(f) If, without lawful excuse, any person disobeys a subpoena from the Board, a court of competent jurisdiction may punish the person as for contempt of court.

D. Physician Peer Review.

(1) After being assigned a complaint, a disciplinary panel shall have the matter reviewed by two peer reviewers if the complaint concerns an allegation that a physician failed to:

(a) Meet the standards of quality medical care; or

(b) Keep adequate medical records.

(2) If the two peer reviewers conclude that a violation of the standard of care has occurred, the disciplinary panel shall:

(a) Make the report of each individual peer reviewer available to the respondent to provide the respondent with an opportunity to submit a written response before the disciplinary panel considers whether to issue charges; and

(b) Redact the names of the individual peer reviewers before making the report available under §D(2)(a) of this regulation.

(3) The respondent may provide a written response to the peer review report within 10 business days after the report was sent to the respondent by electronic means or 13 business days if the report was sent via U.S. postal service.

(4) The disciplinary panel shall:

(a) Consider both the peer review reports and any written response submitted within the time period specified in §D(3) of this regulation; and

(b) Determine whether there is reasonable cause to charge a respondent with failure to meet appropriate standards of quality care or failure to keep adequate medical records.

(5) If two peer reviewers agree that there is reasonable cause to charge a respondent with failure to meet appropriate standards of quality care or failure to keep adequate medical records, the panel may determine there is reasonable cause to charge the respondent.

E. Prosecution of Complaint.

(1) Except as provided in §E(2) of this regulation, a disciplinary panel may not bring charges against a licensee based solely on events contained in a complaint the disciplinary panel received more than 6 years after:

(a) The day the complainant actually discovered the facts that form the basis of the complaint; or

(b) The day when a reasonable person exercising due diligence should have discovered the facts that form the basis of the complaint.

(2) The prohibition in §E(1) of this regulation does not apply to complaints that are based on any of the following:

(a) Criminal convictions;

(b) Sexual misconduct;

(c) Other boundary violations;

(d) Reciprocal actions under Health Occupations Article, §14-404(a)(21), 14–5A–17(a)(17), 14–5B–14(a)(17), 14–5C–17(a)(18), 14–5D–14(a)(17), 14–5E–16(a)(18), 14-5F-18(a)(5), 14–5G–18(a)(19), 14-306.4(a)(17), or 15-314(a)(21), Annotated Code of Maryland;

(e) Ongoing substance abuse;

(f) Fraudulent concealment of material information; or

(g) Acts that occurred while a patient was a minor.

(3) After reviewing the completed investigative information and reports, a disciplinary panel shall make its determination to:

(a) Close a complaint investigation without charges;

(b) Take informal action by issuing a nonpublic advisory letter;

(c) Request that the respondent enter into a disposition agreement with the disciplinary panel if the respondent suffers from substance abuse or a physical, mental, or emotional condition which may otherwise jeopardize medical care;

(d) Except as provided in §E(1) of this regulation, vote to charge a respondent with a violation of a ground, or grounds, under Health Occupations Article, §14-404, 14–5A–17, 14–5B–14, 14–5C–17, 14–5D–14, 14–5E–16, 14-5F-18, 14–5G–18, 14-306.4, or 15-314, Annotated Code of Maryland, or another statute or regulation which gives the Board or disciplinary panel authority to sanction a respondent;

(e) Vote to deny reinstatement; or

(f) Offer or accept on terms acceptable to the disciplinary panel a pre-charge:

(i) Letter of Surrender; or

(ii) Consent order.

(4) If the disciplinary panel issues charges, the disciplinary panel shall serve the respondent at the address of record or the last known address, or upon the respondent's attorney pursuant to Regulation .03 of this chapter.

(5) The disciplinary panel may delegate the issuance and service of the charges to the administrative prosecutor.

(6) Summary Suspension.

(a) In addition to charging, the disciplinary panel assigned to the complaint may vote to summarily suspend or vote an intent to summarily suspend the license of the respondent pursuant to State Government Article, §10-226(c), Annotated Code of Maryland.

(b) A vote to summarily suspend the license of the respondent may be taken before the disciplinary panel charges the respondent.

(7) After a vote to take formal action under §§E(3)(d) or (e) and E(6) of this regulation, the disciplinary panel shall refer the matter to the administrative prosecutor for prosecutorial action.

(8) Based upon a review of the case, the administrative prosecutor may refer the matter back to the disciplinary panel for further consideration.

(9) Following the filing of charges, notice of initial denial of a license application, a summary suspension order, an intent to summarily suspend, a cease and desist order, and an order from another jurisdiction, the Board shall disclose the filing to the public on the Board's website.

(10) In addition to any disclosures required by this regulation, by written request served on the other party, a party may require another party to produce discovery on request.

F. Meeting with the Disciplinary Committee for Case Resolution (DCCR).

(1) After the charging document is issued, the respondent may obtain, upon request, the case file from the administrative prosecutor.

(2)) The respondent and the administrative prosecutor shall be offered a meeting with the disciplinary panel that was originally assigned the complaint.

(3) The meeting is a voluntary, informal settlement proceeding to explore the possibility of a consent order or other resolution of the matter.

(4) The parties will have an opportunity to submit a written submission to the DCCR panel prior to the DCCR proceeding.

(5) Ordinarily, at the DCCR proceeding, the oral presentation by the respondent, the administrative prosecutor, and the complainant is limited to 10 minutes each, not including questions from the disciplinary panel.

(6) If both the respondent and the administrative prosecutor disagree with the proposed settlement offered by the DCCR, the matter proceeds to a hearing before the Office of Administrative Hearings.

(6) Confidentiality of DCCR Proceedings.

(a) DCCR proceedings shall be confidential.

(b) Except for the DCCR's consideration of a proposed resolution of a case achieved through the conference with the DCCR, the disciplinary panel, the parties, and the complainant may not make use of any commentary, admissions, facts revealed, or positions taken, including any disposition recommended by the DCCR, in the subsequent stages of the disciplinary proceedings unless the subject matter is available from other sources or is otherwise discovered.

(c) The respondent, administrative prosecutor, and complainant may not reveal the material enumerated in §F(6)(b) of this regulation.

(7) The complainant and respondent may attend the DCCR proceeding and participate as authorized by statute. The complainant may be accompanied by Board staff or the administrative prosecutor but may not be accompanied by any other person.

G. Representation and Parties.

(1) The respondent may appear in proper person or be represented by an attorney in any matter before a disciplinary panel and during any stage of the disciplinary proceedings.

(2) The respondent may be represented only by an attorney admitted to the Maryland Bar or specially admitted to practice law in the State under Maryland Rules 19-201—19-222.

(3) The administrative prosecutor shall present evidence and arguments at an evidentiary hearing on the charges and arguments before a disciplinary panel in the exceptions process as specified in Regulation .06 of this chapter.

(4) The administrative prosecutor shall be considered a party to the administrative proceedings:

(a) As soon as formal charges are issued; and

(b) Until a disciplinary panel's final decision is issued.

(5) The Board or a disciplinary panel is not a party to the proceedings before an administrative law judge.

H. Orders of the Disciplinary Panel.

(1) The Chair, or the Chair's designee, of a disciplinary panel assigned the complaint may issue orders necessary to regulate the proceedings under this regulation.

(2) Orders of the disciplinary panel may be signed by the executive director or deputy director.

.05 Adjudication of Allegations in a Charging Document.

A. Application.

(1) This regulation applies to cases under Health Occupations Article, §§1-307, 14-405, 14-5A-17(b), 14-5B-14(b), 14-5C-17(b), 14-5D-15, 14-5E-16(b), 14-5F-18(b), 14-5G-18(b), 14-306.4(b), and 15-315 Annotated Code of Maryland; and

(2) As provided in Regulations .12—.15 of this chapter, this regulation applies to cease and desist orders, notices of intent to deny applications for initial licenses and reinstatement of licenses, actions taken for alleged unlicensed practice, and actions taken for alleged misrepresentation that an individual is authorized to practice a profession regulated by the Board.

(3) This regulation does not apply to cases under Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), 14-5E-16(c), 14-5F-18(c), 14-5G-18(c). 14-306.4(c), or 15-314(b), Annotated Code of Maryland.

B. Delegation.

(1) If the charges are not resolved with the DCCR or if a DCCR does not occur, the Board shall delegate to an administrative law judge to hold an evidentiary hearing and thereafter to issue a proposed decision with proposed findings of fact, proposed conclusions of law, and proposed order, unless directed otherwise.

(2) The disciplinary panel may remand a decision back to the Office of Administrative Hearings.

(3) The disciplinary panel may rescind a delegation to an administrative law judge if, prior to the start of the evidentiary hearing:

(a) The parties execute a proposed consent order settling all aspects of the case or a letter of surrender; and

(b) The disciplinary panel that initially assigned the complaint agrees to that proposed consent order or letter of surrender.

C. Discovery.

(1) Discovery on Request. In addition to any disclosures required by §C(2) or (3) of this regulation, by written request served on the other party and filed with the administrative law judge, a party may require another party to produce, within 15 calendar days, the following:

(a) A list of witnesses to be called; and

(b) Copies of documents intended to be produced at the hearing.

(2) Mandatory Notice of Specific Defenses in Cases Involving the Standard of Quality Care.

(a) The respondent shall notify the administrative prosecutor no later than 45 days after the issuance of charges of any statement made to the respondent by the patient which was not recorded in the respondent's medical record of the patient, and which affected the patient's course of treatment, including but not limited to:

(i) Any refusal of hospitalization or treatment;

(ii) Any report of symptoms;

(iii) Any report of the effects of medication;

(iv) Any report by the patient of consultations or treatment by other health care practitioners; and

(v) Any expressions by the patient of a preference for one course of treatment over another.

(b) The respondent shall notify the administrative prosecutor no later than 45 days after the issuance of charges of:

(i) Any consultation concerning the patient, formal or informal, with any other health care practitioners, which is not recorded in the patient's medical record; or

(ii) Any communication with family members of the patient which affected the patient's course of treatment, and which is not recorded in the patient's medical record.

(c) The notices to the administrative prosecutor required by §C(2)(a) and (b) of this regulation shall be in writing and shall state:

(i) The name of the declarant or consultant;

(ii) The substance of the declaration or consultant report; and

(iii) The date on which each communication took place.

(d) Unless the respondent has provided the notice required by §C(2) of this regulation, the administrative law judge shall exclude from the hearing any evidence described in §C(2)(a) or (b) of this regulation.

(3) Mandatory Discovery—Expert Witnesses.

(a) Each party shall provide to the other party no later than the earlier of 15 days prior to the prehearing conference or 45 days prior to the scheduled hearing, the following information:

(i) The name and curriculum vitae of any expert who will testify at the hearing; and

(ii) A detailed written report prepared and signed by the expert summarizing the expert's testimony, which includes the opinion offered and the factual basis and the reasons underlying the opinion.

(b) If the administrative law judge finds that the expert's report is not sufficiently specific, or otherwise fails to comply with the requirements of this regulation, the administrative law judge shall exclude from the hearing:

(i) The testimony of the expert; and

(ii) Any report of the expert.

(c) The administrative law judge shall consider and decide arguments concerning the sufficiency of the expert's report at the prehearing conference and may require that the report be timely amended, if insufficient, to allow the opposing party ample opportunity to prepare for hearing.

(d) If an expert adopts the written report of the disciplinary panel's peer reviewer or reviewers or adopts a sufficiently specific charging document as the expert's report, that adoption is considered to satisfy the requirements set forth in §C(3) of this regulation.

(4) Parties are not entitled to discovery of items except as stated in §C(1)—(3) of this regulation.

(5) Subject to §C(7) of this regulation, both parties have a continuing duty to supplement their disclosures of witnesses and documents.

(6) Absent unforeseen circumstances which would otherwise impose an extraordinary hardship on a party, witnesses or documents may not be added to the list r:

(a) Following the prehearing conference, if scheduled; or

(b) If no prehearing conference is scheduled, following 15 days prior to the hearing.

(7) The prohibition from adding witnesses or documents following the prehearing conference may not apply to witnesses or documents to be used for impeachment or rebuttal purposes.

D. Hearing.

(1) Unless the delegation has been rescinded according to §B(2)—(4) of this regulation, an administrative law judge shall conduct an evidentiary hearing governed by the Administrative Procedure Act and COMAR 28.02.01.

(2) Evidence otherwise admissible under COMAR 28.02.01 may not be excluded solely on the ground that the evidence is not recited in the charging document.

(3) During a proceeding under this regulation, the administrative law judge shall treat all records except for a charging document as confidential and sealed.

(4) Construction of Regulations.

(a) In hearings conducted by an administrative law judge of the Office of Administrative Hearings, §C of this regulation shall, whenever possible, be construed as supplementing and in harmony with COMAR 28.02.01.

(b) In the event of a conflict between §C of this regulation and COMAR 28.02.01, §C of this regulation shall apply.

(5) The administrative law judge shall issue to the disciplinary panel that delegated the case to the administrative law judge a written proposed decision including, where applicable, proposed findings of fact, proposed conclusions of law, and a proposed disposition after the conclusion of the hearing.

.06 Disciplinary Panel Exceptions Process and Final Decision.

A. Application.

(1) This regulation applies to cases under Health Occupations Article, §§1-307, 14-405, 14-5A-17(b), 14-5B-14(b), 14-5C-17(b), 14-5D-15, 14-5E-16(b), 14-5F-18(b), 14-5G-18(b), 14-306.4(b), and 15-315 Annotated Code of Maryland; and

(2) As provided in Regulations .12—.15 of this chapter, this regulation applies to cease and desist orders, notices of intent to deny initial licenses, actions taken for alleged unlicensed practice, and actions taken for alleged misrepresentation that an individual is authorized to practice a profession regulated by the Board.

(3) This regulation does not apply to cases under Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-14(c), 14-5D-14(b), 14-5E-16(f), 14-5F-18(c), 14-5G-18(c), 14-306.4(c) or 15-314(b), Annotated Code of Maryland, Annotated Code of Maryland.

B. Exceptions.

(1) Written Exceptions.

(a) Any party may file, with the disciplinary panel that did not issue charges, exceptions to a proposed decision of an administrative law judge within 15 days of its issuance.

(b) A party may file a response to any exceptions within 15 days of the date the exceptions are filed.

(c) The disciplinary panel may extend the period for filing exceptions and responses.

(d) The disciplinary panel may grant a party filing exceptions the opportunity to file a reply to a response within a stated period of time as determined by the disciplinary panel in any specific case.

(e) The disciplinary panel may not accept exceptions or responses of any kind unless authorized under §B(1)(a)—(d) of this regulation.

(f) Format of Exceptions.

(i) Written exceptions and responses to exceptions are limited to 15 pages in length, double-spaced and in at least 12-point type, with Times New Roman font, and with margins of at least 1 inch.

(ii) Any reply to responses to exceptions is limited to 5 pages in the format specified in §B(1)(f)(i) of this regulation.

(iii) If a party attaches any part of the record to the exceptions, response, or reply, the attached pages are not to be considered as a part of the applicable page limit. The disciplinary panel may require the attachment of those parts of the record cited in the exceptions in a form designated by the Board.

(g) Citations to the Record. Exceptions, responses, and replies, if citing the record, shall refer to the record by citing the exhibit number or the transcript page.

(h) The disciplinary panel Chair or the disciplinary panel Chair's designee may in each case rule on specific procedural issues with respect to written exceptions.

(i) The disciplinary panel may not accept additional evidence through the written exceptions process.

(j) The written exceptions shall be limited to the arguments made before the administrative law judge.

(2) Oral Exceptions Hearing.

(a) If either party files exceptions, the disciplinary panel shall schedule a hearing, ordinarily 30 days after the receipt of responses to the exceptions.

(b) After the oral exceptions hearing, the disciplinary panel shall issue an order containing the disciplinary panel's findings of fact, conclusions of law, and disposition.

(c) The presiding disciplinary panel member, usually the disciplinary panel Chair, shall:

(i) Determine all procedural issues that are governed by this section;

(ii) Make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing;

(iii) Ordinarily limit oral presentation by the respondent and the administrative prosecutor to 20 minutes each; and

(iv) Ordinarily limit oral exceptions to the issues addressed in the written exceptions or to any purported error in the proposed decision.

(d) The party who filed the first exceptions shall ordinarily proceed first at the oral exceptions hearing.

(3) Additional Evidence. The disciplinary panel may not accept additional evidence unless, at the time exceptions are filed, a written request for additional evidence is filed with the disciplinary panel, and:

(a) Both parties consent to the admission of additional documentary evidence and the disciplinary panel determines that acceptance of the additional evidence would promote the just and efficient completion of the process; or

(b) The disciplinary panel determines that:

(i) A compelling reason exists that would create an obvious injustice if the additional documentary evidence were not considered and the evidence can be admitted without compromising the rights of the other party, including the other party's opportunity to see the proffered evidence in a timely manner or cross-examine the source of the proffered document and present evidence to the contrary; or

(ii) The evidence has been timely proffered before the administrative law judge and the administrative law judge abused their discretion by refusing to admit the evidence.

(4) If the parties do not file exceptions, the disciplinary panel shall consider the record, including the proposed decision of the administrative law judge, and issue its order based on the disciplinary panel's findings of fact and conclusions of law.

(5) Any Board staff member who testified at the hearing before the administrative law judge may not be present during disciplinary panel deliberations.

C. Board Action.

(1) Final Decision. The disciplinary panel shall issue a final decision within 90 days after the conclusion of:

(a) An exceptions hearing; or

(b) Other formal disciplinary panel proceedings.

(2) Effect of Revocation Order.

(a) When a time period is not stated in an order for revocation, the disciplinary panel may not entertain an application for post disciplinary reinstatement until at least 3 years after the date of the order.

(b) A revocation of a license may not be for less than 1 year and may be permanent.

(3) Tolling.

(a) Except as a disciplinary panel order directs otherwise in a specific case, if a licensee subject to probation or suspension fails to renew a license:

(i) The failure to renew the license does not remove the suspension or probation from the licensee's disciplinary record during the period of nonrenewal;

(ii) Any condition of probation or condition precedent to terminating a suspension that is dependent on possessing a license is tolled until the probationer or suspended licensee again possesses a license; and

(iii) The time period of probation or suspension, if any, is tolled until the probationer or suspended licensee again possesses an active license.

(b) To end tolling of the time and condition, a licensee must apply for reinstatement.

(c) Section C(3)(a) of this regulation does not:

(i) Apply to fines; or

(ii) Require the disciplinary panel to reinstate any former licensee.

.07 Post Disciplinary Termination and Reinstatement of a Suspended, Revoked, or Surrendered License.

A. Termination of a suspension shall be subject to the following conditions:

(1) If an order suspends a license for a specified period of time, the respondent may petition the disciplinary panel that issued the order to terminate the suspension only pursuant to that order;

(2) The disciplinary panel may not entertain early termination of the suspension;

(3) If termination of a suspension is made contingent on the happening of an event, the respondent shall establish the occurrence of the event to the satisfaction of the disciplinary panel; and

(4) If an individual whose license is suspended fails to renew the suspended license when that license expires, the individual may:

(a) Petition the disciplinary panel for termination of suspension only after:

(i) Applying for and meeting the requirements for reinstatement of a license; and

(ii) Completing any period of the suspension that was tolled in accordance with Regulation .06C(3) of this chapter.

B. Post Disciplinary Reinstatement of a Revoked or Surrendered License.

(1) The disciplinary panel may not review an application for post disciplinary reinstatement after an order of revocation or letter of surrender unless:

(a) Any time period stated in the order has expired;

(b) The conditions set out in the order have been fulfilled;

(c) The applicant has submitted a written application for reinstatement on a form prescribed by the Board and paid the applicable application fee; and

(d) The applicant meets all the requirements for reinstatement.

(2) A petitioner for post disciplinary reinstatement of a revoked or surrendered license shall submit written responses to any questions the disciplinary panel may pose concerning the reasons the license was revoked or surrendered and the petitioner's current fitness to practice.

(3) The disciplinary panel may grant post disciplinary reinstatement of a revoked or surrendered license only in accordance with the terms of the order of revocation or the letter of surrender.

(4) The disciplinary panel may grant post disciplinary reinstatement subject to any terms and conditions the disciplinary panel considers appropriate for public safety and the protection of the integrity and reputation of the profession.

(5) Reinstatement Inquiry.

(a) The disciplinary panel that issued the order to revoke or accept a letter of surrender may conduct a reinstatement inquiry which may include:

(i) If requested, an opportunity for the petitioner to address with the panel;

(ii) The petitioner's history; and

(iii) Presentations from both the petitioner and the administrative prosecutor's office ordinarily limited to 20 minutes per side.

(b) The disciplinary panel shall consider the reinstatement application, the petitioner's responses to the written questions, and the supporting documentation and written arguments, if any, submitted by the petitioner and the administrative prosecutor's office, as well as the oral presentations at the reinstatement inquiry, if any.

(6) The disciplinary panel shall determine, in its discretion, if post disciplinary reinstatement is in the interest of the health and welfare of the general public and consistent with the best interest of the profession.

(7) A disciplinary panel decision denying reinstatement may set out when, if ever, a subsequent petition may be submitted.

C. Final Written Order on Post Disciplinary Reinstatement Application.

(1) The disciplinary panel shall issue a final written order on the post disciplinary reinstatement application that:

(a) Reinstates the license of the petitioner without conditions;

(b) Reinstates the license of the petitioner with one or more of the following conditions:

(i) Reprimand;

(ii) Probation;

(iii) Requirements for supervision;

(iv) Further review of competence or performance;

(v) Limitations on practice; or

(vi) Other conditions that the disciplinary panel considers necessary; or

(c) Denies reinstatement.

(2) An order granting or denying post disciplinary reinstatement is not a contested case under the Administrative Procedure Act.

D. An application for post disciplinary reinstatement may be withdrawn only with the permission of the disciplinary panel.

.08 Proceedings for Crimes Involving Moral Turpitude.

A. Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), 14-5E-16(c), 14-5F-18(c), 14-5G-18(c), 14-306.4(c), and 15-314(b), Annotated Code of Maryland, govern mandatory actions for the suspension or revocation of a license on the filing of certified docket entries, if the individual is convicted of or pleads guilty, including by an Alford plea or a plea of nolo contendere to a crime involving moral turpitude.

B. Procedures.

(1) Board staff in consultation with Board counsel shall provide to the disciplinary panel assigned to the case certified docket entries of the criminal court proceeding and the following documents from the court record:

(a) For a conviction:

(i) The indictment, information, or other formal statement of the charges; and

(ii) Documentation of the verdict and sentencing; and

(b) For a plea of guilty, including an Alford plea, or a plea of nolo contendere, at least one of the following:

(i) Stipulated statement of facts or statement of facts on the record;

(ii) Plea agreement containing agreed facts;

(iii) Transcript of plea agreement proceedings; or

(iv) Written or transcribed opinion or statement of the judge accepting the plea.

(2) The disciplinary panel shall vote to issue an order requiring the respondent to show cause why the disciplinary panel should not take action under this regulation when:

(a) The disciplinary panel determines that documents provided indicate that the respondent comes within the language and intent of Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), 14-5E-16(c), 14-5F-18(c), 14-5G-18(c), 14-306.4(c) or 15-314(b), Annotated Code of Maryland; and

(b) The disciplinary panel has a basis for finding preliminarily that it applies to the respondent.

(3) After the vote to issue the show cause order, the disciplinary panel shall refer the matter to the administrative prosecutor for prosecutorial action.

(4) Based upon a review of the case, the administrative prosecutor may refer the matter back to the disciplinary panel for further consideration.

C. Service.

(1) The disciplinary panel shall serve the respondent at their address of record, the last known address, or upon their attorney pursuant to Regulation .03 of this chapter.

(2) The disciplinary panel may choose to serve the respondent personally.

D. Opportunity to be Heard.

(1) The respondent has 30 days to respond to the disciplinary panel, after issuance of the show cause order.

(2) The respondent may show cause in writing on the following issues:

(a) Lack of conviction or plea;

(b) Whether the crime is one involving moral turpitude;

(c) Misidentity of the respondent with the defendant in the criminal matter; and

(d) Other relevant issues, if any, other than mitigation.

(3) Limited Evidentiary Hearing.

(a) The respondent may, within 30 days of issuance of the show cause order, request an opportunity to address the disciplinary panel by a limited evidentiary hearing on the same issues.

(b) The limited evidentiary hearing is discretionary based on the existence of genuine issues of material fact or law as determined by the disciplinary panel.

(4) Hearing Procedures.

(a) The presiding disciplinary panel member, usually the disciplinary panel Chair, shall determine all procedural issues that are governed by this regulation, and may impose reasonable time limitations.

(b) The presiding disciplinary panel member shall make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing.

(c)Ordinarily, the respondent and the administrative prosecutor shall limit their oral presentation to 20 minutes each.

(d) The respondent shall proceed first.

(e) The presiding disciplinary panel member shall allow for consideration of documents that the presiding disciplinary panel member determines relevant and material.

(f) The presiding disciplinary panel member may not admit oral testimony or witnesses.

(g) Disciplinary panel members may ask questions of any party appearing before the disciplinary panel.

E. Burdens of Production and Persuasion.

(1) The respondent may argue issues as set out in §D(2) of this regulation and has the burden of producing argument or evidence in response to the show cause order either in writing or verbally at a hearing.

(2) The administrative prosecutor bears the burden of persuasion by a preponderance of the evidence that the respondent was convicted of or pled guilty or nolo contendere to a crime of moral turpitude.

F. Disciplinary Panel Action.

(1) After consideration of the respondent's answer, either in writing or at a hearing, the disciplinary panel shall:

(a) Deliberate and determine whether the crime is a crime involving moral turpitude; and

(b) Issue an appropriate order.

(2) A pending appeal of the conviction or plea may not constitute a bar to the disciplinary panel's action under Health Occupations Article, §14-404(b)(1), 14-5A-17(c)(1), 14-5B-14(c)(1), 14-5C-17(c), 14-5D-14(b)(1), 14-5E-16(c), 14-5F-18(c), 14-5G-18(c), 14-306.4(c), or 15-314(b), Annotated Code of Maryland.

(3) Reinstatement Upon Conviction Reversal.

(a) A respondent suspended pursuant to Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b)(1), 14-5E-16(e), 14-5F-18(c), 14-5G-18(c), 14-306.4(c) or 15-314(b), Annotated Code of Maryland shall be reinstated immediately upon the filing of a certified docket entry that the conviction has been reversed.

(b) The reinstatement under §F(3)(a) of this regulation may not terminate any other disciplinary action or investigation pending against the respondent.

.09 Summary Suspension.

A. State Government Article, §10-226(c), Annotated Code of Maryland, governs consideration of summary suspension of a license.

B. Summary Suspension Before a Hearing.

(1) Based on information gathered during an investigation, the disciplinary panel may determine that the public health, safety, or welfare imperatively requires emergency action and vote to summarily suspend the license of the respondent.

(2) If the disciplinary panel votes to summarily suspend the respondent's license, the Board shall refer the matter to the administrative prosecutor for prosecutorial action.

(3) The summary suspension order shall include, at minimum:

(a) The statutory authority upon which the order is based; and

(b) Statements of investigatory information which serve as a basis for the order.

(4) The respondent shall be provided with a post deprivation opportunity to be heard within 15 days by the disciplinary panel that voted to summarily suspend the license.

(5) The disciplinary panel shall serve the respondent at their address of record, their last known address, or upon their attorney pursuant to Regulation .03 of this chapter.

C. Notice of Intent to Summarily Suspend.

(1) Based on information gathered during an investigation, the disciplinary panel may determine that there is a substantial likelihood of a risk of serious harm to the public health, safety, or welfare by the individual and vote their intent to summarily suspend the license of the respondent.

(2) If the disciplinary panel votes their intent to summarily suspend the license of the respondent, the Board shall refer the matter to the administrative prosecutor for prosecutorial action.

(3) Notice provided to the respondent regarding the intent to summarily suspend the respondent's license shall include a:

(a) Proposed order for summary suspension; and

(b) Show cause notice letter providing an opportunity to the respondent to show cause as to why the order should not be issued.

(4) The proposed order for summary suspension shall include, at minimum:

(a) The statutory authority upon which the order is based;

(b) Notification that the respondent may request a full hearing to challenge the proposed summary suspension; and

(c) Statements of investigatory information which serve as the basis for the order.

(5) Service.

(a) The disciplinary panel shall serve the respondent at their address of record, their last known address, or upon their attorney pursuant to Regulation .03 of this chapter, at least 5 calendar days before a pre-deprivation hearing.

(b) The disciplinary panel may choose to serve the respondent personally.

(6) Extraordinary Circumstances.

(a) The notice provided under §C(3) of this regulation may not be required in extraordinary circumstances.

(b) The disciplinary panel, after consultation with the Board's counsel, may suspend a license without prior notice and opportunity to be heard, if:

(i) The disciplinary panel determines that the health, safety, and welfare of the public or the physician imperatively requires immediate suspension;

(ii) Notice and opportunity to be heard before the action is not feasible; and

(iii) The respondent is provided with a post deprivation opportunity to be heard within 15 days by the disciplinary panel that voted to summarily suspend the license.

D. Representation.

(1) The respondent may appear in proper person or be represented by an attorney in any matter before the disciplinary panel.

(2) If represented at an evidentiary hearing, the respondent shall be represented only by an attorney admitted to the Maryland Bar or specially admitted to practice law in the State under Maryland Rules 19-201—19-222.

(3) The administrative prosecutor shall appear for the prosecution of the case.

E. Post Deprivation Hearing Before the Disciplinary Panel.

(1) The disciplinary panel, that voted to summarily suspend under §B of this regulation, shall hold a post deprivation hearing on whether to continue the summary suspension of the license.

(2) The presiding disciplinary panel member shall determine all procedural issues that are governed by this section, and may impose reasonable time limitations.

(3) The presiding disciplinary panel member may make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing and shall ordinarily limit the oral presentation by the respondent and the administrative prosecutor to 20 minutes each.

(4) The respondent shall proceed first.

(5) The presiding disciplinary panel member:

(a) Shall allow for consideration of oral presentations and documents considered to be relevant and material to the proceeding which are not unduly repetitious; and

(b) May not admit oral testimony or witnesses.

(6) The disciplinary panel members may ask any questions of any party appearing before the disciplinary panel.

(7) The respondent may waive the post deprivation hearing in writing.

(8) After the post deprivation hearing, the disciplinary panel shall vote to:

(a) Reaffirm the summary suspension;

(b) Terminate the summary suspension;

(c) Enter any order to which the parties may agree; or

(d) Enter any interim order which is warranted by the circumstances of the case.

F. Pre-deprivation Hearing Before the Disciplinary Panel.

(1) The disciplinary panel, that voted to issue a show cause order under §C of this regulation, shall hold a pre-deprivation hearing on whether to summarily suspend the license.

(2) The presiding disciplinary panel member shall determine all procedural issues that are governed by this section and may impose reasonable time limitations.

(3) The presiding disciplinary panel member may make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing and shall ordinarily limit the oral presentation by the respondent and the administrative prosecutor to 20 minutes each.

(4) The administrative prosecutor shall proceed first.

(5) The presiding disciplinary panel member:

(a) Shall allow for consideration of oral presentations and documents considered by the presiding disciplinary panel member to be relevant and material to the proceeding which are not unduly repetitious; and

(b) May not admit oral testimony or witnesses.

(6) The disciplinary panel members may ask any questions of any party appearing before the disciplinary panel.

(7) After the pre-deprivation hearing, the disciplinary panel may issue the summary suspension order, previously filed with the notice, if it finds that the health, safety, and welfare imperatively require emergency action.

G. Burdens of Production and Persuasion for Post Deprivation and Pre-deprivation Hearings.

(1) The respondent may present argument in opposition to allegations presented in the order for summary suspension or the proposed order for summary suspension.

(2) The administrative prosecutor bears the burden to show by a preponderance of the evidence that the health, safety, and welfare of the public imperatively requires the disciplinary panel to issue an order to suspend the respondent's license.

I. Full Evidentiary Hearing.

(a) The respondent may demand a full evidentiary hearing, in accordance with the Administrative Procedure Act, on the merits within 10 days of the issuance of the waiver or affirmance or modification of a summary suspension order.

(b) The Office of Administrative Hearings shall schedule a hearing to be held within 45 days of the demand.

(c) The respondent may waive the 45 day time frame set forth in §I(2) of this regulation.

J. If the Respondent does not request a full evidentiary hearing under §I(1) of this regulation within 10 days of the issuance of the waiver, affirmance, or modification of a summary suspension order, the summary suspension may not be referred to the Office of Administrative Hearings and there will be no further opportunity for the respondent to challenge the summary suspension.

K. Evidentiary Hearing Before the Administrative Law Judge.

(1) If practical, the summary suspension and disciplinary charges shall be consolidated, into a single evidentiary hearing.

(2) After a full evidentiary hearing, the administrative law judge shall issue a proposed decision with findings of fact, conclusions of law, and disposition.

(3) Exceptions.

(a) The administrative prosecutor and respondent may file exceptions in accordance with Regulation .06B of this chapter.

(b) If a party files exceptions, unless the exceptions hearing is waived, an exceptions hearing, on the record, shall be held before a disciplinary panel that did not issue the order of summary suspension.

(4) After the disciplinary panel issues its final decision, the respondent may appeal this decision in accordance with Regulation .18 of this chapter.

.10 Sanctioning and Imposition of Fines for Licensees.

A. General Application of Sanctioning Guidelines.

(1) Sections A and B of this regulation and Regulation .11 of this chapter do not apply to violations for which a mandatory sanction is set by statute or regulation.

(2) Ranking of Sanctions.

(a) For the purposes of this regulation, the severity of sanctions is ranked as follows, from the least severe to the most severe:

(i) Reprimand;
(ii) Probation;
(iii) Suspension; and
(iv) Revocation.

(b) A fine listed in the sanctioning guidelines may be imposed in addition to, but not as a substitute for, a sanction.

(c) The addition of a fine does not change the ranking of the severity of the sanction.

(3) A departure from the sanctioning guidelines set forth in Regulation .11 of this chapter may not constitute a ground for any hearing or appeal of a disciplinary panel action.

(4) The disciplinary panel may impose more than one sanction, provided that the most severe sanction neither exceeds the maximum nor is less than the minimum sanction permitted in the sanctioning guidelines set forth in Regulation .11 of this chapter.

(5) Conditions.

(a) Any sanction from the disciplinary panel may be accompanied by conditions reasonably related to the violation or to the rehabilitation of the respondent.

(b) The inclusion of conditions does not change the ranking of the sanction.

(c) Conditions imposed by the disciplinary panel may include, but are not limited to:

(i) The length of probation or suspension;

(ii) Permanent or temporary conditions upon the license;

(iii) Required participation in remedial courses or programs; and

(iv) Supervision.

(6) If a licensee has violated more than one ground for discipline as set forth in the sanctioning guidelines:

(a) The sanction with the highest severity ranking should be used to determine which ground will be used in developing a sanction; and

(b) The disciplinary panel may impose concurrent sanctions based on other grounds violated.

(7) The disciplinary panel may depart from the sanctioning guidelines for the purposes of settlement with the respondent.

(8) Depending on the facts and circumstances of each case, and to the extent that the facts and circumstances apply, the disciplinary panel may consider the aggravating and mitigating factors set out in §B(4) and (5) of this regulation and may, in its discretion, determine, based on those factors, that an exception should be made and impose a sanction in a particular case that falls outside the range of sanctions listed in the sanctioning guidelines.

(9) If the disciplinary panel imposes a sanction that departs from the sanctioning guidelines set forth in Regulation .11 of this chapter, the disciplinary panel shall state its reasons for doing so in its final decision.

(10) Sanctioning Guidelines for Licensees. Sanctioning guidelines for licensees are subject to the following regulations:

(a) For physicians — Regulation .11 of this chapter;

(b) For limited X-ray machine operators (LXMO) — COMAR 10.32.13.10;

(c) For physician assistants — COMAR 10.32.17.14;

(d) For respiratory care practitioners — COMAR 10.32.18.10;

(e) For radiation therapists, radiographers, nuclear medicine technologists, and radiology assistants — COMAR 10.32.19.16;

(f) For polysomnographic technologists — COMAR 10.32.20.08;

(g) For athletic trainers — COMAR 10.32.21.09;

(h) For perfusionists — COMAR 10.32.22.11;

(i) For naturopathic doctors — COMAR 10.32.23.10; and

(j) For genetic counselors — COMAR 10.32.24.11.

B. Aggravating and Mitigating Factors.

(1) Depending on the facts and circumstances of each case, and to the extent that the facts and circumstances apply, the disciplinary panel may consider the aggravating and mitigating factors set forth in §B(4) and (5) of this regulation and may in its discretion determine, based on those factors, that an exception should be made to the imposed sanction in a particular case that falls outside the range of sanctions listed in the sanctioning guidelines.

(2) Nothing in this regulation requires the disciplinary panel or an administrative law judge to make findings of fact with respect to any of these factors.

(3) The existence of one or more of these factors does not impose on the disciplinary panel or an administrative law judge any requirement to articulate its reasoning for not exercising its discretion to impose a sanction outside of the range of sanctions set forth in the sanctioning guidelines.

(4) Mitigating Factors. Mitigating factors may include, but are not limited to, the following:

(a) The respondent's absence of a prior disciplinary record;

(b) That the respondent self-reported the incident;

(c) That the respondent voluntarily admitted the misconduct, made full disclosure to the disciplinary panel, and was cooperative during the disciplinary panel proceedings;

(d) That the respondent implemented remedial measures to correct or mitigate the harm arising from the misconduct;

(e) That the respondent made good faith efforts to make restitution or to rectify the consequences of the misconduct;

(f) That the respondent has been rehabilitated or exhibits rehabilitative potential;

(g) That the misconduct was not premeditated;

(h) That there was no potential harm to patients, the public, or other adverse impact; or

(i) That the incident was isolated and is not likely to recur.

(5) Aggravating Factors. Aggravating factors may include, but are not limited to, the following:

(a) The respondent's previous criminal or administrative disciplinary history;

(b) That the violation was committed deliberately, with gross negligence, or recklessly;

(c) That the violation had the potential for or actually did cause patient harm;

(d) That the violation was part of a pattern of detrimental conduct;

(e) That the respondent committed a combination of factually discrete violations adjudicated in a single action;

(f) That the respondent pursued their financial gain over the patient's welfare;

(g) That the patient was especially vulnerable;

(h) That the respondent attempted to hide the error or misconduct from patients or others;

(i) That the respondent concealed, falsified, or destroyed evidence, or presented false testimony or evidence;

(j) That the respondent did not cooperate with the investigation; or

(k) That previous attempts to rehabilitate the respondent were unsuccessful.

C. Violations Related to Continuing Education Credits.

(1) First Violation of Failure to Document Continuing Education Credits.

(a) Except as provided in §C(2) or (3) of this regulation, if a licensee has submitted an application claiming the completion of continuing education credits and the licensee fails to document the completion of such continuing education credits when audited by the Board, the disciplinary panel may impose a civil fine under Health Occupations Article, §14-316(d)(6), 14-5A-13(d)(2), 14-5B-12(d)(2), 14–5C–14(h), 14-5D-12(g), 14–5E–13(h), 14–5F–15(e), 14–5G–13(d)(2), 14-306.3, or 15-307(f), Annotated Code of Maryland, of up to $100 per missing continuing education credit in lieu of a sanction under Health Occupations Article, §14-404, 14-5A-17, 14-5B-14, 14–5C–17, 14-5D-14, 14–5E–16, 14–5F–18, 14–5G–18, 14-306.4, or 15-314, Annotated Code of Maryland.

(b) Section C(1)(a) of this regulation may not limit the Board's or disciplinary panel's authority to require completion of the missing continuing education credits.

(2) Willful Falsification of Continuing Education Credits.

(a) If a licensee has willfully falsified an application with respect to continuing education credits, the licensee may be charged under one or more of the following, as appropriate:

(i) Health Occupations Article, §14-404(a)(3), 14-5A-17(a)(3), 14-5B-14(a)(3), 14-5C-17(a)(3), 14-5D-14(a)(3), 14-5E-16(a)(3), 14-5F-18(a)(19), 14–5G–18(a)(3), 14-306.4(a)(3), or 15-314(a)(3), Annotated Code of Maryland;

(ii) Health Occupations Article, §14-404(a)(11), 14-5A-17(a)(10), 14-5B-14(a)(10), 14-5C-17(a)(10), 14-5D-14(a)(10), 14-5E-16(a)(10), 14-5F-18(a)(9), 14–5G–18(a)(10), 14-306.4(a)(10), or 15-314(a)(11), Annotated Code of Maryland; and

(iii) Health Occupations Article, §14-404(a)(36), 14–5A–17(a)(14), 14–5B–14(a)(14), 14–5C–17(a)(14), 14–5D–14(a)(14), 14–5E–16, 14–5F–18(a)(15), 14–5G–18(a)(14), 14-306.4(a)(14), or 15-314(a)(36), Annotated Code of Maryland.

(b) Upon a finding of a violation, the disciplinary panel may impose any discipline authorized under Health Occupations Article, §14-404(a), 14-405.1, 14-5A-17, 14-5B-17, 14-5C-17, 14-5D-14, 14-5E-16, 14-5F-18, 14–5G–18, 14-306.4, 15-314, or 15-316, Annotated Code of Maryland, and the sanctioning guidelines.

(3) Licensees Previously Disciplined Under §C(1) or (2) of this Regulation.

(a) If a licensee has been previously fined or otherwise disciplined under §C(1) or (2) of this regulation, the disciplinary panel may, for a subsequent violation relating to continuing education credits, charge a licensee under one or more of the following, as appropriate:

(i) Health Occupations Article, §14-404(a)(3), 14-5A-17(a)(3), 14-5B-14(a)(3), 14-5C-17(a)(3), 14-5D-14(a)(3), 14-5E-16(a)(3), 14-5F-18(a)(19), 14–5G–18(a)(3), 14-306.4(a)(3), or 15-314(a)(3), Annotated Code of Maryland;

(ii) Health Occupations Article, §14-404(a)(11), 14-5A-17(a)(10), 14-5B-14(a)(10), 14-5C-17(a)(10), 14-5D-14(a)(10), 14-5E-16(a)(10), 14-5F-18(a)(9), 14–5G–18(a)(10), 14-306.4(a)(10), or 15-314(a)(11), Annotated Code of Maryland; and

(iii) Health Occupations Article, §14-404(a)(36), 14–5A–17(a)(14), 14–5B–14(a)(14), 14–5C–17(a)(14), 14–5D–14(a)(14), 14–5E–16, 14–5F–18(a)(15), 14–5G–18(a)(14), 14-306.4(a)(14), or 15-314(a)(36), Annotated Code of Maryland.

(b) Upon a finding of a violation, the disciplinary panel may impose any discipline authorized under Health Occupations Article, §14-404(a), 14-405.1, 14-5A-17, 14-5B-17, 14-5C-17, 14-5D-14, 14-5E-16, 14-5F-18, 14–5G–18, 14-306.4, 15-314, or 15-316, Annotated Code of Maryland, and the sanctioning guidelines for a subsequent violation.

(c) The disciplinary panel may not apply the sanction described in §C(1) of this regulation in determining a sanction for a licensee previously fined or disciplined for a violation related to continuing education credits.

D. Payment of Fines.

(1) An individual shall pay to the disciplinary panel any fine imposed under this regulation within 90 calendar days of the date of the order, unless the order specifies otherwise.

(2) An appeal filed under State Government Article, §10-222, Annotated Code of Maryland, may not stay payment of a fine imposed by the disciplinary panel pursuant to this regulation.

(3) If an individual fails to pay a fine imposed by the disciplinary panel pursuant to this regulation, either in whole or in part, the disciplinary panel may not restore, reinstate, or renew the individual's license until the fine has been paid in full.

(4) The disciplinary panel, in its discretion, may refer all cases of delinquent payment to the Central Collection Unit of the Department of Budget and Management to institute and maintain proceedings to ensure prompt payment.

(5) The disciplinary panel shall pay all monies collected pursuant to this section into the State's General Fund.

.11 Sanctioning Guidelines for Physicians.

A. Subject to provisions of Regulation .10A and B of this chapter, the disciplinary panel may impose sanctions as outlined in §B of this regulation on physicians for violations of Health Occupations Article, §14-404(a), 14-504, or 1-302, Annotated Code of Maryland.

B. Range of Sanctions.

Ground	***Minimum Sanction***	***Maximum Sanction***	***Minimum Fine***	***Maximum Fine***

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$50,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$50,000*
(3) IIs guilty of immoral conduct or unprofessional conduct in the practice of medicine, consisting of:				
(a) Sexual misconduct;	*1 year of probation*	*Revocation*	*$0*	*$50,000*
(b) Violations which are not sexual in nature	*Reprimand*	*Revocation*	*$0*	*$50,000*
(c) Attesting to earning but failing to earn the required number of continuing education credits	*Reprimand*	*Revocation*	*$0*	*$50,000*
(4) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to disciplinary panel's satisfaction*	*Revocation*	*$0*	*$50,000*
(b) Physical incompetence	*Suspension until physical incompetence is addressed to the disciplinary panel's satisfaction*	*Revocation*	*$0*	*$50,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the disciplinary panel's satisfaction*	*Revocation*	*$0*	*$50,000*
(5) Solicits or advertises in violation of Health Occupations Article, §14-503, Annotated Code of Maryland	*Reprimand*	*Reprimand with probation*	*$0*	*$50,000*
(6) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$50,000*
(7) Habitual intoxication	*Suspension until the physician is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$50,000*

(8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until the physician is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$50,000*
(9) Provides professional services while:				
(a) Under the influence of alcohol; or	*Suspension until the physician is in treatment and has been abstinent for 1 year*	*Revocation*	*$0*	*$100,000*
(b) Using any narcotic or controlled dangerous substance, as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or other drug that is in excess of therapeutic amounts or without valid medical indication	*Suspension until the physician is in treatment and has been abstinent for 1 year*	*Revocation*	*$0*	*$100,000*
(10) Promotes the sale of drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Suspension for 5 years*	*$0*	*$50,000*
(11) Willfully makes or files a false report or record in the practice of medicine	*Reprimand*	*Revocation*	*$0*	*$50,000*
(12) Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$50,000*
(13) On proper request, and in accordance with the provisions of Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland, fails to provide details of a patient's medical record to the patient, another physician, or hospital	*Reprimand*	*Suspension*	*$0*	*$10,000*
(14) Solicits professional patronage through an agent or another person or profits from the acts of a person who is represented as an agent of the physician	*Reprimand*	*Suspension for 1 year*	*$0*	*$50,000*
(15) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum	*Reprimand*	*Revocation*	*$0*	*$10,000*

or any form of remuneration or material benefit from an individual for bringing or referring a patient				
(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: *(a) The name of the laboratory;* *(b) The amount paid to the laboratory for the test or test series; and* *(c) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken*	*Reprimand*	*Suspension for 1 year*	*$0*	*$50,000*
(17) Makes a willful misrepresentation in treatment	*Reprimand*	*Revocation*	*$0*	*$50,000*
(18) Unauthorized Persons.				
(a) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine	*Reprimand*	*Revocation*	*$0*	*$50,000*
(b) When the offense under §B(18)(a) of this regulation: *(i) Consists solely of a physician permitting an unlicensed allied health practitioner to work in a hospital;* *(ii) The allied health practitioner is employed by the hospital, not the physician;* *(iii) The physician is not employed by the hospital; and* *(iv) The recruitment, hiring, scheduling, and credentialing of the allied health practitioner is performed by the hospital and not the physician*	*Reprimand*	*Suspension for 1 year*	*$0*	*$50,000*
(19) Establishes a pattern of excessive or medically unnecessary procedures or treatment	*Reprimand and probation for 2 years*	*Revocation*	*$0*	*$50,000*
(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$50,000*

(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 U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under this regulation	*Sanction equivalent to that imposed by the original licensing authority if that sanction is lesser than the disciplinary panel's sanction would be*	*Sanction comparable to what a disciplinary panel imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the disciplinary panel's sanction, would be*	*Fine comparable to what the disciplinary panel imposes under the equivalent State ground for discipline*
(22) Fails to meet appropriate standards as determined by an 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 the State	*Reprimand*	*Revocation*	*$0*	*$50,000*
(23) Willfully submits false statements to collect fees for which services are not provided	*Reprimand*	*Revocation*	*$0*	*$50,000*
(24) Was subject to an 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 regulation, and the licensee: *(a) Surrendered the license issued by the state or country to the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*Sanction equivalent to that imposed by the original licensing authority, if that sanction is lesser than the disciplinary panel's sanction would be*	*Sanction comparable to what disciplinary panel imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority if that fine is lesser than the disciplinary panel's sanction would be*	*Fine comparable to what the disciplinary panel imposes under the equivalent State ground for discipline*
(25) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$50,000*
(26) Fails to educate a patient being treated for breast cancer of alternative methods of treatment in accordance with Health-General Article, §20-113, Annotated Code of Maryland	*Reprimand*	*Reprimand and probation for 1 year with mandatory continuing medical education*	*$0*	*$50,000*
(27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and probation for 3 years with practice oversight*	*Revocation*	*$0*	*$100,000*
(28) Fails to comply with the provisions of Health Occupations Article, §12-102, Annotated Code of Maryland regarding dispensing prescriptions	*Reprimand*	*Suspension for 2 years*	*$0*	*$50,000*

(29) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$50,000*
(30) Except for an association that has remained in continuous existence since July 1, 1963: (a) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy; (b) Employs a pharmacist for the purpose of operating a pharmacy; or (c) Contracts with a pharmacist for the purpose of operating a pharmacy	*Reprimand*	*Suspension for 3 years*	*$0*	*$50,000*
(31) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions	*Reprimand*	*Revocation*	*$0*	*$100,000*
(32) Fails to display the notice regarding the Centers for Disease Control and Prevention's guidelines on universal precautions, as required under Health Occupations Article, §14-415, Annotated Code of Maryland	*Reprimand*	*Suspension*	*$0*	*$10,000*
(33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel	*Reprimand*	*Revocation*	*$0*	*$50,000*
(34) Is convicted of insurance fraud as defined in Insurance Article, §27-801, Annotated Code of Maryland	*Suspension for 6 months*	*Revocation*	*$0*	*$50,000*
(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	*Reprimand*	*Revocation*	*$0*	*$100,000*
(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	*Reprimand*	*Revocation*	*$0*	*$50,000*

(37) 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, a disciplinary panel, or those otherwise delegated to the Office of Administrative Hearings	*Suspension for 3 years*	*Revocation*	*$0*	*$50,000*
(38) Willfully hinders, prevents, or otherwise delays any person from making information available to the Board or a disciplinary panel in furtherance of any investigation of the Board or a disciplinary panel	*Suspension for 3 years*	*Revocation*	*$0*	*$50,000*
(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board, a disciplinary panel, or those otherwise delegated to the Office of Administrative Hearings	*Probation for 3 years*	*Revocation*	*$0*	*$50,000*
(40) Fails to keep adequate medical records as determined by appropriate peer review	*Reprimand*	*Suspension for 1 year*	*$0*	*$50,000*
(41) Performs a cosmetic surgical procedure in an office or a facility that is not: *(a) Accredited by:* *(i) QUAD A;* *(ii) The Accreditation Association for Ambulatory Health Care; or* *(iii) The Joint Commission; or* *(b) Certified to participate in the federal Medicare program, as enacted by Title XVIII of the Social Security Act*	*Reprimand*	*Revocation*	*$0*	*$50,000*
(42) Fails to complete a criminal history records check under Health Occupations Article, §14-308.1, Annotated Code of Maryland	*Reprimand*	*Suspension for 1 year*	*$0*	*$10,000*
(43) Violates any provision of Health Occupations Article, Annotated Code of Maryland, any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine	*Reprimand*	*Revocation*	*$0*	*$25,000*

(44) Fails to meet the qualifications for licensure under Health Occupations Article, Title 14, Subtitle 3, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$25,000*
(45) Fails to comply with Health Occupations Article, §1-223, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$50,000*
(46) Fails to comply with the requirements of the Prescription Drug Monitoring Program under Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland	*Reprimand*	*Suspension for 1 year*	*$0*	*$25,000*
(47) Fails to comply with the provisions of Health Occupations Article, §14-504, Annotated Code of Maryland regarding acupuncture	*Reprimand*	*Revocation of acupuncture registration*	*$0*	*$25,000*
(48) Fails to comply with the provisions of Health Occupations Article, Title 1, Subtitle 3, Annotated Code of Maryland, regarding patient referrals	*Suspension for 6 months*	*Revocation*	*$0*	*$100,000*

.12 Initial Licensure Denials.

A. This regulation applies to proceedings under Health Occupations Article, §§14-206(e)(3) and 14-404, Annotated Code of Maryland.

B. The final decision on the proceedings set forth in this regulation is made by a disciplinary panel of the Board.

C. Denial of Application for Initial License.

(1) When an individual files an application for a license with the Board, the applicant shall be investigated to determine whether the Board will:

(a) Issue a license; or

(b) Deny the application.

(2) The disciplinary panel may vote on the issuance of an intent to deny application for an initial license to practice medicine or an allied health profession for one or any combination of the grounds for denial, including:

(a) Failing to meet the minimum qualifications or requirements of licensure;

(b) Committing an act or an omission constituting grounds for discipline under Health Occupations Article, §14-404, Annotated Code of Maryland;

(c) Failing to complete the application or failing to provide additional information requested by the Board in connection with the application;

(d) Submitting false or misleading information in connection with the application; or

(e) Failing to cooperate with the Board's investigation of the application.

(3) Notice of Intent to Deny an Application for Initial License.

(a) If the disciplinary panel votes to issue a notice of an intent to deny an application for an initial license, the notice shall be served upon the applicant by regular mail or hand delivery to an address the applicant identified on the applicant's application.

(b) The disciplinary panel may issue a notice of intent to deny with a proposed order which will go into effect if the applicant fails to request a hearing within 30 days of issuance of the notice of intent to deny.

(4) Informal Meeting with Board Disciplinary Panel.

(a) If the applicant timely requests a hearing, the applicant shall be offered an informal meeting with a disciplinary panel of the Board to explore whether the matter can be resolved with a consent order.

(b) The administrative prosecutor may attend the meeting.

(c) The panel may recommend a consent order granting a license, denying a license, or granting a license with appropriate terms and conditions including probation.

(5) Consent Order.

(a) If the applicant and the administrative prosecutor agree with the disciplinary panel's proposed resolution, the applicant shall sign a consent order with the proposed resolution.

(b) The disciplinary panel shall vote on whether to approve the resolution.

(c) If the applicant and the administrative prosecutor do not agree with the disciplinary panel's proposed resolution, the Board shall delegate the matter to the Office of Administrative Hearings for a contested case hearing.

(6) Hearing before the Office of Administrative Hearings.

(a) If the matter proceeds to a hearing before the Office of Administrative Hearings, the administrative prosecutor shall present evidence before an administrative law judge in support of the denial of the initial licensure application.

(b) The applicant shall be given an opportunity to present evidence in support of granting the license.

(c) The administrative law judge shall conduct an evidentiary hearing in accordance with:

(i) The Administrative Procedure Act;

(ii) COMAR 28.02.01; and

(iii) Regulation .05C of this chapter, which shall, whenever possible, be construed as supplementing and in harmony with COMAR 28.02.01.

(d) The administrative law judge shall issue a proposed decision.

(e) Exceptions.

(i) Within 15 days of the issuance of the proposed decision, the applicant and the administrative prosecutor may file exceptions to the proposed decision with the Board.

(ii) A response to the exceptions may be filed within 15 days of the filing of the exceptions.

(iii) If exceptions are filed, the disciplinary panel that did not issue the denial of the application for initial licensure shall hold a hearing on the exceptions.

(iv) The exceptions hearing is based upon the evidentiary record established before the Office of Administrative Hearings.

(7) Final Decision and Order. The disciplinary panel shall vote and issue a final decision and order on whether the initial license application is granted or denied.

(8) An individual whose application for initial licensure has been denied by a final decision and order by the Board may petition for judicial review of the final decision and order as provided by Health Occupations Article, §14-408(a), Annotated Code of Maryland.

.13 Cease and Desist Proceedings for Licensed Physicians and Unlicensed Individuals.

A. This regulation applies to proceedings under Health Occupations Article, §14-206(e)(1)—(3) Annotated Code of Maryland.

B. Initial Cease and Desist Order for a Licensed Physician and Unlicensed Individuals.

(1) Licensed Physicians. After an investigation, a disciplinary panel may issue an initial order to cease and desist, under Health Occupations Article, §14-206(e)(3), Annotated Code of Maryland, which prohibits a licensed physician from taking any action for which a disciplinary panel determines by a preponderance of the evidence that there are grounds for discipline under Health Occupations Article, §14-404, Annotated Code of Maryland and which pose a serious risk to the health, safety, and welfare of a patient.

(2) Unlicensed Individuals. After an investigation, a disciplinary panel may issue an initial order to cease and desist, under Health Occupations Article, §14-206(e)(1) and (2), Annotated Code of Maryland which prohibits an unlicensed individual from practicing a regulated profession under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland and misrepresenting to the public that an individual is authorized to practice a regulated profession under Health Occupation Article, Titles 14 or 15, Annotated Code of Maryland.

(3) The initial cease and desist order shall be:

(a) Considered a public document; and

(b) Effective immediately unless the initial order states otherwise.

(4) The Board shall serve the initial cease and desist order pursuant to Regulation .03 of this chapter.

(5) The Board may serve the initial cease and desist order to the respondent's attorney if the Board has received a letter of representation.

(6) The initial cease and desist order will become final if an opposition or request for hearing is not received within 15 days of the issuance of the order.

C. Written Opposition and Request for a Hearing.

(1) The respondent may challenge the initial cease and desist order by filing a written opposition with the disciplinary panel that issued the initial order, within 15 days of the issuance of the initial order.

(2) If the written opposition is received timely, the disciplinary panel shall consider the respondent's opposition.

(3) After considering the written opposition, the disciplinary panel may issue a final cease and desist order rescinding, modifying, or affirming the initial cease and desist order.

(4) The disciplinary panel that voted to issue the initial cease and desist order under §B of this regulation, shall hold the opposition hearing on whether to continue the order.

(5) Hearing Procedures.

(a) At the opposition hearing, the presiding disciplinary panel member:

(i) Shall determine all procedural issues that are governed by this section, and may impose reasonable time limitations;

(ii) Shall make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing;

(iii) Shall ordinarily limit the oral presentation by the respondent and the administrative prosecutor to 20 minutes each;

(iv) Shall allow for consideration of oral presentations and documents which are considered by the presiding disciplinary panel member to be relevant and material to the proceeding and not unduly repetitious; and

(v) May not allow oral testimony from the respondent or testimony from witnesses.

(b) The disciplinary panel members may ask any questions of any party appearing before the disciplinary panel.

(c) The disciplinary panel shall affirm, modify, or terminate the initial cease and desist order following the opposition hearing.

(d) If the disciplinary panel affirms or modifies the initial cease and desist order at the opposition hearing, the respondent may request, within 10 days, an evidentiary hearing before an administrative law judge.

D. Evidentiary Hearing.

(1) If the respondent timely requests an evidentiary hearing, the disciplinary panel shall delegate the evidentiary hearing to an administrative law judge, in accordance with Regulation .05 of this chapter.

(2) If a case is delegated to the Office of Administrative Hearings, the parties have the right to file exceptions in accordance with Regulation .06 of this chapter.

(3) Following the exceptions hearing, the disciplinary panel shall affirm, modify, or terminate the cease and desist order.

E. Final Cease and Desist Order.

(1) The Board shall serve the final cease and desist order pursuant to Regulation .03 of this chapter.

(2) The respondent may seek judicial review of the disciplinary panel's final cease and desist order as provided under the Administrative Procedure Act.

F. Violations of a Cease and Desist Order.

(1) A disciplinary panel may impose a reprimand, probation, suspension, or revocation, in addition to a fine, on any licensed physician who violates a cease and desist order.

(2) A disciplinary panel may impose a fine on any unlicensed individual who violates a cease and desist order.

(3) Before imposition of a sanction or fine for a violation of a cease and desist order, the panel shall provide notice of the alleged violation and an opportunity for a hearing.

(4) The only issues to be considered at a hearing for violation of a cease and desist order shall be:

(a) Whether the licensed physician or unlicensed individual violated the cease and desist order; and

(b) The sanction imposed by the disciplinary panel.

(5) The respondent may seek judicial review of the disciplinary panel's determination of a violation of a cease and desist order as provided under the Administrative Procedure Act.

.14 Unauthorized Practice.

A. This regulation applies to proceedings under Health Occupations Article, §14-606(a)(4)(ii), 14-5A-23(b), 14-5B-19(b), 14-5C-23(b), 14-5D-18(b), 14-5E-23(b),14-5F-29(b)(c), 14–5G–27(b), 14-306.4(b), or 15-403(b), Annotated Code of Maryland.

B. The final decision in the proceedings under this regulation shall be made by a disciplinary panel.

C. Unlicensed Practice and Misrepresentation as an Authorized Practitioner.

(1) After an investigation, the disciplinary panel may vote for charges that an individual has:

(a) Practiced medicine or an allied health profession without a license; or

(b) Misrepresented oneself as authorized to practice medicine or an allied health profession.

(2) In its discretion the disciplinary panel may offer a pre-charge consent order to resolve the allegations prior to the issuance of charges.

(3) Notice of Charges. If the disciplinary panel votes to charge an individual for practicing medicine or an allied health care profession without a license or with misrepresenting oneself as authorized to practice medicine or an allied health profession, the notice shall be served upon the respondent at their address of record, their last known address, or upon their attorney pursuant to Regulation .03 of this chapter.

(4) Disciplinary Committee for Case Resolution (DCCR).

(a) After issuance of the charges, the respondent shall be offered a DCCR with a disciplinary panel of the Board to explore whether the matter can be resolved with a consent order.

(b) The administrative prosecutor may attend the DCCR.

(c) The panel may recommend a consent order.

(d) In addition to a civil fine, the consent order may include an order that the respondent cease and desist from the charged unlicensed practice or misrepresenting to the public that the respondent is authorized to practice medicine or an allied health profession.

(e) If the respondent and the administrative prosecutor agree with the disciplinary panel's proposed resolution, the respondent shall sign a consent order with the proposed resolution.

(f) If the respondent or the administrative prosecutor disagree with the disciplinary panel's proposed resolution, the disciplinary panel shall delegate the matter to the Office of Administrative Hearings for a contested case hearing, in accordance with Regulation .05 of this chapter.

(5) The administrative law judge shall issue a proposed decision in accordance with Regulation .05 of this chapter.

(6) After the proposed decision is issued, the parties have the right to file exceptions in accordance with Regulation .06 of this chapter.

D. Fines for Unauthorized Practice of Medicine or Misrepresentation as a Licensee.

(1) The disciplinary panel may impose a fine as provided in §D(3) or (4) of this regulation for:

(a) Practicing without a license or misrepresenting authorization to practice in violation of Health Occupations Article, §14-601, 14-602, 14–5A–20, 14–5A–21, 14–5A–22, 14–5B–17, 14–5B–18, 14–5C–20, 14–5C–21, 14–5C–22, 14–5D–17, 14–5E–20, 14–5E–21, 14–5E–22, 14–5F–29, 14–5F–30, 14–5G–23, 14–5G–24, 14–5G–25, 14-306.3, 15-401, or 15-402, Annotated Code of Maryland; or

(b) A violation of a cease and desist order from practicing medicine without a license.

(2) Factors utilized by the disciplinary panel in determining the amount of a fine shall include, but are not limited to:

(a) The extent to which the respondent derived any financial benefit from their improper conduct;

(b) The willfulness of the respondent's improper conduct;

(c) The extent of actual or potential public harm caused by the respondent's improper conduct; and

(d) The deterrent effect of the fine.

(3) Range of Fines Imposed for Physicians and Naturopathic Doctors.

(a) Except as specified in §D(3)(b) of this regulation, the disciplinary panel may impose a fine of up to $50,000, but may consider the following guideline ranges:

(i) For the first violation, not less than $1,000 and not more than $30,000;

(ii) For the second violation, not less than $10,000 and not more than $40,000; and

(iii) For the third or subsequent violation, not less than $15,000 and not more than $50,000.

(b) If the conduct resulted in harm to any patient, the disciplinary panel may consider each patient seen to be a separate violation when imposing a fine listed in §D(3)(a) of this regulation.

(4) Range of Fines Imposed for Allied Health Professions.

(a) Except as specified in §D(4)(b) of this regulation, the disciplinary panel may impose a fine of up to $50,000, but may consider the following guideline ranges:

(i) For the first violation, not less than $500 and not more than $3,000; and

(ii) For the second or subsequent violation, not less than $1,000 and not more than $5,000.

(b) If the conduct resulted in harm to any patient, the disciplinary panel may consider each patient seen to be a separate violation when imposing a fine listed in §D(4)(a) of this regulation.

(5) The disciplinary panel shall pay all monies collected pursuant to this section into the Board's fund.

.15 Denials of Initial Licensure or Reinstatement Application.

A. This regulation applies to proceedings under Health Occupations Article, §14-205(b)(3)(i), 14-5A-17(a), 14-5B-14(a), 14-5C-17(a), 14-5D-14(a), 14-5E-16(a), 14-5F-18(a), 14–5G–18(a), 14-306.4(a), or 15-311 Annotated Code of Maryland.

B. The final decision in the proceedings under this regulation shall be made by a disciplinary panel of the Board.

C. Denial of Application for Initial License and Reinstatement After Expiration of License.

(1) If a disciplinary panel votes to issue a notice of an intent to deny initial licensure or reinstatement, the notice shall be served upon the applicant at their address of record, their last known address, or upon their attorney pursuant to Regulation .03 of this chapter.

(2) If the applicant does not request a hearing, the disciplinary panel shall issue a final order denying the license.

(3) In its discretion, the disciplinary panel may offer a consent order to resolve the allegations prior to the issuance of a notice of intent to deny the application.

(4) Hearing Request and DCCR.

(a) After the disciplinary panel issues the notice of intent to deny application for initial license or reinstatement, within 30 days, the applicant may request a hearing.

(b) If the applicant requests a hearing, they shall be offered a DCCR with a panel to explore whether the matter can be resolved with a consent order.

(c) The administrative prosecutor also may attend the DCCR.

(d) The disciplinary panel may recommend a consent order granting a license, denying a license, or granting a license with appropriate terms and conditions including probation.

(e) If the applicant and the administrative prosecutor agree with the panel's proposed resolution, the applicant shall sign a consent order with the proposed resolution.

(5) Hearing Procedures.

(a) If the applicant or administrative prosecutor disagree with the panel's proposed resolution, the panel shall delegate the matter to the Office of Administrative Hearings for a contested case hearing, in accordance with Regulation .05 of this chapter.

(b) The administrative law judge shall issue a proposed decision, in accordance with Regulation .05 of this chapter.

(c) After the proposed decision is issued, the parties have the right to file exceptions in accordance with Regulation .06 of this chapter.

(6) Final Decision.

(a) The disciplinary panel shall vote and issue a final decision and order on whether the initial license or reinstatement application is granted or denied.

(b) Reapplication.

(i) If a disciplinary panel denies an application for an initial license or reinstatement, the panel may set a time period before the applicant can reapply or issue a decision in which the panel prohibits the applicant from reapplying.

(ii) If the disciplinary panel does not provide a time period when the applicant can reapply for initial licensure or reinstatement, the applicant may not reapply for an initial license or reinstatement until 2 years have passed from the date of the final decision denying their original application.

(c) An individual whose application for initial licensure or reinstatement has been denied by a final decision and order by the disciplinary panel may petition for judicial review of the final decision and order as provided under Health Occupations Article, §14-408(a), Annotated Code of Maryland.

.16 Modification or Disapproval of Advanced Duties for Physicians Assistants and Disapproval of Specialized Tasks for Athletic Trainers.

A. This regulation applies to proceedings under Health Occupations Article, §15-302.1 or 14-5D-11.3, Annotated Code of Maryland.

B. The final decision in the proceedings under this regulation shall be made by a disciplinary panel of the Board.

(1) If the Board votes to issue a modification or disapproval of an advanced duty for a physician assistant or a disapproval of a specialized task for an athletic trainer, the Board shall notify the applicant at their address of record, their last known address, or upon their attorney pursuant to Regulation .03 of this chapter.

(2) Hearing Request.

(a) Within 30 days after notification of a modification or disapproval of an advanced duty for a physician assistant or a disapproval of a specialized task for an athletic trainer, the applicant may request a hearing.

(b) If the applicant does not request a hearing, the Board's modification or disapproval of an advanced duty for a physician assistant or its disapproval of a specialized task for an athletic trainer will become final.

(3) Hearing Procedures.

(a) If the licensee requests a hearing, the Board may delegate the matter to the Office of Administrative Hearings for a contested case hearing, in accordance with Regulation .05 of this chapter.

(b) The administrative law judge shall issue a proposed decision, in accordance with Regulation .05 of this chapter.

(c) After the proposed decision is issued, the parties have the right to file exceptions in accordance with Regulation .06 of this chapter.

(4) Final Decision and Order. After the exceptions process, the disciplinary panel shall vote and issue a final decision and order on whether the advanced duty or specialized task is granted, modified, or denied.

C. The licensee whose advanced duty or specialized task is modified or denied may seek judicial review of the disciplinary panel's final decision as provided under the Administrative Procedure Act.

.17 Recusal in Board or Disciplinary Panel Proceedings.

A. A Board member may not participate in a proceeding in which the impartiality of the Board member might reasonably be questioned, including, but not limited to, proceedings in which the Board member has or appears to have:

(1) A personal bias or prejudice concerning a party; or

(2) Personal knowledge of disputed, material evidentiary facts concerning a proceeding.

B. If a Board member is recused from a proceeding, the recusal shall be stated on the record.

C. In a proceeding before the disciplinary panel, the parties may waive the recusal.

.18 Judicial Review.

Any person aggrieved by a final decision of a disciplinary panel in a contested case, as defined under the Administrative Procedure Act, may take a direct judicial appeal as provided under the Administrative Procedure Act and Health Occupations Article, §14-408, Annotated Code of Maryland.

.19 Show Cause Hearings.

A. Nothing in this chapter prohibits a disciplinary panel from conducting a show cause hearing to determine if there has been:

(1) A violation of probation;

(2) A violation of a condition under any portion of a disciplinary order; or

(3) Any other violation of a Board or disciplinary panel order.

B. Termination of Hearing and Delegation to an Administrative Law Judge.

(1) A disciplinary panel may terminate a show cause hearing if it determines that there are material facts in dispute which cannot reasonably be determined in that forum.

(2) The disciplinary panel may delegate such a hearing to an administrative law judge.

C. Nothing in this chapter prohibits the issuance of a denial of an advanced duty, specialized task, or imposition of a civil penalty, which will go into effect if the respondent fails to request a hearing.

.20 Administrative Expungement.

A. Administrative Expungements.

(1) An applicant may file with the Board an application for administrative expungement to have records of an administrative action by a disciplinary panel classified as confidential, not for public release, and removed from the licensee's public individual profile, if:

(a) The application is submitted more than 3 years after the imposition of an administrative action by the Board or after administrative reinstatement or termination of suspension of the license, whichever is later;

(b) The licensee had no incidents of a public sanction since the administrative action identified in the application occurred; and

(c) The licensee is not currently under probation or investigation by the Board.

(2) An application for administrative expungement shall only be granted for the following administrative actions:

(a) Failure to pay taxes or unemployment insurance contributions under Health Occupations Article, §1-213(b), Annotated Code of Maryland;

(b) Failure to complete continuing education requirements under Health Occupations Article, §14-316(d), Annotated Code of Maryland;

(c) Failure to renew a license on time under Health Occupations Article, §14-606(a)(5), Annotated Code of Maryland; or

(d) Failure to notify the Board in writing of change of name or address within the time required under Health Occupations Article, §14-316(f), Annotated Code of Maryland.

(3) An administrative expungement may not be considered for any license denials, reprimands, probations, suspensions, and revocations issued pursuant to Health Occupations Article, §14-404, Annotated Code of Maryland.

B. Application for Administrative Expungement.

(1) The application for administrative expungement shall be filed in writing on a form provided by the Board.

(2) The application fee shall be $450.

(3) The application fee is non-refundable.

C. Disposition of Application.

(1) If the applicant meets the requirements specified in §§A and B of this regulation, the Board shall inform the applicant when to expect the records to be removed from the applicant's public practitioner profile as required under Health Occupations Article, §14-411.1, Annotated Code of Maryland and when all Board records will be classified confidential.

(2) If the applicant does not meet the requirements specified in §§A and B of this regulation, the applicant will be deemed ineligible and the Board shall notify the applicant in writing.

(3) An applicant whose application is ineligible under §C(2) of this regulation may reapply when they meet the requirements specified in §§A and B of this regulation.

D. The Board is not required to report an administrative expungement to any national database.

E. Nothing in this regulation shall prohibit the Board from using a Board record, previous sanction, or disciplinary action for any regulatory purpose or from releasing records to law enforcement or other governmental body as permitted by law.

.21 Standard of Proof and Burden of Proof in Board Proceedings.

A. The standard of proof in a Board proceeding is by a preponderance of the evidence.

B. Unless otherwise provided herein, a party asserting the affirmative of an issue before a disciplinary panel bears the burden of proof regarding the issue.

.22 Confidentiality of Proceedings.

A. Except as provided by Health Occupations Article, 14-411(o), Annotated Code of Maryland for formal charging documents, notices of intent to deny, notice of show cause hearing, summary suspensions, cease and desist orders, final decisions, or as otherwise provided by law, the proceedings of the Board and disciplinary panels are confidential and may not be waived by the parties.

B. Unless adopted by the disciplinary panel as part of the final decision, the proposed decision by an administrative law judge is confidential.

C. The respondent may not waive the confidentiality of the contested case proceedings.

D. To the extent possible, even after a final decision is entered by the Board or a disciplinary panel, the Board, the parties, the Office of Administrative Hearings, or witnesses shall refrain from revealing legal documents, oral statements, or information that would reveal the identity of any party, patient, or witness referenced in the order, or the testimony of any witness or any evidence produced in the proceedings.

.23 Ethics.

A. The Board and the disciplinary panels may consider the Code of Medical Ethics of the American Medical Association and Opinions on related matters, the principles and opinions are not binding on the Board or the disciplinary panels.

B. If offered by a party, the administrative law judge shall take judicial notice of the relevant principles and opinions contained in the Code of Medical Ethics of the American Medical Association and Opinions on related matters.

.24 Centers for Disease Control and Prevention Guidelines.

A. CDC Opioid Guidelines. The Board and the disciplinary panels may consider the "Guideline for Prescribing Opioids for Chronic Pain" published by the Centers for Disease Control and Prevention and Opinions on related matters, but the guideline and opinions are not binding on the Board or the disciplinary panels.

B. CDC Guidelines. If offered by a party, the administrative law judge shall take judicial notice of the following Centers for Disease Control and Prevention guidelines and opinions on related matters:

(1) Infection control guidelines and recommendations for healthcare settings; and

(2) The Guideline for Prescribing Opioids for Chronic Pain.

10.32.03 Employment Prohibitions and Mandated Reports by Employers

Authority: Health Occupations Article, §§14-205(a)(2), 14-306.3, 14-413, 14-414, 14-5A-18, 14-5A-22.1, 14-5B-15, 14-5B-18.1, 14-5C-18, 14-5C-22.1, 14-5D-11.1, 14-5D-11.5, 14-5E-18, 14-5E-22.1, 14-5F-19, 14-5E- 18, 14-5E-22.1, 14-5G-20, 14-5G-26, 15-103, and 15-402.1 Annotated Code of Maryland

.01 Scope.

This chapter governs certain employer prohibitions and reporting requirements concerning individuals regulated by the Maryland Board of Physicians under this subtitle.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administrative Procedure Act" means State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(2) "Administrative suspension" means an action imposed by an employer restricting an individual's privileges, hours, or scope of employment for the failure of the individual to comply with the bylaws, rules, policies, or procedures of the employer.

(3) "Allied health practitioner" means an individual who is not a physician and is licensed by the Board under:

(a) Health Occupations Article, Title 14, Annotated Code of Maryland; or

(b) Health Occupations Article, Title 15, Annotated Code of Maryland.

(4) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(5) "Disciplinary panel" means a panel established under Health Occupations Article, §14-401, Annotated Code of Maryland, which:

(a) Is composed of 11 Board members; and

(b) Makes determinations regarding:

(i) Complaints and disciplinary actions against licensed individuals, applicants, and unlicensed individuals; and

(ii) Post disciplinary reinstatements.

(6) "Disciplinary proceedings" means any matters that occur after the Board or disciplinary panel initiates an administrative action against a respondent and provides public notice.

(7) "Employer".

(a) Has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland;

(b) Means an entity that grants a licensee the ability to practice or treat patients; or

(c) Means an entity that grants a licensee privileges or credentials to perform duties.

(8) "Failure to file a mandated report" means the failure of an employer to file a report with the Board as mandated by Regulation .04 of this chapter.

(9) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(10) "Involuntarily terminated or restricted" means a termination, relinquishment, restriction, or reduction of an individual's privileges, employment, or a contract with an employer after:

(a) The employer notified the individual that discharge or termination of privileges, employment, or a contract, or that proceedings possibly leading to discharge or termination of privileges, employment, or a contract, would occur if the individual would not resign;

(b) The individual was notified that an investigation by the employer may begin; or

(c) The individual was asked to respond to a complaint made to the employer.

(11) "Joint Commission" means the organization formerly known as the Joint Commission on the Accreditation of Health Care Organizations.

(12) "License" means a license or registration issued by the Board under this subtitle.

(13) "Licensee" means an individual to whom the Board issues a license or registration under this subtitle.

(14) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(15) "Preliminary investigation" means the initial review of a complaint or application irregularity which is the basis for the decision on:

(a) Whether to assign the case to a disciplinary panel for a full investigation; or

(b) Whether to close the investigation due to lack of jurisdiction or because, even if there were a full investigation, there still would not be a legal or factual basis for the issuance of a charging document.

(16) "Privileges" means authorization granted by an employer to an individual to provide specific care, treatment, diagnostic services, or other services to patients.

(17) "Registrant" means an individual to whom the Board issues a registration.

(18) "Registration" means limited permission to perform certain health care duties.

(19) "Voluntary resignation" means the relinquishment of privileges, employment, or a contract with an employer taken by an individual in good standing.

.03 Employment Prohibitions.

A. Except as otherwise provided in this subtitle, an employer may not employ an individual without a license or registration when a license or registration is required for employment by State or federal law or regulation.

B. Civil Penalties for Violations.

(1) With respect to physicians, an employer is subject to a civil penalty not exceeding $10,000 for a violation of this regulation.

(2) With respect to allied health practitioners, an employer is subject to a civil penalty not exceeding $5,000 for a violation of this regulation.

(3) With respect to individuals, an employer is subject to a civil penalty not exceeding $5,000 for a violation of this regulation.

C. This regulation does not apply to individuals who are exempt from licensure or registration under Health Occupations Article, Annotated Code of Maryland or this subtitle.

.04 Mandated Reporting for Employers.

A. An employer shall submit a report to the Board if:

(1) The employer:

(a) Reduced, suspended, revoked, restricted, denied, conditioned, or did not renew the licensee's clinical privileges, employment, or other ability to practice or treat patients;

(b) Involuntarily terminated or restricted the licensee's employment or staff membership; or

(c) Asked the licensee to voluntarily resign because of the licensee's conduct or while the licensee is being investigated; and

(2) The action described under §(A)(1) of this regulation was taken:

(a) For reasons that might be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

(b) Because the licensee may have engaged in an act that may constitute unprofessional conduct;

(c) Because the licensee may not be able to practice with reasonable skill and safety because of a physical or mental condition or professional incompetence; or

(d) Because the licensee may have harmed or placed one or more patients or the public at unreasonable risk of harm by engaging in an act that creates an immediate or continuing danger.

B. Specific Actions Not Reportable to the Board. The following actions may not require reporting by an employer:

(1) Voluntary leaves of absence that:

(a) Are taken by a licensee who is in good standing; and

(b) May be caused by, but are not limited to:

(i) Employer-approved Family Medical Leave;

(ii) Family problems of a medical or other personal nature;

(iii) Medical problems that do not implicate the licensee's mental or emotional ability to provide competent care;

(iv) Employer-approved leave as a reasonable accommodation under the Americans with Disabilities Act, State law, or the employer's sick leave policy;

(v) Military deployment;

(vi) Sabbaticals;

(vii) Extended vacations; or

(viii) Absences for professional training;

(2) Voluntary resignations that:

(a) Are submitted by a licensee who is in good standing; and

(b) May be caused by, but are not limited to:

(i) A job or career change;

(ii) The licensee's desire to relocate from the State;

(iii) The licensee's desire to retire; or

(iv) A low volume of clinical interaction;

(3) The initial denial of employment or privileges for reasons not reportable under §A of this regulation; and

(4) Administrative suspensions, if the total time of the suspension imposed upon or agreed to by the licensee does not exceed 30 cumulative days in any 1 calendar year.

C. Reporting Requirement Exemption.

(1) If an employer knows that the conduct of a licensee is attributable to the licensee's impairment by alcohol or another substance, the employer is not required to report the licensee to the Board if:

(a) The action or condition of the licensee has not caused injury to any person while they were practicing the licensed profession; and

(b) The employer:

(i) Knows that the licensee is receiving substance use disorder treatment as specified in §C(2) of this regulation ; and

(ii) Is able to verify that the licensee remains in the treatment program until successful discharge.

(2) A licensee is receiving substance use disorder treatment if:

(a) The licensee is in a substance use disorder treatment program that is accredited by the Joint Commission;

(b) The licensee is in a substance use disorder treatment program certified by the Maryland Department of Health; or

(c) The licensee is under the care of health care practitioner who is competent and capable of dealing with substance use disorders.

D. Report Contents.

(1) Each report submitted under §A of this regulation shall be submitted in a format determined by the Board.

(2) Each report shall include:

(a) The action taken by the employer;

(b) An unredacted and detailed explanation of the reasons for the action, including references to specific patient medical records, if any, that informed the employer's action;

(c) The steps taken by the employer to investigate the conduct of the licensee;

(d) The employer's tax identification number;

(e) A designated employer representative familiar with the matters in the report for correspondence with the Board; and

(f) A designated employer email for correspondence with the Board.

(3) The Board may request from the employer additional information regarding an action subject to reporting under this regulation that was taken by the employer.

(4) If an employer receives a request made under §D(3) of this regulation, the employer shall provide the additional information requested promptly within 10 business days.

E. Reporting Time Frame.

(1) An employer required to make a report to the Board under §A of this regulation shall submit the report within 10 business days after the action requiring the report.

(2) Upon written request of the employer, the Board may extend the reporting time for good cause shown.

F. An employer is not required to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of substance use disorder patient records.

G. Civil Penalties for Reports Made in Bad Faith.

(1) With respect to allied health practitioners, a disciplinary panel may impose a civil penalty up to $5,000 per incident for a report made in bad faith.

(2) With respect to physicians, a disciplinary panel may impose a civil penalty up to $10,000 per incident for a report made in bad faith.

.05 Enforcement of Mandated Employer Reports.

A. The Board shall conduct a preliminary investigation, and a disciplinary panel shall hold a hearing as described in COMAR 10.32.02 for an employer's failure to file a mandated report under Regulation .04 of this chapter.

B. If a disciplinary panel votes to issue a notice of failure to file a mandated report, the disciplinary panel shall post on its website and mail the notice of failure to file a report to the employer involved in accordance with COMAR 10.32.02.03.

C. If the employer does not request a hearing within 30 days of the date the notice of failure to file a report was mailed, the notice of failure to file a report shall become final and shall constitute a final disposition of the disciplinary panel.

D. The issues at the hearing are limited to whether an employer complied with the requirements of Regulation .04 of this chapter.

E. It is not a defense to the allegation of a failure to file a mandated report that the employer:

(1) Was not aware of the obligation to report;

(2) Was conducting its own proceeding to further evaluate the action or the reasons for the action;

(3) Did not report because the employer thought the action had already been reported; or

(4) Did not report due to communication failure.

F. If the disciplinary panel finds after the hearing that the employer did not fail to file any report mandated by Regulation .04 of this chapter, the disciplinary panel shall issue a final disposition dismissing the notice of failure to file a report.

G. If the disciplinary panel finds after a hearing that an employer knowingly failed to file any report required by Regulation .04 of this chapter, the disciplinary panel shall issue and post on its website a final disposition with findings of fact, conclusions of law, and any civil penalty.

H. Civil Penalties. The Board may impose a civil penalty in its final disposition as follows:

(1) For the failure to file a report concerning physicians, a civil penalty of up to $10,000; or

(2) For the failure to file a report concerning allied health practitioners, a civil penalty of up to $5,000.

I. Judicial Review of Final Disposition.

(1) An employer that is dissatisfied with a final disposition of the disciplinary panel relating to the employer's failure to file a mandated report may seek judicial review of the disciplinary panel's final disposition as provided in the Administrative Procedure Act.

(2) The disposition of the disciplinary panel may not be stayed pending judicial review.

J. Collection of Funds.

(1) The Board shall pay all monies collected pursuant to this chapter into the State's General Fund.

(2) The Board may refer any uncollected civil penalties under this regulation to the Central Collection Unit of the State.

.06 Confidentiality of Mandated Employer Reports.

A report made to the Board under this chapter shall be privileged, not subject to inspection under the Public Information Act, and not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and the final disposition of the Board or disciplinary panel.

10.32.04 Sexual Misconduct Prohibited.

Authority: Health Occupations Article, §1-212, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Key Third Party.

(a) "Key third party" means an individual who participates in the health and welfare of the patient concurrent with the physician-patient relationship.

(b) "Key third party" includes, but is not limited to the following individuals:

(i) A spouse;

(ii) A partner;

(iii) A family member;

(iv) A guardian;

(v) A surrogate; or

(vi) A proxy designated by durable power of attorney.

(2) "Licensee" means an individual to whom the Board issues a license or registration under this subtitle.

(3) Sexual Contact.

(a) "Sexual contact" means the licensee's knowing touching directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification.

(b) "Sexual contact" includes, but is not limited to:

(i) Sexual intercourse, genital to genital contact;

(ii) Oral to genital contact;

(iii) Oral to anal contact or genital to anal contact;

(iv) Kissing in a romantic or sexual manner; or

(v) Nonclinical touching of breasts, genitals, or any other sexualized body part.

(4) "Sexual harassment" means an unwelcome sexual advance, request for sexual favor, other verbal or physical conduct, or electronic communication of a sexual nature by a licensee.

.02 Sexual Misconduct.

A. Prohibition. Licensees may not engage in sexual misconduct.

B. Health Occupations Article, §1-212, 14-404(a)(3), 14-5A-17(a)(3), 14-5B-14(a)(3), 14-5C-17(a)(3), 14-5D-14(a)(3), 14-5E-16(a)(3), 14-5F-18(a)(19), 14-5G-18(a)(3), 14-306.4(a)(3), or 15-314(a)(3), Annotated Code of Maryland, relating to immoral or unprofessional conduct of licensees includes, but is not limited to, sexual misconduct.

C. Sexual misconduct includes, but is not limited to:

(1) Engaging in sexual harassment of a patient, key third party, employee, student, or coworker, regardless of whether the sexual harassment occurs inside or outside of a professional setting;

(2) Failing to provide privacy for disrobing;

(3) Performing a pelvic or rectal examination without the use of gloves;

(4) Discussing the licensee's sexual problems or sexual likes, dislikes, or fantasies;

(5) Using the licensee-patient relationship to initiate or solicit a dating, romantic, or sexual relationship;

(6) Engaging in a dating, romantic, or sexual relationship that violates §D of this regulation or the code of ethics of the American Medical Association, American Osteopathic Association, American Psychiatric Association, or other professional code of ethics;

(7) Participation in any form of sexual contact with a patient or key third party;

(8) Nonconsensual sexual contact with a coworker or employee;

(9) Causing a patient or key third party to touch the licensee's breasts, genitals, or any sexualized body part;

(10) Encouraging a patient or key third party to masturbate in the presence of the licensee or masturbation by the licensee while a patient or key third party is present;

(11) Offering to provide practice-related services in exchange for sexual favors; and

(12) Exposing the licensee's breasts, genitals, or any sexualized body part.

D. Sexual or Romantic Relationships. A licensee may not engage in sexual contact with:

(1) A current patient;

(2) A key third party if the key third party's decisions directly affect the health and welfare of the patient or if the relationship could otherwise compromise the patient's care based on the following considerations, which include, but are not limited to:

(a) The nature of the patient's medical problem and the likely effect on patient care;

(b) The length of the professional relationship;

(c) The degree of emotional dependence on the licensee;

(d) The importance of the clinical encounter to the key third party and the patient; and

(e) Whether the licensee-patient relationship can be terminated in keeping with ethics guidance and what implications doing so would have for the patient; and

(3) A former patient upon consideration of the following factors:

(a) Duration of the licensee-patient relationship;

(b) Nature of the health care services provided;

(c) Lapse of time since the licensee-patient relationship ended;

(d) Extent to which the former patient confided personal or private information to the licensee;

(e) Degree of emotional dependence that the former patient has or had on the licensee;

(f) Extent to which the licensee used or exploited the trust, knowledge, emotions, or influence derived from the previous licensee-patient relationship; and

(g) Whether the licensee-patient relationship was terminated to enter into a romantic or sexual relationship.

10.32.06 Petition for Declaratory Ruling

Authority: State Government Article, §§10-301—10-305, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(2) "Designee" means a person or committee to whom the Board has delegated responsibility for consideration of a petition.

(3) "Person" means:

(a) An individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and

(b) Any partnership, firm, association, corporation, or other entity.

.02 Petition for Declaratory Ruling.

A. An interested person may file with the Board a petition for a declaratory ruling with respect to the manner in which the Board would apply:

(1) A statute;

(2) A regulation; or

(3) An order which the Board enforces to a particular case based on the facts presented in the petition.

B. Delegation.

(1) The Board may delegate responsibility for consideration of the petition.

(2) The Board's delegation may be limited to the:

(a) Study of a request; and

(b) Preparation of a proposed ruling for the Board's consideration.

C. Petition for Declaratory Ruling.

(1) The petition for a declaratory ruling shall be filed in writing on a form provided by the Board.

(2) The petition for declaratory ruling shall contain a statement describing in detail:

(a) The interest of the petitioner in making the request;

(b) The issue involved;

(c) A statement of the facts; and

(d) A listing of documents or statements, or both, to be considered.

(3) Sworn Statement. Unless this requirement is waived in writing by the Board, the petition shall contain a sworn statement by the petitioner that the facts contained in the petition are true to the best of the petitioner's knowledge and belief.

D. Granting or Denial of Petition for Declaratory Ruling.

(1) No later than 60 days from receipt of the petition, the Board shall inform the petitioner whether the petition will be granted.

(2) If the petition is denied, the Board shall inform the petitioner in writing of the reasons for the denial.

(3) If the petition is granted, the Board or the Board's designee shall inform the petitioner when to expect the declaratory ruling.

.03 Consideration, Disposition, Binding, Denial, and Appeal of Petition for Declaratory Ruling.

A. Consideration of Petition.

(1) A petition shall be granted if the Board or the Board's designee considers issuing a declaratory ruling advisable under the circumstances.

(2) In rendering its ruling, the Board or the Board's designee:

(a) Shall consider all materials submitted with the petition;

(b) May consider any document, data, or other relevant material;

(c) May consult individuals;

(d) May consider comments from the staff; and

(e) May require argument of the question or permit the introduction of evidence by the petitioner or, in the Board's sole discretion, by other persons.

(3) Consideration of the proposed rulings prepared by the Board's designee shall be conducted according to procedures adopted by the Board in each case.

B. Disposition of Petition.

(1) A declaratory ruling issued by the Board shall be in writing, stating the:

(a) Issue;

(b) Conclusion;

(c) Facts on which the conclusion was based; and

(d) Sources relied upon.

(2) A declaratory ruling issued by the Board shall plainly state that it is a declaratory ruling pursuant to this chapter.

(3) A written answer from the Board, any employee, or any committee of the Board to an inquiry may not be considered a declaratory ruling unless made in conformity with this chapter.

C. Binding of a Petition. A declaratory ruling shall be binding on the Board and the petitioner on the statement of facts set forth in the petition.

D. Denial of Petition. A petition may be denied if the:

(1) Request contains incomplete information on which to base an informed declaratory ruling;

(2) Board or the Board's designee concludes that a declaratory ruling cannot reasonably be given on the matter;

(3) Matter is adequately covered by a:

(a) Regulation;

(b) Declaratory ruling;

(c) Decision; or

(d) Legal opinion;

(4) Matter is the subject of a pending disciplinary proceeding; or

(5) The Board or the Board's designee concludes that a ruling would not be in the public interest.

E. Appeal of a Disposition. A declaratory ruling is subject to review as provided in State Government Article, § 10-305, Annotated Code of Maryland.

10.32.07 Disclosure of Records

Authority: Health Occupations Article, §§14-405 and 14-411; State Government Article, §10-617(h)(3); Health-General Article, §18-102, Annotated Code of Maryland

.01 Scope.

This chapter does not alter the authority of the Secretary under Health Occupations Article, §1-203(a), Annotated Code of Maryland or Health-General Article, §2-106(c), Annotated Code of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(2) "Department" means the Maryland Department of Health.

(3) "Record" means the proceedings, records, or files of the Board.

(4) "Privileges" means authorization granted by an employer to an individual to provide specific care, treatment, diagnostic services, or other services to patients.

(5) "Secretary" means the Secretary of the Maryland Department of Health.

.03 Disclosure of Information to the Department and Agencies Within the Department.

For the purpose of investigating quality or utilization of care, the Board shall disclose to the Secretary, any entity regulated by the Office of Health Care Quality, or any entity regulated by Health Services Cost Review Commission in accordance with Health Occupations Article, §14-411, Annotated Code of Maryland.

.04 Disclosure for Compelling Public Purpose.

A custodian of the Board may find that a compelling public purpose warrants disclosure of information in a certification, licensing, registering, or investigative file, regardless of whether there has been a request for the information, if the information concerns:

A. Possible criminal activity, and is disclosed to an official of federal, state, or local law enforcement, a prosecutorial official, or other authority;

B. A possible violation of law, is limited to that information relevant to the possible violation by that individual, and is disclosed to a federal, state, or local authority that has jurisdiction over:

(1) The individual whose conduct may be a violation; or

(2) A facility in which the individual is practicing or has practiced; or

C. Conduct by an individual which the Board reasonably believes may pose a risk to the public health, safety, or welfare, and is disclosed to:

(1) A law enforcement authority, administrative official, or agency that regulates the individual or regulates a facility in which the individual has practiced; or

(2) An employer where the individual has privileges.

.05 Confidentiality.

A. Information disclosed by the Board under this chapter shall remain confidential and may not be redisclosed unless otherwise permitted by law.

B. This chapter does not prevent or limit the ability of the Board to disclose general licensing information as provided in General Provisions Article, §4-333, Annotated Code of Maryland, or any information which the Board may otherwise disclose by law.

10.32.08 Physicians

Authority: Health Occupations Article, §§1-213, 14-101, 14-205—14-207, 14-301, 14-302, 14-307—14-309, 14-313, 14-314, 14-316, 14-317, 14-320, 14-320.1, 14-503—14-505, and 14-606, Annotated Code of Maryland

.01 Scope.

This chapter governs:

A. The practice of medicine in the State;

B. The qualifications for an individual to become licensed in the State to practice medicine as a physician;

C. Limitations on the license to practice medicine in the State; and

B. The procedure for a physician to register to perform acupuncture in the State.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "ACCME" means the Accreditation Council on Continuing Medical Education;

(2) "ACGME" means the Accreditation Council for Graduate Medical Education;

(3) "Accredited training program" means a postgraduate clinical medical education program which is:

(a) Certified by the:

(i) ACGME or its successor; or

(ii) AOA or its successor;

(b) Accredited by the Royal College of Physicians and Surgeons of Canada or its successor;

(c) A postgraduate clinical medical education program that meets all of the following criteria:

(i) Is in a specialty or subspecialty area, or both, that is not being accredited by the ACGME, AOA, or Royal College of Physicians and Surgeons of Canada but meets all the requirements for accreditation of the ACGME, AOA, or Royal College of Physicians and Surgeons of Canada;

(ii) Is directed by a physician who is actively licensed to practice medicine in the United States, its territories or possessions, or Canada;

(iii) Is concurrently offered with ACGME-accredited programs; and

(iv) Is taught at a hospital that is accredited by the Joint Commission or its successor or predecessor; or

(d) A program conducted in the United States, its territories or possessions, or Canada that is the equivalent of §B(4)(a), (b), or (c) of this regulation as determined by the Board.

(4) "ABMS" means the American Board of Medical Specialists.

(5) "AOA" means the American Osteopathic Association.

(6) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(7) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(8) "Board-certified" means the physician is certified by a public or private board, including a multidisciplinary board, and the certifying board is:

(a) A member of the American Board of Medical Specialists;

(b) An American Osteopathic Association certifying board;

(c) The Royal College of Physicians and Surgeons of Canada; or

(d) The College of Family Physicians of Canada.

(9) "COMLEX" means the Comprehensive Osteopathic Medical Licensing Examination.

(10) "COMVEX" means the Comprehensive Osteopathic Medical Variable-Purpose Examination—USA.

(15) "Disciplinary proceedings" means any matters that occur after the Board or disciplinary panel initiates an administrative action against a respondent and provides public notice.

(11) "Dispense" has the meaning stated in Health Occupations Article, §12-101, Annotated Code of Maryland.

(12) "ECFMG" means the Educational Commission for Foreign Medical Graduates or its successor.

(13) "Federation" means the Federation of State Medical Boards of the United States, Inc.

(14) "Federation Licensing Examination (FLEX examination)" means the examination designed by the Federation of State Medical Boards in cooperation with the National Board of Medical Examiners.

(15) "FLEX weighted average" means the method of calculating the grade of the FLEX examination by which the test results on the first day count for 1/6 of the score, the second day 2/6 of the score, and the third day 3/6 of the score.

(16) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(17) "International medical school" means a medical school located outside the United States or its territories or Canada.

(18) "Joint Commission" means the organization formerly known as the Joint Commission on the Accreditation of Health Care Organizations.

(19) "Liaison Committee on Medical Education (LCME)" means the organization that accredits programs in medical education leading to the doctor of medicine degree in the United States and its territories.

(20) "Medical acupuncture course of study" means a sequence of study in acupuncture approved by the Board, of which the sequence may consist of combinations of course work from unrelated institutions completed within 5 years of the date of application, that includes at least 200 hours of instruction in general and basic aspects, specific uses and techniques of acupuncture, and indications and contraindications of acupuncture administration.

(21) "Medical acupuncture program" means a program of study in acupuncture which has been approved for Category I continuing medical education credit by an institution accredited or recognized by the ACCME to conduct Category I continuing medical education courses.

(22) "NOBME" means the National Board of Osteopathic Medical Examiners.

(23) "Peer review" means an evaluation by a physician with special qualifications to judge the matter at hand, based on professional involvement within the involved medical specialty or specialties, of an act or acts of medical or surgical care, or other acts connected with medical practice, by an applicant or licensee.

(24) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(25) "Postgraduate training" means clinical and medical training for medical school graduates, including but not limited to internships, residencies, and fellowships.

(26) "Privileges" means authorization granted by an employer to an individual to provide specific care, treatment, diagnostic services, or other services to patients.

(27) "Special Purpose Examination (SPEX)" means the examination prepared by the Federation of State Medical Boards to assess current general medical knowledge.

(28) "Successfully completed 1 year of postgraduate training" means completion of:

(a) 1 year of accredited postgraduate training in one integrated program in which the:

(i) Applicant completed all the requirements;

(ii) Program director rated the applicant's performance as satisfactory; and

(iii) Applicant's performance was such that the applicant qualified for advancement without academic or clinical probationary conditions to the next year and next progressive level of responsibility in a designated specialty program; or

(b) A year of accredited postgraduate training which the applicant completed in a manner that satisfied the requirements of §B(28)(a)(i) and (ii) of this regulation but that did not satisfy the requirements of §B(28)(a)(iii) of this regulation, and which was followed by a year of training which the applicant completed in a manner that satisfied all of the requirements of §B(28)(a) of this regulation.

(29) "To perform acupuncture" means to stimulate a certain point or points on or near the surface of the human body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of ailments or conditions of the body and for maintenance of good health.

(30) "USMLE" means the United States Medical Licensing Examination.

.03 Qualifications for Initial Licensure - Physicians.

A. To qualify for an initial license, a physician shall meet the requirements of:

(1) COMAR 10.32.01;

(2) The education and training requirements set forth in §B of this regulation; and

(3) The examination requirements set forth in §E of this regulation.

B. Education and Training Requirements.

(1) An applicant for licensure as a physician shall submit to the Board:

(a) Satisfactory evidence of graduation from a school of medicine accredited by the LCME at the time of the applicant's graduation with a doctor of medicine degree and the successful completion of 1 year of postgraduate training at an accredited training program;

(b) Satisfactory evidence of graduation from a school of osteopathy in the United States, its territories or possessions, or Canada that has standards for graduation equivalent to those established by the AOA with a doctor of osteopathy degree and the successful completion of 1 year of postgraduate training at an accredited training program;

(c) Satisfactory evidence of graduation from a school of medicine accredited by the Committee on Accreditation of Canadian Medical Schools with a doctor of medicine degree and successful completion of 1 year of postgraduate training at an accredited training program;

(d) Satisfactory evidence of:

(i) Graduation from any other medical school with a doctor of osteopathy degree or doctor of medicine degree; and

(ii) Successful completion of the requirements for and possession of current ECFMG certification; or

(e) A document stating that the applicant has successfully completed a fifth pathway program as required by §B(2) of this regulation.

(2) Fifth Pathway Program.

(a) Fifth pathway program has the meaning stated in Health Occupations Article, §14-308(a)(2), Annotated Code of Maryland.

(b) To be eligible for licensure under the fifth pathway program, an applicant shall have successfully completed:

(i) All of the formal graduation requirements of an international medical school except for the postgraduate or social service components as required by the international country or its medical school; and

(ii) 2 years of postgraduate training at an accredited training program.

C. On a case-by-case basis, the Board may consider full-time teaching in an LCME-accredited medical school in the United States as an alternative to the accredited postgraduate clinical medical education programs required in §B of this regulation.

D. The Board may consider practice in another state of the United States or in Canada as an alternative to the accredited postgraduate clinical medical education program required in §B of this regulation if:

(1) The applicant has a minimum of 10 years clinical practice in the United States or Canada, with 3 years being within 5 years of the date of the application; and

(2) The applicant's clinical practice occurred under a full unrestricted license to practice medicine.

E. Examination Requirements.

(1) Subject to §E(2) of this regulation, the applicant for an initial license as a physician shall submit satisfactory evidence of one of the following:

(a) Achievement of a passing score on all parts of the National Board of Medical Examiners examination as evidenced by an endorsement of certification issued by the National Board of Medical Examiners;

(b) Achievement of a FLEX examination score as follows:

(i) At least 75 on each part of the FLEX examination;

(ii) If the FLEX examination was taken before 1985 and achieved in one sitting: A FLEX weighted average score of at least 75; or

(iii) If the FLEX examination was taken before 1985 and the applicant is a currently certified by a member board of the ABMS: A FLEX weighted average score of at least 75;

(c) Achievement of a passing score, as evidenced by receipt of either a Diplomate Certification or a Certification of Completion issued by the NBOME after January 1, 1971, on:

(i) All parts of the examination of the NBOME;

(ii) All levels of the COMLEX; or

(iii) A combination of these examinations;

(d) Achievement of the recommended passing score on all levels of the COMLEX of the NBOME;

(e) Achieve passing scores on any of the following examination combinations:

(i) NBOME Part 1 + NBOME Part 2 + COMLEX Level 3;

(ii) NBOME Part 1 + COMLEX Level 2 + COMLEX Level 3;

(iii) NBOME Part 1 + COMLEX Level 2 + NBOME Part 3;

(iv) COMLEX Level 1 + NBOME Part 2 + NBOME Part 3;

(v) COMLEX Level 1 + COMLEX Level 2 + NBOME Part 3; or

(vi) COMLEX Level 1 + NBOME Part 2 + COMLEX Level 3;

(f) Achievement of a passing score on all parts of the examination of any state board or the District of Columbia Board of Medicine in the United States;

(g) Achievement of a passing score on all steps of the USMLE;

(h) If completed before 2000, achievement of passing scores on any of the following examination combinations:

(i) USMLE Step 1 + NBME Part II + NBME Part III;

(ii) USMLE Step 1 + USMLE Step 2 + NBME Part III;

(iii) USMLE Step 1 + NBME Part II + USMLE Step 3;

(iv) NBME Part I + USMLE Step 2 + USMLE Step 3;

(v) NBME Part I + USMLE Step 2 + NBME Part III;

(vi) NBME Part I + NBME Part II + USMLE Step 3;

(vii) FLEX Component 1 + USMLE 3;

(viii) FLEX Component 2 + USMLE Step 1 + NBME Part II;

(ix) FLEX Component 2 + USMLE Step 1 + USMLE Step 2;

(x) FLEX Component 2 + NBME Part I + USMLE Step 2; or

(xi) FLEX Component 2 + NBME Part I + NBME Part II; or

(i) Achievement of a passing score on each part of the applicable qualifying examination of the Licentiate of the Medical Council of Canada subject to the requirements of §B(2) of this regulation.

(2) An applicant who has taken a qualifying examination of the Licentiate of the Medical Council of Canada after 2021 shall provide satisfactory evidence of achievement of a passing score on the Medical Council of Canada Qualifying Examination Part 1 only.

(3) An applicant who fails any part, step, level, or component of the examinations or combination of examinations listed in §E(1) of this regulation three or more times shall meet one of the requirements listed in §E(4) of this regulation to qualify for licensure.

(4) An otherwise qualified applicant who passes the examination after having failed the examination or any part of the examinations listed in §E(1) of this regulation or any part, step, level, or component of any of the examinations listed in §E(1) three or more times may only qualify for a license if the applicant:

(a) Successfully completed 2 or more years of a residency or fellowship accredited by the ACGME or the AOA;

(b Meets the following requirements:

(i) The applicant has a minimum of 5 years clinical practice of medicine in the United States or in Canada that occurred under a full unrestricted license to practice medicine, with at least 3 of the 5 years having occurred within 5 years of the date of the application; and

(ii) The applicant has no disciplinary action pending and has had no disciplinary action taken against the applicant that would be grounds for discipline under Health Occupations Article, §14-404, Annotated Code of Maryland; or

(c) Is Board-certified.

(5) Notwithstanding §E(1) of this regulation, the Board shall require an applicant to pass the SPEX examination or the COMVEX if the applicant:

(a) Last passed a medical licensing examination more than 15 years before the application;

(b) Has never had specialty board certification or last passed a specialty board certification examination given by a member board of the ABMS or the AOA more than 10 years before this application;

(c) Has not had a full, unrestricted medical license in at least one state of the United States or Canada within the 10-year period before this application; and

(d) Has not actively practiced clinical medicine in the United States or Canada for at least 7 of the 10 years before the application.

F. Complete Application.

(1) A complete application for initial licensure shall include, but is not limited to, proof of the following through documentation on forms supplied by the Board:

(a) Verification of medical education;

(b) Written and electronic statements from an authorized official of each of the applicant's accredited training programs which:

(i) Summarize the experience and performance of the applicant during training;

(ii) Detail all actions taken against the applicant by any training program, hospital, medical board, licensing authority, or court for an act that would be grounds for disciplinary action under Health Occupations Article, §14-404, Annotated Code of Maryland;

(iii) Document specifically whether or not the applicant successfully completed the years of training;

(iv) Detail any limitations of privileges during the postgraduate training years; and

(v) Detail any physical and mental health problems of the applicant that affected the applicant's ability to practice during the years of postgraduate training;

(c) Documentation of successful completion of the examination requirements as described in §E of this regulation, including submission of all of the applicant's scores sent directly to the Board from the examination authority or authorities.

(2) The Board may waive the requirement of §F(1)(a) of this regulation on a case-by-case basis, if the applicant's education occurred in countries with which reasonable efforts to obtain the required information have been unsuccessful.

(3) If the applicant's licensure in another state preceded the requirement for ECFMG, the Board may waive the requirement for the ECFMG certificate.

(4) A complete application shall contain a statement from the applicant listing all:

(a) Hospitals, following training, at which the applicant has had privileges during the preceding 5 years; and

(b) Disciplinary or adverse actions taken against the applicant by a:

(i) Hospital;

(ii) Medical board;

(iii) Licensing authority;

(iv) Court; or

(v) Adjudicatory body.

(5) A complete application shall include:

(a) All application and licensing fees as required under Regulation .09 of this chapter, payable to the Board at the time the application is submitted to the Board; and

(b) The applicant's Social Security number, Individual Tax Identification Number, or alternative documentation, which the Board shall use only for evaluation and identification of applicants and physicians but may not disclose in any other context.

G. Board Review of Application. Review of an application for initial licensure shall include:

(1) Verification of licensure from all states where the applicant has ever held a license;

(2) Verification of voluntary licensure nonrenewal or voluntary surrender of license while the applicant was in good standing and not under disciplinary charges or investigation at the time the license was surrendered from states where the applicant no longer holds a license;

(3) Information in the data bank of the Federation pertaining to the qualifications of the applicant; and

(4) Information in the National Practitioner Data Bank including but not limited to the following:

(a) Medical malpractice judgments against the applicant;

(b) Settlements made by the applicant in medical malpractice actions;

(c) Actions taken against the applicant or the applicant's license by state disciplinary or licensing authorities; and

(d) Actions taken against the applicant or the applicant's privileges by a hospital or hospital disciplinary authority which result in a loss, limitation, or suspension of privileges for a period greater than 30 days.

.04 Inactive and Emeritus Status for Physicians.

A. Inactive Status.

(1) A physician may apply for inactive status if the physician:

(a) Is in good standing;

(b) Is not under investigation by the Board;

(c) Will not practice medicine in the State; and

(d) Has an unrestricted active license to practice medicine in the State or is within 60 days of the expiration of the physician's unrestricted active license.

(2) Renewal of Inactive Status.

(a) A physician on inactive status shall renew their inactive status every 2 years.

(b) At the end of 2 years, a physician with inactive status shall complete the renewal application, and pay the renewal fee and any charges set by the Board.

(c) If the physician fails to renew their inactive status license for any reason, the license shall expire.

(3) A physician with an inactive status license may not:

(a) Practice medicine within the State;

(b) Prescribe medication within the State; or

(c) Conduct peer reviews of physicians within the State.

(4) The inactive status of a physician may not deprive the Board of its authority to institute or continue a disciplinary proceeding against a physician.

B. Emeritus Status.

(1) A physician who meets the requirements under §B(2) of this regulation, who will not practice medicine in the State, and is retired from practicing medicine in this State may apply for emeritus status.

(2) Emeritus Status Requirements. A physician may apply for emeritus status if the physician:

(a) Has practiced medicine in the State for at least 10 years;

(b) Has an active, unrestricted license to practice medicine in the State or is within 60 days of the expiration of an active, unrestricted license;

(c) Has never been the subject of disciplinary action that has resulted in revocation or suspension of a medical license in any jurisdiction in which they have been licensed to practice medicine;

(d) Is not under investigation by the Board; and

(e) Is in good standing with the Board.

(3) A physician with emeritus status may not:

(a) Practice, offer to practice, or attempt to practice medicine within the State;

(b) Delegate medical acts within the State;

(c) Prescribe medication within the State; or

(d) Conduct peer review of physicians within the State.

(4) Renewal of Emeritus Status. A physician with emeritus status licensure shall every third renewal cycle:

(a) Complete the renewal application;

(b) Pay the emeritus renewal fee; and

(c) Pay any charges set by the Board.

(5) The emeritus status of a physician may not deprive the Board of authority to institute or continue a disciplinary proceeding against a physician.

C. Reinstatement to Active Status.

(1) To reinstate a license to active status, a physician whose license is on emeritus or inactive status shall:

(a) Apply for reinstatement on a form supplied by the Board; and

(b) Meet the requirements for reinstatement in Regulation .05B of this chapter, including the continuing medical education requirements.

(2) The physician may not practice medicine until the license is reinstated to active status.

.05 Licensure Renewals and Reinstatement.

A. Licensure Renewal. The Board shall renew the license of a physician if the physician meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing medical education requirements under Regulation .07 of this chapter.

B. Licensure Reinstatement.

(1) This section does not apply to a post disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A physician applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §14-404, Annotated Code of Maryland.

(3) Subject to §B(2) and (4) of this regulation, the Board shall reinstate the license of a physician who has failed to renew the license if the physician:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing medical education requirements of Regulation .07 of this chapter;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland;

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .09 of this chapter; and

(f) Provides the Board with a detailed description of activities which have occurred since the last renewal application or, in the case of a physician who has never renewed, since the date when a medical licensure application was submitted to the Board, including, but not limited to, the information required under COMAR 10.32.01.

(4) A physician applying for reinstatement may be required by the Board to pass the SPEX or COMVEX examination if the physician:

(a) Last passed a medical licensing examination more than 15 years before this application;

(b) Has never had specialty board certification or last passed a specialty board certification examination given by a member board of the ABMS or the AOA Bureau of Osteopathic Specialists more than 10 years before the reinstatement application;

(c) Has not had a full, unrestricted medical license in at least one state of the United States or Canada within the 10-year period before this application; or

(d) Has not actively practiced clinical medicine in the United States or Canada for at least 7 of the 10 years before the reinstatement application.

.06 Expired Licensure.

A. A physician with an expired license may not:

(1) Practice medicine within the State;

(2) Prescribe medicine within the State; or

(3) Conduct peer review of physicians within the State.

B. Application for Reinstatement.

(1) A physician whose license is expired and who wishes to practice medicine in the State shall apply for reinstatement on a form supplied by the Board and meet the requirements for reinstatement in Regulation .05B of this chapter, including the continuing medical education requirements.

(2) The physician is not licensed to practice medicine in the State until the license is reinstated.

.07 Continuing Medical Education.

A. A physician shall complete the continuing education requirements specified in §C(2) of this regulation during the 2-year period preceding:

(1) For license renewal: The expiration of a medical license; or

(2) For license reinstatement: The date of submission of the application for reinstatement.

B. The Board recognizes and accepts continuing medical education activities which:

(1) Serve to maintain, develop, or increase knowledge, skills, and professional performance and relationships that a physician uses to provide services for patients, the public, or the profession; and

(2) Are within the basic medical sciences, the disciplines of clinical medicine, and the provision of health care to the public.

C. Continuing Medical Education Requirements.

(1) In accordance with the requirements specified in §C(2) of this regulation, in a 2-year period, an applicant shall earn at least 50 credit hours of Category I or II continuing medical education, with at least 40 of those continuing medical education credit hours being Category I.

(2) The Board shall recognize for Category I or II continuing medical education credit those activities which meet at least one of the following additional requirements for the activity:

(a) Defined as Category I or II by the American Medical Association;

(b) Sponsored by an international, national, or state medical society and meets the standards adopted by the ACCME;

(c) An accredited training program and have been attended by the applicant within a 2-year period, on the basis of either of the following:

(i) 1 year of full-time service earns 50 continuing medical education credit hours; and

(ii) Full-time service for a portion of a year earns 1 credit hour per week; and

(d) Is a service performed by a Board designee and involves medical record review for the Board and the service is performed without compensation and is credited up to a maximum of 10 credit hours for a 2-year period.

D. On the application form for renewal, the applicant shall attest to the fact that the applicant has completed the continuing medical education requirements.

E. Documentation of Continuing Medical Education Credits.

(1) The applicant has the affirmative obligation to obtain the requisite documentation of continuing medical education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(2) The applicant shall be considered to have met the requirements of §E(1) of this regulation if the applicant:

(a) Currently holds an active time-limited certification issued by:

(i) A member of the ABMS;

(ii) An AOA Certifying Board;

(iii) The Royal College of Physicians and Surgeons of Canada; or

(iv) The College of Family Physicians of Canada; and

(b) Provides proof of maintenance of a time-limited Board certification that is dated no earlier than 5 years prior to the renewal date.

(3) Required Documentation for Category I Continuing Medical Education Credits. The required documentation of attendance at a Category I continuing medical education program as described in §C(2) of this regulation shall be a certificate or other documentation of attendance which shall:

(a) Contain, at minimum, the:

(i) Program title;

(ii) Sponsor's name;

(iii) Physician's name;

(iv) Inclusive date or dates and location of the continuing medical education event;

(v) Continuing medical education category designation and the number of designated or prescribed continuing medical education credit hours; and

(vi) Documented verification of successful completion by stamp, signature, hospital printout, or other official proof; and

(b) Demonstrate that the continuing medical education activity fell within a 2-year period in accordance with §C(1) of this regulation.

(4) Required Documentation for Category II Continuing Medical Education Credits. The required documentation of attendance at a Category II continuing medical education program as described in §E(2)(a) and (b) of this regulation shall be provided on a Board approved continuing medical education transcript form.

(5) Required Documentation for Accredited Training Program continuing medical education. The required documentation of attendance at an accredited training program as described in §C(2)(c) of this regulation shall be a certificate or other form of documentation which shall contain at minimum the:

(a) Program's title;

(b) Accreditation or certification sponsor's name and location;

(c) Physician's name;

(d) Inclusive dates of the residency or fellowship;

(e) Specialty area of residency or fellowship; and

(f) Documented verification of completion by the sponsor.

F. The continuing medical education requirement applies to all renewal applications after the first renewal following initial licensure.

.08 Acupuncture Registration for Licensed Physicians.

A. To qualify for an acupuncture registration, a physician shall:

(1) Complete an application on a form supplied by the Board;

(2) Enclose the required supplementary materials in the application; and

(3) Submit evidence of having successfully completed 200 hours of training in a medical acupuncture program or medical acupuncture course of study, including any required examinations.

B. If any documents required are in a language other than English, the applicant shall submit the certified translation and bear the expense of translation by a certified translator.

.09 Fees.

The fees are as follows:

A. Initial Licensure.

(1) Initial licensure application fee, American and international school graduate— $310;

(2) Fee for remaining months until first renewal— $20 per month;

(3) Conceded eminence application fee—$995;

(4) Physician inactive license application fee—$218;

(5) Postgraduate teaching license application fee—$300; and

(6) Physician emeritus license application fee—$120;

B. Renewal of Licensure:

(1) License renewal application fee—$486;

(2) Inactive renewal application fee—$218;

(3) Physician emeritus renewal application fee—$120; and

(4) Maryland Health Care Commission (MHCC) fee – As determined by MHCC in accordance with COMAR 10.32.02.

C. Reinstatement fee—$700; and

D. Other fees:

(1) Application for a physician license name change fee—$25;

(2) Permit to dispense prescription drugs fee—$1,050;

(3) Written verification of licensure fee—$50; and

(4) Incomplete application fee—$50.

.10 Advertising and Solicitation.

A. Advertising.

(1) A physician may place advertisements.

(2) A physician's advertisement may not contain:

(a) Statements containing a misrepresentation of facts;

(b) Statements that cannot be verified by the Board for truthfulness;

(c) Statements likely to mislead or deceive because in context the statements make only a partial disclosure of relevant facts;

(d) Statements intended to, or likely to, create false or unjustified expectations of favorable results;

(e) Statements specifying a fee for professional service which does not include the cost of all related procedures, services, and products which to a substantial likelihood will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person;

(f) Statements advertising discounted or free services, examinations, or treatments when there will be an additional charge for any additional services, examinations, or treatments which are performed as a result of and within 72 hours of the initial office visit in response to the advertisement unless the professional services rendered are a result of a bona fide emergency;

(h) Statements conveying the impression that the physician could improperly influence any public body, official, corporation, or any person on behalf of a patient;

(i) Statements containing representations or implications that, in reasonable probability, can be expected to cause an ordinary prudent person to misunderstand or be deceived; or

(j) Statements containing representations that the physician is willing to perform any procedure which is illegal under the laws or regulations of the State or the United States.

(3) A physician who is not board-certified as defined in Regulation .02B of this chapter may not use the term "board-certified" to describe the physician's qualifications or make any representation that the physician has received formal recognition as a specialist in any aspect of the practice of medicine.

(4) A physician who is board-certified may not use the term "board-certified" to indicate certification or expertise in a specialty or subspecialty area other than that in which the physician is certified by the certifying board.

(5) An advertisement may represent that a physician subspecializes in an area of medicine if the physician first identifies the physician's specialty.

(6) This regulation does not prevent a physician from accurately describing a focus of the physician's practice in a field within the scope of the physician's training and board certification.

(7) An advertisement may state a range of prices for specifically described services if reasonable disclosure of all relevant variables and consideration is made.

(8) A physician registered to perform acupuncture may not represent that they are a licensed acupuncturist under Health Occupations Article, §1A-101 et seq., Annotated Code of Maryland, unless licensed by the Board of Acupuncture under COMAR 10.26.

B. Solicitation. A physician may not engage in solicitation that:

(1) Amounts to fraud, undue influence, intimidation, or overreaching;

(2) Contains statements which would be improper under §A of this regulation; and

(3) Is done so through means of in-person, telephone, direct mail, electronic means, a website, or social media.

C. A physician shall be accountable under this regulation if they use an agent, partnership, professional association, or health maintenance organization to implement actions prohibited by this regulation.

10.32.09 Special and Limited Physician Licenses

Authority: Health Occupations Article, §§14-205, 14-206, 14-301, 14-302, 14-318, and 14-319, Annotated Code of Maryland

.01 Scope.

This chapter governs:

A. The practice of medicine under a special or limited license; and

B. The qualifications for an individual to become licensed under a special or limited license.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(2) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(3) "Conceded eminence and authority in the profession" means significant teaching, research, and achievement in a field of medicine recognized by the Board.

(4) "First author" means the first named author of a publication such as a research article or the author who served as the principal investigator for a research project.

(5) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(6) "Index Medicus" means an international list of periodicals concerning the practice of medicine.

(7) "International medical school" means a medical school located outside the United States or its territories or Canada.

(8) "Last author" means the last named author of a publication such as a research article or the senior author who served as the principal investigator for a research project.

(9) "Liaison Committee on Medical Education (LCME)" means an organization that accredits programs in medical education leading to the doctor of medicine degree in the United States and territories.

(10) "License" means a license or registration issued by the Board under this subtitle.

(11) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(12) "Postgraduate training" means clinical and medical training for medical school graduates, including but not limited to, internships, residencies, and fellowships.

(13) "World Health Organization directory" means the World Directory of Medical Schools, an international list of recognized medical schools compiled by the World Health Organization agency of the United Nations.

.03 Limited License for Postgraduate Teaching of Medicine.

A. To qualify for a limited license for postgraduate teaching of medicine, a physician shall meet the requirements of:

(1) COMAR 10.32.01;

(2) The education and experience requirements of §B of this regulation; and

(3) The attestation and agreement required in §C of this regulation.

B. Education and Experience Requirements.

(1) Education Requirements. The applicant for a limited license for postgraduate teaching shall submit:

(a) Satisfactory evidence of graduation from an LCME-accredited medical school or an international medical school that is listed in the World Directory of Medical Schools at the time of the applicant's graduation or, for doctors of osteopathy, meet the requirements of Health Occupations Article, §14-307(d)(2), Annotated Code of Maryland;

(b) Satisfactory evidence of satisfactory completion of a postgraduate training program, which shall meet the following requirements:

(i) The postgraduate training was in the specialty in which the applicant will function as a postgraduate teacher;

(ii) The postgraduate training included at least the same number of years of specialty postgraduate training as would be required for certification by that specialty's board in the United States, and the applicant shall submit the requirements of both to the Board; and

(iii) Submission of documents both from the United States and, if the applicant's specialty postgraduate training was obtained outside the United States, from each international specialty board to the Board; and

(c) Satisfactory evidence of a passing result on that specialty's certifying examination in either the country where specialty postgraduate training was obtained or where the applicant is practicing.

(2) Experience Requirements. A qualified postgraduate applicant shall meet the following experience requirements:

(a) Be a member in good standing with the specialty board in the country from which the applicant is applying; and

(b) Have functioned independently as both an academician and clinician for at least 3 years after the completion of postgraduate specialty training.

C. Attestation and Agreement. An applicant for a postgraduate teaching license shall attest and agree that the applicant will:

(1) Only practice within the teaching institutions and programs specified within the application;

(2) Practice medicine only in conjunction with the applicant's teaching responsibilities; and

(3) Not practice medicine outside the applicant's teaching responsibilities.

D. A teaching institution seeking to obtain limited licenses for their postgraduate teachers shall present the Board with the following information:

(1) Detailed evidence of the physician's qualifications and competence, including the nature of the physician's proposed responsibilities, reasons for any limitations of those practice responsibilities, and the degree of supervision under which the physician will function, if any;

(2) A copy of the relevant sections of the hospital bylaws which detail the requirements for and mechanism of supervising physicians; and

(3) A copy of the relevant section of the hospital bylaws, which detail the requirements for and mechanism of supervision of postgraduate physician teachers.

E. Terms and Renewal of Postgraduate Teaching Licenses.

(1) The Board shall issue a limited license for postgraduate teaching with a term of 1 year.

(2) The Board may renew a limited license for postgraduate teaching only once for a maximum period of 1 year.

.04 Special License by Conceded Eminence.

A. The Board shall issue a [Special] license by conceded eminence to an applicant who meets the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. Requirements for Special License by Conceded Eminence.

(1) Recommendation. On a form supplied by the Board, the dean of a school of medicine in the State or the director of the National Institutes of Health shall recommend the applicant to the Board, by:

(a) Attesting to the fact that the applicant is to receive an appointment at the institution represented by the dean or director;

(b) Presenting the Board with detailed evidence of the physician's qualifications and competence, including:

(i) The nature of the physician's proposed responsibilities;

(ii) Reasons for any limitations of the physician's practice responsibilities; and

(iii) The degree of supervision under which the physician will function; and

(c) Presenting the Board with a detailed statement describing the applicant's conceded eminence and authority in the profession.

(2) Evidence of Teaching, Research, and Achievement. An applicant for a license by conceded eminence shall demonstrate eminence and authority in the profession by meeting the following qualifications:

(a) Have held an appointment at a medical school approved by the LCME or at any medical school listed in the World Health Organization directory at the level of associate or full professor, or its equivalent, for at least 5 years;

(b) Have actively practiced medicine cumulatively for 10 years after completion of postgraduate training, including clinical research;

(c) Be a member in good standing of a board of the American Board of Medical Specialties or other equivalent specialty board;

(d) Possess a current, active, unrestricted license to practice medicine in another state or country, or be otherwise recognized under the laws of the other country or jurisdiction as a medical doctor in that jurisdiction; and

(e) Within 10 years before the application meets one of the conditions of §B(3) of this regulation. , have:

(3) Publication or Innovation Requirement.

(a) An applicant for conceded eminence within 10 years before the application shall:

(i) Meet the publication requirement in §B(3)(b) of this regulation; or

(ii) Have developed a treatment modality, surgical technique, or other verified original contribution to the field of medicine, which is attested to by the dean of a school of medicine in the State or by the director of the National Institutes of Health.

(b) An applicant shall:

(i) Have published original results of clinical research, as first author or last author, in a medical journal listed in the Index Medicus or in an equivalent scholarly publication acceptable to the Board; and

(ii) Submitted these publications to the Board in English or in a foreign language with verifiable, certified translations in English.

(3) Supervision. The Board shall require an applicant to submit:

(a) The name of a physician licensed in the State who will supervise the medical services provided by the applicant for their first 6 months of practice; and

(b) A detailed description of the medical services, duties, and responsibilities that the applicant will perform.

C. Limited Practice.

(1) An applicant for licensure by conceded eminence is restricted so that the applicant shall:

(a) Practice medicine only in the limited field approved by the Board that is consistent with the applicant's area of conceded eminence experience;

(b)For the first 6 months of practice, practice medicine only:

(i) Within the institution and program specified within the application; and

(ii) Under the supervision of a physician licensed in the State;

(2) Following the first 6 months of practice, practice medicine only:

(a) At an institution similar to that named in the original application; and

(b) After approval by the Board; and

(3) Practice medicine under any conditions which the Board may set.

E. Nothing in this regulation entitles an individual licensed by conceded eminence in the profession to practice beyond the scope of this regulations without having qualified for an unrestricted license under Health Occupations Article, §14-307 or 14-308, Annotated Code of Maryland, and the applicable regulations.

F. Term and Tenure.

(1) The initial license by conceded eminence is active for a 1-year period.

(2) Unless the Board has been advised and approves of an appointment at a new institution, a license issued under this regulation expires immediately when the physician leaves the appointment at the sponsoring institution.

G. Renewal.

(1) Initial Renewal. A license issued under this regulation may be initially renewed provided that:

(a) The supervising physician submits an attestation, approved by the Board, that the physician was supervised for a period of at least 6 consecutive months; and

(b) The physician completes a renewal application form, after Board approval of the supervising physician's attestation.

(2) Second Renewal.

(a) A license issued under this regulation may be renewed in a second renewal on a date set by the Board.

(b) A physician licensed under this regulation seeking a second renewal shall:

(i) Complete a renewal application form provided by the Board;

(ii) Meet the continuing medical education requirements set out in COMAR 10.32.08.07, including completing at least 50 credit hours of continuing medical education; and

(iii) Pay a renewal fee set by the Board in COMAR 10.32.08.09.

(c) A physician licensed under this regulation shall inform the Board of the institution where the physician plans on practicing for the renewal term.

(3) Subsequent Renewal.

(a) A license issued under this chapter may be renewed in subsequent renewals:

(i) On a date set by the Board; and

(ii) If the physician pays the renewal fee set by the Board in COMAR 10.32.08.09.

(b) An applicant for subsequent renewal shall:

(i) Complete a renewal application form provided by the Board;

(ii) Meet the continuing medical education requirements set out in COMAR 10.32.08.07, including completing at least 50 credit hours of continuing medical education;

(iii) Provide documentation to the Board 3 months before the expiration of the physician's license for conceded eminence indicating the continued significance of the physician's work at the sponsoring institution that requires the license to be renewed for another term; and

(iv) Pay a renewal fee set by the Board in COMAR 10.32.08.09.

(c) An applicant shall inform the Board of the institution where the physician plans on practicing for the renewal term.

H. An individual practicing medicine beyond the scope of this regulation, including practicing without notifying the Board and without approval of the Board at any institution or place outside the institution approved by the Board, constitutes practicing without a license under Health Occupations Article, §§14-601 and 14-602, Annotated Code of Maryland.

I. Termination of License.

(1) On termination of the physician's approved appointment, the license by conceded eminence shall terminate and become null and void.

(2) A physician shall inform the Board of the termination of an appointment within 30 days of the termination.

(3) Failure of the physician to inform the Board of the termination of an appointment within 30 days constitutes unprofessional conduct under Health Occupations Article, §14-404(a)(3), Annotated Code of Maryland.

J. New Appointment.

(1) If a physician wishes to receive a license by conceded eminence license with another institution, the physician shall apply for a new appointment with another institution.

(2) The Board may approve the new appointment at the Board's discretion.

(3) Board approval shall be obtained before the individual may begin the appointment.

10.32.10 Permits for the Dispensing of Prescription Drugs

Authority: Health Occupations Article, §§12-102, 14-205, 14-306, 14-404, and 14-408; State Government Article, §§10-206 and 10-226; Annotated Code of Maryland.

.01 Scope.

A. This chapter defines the parameters under which a physician may obtain a permit to:

(1) Dispense prescription drugs to the physician's patients;

(2) Dispense prescription drugs to the patients of other prescribers under certain circumstances; and

(3) Delegate parts of the dispensing process to others in accordance with Health Occupations, §§12-102, 15-302.2, and 14-306, Annotated Code of Maryland.

B. Topical Medications. This chapter does not apply to a physician who dispenses a topical medication that is approved by the federal Food and Drug Administration for the treatment of hypotrichosis.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administrative Procedure Act" means State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(2) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(3) "Collaboration agreement" means a document that outlines the relationship between a physician assistant and an individual physician or a group of physicians which is maintained at the practice level and is developed between a physician assistant and collaborating physician or physicians.

(4) "Controlled dangerous substance" means any drug listed as such in Criminal Law Article, §5-101, Annotated Code of Maryland.

(5) "Disciplinary panel" means a panel established under Health Occupations Article, §14-401, Annotated Code of Maryland, which:

(a) Is composed of 11 Board members; and

(b) Makes determinations regarding:

(i) Complaints and disciplinary actions against licensed individuals, applicants, and unlicensed individuals; and

(ii) Post disciplinary reinstatements.

(6) "Dispense" has the meaning stated in Health Occupations Article, §12-101, Annotated Code of Maryland.

(7) "Drug sample" has the meaning stated in 21 CFR §203.3(i).

(8) "Final check" has the meaning stated in COMAR 10.13.01.02.

(9) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(10) "Imperatively requires" means pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland, factual or investigative findings which raise a substantial likelihood of risk of serious harm to the public health, safety, or welfare.

(11) "Inspection" means when a representative of OCSA evaluates compliance with the dispensing requirements and completes the report pursuant to Health Occupations, §12-102.1(c), Annotated Code of Maryland.

(12) Mechanical Act.

(a) "Mechanical act" means an act which does not require professional judgment, medical or pharmaceutical training, or discretion.

(b) "Mechanical act" does not include:

(i) Selecting a drug;

(ii) Labeling;

(iii) Measuring or calculating dosages;

(iv) Substituting one drug for another, including substituting a generic or brand drug for the prescribed drug;

(v) Substituting one dosage form of a drug for another;

(vi) Altering the route of administration; or

(vii) Counseling patients.

(13) "Medical Practice Act" means the Maryland Medical Practice Act, Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(14) "Office of Controlled Substances Administration (OCSA)" means the Office of Controlled Substances Administration of the Maryland Department of Health.

(15) "Permit holder" means a physician licensed in the State who holds a valid dispensing permit under this chapter.

(16) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(17) "Physician assistant" means an individual who is licensed by the Board to practice as a physician assistant.

(18) "Prescription drug" means any drug defined in the federal Food, Drug, and Cosmetic Act, 21 U.S.C. §503(b), as amended, if the drug's label is required to bear the statement "Rx only."

(19) "Sample unit" has the meaning stated in 21 CFR §203.3(aa).

(20) "Starter dosage" means an amount of a drug sufficient to begin therapy:

(a) Of short duration of 72 hours or less; or

(b) Before obtaining a larger quantity of the drug to complete therapy.

.03 Permit Not Required.

A dispensing permit may not be required to:

A. Dispense prescription drugs or devices at a health facility or center described in Health Occupations Article, §12-102(g)(1)—(3), Annotated Code of Maryland; or

B. Dispense to a patient, free of charge:

(1) A drug sample;

(2) A sample unit; or

(3) A starter dosage of a prescription drug, not to exceed a 72-hour supply.

.04 Qualifications for Dispensing Permits.

A. A physician applying for a dispensing permit:

(1) Shall possess a license to practice medicine in the State;

(2) Shall be in good standing;

(3) Shall be of good moral character;

(4) May not be currently subject to any restrictions on practice related to the abuse, misuse, or improper prescribing of drugs;

(5) May not have, within the past 5 years, been sanctioned by any medical licensing board for the commission of a crime of moral turpitude or for a violation of Health Occupations Article, §14-404(a)(7), (8)—(10), or (28), Annotated Code of Maryland, or a similar statute of another state; and

(6) May not within the past 5 years have had their controlled dangerous substance registration issued by the OCSA or its predecessor, their registration issued by the federal Drug Enforcement Agency, or their Board dispensing permit revoked, suspended, or voluntarily relinquished or surrendered while under investigation or after being informed that an investigation will be commenced;

(7) Shall complete the application on a form supplied by the Board; and

(8) Shall pay the required fee as set forth in COMAR 10.32.08.09.

B. Expiration of Permit. Each permit issued to a permit holder expires on the same date as the permit holder's medical license.

.05 Consideration of Applications.

The Board shall grant a physician's application for a dispensing permit if:

A. The applicant meets the requirements of Regulation .04 of this chapter;

B. The applicant has not been sanctioned by the Board for dispensing drugs without a permit within the last 5 years; and

C. Granting the application is in the public interest.

.06 Requirements for Permit Holders.

A. A permit holder shall comply with all federal and State statutes and regulations regarding prescription drugs, including all requirements for:

(1) Dispensing, including labeling;

(2) Storing and securing inventory;

(3) Allowing access only to authorized individuals;

(4) Managing inventory controls;

(5) Recordkeeping; and

(6) Submitting prescription monitoring data to the Maryland Prescription Drug Monitoring Program in accordance with Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland.

B. A permit holder may not dispense medications by:

(1) Mail order; or

(2) A refill.

C. For the purposes of this regulation, "refill" means an additional allotment of the same drug initially authorized by the original, written prescription. "Refill" does not prohibit a permit holder from dispensing the same or different drug through an additional or subsequent, written prescription.

.07 Delegation of Dispensing Functions.

A. A permit holder may delegate to an unlicensed person only mechanical acts involved in dispensing a drug.

B. Delegation to a Physician Assistant. A permit holder may delegate any dispensing duties, including the performance of the final check of prescriptions, to a physician assistant with whom the permit holder has a collaboration agreement under Health Occupations Article, §15-302, Annotated Code of Maryland.

.08 Dispensing Prescription Drugs Prescribed by Physician Assistants.

A. Except as required in §B of this regulation, a permit holder may dispense a drug prescribed by a physician assistant with whom the permit holder has a collaboration agreement under Health Occupations Article, §15-302, Annotated Code of Maryland, which authorizes the physician assistant to prescribe the drug.

B. The permit holder may dispense under this regulation only a drug that the permit holder is authorized to prescribe.

.09 Records.

A. A permit holder shall keep at each dispensing location:

(1) A copy of the dispensing permit issued by the Board;

(2) The collaboration agreement of any physician assistant for whom the permit holder dispenses prescription drugs; and

(3) A list of the name and license number of all physician assistants for whom the permit holder dispenses drugs at that location.

B. A permit holder who dispenses a controlled dangerous substance shall keep additional records available for inspection as required by COMAR 10.19.03.10.

.10 Grounds for Revocation of Dispensing Permit.

A. Subject to the Administrative Procedure Act, and in addition to any sanction for violation of Health Occupations Article, §14-404(a)(28), Annotated Code of Maryland, the Board may revoke a dispensing permit for any of the following grounds:

(1) Violating the attestations made pursuant to COMAR 10.13.01.03B(2);

(2) Violating State or federal statutes or regulations regarding prescribing or dispensing prescription drugs;

(3) Delegating dispensing duties outside the scope of this chapter;

(4) Dispensing prescription drugs prescribed by another outside the scope of this chapter and pursuant to Health Occupations Article, §12-102, Annotated Code of Maryland;

(5) Failing to comply with the applicable requirements of the Maryland Prescription Drug Monitoring Program set out in Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland;

(6) Failing to cooperate with an investigation by the Board or an inspection by OCSA; or

(7) Violating Regulations .06 or .09 of this chapter.

B. If a permit holder surrenders the dispensing permit while under investigation:

(1) The surrender may not prevent the Board from taking any appropriate disciplinary action under Health Occupations Article, §14-404(a)(28), Annotated Code of Maryland, or any other statute under which the Board has jurisdiction; and

(2) The permit holder may not apply for another dispensing permit again for a minimum of 5 years from the date of surrender.

.11 Summary Suspension of Dispensing Permit.

A. The Board may summarily suspend a dispensing permit if it finds that the public health, safety, or welfare imperatively requires emergency action.

B. Procedures for summary suspension of a dispensing permit shall be governed by COMAR 10.32.02.09.

.12 Fraud or Deception in Obtaining a Permit.

Subject to the Administrative Procedure Act, a permit holder who fraudulently or deceptively obtains or attempts to obtain a permit is guilty of violating Health Occupations Article, §14-404(a)(1), Annotated Code of Maryland.

.13 Permit Holders Sanctioned for Violating the Medical Practice Act.

A. If the Board sanctions a permit holder for violating Health Occupations Article, §14-404(a)(7), (8)—(10), or (28), Annotated Code of Maryland or Health Occupations Article, §14-404(b), Annotated Code of Maryland, the Board shall, in addition to any sanctions imposed on the permit holder under COMAR 10.32.02.08 or 10.32.02.11, revoke the permit.

B. Subject to the requirement of §C of this regulation, reinstatement of a revoked dispensing permit is at the discretion of the Board.

C. A revoked dispensing permit may not be reinstated for a minimum of 5 years from the date of revocation.

.14 Dispensing Prescription Drugs Without a Permit.

A. Unless otherwise authorized by Health Occupations Article, §12-102, Annotated Code of Maryland, the dispensing of prescription drugs by a physician without a permit is a violation of Health Occupations Article, §14-404(a)(28), Annotated Code of Maryland, and may also be considered unprofessional conduct in the practice of medicine in violation of Health Occupations Article, §14-404(a)(3)(ii), Annotated Code of Maryland.

B. The disciplinary panel may impose a civil fine of up to $15,000 per occurrence for an individual in violation of this regulation in lieu of a sanction.

.15 Interpretative Regulation.

Nothing in this chapter relieves any permit holder from meeting the requirements of State or federal law or COMAR 10.13.01.

10.32.12 Delegation of Acts

Authority: Health General Article, §§19-114 and 19-118; Health Occupations Article, §§14-205(a) and 14-306, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the delegation of technical acts by a physician to an assistant not otherwise authorized under Health Occupations Article, Annotated Code of Maryland or Education Article, Annotated Code of Maryland.

B. This chapter may not be construed:

(1) As establishing licensure, certification, or registration by the Board for assistants;

(2) To apply to certified, registered, or licensed professionals, or health occupation students acting pursuant to Health Occupations Article, Annotated Code of Maryland; or

(3) To mean that this chapter overrides or is to be used in lieu of more stringent regulations, policies, and procedures established by State licensure or certification requirements or Board-recognized accrediting agencies.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Assistant" means an individual to whom only routine technical acts are delegated by a licensed physician and who is:

(a) Trained as defined in §B(13) of this regulation and not certified, registered, or licensed by the Board or any other health occupations board in the State; or

(b) Certified, registered, or licensed by the Board or any other health occupations board in the State and is not acting under the authority of that certification, registration, or license granted by a health occupations board in the State.

(2) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(3) "Clinical Laboratory Improvement Amendments (CLIA)" means the federal Clinical Laboratory Improvement Amendments of 1988,42 U.S.C. §263a, and the associated implementing regulations under 42 CFR Part 493, Subparts B and M.

(4) "Delegating physician" means a physician possessing an active license to practice medicine in the State who directs an unlicensed individual.

(5) "Direct supervision" means the supervisor is:

(a) Physically present on the premises;

(b) Personally treating the patient; and

(c) In the presence of the patient while services are provided.

(6) "Hospital" means:

(a) A hospital as defined under Health-General Article, §19-301(g), Annotated Code of Maryland;

(b) A comprehensive care facility that:

(i) Meets the requirements of a hospital-based skilled nursing facility under 42 U.S.C. §1395i-3; and

(ii) Offers acute care in the same building; and

(c) An emergency room that is physically connected to a hospital or a freestanding medical facility that is licensed under Health-General Article, Title 19, Subtitle 3A, Annotated Code of Maryland.

(7) "Microdermabrasion" means the use of a minimally invasive technique to gently exfoliate the dead, outermost layer of skin and is a method for improving superficial, environmental, aging, and hereditary skin changes by superficial, mechanically powered abrasion, often combined with application of topical crystals such as vitamin C.

(8) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(9) "On-site supervision" means the responsibility of the supervisor to be:

(a) Able to provide necessary direction;

(b) Physically present in the facility; and

(c) Able to respond immediately in person.

(10) "Site" means any facility or location, including those defined in Health-General Article, §§19-114 and 19-3B-01(b), Annotated Code of Maryland, used for the delivery of health care services not covered in this chapter.

(11) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

(12) "Technical acts" means a routine medical or surgical act that does not require medical judgment and is performed with the supervision as specified within this chapter.

(13) "Trained" means possessing the knowledge, skills, and abilities, as determined by the physician, to perform delegated acts.

.03 Standards for the Physician Delegating to an Assistant.

A. A physician who delegates shall:

(1) Evaluate the risk to the patient and the outcome of the delegated acts;

(2) Delegate only those technical acts that are customary to the practice of the physician;

(3) Delegate only those technical acts for which the assistant has been trained;

(4) Be responsible for the acts of the assistant; and

(5) Supervise the assistant.

B. The responsibility for the delegated act may not be transferred from the delegating physician to another physician without:

(1) The expressed consent of the other physician; and

(2) Informing the assistant.

.04 Scope of Delegation to an Assistant.

A. A physician may not delegate to an assistant technical acts which are exclusively limited to any individual required to be licensed, certified, registered, or otherwise recognized pursuant to any provision of Health Occupations Article, Annotated Code of Maryland and Education Article, Annotated Code of Maryland.

B. Acts which May be Delegated. A physician may delegate technical acts consistent with national standards in the medical community and the approved policies and procedures of the sites for the delivery of health care services in the following categories:

(1) Surgical technical acts that the delegating physician directly orders while present, scrubbed, and personally performing the surgery in the same surgical field; and

(2) Nonsurgical technical acts while the assistant is under the physician's direct supervision or on-site supervision if the assistant performs the act in accordance with procedures of the site.

C. At sites included in Health-General Article, §§19-114 and 19-3B-01(b), Annotated Code of Maryland, or any unit of those sites, a physician may delegate technical acts in compliance with State regulations and the policies, procedures, and supervisory structures of those sites.

D. At sites not included in Health-General Article, §§19-114 and 19-3B-01(b), Annotated Code of Maryland, when providing the following specified levels of supervision, a physician may delegate to an assistant technical acts which include but are not limited to:

(1) Without on-site supervision:

(a) Patient preparation for physician examination;

(b) Patient history interview;

(c) Collecting and processing specimens, such as performing phlebotomy and inoculating culture media;

(d) Preparation of specimens for selected tests including:

(i) Pregnancy tests;

(ii) Dipstick and microscopic urinalysis; and

(iii) Microbiology such as streptococcal testing and throat cultures;

(e) Laboratory tests that the physician is satisfied the assistant is qualified to perform under State and CLIA regulations;

(f) Clinical tests such as:

(i) Application of tuberculin skin tests;

(ii) Electrocardiography;

(iii) Administration of basic pulmonary function tests; and

(iv) Visual field tests;

(g) Transmitting prescriptions to a pharmacy;

(h) Providing sample packets of medication, selected by a physician who is physically present at the time of selection, to patients as directed by the delegating physician and in conformance with Health Occupations Article, §12-102(a), (d), and (f), Annotated Code of Maryland;

(i) Preparing and administering oral drugs; and

(j) Microdermabrasion;

(2) With on-site supervision:

(a) Preparing and administering injections limited to intradermal, subcutaneous, and intramuscular, in the deltoid, gluteal, and vastus lateralis regions, including small amounts of local anesthetics;

(b) Establishing a peripheral intravenous line; and

(c) Injecting fluorescein-like dyes for retinal angiography; and

(3) With direct supervision, injecting intravenous drugs or contrast materials.

E. A physician who possesses a dispensing permit may delegate the dispensing functions in accordance with the requirements of COMAR 10.32.10.

F. Prohibitions. A physician may not delegate to an assistant acts which include but are not limited to:

(1) Conducting physical examinations;

(2) Administering any form of anesthetic agent or agent of conscious sedation other than topical anesthetics or small amounts of local anesthetics;

(3) Initiating independently any form of treatment, exclusive of cardiopulmonary resuscitation;

(4) Giving medical advice without the consult of a physician; and

(5) Providing physical therapy.

.05 Prohibited Conduct.

A. An assistant acting beyond the scope of this chapter may be:

(1) Considered to be engaged in the unlicensed practice of medicine; and

(2) Subject to all applicable penalties and fines in accordance with Health Occupations Article, §§14-601, 14-602, and 14-606, Annotated Code of Maryland, and COMAR 10.32.02.

B. A delegating physician, through either act or omission, facilitation, or otherwise enabling or forcing an assistant to practice beyond the scope of this chapter, may be subject to discipline for grounds under Health Occupations Article, §14-404(a), Annotated Code of Maryland, including, but not limited to, practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine.

C. A delegating physician may not:

(1) Require an assistant to perform a delegated act; or

(2) Permit an assistant to delegate any act to another individual.

.06 Enforcement.

The Board shall conduct any necessary investigation regarding the failure to comply with the requirements of Health Occupations Article, §14-306, Annotated Code of Maryland, and this chapter.

10.32.13 Unlicensed Limited X-Ray Machine Operators

Authority: Health Occupations Article, §§14-205, 14-207, 14-306.3, and 14-306.4, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the performance of certain X-ray duties without a license by a registered Limited X-ray Machine Operator.

B. This chapter may not be construed to:

(1) Apply to licensed professionals or health occupation students acting pursuant to Health Occupations Article, Annotated Code of Maryland; or

(2) Mean that this chapter overrides or is to be used in lieu of more stringent regulations, policies, and procedures established by State licensure or certification requirements or Board-recognized accrediting agencies.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(2) "ARRT" means the American Registry of Radiologic Technologists, its predecessor, or its successor.

(3) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(4) "Certified radiologic technologist" means an individual who holds an active license and is certified in radiologic technology by the ARRT.

(5) "Competency" means the successful completion of supervised clinical procedures to verify the individual's professional knowledge, skills, and ability.

(6) "Direct supervision" means the supervisor is:

(a) Physically present on the premises;

(b) Personally treating the patient; and

(c) In the presence of the patient while services are provided.

(7) "Fluoroscopy" means a technique for generating X-ray images and presenting them simultaneously and continuously as visible images.

(8) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(9) Limited Scope X-ray Educational Program.

(a) "Limited scope X-ray educational program" means an educational program that meets the requirements of Health Occupations Article, §14-306.3, Annotated Code of Maryland.

(b) "Limited scope X-ray educational program" is not a radiography educational program.

(10) "Limited X-Ray Machine Operator (LXMO)" means an individual who is registered with the Board to practice as aas a limited x-ray machine operator.

(11) "Immediately available supervision" means to provide necessary direction in person, by telephone, or by other electronic means.

(12) "Physician" means an individual licensed to practice medicine under Health Occupations, Title 14, Annotated Code of Maryland.

(13) "Radiographer" means an individual licensed by the Board to practice radiography.

(14) "Readily retrievable" means maintained in a method by which a health care facility as defined in Health-General Article, §19-114, Annotated Code of Maryland, a physician's office, or an employer can retrieve and produce the record upon request for the Board..

(15) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

.03 Application for Initial Registration.

A. To qualify for a registration, an LXMO shall meet the requirements of:

(1) COMAR 10.32.01; and

(2)§B of this regulation.

B. Registration Requirements.

(1) An applicant for registration as a registered LXMO shall attest to:

(a) Completion of at least 6 months of clinical care experience;

(b) Completion of one of the education requirements in §B(2) of this regulation:

(c) Completion of at least 115 hours of didactic training delivered by a certified radiologic technologist providing instruction in:

(i) Radiographic anatomy, procedures, and pathology;

(ii) Digital image acquisition and display;

(iii) Fundamentals, ethics, and laws of health care;

(iv) Human anatomy and physiology;

(v) Image production and analysis;

(vi) Imaging equipment and radiation production;

(vii) Medical terminology; and

(viii) Patient care;

(d) Completion of at least 480 hours of clinical training performed under the direct supervision of a certified radiologic technologist;

(e) Completion of a minimum of five competencies in each body part listed in Regulation .06B(2) of this chapter performed under the direct supervision of a certified radiologic technologist; and

(f) Achievement of a passing result of 75 percent or higher on the ARRT Examination for Limited Scope of Practice in Radiography or a passing result on an alternative exam as determined by the Board.

(2) Education Requirements. An applicant for registration as a LXMO shall have either:

(a) Completed a limited scope X-ray educational program; or

(b) The first year of an accredited radiologic technologist educational program in good standing with the program.

C. Attestation from Radiologic Technologist Educational Program.

(1) If the applicant completed the first year of an accredited radiologic technologist educational program, the program director of the educational program shall provide an attestation directly to the Board stating the applicant meets or exceeds the requirements of §B(1)(a)—(f) of this regulation.

(2) If the applicant completed a limited scope X-ray education program, the attestation in §C(1) of this regulation is not required.

D. If an individual was denied a license by the Board, the individual is not eligible for registration under this chapter.

.04 Renewal, Reinstatement, and Continuing Education.

A. Renewal. The Board shall renew the registration of an LXMO if the LXMO meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing education requirements of §C of this regulation.

B. Reinstatement.

(1) This section does not apply to a post disciplinary reinstatement as defined under COMAR 10.32.02.

(2) An LXMO applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §14-306.4, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the registration of an LXMO who has failed to renew the registration for any reason if the LXMO:

(a) Is of good moral character;

(b) Applied for reinstatement after the date the registration expires;

(c) Provides documentation of having met the continuing education requirement of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .09 of this chapter.

C. Continuing Education.

(1) An LXMO shall complete at least 24 hours of approved continuing education credits earned during the 2 years preceding:

(a) For registration renewal, the expiration of the LXMO registration; or

(b) For registration reinstatement, the date of the submission of the application for reinstatement.

(2) An LXMO shall obtain documentation of continuing education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(3) The required documentation of attendance at a continuing education course shall contain, at a minimum:

(a) Program title;

(b) Sponsor's name;

(c) LXMO's name;

(d) Inclusive date or dates and location of the continuing education event;

(e) The number of continuing education hours earned; and

(f) Documented verification that the LXMO attended the program by stamp, signature, print-out, or other official proof.

(4) The Board may request an LXMO to submit evidence to the Board of having met the continuing education requirements specified in this regulation.

(5) If an LXMO cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing credit hour.

(6) Approved Continuing Education. Approved continuing education is as follows:

(a) In-service programs at a hospital or related institution in the State as defined in Health-General Article, §19-301, Annotated Code of Maryland, or a health maintenance organization certified by the State; or

(b) Programs relevant to the practice of an LXMO approved by the:

(i) Maryland Society of Radiologic Technologists;

(ii) American Medical Association;

(iii) MedChi, the Maryland State Medical Society; or

(iv) American Society of Radiologic Technologists.

(7) The continuing education requirement applies to all renewal applications after the first renewal following initial registration.

.05 Physician Office Requirements.

A physician's office employing an LXMO shall:

A. Verify all credentials of the LXMO;

B. Keep readily retrievable, on-site documentation that the LXMO meets the requirements of Health Occupations Article, §14-306.3, Annotated Code of Maryland and this chapter;

C. Permit the Board to inspect the documentation to ensure compliance with Health Occupations Article, §14-306.3, Annotated Code of Maryland and this chapter; and

D. Verify that all X-ray examinations performed by the LXMO are in accordance with Health Occupations Article, §14-306.3, Annotated Code of Maryland and this chapter.

.06 Scope of Practice.

A. An LXMO shall perform X-ray duties in a physician's office under the immediately available supervision of a physician or radiographer and in accordance with §B of this regulation.

B. Performance of X-ray Duties.

(1) An individual registered as an LXMO may not perform X-ray duties without a license if the duties include:

(a) Computerized or non-computerized tomography;

(b) Fluoroscopy;

(c) Invasive radiology;

(d) Mammography;

(e) Nuclear medicine;

(f) Radiation therapy; or

(g) Xerography; and

(2) An individual registered as an LXMO may perform X-ray duties without a license if the duties are limited to X-ray procedures of the:

(a) Chest;

(b) Spine, including the:

(i) Cervical spine;

(ii) Lumbar spine;

(iii) Sacroiliac joints;

(iv) Sacrum and coccyx; and

(v) Thoracic spine;

(c) Lower extremities, including:

(i) Toes;

(ii) The foot;

(iii) The ankle;

(iv) The calcaneus;

(v) The tibia and fibula;

(vi) The knee and patella; and

(vii) The femur; and

(d) Upper extremities, including:

(i) Fingers;

(ii) The hand;

(iii) The wrist;

(iv) The forearm;

(v) The elbow;

(vi) The humerus;

(vii) The shoulder;

(viii) The clavicle;

(ix) Acromioclavicular joints; and

(x) The scapula.

.07 Prohibited Conduct.

A. An LXMO acting beyond the scope of this chapter may be:

(1) Considered to be engaged in the unlicensed practice of radiography; and

(2) Subject to all applicable penalties and fines in accordance with Health Occupations Article, §§14-601, 14-602, 14-306.4, and 14-5B-17, Annotated Code of Maryland and COMAR 10.32.02.

B. A supervising physician or radiographer, through either act or omission, facilitation, or otherwise enabling or forcing an LXMO to practice beyond the scope of this chapter, may be subject to discipline for grounds within Health Occupations Article, §14-404(a) or 14-5B-14, Annotated Code of Maryland, including, but not limited to, practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine.

C. A supervising physician or radiographer may not:

(1) Require an LXMO to perform an X-ray procedure; or

(2) Permit an LXMO to delegate to another individual.

D. A physician's office that employs an individual authorized to perform X-ray duties without a license is responsible for ensuring that all requirements of Health Occupations Article, §14-306.3, Annotated Code of Maryland and this chapter are met for each X-ray examination performed.

.08 Enforcement.

A. The Board shall conduct any necessary investigation regarding the failure to comply with the requirements of Health Occupations Article, §14-306.3, Annotated Code of Maryland and this chapter.

B. The Board may impose a civil penalty of up to $5,000 per incident on a physician's office for failure to comply with Health Occupations Article, §14-306.3, Annotated Code of Maryland and this chapter.

.09 Fees.

The following fees are applicable to LXMOs:

A. Initial Registration. Initial registration application fee—$65; and

B. Renewal of Registration.

(1) Registration renewal application fee—$125; and

(2) Maryland Health Care Commission (MHCC) fee—As determined by MHCC in accordance with COMAR 10.25.02.

C. Reinstatement fee—$135.

D. Application to take the Limited Scope of Practice in Radiology examination fee—$10.

E. Written verification fee—$25.

F. Incomplete application fee—$50.

.10 Sanctioning Guidelines for LXMOs.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on an LXMO for violations of Health Occupation Article, §14-306.4(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*
(1) Fraudulently or deceptively obtains or attempts to obtain a registration for the applicant, registrant, or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$5,000*
(2) Fraudulently or deceptively uses a registration	*Probation*	*Revocation*	*$0*	*$5,000*
(3) Is guilty of:				
(a) Immoral conduct in the practice of limited X-ray operation; or	*Reprimand*	*Revocation*	*$0*	*$5,000*
(b) Unprofessional conduct in the practice of limited X-ray machine operation	*Reprimand*	*Revocation*	*$0*	*$5,000*
(4) Incompetence				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(b) Physical incompetence	*Suspension until physical incompetence is*	*Revocation*	*$0*	*$5,000*

	addressed to Board's satisfaction			
(c) Mental incompetence	*Suspension until mental incompetence is addressed to Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(5) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(6) Habitual intoxication	*Suspension until limited X-ray machine operator is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until limited X-ray machine operator is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(8) Provides professional services while:				
(a) Under the influence of alcohol; or	*Suspension until limited X-ray machine operator is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(b) Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts or without valid medical indication	*Suspension until limited X-ray machine operator is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Suspension for 5 years*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of limited X-ray machine operation	*Reprimand*	*Revocation*	*$0*	*$5,000*

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$5,000*
(12) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$5,000*
(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(14) Willfully makes a misrepresentation while practicing limited X-ray machine operation	*Reprimand*	*Revocation*	*$0*	*$5,000*
(15) Willfully practices limited X-ray machine operation with an unauthorized individual or aids an unauthorized individual in the practice of limited X-ray machine operation	*Reprimand*	*Revocation*	*$0*	*$5,000*
(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes	*Penalty equivalent to that imposed by the original disciplinary authority if that penalty is less than the Board's sanction would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original disciplinary authority if that fine is lesser than the Board's sanction would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(18) Fails to meet appropriate standards for the delivery of quality limited X-ray machine operation care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in the State	*Reprimand*	*Revocation*	*$0*	*$5,000*
(19) Willfully submits false statements to collect fees for which services are not provided	*Reprimand*	*Revocation*	*$0*	*$5,000*

(20) Was subject to investigation or disciplinary action by a disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this regulation, and the registrant: *(a) Surrendered the license, registration, certification, or permit issued by the state or country; or* *(b) Allowed the license, registration, certification, or permit issued by the state or country to expire or lapse*	*Penalty equivalent to that imposed by the original disciplinary authority if that sanction is less than the Board's sanction would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original disciplinary authority if that fine is lesser than the Board's sanction would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(21) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and probation for 3 years with practice oversight*	*Revocation*	*$0*	*$5,000*
(23) Practices or attempts to practice beyond the authorized scope of practice	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(24) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the registrant is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$5,000*
(25) Practices or attempts to practice a limited X-ray machine operation procedure or uses limited X-ray machine operation equipment if the applicant or registrant has not received education, internship, training, or experience in the performance of the procedure or the use of the equipment	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(26) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel	*Reprimand*	*Revocation*	*$0*	*$5,000*
(27) Fails to practice under the supervision of a physician or radiographer or violates a supervisory order of a supervising physician or radiographer	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(28) Fails to complete a criminal history records check under Health Occupations Article, §14-308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*

10.32.14 Supervised Medical Graduates

Authority: Health Occupations Article, §1-221 and 14-306.2, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the delegation of duties by a delegating physician to a supervised medical graduate.

B. This chapter may not be construed:

(1) As establishing licensure, certification, or registration by the Board for supervised medical graduates;

(2) To apply to certified, registered, or licensed professionals or health occupation students acting in accordance with Health Occupations Article, Annotated Code of Maryland; or

(3) To mean that this chapter overrides or is to be used in lieu of more stringent regulations, policies, and procedures established by State licensure or certification requirements or Board-recognized accrediting agencies.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(2) "Delegating physician" means a physician possessing an active license to practice medicine in the State who directs an unlicensed individual.

(3) "ECFMG" means the Educational Commission for Foreign Medical Graduates or its successor.

(4) "Joint Commission" means the organization formerly known as the Joint Commission on the Accreditation of Health Care Organizations.

(5) "Liaison Committee on Medical Education (LCME)" means the organization which accredits programs in medical education leading to the Doctor of Medicine degree in the United States and its territories.

(6) Medical Office.

(a) "Medical office" means any facility or location used for the delivery of health care services.

(b) "Medical office" includes but is not limited to:

(i) A health care facility as defined in Health-General Article, §19-114, Annotated Code of Maryland; and

(ii) An ambulatory surgical facility as defined in Health-General Article, §19-3B-01(b), Annotated Code of Maryland.

(7) "On-site supervision" means the responsibility of the supervisor to be:

(a) Able to provide necessary direction;

(b) Physically present in the facility; and

(c) Able to respond immediately in person.

(8) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(9) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

(10) "Supervised medical graduate" means an individual who meets the requirements of this chapter and is delegated duties by a delegating physician.

.03 Qualifications.

A supervised medical graduate shall:

A. Have a degree of:

(1) Doctor of Medicine from a school of medicine accredited by the LCME or its successor at the time of graduation;

(2) Doctor of Osteopathic Medicine from a school of osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada that has standards for graduation equivalent to those established by the American Osteopathic Association; or

(3) Doctor of Medicine from any other medical school and have successfully completed the requirements for and obtained ECFMG certification; and

B. Receive a passing score in Part 1 and Part 2 of the:

(1) United States Medical Licensing Examination; or

(2) The Comprehensive Osteopathic Medical Licensing Examination of the United States.

.04 Requirements.

A. An individual may not practice as a supervised medical graduate for a period of more than 2 years.

B. A supervised medical graduate may only be delegated duties by a delegating physician while under the on-site supervision of the physician.

C. Identification Required. A supervised medical graduate shall wear an identification badge while on the premises of the medical office that states in readily visible type:

(1) The name of the supervised medical graduate; and

(2) The title "Supervised Medical Graduate".

D. A supervised medical graduate shall comply with all additional requirements established by:

(1) Maryland Department of the Environment;

(2) The Joint Commission; and

(3) Any federal or State agency, including any federal or State laws or regulations.

E. A medical office employing a supervised medical graduate shall:

(1) Issue the supervised medical graduate an identification badge in accordance with §C of this regulation;

(2) Verify all credentials of the supervised medical graduate;

(3) Maintain documentation that the supervised medical graduate meets the requirements of this chapter on the premises of the medical office;

(4) Permit the Board to inspect the maintained documentation to ensure compliance with this chapter; and

(5) Verify all duties delegated to and performed by the supervised medical graduate are in accordance with Health Occupations Article, §14-306.2, Annotated Code of Maryland and this chapter.

.05 Scope of Delegation to a Supervised Medical Graduate.

A. A delegating physician may delegate duties consistent with national standards in the medical community and the approved policies and procedures of the medical office.

B. A delegating physician is not required to be in the presence of a supervised medical graduate and the patient during the performance of delegated duties.

C. A delegating physician may delegate duties to a supervised medical graduate only while physically on the premises of the same medical office as the supervised medical graduate.

.06 Prohibited Conduct.

A. A supervised medical graduate acting beyond the scope of this chapter may be:

(1) Considered to be engaged in the unlicensed practice of medicine; and

(2) Subject to all applicable penalties and fines in accordance with Health Occupations Article, §§14-601,14-602, and 14-606, Annotated Code of Maryland and COMAR 10.32.02.

B. A delegating physician, through either act or omission, facilitation, or otherwise enabling or forcing a supervised medical graduate to practice beyond the scope of this chapter, may be subject to discipline for grounds within Health Occupations Article, §14-404(a), Annotated Code of Maryland including, but not limited to, practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine.

C. A delegating physician may not:

(1) Require a supervised medical graduate to perform delegated duties; or

(2) Permit a supervised medical graduate to delegate duties to another individual.

.07 Enforcement.

The Board shall conduct any necessary investigation regarding the failure to comply with the requirements of Health Occupations Article, §14-306.2, Annotated Code of Maryland and this chapter.

10.32.15 Registered Cardiovascular Invasive Specialists

Authority: Health Occupations Article, §1-221 and 14-306.1, Annotated Code of Maryland

.01 Scope.

A. This chapter governs:

(1) The delegation of technical acts by a physician to a registered cardiovascular invasive specialist (RCIS) assisting in the physician's performance of fluoroscopy during a cardiac catheterization procedure under certain circumstances as authorized under this chapter; and

(2) The responsibilities of the hospital in which the cardiac catheterization laboratory is located to verify and document the qualifications of an RCIS and to ensure that all requirements of Health Occupations Article, §14-306.1, Annotated Code of Maryland and this regulation are met for each procedure.

B. This chapter may not be construed:

(1) As establishing the licensure, certification, or registration by the Board of an RCIS; or

(2) To mean that this chapter overrides or is to be used in lieu of more stringent regulations, policies, and procedures established by regulations, policies, or procedures imposed by an employer or Board-approved accrediting agencies.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(2) "Delegating physician" means a physician possessing an active license to practice medicine in the State who directs an unlicensed individual.

(3) "Direct supervision" means the supervisor is:

(a) Physically present on the premises;

(b) Personally treating the patient; and

(c) In the presence of the patient while services are provided.

(4) "Fluoroscopy" means a technique for generating X-ray images and presenting them simultaneously and continuously as visible images.

(5) "Hospital" means:

(a) A hospital as defined under Health-General Article, §19-301(g), Annotated Code of Maryland;

(b) A comprehensive care facility that:

(i) Meets the requirements of a hospital-based skilled nursing facility under 42 U.S.C. §1395i-3; and

(ii) Offers acute care in the same building; and

(c) An emergency room that is physically connected to a hospital or a freestanding medical facility that is licensed under Health-General Article, Title 19, Subtitle 3A, Annotated Code of Maryland.

(6) "Joint Commission" means the organization formerly known as the Joint Commission on the Accreditation of Health Care Organizations.

(7) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(8) "Perform fluoroscopy" means the energizing of a fluoroscopic x-ray system by an individual authorized to do so in accordance with the Maryland Department of the Environment's regulations.

(9) "Registered cardiovascular invasive specialist (RCIS)" means an individual who is credentialed by Cardiovascular Credentialing International or another credentialing body approved by the Board to assist in cardiac catheterization procedures under the direct supervision of a physician.

(10) "Technical acts" means a routine medical or surgical act that does not require medical judgment and is performed with the supervision as specified within this chapter.

.03 RCIS Qualifications and Scope.

A. An RCIS shall:

(1) Possess an active RCIS certification issued by Cardiovascular Credentialing International or another credentialing body approved by the Board; and

(2) Complete 40 hours of:

(a) Accredited didactic education in fluoroscopic radiation physics and fluoroscopic patient safety; and

(b) Clinical fluoroscopic training supervised by a board-certified radiologist, radiographer, or radiologist assistant who is physically present in the room with the RCIS to instruct the clinical fluoroscopic training.

B. The RCIS:

(1) May not perform fluoroscopy;

(2) Shall perform technical acts to assist the physician in the physician's performance of fluoroscopy only upon verbal direction from the physician;

(3) May not delegate any act to another individual; and

(4) May not engage in prohibited conduct as set out in Regulation .06 of this chapter.

.04 RCIS, Hospital, and Physician Requirements.

A. An RCIS shall:

(1) Wear an identification badge displaying in readily visible type:

(a) The name of the RCIS; and

(b) A designation by the hospital of verification of the RCIS's credentials and completion of requirements to assist in a physician's performance of fluoroscopy; and

(2) Comply with any additional requirements as established by:

(a) Maryland Department of the Environment;

(b) The Joint Commission; and

(c) Federal and State laws and regulations.

B. The hospital shall:

(1) Verify that the RCIS has met the requirements in Regulation .03A of this chapter before permitting an RCIS to assist in a physician's performance of fluoroscopy;

(2) Issue to the RCIS an identification badge in accordance with §A(1) of this regulation;

(3) Keep on site all documentation of the RCIS's certification and the additional training required under this regulation;

(4) Permit the Board, at any reasonable hour, to inspect the hospital's documentation of the RCIS's certification and training to ensure compliance with this chapter;

(5) Regarding radiation machines and fluoroscopy services, comply with any additional requirements as established by:

(a) Maryland Department of the Environment;

(b) The Joint Commission; and

(c) Federal and State laws and regulations; and

(6) Verify that the acts delegated to the RCIS are in accordance with the scope of this chapter.

C. The physician shall:

(1) Exercise direct supervision of the RCIS when the RCIS is assisting the physician in the physician's performance of fluoroscopy;

(2) Delegate to the RCIS only technical acts involved in the physician's performance of fluoroscopy in accordance with Regulation .05 of this chapter; and

(3) Verbally direct each technical act performed by the RCIS.

.05 Physician Delegation Standards.

A. A physician who delegates shall:

(1) Evaluate the risk to the patient and the outcome of the delegated acts;

(2) Delegate only those technical acts that are customary to the practice of the physician;

(3) Delegate only those technical acts for which the RCIS has been trained;

(4) Be responsible for the acts of the RCIS; and

(5) Supervise the RCIS.

B. The responsibility for the delegated act cannot be transferred from the delegating physician to another physician without:

(1) The expressed consent of the other physician; and

(2) Informing the RCIS.

.06 Prohibited Conduct.

A. An RCIS acting beyond the scope of this chapter may be:

(1) Considered to be engaged in the unlicensed practice of medicine;

(2) Considered to be engaged in the unlicensed practice of radiography; and

(3) Subject to all applicable penalties and fines in accordance with Health Occupations Article, §§14-601, 14-602, 14-606, and 14-5B-17 Annotated Code of Maryland and COMAR 10.32.02.

B. A delegating physician, through either act or omission, facilitation, or otherwise enabling or forcing an RCIS to practice beyond the scope of this chapter, may be subject to discipline for grounds within Health Occupations Article, §14-404(a), Annotated Code of Maryland, including, but not limited to, practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine.

C. A delegating physician may not:

(1) Require an RCIS to perform a delegated act; or

(2) Permit an RCIS to delegate any act to another individual.

.07 Enforcement.

A hospital that fails to comply with the requirements of Health Occupations Article, §14-306.1, Annotated Code of Maryland and this chapter may be assessed a civil penalty of up to $5,000 for each instance

10.32.16 Psychiatrist's Assistants

Authority: Health Occupations Article, §§1-221, 14-205, 14-207, 14-302, and 14-306, Annotated Code of Maryland

.01 Scope.

This chapter concerns the registration of psychiatrist's assistants before October 1, 1993, and re-registration and discipline of psychiatrist's assistants currently registered by the Board.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(2) "Board" has the meaning stated in Health-Occupations Article, §14-101, Annotated Code of Maryland.

(3) "Health care facility" has the meaning stated in Health-General Article, §19-114, Annotated Code of Maryland.

(4) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(5) "Psychiatrist" means an individual licensed to practice medicine in the State who has:

(a) Completed the psychiatric residency requirements in a program approved by the American Board of Psychiatry and Neurology; or

(b) Received, or is eligible for, certification by the American Board of Psychiatry and Neurology.

(6) "Psychiatrist's assistant" means an individual who applied for registration on or before October 1, 1993, and was registered by the Board to perform certain medical duties which would normally be performed by a psychiatrist.

(7) "Registrant" means an individual to whom the Board issues a registration.

(8) "Registration" means limited permission to perform certain health care duties.

.03 Permitted Assignment of Duties.

A psychiatrist may assign duties which constitute the practice of medicine to a psychiatrist's assistant in accordance with this chapter.

.04 Standards for Psychiatrist Supervision of Psychiatrist's Assistants.

A. The psychiatrist shall personally examine, diagnose, and establish a treatment plan for each patient before assigning a patient to a psychiatrist's assistant.

B. Adequate Supervision. Adequate supervision of a psychiatrist's assistant in the performance of medical acts under this chapter requires:

(1) The personal presence of the psychiatrist;

(2) The psychiatrist's participation through telephone contact, chart review, or other means as approved by the Board; or

(3) All the above.

C. When, in the performance of their medical duties, a psychiatrist's assistant finds a significant, new undiagnosed condition or a significant change in an existing diagnosed illness, the psychiatrist's assistant shall immediately apprise the supervising psychiatrist of the condition or change. The supervising psychiatrist shall then direct appropriate treatment and shall be available to promptly attend to the patient.

D. A psychiatrist may not employ more than 2 full-time psychiatrist's assistants in an outpatient or ambulatory practice.

.05 Registration and Re-registration.

A. After October 1, 1993, the Board may not accept or approve any application for registration as a psychiatrist's assistant.

B. Re-registration.

(1) An individual who has been registered by the Board as a psychiatrist's assistant pursuant to this chapter shall:

(a) Renew the registration every 2 years on the date specified by the Board; and

(b) Pay the appropriate fees.

(2) A registrant shall meet all the requirements of this chapter at re-registration.

(3) Notice of the required re-registration shall be given by the Board to the psychiatrist's assistant at the address as shown on the records of the Board.

(4) The psychiatrist's assistant shall complete the re-registration by the date specified by the Board.

(5) If a psychiatrist's assistant does not receive notice of re-registration, it shall be the responsibility of the psychiatrist's assistant to contact the Board to complete this re-registration before the expiration of the current registration.

C. Change in Name or Address. A psychiatrist's assistant shall notify the Board in writing of a change in the psychiatrist's assistant's name or address within 30 days after the change.

D. Failure to Renew.

(1) A psychiatrist's assistant whose registration has expired for failure to renew is unregistered.

(2) A registration which has expired shall be considered permanently expired.

(3) When the registration expires, the approval of duties and supervision becomes invalid.

E. For purposes of re-registration, appropriate standards for continuing medical education for psychiatrist's assistants may be promulgated by the Board.

.06 Approval of Duties and Supervision.

A. When a physician or health care facility and a psychiatrist's assistant have agreed to the psychiatrist's assistant's employment, the two parties shall provide the Board with a written application for approval of duties and supervision before the psychiatrist's assistant begins their duties.

B. A psychiatrist's assistant may not begin employment until a notice of approval of duties and supervision is issued by the Board to the physician or health care facility and the psychiatrist's assistant.

C. Application for Approval of Duties and Supervision.

(1) The application shall be made on a form supplied by the Board and shall include:

(a) A complete list and description of the duties to be assigned to the psychiatrist's assistant; and

(b) A detailed description of the supervisory relationship between the psychiatrist and the psychiatrist's assistant or the psychiatrists in a health care facility and the psychiatrist's assistant, including a schedule of patient reviews.

(2) Health care facility employers of psychiatrist's assistants shall submit to the Board for approval:

(a) The name of a principal psychiatrist who will be responsible for the assigned duties and supervision of all psychiatrist's assistants; and

(b) The total number of psychiatrist's assistants to be employed.

(3) The application shall be signed by the psychiatrist and the psychiatrist's assistant or, if within a health care facility, by the principal psychiatrist and all supervising psychiatrists and the psychiatrist's assistant.

D. The Board shall notify the psychiatrist's assistant and the psychiatrist or facility of its approval or disapproval of the duties and supervisory relationship within 60 days of receipt of the notice of employment.

E. The Board may approve an application in whole or in part, based upon the applicant's education and experience.

F. The Board shall have the authority to review the practice and supervisory relationship of a psychiatrist's assistant and the psychiatrist or the health care facility's psychiatrist at any time for conformance with this chapter.

.07 Termination of Employment.

Notice shall be given to the Board by the psychiatrist or the health care facility and the psychiatrist's assistant within 10 days of termination of employment of the psychiatrist's assistant.

.08 Responsibility of the Psychiatrist.

A. Patient Reviews.

(1) A record of patient reviews with the psychiatrist's assistant shall be kept on file.

(2) The record of patient reviews shall include a summary of the psychiatrist's observations and recommendations.

B. A psychiatrist may not assign the ultimate responsibility for diagnosis or therapy to a psychiatrist's assistant.

C. Notwithstanding any provision contained in this chapter, a psychiatrist may not assign to a psychiatrist's assistant the duty of independently prescribing or dispensing drugs.

.09 Psychiatrist's Responsibility to Patient May Not be Limited by Assignment.

When the Board approves a psychiatrist's assistant's duties and supervisory relationship with a psychiatrist, that approval may not relieve the psychiatrist from the primary responsibility for the care and treatment of the patient. Medical services rendered to a patient by a psychiatrist's assistant shall be, with respect to the obligation of the psychiatrist, the same as if those services had been rendered directly by the psychiatrist.

.10 Identification of the Psychiatrist's Assistant.

A. A patient calling or walking in for an appointment shall be clearly notified at that time whether they will be seeing the psychiatrist or the psychiatrist's assistant.

B. A psychiatrist's assistant may not represent themself as a psychiatrist's assistant in any employment unless an application for approval of duties and supervision has been approved by the Board.

C. The Board shall maintain a registry of psychiatrist's assistants.

.11 Hearings Following Denial of Application or Re-Registration.

A. Disapproval of an Application for Approval of Duties and Supervision.

(1) If the Board disapproves an application for approval of duties and supervision, it shall give notice to the applicant and set forth the specific reasons for the denial.

(2) The applicant shall have the right to appear before the Board and be heard.

B. Hearing.

(1) If the applicant desires to be heard, they shall make a written request for a hearing within 10 days of the receipt of the notice of disapproval of his application.

(2) The hearing shall be held within 60 days after the written request has been filed.

(3) At the hearing, the applicant may be represented by counsel and may present witnesses and other evidence on their behalf.

C. The Board shall affirm, reverse, or modify its previous disapproval and give the applicant written notice of the action it has taken within 30 days after the hearing, unless the applicant agrees to a longer period.

10.32.17 Physician Assistants

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, 15-101—15-502, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the practice of physician assistants and collaboration between physician assistants and one or more patient care team physicians.

B. This chapter does not prohibit:

(1) A student from performing any of the procedures described in these regulations as part of an accredited school's clinical curriculum; or

(2) An individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Accredited" means accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor.

(2) "Advanced duties" means medical acts that require additional education, training, or experience that is beyond the physician assistant education program required for licensure.

(3) "Ambulatory surgical facility" means a facility:

(a) Accredited by:

(i) The American Association for Accreditation of Ambulatory Surgical Facilities;

(ii) The Accreditation Association for Ambulatory Health Care; or

(iii) The Joint Commission; or

(b) Certified to participate in the Medicare Program, as enacted by Title XVIII of the Social Security Act.

(4) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(5) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(6) "Category I hours" means hours of continuing medical education given in formally organized programs pertinent to the practice of physician assistant duties and accredited by:

(a) The American Academy of Physician Assistants;

(b) The American Academy of Family Physicians;

(c) The Accreditation Council on Continuing Medical Education;

(d) The Medical and Chirurgical Faculty of Maryland; or

(e) Equivalent certifying bodies.

(7) "Collaborating physician" means one or more patient care team physicians who collaborate with a physician assistant under a collaboration agreement.

(8) "Collaboration" means the communication and decision-making process among licensees who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care to the patient and includes:

(a) Communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments; and

(b) Development of an appropriate plan of care, including:

(i) Decisions regarding the health care provided;

(ii) Accessing and assessing appropriate additional resources or expertise; and

(iii) Arrangement of appropriate referrals, testing, or studies.

(9) "Collaboration agreement" means a document that outlines the relationship between a physician assistant and an individual physician or a group of physicians which is maintained at the practice level and is developed between a physician assistant and collaborating physician or physicians.

(10) "Committee" means the Physician Assistant Advisory Committee.

(11) "Controlled dangerous substance" means any drug listed as such in Criminal Law Article, §5-101, Annotated Code of Maryland.

(15) "Direct supervision" means the supervisor is:

(a) Physically present on the premises;

(b) Personally treating the patient; and

(c) In the presence of the patient while services are provided.

(18) "Dispense" has the meaning stated in Health Occupations Article, §12-101, Annotated Code of Maryland.

(19) "Drug sample" has the meaning stated in 21 CFR §203.3(i).

(12) "Exempt facility" means:

(a) A hospital;

(b) An ambulatory surgical facility;

(c) A federally qualified health center as defined in Health-General Article, §24-1301(b), Annotated Code of Maryland; or

(d) Any other practice setting listed on a hospital delineation of privileges document.

(13) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(14) "Hospital" means:

(a) A hospital as defined under Health-General Article, §19-301(g), Annotated Code of Maryland;

(b) A comprehensive care facility that:

(i) Meets the requirements of a hospital-based skilled nursing facility under 42 U.S.C. §1395i-3; and

(ii) Offers acute care in the same building; and

(c) An emergency room that is physically connected to a hospital or a freestanding medical facility that is licensed under Health-General Article, Title 19, Subtitle 3A, Annotated Code of Maryland.

(15) " Joint Commission" means the organization formerly known as the Joint Commission on Accreditation of Health Care Organizations.

(16) Medical Office.

(a) "Medical office" means any facility or location used for the delivery of health care services.

(b) "Medical office" includes but is not limited to:

(i) A health care facility as defined in Health-General Article, §19-114, Annotated Code of Maryland; and

(ii) An ambulatory surgical facility as defined in Health-General Article, §19-3B-01(b), Annotated Code of Maryland.

(17) "NCCPA" means the National Commission on Certification of Physician Assistants, Inc, its predecessor, or its successor.

(18) "On-site" means the physical presence of the collaborating physician on the premises of the facility where the physician assistant performs delegated medical acts.

(19) "Patient care team" means a multidisciplinary team of licensees actively functioning as a unit with the leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

(20) "Patient care team physician" means a licensed physician who regularly practices in the State and who provides leadership in the care of patients as part of a patient care team.

(21) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(22) "Physician assistant" means an individual who is licensed by the Board to practice as a physician assistant.

(23) "Prescriptive authority" means the authority of a physician assistant to:

(a) Prescribe and administer:

(i) Controlled dangerous substances;

(ii) Prescription drugs; and

(iii) Medical devices;

(b) Give verbal, written, or electronic orders for medications; and

(c) Dispense starter dosages or drug samples.

(24) "Prescription drug" means any drug defined in the federal Food, Drug, and Cosmetic Act, 21 U.S.C. §503(b), as amended, if the drug's label is required to bear the statement "Rx only."

(25) "Radiologist" means a physician who:

(a) Specializes in radiology; and

(b) Has current certification in radiology by one of the following organizations:

(i) American Board of Radiology;

(ii) American Osteopathic Board of Radiology;

(iii) British Royal College of Radiology; or

(iv) Royal College of Physicians and Surgeons of Canada.

(26) "Starter dosage" means an amount of a drug sufficient to begin therapy:

(a) Of short duration of 72 hours or less; or

(b) Before obtaining a larger quantity of the drug to complete therapy.

(27) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

(28) "Training" means the education or on-the-job training a physician assistant:

(a) Receives after initial licensure as a physician assistant; and

(b) Requires to perform advanced duties.

.03 Physician Assistant Advisory Committee.

A. The Board shall appoint members of the Physician Assistant Advisory Committee as follows:

(1) Three physician assistants;

(2) One physician;

(3) One physician who specializes in general surgery or a surgical subspecialty;

(4) One physician who specializes in internal medicine, family practice, or a similar primary care specialty; and

(5) One consumer member.

B. Selection.

(1) The physician assistant members shall be selected from a list of names submitted from:

(a) The Maryland Academy of Physician Assistants; and

(b) The State institutions of higher education with approved physician assistant programs.

(2) At least two physician members shall be previously or currently serving as a patient care team physician under a collaboration agreement with a physician assistant.

(3) At least one physician member shall be currently practicing in a hospital.

(4) At least one physician member shall be currently practicing in a nonhospital setting.

(5) The consumer member shall meet the requirements of Health Occupations Article, §15-202(a)(6), Annotated Code of Maryland.

C. Each member of the Committee shall:

(1) Be a resident of the State; and

(2) If licensed by the Board, be in good standing with the Board.

D. Tenure.

(1) The term of a member is 3 years.

(2) The initial terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) An individual may be reappointed for a second term, but an individual may not serve more than two consecutive terms.

E. Vacancy.

(1) If a vacancy occurs, the Board shall appoint a new member to serve.

(2) The successor member shall only serve for the remainder of the term, unless reappointed.

F. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:

(a) Failure to attend two successive committee meetings without adequate reason;

(b) Failure to attend Board-mandated training; or

(c) Failure to complete necessary ethics filing requirements;

(2) Misconduct; or

(3) Incompetence.

G. Chair.

(1) From among its members, the Committee shall elect a chair every 2 years.

(2) The Chair, or Chair's designee, shall serve in an advisory capacity to the Board as a representative to the Committee.

H. Quorum.

(1) A quorum of the Committee consists of four members.

(2) Business may not be conducted at a Committee meeting unless there is a quorum.

I. The Committee shall:

(1) Develop and recommend to the Board:

(a) Regulations for carrying out the provisions of Health Occupations Article, Title 15, Annotated Code of Maryland; and

(b) Any statutory changes that affect the profession;

(2) Recommend to the Board approval, modification, or disapproval of a collaboration agreement or the performance of advanced duties under a collaboration agreement;

(3) Report to the Board any conduct of a physician or group of physicians who develops a collaboration agreement with a physician assistant or a physician assistant that may be cause for disciplinary action under Health Occupations Article, §14–404, Annotated Code of Maryland; and

(4) Keep a record of its meetings.

J. The Committee may:

(1) Provide recommendations regarding the practice of physician assistants; and

(2) Advise the Board on any other matters related to physician assistants.

K. A Committee member shall meet any other requirements as established in Health Occupations Article, §15-202, Annotated Code of Maryland.

L. The Committee may conduct an interview of the physician assistant and any patient care team physician when additional information is required.

.04 Scope of Practice.

A. Except as otherwise provided under Health Occupations Article, Title 15, Annotated Code of Maryland, an individual shall be licensed by the Board and notify the Board of an executed collaboration agreement before the individual may practice as a physician assistant or collaborate with a patient care team physician.

B. A physician assistant's scope of practice shall be limited to medical acts that are:

(1) Appropriate to the education, training, and experience of the physician assistant;

(2) Customary to the practice of a patient care team physician; and

(3) Performed in a manner consistent with the collaboration agreement.

C. A physician assistant may delegate technical medical acts authorized under Health Occupations Article, §14-306, Annotated Code of Maryland and COMAR 10.32.12, provided that the physician assistant:

(1) Has notified the Board, in a manner approved by the Board, of an executed collaboration agreement; and

(2) Has completed at least 7,000 hours of clinical practice experience.

D. Prohibitions.

(1) Regardless of the setting or other factors, a physician assistant may not perform general anesthesia or neuraxial anesthesia, including spinal, epidural, and image-guided interventional spine procedures.

(2) Except in hospitals, detention centers, correctional facilities, and public health facilities, a patient care team physician may not collaborate with more than 8 physician assistants during the same shift.

.05 Qualifications for Initial Licensure – Physician Assistants.

A. To qualify for a license, a physician assistant shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. Initial Licensure Requirements. An applicant for a license as a physician assistant shall submit satisfactory evidence of:

(1) Graduation from a physician assistant program accredited by The Accreditation Review Commission on Education for the Physician Assistant (ARC-PA), its predecessor, or its successor;

(2) A passing result on the physician assistant national certifying examination administered by the NCCPA or its successor; and

(3) If an applicant has successfully completed an educational program for physician assistants after October 1, 2003, successful completion one of the following:

(a) A bachelor's degree; or

(b) At least 120 credit hours of education at the college or university level.

.06 Collaboration Agreements—Core Duties.

A. Before a physician assistant may perform medical acts, the physician assistant shall:

(1) Execute a collaboration agreement between the physician assistant and one or more patient care team physicians;

(2) Notify the Board in a manner approved by the Board of the executed collaboration agreement; and

(3) Maintain a copy of the executed collaboration agreement on file at the physician assistant's primary practice location.

B. Collaboration Agreement Requirements.

(1) A collaboration agreement may only consist of one physician assistant and one or more patient care team physicians practicing at the same facility.

(2) A physician assistant shall have a separate collaboration agreement for each of the physician assistant's employers.

(3) The physician assistant shall retain the collaboration agreement and all associated documentation pertaining to the collaboration agreement for 5 years after termination of the collaboration agreement for Board inspection.

C. Contents.

(1) The collaboration agreement shall include, at minimum:

(a) Each patient care team physician's name and Maryland license number;

(b) A description of each patient care team physician's qualifications to collaborate with a physician assistant;

(c) The practice specialty of each listed patient care team physician;

(d) The physician assistant's name and Maryland license number;

(e) The primary location and settings where the physician assistant will practice;

(f) The employer of the physician assistant;

(g) A description of the settings where the physician assistant will practice;

(h) Any delegation of prescriptive authority and, if applicable, dispensing according to Regulation .09 of this chapter; and

(i) Any other information deemed necessary by the Board to carry out the provisions of Health Occupations Article, Title 15, Annotated Code of Maryland.

(2) The collaboration agreement may include a description of any provisions established by the listed patient care team physicians that:

(a) Detail the practice of the physician assistant;

(b) Limit the physician assistant's scope of practice; or

(c) Specify office procedures.

D. The physician assistant shall attest that:

(1) All medical acts performed by the physician assistant shall be:

(a) Appropriate to the education, training, and experience of the physician assistant;

(b) Customary to the practice of a patient care team physician listed on the collaboration agreement; and

(c) Performed in a manner consistent with the collaboration agreement; and

(2) Any performance of an advanced duty in collaboration with a patient care team physician shall be in accordance with Health Occupations Article, §15-302.1, Annotated Code of Maryland.

E. Each collaborating physician shall document their official acknowledgment of their understanding and status as a listed patient care team physician on the collaboration agreement with the physician assistant.

.07 Collaboration Agreements—Advanced Duties.

A. Performance of Advanced Duties.

(1) A physician assistant that has sufficient education, training, and experience in the performance of an advanced duty may perform that advanced duty under a collaboration agreement without Board approval if:

(a) The physician assistant is practicing at an exempt facility in accordance with Health Occupations Article, §15–302.1, Annotated Code of Maryland and meets the conditions in §A(2) of this regulation;

(b) The physician assistant has previously received Board approval to perform the advanced duty; or

(c) The physician assistant has at least 7,000 hours of clinical practice experience as attested to by the physician assistant.

(2) For a physician assistant practicing at an exempt facility, the following requirements shall be met:

(a) The patient care team physician listed on the collaboration agreement has been credentialed by the exempt facility as a condition of employment;

(b) The physician assistant listed on the collaboration agreement has been credentialed by the exempt facility as a condition of employment; and

(c) The advanced duty is reviewed and approved in a process approved by the exempt facility before the physician assistant performs the advanced duty.

B. Except as provided under §A of this regulation, a physician assistant shall receive Board approval to perform an advanced duty prior to performing the advanced duty.

C. X-ray Duties. A physician assistant performing X-ray duties in accordance with Health Occupations Article, §15-302.1, Annotated Code of Maryland shall:

(1) Notify the Board of an executed collaboration agreement in a manner approved by the Board;

(2) Maintain a copy of the collaboration agreement on file at the practice location;

(3) Obtain Board approval for the X-ray duty as an advanced duty if practicing at a location other than an exempt facility;

(4) Perform the X-ray duty in the medical office of a patient care team physician; and

(5) Be limited to performing nonfluoroscopic X-ray procedures of the extremities.

D. In addition to the requirements of §C of this regulation, a physician assistant performing the advanced duty of nonfluoroscopic X-ray procedures using a mini C-arm or similar low-level radiation machine shall be required to present the Board with evidence of completion of a course that includes:

(1) Didactic instruction of at least 8 hours on the following subject matters:

(a) Principles of radiography;
(b) Image acquisition;
(c) Principles of exposure;
(d) Image evaluation;
(e) Radiation safety;
(f) Equipment overview; and
(g) Documentation; and
(2) Clinical instruction, which shall:
(a) Include radiographic studies of extremities on at least 20 separate patients; and
(b) Be under the direct supervision of the delegating physician or radiologist.

.08 Approval, Disapproval, Modification, or Determination of Ineligibility of Advanced Duties.

A. Approval of Advanced Duties.

(1) Documentation demonstrating a physician assistant's authority to perform an advanced duty under this section shall be maintained at the facility where the physician assistant is performing the advanced duty.

(2) The Board may audit and review collaboration agreements at the primary place of business of the physician assistant at any time.

(3) If an advanced duty requires Board approval, the Committee:
(a) Shall review the collaboration agreement;
(b) May conduct a personal interview of the physician assistant and patient care team physicians; and
(c) May recommend to the Board that the collaboration agreement be modified to ensure conformance with the requirements of Health Occupations Article, §§15–302 and 15–302.1, Annotated Code of Maryland.

B. Modification or Disapproval of Advanced Duties.

(1) The Board may modify or disapprove the performance of advanced duties under a collaboration agreement if the physician assistant does not meet the applicable education, training, and experience requirements to perform the specified advanced duties.

(2) If the Board disapproves or modifies a request to perform advanced duties, the Board shall:
(a) Notify the patient care team physician listed in the collaboration agreement and the physician assistant in writing of the particular elements of the advanced duty approval request that were the cause for the modification or denial;
(b) Set forth the specific reasons for the modification or denial; and
(c) Give the applicant an opportunity to submit an amendment to the advanced duty or request a hearing before the Board.

(3) To request a hearing regarding modification or disapproval of advanced duties, the applicant shall make a written request for a hearing to the Board within 30 days of the receipt of the notice of modification or disapproval.

C. Physician Assistant Deemed Ineligible to Perform an Advanced Duty.

(1) A physician assistant who applies to perform an advanced duty may be deemed ineligible to perform an advanced duty if the physician assistant or patient care team physician:
(a) Fails to complete the application;
(b) Fails to provide additional information requested by the Board in connection with the application; or
(c) Submits false or misleading information to the Board in connection with the application.

(2) If a physician assistant is deemed ineligible to perform the advanced duty, the Board shall:
(a) Give written notice to the applicant; and
(b) Set forth the specific reasons for the ineligibility.

(3) A physician assistant who is deemed ineligible to perform the advanced duty may not be authorized to perform the advanced duty except for training purposes under the direct supervision of a patient care team physician listed on the collaboration agreement.

D. Individual members of the Board are not civilly liable for actions regarding the approval, modification, or disapproval of an advanced duty under the collaboration agreement described in this regulation.

.09 Prescriptive Authority and Dispensing Starter Dosage or Drug Samples.

A. In order for a patient care team physician to delegate prescriptive authority, the patient care team physician shall ensure that the collaboration agreement includes:

(1) A statement describing whether the physician intends to delegate any of the following:
(a) Prescribing of:
(i) Controlled dangerous substances;
(ii) Prescription drugs; or
(iii) Medical devices;
(b) Giving verbal, written, or electronic orders for medications; or
(c) Dispensing starter dosages or drug samples;

(2) An attestation that all prescribing activities of the physician assistant will comply with applicable federal and State regulations;

(3) An attestation that all medical charts and records will contain a notation of any prescriptions written by a physician assistant;

(4) An attestation that all prescriptions dispensed include the physician assistant's name and the patient care team physician's name, business address, and business telephone number legibly written or printed;

(5) An attestation that the physician assistant has:

(a) Passed the physician assistant national certification exam administered by the NCCPA within the previous 2 years; or

(b) Completed 8 Category I hours of pharmacology education within the previous 2 years; and

(6) An attestation that the physician assistant has at least one of the following:

(a) A bachelor's degree or its equivalent; or

(b) 2 years of work experience as a physician assistant.

B. Dispensing of Drug Samples and Starter Dosages of Drugs by Physician Assistant.

(1) A drug sample or starter dosage shall meet the following criteria before a physician assistant may dispense the drug sample or starter dosage:

(a) Package is labeled as required by Health Occupations Article, §12-505, Annotated Code of Maryland; and

(b) No charge is made for the drug sample or starter dosage.

(2) Upon dispensing a drug sample or starter dosage, a physician assistant shall enter an appropriate note in the patient's medical record.

(3) A physician assistant may not delegate dispensing of drug samples or starter dosages.

.10 Renewal, Reinstatement, and Continuing Education.

A. Renewal.

(1) The Board shall renew the license of a physician assistant if the physician assistant meets:

(a) The requirements of COMAR 10.32.01; and

(b) The continuing education requirements of §C of this regulation.

B. Reinstatement.

(1) This section does not apply to a post disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A physician assistant applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §15-314, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of a physician assistant who has failed to renew the license if the physician assistant:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .13 of this chapter.

C. Continuing Education.

(1) A physician assistant shall complete at least 50 Category I hours of continuing education earned during the 2 years preceding:

(a) For license renewal, the expiration of the physician assistant license; or

(b) For license reinstatement, the date of the submission of the application for reinstatement.

(2) Category I hours in pharmacology education that are used to satisfy the requirement under Regulation .09A(5)(b) of this chapter may also be used towards the continuing education requirement of this section.

(3) Documentation of Continuing Education.

(a) A physician assistant shall obtain required documentation of continuing education attendance and retain the documentation for 6 years for possible inspection by the Board.

(b) The required documentation shall contain, at minimum, the following information:

(i) Program title;

(ii) Sponsor's name;

(iii) Physician assistant's name;

(iv) Inclusive date or dates and location of the program;

(v) Category I designation and the number of continuing education hours earned; and

(vi) Documented verification that the physician assistant attended the program by stamp, signature, printout, or other official proof.

(c) Proof of maintenance of certification by the NCCPA may be used to document compliance with the continuing education requirement specified in this regulation.

(4) The Board may request a physician assistant to submit evidence of having met the continuing education requirements specified in this regulation.

(5) If a physician assistant cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(6) The continuing education requirement applies to all renewal applications after the first renewal following initial licensure.

.11 Responsibilities of the Physician Assistant.

A. A physician assistant shall:

(1) Notify the Board in a manner approved by the Board of an executed collaboration agreement developed by the listed patient care team physician or physicians and the physician assistant;

(2) Collaborate with a patient care team physician for medical acts that:

(a) Are customary to the practice of a listed patient care team physician; and

(b) Are suitable to be performed by the physician assistant, taking into account the physician assistant's:

(i) Education;

(ii) Training; and

(iii) Experience;

(3) Obtain approval for any advanced duties;

(4) Maintain a copy of the physician assistant's license and collaboration agreement at the practice setting; and

(5) Update the practitioner profile to report the termination of a collaboration agreement for any reason to the Board within 5 days, providing the following information:

(a) Name and license number of the patient care team physician and physician assistant; and

(b) Reason for termination, including a description of conduct or incident that resulted in the termination.

B. Failure of a physician assistant to report to the Board the termination of a collaboration agreement within 5 days of the termination may result in the physician assistant being subject to an administrative fine of up to $500.

C. Sudden Departure of the Patient Care Team Physician.

(1) In the event of the sudden departure, incapacity, or death of a patient care team physician, or in a change in licensure status that results in a patient care team physician being unable to practice medicine in the State, the physician assistant's collaboration agreement will remain active and valid under the supervision of any remaining listed patient care team physicians.

(2) If no remaining patient care team physicians are listed on the collaboration agreement, the physician assistant may not practice until the physician assistant has executed a new collaboration agreement and provided notification to the Board.

.12 Audit of Physician Assistant Practice.

A. Entry.

(1) The Executive Director of the Board or other authorized representative or investigator may enter at any reasonable hour a place of business of a physician or physician assistant or into public premises:

(a) For the purpose of an audit to verify general compliance with the Maryland Physician Assistants Act, Health Occupations Article, Title 15, Annotated Code of Maryland; or

(b) To investigate an allegation with respect to a physician assistant.

(2) A person may not deny or interfere with an entry under §A(1) of this regulation.

(3) A person who violates any provision of §A(1) of this regulation is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100.

B. Audit.

(1) The Board's representatives may require a physician, physician assistant, or facility where the physician assistant is employed or practicing to provide immediate access to the collaboration agreement, Collaboration Agreement Addendum for Advanced Duties, any records relating to the physician assistant's employment, credentialing, and practice, and any medical records of patients seen by the physician assistant.

(2) The Board's representative shall refer possible compliance issues to:

(a) The compliance section of the Board; or

(b) An outside agency that has jurisdiction over the facility.

(3) A physician, physician assistant, or facility who fails to comply with a Board audit in accordance with §B(1) of this regulation is subject to an administrative fine of up to $500.

.13 Fees.

The following fees are applicable to physician assistants:

A. Initial Licensure:

(1) Initial licensure application fee—$310

(2) Endorsement application fee—$100

(3) Reciprocity application fee—$100; and

(4) Fee for the remaining months after first renewal—$10;

B. Renewal of Licensure:

(1) License renewal application fee—$360;

(2) Maryland Health Care Commission (MHCC) fee — As determined by MHCC under COMAR 10.25.02; and

(3) Preceptor fee — As determined in accordance with Health Occupations Article, §15–206(a)(2)(i), Annotated Code of Maryland;

C. Reinstatement fee—$400;

D. Written verification of licensure—$25;

E. Advanced Duty Application Fee—$100; and

F. Incomplete application fee—$50.

.14 Sanctioning Guidelines for Physician Assistants.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on a physician assistant for violations of Health Occupations, §15-314(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*
(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$25,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$25,000*
(3) Is guilty of:				
(a) Immoral conduct in the practice of medicine; or	*Reprimand*	*Revocation*	*$0*	*$25,000*
(b) Unprofessional conduct in the practice of medicine;	*Reprimand*	*Revocation*	*$0*	*$25,000*
(4) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$25,000*
(b) Physical incompetence	*Suspension until physical incompetence is addressed to Board's satisfaction*	*Revocation*	*$0*	*$25,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$25,000*
(5) Solicits or advertises in violation of Health Occupations Article, §14–503, Annotated Code of Maryland	*Reprimand*	*Reprimand with probation*	*$0*	*$25,000*
(6) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$25,000*
(7) Habitual intoxication	*Suspension until the physician assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$25,000*

(8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5–101, Annotated Code of Maryland	*Suspension until the physician assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$25,000*
(9) Provides professional services while:				
(a) Under the influence of alcohol; or	*Suspension until the physician assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$25,000*
(b) Using any narcotic or controlled substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts without valid medical indication	*Suspension until the physician assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$25,000*
(10) Promotes the sale of drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Suspension for 5 years*	*$0*	*$25,000*
(11) Willfully makes or files a false report or record in the practice of medicine	*Reprimand*	*Revocation*	*$0*	*$25,000*
(12) Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$25,000*
(13) On proper request, and in accordance with the provisions of Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland, fails to provide details of a patient's medical record to the patient, another physician, or hospital	*Reprimand*	*Revocation*	*$0*	*$25,000*
(14) Solicits professional patronage through an agent or another person or profits from the acts of a person who is represented as an agent of the physician	*Reprimand*	*Suspension for 1 year*	*$0*	*$25,000*
(15) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$50,000*

(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 assistant discloses on the bill to the patient or third–party payor: *(a) The name of the laboratory;* *(b) The amount paid to the laboratory for the test or test series; and* *(c) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken*	*Reprimand*	*Suspension for 1 year*	*$0*	*$25,000*
(17) Makes a willful misrepresentation in treatment	*Reprimand*	*Revocation*	*$0*	*$25,000*
(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine	*Reprimand*	*Revocation*	*$0*	*$25,000*
(19) Establishes a pattern of excessive or medically unnecessary procedures or treatment	*Reprimand and probation for 2 years*	*Revocation*	*$0*	*$25,000*
(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$25,000*
(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 U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under this regulation	*Penalty equivalent to that imposed by the original licensing authority, if that penalty is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's sanction would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(22) Fails to meet appropriate standards for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in the State	*Reprimand*	*Revocation*	*$0*	*$25,000*
(23) Willfully submits false statements to collect fees for which services are not provided	*Reprimand*	*Revocation*	*$0*	*$25,000*
(24) Was subject to an 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	*Penalty equivalent to that imposed by the original licensing authority, if that sanction is less than*	*Penalty comparable to what the Board imposes under the equivalent*	*Fine equivalent to that imposed by the original licensing authority, if that*	*Fine comparable to what the Board imposes under the equivalent State*

action under this regulation, and the licensee: *(a) Surrendered the license issued by the state or country to the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*the Board's sanction, would be*	*State ground for discipline*	*fine is lesser than the Board's sanction, would be*	*ground for discipline*
(25) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$50,000*
(26) Fails to educate a patient being treated for breast cancer of alternative methods of treatment in accordance with, Health-General Article, §20–113, Annotated Code of Maryland	*Reprimand and probation for 1 year with mandatory continuing education*	*Reprimand*	*$0*	*$25,000*
(27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and probation for 3 years with practice oversight*	*Revocation*	*$0*	*$50,000*
(28) Fails to comply with the provisions of Health Occupations Article, §12–102, Annotated Code of Maryland	*Reprimand*	*Suspension for 2 years*	*$0*	*$25,000*
(29) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the physician assistant is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$25,000*
(30) Except for 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*	*Reprimand*	*Suspension for 3 years*	*$0*	*$50,000*
(31) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions	*Reprimand*	*Revocation*	*$0*	*$50,000*
(32) Fails to display the notice required under Health Occupations Article, §14–415, Annotated Code of Maryland	*Reprimand*	*Suspension*	*$0*	*$25,000*

(33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel	*Reprimand*	*Revocation*	*$0*	*$25,000*
(34) Is convicted of insurance fraud as defined in Insurance Article, §27–801, Annotated Code of Maryland	*Suspension for 6 months*	*Revocation*	*$0*	*$25,000*
(35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the physician assistant's medical education	*Reprimand*	*Revocation*	*$0*	*$50,000*
(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	*Reprimand*	*Revocation*	*$0*	*$25,000*
(37) 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, a disciplinary panel, or those otherwise delegated to the Office of Administrative Hearings	*Suspension for 3 years*	*Revocation*	*$0*	*$25,000*
(38) Willfully hinders, prevents, or otherwise delays any person from making information available to the Board or a disciplinary panel in furtherance of any investigation of the Board or a disciplinary panel	*Suspension for 3 years*	*Revocation*	*$0*	*$25,000*
(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board a disciplinary panel, or those otherwise delegated to the Office of Administrative Hearings	*Probation for 3 years*	*Revocation*	*$0*	*$25,000*
(40) Fails to keep adequate medical records	*Reprimand*	*Suspension of 1 year*	*$0*	*$25,000*
(41) Performs medical acts in a manner that is not consistent with the collaboration agreement	*Suspension for 3 months*	*Revocation*	*$0*	*$25,000*
(42) Performs medical acts which are outside the education, training, and experience of the physician assistant	*Suspension for 3 months*	*Revocation*	*$0*	*$25,000*
(43) Performs medical acts that are not customary to the practice of the patient care team physicians listed on the collaboration agreement	*Reprimand*	*Revocation*	*$0*	*$25,000*

(44) Practices as a physician assistant without first providing notice to the Board as required under Health Occupations Article, §15–302(a), Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$25,000*
(45) Fails to complete a criminal history records check under Health Occupations Article, §14–308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$25,000*
(46) Fails to comply with the requirements of the Prescription Drug Monitoring Program under Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$25,000*
(47) Fails to comply with any State or federal law pertaining to the practice as a physician assistant	*Reprimand*	*Revocation*	*$0*	*$25,000*
(48) Willfully makes a misrepresentation to a disciplinary panel	*Reprimand*	*Revocation*	*$0*	*$25,000*

10.32.18 Respiratory Care Practitioners

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, and 14-5A-01-- 14-5C-25, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the practice of respiratory care in the State.

B. This chapter does not prohibit any respiratory care student who is currently enrolled in an approved respiratory care educational program from performing any of the procedures described in this chapter as part of that program's respiratory care clinical curriculum.

C. This chapter does not prohibit an individual from practicing a health occupation that the individual is authorized to practice under the Health Occupations Article, Annotated Code of Maryland.

D. This chapter does not apply to an individual practicing respiratory care who is licensed by and resides in another jurisdiction if:

(1) The individual is participating in the transportation of a patient from that individual's jurisdiction of licensure into the State;

(2) The individual practices respiratory care only during the transportation of the patient;

(3) The individual does not practice respiratory care on another individual who is not the patient being transported into the State; and

(4) The individual does not practice respiratory care in the State for more than 14 days within a calendar year.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "AARC" means the American Association for Respiratory Care, its predecessor, or its successor.

(2) "Accredited respiratory care educational program" means an educational program accredited by the Commission on Accreditation for Respiratory Care or its successor.

(3) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(4) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(5) "Committee" means the Respiratory Care Advisory Committee.

(6) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(7) "Immediately available supervision" to provide necessary direction in person, by telephone, or by other electronic means.

(8) "Mechanical ventilation" means utilizing positive or negative pressure to provide inspiratory support by invasive or noninvasive means.

(9) "NBRC" means the National Board for Respiratory Care, its predecessor, or its successor;

(10) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(11) "Practice of respiratory care" means the diagnostic evaluation, care and treatment, management, and rehabilitation of patients who have deficiencies and abnormalities which affect the pulmonary system and associated aspects of the cardiopulmonary and other systems.

(12) "Respiratory care practitioner" means an individual licensed by the Board to practice respiratory care.

(13) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

.03 AARC Clinical Guidelines.

A. In evaluating the standard of care for the practice of a respiratory care practitioner, the Board shall utilize the AARC's National Clinical Practice Guidelines.

B. If a particular practice issue has not yet been addressed in the AARC guidelines, the Board may consult with the Maryland/District of Columbia Society for Respiratory Care or any respiratory care practitioner to determine whether a respiratory care practitioner being investigated by the Board is practicing within the acceptable standard of care.

.04 Respiratory Care Advisory Committee.

A. The Board shall appoint members of the Respiratory Care Advisory Committee as follows:

(1) Three respiratory care practitioners;

(2) One physician whose specialty is thoracic surgery;

(3) One physician whose specialty is pulmonary medicine;

(4) One physician whose specialty is anesthesiology; and

(5) One consumer member who meets the requirements of Health Occupations Article, §14-5A-06(c), Annotated Code of Maryland.

B. Each member of the Committee shall:

(1) Be a resident of the State; and

(2) If licensed by the Board, be in good standing with the Board.

C. Tenure.

(1) The term of a member is 3 years.

(2) The terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) An individual may be reappointed for a second 3-year term, but the individual may not serve more than two consecutive 3-year terms.

D. Vacancy.

(1) If a vacancy occurs, the Board shall appoint a new member to serve on the Committee.

(2) The successor member shall only serve for the remainder of the term unless reappointed.

E. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:

(a) Failure to attend two successive committee meetings without adequate reason;

(b) Failure to attend Board-mandated training; or

(c) Failure to complete necessary ethics filing requirements;

(2) Misconduct; or

(3) Incompetence.

F. Chair.

(1) From among its members, the Committee shall elect a chair every 2 years.

(2) The Chair, or the Chair's designee, shall serve in an advisory capacity to the Board as a representative of the Committee.

G. Quorum.

(1) A quorum of the Committee consists of four members.

(2) Business may not be conducted at a Committee meeting unless there is a quorum.

H. The Committee shall:

(1) Develop and recommend to the Board:

(a) Regulations to carry out Health Occupations Article, §14-5A, Annotated Code of Maryland; and

(b) Any statutory changes that affect the profession; and

(2) Keep a record of its meetings.

I. The Committee may:

(1) Provide recommendations to the Board regarding the practice of respiratory care; and

(2) Advise the Board on any other matters related to respiratory care practitioners.

J. A Committee member shall meet any other requirements as established in Health Occupations Article, §14-5A-06, Annotated Code of Maryland.

.05 Qualifications for Initial Licensure - Respiratory Care Practitioners.

A. To qualify for a license, a respiratory care practitioner shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a respiratory care practitioner shall submit satisfactory evidence of:

(1) Graduation from an accredited respiratory care educational program; and

(2) An active certification by the NBRC as at least one of the following:

(a) Certified respiratory therapist; or

(b) Registered respiratory therapist.

.06 Qualifications for Respiratory Care Practitioners Practicing Polysomnography.

A. A respiratory care practitioner licensed by the Board to practice respiratory care on or before December 31, 2012, whose duties include practicing respiratory care in a sleep laboratory or practicing polysomnography, may not be required to obtain an additional license to practice polysomnography.

B. A respiratory care practitioner licensed after December 31, 2012, whose duties include practicing polysomnography shall obtain a separate license to practice polysomnography in accordance with COMAR 10.32.20.

.07 Scope of Practice.

A. A respiratory care practitioner may practice only under the immediately available supervision of and in collaboration with a physician.

B. The practice of respiratory care includes the following:

(1) Direct and indirect respiratory care services that are safe, aseptic, preventive, and restorative to the patient;

(2) The practice of the principles, techniques, and theories derived from cardiopulmonary medicine;

(3) Evaluation and treatment of individuals whose cardiopulmonary functions have been threatened or impaired by developmental defects, the aging process, physical injury, disease, or actual or anticipated dysfunction of the cardiopulmonary system;

(4) Observation and monitoring of physical signs and symptoms, general behavior, and general physical response to respiratory care procedures, and determination of whether initiation, modification, or discontinuation of the treatment regimen is warranted;

(5) The transcription and implementation of a written or oral order, or both, pertaining to the practice of respiratory care;

(6) Evaluation techniques including cardiopulmonary functional assessments, gas exchange, the need and effectiveness of therapeutic modalities and procedures, and assessment and evaluation of the need for extended care and home care procedures, therapy, and equipment;

(7) Professional application of techniques, equipment, and procedures involved in the administration of respiratory care such as:

(a) Therapeutic and diagnostic gases, excluding general anesthesia;

(b) Prescribed medications for inhalation or direct tracheal instillation;

(c) The administration of prescribed analgesic agents including substances listed in Schedule IV as defined in Criminal Law Article, §5-405, Annotated Code of Maryland by subcutaneous injection or inhalation for the performance of respiratory care procedures;

(d) Nonsurgical intubation, maintenance, and extubation of artificial airways;

(e) Advanced cardiopulmonary measures;

(f) Chest needle decompression;

(g) Cardiopulmonary rehabilitation;

(h) Mechanical ventilation or physiological life support systems;

(i) Collection of body fluids and blood samples for evaluation and analysis, including collection by intraosseous access;

(j) Insertion of diagnostic arterial access lines, including large bore intravenous access; and

(k) Collection and analysis of exhaled respiratory gases;

(8) The immediately available supervision of respiratory care practitioners, respiratory care departments, or the provision of any respiratory care services; and

(9) The respiratory care clinical instruction or oversight of respiratory care students, while performing respiratory care procedures as part of their clinical curriculum.

.08 Renewal, Reinstatement, and Continuing Education.

A. Renewal. The Board shall renew the license of a respiratory care practitioner if the respiratory care practitioner meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing education requirements of §C of this regulation.

B. Reinstatement.

(1) This section does not apply to a post disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A respiratory care practitioner applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §14-5A-17(a), Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of a respiratory care practitioner if the respiratory care practitioner:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland;

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .09 of this chapter; and

(f) If the license has not been renewed for more than 5 years and the applicant has been practicing in another jurisdiction or country during at least 3 of the 5 years preceding the application, the applicant shall be certified as a registered respiratory therapist or certified respiratory therapist by the NBRC and meet all the requirements of licensure at the time the respiratory care practitioner applies for reinstatement.

C. Continuing Education.

(1) A respiratory care practitioner shall complete at least 16 hours of approved continuing education credits, earned during the 2-year period preceding:

(a) For license renewal, the expiration of a license for respiratory care; or

(b) For license reinstatement, the date of submission of the application for reinstatement.

(2) A respiratory care practitioner shall obtain the required documentation of continuing education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(3) The required documentation shall contain, at minimum, the following information:

(a) Program title;

(b) Sponsor's name;

(c) Respiratory care practitioner's name;

(d) Inclusive date or dates and location of the program;

(e) The number of continuing education hours earned; and

(f) Documented verification that the respiratory care practitioner attended the program by stamp, signature, print-out, or other official proof.

(4) Proof of maintenance of certification by the NBRC as a registered respiratory therapist or a certified respiratory therapist may be used to document compliance with the continuing education requirements specified in this regulation.

(5) The Board may request a respiratory practitioner to submit to the Board evidence of having met the continuing education requirements specified in this regulation.

(6) If a respiratory care practitioner cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(7) Approved respiratory care continuing education includes:

(a) Programs accredited by or sponsored by one of the following organizations:

(i) Maryland/District of Columbia Society for Respiratory Care;

(ii) AARC's Continuing Respiratory Care Education System; or

(iii) MedChi, the Maryland State Medical Society; and

(b) Other programs approved by the Board with requirements equivalent to the programs accredited through the organizations listed in §C(7)(a) of this regulation.

(8) The continuing education requirement applies to all renewal applications after the first renewal following initial licensure.

.09 Fees.

The following fees are applicable to respiratory care practitioners:

A. Initial Licensure. Initial licensure application fee—$200

B. Renewal of Licensure:

(1) License renewal application fee—$150; and

(2) Maryland Health Care Commission (MHCC) fee—As determined by MHCC under COMAR 10.25.02;

C. Reinstatement fee—$200;

D. Written verification of licensure fee—$25; and

E. Incomplete application fee—$50.

.10 Sanctioning Guidelines for Respiratory Care Practitioners.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on a respiratory care practitioner for violations of Health Occupations Article, §14-5C-17(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$5,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$5,000*
(3) Is guilty of:				
(a) Immoral conduct in the practice of respiratory care; or	*Reprimand*	*Revocation*	*$0*	*$5,000*
(b) Unprofessional conduct in the practice of respiratory care	*Reprimand*	*Revocation*	*$0*	*$5,000*
(4) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(b) Physical incompetence	*Suspension until physical incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(5) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(6) Habitual intoxication	*Suspension until the respiratory care practitioner is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until the respiratory care practitioner is in treatment and has*	*Revocation*	*$0*	*$5,000*

	been abstinent for 6 months			
(8) Provides professional services while:				
(a) Under the influence of alcohol; or	*Suspension until the respiratory care practitioner is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(b) Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts or without valid medical indication	*Suspension until the respiratory care practitioner is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Suspension for 5 years*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of respiratory care	*Reprimand*	*Revocation*	*$0*	*$5,000*
(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$5,000*
(12) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$5,000*
(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(14) Makes a willful misrepresentation while practicing respiratory care	*Reprimand*	*Revocation*	*$0*	*$5,000*

(15) Willfully practices respiratory care with an unauthorized individual or aids an unauthorized individual in the practice of respiratory care	*Reprimand*	*Revocation*	*$0*	*$5,000*
(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under this regulation	*Penalty equivalent to that imposed by the original licensing authority, if that penalty is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in the State	*Reprimand*	*Revocation*	*$0*	*$5,000*
(19) Willfully submits false statements to collect fees for which services are not provided	*Reprimand*	*Revocation*	*$0*	*$5,000*
(20) Was subject to an 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 regulation, and the: *(a) Surrendered the license issued by the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*Penalty equivalent to that imposed by the original licensing authority, if that sanction is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is less than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(21) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and 3 years of probation with practice oversight*	*Revocation*	*$0*	*$5,000*
(23) Practices or attempts to practice beyond the authorized scope of practice	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*

(24) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$5,000*
(25) Practices or attempts to practice a respiratory care procedure or uses or attempts to use respiratory care equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(26) Fails to cooperate with a lawful investigation conducted by the Board	*Reprimand*	*Revocation*	*$0*	*$5,000*
(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(28) Fails to complete a criminal history records check under Health Occupations Article, §14–308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*

10.32.19 Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiology Assistants

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, and 14-5B-01—14-5B-21, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the practice of radiation therapy, radiography, nuclear medicine technology, and radiology assistance.

B. This chapter does not prohibit:

(1) A radiation therapy, radiography, nuclear medicine technology, or radiology assistance student enrolled in an educational program from practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance in the educational program; or

(2) An individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Advanced procedure request" means a written request to the Board to allow a radiologist assistant to perform one or more procedures listed in Regulation .10E of this chapter.

(2) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(3) "ARRT" means the American Registry of Radiologic Technologists, its predecessor, or its successor.""

(4) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(5) "Committee" means the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee.

(6) "Computed tomography (CT)" means the use of a machine that produces ionizing radiation to obtain cross-sectional images.

(7) "Direct supervision" means the supervisor is:

(a) Physically present on the premises;

(b) Personally treating the patient; and

(c) In the presence of the patient while services are provided.

(8) "Fluoroscopy" means a technique for generating X-ray images and presenting them simultaneously and continuously as visible images.

(9) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(10) "Hybrid nuclear medicine/CT device" means a machine that combines two distinct imaging modalities.

(11) "Immediately available supervision" means to provide necessary direction in person, by telephone, or by other electronic means.

(12) "NMTCB" means the Nuclear Medicine Technology Certification Board, its predecessor, or its successor.

(13) "Nuclear medicine technologist" means an individual licensed by the Board to practice nuclear medicine technology.

(14) "On-site supervision" means the responsibility of the supervisor to be:

(a) Able to provide necessary direction;

(b) Physically present in the facility; and

(c) Able to respond immediately in person.

(15) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(16) "Post–primary computed tomography (CT) credential" means passing a specialty examination by the ARRT or the NMTCB to establish competency in performing CT.

(17) "Practice nuclear medicine technology" means to:

(a) Prepare and administer radiopharmaceuticals to human beings; or

(b) Conduct in vivo detection and measurement of radioactivity for medical purposes to assist the physician in the diagnosis and treatment of disease or injury.

(18) "Practice radiation therapy" means to:

(a) Perform tumor localization radiography; and

(b) Apply therapeutic doses of radiation for the treatment of disease or injury.

(19) "Practice radiography" means to use ionizing radiation to:

(a) Demonstrate portions of the human body to assist the physician in the diagnosis of disease or injury; or

(b) Perform tumor localization radiography.

(20) "Practice radiology assistance" means to:

(a) Practice radiography; and

(b) Perform:

(i) Fluoroscopy and selected radiology procedures;

(ii) Patient assessment; and

(iii) Patient management.

(21) "Radiation therapist" means an individual who is licensed by the Board to practice radiation therapy.

(22) "Radiographer" means an individual who is licensed by the Board to practice radiography.

(23) "Radiologist assistant" means an individual who is:

(a) Currently certified by the ARRT as a radiographer; and

(b) Licensed by the Board to practice radiology assistance.

(24) "Radiologist" means a physician who:

(a) Specializes in radiology; and

(b) Has current certification in radiology by one of the following organizations:

(i) American Board of Radiology;

(ii) American Osteopathic Board of Radiology;

(iii) British Royal College of Radiology; or

(iv) Royal College of Physicians and Surgeons of Canada.

(25) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

.03 Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee.

A. Membership. The Board shall appoint members of the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee as follows:

(1) One physician whose approved specialty is radiology;

(2) One physician whose approved specialty is nuclear medicine;

(3) One physician whose approved specialty is radiation oncology;

(4) One physician who:

(a) Specializes in radiology; and

(b) Supervises a radiologist assistant;

(5) One radiographer;

(6) One radiation therapist;
(7) One nuclear medicine technologist;
(8) One radiologist assistant; and
(9) One consumer member.

B. Selection.

(1) The physician whose specialty is radiology, the physician whose specialty is radiation oncology, and the physician who specializes in radiology and supervises a radiologist assistant may be selected by the Board from a list of nominees submitted by the American College of Radiology—Maryland Chapter. Nominees may not be required to be members of the American College of Radiology.

(2) The physician whose specialty is nuclear medicine may be selected by the Board from a list of nominees submitted by the Mideastern Chapter—Society of Nuclear Medicine. Nominees may not be required to be members of the Mideastern Chapter—Society of Nuclear Medicine.

(3) The radiographer and the radiation therapist may be selected by the Board from a list of nominees submitted by the Maryland Society of Radiologic Technologists. Nominees may not be required to be members of the Maryland Society of Radiologic Technologists.

(4) The nuclear medicine technologist may be selected by the Board from a list of nominees submitted by the Mideastern Chapter—Society of Nuclear Medicine —Technologist Section. Nominees may not be required to be members of the Mideastern Chapter—Society of Nuclear Medicine—Technologist Section.

(5) The consumer member shall meet the requirements in Health Occupations Article, §14-5B-05(d), Annotated Code of Maryland.

(6) Each member of the Committee shall:
(a) Be a resident of the State; and
(b) If licensed by the Board, be in good standing with the Board.

C. Tenure.

(1) The term of a member is 3 years.
(2) The terms of the members are staggered.
(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
(4) An individual may be reappointed for a second term but the individual may not serve more than two full consecutive terms.

D. Vacancy.

(1) If a vacancy occurs as to a member, the Board shall appoint a new member to serve on the Committee.
(2) The successor member may only serve for the remainder of the term, unless reappointed.

E. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:
(a) Failure to attend two successive committee meetings without adequate reason;
(b) Failure to attend Board-mandated training; or
(c) Failure to complete necessary ethics filing requirements;
(2) Misconduct; or
(3) Incompetence.

F. Chair.

(1) From among its members, the Committee shall elect a chair every 2 years.
(2) The Chair, or the Chair's designee, shall serve in an advisory capacity to the Board as a representative to the Committee.

G. Quorum.

(1) A quorum of the Committee consists of five members.
(2) Business may not be conducted at a Committee meeting unless there is a quorum.

H. The Committee shall:

(1) Develop and recommend to the Board:
(a) Regulations to carry out the provisions of Health Occupations Article, §14-5B, Annotated Code of Maryland; and
(b) Any statutory changes that affect the profession; and
(2) Keep a record of its meetings.

I. The Committee may:

(1) Provide recommendations regarding the practice of radiation therapy, radiography, nuclear medicine technology, and radiology assistance; and

(2) Advise the Board on any other matters related to radiation therapists, radiographers, nuclear medicine technologists, and radiologist assistants.

J. A Committee member shall meet any other requirements as established in Health Occupations Article, §14-5B-05, Annotated Code of Maryland.

.04 Qualifications for Initial Licensure – Radiographers.

A. To qualify for a license, a radiographer shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a radiographer shall submit satisfactory evidence of:

(1) Graduation from a radiographer educational program that is recognized by the ARRT;

(2) A passing result on the examination in radiography constructed by the ARRT; and

(3) Current registration or active certification from the ARRT at the time of application.

.05 Qualifications for Initial Licensure– Nuclear Medicine Technologists.

A. To qualify for a license, a nuclear medicine technologist shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a nuclear medicine technologist shall submit satisfactory evidence of:

(1) Graduation from a nuclear medicine educational program that is recognized by the ARRT or the NMTCB;

(2) A passing result on the examination in nuclear medicine technology constructed by the ARRT or the NMTCB; and

(3) Current registration or active certification from the ARRT or the NMTCB at the time of application.

.06 Qualifications for Initial Licensure – Radiation Therapists.

A. To qualify for a license, a radiation therapist shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a radiation therapist shall submit satisfactory evidence of:

(1) Graduation from a radiation therapy educational program that is recognized by the ARRT;

(2) A passing result on the examination in radiation therapy constructed by the ARRT; and

(3) Current registration or active certification from the ARRT at the time of application.

.07 Qualifications for Initial Licensure – Radiologist Assistants.

A. To qualify for a license, a radiologist assistant shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a radiologist assistant shall submit satisfactory evidence of:

(1) Successful completion of:

(a) A radiologist assistant educational program that is recognized by the ARRT: and

(b) Coursework that leads to a baccalaureate degree or post-baccalaureate certification;

(2) Current registration or active certification as a radiologist assistant from the ARRT at the time of application;

(3) A passing result on the examination administered by the ARRT;

(4) Issuance of a general State license to perform radiography;

(5) Completion of a radiologist or radiation oncologist-directed clinical preceptorship as a part of the education program required by §B(1) of this regulation; and

(6) Current certification in advanced cardiac life support.

.08 Scope of Practice – General.

A. Supervision.

(1) A radiation therapist, radiographer, or a nuclear medicine technologist may only practice under the immediately available supervision of a physician.

(2) A radiologist assistant may only practice under the supervision of a radiologist or radiation oncologist.

B. Administration of Medications or Contrast Media.

(1) A radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant may initiate an intravenous line and administer contrast media with the following supervision:

(a) A radiologist assistant may administer contrast media under the immediately available supervision of a radiologist or radiation oncologist; and

(b) A radiation therapist, radiographer, or nuclear medicine technologist may administer contrast media:

(i) After consultation with a physician; and

(ii) Under the on-site supervision of a physician.

(2) A radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant may not administer narcotic or sedating medication.

.09 Scope of Practice – Radiation Therapy.

A. The scope of practice for a radiation therapist includes simulation procedures and the operation of external beam treatment devices, CT simulator, and fluoroscopic simulator for patient therapy which includes:

(1) Preparation of machine for patient procedure;

(2) Positioning patient for treatment or localization, or both;

(3) Adjustment of machine components and systems;

(4) Application of machine adjustments while patient is on the table;

(5) Attachment or removal of any machine device or machine accessory for patient service, or both;

(6) Manipulation of machine controls for patient exposure for localization or treatment, or both;

(7) Production of radiation for tumor or field localization on, or treatment of a patient, or both;

(8) Documentation of technical set up used on a patient;

(9) Monitoring of patient and equipment during the simulation or treatment procedures for application of corrective actions;

(10) Oversight and application of image development standards and appropriate labeling of images regarding patient identification, date, and documentation of technical parameters;

(11) Performance of patient or image measurements, or both;

(12) Application of technical procedures in accordance with accepted radiation safety standards and regulations;

(13) Performance of dosimetric and geometric calculations related to patient treatment; and

(14) Manipulation, data entry, or other use of computer-accelerator interfaced hardware or software for patient treatment.

B. The scope of practice for a radiation therapist includes the preparation of patient treatment devices which includes:

(1) Oversight of in-facility manufacture of devices or device accessories for use in patient treatment; and

(2) Approval of devices for use in patient simulation and treatment.

C. The scope of practice for a radiation therapist includes brachytherapy and radiopharmaceutical procedures which includes:

(1) Removal, return, or handling of radiation sources or medical applicators containing radioactive material, or both;

(2) Transportation of radioactive materials;

(3) Documentation for the accountability and use of the radiation sources;

(4) Insertion and removal of sources from medical applicators;

(5) Preparation of sealed radiopharmaceuticals for therapeutic administration to patients under the immediately available supervision of a physician;

(6) Assisting the physician in the preparation and administration of sealed therapeutic radiopharmaceuticals for brachytherapy;

(7) Documentation of the therapeutic application of radiopharmaceuticals;

(8) Oversight of radiation safety practices related to the handling and administration of radiopharmaceuticals for therapy of patients;

(9) Management of transportation and handling of therapeutic radiopharmaceuticals, immediate management, and appropriate notifications for any spills or other accidents involving radiopharmaceuticals;

(10) Calibration of therapeutic radiopharmaceuticals for dose accuracy; and

(11) Preparation of unsealed radiopharmaceuticals for therapeutic administration to patients under direct supervision of a physician if the radiation therapist has received on-site training from an authorized user.

D. The scope of practice for a radiation therapist includes the performance of any other duties that the Board determines may be performed by a radiation therapist.

.10 Scope of Practice — Radiography.

A. The scope of practice of radiography includes the following:

(1) Analysis and correlation of procedure requests and clinical information provided by a physician or patient or both, for pre-procedure determination of the appropriate exam, its extent, and its scope;

(2) Evaluation of the physical and emotional status of the patient with respect to the patient's ability to undergo the procedure requested;

(3) Selection, preparation, and operation of radiography equipment and accessories to perform procedures;

(4) Positioning the patient to best demonstrate the anatomy of interest, while respecting the patient's physical limitations and comfort;

(5) Determination of radiographic exposure factors, setting of factors on control panel, and application of x-ray exposures;

(6) Application of radiation protection principles to minimize radiation exposure to the patient, oneself, and others;

(7) Evaluation of images for technical quality;

(8) Performance of noninterpretive fluoroscopic procedures according to institutional policy;

(9) Oversight of image processing standards and the appropriate labeling of images;

(10) Administration of contrast media:

(a) After consultation with a physician; and

(b) Under the on-site supervision of a physician; and

(11) Performance of any other duties that the Board determines may be performed by a radiographer.

B. The scope of practice of radiography includes the administration of intravenous medications and other patient care procedures as directed by the physician if the:

(1) Radiographer is:

(a) Registered by the ARRT in advanced qualifications in cardiac-interventional radiography, vascular-interventional radiography, or cardiovascular-interventional radiography;

(b) Working in a cardiac catheterization laboratory or interventional radiographic laboratory while cardiac catheterization or interventional procedures are ongoing; and

(c) Administering the medication or performing a patient care procedure at the direction of a physician while under the direct supervision of the physician;

(2) Supervising physician in the cardiac catheterization or interventional laboratory is responsible for the acts of the radiographer when delegating the administration of intravenous medications or performance of a patient care procedure; and

(3) Facility where the procedure is performed:

(a) Has protocols available for review by the Board;

(b) Documents the training provided to the radiographer; and

(c) Evaluates the radiographer on a regular basis for competency, documents the results of these tests, and makes the results available for inspection by the Board.

C. The scope of practice of radiography includes the insertion and removal of peripherally inserted central catheters with or without fluoroscopic guidance if the:

(1) Radiographer is:

(a) Registered by the ARRT in advanced qualifications in cardiac-interventional radiography, vascular-interventional radiography, or cardiovascular-interventional radiography;

(b) Working in a cardiac catheterization laboratory or interventional radiographic laboratory while cardiac catheterization or interventional procedures are ongoing; and

(c) Under the on-site supervision of the supervising physician;

(2) Supervising physician in the cardiac catheterization or interventional laboratory is responsible for the acts of the radiographer with respect to insertion or removal of peripherally inserted central catheters; and

(3) Facility where the procedure is performed:

(a) Has protocols available for review by the Board;

(b) Documents the training provided to the radiographer; and

(c) Evaluates the radiographer on a regular basis for competency, documents the results of these tests, and makes the results available for inspection by the Board.

.11 Scope of Practice – Nuclear Medicine Technology.

A. The scope of practice of nuclear medicine technology includes the following:

(1) Diagnostic in-vivo and in-vitro procedures which includes:

(a) Analysis and correlation of the procedure requested and clinical information provided by the referring physician or patient, or both, for determination of appropriate exam, extent, and scope;

(b) Evaluation of the physical and emotional status of the patient with respect to the ability to undergo the procedure requested;

(c) Immediate pre-dose review of the:

(i) Identity of the patient;

(ii) Prescribed dose quantity;

(iii) Route of administration; and

(iv) Identification of the test agent designed to prevent dose misadministration;

(d) Preparation of the appropriate radiopharmaceutical with measurement of dose activity;

(e) Administration of appropriate diagnostic dose levels of radiopharmaceuticals;

(f) Administration of nonradioactive pharmaceuticals utilized in conjunction with a nuclear medicine imaging or in-vivo procedure, such as cholecystokinin, furosemide, or vitamin B12, in accordance with hospital or facility procedures, excluding narcotic and sedating medication;

(g) Selection of appropriate imaging or test parameters, or both;

(h) Obtaining images according to established protocols and any special views to optimize information as appropriate;

(i) Placement of the patient in the proper position using supportive materials and immobilizers as necessary;

(j) Ensuring appropriate image labeling as to patient identification, position, and appropriate anatomic landmarks for each view;

(k) Evaluation of images or data, or both, for technical quality;

(l) Recognition of unusual variances caused by instrumentation malfunction in the images or data, or both, and initiating appropriate action;

(m) Monitoring the patient and equipment during the procedure for determination and application of any corrective actions necessary;

(n) Monitoring data collection, and processing and performance of technical analysis of test results;

(o) Preparation and performance of laboratory in-vivo nuclear medicine procedures, inclusive of the selection and operation of laboratory counting equipment, performance of calculations, and data processing necessary for the completion of lab procedures and the submission of results to the physician or nuclear medicine technologist;

(p) Oversight and application of image development; and

(q) Performance of in-vitro testing of serum, plasma, or other body fluids using radio immunoassay, or similar ligand assay methods;

(2) Handling radiopharmaceuticals, which includes:

(a) Preparation, by means of tagging, compounding, and other aspects of preparation, in accordance with the manufacturer's specifications;

(b) Measurement and calculation of activity of radionuclides with a dose calibrator;

(c) Application of radioactive decay calculations to determine the required volume or unit form necessary to deliver the prescribed radioactive dose; and

(d) Recording of radiopharmaceutical information on a patient's permanent record;

(3) Radionuclide therapy, which includes:

(a) Assisting the physician in the preparation and application of therapeutic radionuclides;

(b) Oversight of radiation safety practices related to the handling and administration of radiopharmaceuticals for therapy of patients;

(c) Management of transportation and handling of therapeutic radiopharmaceuticals;

(d) Calibration of therapeutic radiopharmaceuticals for dose accuracy; and

(e) Radiation monitoring, decontamination, disposal, and patient follow-up as appropriate and required;

(4) Radiation safety, which includes:

(a) Maintenance of records of radioactive material receipt, use, storage, and disposal in accordance with regulatory requirements;

(b) Oversight and enforcement of radiation safety policies, practices, and regulations regarding the possession and use of radioactive materials; and

(c) Performance of radiation safety procedures such as radiation survey and wipe testing of incoming radioactive shipments and facility fixtures;

(5) Operation of a hybrid nuclear medicine/CT device for a nondiagnostic attenuation correction CT without intravenous contrast; and

(6) Performance of any other duties that the Board determines may be performed by a nuclear medicine technologist.

B. The scope of practice of a nuclear medicine technologist includes operation of a standalone CT or hybrid nuclear medicine/CT device for a diagnostic CT with or without intravenous contrast if the nuclear medicine technologist:

(1) Has successfully passed the ARRT or NMTCB specialty exam for CT; and

(2) Administers contrast media:

(a) After consultation with the physician; and

(b) Under the on-site supervision of the physician.

C. In order to meet the eligibility requirements to sit for the ARRT or the NMTCB post-primary CT examination, a nuclear medicine technologist may perform all procedures involving diagnostic CT with or without intravenous contrast only under the direct supervision of a:

(1) Nuclear medicine technologist with the post-primary CT credential;

(2) Radiographer with the post-primary CT credential; or

(3) Radiologist or radiation oncologist.

.12 Scope of Practice – Radiologist Assistant.

A. The scope of practice of a radiologist assistant is to practice radiography, which includes the following activities to obtain the clinical history and physical examination of the patient:

(1) Reviewing the patient's medical record to verify the appropriateness of a specific exam or procedure;

(2) Interviewing the patient to obtain, verify, or update medical history;

(3) Explaining the procedure to the patient or significant others, including a description of risks, benefits, alternatives, and follow-up;

(4) Obtaining the patient's informed consent;

(5) Determining if the patient has followed instructions in preparation for the exam, such as diet and pre-medications;

(6) Assessing risk factors that may be contraindications to the procedure, such as health history, medications, pregnancy, psychological indicators, and alternative medicines;

(7) Obtaining and evaluating vital signs;

(8) Performing a physical examination and analysis of data such as signs and symptoms, laboratory values, and significant abnormalities, as required by the imaging procedure to be conducted; and

(9) Reporting findings related to Regulation .11A(1)—(5) of this chapter to the supervising radiologist or radiation oncologist.

B. The scope of practice of a radiologist assistant includes the following general procedures:

(1) Applying ECG leads and recognizing life threatening ECG abnormalities;

(2) Performing urinary catheterization;

(3) Performing venipuncture;

(4) Monitoring the patient's IV for flow rate and complications;

(5) Positioning patient to perform a required procedure, using immobilization devices and modifying technique as necessary;

(6) Assessing the patient's vital signs and levels of anxiety and pain and informing the radiologist or radiation oncologist when appropriate;

(7) Recognizing and responding to medical emergencies, such as drug reactions, cardiac arrest, or hypoglycemia, and activating emergency response systems, including notification of the radiologist;

(8) Administering oxygen as prescribed;

(9) Operating a fixed/mobile fluoroscopic unit;

(10) Ensuring documentation of fluoroscopy time;

(11) Explaining to the patient the effects and potential side effects of the pharmaceutical required for the examination;

(12) Administering contrast agents as prescribed by the radiologist or radiation oncologist;

(13) Administering general medications as prescribed by the radiologist, except for radiopharmaceuticals and narcotic or sedating medications; and

(14) Monitoring the patient for side effects or complications of the pharmaceuticals.

C. The scope of practice of the radiologist assistant includes performing the following examinations and procedures, including contrast media administration, placement of a needle or catheter, and operation of imaging equipment, under the immediately available supervision of a radiologist or radiation oncologist:

(1) Examinations and procedures of the upper GI;

(2) Examinations and procedures of the esophagus;

(3) Small bowel studies;

(4) Barium enema;

(5) Evaluation of percutaneous gastric and enteric tubes;

(6) Swallowing study;

(7) Cystogram and voiding cystourethrogram; and

(8) Nasoenteric and oroenteric feeding tube placement.

D. The scope of practice of the radiologist assistant includes performing the following examinations and procedures, including contrast media administration, placement of a needle or catheter, and operation of imaging equipment, under the on-site supervision of a radiologist or radiation oncologist:

(1) Joint injection and aspiration;

(2) Arthrogram, including conventional, computed tomography, and magnetic resonance;

(3) Peripherally inserted central catheter placement;

(4) Paracentesis with appropriate image guidance;

(5) Thoracentesis with appropriate image guidance;

(6) Lumbar puncture under fluoroscopic guidance;

(7) Fistulogram; and

(8) Port injection.

E. Advanced Procedure Request. On a case-by-case basis as specified in Regulation .13 of this chapter, the Board or its designee may approve a radiologist assistant to perform one or more of the following procedures under the immediately available supervision or on-site supervision of a radiologist or radiation oncologist as specified in the request letter submitted by the radiologist or radiation oncologist and the radiologist assistant:

(1) Lower extremity venography;

(2) Lumbar, thoracic, or cervical myelography;

(3) Non-tunneled venous central line placement;

(4) Venous catheter placement for dialysis;

(5) Breast needle localization;

(6) Ductogram (galactogram);

(7) T-tube cholangiogram;

(8) Retrograde urethrogram;

(11) Sinogram;

(12) Loopogram;

(14) Hysterosalpingogram; and

(15) Other specific procedures approved by the Board.

F. A radiologist assistant may perform an advanced procedure as specified in §E of this regulation under the immediately available supervision or on-site supervision of a radiologist or radiation oncologist without approval of the Board or its designee if:

(1) The radiologist or radiation oncologist is board-certified as a radiologist or radiation oncologist;

(2) The radiologist assistant has been previously approved by the Board to perform the advanced procedure;

(3) The employer has verified the credentials of the radiologist assistant;

(4) The employer has verified the credentials of the supervising radiologist or radiation oncologist; and

(5) Notification has been provided to the Board of:

(a) The intent of the radiologist assistant to perform a previously approved advanced procedure;

(b) The level of supervision that the radiologist assistant will perform the advanced procedure under;

(c) Credentialing by the employer of the radiology assistant to perform the specified advanced duty; and

(d) Credentialing by the employer of the supervising radiologist or radiation oncologist.

G. The scope of practice of a radiologist assistant includes the following post-imaging activities:

(1) Reviewing imaging procedures, making initial observations, and communicating observations only to the radiologist or radiation oncologist;

(2) Communicating the radiologist's report to referring physician;

(3) Providing radiologist-prescribed post-care instructions to patients;

(4) Performing follow-up patient evaluation and communication of findings to the radiologist or radiation oncologist;

(5) Documenting the procedure in the appropriate record and documenting any exceptions from established protocol or procedure;

(6) Writing the patient's discharge summary for review and co-signature by the radiologist or the radiation oncologist;

(7) Participating in quality improvement activities within radiology practice; and

(8) Assisting with data collection and review for clinical trials or other research.

.13 Request for Radiologist Assistant to Perform Advanced Procedures.

A. Exemptions. This regulation does not apply to a radiologist assistant:

(1) Performing a procedure for training purposes under the direct supervision of a radiologist or radiation oncologist; or

(2) Who has been previously approved by the Board or its designee to perform the advanced procedure in accordance with Regulation .12F of this chapter.

B. Except as provided in §A of this regulation, a radiologist assistant may not perform any of the procedures specified in Regulation .12E of this chapter until the Board or its designee has approved the advanced procedure request submitted by the radiologist or radiation oncologist and radiologist assistant.

C. Eligibility. The Board may grant a radiologist assistant permission to perform one or more of the procedures specified in Regulation .12E of this chapter based on the following criteria:

(1) Evidence of satisfactory completion of an adequate number of cases for the procedure being requested; and

(2) Level of supervision of the radiologist assistant, as specified by the radiologist or radiation oncologist.

D. Request. The radiologist or radiation oncologist and radiologist assistant shall jointly request approval to perform an advanced procedure by submitting a letter on a form supplied by the Board that includes the following:

(1) The advanced procedures requested;

(2) Documentation of satisfactory completion of an adequate number of cases for the procedure being requested; and

(3) An application fee as specified in Regulation .15 of this chapter.

E. Training and Experience. Documentation of successful completion of cases of a procedure may include cases performed within the most recent 2 years that have been:

(1) Submitted to ARRT for registration as a radiologist assistant; and

(2) Performed under the direct supervision of a radiologist or radiation oncologist.

.14 Renewal, Reinstatement, and Continuing Education.

A. Renewal. The Board may renew the license of a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant if the radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing education requirements of §C of this regulation;

B. Reinstatement.

(1) This section does not apply to a post-disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §14-5B-14, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant who has failed to renew the license for any reason if the radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and

(e) Pays to the Board the reinstatement fee set forth by the Board in accordance with Regulation .15 of this chapter.

C. Continuing Education.

(1) Radiation Therapists, Radiographers, and Nuclear Medicine Technologists. A radiation therapist, radiographer, or nuclear medicine technologist shall complete at least 24 hours of approved continuing education, earned during the 2-year period preceding:

(a) For license renewal, the expiration of a license for radiation therapy, radiography, or nuclear medicine technology;

(b) For license reinstatement, the date of submission of the application for reinstatement.

(2) Radiologist Assistants. A radiologist assistant shall complete at least 50 hours of approved continuing education, earned during the 2-year period preceding:

(a) For license renewal, the expiration of a license for radiology assistance;

(b) For license reinstatement, the date of submission of the application for reinstatement.

(3) Maintenance of Required Documentation. A radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant shall obtain the required documentation for the succeeding 6 years for possible inspection by the Board.

(4) The required documentation shall contain, at minimum, the following information:

(a) Program title;

(b) Sponsor's name;

(c) Radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant's name;

(d) Inclusive date or dates and location of the program;

(e) The number of continuing education hours earned; and

(f) Documented verification that the radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant attended the program by stamp, signature, print-out, or other official proof.

(5) Proof of maintenance of certification by the ARRT or the NMTCB may be used to document compliance with the continuing education requirements specified in this regulation.

(6) The Board may request a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant to submit evidence of having met the continuing education requirements specified in this regulation.

(7) If a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(8) Approved Continuing Education. Continuing education approved by the Board includes:

(a) In-service programs at a hospital or related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland, or a health maintenance organization certified by the State; or

(b) Programs relevant to the practice of a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant approved by the:

(i) American College of Radiology or its chapters;

(ii) Maryland Society of Radiologic Technologists;

(iii) Mideastern Chapter—Society of Nuclear Medicine — Technologist Section;

(iv) Mideastern Chapter—Society of Nuclear Medicine or the District of Columbia Chapter of the American College of Radiology;

(v) American Medical Association;

(vi) MedChi, the Maryland State Medical Society; or

(vii) American Society of Radiologic Technologists.

(9) The continuing education requirement applies to all renewal applications after the first renewal following initial licensure.

.15 Fees.

The following fees are applicable to radiation therapists, radiographers, nuclear medicine technologists, and radiologist assistants:

A. Initial Licensure. Initial licensure application fee—$150;

B. Renewal of Licensure:

(1) License renewal application fee—$135; and

(2) Maryland Health Care Commission (MHCC) fee—As determined by MHCC under COMAR 10.25.02;

C. Reinstatement fee—$150;

D. Written verification of licensure fee—$25;

E. Application fee for Radiologist Assistant Advanced Procedure Procedures Request fee—$100; and

F. Incomplete application fee—$50.

.16 Sanctioning Guidelines for Radiation Therapists, Radiographers, Nuclear Medicine Technologists, or Radiologist Assistants.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant for violations of Health Occupations Article, §14-5B-14(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*
(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$5,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$5,000*
(3) Is guilty of:				

(a) Immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance; or	*Reprimand*	*Revocation*	*$0*	*$5,000*
(b) Unprofessional conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance.	*Reprimand*	*Revocation*	*$0*	*$5,000*
(4) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(b) Physical incompetence	*Suspension until physical incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(5) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(6) Habitual intoxication	*Suspension until the radiation therapist, nuclear medicine technologist, radiographer, or radiologist assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until a radiation therapist, nuclear medicine technologist, radiographer, or radiologist assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(8) Provides professional services while:				

(a) Under the influence of alcohol; or	*Suspension until radiation therapist, nuclear medicine technologist, radiographer, or radiologist assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(b) Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts or without valid medical indication	*Suspension until radiation therapist, nuclear medicine technologist, radiographer, or radiologist assistant is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Suspension for 5 years*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance	*Reprimand*	*Revocation*	*$0*	*$5,000*
(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$5,000*
(12) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$5,000*
(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(14) Makes a willful misrepresentation while practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance	*Reprimand*	*Revocation*	*$0*	*$5,000*
(15) Willfully practices radiation therapy, radiography, nuclear medicine technology, or radiology assistance with an unauthorized individual or aids an unauthorized individual in the practice	*Reprimand*	*Revocation*	*$0*	*$5,000*

of radiation therapy, radiography, nuclear medicine technology, or radiology assistance				
(16) Offers, undertakes, or agrees to cure or treat a disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes	*Penalty equivalent to that imposed by the original disciplinary authority, if that penalty is less than the Board sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original disciplinary authority, if that fine is lesser than the Board sanction would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(18) Fails to meet appropriate standards for the delivery of quality radiation therapy, radiography, nuclear medicine technology, or radiology assistance care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State	*Reprimand*	*Revocation*	*$0*	*$5,000*
(19) Willfully submits false statements to collect fees for which services are not provided	*Reprimand*	*Revocation*	*$0*	*$5,000*
(20) 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 regulation, and the licensee: *(a) Surrendered the license issued by the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*Penalty equivalent to that imposed by the original disciplinary authority, if this is less than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's sanction, would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(21) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and probation for 3 years with practice oversight*	*Revocation*	*$0*	*$5,000*
(23) Practices or attempts to practice beyond the authorized scope of practice	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*

(24) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$5,000*
(25) Practices or attempts to practice a radiation therapy, radiography, nuclear medicine technology, or radiology assistance procedure or uses radiation therapy, radiography, nuclear medicine technology, or radiology assistance equipment if the applicant or licensee has not received education, internship, training, or experience in the performance of the procedure or the use of the equipment	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(26) Fails to cooperate with a lawful investigation conducted by the Board	*Reprimand*	*Revocation*	*$0*	*$5,000*
(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(28) Fails to complete a criminal history records check under Health Occupations Article, §14-308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(29) Violating any provision of Health Occupations Article, 5B Annotated Code of Maryland or any rule or regulation pertaining to radiation therapy, radiography, nuclear medicine technology, or radiology assistance that is adopted by the Board, the State, or the federal government	*Reprimand*	*Revocation*	*$0*	*$5,000*

10.32.20 Polysomnographic Technologists

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, and 14-5C-01—14-5C-25, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the practice of polysomnographic technology in the State.

B. Except as provided in §C or D of this regulation, an individual shall be licensed by the Board before the individual may practice polysomnography.

C. This chapter does not prohibit any polysomnographic technology student who is currently enrolled in an approved polysomnographic technology educational program from performing any of the procedures described in this chapter as part of that program's polysomnographic technology clinical curriculum.

D. This chapter does not prohibit an individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(2) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(3) "Board-eligible" means a physician's status that starts upon completion of all the requirements to take a sleep medicine certifying examination and lasts for a limited period of time, as determined by the American Board of Medical Specialties or the American Osteopathic Association.

(4) "BRPT" means the Board of Registered Polysomnographic Technologists, its predecessor, or its successor.

(5) "Capnography" means measurement of the amount of CO_2 being eliminated from the lungs.

(6) "Committee" means the Polysomnographic Advisory Committee.

(7) "Electroencephalography" means a test that measures the electrical activity of the brain as recorded by electrodes placed on the scalp.

(8) "Electromyography" means a test that measures the electrical activity of the muscles.

(9) "Electrooculography" means a test that measures the movements of the eye.

(10) "Enrolled in a sleep technologist educational program" means that a student has started the Accredited Sleep Technology Program self-study online modules developed by the American Academy of Sleep Medicine but has not completed the final self-study module.

(11) "Immediately available supervision" means to provide necessary direction in person, by telephone, or by other electronic means.

(12) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(13) "Joint Commission" means the organization formerly known as the Joint Commission on the Accreditation of Health Care Organizations.

(14) "Polysomnographic technologist" means an individual licensed by the Board to practice polysomnography.

(15) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(16) "Oximetry" means a test that measures the concentration of oxygen in the blood.

(17) "PH probe" means a device to measure the acidity of the esophagus.

(18) "Plethysmography" means a test to measure changes in blood flow or air volume in different parts of the body.

(19) "Practice polysomnography" means:

(a) Monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances, under the immediately available supervision of a licensed physician; and

(b) Using the data collected under §B(19)(a) of this regulation for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.

(20) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

.03 Polysomnographic Advisory Committee.

A. The Board shall appoint members of the Polysomnographic Advisory Committee as follows:

(1) Three polysomnographic technologists;

(2) Three physicians with specialty certification in sleep medicine who are specialists in the following areas:

(a) One in psychiatry or internal medicine;

(b) One in pulmonary medicine; and

(c) One in neurology; and

(3) One consumer member who meets the requirements of Health Occupations Article, §14-5C-06(c), Annotated Code of Maryland;

B. Each member of the Committee shall:

(1) Be a resident of the State; and

(2) If licensed by the Board, be in good standing with the Board.

C. Tenure.

(1) The term of a member is 3 years.

(2) The terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) An individual may be reappointed for a second 3-year term, but the individual may not serve more than two full consecutive 3-year terms.

D. Vacancy.

(1) If a vacancy occurs, the Board shall appoint a new member to serve on the Committee.

(2) The successor member shall only serve for the remainder of the term, unless reappointed.

E. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:

(a) Failure to attend two successive committee meetings without adequate reason;

(b) Failure to attend Board-mandated training; or

(c) Failure to complete necessary ethics filing requirements;

(2) Misconduct; or

(3) Incompetence.

F. Chair.

(1) From among its members, the Committee shall elect a chair every 2 years.

(2) The Chair, or Chair's designee, shall serve in an advisory capacity to the Board as a representative to the Committee.

G. Quorum.

(1) A quorum of the Committee consists of four members.

(2) Business may not be conducted at a Committee meeting unless there is a quorum.

H. The Committee shall:

(1) Develop and recommend to the Board:

(a) Regulations to carry out Health Occupations Article, §14-5C, Annotated Code of Maryland; and

(b) Any statutory changes that affect the profession; and

(2) Keep a record of its meetings.

I. The Committee may:

(1) Provide recommendations regarding the practice of polysomnography; and

(2) Advise the Board on any other matters related to polysomnographic technologists.

J. A Committee member shall meet any other requirements as established in Health Occupations Article, §14-5C-06, Annotated Code of Maryland.

.04 Qualifications for Initial Licensure - Polysomnographic Technologist.

A. To qualify for a license, a polysomnographic technologist shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §§B and C of this regulation.

B. Examination Requirement. An applicant for a license as a licensed polysomnographic technologist shall submit satisfactory evidence to the Board of either:

(1) Completion of the Sleep Disorders Specialty (SDS) examination administered by the National Board of Respiratory Care (NBRC); or

(2) Completion of an alternative examination approved by the Board.

C. Education Requirements. An applicant for a license as a polysomnographic technologist shall submit:

(1) Satisfactory evidence of current certification as a registered polysomnographic technologist by the BRPT by another national certification agency approved by the Board; and

(2) Satisfactory evidence of graduation from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; or

(3) Satisfactory evidence of:

(a) Graduation from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs or its successor; and

(b) Completion of the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs or its successor; or

(4) Satisfactory evidence of:

(a) Graduation from an electroneurodiagnostic technology educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

(b) Completion of an add-on track in polysomnography for electroneurodiagnostic technologists that is accredited by the Commission on Accreditation of Allied Health Education Programs; or

(5) Satisfactory evidence of:

(a) Graduation from a sleep technologist education program accredited by the American Academy of Sleep Medicine;

(b) Meeting core competencies in the 3 years preceding the date of the submission of the licensure application as assessed by a sleep technologist credentialed as a Registered Polysomnographic Technologist, a sleep technologist with national certification approved by the Board, or a physician who is either board-eligible or board-certified in sleep medicine by the American Board of Sleep Medicine, American Board of Medical Specialties, or American Osteopathic Association;

(c) A letter of attestation for completion of clinical hours and competencies from a physician who is either board-eligible or board-certified in sleep medicine by the American Board of Sleep Medicine, American Board of Medical Specialties, or American Osteopathic Association, where the applicant practiced; and

(d) Completion of a minimum of 960 hours of clinical experience in the 3 years preceding the date of the submission of the licensure application as:

(i) A student enrolled in a sleep technologist educational program supervised at a sleep laboratory accredited by the American Academy of Sleep Medicine or The Joint Commission by a sleep technologist credentialed as a Registered Polysomnographic Technologist;

(ii) A sleep technologist with national certification approved by the Board;

(iii) A licensed physician who is either board-eligible or board-certified in sleep medicine by the American Board of Sleep Medicine, American Board of Medical Specialties, or American Osteopathic Association; or

(e) Completion of a minimum of 960 hours of clinical experience in the 3 years preceding the date of the submission of the licensure application as:

(ii) A sleep technologist with a current, active, unrestricted license in another state or is otherwise recognized and has practiced as a sleep technologist in another state who has full-time practice experience as a sleep technologist in another state at a sleep laboratory accredited by the American Academy of Sleep Medicine or The Joint Commission for a minimum of 6 months in the 3 years preceding the date of the submission of the licensure application; and

(iii) Completed at least 30 hours of approved continuing education in the 3 years preceding the date of the submission of the licensure application.

***.05 Scope of Practice** - Polysomnographic Technologist.*

A. A polysomnographic technologist may only practice under the immediately available supervision of a licensed physician.

B. A polysomnographic technologist may only practice in a hospital sleep laboratory or a stand-alone sleep center.

C. The scope of practice of a polysomnographic technologist includes and is limited to the following:

(1) Monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances;

(2) Using data collected under §C(1) of this regulation to assist a physician in the diagnosis and treatment of sleep and wake disorders;

(3) Assisting with the diagnosis and treatment of individuals who suffer from sleep disorders as a result of developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction;

(4) Observing and monitoring physical signs and symptoms, general behavior, and general physical responses to polysomnographic evaluation, and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted;

(5) Using evaluation techniques that include limited cardiopulmonary function assessments, the need and effectiveness of therapeutic modalities and procedures and the assessment and evaluation of the need for extended care; and

(6) Using the following techniques, equipment, and procedures:

(a) Continuous positive airway pressure, bi-level positive airway pressure titration, or adaptive servo-ventilation on spontaneously breathing patients;

(b) Supplemental low flow oxygen therapy during polysomnogram;

(c) Capnography during polysomnogram;

(d) Cardiopulmonary resuscitation;

(e) Pulse oximetry;

(f) PH probe placement and monitoring;

(g) Esophageal pressure;

(h) Sleep staging, including surface electroencephalography, surface electrooculography, and surface submental electromyography;

(i) Surface electromyography of arms and legs;

(j) Electrocardiography;

(k) Respiratory effort, including thoracic and abdominal;

(l) Plethysmography blood flow;

(m) Snore monitoring;

(n) Audio or video monitoring;

(o) Implementation of a written or verbal order from a licensed physician that requires the practice of polysomnography;

(p) Monitoring the effects a nasal device used to treat sleep apnea has on sleep patterns provided that the device does not extend into the trachea; and

(q) Monitoring the effects an oral device used to treat sleep apnea has on sleep patterns provided that:

(i) The oral device does not extend into the trachea;

(ii) A dentist has evaluated the structures of the patient's oral and maxillofacial region for purposes of fitting the oral device;

(iii) A dentist made or directed the making of the oral device; and

(iv) A dentist directs the use of the oral device.

D. The scope of practice of a polysomnographic technologist may not include administering medications.

.06 Renewal, Reinstatement, and Continuing Education.

A. Renewal. The Board shall renew the license of a polysomnographic technologist if the polysomnographic technologist meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing education requirements of §C of this regulation.

B. Reinstatement.

(1) This section does not apply to a post-disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A polysomnographic technologist applying for reinstatement may be denied reinstatement, subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland, for any of the grounds listed in Health Occupations Article, §14-5C-17, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of a polysomnographic technologist if the polysomnographic technologist:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and

(e) Pays the required reinstatement fee and any other fees specified in Regulation .07 of this chapter.

C. Continuing Education.

(1) A polysomnographic technologist shall complete at least 20 hours of approved continuing education credits, earned during the 2-year period preceding:

(a) For license renewal, the expiration of a license for polysomnographic technology; or

(b) For license reinstatement, the date of submission of the application for reinstatement.

(2) A polysomnographic technologist shall obtain the required documentation of continuing education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(3) The required documentation shall contain, at minimum, the following information:

(a) Program title;

(b) Sponsor's name;

(c) Polysomnographic technologist's name;

(d) Inclusive date or dates and location of the program;

(e) The number of continuing education hours earned; and

(f) Documented verification that the polysomnographic technologist attended the program by stamp, signature, print-out, or other official proof.

(4) Proof of certification by the Board of Registered Polysomnographic Technologists or another certification agency approved by the Board may be used to document compliance with the continuing education requirements specified in this regulation.

(5) The Board may request a polysomnographic technologist to submit evidence of having met the continuing education requirements specified in this regulation.

(6) If a polysomnographic technologist cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(7) Approved polysomnographic technologist continuing education is as follows:

(a) Sleep-related continuing education hours approved by one of the following organizations or any other organization recommended by the Committee and approved by the Board; or

(b) Programs relevant to the practice of polysomnographic technology approved by the:

(i) American Medical Association;

(ii) American Association of Sleep Technologists;

(iii) American Academy of Sleep Medicine;

(iv) American Society of Electroneurodiagnostic Technologists, Inc.;

(v) American Association for Respiratory Care;

(vi) American Nursing Association; or

(vii) Board of Registered Polysomnographic Technologists.

(8) The continuing education requirement applies to all renewal applications after the first renewal following licensure.

.07 Fees.

The following fees are applicable to polysomnographic technologists:

A. Initial Licensure. Initial licensure application fee—$200;

B. Renewal of Licensure:

(1) License renewal application fee—$150; and

(2) Maryland Health Care Commission (MHCC) fee—As determined by MHCC in accordance with COMAR 10.25.02;

C. Reinstatement fee—$200;

D. Written verification of licensure fee—$25; and

E. Incomplete application fee—$50.

.08 Sanctioning Guidelines for Polysomnographic Technologists.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on a polysomnographic technologist for violations of Health Occupations, §14-5C-17(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$5,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$5,000*
(3) Is guilty of:				
(a) Immoral conduct while practicing polysomnographic technology; or	*Reprimand*	*Revocation*	*$0*	*$5,000*
(b) Unprofessional conduct while practicing polysomnographic technology.	*Reprimand*	*Revocation*	*$0*	*$5,000*
(4) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(b) Physical incompetence	*Suspension until physical incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(5) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(6) Habitual intoxication	*Suspension until the polysomnographic technologist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until the polysomnographic technologist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*

(8) Provides professional services while:				
(a) Under the influence of alcohol; or	*Suspension until the polysomnographic technologist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(b) Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts or without valid medical indication	*Suspension until the polysomnographic technologist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Revocation*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of polysomnography	*Reprimand*	*Revocation*	*$0*	*$5,000*
(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$5,000*
(12) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$5,000*
(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(14) Makes a willful misrepresentation while practicing polysomnography	*Reprimand*	*Revocation*	*$0*	*$5,000*
(15) Willfully practices polysomnography with an unauthorized individual or aids an unauthorized individual in the practice of polysomnography	*Reprimand*	*Revocation*	*$0*	*$5,000*

(16) Willfully delegates a polysomnographic duty to an unlicensed individual	*Reprimand*	*Revocation*	*$0*	*$5,000*
(17) Offers, undertakes, or agrees to cure or treat a disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under this regulation	*Penalty equivalent to that imposed by the original licensing authority, if that penalty is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if this is lesser than the Board's sanction would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(19) Fails to meet appropriate standards for the delivery of polysomnographic services performed in a hospital sleep laboratory or stand-alone sleep center	*Reprimand*	*Revocation*	*$0*	*$5,000*
(20) Willfully submits false statements to collect fees for which services are not provided	*Reprimand*	*Revocation*	*$0*	*$5,000*
(21) 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 regulation, and the licensee: *(a) Surrendered the license issued by the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*Penalty equivalent to that imposed by the original licensing authority, if that sanction is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's sanction would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(22) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and probation for 3 years with practice oversight*	*Revocation*	*$0*	*$5,000*
(24) Practices or attempts to practice beyond the authorized scope of practice	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*

(25) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside	*Suspension*	*Revocation*	*$0*	*$5,000*
(26) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$5,000*
(27) Practices or attempts to practice a polysomnography procedure or uses or attempts to use polysomnography equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(28) Fails to cooperate with a lawful investigation conducted by the Board	*Reprimand*	*Revocation*	*$0*	*$5,000*
(29) Fails to complete a criminal history records check under Health Occupations Article, §14–308.1, Annotated Code of Maryland.	*Reprimand*	*Revocation*	*$0*	*$5,000*

10.32.21 Athletic Trainers

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, and 14-5D-01—14-5D-20, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the practice of athletic training including "dry needling" within the practice of athletic training.

B. This chapter does not prohibit an athletic training student who is enrolled in an accredited athletic training educational program from performing without pay any of the procedures described in this chapter as part of that program's athletic training clinical curriculum.

C. This chapter does not prohibit an individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.

D. This chapter does not apply to an individual employed by or under contract with an entity located in another state who represents that entity:

(1) At an athletic event in Maryland;

(2) For a period not exceeding 45 days within a calendar year; and

(3) By providing athletic training services to individuals representing the entity at the event.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Accredited athletic training educational program" means an athletic training educational program that:

(a) Awards either a bachelor's or master's degree in athletic training; and

(b) Is accredited by the Commission on Accreditation of Athletic Training Education, its predecessor, or its successor.

(2) "Alternate supervising physician" means one or more physicians designated by the supervising physician to provide supervision of an athletic trainer:

(a) During the absence of the supervising physician; and

(b) In accordance with the evaluation and treatment protocol on file with the Board.

(3) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(4) "Athletic individual" means an individual who participates in an athletic activity, a job function, or a job-related activity that requires physical strength, range of motion, flexibility, control, speed, stamina, or agility.

(5) "Athletic trainer" means an individual licensed by the Board to practice athletic training.

(6) "BOC" means the Board of Certification, Inc., its predecessor, or its successor;

(7) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(8) "Committee" means the Athletic Trainer Advisory Committee.

(9) "Dry needling" means an intramuscular therapy that:

(a) Involves the insertion of one or more solid needles into the muscle and related tissues to effect change in the muscle and related tissues;

(b) Requires ongoing evaluation, assessment, and reevaluation of an impairment;

(c) Is used only in parts of the body with neuromuscular or musculoskeletal links to an impairment; and

(d) Is not performed for:

(i) The purpose of acupuncture as defined in Health Occupations Article, §1A-101, Annotated Code of Maryland; or

(ii) Any purpose outside of the scope of practice of athletic trainers.

(10) "Evaluation and treatment protocol" means a document that is executed by a physician and an athletic trainer that meets the requirements in Regulation .06 of this chapter.

(11) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(12) "Immediately available supervision" means to provide necessary direction in person, by telephone, or by other electronic means.

(13) "Nonsupervising physician" means a physician licensed by the Board who is not the supervising physician of the athletic trainer.

(14) "On-site supervision" means the responsibility of the supervisor to be:

(a) Able to provide necessary direction;

(b) Physically present in the facility; and

(c) Able to respond immediately in person.

(15) "Outside referral" means a request for treatment from a nonsupervising physician or licensed health care practitioner.

(16) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(17) Practice Athletic Training.

(a) "Practice athletic training" means application of the following principles and methods for managing injuries for athletic individuals in good overall health under the immediately available supervision of a physician:

(i) Prevention and wellness promotion;

(ii) Clinical evaluation, assessment, examination, and determination of a plan of care, including appropriate referrals;

(iii) Immediate and emergency care; and

(iv) Treatment, rehabilitation, and reconditioning.

(b) "Practice athletic training" includes:

(i) Organization and administration of an athletic training program;

(ii) Instruction to coaches, athletic individuals, parents, medical personnel, and community members regarding the care and prevention of injuries; and

(iii) Recognition and management of a concussion, including management of an athletic individual's progressive return to activity.

(c) "Practice athletic training" does not include any of the following:

(i) The practice of chiropractic, including adjustments, manipulation, or high-velocity mobilizations of the spine or extremities;

(ii) The practice of massage therapy;

(iii) The practice of medicine;

(iv) The practice of occupational therapy;

(v) The practice of physical therapy;

(vi) The practice of podiatry;

(vii) The reconditioning of systemic neurologic injuries, conditions, or disease; or

(viii) The treatment of disease.

(18) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

(19) "Supervising physician" means a physician who has been approved by the Board to supervise one or more athletic trainer.

(20) "Supervision mechanism" means continuous availability to the athletic trainer of a supervising physician for each setting by one or more of the following means:

(a) On-site supervision;

(b) Written instructions;

(c) Electronic means;

(d) Verbal orders; and

(e) Designation of an alternate supervising physician.

(21) Therapeutic Modalities.

(a) "Therapeutic modalities" means a variety of physical agents used to treat athletic injuries to decrease pain, reduce inflammation, decrease swelling, decrease muscle spasm, and provide a proper environment for the healing process to take place.

(b) "Therapeutic modalities" does not include the use of a prescription or nonprescription drug.

.03 Athletic Trainers Advisory Committee.

A. The Board shall appoint members of the Athletic Trainers Advisory Committee as follows:

(1) Three physicians meeting the following criteria:

(a) At least one physician shall be a specialist in orthopedic or sports medicine; and

(b) At least two of the physicians shall currently be or in the past have been partnered with or directed an athletic trainer;

(2) Three athletic trainers; and

(3) One consumer member who meets the requirements in Health Occupations Article, §14-5D-05(d), Annotated Code of Maryland.

B. Each member of the Committee shall:

(1) Be a resident of the State; and

(2) If licensed by the Board, be in good standing with the Board

C. Tenure.

(1) The term of a member is 3 years.

(2) The terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) An individual may be reappointed for a second 3-year term, but the individual may not serve more than two consecutive 3-year terms.

D. Vacancy.

(1) If a vacancy occurs, the Board shall appoint a new member to serve on the Committee.

(2) The successor member shall only serve for the remainder of the term unless reappointed.

E. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:

(a) Failure to attend two successive committee meetings without adequate reason;

(b) Failure to attend Board-mandated training; or

(c) Failure to complete necessary ethics filing requirements;

(2) Misconduct; or

(3) Incompetence.

F. Chair.

(1) From among its members, the Committee shall elect a chair every 2 years.

(2) The Chair, or Chair's designee, shall serve in an advisory capacity to the Board as a representative to the Committee.

G. Quorum.

(1) A quorum of the Committee consists of four members.

(2) Business may not be conducted at a Committee meeting unless there is a quorum.

H. The Committee shall:

(1) Develop and recommend to the Board:

(a) Regulations to carry out Health Occupations Article, §14-5D, Annotated Code of Maryland; and

(b) Any statutory changes that affect the profession; and

(2) Keep a record of its meetings.

I. The Committee may:

(1) Provide recommendations regarding the practice of athletic training; and

(2) Advise the Board on any other matters related to athletic trainers.

J. A Committee member shall meet any other requirements as established in Health Occupations Article, §14-5D-05, Annotated Code of Maryland.

.04 Qualifications for Initial Licensure - Athletic Trainers.

A. To qualify for a license, an athletic trainer shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as an athletic trainer shall submit satisfactory evidence of:

(1) Meeting the education requirement in §C of this regulation;

(2) Achievement of a passing score on the certification examination of the BOC; and

(3) Certification from the BOC at the time of application.

C. Education Requirement. An applicant for a license as an athletic training shall meet one of the following education requirements:

(1) Successful completion of a bachelor's or master's degree from an accredited athletic training educational program; or

(2) Exemption from the education requirement because the applicant:

(a) Was certified by the BOC on or before October 1, 2012; and

(b) Is in good standing with the BOC at the time of the application;

.05 Scope of Practice.

A. Injury Prevention and Wellness Protection. The scope of practice of an athletic trainer in the domain of injury prevention and wellness protection includes the following:

(1) Minimizing the risk of injury to athletic individuals through awareness and education;

(2) Monitoring environmental conditions to facilitate individual and group safety of athletic individuals;

(3) Maintaining or enhancing the physical conditioning of athletic individuals; and

(4) Promoting the healthy lifestyle of athletic individuals using appropriate education and communication strategies to enhance wellness and minimize the risk of injury and illness.

B. Clinical Evaluation and Assessment. The scope of practice of an athletic trainer in the domain of clinical evaluation and assessment includes the following with respect to athletic individuals:

(1) Obtaining the athletic individual's health history through observation, interview, and records review;

(2) Examining the athletic individual's body to assess the type and extent of the injury;

(3) Formulating a clinical assessment; and

(4) Communicating information about the injury to appropriate persons, including the athletic individual.

C. Immediate and Emergency Care. The scope of practice of an athletic trainer in the domain of immediate and emergency care includes the following with respect to athletic individuals:

(1) Immediate and emergency procedures, including:

(a) Cardiopulmonary resuscitation;

(b) Applying ice;

(c) Splinting;

(d) Elevation;

(e) Applying pressure;

(f) Bandaging for bleeding;

(g) Proper immobilization of the spine or other body parts; and

(h) Dry needling; and

(2) Making appropriate referrals so that the athletic individual will obtain appropriate follow-up care.

D. Treatment and Rehabilitation. The scope of practice of an athletic trainer in the domain of treatment and rehabilitation includes the following activities, with respect to athletic individuals with injuries:

(1) Administering therapeutic and conditioning exercises as identified by the evaluation and treatment protocols of the supervising physician;

(2) Administering therapeutic modalities as identified by the evaluation and treatment protocols of the supervising physician;

(3) Applying braces, splints, or other assistive devices as identified by the evaluation and treatment protocols of the supervising physician;

(4) Recognizing and managing a concussion, including management of an athletic individual's progressive return to activity; and

(5) Reassessing the status of injuries, illnesses, or conditions using appropriate techniques and documentation strategies to:

(a) Determine appropriate treatment, rehabilitation, or reconditioning for injuries; and

(b) Evaluate readiness to return to the desired level of activity with respect to injuries, illnesses, or conditions; and

(6) Administering dry needling therapy under the direction and guidance of a supervising physician who has training and experience in dry needling.

E. Organization and Management. The scope of practice of an athletic trainer in the domain of organization and management includes the following activities:

(1) Maintaining medical records with respect to all athletic individuals who receive emergency care, assessment, or treatment;

(2) Planning and organizing an athletic training program; and

(3) Instructing others in the prevention of and care for injuries.

F. Referrals. The athletic trainer may accept an outside referral from a nonsupervising physician or health care practitioner if:

(1) The supervising physician specifies in the evaluation and treatment protocol that the athletic trainer may accept referrals from nonsupervising physicians or other health care practitioners;

(2) The nonsupervising physician or health care practitioner has seen the athletic individual and has written an order for the care; and

(3) The duties are:

(a) Within the scope of practice of an athletic trainer; and

(b) Among the duties delegated to the athletic trainer in the evaluation and treatment protocol.

.06 Evaluation and Treatment Protocol.

A. Before a physician may collaborate with an athletic trainer, the athletic trainer and the supervising physician shall

(1) File with the Board a completed evaluation and treatment protocol on the form provided by the Board; and

(2)Pay the required fee as specified in Regulation .08 of this chapter. C. Process and Approval.

(1) If the protocol is given preliminary approval by Board staff, an athletic trainer may practice athletic training on the date that the Board acknowledges receipt of the completed evaluation and treatment protocol.

(2) Board staff shall provide preliminary approval of an evaluation and treatment protocol if the evaluation and treatment protocol:

(a) Does not include specialized tasks; or

(b) Includes specialized tasks that have been previously approved by the Board.

(3) If an evaluation and treatment protocol includes a specialized task that has not been previously approved by the Board, the athletic trainer may perform the specialized task only after receiving written approval from the Board.

(4) After consideration by the Committee, the Board shall either:

(a) Approve the evaluation and treatment protocol and any specialized tasks; or

(b) Disapprove the evaluation and treatment protocol or a specialized task if the Board determines that the evaluation and treatment protocol or specialized task does not meet the requirements in Health Occupations Article, §14-5D-11.3(b), Annotated Code of Maryland.

(5) If the Board disapproves an evaluation and treatment protocol or a specialized task included in an evaluation and treatment protocol, the Board shall send written notice of the disapproval to the:

(a) Primary supervising physician; and

(b) Athletic trainer.

(6) An athletic trainer who receives notice of disapproval of an evaluation and treatment protocol from the Board shall immediately cease:

(a) Practicing under the evaluation and treatment protocol; or

(b) Performing the specialized task.

(7) An individual member of the Board is not civilly liable for any act or omission relating to the approval, modification, or disapproval of an evaluation and treatment protocol.

D. Termination of Evaluation and Treatment Protocol.

(1) Subject to the notice requirements of this section, an athletic trainer may terminate an evaluation and treatment protocol filed with the Board at any time.

(2) If the athletic trainer or the supervising physician terminates the evaluation and treatment protocol, the athletic trainer shall cease practicing until another evaluation and treatment protocol is approved by the Board.

(3) The athletic trainer or supervising physician shall report the termination of an evaluation and treatment protocol for any reason to the Board within 10 days of the termination and provide the following information:

(a) Name and license number of the supervising physician and athletic trainer; and

(b) Reason for termination, including a description of conduct or incident that resulted in the termination.

(4) Termination by the Board.

(a) The Board may terminate an evaluation and treatment protocol if the athletic trainer has a change in licensure status that results in the athletic trainer being unable to legally practice athletic training.

(b) The Board may terminate an evaluation and treatment protocol:

(i) If there is an available alternative supervising physician, at least 15 days have elapsed since the sudden departure, incapacity, or death of a supervising physician, or change in licensure status that results in the supervising physician being unable to legally practice medicine, if there is an available alternate supervising physician; or

(ii) If there is no available alternate supervising physician, immediately after the sudden departure, incapacity, or death of a supervising physician, or change in licensure status that results in the supervising physician being unable to legally practice medicine.

E. Emergency Evaluation and Treatment Protocol.

(1) In the event of a sudden departure, incapacity, or death of a supervising physician, or change in licensure status that results in the supervising physician being unable to legally practice medicine, an alternate supervising physician may supervise the athletic trainer for no longer than 15 days following the event.

(2) If there is no available alternate supervising physician or the alternate supervising physician does not agree to supervise the athletic trainer, the athletic trainer may not practice until the athletic trainer receives approval of a new evaluation and treatment protocol.

(3) An alternate supervising physician or other licensed physician may assume the role of the supervising physician by submitting a new evaluation and treatment protocol to the Board.

F. Dry Needling Protocol.

(1) The practice of dry needling by an athletic trainer shall require approval from the Board as a specialized task..

(2) Before an athletic trainer may perform dry needling, the athletic trainer shall complete the form provide by the Board.

The Board shall issue approval to perform dry needling to an athletic trainer who provides proof of completion of at least 80 hours of instruction in a continuing education course approved by:

(a) The National Athletic Trainers' Association;

(b) The Board of Certification for the Athletic Trainer; or

(c) The United States Armed Forces.

(3) Dry Needling Course Requirements.

(a) Of the 80 hours of instruction required under §F(2) of this regulation, at least 40 hours of instruction shall be in the following content areas:

(i) Theory and application of dry needling;

(ii) Dry needling technique, including the spine and extremities;

(iii) Dry needling indications and contraindications;

(iv) Infection control, the Occupational Safety and Health Administration's Bloodborne Pathogen Protocol, and safe handling of needles;

(v) Emergency preparedness and response procedures related to complications associated with dry needling; and

(vi) Appropriate documentation of dry needling.

(b) Of the 80 hours of instruction required under §F(2) of this regulation, at least 40 hours shall be practical, hands-on instruction in the application and technique of dry needling that is completed under the guidance of a health care practitioner who:

(i) Is approved to perform dry needling; and

(ii) Has practiced dry needling for at least 5 years.

(4) The instruction required under this subsection shall include an assessment of the athletic trainer's competency to perform dry needling that is performed by the instructor of the approved course.

.07 Renewal, Reinstatement, and Continuing Education.

A. Renewal. The Board shall renew the license of an athletic trainer if the athletic trainer meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing education requirements of §C of this regulation.

B. Reinstatement.

(1) This section does not apply to a post-disciplinary reinstatement as defined under COMAR 10.32.02.

(2) An athletic trainer applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland, for any of the grounds listed in Health Occupations Article, §14-5D-14, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of an athletic trainer if the athletic trainer:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, § 14-308.1, Annotated Code of Maryland; and

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .08 of this chapter.

C. Continuing Education.

(1) An athletic trainer shall complete at least 50 hours of continuing education credits approved by the BOC earned during the 2-year period preceding:

(a) For license renewal, the expiration of a license for athletic training; or

(b) For license reinstatement, the date of submission of the application for reinstatement.

(2) An athletic trainer shall obtain the required documentation of continuing education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(3) The required documentation shall contain, at minimum, the following information:

(a) Program title;

(b) Sponsor's name;

(c) Athletic trainer's name;

(d) Inclusive date or dates and location of the program;

(e) The number of continuing education hours earned; and

(f) Documented verification that the athletic trainer attended the program by stamp, signature, printout, or other official proof.

(4) Proof of certification by the BOC may be used to document compliance with the continuing education requirement specified in this regulation.

(5) The Board may request an athletic trainer to submit evidence of having met the continuing education requirements specified in this regulation.

(6) If an athletic trainer cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(7) The continuing education requirement applies to all renewal applications after the first renewal following initial licensure.

.08 Fees.

The following fees are applicable to athletic trainers:

A. Initial Licensure. Initial licensure application fee—$200;

B. Renewal of Licensure:

(1) License renewal application fee—$135; and

(2) Maryland Health Care Commission (MHCC) fee—as determined by MHCC under COMAR 10.25.02;

C. Reinstatement fee—$200;

D. Written verification of licensure fee—$25;

E. Evaluation and treatment protocol fee—$100; and

F. Incomplete application fee—$50.

.09 Sanctioning Guidelines for Athletic Trainers.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on athletic trainers for violations of Health Occupations Article, §14-5D-14(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*
(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, for the licensee, or for another	*Reprimand with probation for2 years*	*Revocation*	*$0*	*$5,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$5,000*
(3) Is guilty of:				
(a) Immoral conduct in the practice of athletic training; or	*Reprimand*	*Revocation*	*$0*	*$5,000*
(b) Unprofessional conduct in the practice of athletic training	*Reprimand*	*Revocation*	*$0*	*$5,000*
(4) Incompetence.				
(a) Professional incompetence;	*Suspension until professional incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(b) Physical incompetence	*Suspension until physical incompetence is*	*Revocation*	*$0*	*$5,000*

	addressed to the Board's satisfaction			
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(5) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(6) Habitual intoxication	*Suspension until the athletic trainer is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until the athletic trainer is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(8) Provides professional services while:				
(a) Under the influence of alcohol; or	*Suspension until the athletic trainer is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(b) Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts or without valid medical indication	*Suspension until the athletic trainer is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Suspension for 5 years*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of athletic training	*Reprimand*	*Revocation*	*$0*	*$5,000*

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report	*Reprimand*	*Revocation*	*$0*	*$5,000*
(12) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$5,000*
(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any individual for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(14) Makes a willful misrepresentation while practicing athletic training	*Reprimand*	*Revocation*	*$0*	*$5,000*
(15) Willfully practices athletic training with an unauthorized individual or aids an unauthorized individual in the practice of athletic trainer services	*Reprimand*	*Revocation*	*$0*	*$5,000*
(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(17) Is disciplined by a licensing, certifying, or disciplinary authority or is convicted or disciplined by a court of any state or country, or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under this regulation	*Penalty equivalent to that imposed by the original licensing authority, if that sanction is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(18) Fails to meet appropriate standards for the delivery of athletic training services;	*Reprimand*	*Revocation*	*$0*	*$5,000*
(19) Willfully submits false statements to collect fees for which services have not been provided	*Reprimand*	*Revocation*	*$0*	*$5,000*

(20) 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 regulation, and the licensee: *(a) Surrendered the license issued by the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*Penalty equivalent to that imposed by the original licensing authority, if that sanction is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(21) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and 3 years of probation with practice oversight*	*Revocation*	*$0*	*$5,000*
(23) Practices or attempts to practice beyond the authorized scope of practice	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(24) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$5,000*
(25) Practices or attempts to practice an athletic training procedure or uses or attempts to use athletic training equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(26) Fails to cooperate with a lawful investigation conducted by the Board	*Reprimand*	*Revocation*	*$0*	*$5,000*
(27) Fails to practice under the supervision of a physician or violates the approved evaluation and treatment protocol	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(28) Violates an order of the Board, including any condition of probation	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*

(29) Fails to complete a criminal history records check under Health Occupations Article, §14–308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(30) Performs dry needling without approval from the Board	*Reprimand*	*Revocation*	*$0*	*$5,000*

10.32.22 Perfusionists

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, and 14-5E-01—14-5E-25, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the practice of perfusion in the State.

B. Except as provided in §C or D of this regulation, an individual shall be licensed by the Board before the individual may practice perfusion in the State.

C. This chapter does not prohibit any student who is currently enrolled in an accredited educational program to qualify for a license as a perfusionist from performing any of the procedures described in this chapter as part of that program's clinical curriculum on perfusion.

D. This chapter does not prohibit an individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "ABCP" means the American Board of Cardiovascular Perfusion, its predecessor, or its successor.

(2) "Accredited educational program" means a program accredited by The Commission on Accreditation of Allied Health Education Programs, or its successor accrediting agency.

(3) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(4) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(5) "Committee" means the Perfusion Advisory Committee.

(6) "Conversion" means the process of changing a license from perfusionist-basic to perfusionist-advanced.

(7) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(8) "Immediately available supervision" means to provide necessary direction in person, by telephone, or by other electronic means.

(9) "Perfusionist" means an individual who is licensed by the Board to practice perfusion as a:

(a) Perfusionist-advanced; or

(b) Perfusionist-basic.

(10) "Perfusionist-advanced" means an individual who is licensed by the Board as a perfusionist-advanced.

(11) "Perfusionist-basic" means an individual who:

(a) Is licensed by the Board as a perfusionist for a limited time based on graduation from an accredited perfusion educational program; and

(b) Has not yet passed the national certifying examinations given by the ABCP.

(12) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(13) "National certifying examinations" means the two examinations given by the ABCP.

(14) Practice Perfusion.

(a) "Practice perfusion" means to 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 physician.

(b) "Practice perfusion" includes the special procedures enumerated in Regulation .07C of this chapter.

(15) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

.03 Perfusion Advisory Committee.

A. The Board shall appoint members of the Perfusion Advisory Committee as follows:

(1) Three individuals who are licensed as perfusionists-advanced;

(2) Three physicians, at least one of whom performs cardiac or cardio-thoracic surgery or is a cardiac or cardio-thoracic anesthesiologist; and

(3) One consumer member who meets the requirements in Health Occupations Article, §14-5E-06(c), Annotated Code of Maryland.

B. Each member of the Committee shall:

(1) Be a resident of the State; and

(2) If licensed by the Board, be in good standing with the Board.

C. Tenure.

(1) The term of a member is 3 years.

(2) The terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) An individual may be reappointed for a second 3-year term, but the individual may not serve more than two consecutive 3-year terms.

D. Vacancy.

(1) If a vacancy occurs, the Board shall appoint a new member to serve on the Committee.

(2) The successor member shall only serve for the remainder of the term unless reappointed.

E. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:

(a) Failure to attend two successive committee meetings without adequate reason;

(b) Failure to attend Board-mandated training; or

(c) Failure to complete necessary ethics filing requirements;

(2) Misconduct; or

(3) Incompetence.

F. Chair.

(1) From among its members, the Committee shall elect a chair every 2 years.

(2) The Chair, or the Chair's designee, shall serve in an advisory capacity to the Board as a representative of the Committee.

G. Quorum.

(1) A quorum of the Committee consists of four members.

(2) Business may not be conducted at a Committee meeting unless there is a quorum.

H. The Committee shall:

(1) Develop and recommend to the Board:

(a) Regulations to carry out Health Occupations Article, §14-5E, Annotated Code of Maryland; and

(b) Any statutory changes that affect the profession; and

(2) Keep a record of its meetings.

I. The Committee may:

(1) Provide recommendations to the Board regarding the practice of perfusion; and

(2) Advise the Board on any other matters related to perfusionists.

J. A Committee member shall meet any other requirements as established in Health Occupations Article, §14-5E-06, Annotated Code of Maryland.

.04 American Society of Extracorporeal Technology Guidelines.

A. In evaluating the standards of care for the practice of a perfusionist, the Board may consider, but is not limited to considering, the guidelines published by the American Society of Extracorporeal Technology.

B. If a particular practice issue has not yet been addressed in the American Society of Extracorporeal Technology guidelines, the Board may consult with the Perfusion Advisory Committee.

.05 Qualifications for Initial Licensure - Perfusionist-Basic.

A. To qualify for a license, a perfusionist-basic shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a perfusionist-basic shall submit satisfactory evidence to the Board of graduation from a perfusion educational program that is accredited by the Commission on Accreditation of the Allied Health Education Program, or the Commission's predecessor or successor.

.06 Qualifications for Initial Licensure - Perfusionist-Advanced.

A. To qualify for a license, a perfusionist-advanced shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a perfusionist-advanced shall submit satisfactory evidence to the Board of:

(1) Graduation from a perfusion educational program that is accredited by the Commission on Accreditation of the Allied Health Education Program, or the Commission's predecessor or successor; and

(2) Current national certification from the ABCP.

.07 Scope of Practice.

A. A perfusionist may practice only under the immediately available supervision of a physician.

B. Scope of Practice. The scope of practice of a perfusionist includes performance of 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.

C. Special Procedures within the Perfusionist Scope of Practice. The scope of practice of a perfusionist includes the following special procedures, performed on the order of and under the immediately available supervision of a physician:

(1) Cardiopulmonary bypass for adult, pediatric, and neonatal patients;
(2) Extracorporeal circulatory support for renal, neurological, hepatic, and vascular surgery;
(3) Extracorporeal resuscitation;
(4) Extracorporeal circulation for long-term support of failing respiratory or cardiac function;
(5) Extracorporeal membrane oxygenation;
(6) Extracorporeal carbon dioxide removal;
(7) Myocardial protection;
(8) Perfusion-assisted direct coronary artery bypass;
(9) Hemofiltration and hemodialysis;
(10) Anticoagulation and hemostasis monitoring, analysis, and intervention;
(11) Thermal regulation;
(12) Blood gas and blood chemistry monitoring, analysis, and intervention;
(13) Physiological monitoring, analysis, and intervention;
(14) Administration of blood components and pharmaceuticals;
(15) Administration of anesthetic agents through a heart lung machine at the direction of an anesthesiologist;
(16) Ventricular assist device and mechanical circulatory support management;
(17) Intra-aortic balloon counterpulsation;
(18) Temporary pacemaker management;
(19) Periodic flow augmentation therapy;
(20) Autotransfusion;
(21) Platelet gel production, autologous hemocyte tissue matrix production;
(22) Nondifferentiated progenitor cell harvest bone marrow aspirate concentration;
(23) Acute normovolemic hemodilution;
(24) Isolated limb or organ delivery of chemotherapeutics, progenitor cells, gene therapy vectors, and other items;
(25) Organ procurement and preservation;
(26) Thermogenic lavage;
(27) Electrophysiological analysis;
(28) Therapeutic hyperthermia;
(29) Intravascular membrane oxygenation; and
(30) Renal perfusion.

.08 Term, Expiration, and Conversion of Perfusionist-Basic License.

A. Term and Expiration.

(1) Except as provided in §§D and E of this regulation, a perfusionist-basic license:
(a) Shall expire 2 years after its issue; and
(b) May not be renewed.

(2) Under extraordinary circumstances, the Board may extend a perfusionist-basic license in accordance with §§D and E of this regulation.

(3) An individual who previously held a perfusionist-basic license may not be granted a new perfusionist-basic license.

(4) Upon expiration of the perfusionist-basic license, an individual who does not meet the requirements for a perfusionist-advanced license is ineligible for licensure and may not practice perfusion in the State.

B. Conversion.

(1) The holder of a perfusionist-basic license shall convert the license to a perfusionist-advanced license at any time before the expiration after meeting the requirements outlined in COMAR 10.32.01 and Regulation .06 of this chapter.

(2) The individual shall ensure that the ABCP submits satisfactory evidence to the Board that the individual meets the requirements of COMAR 10.32.01 and Regulation .06 of this chapter.

(3) If the Board receives the notification specified in §B(2) of this regulation, the Board shall issue a perfusionist-advanced license to the individual at no additional charge.

(4) If the holder of the perfusionist-basic license fails to convert a perfusionist-basic license to a perfusionist-advanced license before the license's expiration date, the individual shall file a new application with the Board for a perfusionist-advanced license.

C. Conversion-or-Expiration Notice. At least 1 month before the expiration of the perfusionist-basic license, the Board shall send notice to the perfusionist-basic that states:

(1) The date on which the current perfusionist-basic license expires;

(2) The date by which notification of meeting the requirements outlined in COMAR 10.32.01 and Regulation .06 of this chapter shall be received in order to convert to a perfusionist-advanced license before the perfusionist-basic license expires; and

(3) That upon expiration of the perfusionist-basic license, if the holder does not qualify for a perfusionist-advanced license, the holder is no longer permitted to practice perfusion in the State.

D. Extension for Extenuating Circumstances.

(1) The Board may permit a perfusionist with a basic license to continue to practice on that license if extenuating circumstances prevented the applicant for an advanced license from taking the national certifying examination given by the ABCP.

(2) The applicant shall specify the:

(a) Extenuating circumstances; and

(b) Basis for granting the request.

E. Petition for Extension for Extenuating Circumstances.

(1) At the discretion of the Board, a petition for extension of a perfusionist-basic license expiration date may be considered if:

(a) The perfusionist-basic:

(i) Petitions for the extension before the expiration of the perfusionist-basic license;

(ii) Incurs a hardship that prevents the perfusionist-basic from the active use of the perfusionist-basic license for a period of at least 45 consecutive calendar days;

(iii) Provides a written request, with supporting documentation if applicable, stating the extenuating circumstances that will prohibit or has prohibited the perfusionist-basic from the active use of the perfusionist-basic license for at least 45 consecutive calendar days; and

(iv) Provides an anticipated date for resuming activity on the perfusionist-basic license; and

(b) The national certifying examination has been administered during no more than three testing windows from the time the application for the perfusionist basic license was approved.

(2) A perfusionist with a perfusionist-basic license may not practice during the paused time frame.

(3) The Board may grant a one-time extension of the perfusionist-basic license expiration date but the extension may not exceed the time period during which the perfusionist-basic did not have active use of the license.

(4) The Board may grant an extension of the perfusionist-basic license if the Board determines that failure to fulfill the license requirements of the perfusionist-advanced is clearly the result of:

(a) Functional impairment;

(b) Prolonged and serious illness;

(c) Mandatory military service or deployment;

(d) A prolonged absence from the United States;

(e) An officially declared disaster; or

(f) Other exceptional circumstances beyond the control of the applicant.

(5) Failing the national certification examination may not be grounds for obtaining an extension of the perfusionist-basic license under this regulation.

.09 Renewal, Reinstatement, and Continuing Education.

A. Renewal. The Board shall renew the license of a perfusionist-advanced if the perfusionist-advanced meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing education requirements of §C of this regulation.

B. Reinstatement.

(1) This section does not apply to a post disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A perfusionist-advanced applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §14-5E-16, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of a perfusionist-advanced who has failed to renew a license for any reason if the perfusionist-advanced:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .10 of this chapter.

C. Continuing Education.

(1) A perfusionist-advanced shall complete at least 30 hours of continuing education approved by the ABCP earned during the 2 years preceding:

(a) For license renewal, the expiration of a license for perfusion; or

(b) For license reinstatement, the date of submission of the application for reinstatement.

(2) A perfusionist-advanced shall meet clinical activity requirements sufficient to maintain current ABCP certification, earned during the 2 years preceding:

(a) For license renewal, the expiration of a license for perfusion; or

(b) For license reinstatement, the date of submission of the application for reinstatement.

(3) Proof of certification by the ABCP may be used to document compliance with the continuing education and clinical activity requirements specified in this regulation.

(4) The Board may request a perfusionist-advanced to submit evidence of having met the continuing education requirements specified in this regulation.

(5) If a perfusionist-advanced cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(6) The continuing education requirement applies to all renewal applications after the first renewal following initial licensure.

.10 Fees.

The following non-refundable fees are applicable to perfusionists:

A. Initial Licensure. Initial licensure application fee—$300;

B. Renewal of Licensure:

(1) License renewal application fee—$221; and

(2) Maryland Health Care Commission (MHCC) fee—As determined by MHCC under COMAR 10.25.02;

C. Reinstatement fee—$300;

D. Written verification of licensure fee—$25; and

E. Incomplete application fee—$50.

.11 Sanctioning Guidelines for Perfusionists.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on perfusionists for violations of Health Occupations Article, §14-5E-16(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*
(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$5,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$5,000*
(3) Is guilty of:				
(a) Immoral conduct in the practice of perfusion; or	*Reprimand*	*Revocation*	*$0*	*$5,000*
(b) Unprofessional conduct in the practice of perfusion.	*Reprimand*	*Revocation*	*$0*	*$5,000*
(4) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to Board's satisfaction*	*Revocation*	*$0*	*$5,000*

(b) Physical incompetence	*Suspension until physical incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(5) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(6) Habitual intoxication	*Suspension until the perfusionist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until the perfusionist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(8) Provides professional services while:				
(a) Under the influence of alcohol; or	*Suspension until the perfusionist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(b) Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts or without valid medical indication	*Suspension until the perfusionist is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Revocation*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of perfusion	*Reprimand*	*Revocation*	*$0*	*$5,000*

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report	*Reprimand*	*Revocation*	*$0*	*$5,000*
(12) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$5,000*
(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any individual for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(14) Makes a willful misrepresentation while practicing perfusion	*Reprimand*	*Revocation*	*$0*	*$5,000*
(15) Willfully practices perfusion with an unauthorized individual or aids an unauthorized individual in the practice of perfusion	*Reprimand*	*Revocation*	*$0*	*$5,000*
(16) Willfully delegates a perfusion duty to an unlicensed individual	*Reprimand*	*Revocation*	*$0*	*$5,000*
(17) Offers, undertakes, or agrees to cure or treat a disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under this regulation	*Penalty equivalent to that imposed by the original licensing authority, if that penalty is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(19) Fails to meet appropriate standards for the delivery of perfusion services	*Reprimand*	*Revocation*	*$0*	*$5,000*
(20) Willfully submits false statements to collect fees for which services have not been provided	*Reprimand*	*Revocation*	*$0*	*$5,000*

(21) Was subject to an 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 regulation, and the licensee: *(a) Surrendered the license issued by the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*Penalty equivalent to that imposed by the original licensing authority if that sanction is lesser than the Board's sanction would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority if that fine is lesser than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(22) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	*Reprimand and 3 years of probation with practice oversight*	*Revocation*	*$0*	*$5,000*
(24) Practices or attempts to practice beyond the authorized scope of practice	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(25) Is convicted or pleads nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(26) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$5,000*
(27) Practices or attempts to practice a perfusion procedure or uses or attempts to use perfusion equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(28) Fails to cooperate with a lawful investigation conducted by the Board	*Reprimand*	*Revocation*	*$0*	*$5,000*
(29) Fails to complete a criminal history records check under Health Occupations Article, §14–308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*

10.32.23 Naturopathic Doctors

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, and 14-5F-01—14-5F-32, Annotated Code of Maryland

.01 Scope.

A. This chapter governs how an individual becomes licensed as a naturopathic doctor and how naturopathic doctors are regulated and disciplined in the State.

B. This chapter does not prohibit an individual from practicing naturopathic medicine without a license in the State if the individual is:

(1) A naturopathic medicine student who is enrolled in an approved naturopathic medical program while participating in the educational program;

(2) Licensed in another state to practice naturopathic medicine in that state and for purposes of litigation in this State may examine a patient, offer recommendations, or provide testimony; or

(3) A naturopathic doctor licensed by and residing in another jurisdiction, if the naturopathic doctor is engaged in consultation with the naturopathic doctor in the State about a particular patient and does not direct patient care.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(2) "Approved naturopathic medical program" means a naturopathic medical education program:

(a) In the United States that:

(i) Provides the degree of Doctor of Naturopathy or Doctor of Naturopathic Medicine;

(ii) Offers a 4-year graduate level full-time didactic and supervised clinical training curriculum;

(iii) Is accredited or has achieved candidacy status for accreditation, by the council on naturopathic medical education or an equivalent federally and Board recognized accrediting body for naturopathic medical education programs; and

(iv) Is part of an institution of higher education that is either accredited, or is a candidate for accreditation, by a regional or national institutional accrediting agency recognized by the United States Secretary of Education;

(b) In a diploma-granting, degree-equivalent college or university in Canada that:

(i) Offers graduate level, full-time didactic and supervised clinical training; and

(ii) Is accredited, or has achieved candidacy status for accreditation, by the council of naturopathic medical education or an equivalent federally and Board recognized accrediting body for participation in government-funded student aid programs; or

(c) Which has provincial approval for participation in government-funded student aid programs.

(3) "Articular manipulation" means manipulation of the joints up to but not including manipulation beyond the elastic limit and exclusive of low amplitude, high velocity thrusts, also known as "Grade V manipulations".

(4) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(5) "Collaboration and consultation agreement" means an agreement whereby a naturopathic doctor and physician will collaborate and consult regarding a patient's care, but in which the:

(a) Patient does not enter the care of the consulted physician;

(b) Consultation does not create a physician-patient relationship;

(c) Consulted physician may not direct patient care or engage directly in the care of the patient; and

(d) Agreement does not imply or create a supervisory relationship between the physician and naturopathic doctor.

(6) "Committee" means the Naturopathic Medicine Advisory Committee.

(7) "Corrective and orthopedic gymnastics" means therapeutic exercises, stretching, and other movement therapies intended to promote healing and rehabilitation.

(8) "Council" means the Naturopathic Doctors Formulary Council.

(9) "Diagnostic imaging" includes, but is not limited to, X-ray, ultrasound, mammogram, bone densitometry, computed tomography (CT scans), magnetic resonance imaging (MRI scans), endoscopic exam, and all other forms of nuclear imaging.

(10) "Dispense" has the meaning stated in Health Occupations Article, §12-101, Annotated Code of Maryland.

(11) "Electromagnetic energy" means electric and magnetic energy administered through the use of a therapeutic device, including, but not limited to, transcutaneous electrical nerve stimulation, microcurrent electrical muscle stimulation, diathermy, infrared, ultra-violet treatments, and other devices which utilize electrical or magnetic force for therapeutic effect.

(12) "Electrotherapy" means treatment through the application of electric energy administered through the use of therapeutic devices, including, but not limited to, transcutaneous electrical nerve stimulation, microcurrent electrical neuromuscular stimulation, and other devices which utilize electrical force for therapeutic effect.

(13) Goods.

(a) "Goods" means items that can be sold.

(b) "Goods" includes, but is not limited to, "natural medicines" referenced in Health Occupations Article, §14-5F-14(a)(3) and (4), Annotated Code of Maryland.

(14) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(15) Hydrotherapy.

(a) "Hydrotherapy" means external and internal applications of hot and cold water, ice, and steam for therapeutic purposes.

(b) "Hydrotherapy" includes, but is not limited to, hot or cold compresses, hydrocollator packs, hot or cold baths or showers involving the full body or specific body parts.

(16) "Mechanical sciences of healing" means techniques and therapies which attempt to promote healing via mechanical or physical applications.

(17) "Mechanotherapy" means treatment by mechanical means including the use of durable medical and therapeutic devices.

(18) "Natural medicine" means medicine derived from mineral, animal, or botanical origin.

(19) "Naturopathic doctor" means an individual who is licensed by the Board to practice naturopathic medicine.

(20) Naturopathic Medicine.

(a) "Naturopathic medicine" means the prevention, diagnosis, and treatment of human health conditions, injury, and disease using only patient education and naturopathic therapies and their therapeutic substances recognized by the council of naturopathic therapies and therapeutic substances recognized by the Council of Naturopathic Medical Education.

(b) "Naturopathic medicine" includes:

(i) Counseling;

(ii) The practice of the mechanical sciences of healing, including mechanotherapy, articular manipulations, corrective and orthopedic gymnastics, hydrotherapy, electrotherapy, and phototherapy; and

(iii) The practice of the material sciences of healing, including nutrition, phytotherapy, treatment by natural substances, and external applications.

(21) "Naturopathic musculoskeletal mobilization" means treatment by manual and other mechanical means of all body tissues exclusive of high-velocity thrusts at or beyond the end range of normal joint motion.

(22) "Phototherapy" means treatment through the application of light, including visible light, ultraviolet light, infrared, natural sources of light, and artificial sources of light.

(23) Physiological Function Tests.

(a) "Physiological function tests" means all tests performed to assess and diagnose physiological processes in all bodily systems.

(b) "Physiological function tests" include, but are not limited to, respiratory testing, heart rate, percent body fat, body composition, and other tests consistent with naturopathic medical education.

(24) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(25) "Phytotherapy" means treatment by use of botanical medicines.

(26) "Prescription drug" means any drug defined in the federal Food, Drug, and Cosmetic Act, 21 U.S.C. §503(b), as amended, if the drug's label is required to bear the statement "Rx only."

(27) Sexual Contact.

(a) "Sexual contact" means the licensee's knowing touching directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification.

(b) "Sexual contact" includes, but is not limited to:

(i) Sexual intercourse, genital to genital contact;

(ii) Oral to genital contact;

(iii) Oral to anal contact or genital to anal contact;

(iv) Kissing in a romantic or sexual manner; or

(v) Nonclinical touching of breasts, genitals, or any other sexualized body part.

(28) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

.03 Naturopathic Medicine Advisory Committee.

A. The Board shall appoint members of the Naturopathic Medicine Advisory Committee as follows:

(1) Two members shall be naturopathic doctors;

(2) One member shall be a consumer member who meets the requirements of Health Occupations Article, §14-5F-07(c), Annotated Code of Maryland;

(3) One member shall be a physician; and

(4) One member shall be a physician with experience working with naturopathic doctors by having met criteria as determined by the Committee, including but not limited to the following types of experience:

(a) Worked in the same clinical practice as a licensed naturopathic doctor;

(b) Named in a collaboration and consultation agreement attestation submitted by a licensed naturopathic doctor;

(c) Employed by a naturopathic medicine program accredited by the Council on Naturopathic Medical Education; or

(d) Worked with, or supervised, a naturopathic resident completing a naturopathic medical residency accredited by the Council on Naturopathic Medical Education.

B. Each member of the Committee shall:

(a) Be a resident of the State; and

(b) If licensed by the Board, be in good standing with the Board.

C. Tenure.

(1) The term of a member is 3 years.

(2) The terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) An individual may be reappointed for a second 3-year term, but the individual may not serve more than two consecutive 3-year terms.

D. Vacancy.

(1) If a vacancy occurs as to a member, the Board shall appoint a new member to serve, as provided in this regulation.

(2) The successor member shall only serve for the remainder of the term, unless reappointed.

E. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:

(a) Failure to attend two successive committee meetings without adequate reason;

(b) Failure to attend Board-mandated training; or

(c) Failure to complete necessary ethics filing requirements;

(2) Misconduct; or

(3) Incompetence.

F. Chair.

(1) The Committee shall elect a chair from among its members once every 2 years.

(2) The Chair, or the Chair's designee, shall serve in an advisory capacity to the Board as a representative of the Committee.

G. Quorum.

(1) A quorum of the Committee consists of three members.

(2) Business may not be conducted at a Committee meeting unless there is a quorum.

H. The Committee shall:

(1) Develop and recommend to the Board:

(a) Regulations to carry out Health Occupations Article, §14-5F, Annotated Code of Maryland; and

(b) Any statutory changes that affect the profession; and

(2) Keep a record of its meetings.

I. The Committee may:

(1) Provide recommendations to the Board regarding the practice of naturopathic medicine; and

(2) Advise the Board on any other matters related to naturopathic doctors.

J. A Committee member shall meet any other requirements as established in Health Occupations Article, §14-5F-07, Annotated Code of Maryland.

.04 Naturopathic Doctors Formulary Council.

A. In accordance with Health Occupations Article, §14-5F-04.1, Annotated Code of Maryland there is a Naturopathic Doctors Formulary Council within the Board.

B. The Council consists of the following members:

(1) The Deputy Secretary for Public Health Services or the Deputy Secretary's designee; and

(2) The following members, appointed by the Board:

(a) Two practicing naturopathic doctors who:

(i) Are certified by the North American Board of Naturopathic Examiners; and

(ii) Have a minimum of 2 years experience;

(b) Two practicing physicians who practice in the State;

(c) One practicing pharmacist who has a background in pharmacognosy and who practices in the State; and

(d) One consumer member.

C. Tenure.

(1) The term of an appointed member is 4 years and is staggered.

(2) At the end of a term, an appointed member continues to serve until a successor is appointed.

(3) An individual may be reappointed for a second 4-year term but may not serve more than two consecutive 4-year terms.

D. A member of the Council may not receive compensation as a member of the Council but is entitled to reimbursement for expenses under the Standard State Travel Regulations under COMAR 23.02.01, as provided in the State budget.

E. Chair. The Board shall designate the chair of the Council, whose term of office of the chair is 2 years.

F. Staff. The Board shall provide staff for the Council.

G. Council Duties.

(1) The Council shall:

(a) Develop and recommend to the Board a formulary for use by naturopathic doctors;

(b) Annually review the formulary adopted by the Board under §G(2) of this regulation to determine if any changes are necessary for compliance with current prescribing standards or the practice of naturopathic medicine;

(c) Otherwise review the formulary at the direction of the Board; and

(d) Make recommendations to the Board based on the reviews conducted under this regulation.

(2) The Board shall adopt a formulary based on the Council's recommendations under this regulation.

H. Board Duties.

(1) The Board may modify or reject any recommendation of the Council regarding the formulary.

(2) The formulary adopted by the Board shall be in accordance with Health Occupations Article, §14-5F-04.1, Annotated Code of Maryland.

.05 Qualifications for Initial Licensure - Naturopathic Doctors.

A. To qualify for a license, a naturopathic doctor shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §§B and C of this regulation.

B. An applicant for a license as a naturopathic doctor shall submit to the Board satisfactory evidence of a:

(1) Doctorate in naturopathic medicine from an approved naturopathic medical program; and

(2) Passing result on a competency based national naturopathic licensing examination part I and part II administered by the North American Board of Naturopathic Examiners or its successor agency that is consistent with federal standards of education and training.

C. Additional Requirements.

(1) An applicant for a license as a naturopathic doctor shall be at least 21 years of age;

(2) An applicant for a license as a naturopathic doctor shall be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation;

(3) If an applicant for license as a naturopathic doctor is licensed, certified, or registered to practice naturopathic medicine or any other health occupation in another state, an applicant shall be in good standing with the applicable state licensing, certification, or registration authority; and

(4) If an applicant for licensure as a naturopathic doctor has been licensed, certified, or registered to practice naturopathic medicine in another state, the applicant shall submit to the Board all evidence relating to:

(a) Any disciplinary action taken or any administrative penalties assessed against the applicant by the appropriate state licensing, certification, or registration authority; and

(b) Any consent agreements into which the applicant entered that contain conditions placed on the applicant's professional conduct and practice, including any voluntary surrender of a license.

D. An applicant for licensure as a naturopathic doctor shall submit a written attestation to the Board in accordance with Regulation .06 of this regulation.

.06 Collaboration and Consultation Agreement and the Written Attestation.

A. To practice naturopathic medicine in the State, a naturopathic doctor shall maintain at all times a collaboration and consultation agreement with a physician.

B. Collaboration and Consultation Agreement Contents. A collaboration and consultation agreement shall:

(1) Include the name and license number of the physician with whom the applicant has the collaboration and consultation agreement;

(2) State that the applicant will require patients to sign a consent form in plain language that:

(a) States that the naturopathic doctor's practice of naturopathic medicine is limited to the scope of practice identified in Health Occupations Article, §14-5F-14, Annotated Code of Maryland; and

(b) Describes the differences in scope of practice between naturopathic doctors and physicians;

(3) State that naturopathic doctors shall refer patients to and consult with physicians and other health care practitioners licensed or certified under Health Occupations Article, Annotated Code of Maryland as needed; and

(4) State that, in cases where the naturopathic doctor diagnoses a patient with a life-threatening condition, the naturopathic doctor shall:

(a) Counsel and discuss with the patient the potential benefits offered by other physicians or other health care practitioners; and

(b) Attempt to make the appropriate referral to another health care practitioner.

C. Written Attestation. An applicant shall complete and submit to the Board a written attestation on a form supplied by the Board that states that the applicant has a collaboration and consultation agreement with a physician that meets the requirements of §B of this regulation.

D. An applicant shall inform the physician named as a collaborating physician in the attestation that the physician has been named.

E. A naturopathic doctor shall comply with the requirements of the naturopathic doctor's collaboration and consultation agreement with a physician.

F. A physician or employer shall notify that Board within 10 days after the termination of a naturopathic doctor and collaboration and consultation agreement for reasons that would be grounds for discipline under Health Occupations Article, §14-5F-18, Annotated Code of Maryland.

G. A physician named in the collaboration and consultation agreement with a naturopathic doctor and the naturopathic doctor shall notify the Board within 10 days of the termination of a collaboration and consultation agreement.

H. In the event of the sudden departure, incapacity, or death of the named physician or change in license status that results in the named physician being unable to practice medicine, the naturopathic doctor may not practice in the State until the naturopathic doctor enters into a new collaboration and consultation agreement.

I. A naturopathic doctor whose collaboration and consultation agreement is terminated may not practice naturopathic medicine in the State.

.07 Scope of Practice.

A. A license authorizes a naturopathic doctor, consistent with naturopathic education, training, and competence demonstrated by passing the Naturopathic Physician Licensing Examination to:

(1) Order and perform physical and laboratory examinations for diagnostic purposes consistent with the education and training of naturopathic doctors, including:

(a) Phlebotomy;

(b) Clinical laboratory tests;

(c) Official examinations;

(d) Electrocardiograms with overread by a cardiologist; and

(e) Physiological function tests;

(2) Order diagnostic imaging studies, interpret the diagnostic imaging reports, and have access to the images from these studies;

(3) Dispense, order, or administer natural medicines, including, but not limited to, food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, and botanical medicines, homeopathic medicines, and all dietary supplements and nonprescription drugs as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C, as follows:

(a) Except for intravenous administration, the naturopathic doctor may order or dispense natural medicines that use various routes of administration, including:

(i) Oral;

(ii) Nasal;

(iii) Auricular;

(iv) Ocular;

(v) Rectal;

(vi) Vaginal;

(vii) Transdermal; and

(viii) Intramuscular; and

(b) The naturopathic doctor may only administer natural medicines through transdermal administration;

(4) Administer or perform hot or cold hydrotherapy, naturopathic physical medicine, electromagnetic energy, and therapeutic exercise for the purpose of providing basic therapeutic care services, except that, if a referral to another licensed health care practitioner is appropriate for ongoing rehabilitation or habilitation services, the naturopathic doctor shall make the referral;

(5) Provide health education and health counseling; and

(6) Perform naturopathic musculoskeletal mobilization.

B. Prohibition. A naturopathic doctor may not:

(1) Perform imaging studies; or

(2) Independently interpret the images from an imaging study.

.08 Prohibited Actions.

An individual who is solely licensed as a naturopathic doctor may not:

A. Prescribe, dispense, or administer any prescription drug;

B. Perform surgical procedures;

C. Unless otherwise licensed under the Health Occupations Article, Annotated Code of Maryland, practice or claim to practice as:

(1) A physician;

(2) A dentist;

(3) A podiatrist;

(4) An optometrist;

(5) A psychologist;

(6) A nurse practitioner;

(7) A physician assistant;

(8) A chiropractor;

(9) A physical therapist;

(10) An acupuncturist; or

(11) Any other health care professional;

D. Use general or spinal anesthetics;

E. Administer ionizing radioactive substances for therapeutic purposes;

F. Perform chiropractic adjustments or manipulations that include high velocity thrusts at or beyond the end range of normal joint motion unless the naturopathic doctor is also a licensed chiropractor;

G. Perform acupuncture unless the naturopathic doctor is also a licensed acupuncturist; or

H. Use the title "physician" unless the naturopathic doctor is also a licensed physician.

.09 Renewals, Reinstatement, and Continuing Education.

A. Renewals. The Board shall renew a license of a naturopathic doctor if the naturopathic doctor:

(1) Meets the requirements of COMAR 10.32.01;

(2) Meets the continuing education requirements of §C of this regulation; and

(3) Provides evidence of biennial cardiopulmonary resuscitation certification.

B. Reinstatement.

(1) This section does not apply to a post disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A naturopathic doctor applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §14-5F-18, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of a naturopathic doctor who has failed to renew the license if the naturopathic doctor:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .12 of this chapter.

C. Continuing Education.

(1) A naturopathic doctor shall complete at least 50 hours of approved continuing education credits, earned during the 2-year period preceding:

(a) For license renewal, the expiration of a license for naturopathic medicine; or

(b) For license reinstatement, the date of submission of the application for reinstatement.

(2) A naturopathic doctor shall obtain the required documentation of continuing education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(3) The required documentation shall contain, at a minimum, the following information:

(a) Program title;

(b) Sponsor's name;

(c) Naturopathic doctor's name;

(d) Inclusive date or dates and location of the program;

(e) The number of continuing education hours earned; and

(f) Documented verification that the naturopathic doctor attended the program by stamp, signature, print-out, or other official proof.

(4) The Board may request a naturopathic doctor to submit evidence of having met the continuing education requirements specified in this regulation.

(5) If a naturopathic doctor cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(6) Approved continuing education includes:

(a) In-service programs at a hospital or related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland or a health maintenance organization certified by the State; or

(b) Courses approved by any of the following:

(i) The American Association of Naturopathic Physicians;

(ii) The Maryland Association of Naturopathic Physicians;

(iii) The Accreditation Council for Continuing Medical Education;

(iv) The Accreditation Council for Pharmacy Education;

(v) The North American Naturopathic Continuing Education Accreditation Council; or

(vi) A naturopathic doctor's licensing authority or professional association of another state which meets the standards adopted by the American Association of Naturopathic Physicians.

(7) The continuing education requirement applies to all renewal applications after the first renewal following initial licensure.

.10 Advertising.

An advertisement by a naturopathic doctor may not contain:

A. A statement containing a misrepresentation of facts;

B. Statements that cannot be verified by the Board for truthfulness;

C. Statements which are likely to mislead or deceive because in context the statements make only a partial disclosure of relevant facts;

D. Statements intended to, or likely to, create false or unjustified expectations of favorable results;

E. Statements containing representations or implications that in reasonable probability can be expected to cause an ordinary prudent person to misunderstand or be deceived;

F. Statements containing representations that a naturopathic doctor is willing to perform any procedure which is illegal under the laws or regulations of this State or the United States;

G. Statements that are untruthful and improbable or contain misstatements, falsehoods, misrepresentations, distorted statements, or fabulous statements as to cures;

H. Statements that misrepresent the nature, characteristics, or qualities of natural medicines or services provided by a naturopathic doctor pursuant to Health Occupations Article, §14-5F-14(a)(3), (4), (5), (6), or (7), Annotated Code of Maryland;

I. Statements that a manifestly incurable condition can be permanently cured;

J. Statements promoting herbal, natural, or dietary supplements as drugs contrary to the laws, rules, and regulations of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C., as amended by the Dietary Supplement Health and Education Act of 1994, 42 U.S.C.;

K. Any other advertising material that does not comply with state or federal law, including the:

(1) Federal Trade Commission Act, §12 of 15 U.S.C. §52;

(2) Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§301—397;

(3) Maryland Food, Drug, and Cosmetic Act, Health-General Article, §21-207, et seq., Annotated Code of Maryland; and

(4) Commercial Law Article, §14-2902, Annotated Code of Maryland;

L. Statements recommending any modality of care that is inconsistent with the health, safety, and welfare of the public; or

M. False statements made as defined in Health-General Article, §§21-247 and 21-248, Annotated Code of Maryland.

.11 Fees.

The following fees are applicable to naturopathic doctors:

A. Initial Licensure:

(1) Initial licensure application fee—$790; and

(2) Fee for remaining months until first renewal—$5 per month;

B. Renewal of Licensure:

(1) License renewal application fee—$486; and

(2) The Maryland Health Care Commission (MHCC) fee—As determined by MHCC under COMAR 10.25.02;

C. Reinstatement fee—$700;

D. Written verification of licensure fee—$50; and

E. Incomplete application fee—$50.

.12 Sanctioning Guidelines for Naturopathic Doctors.

A. Subject to provisions of COMAR 10.32.02.10, the disciplinary panel may impose sanctions as outlined in §B of this regulation on naturopathic doctors for violations of Health Occupations Article, §14-5F-18(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*
(1) Habitual intoxication	*Suspension until the naturopathic doctor is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$100,000*
(2) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until the naturopathic doctor is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$100,000*
(3) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$50,000*

(b) Physical incompetence	*Suspension until physical incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$50,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$50,000*
(4) Has entered into a consent agreement with or has been assessed an administrative penalty by a licensing authority in another state	*Comparable to the penalty imposed*	*Comparable to the penalty imposed*	*$0*	*$50,000*
(5) Fraudulently or deceptively obtains, attempts to obtain, or uses a license for the applicant or another	*Reprimand and probation for 2 years*	*Revocation*	*$0*	*$50,000*
(6) Has a license revoked or suspended, or was otherwise acted against, including the denial of licensure, by the licensing authority of another state	*Comparable to the penalty imposed*	*Revocation*	*$0*	*$50,000*
(7) Uses false, deceptive, or misleading advertising	*Reprimand*	*Revocation*	*$0*	*$50,000*
(8) Advertises, practices, or attempts to practice under a name other than the applicant's or the naturopathic doctor's own name	*Reprimand*	*Revocation*	*$0*	*$50,000*
(9) Aids, assists, employs, or advises any unlicensed individual to practice naturopathic medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of naturopathic medicine	*Reprimand*	*Revocation*	*$0*	*$50,000*
(11) Willfully or negligently fails to file a report or record as required by law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$50,000*
(12) Pays or receives any commission, bonus, kickback, or rebate, or engages in any split fee arrangement in any form with a licensed physician, organization, agency, or other person, either directly or indirectly, for patients referred to health care practitioners	*Reprimand*	*Revocation*	*$0*	*$10,000*
(13) Exercises influence within a patient-doctor relationship for purposes of engaging a patient in sexual activity	*Reprimand*	*Revocation*	*$0*	*$50,000*
(14) Engages in sexual misconduct with a patient	*Reprimand*	*Revocation*	*$0*	*$50,000*
(15) Fails to keep written medical records justifying the course of treatment of a patient	*Reprimand*	*Revocation*	*$0*	*$50,000*

(16) Engages in an act or omission that does not meet generally accepted standards of practice of naturopathic medicine or of safe care of patients, whether or not actual injury to a patient is established	*Reprimand*	*Revocation*	*$0*	*$50,000*
(17) Delegates professional responsibilities to an individual when the naturopathic doctor delegating the responsibilities knows or has reason to know that the individual is not qualified by training, experience, or licensure to perform the responsibilities	*Reprimand*	*Suspension*	*$0*	*$50,000*
(18) Promotes the sale of services, drugs, devices, appliances, or goods to a patient as to exploit the patient for financial gain	*Reprimand*	*Revocation*	*$0*	*$50,000*
(19) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$50,000*
(20) Is guilty of:				
(a) Immoral conduct in the practice of naturopathic medicine; or	*Reprimand and probation for 2 years*	*Revocation*	*$0*	*$25,000*
(b) Unprofessional conduct in the practice of naturopathic medicine	*Reprimand and probation for 2 years*	*Revocation*	*$0*	*$25,000*
(21) Offers, undertakes, or agrees to cure or treat a disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$50,000*
(22) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Suspension*	*$0*	*$50,000*
(23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate purposes	*Reprimand*	*Revocation*	*$0*	*$50,000*
(24) Denies or discriminates against an individual regarding the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Revocation*	*$0*	*$50,000*
(25) Fails to cooperate with a lawful investigation of the Board	*Reprimand and probation for 3 years*	*Revocation*	*$0*	*$50,000*
(26) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$50,000*
(27) Violates any provision of Health Occupations Article, §14-5F, Annotated Code of Maryland, or any regulations adopted by the Board	*Reprimand*	*Revocation*	*$0*	*$50,000*
(28) Fails to complete a criminal history records check under Health Occupations Article, §14-308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$50,000*

10.32.24 Genetic Counselors

Authority: Health Occupations Article, §§1-606, 14-205, 14-207, and 14-5G-01—14-5G-29, Annotated Code of Maryland

.01 Scope.

A. This chapter governs the practice of genetic counseling in the State.

B. Except as provided in §C or D of this regulation, an individual shall be licensed by the Board before the individual may practice genetic counseling in the State.

C. This chapter does not prohibit any student who is currently enrolled in an accredited educational program to qualify for a license as a genetic counselor from performing any of the procedures described in this chapter as part of that program's clinical curriculum on genetic counseling.

D. This chapter does not prohibit an individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "ABGC" means the American Board of Genetic Counseling, its predecessor, or its successor.

(2) "Accredited educational program" means an educational program that is accredited by the Accreditation Council for Genetic Counseling or an equivalent accrediting body recognized by the ABGC.

(3) "Applicant" means an individual applying for initial licensure, registration, renewal, or reinstatement pursuant to Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

(4) "Board" has the meaning stated in Health Occupations Article, §14-101, Annotated Code of Maryland.

(5) "Committee" means the Genetic Counseling Advisory Committee.

(6) Genetic Assessment.

(a) "Genetic assessment" means the integration of genetic laboratory test results and other diagnostic studies with the medical histories of a patient and the patient's family members to assess the risk for the patient or the patient's family members of:

(i) A genetic or medical condition or disease; and

(ii) The recurrence of a genetic or medical condition or disease.

(b) "Genetic assessment" includes taking medical and family histories for the purpose of genetic counseling.

(7) "Good standing" means the individual is not suspended, on probation, under restrictions, or subject to any pending disciplinary proceedings.

(8) "Immediately available supervision" means to provide necessary direction in person, by telephone, or by other electronic means.

(9) "Genetic counselor" means an individual who is licensed by the Board to practice genetic counseling.

(10) "Physician" means an individual licensed to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(11) Practice Genetic Counseling.

(a) "Practice genetic counseling" means:

(i) Obtaining and evaluating the medical histories of a patient and the patient's family members for purposes of a genetic assessment;

(ii) Discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions or diseases.

(iii) Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic studies, as appropriate, for purposes of a genetic assessment;

(iv) Using the medical histories obtained from the patient and the patient's family members for the purposes of a genetic assessment;

(v) Explaining the clinical implications of genetic laboratory tests and other diagnostic studies and the results of the tests and studies and communicating the risk factors for genetic or medical conditions or diseases identified by a genetic assessment;

(vi) Evaluating the responses of a patient and the patient's family members to the results of a genetic assessment and providing counseling and anticipatory guidance for a genetic or medical condition or disease;

(vii) Identifying and using community resources that provide medical, educational, financial, and psychosocial support and advocacy for a genetic or medical condition or disease; and

(viii) Providing written documentation of medical, genetic, and counseling information for a patient, a patient's family members, or appropriate health care practitioners.

(b) "Practice genetic counseling" does not include diagnosing or treating an illness, a disease, or a condition.

(12) "Qualified supervisor" means:

(a) A genetic counselor who has practiced for a minimum of 3 years after passing the national certifying examination; or

(b) A physician who has been licensed in the State for a minimum of 5 years.

(13) "Student" means an individual who is:

(a) Enrolled in an accredited educational program; and

(b) Performing procedures within the accredited program without compensation.

(14) "Supervised genetic counselor" means an individual who is licensed by the Board to practice genetic counseling under the supervision of a qualified supervisor.

.03 Genetic Counseling Advisory Committee.

A. The Board shall appoint members of the Genetic Counseling Advisory Committee as follows:

(1) Three genetic counselors;

(2) Three physicians who have experience working with genetic counselors; and

(3) One consumer member who meets the requirements of Health Occupations Article, §14-5G-06(d), Annotated Code of Maryland.

B. Each member of the Committee shall:

(1) Be a resident of the State; and

(2) If licensed by the Board, be in good standing with the Board.

C. Tenure.

(1) The term of a member is 3 years.

(2) The terms of the members are staggered.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) An individual may be reappointed for a second 3-year term, but the individual may not serve more than two consecutive 3-year terms.

D. Vacancy.

(1) If a vacancy occurs, the Board shall appoint a new member to serve on the Committee.

(2) The successor member shall only serve for the remainder of the term unless reappointed.

E. Removal. The Board, by a majority vote, may vote to remove any member of the Committee for:

(1) Neglect of duty, including but not limited to:

(a) Failure to attend two successive committee meetings without adequate reason;

(b) Failure to attend Board-mandated training; or

(c) Failure to complete necessary ethics filing requirements;

(2) Misconduct; or

(3) Incompetence.

F. Chair.

(1) From among its members, the Committee shall elect a chair every 2 years.

(2) The Chair, or Chair's designee, shall serve in an advisory capacity to the Board as a representative to the Committee.

G. Quorum.

(1) A quorum of the Committee consists of five members.

(2) Business may not be conducted at a Committee meeting unless there is a quorum.

H. The Committee shall:

(1) Develop and recommend to the Board:

(a) Regulations to carry out Health Occupations Article, §14-5G, Annotated Code of Maryland; and

(b) Any statutory changes that affect the profession; and

(2) Keep a record of its meetings.

I. The Committee may:

(1) Provide recommendations to the Board regarding the practice of genetic counseling; and

(2) Advise the Board on any other matters related to genetic counselors.

J. A Committee member shall meet any other requirements as established in Health Occupations Article, §14-5G-06, Annotated Code of Maryland.

.04 Qualifications for Initial Licensure - Genetic Counselors.

A. To qualify for a license, a genetic counselor shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a genetic counselor shall submit to the Board satisfactory evidence of:

(1) Graduation from an accredited educational program; and

(2) Certification by the ABGC.

.05 Qualification for Initial Licensure - Supervised Genetic Counselors.

A. To qualify for a license, a supervised genetic counselor shall meet the requirements of:

(1) COMAR 10.32.01; and

(2) §B of this regulation.

B. An applicant for a license as a supervised genetic counselor shall submit to the Board satisfactory evidence:

(1) Of graduation from an accredited educational program to the Board; and

(2) That the applicant has applied for the first available national certifying examination.

C. The Board may not issue a supervised genetic counselor license to an applicant if the applicant has failed the national certifying examination two or more times.

.06 Referral to Other Health Care Practitioners.

If, while practicing genetic counseling, a genetic counselor or supervised genetic counselor determines that a patient requires diagnosis, treatment, or management, the genetic counselor shall:

A. Refer the patient to a physician or another appropriate health care practitioner; and

B. Document the referral in the patient's medical record.

.07 Scope of Practice.

The scope of practice of a genetic counselor or a supervised genetic counselor includes the following:

A. Obtaining and interpreting individual or family medical and developmental histories;

B. Determining the mode of inheritance and risk of transmission of genetic conditions and birth defects, including evaluating the risks from exposure to possible mutagens and teratogens;

C. Discussing the inheritance features, natural history, means of diagnosis, and management of genetic conditions and birth defects;

D. Identifying, ordering, coordinating, and explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results;

E. Integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic or medical conditions and diseases;

F. Assessing psychosocial factors;

G. Recognizing social, educational, and cultural issues;

H. Evaluating the patient's or family's responses to the condition or risk of recurrence and providing patient-centered counseling and anticipatory guidance; and

I. Facilitating informed decision-making about testing, management, and alternatives.

.08 Supervised Genetic Counselors.

A. Term and Expiration.

(1) A supervised genetic counselor license shall expire upon the earliest of either:

(a) The issuance of a genetic counselor license to the supervised genetic counselor;

(b) On notice of the second failure of the supervised genetic counselor to pass the certification examination; or

(c) 1 year after the date of issuance.

(2) A supervised genetic counselor license may not be renewed or extended beyond the 1-year expiration date.

(3) A supervised genetic counselor who has not passed the certification examination within two examination cycles may not continue practicing under the supervised genetic counselor license.

B. Supervision.

(1) A supervised genetic counselor may practice only under the immediately available supervision of a qualified supervisor.

(2) The supervised genetic counselor and the qualified supervisor shall enter into a written supervision contract that:

(a) Specifies the manner of supervision;

(b) Specifies any alternative qualified supervisors, as appropriate;

(c) Is signed by the supervised genetic counselor and the qualified supervisor; and

(d) Is maintained by both the supervised genetic counselor and the qualified supervisor and made available upon request to the Board.

(3) A qualified supervisor shall monitor the performance of a supervised genetic counselor's interaction with a patient and provide consultations, chart reviews, guidance, and instructions with respect to the clinical skills and competencies of the supervised genetic counselor.

(4) A supervised genetic counselor and qualified supervisor shall document face-to-face meetings on at least a monthly basis.

.09 Renewal, Reinstatement, and Continuing Education.

A. Renewal. The Board shall renew the license of a genetic counselor if the genetic counselor meets:

(1) The requirements of COMAR 10.32.01; and

(2) The continuing education requirements of §C of this regulation.

B. Reinstatement.

(1) This section does not apply to a post disciplinary reinstatement as defined under COMAR 10.32.02.

(2) A genetic counselor applying for reinstatement may be denied reinstatement subject to the hearing provisions of Health Occupations Article, §14-405, Annotated Code of Maryland for any of the grounds listed in Health Occupations Article, §14-5G-18, Annotated Code of Maryland.

(3) Subject to §B(2) of this regulation, the Board shall reinstate the license of a genetic counselor who has failed to renew the license if the genetic counselor:

(a) Is of good moral character;

(b) Applies for reinstatement after the date the license expires;

(c) Provides documentation of the continuing education requirements of §C of this regulation;

(d) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and

(e) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .10 of this chapter.

C. Continuing Education.

(1) A genetic counselor shall complete at least 50 hours of continuing education credits approved by the ABGC earned during the 2-year period preceding:

(a) For license renewal, the expiration of a license for genetic counseling; or

(b) For license reinstatement, the date of submission of the application for reinstatement.

(2) A genetic counselor shall obtain the required documentation of continuing education attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

(3) The required documentation shall contain, at minimum, the following information:

(a) Program title;

(b) Sponsor's name;

(c) Genetic counselor's name;

(d) Inclusive date or dates and location of the program;

(e) The number of continuing education hours earned; and

(f) Documented verification that the genetic counselor attended the program by stamp, signature, print-out, or other official proof.

(4) Proof of maintenance of certification by the ABGC may be used to document compliance with the continuing education requirements specified in this regulation.

(5) The Board may request a genetic counselor to submit to the Board evidence of having met the continuing education requirements specified in this regulation.

(6) If a genetic counselor cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to $100 per missing continuing education credit hour.

(7) The continuing education requirement applies to all renewal applications after the first renewal following initial licensure.

.10 Fees.

The following fees are applicable to genetic counselors and supervised genetic counselors:

A. Initial Licensure.

(1) Initial licensure application fee—$300; and

(2) Initial supervised genetic counselor application fee—$100;

B. Renewal of Licensure:

(1) License renewal application fee—$250; and

(2) Maryland Health Care Commission (MHCC) fee—as determined by MHCC in accordance with COMAR 10.25.02;

C. Reinstatement fee—$300;

D. Written verification of licensure fee—$25; and

E. Incomplete application fee—$50.

.11 Sanctioning Guidelines for Genetic Counselors.

A. Subject to provisions of COMAR 10.32.02.10, a disciplinary panel may impose sanctions as outlined in §B of this regulation on genetic counselors and supervised genetic counselors for violations of Health Occupations Article, §14-5G-18(a), Annotated Code of Maryland.

B. Range of Sanctions.

Ground	*Minimum Sanction*	*Maximum Sanction*	*Minimum Fine*	*Maximum Fine*
(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee, or for another	*Reprimand with probation for 2 years*	*Revocation*	*$0*	*$5,000*
(2) Fraudulently or deceptively uses a license	*Probation*	*Revocation*	*$0*	*$5,000*

(3) Is guilty of:				
(a) Immoral conduct while practicing genetic counseling; or	*Reprimand*	*Revocation*	*$0*	*$5,000*
(b) Unprofessional conduct while practicing genetic counseling.	*Reprimand*	*Revocation*	*$0*	*$5,000*
(4) Incompetence.				
(a) Professional incompetence	*Suspension until professional incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(b) Physical incompetence	*Suspension until physical incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(c) Mental incompetence	*Suspension until mental incompetence is addressed to the Board's satisfaction*	*Revocation*	*$0*	*$5,000*
(5) Abandons a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(6) Habitual intoxication	*Suspension until the genetic counselor is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland	*Suspension until the genetic counselor is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(8) Provides professional services while:				
(a) Under the influence of alcohol; or *(b) Using any narcotic or controlled substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts without valid medical indication*	*Suspension until the genetic counselor is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*

(b) Using any narcotic or controlled substance as defined in Criminal Law Article, §5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts without valid medical indication	*Suspension until the genetic counselor is in treatment and has been abstinent for 6 months*	*Revocation*	*$0*	*$5,000*
(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain	*Reprimand*	*Suspension for 5 years*	*$0*	*$5,000*
(10) Willfully makes or files a false report or record in the practice of genetic counseling	*Reprimand*	*Revocation*	*$0*	*$5,000*
(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report	*Reprimand*	*Revocation*	*$0*	*$5,000*
(12) Breaches patient confidentiality	*Reprimand*	*Revocation*	*$0*	*$5,000*
(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient, or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient	*Reprimand*	*Revocation*	*$0*	*$5,000*
(14) Willfully makes a misrepresentation while practicing genetic counseling	*Reprimand*	*Revocation*	*$0*	*$5,000*
(15) Willfully practices genetic counseling with an unauthorized individual or aids an unauthorized individual in practicing genetic counseling	*Reprimand*	*Revocation*	*$0*	*$5,000*
(16) Willfully delegates a genetic counseling duty to an unlicensed individual	*Reprimand*	*Revocation*	*$0*	*$5,000*
(17) Establishes a pattern of excessive or medically unnecessary procedures or treatment	*Reprimand*	*Revocation*	*$0*	*$5,000*

(18) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine	*Reprimand*	*Revocation*	*$0*	*$5,000*
(19) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under this regulation	*Penalty equivalent to that imposed by the original licensing authority, if that penalty is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(20) Fails to meet appropriate standards for the delivery of genetic counseling services	*Reprimand*	*Revocation*	*$0*	*$5,000*
(21) Willfully submits false statements to collect fees for which services are not provided	*Reprimand*	*Revocation*	*$0*	*$5,000*
(22) Has been subject to an 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 the Board's disciplinary statutes, and this regulation, and the licensee: *(a) Surrendered the license issued by the state or country; or* *(b) Allowed the license issued by the state or country to expire or lapse*	*Penalty equivalent to that imposed by the original licensing authority, if that sanction is lesser than the Board's sanction, would be*	*Penalty comparable to what the Board imposes under the equivalent State ground for discipline*	*Fine equivalent to that imposed by the original licensing authority, if that fine is lesser than the Board's fine would be*	*Fine comparable to what the Board imposes under the equivalent State ground for discipline*
(23) Willfully fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(24) Practices or attempts to practice beyond the authorized scope of practice	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(25) Refuses, withholds from, denies, or discriminates against an individual regarding the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive	*Reprimand*	*Suspension for 1 year*	*$0*	*$5,000*

(26) Practices or attempts to practice genetic counseling procedures or uses or attempts to use genetic assessments if the applicant or licensee has not received education and training in the performance of the procedure or the use of the genetic assessment	*Suspension for 3 months*	*Revocation*	*$0*	*$5,000*
(27) Fails to cooperate with a lawful investigation of the Board or a disciplinary panel	*Reprimand*	*Revocation*	*$0*	*$5,000*
(28) Fails to complete a criminal history records check under Health Occupations Article, §14-308.1, Annotated Code of Maryland	*Reprimand*	*Revocation*	*$0*	*$5,000*
(29) Violates any provision of Health Occupations Article, §14-5G, Annotated Code of Maryland, or any rule or regulation pertaining to genetic counseling that is adopted by the Board, the State, or the federal government	*Reprimand*	*Revocation*	*$0*	*$5,000*

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