STATE OF MARYLAND
DHMH

Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201
Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

November 7, 2013

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

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

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

Dear President Miller and Speaker Busch:

It is my pleasure to respectfully submit to the Legislative Policy Committee the Board of Physicians Fiscal Year 2013 Annual Report as required by HB 1325, Section 6 of Chapter 662, Laws of Maryland 1994.

Should you have any questions concerning the attached report, please do not hesitate to have your staff contact Ms. Christine A. Farrelly, Acting Executive Director of the Maryland Board of Physicians, at 410-764-4771. Again, thank you for your continued support of the Department and the Board of Physicians.

Sincerely,

Joshua M. Sharfstein, M.D.
Secretary

Enclosure

cc: Legislative Policy Committee Members
Ms. Lynne B. Porter
Christine A. Farrelly, Acting Executive Director
Patrick Dooley, M.A.
Marie L. Grant, J. D.
Ms. Sarah Albert, MSAR #1414

MARYLAND
BOARD OF PHYSICIANS

ANNUAL REPORT TO
LEGISLATIVE POLICY COMMITTEE

FISCAL YEAR 2013

CH. 662(6)/HB 1325, 1994

HISTORY

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

During the 2011 Session of the General Assembly, the Department of Legislative Services (DLS) conducted a Sunset Review under the authority of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article). The review resulted in 46 recommendations to improve the Board's operations. In 2012, an independent review team led by Dr. Jay Perman, President, University of Maryland, Baltimore, conducted a comprehensive review of the Board's structure and recommended an additional eighteen substantive changes to further enhance the Board's operations.

MISSION

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

BOARD COMPOSITION

Chapter 401 (House Bill 1096) "State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation" passed during the 2013 session of the Maryland General Assembly increased Board membership from 21 to 22 members by adding a second licensed physician with a full-time faculty appointment to serve as a representative of an academic medical institution in the State. Members are appointed by the Governor, based on specific criteria set forth in § 14-202 of the Health Occupations Article. The 22 member Board includes:

- 11 practicing licensed physicians, including 1 Doctor of Osteopathy, appointed by the Governor with the advice of the Secretary of the Department of Health and Mental Hygiene (DHMH) and the advice and consent of the Senate;
- 1 practicing licensed physician appointed at the Governor's discretion;
- 1 physician representative of DHMH nominated by the Secretary;
- 1 licensed physician assistant appointed at the Governor's discretion;

- 2 practicing licensed physicians with full-time faculty appointments to serve as representatives of academic medical institutions, in the State nominated by one of those institutions;
- 5 consumer members, and
- 1 public member knowledgeable in risk management or quality assurance matters appointed from a list submitted by the Maryland Hospital Association.

In FY 13, four physicians and two consumer member appointments expired. The list of current Board Members and their term expiration dates appear in Exhibit 1 on page 32.

EXECUTIVE DIRECTOR'S STATEMENT

During the 2011 Session of the General Assembly, the Department of Legislative Services (DLS) conducted a Sunset Review of the Board under the authority of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article) that resulted in 46 recommendations to improve the Board's operations. In 2012, an independent review team led by Dr. Jay Perman, President, University of Maryland, Baltimore, conducted a comprehensive review of the Board's structure and recommended an additional eighteen substantive changes to further enhance the Board's operations.

In response to these two external reviews, the General Assembly passed Chapter 401 of the 2013 Laws of Maryland (HB 1096 – State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation). The highlights of this legislation are as follows:

1) Establishes two disciplinary panels, each consisting of 11 members, through which allegations of grounds for disciplinary action must be resolved. The Board Chair must assign each member of the Board to one of the panels and select a member of each panel to serve as the Chair of the panel. A quorum of a panel is seven members.

2) Increases total Board membership from 21 to 22 members by adding a second licensed physician with a full-time faculty appointment to serve as a representative of an academic medical institution in the State in order to provide sufficient membership to divide the Board into two disciplinary panels.

3) Repeals the authority of the Board's executive director or another duly authorized investigator of the board, based on a formal complaint, to enter at any reasonable hour private premises where the Board suspects that a person who is not licensed by the Board is practicing medicine. Instead, the Board, based on a complaint, may apply to a judge of the District Court or a circuit court for a search warrant to enter private premises where the Board or a disciplinary panel suspects the unlicensed practice of medicine.

4) Authorizes the Board to impose civil fines against alternative health systems that fail to report certain information so that the civil fine provisions related to reporting by hospitals and related institutions and alternative health systems are the same.

5) Requires that a summary of charges filed against a licensee and a copy of the charging document must be posted on the licensee's online profile until the Board takes action on or rescinds the charges.

The General Assembly also passed the Veterans Full Employment Act, Chapter 155 of the Acts of 2013, that expedites the occupational and professional licensing process for military service members, spouses and veterans. The Board has already implemented internal administrative procedures and processes in order to comply with this new law. Additionally, the legislature passed five bills requested by the Board, as follows:

1) Chapter 583/House Bill 1313 - State Board of Physicians - Consultation, Qualification for Licensure, License Renewal, and Representation to the Public - allows an applicant, who has passed the requisite medical licensing examination after failing the examination or a part of the examination three or more times, to qualify for a license if the applicant meets certain specified requirements.

2) Chapter 597/House Bill 1296 - State Board of Physicians - Quasi-Judicial Powers and the Board of Review - Revisions - authorizes the Board to issue a cease and desist order or obtain injunctive relief against an individual for taking any action (1) for which the Board determines there is a preponderance of evidence of grounds for discipline under the Medical Practice Act, and (2) that poses a serious risk to the health, safety, and welfare of a patient. The bill authorizes the Board to order a licensee to cease performing a specific act (*i.e.* prescribing controlled dangerous substances) when the facts and circumstances of a particular case warrant such action rather than summarily suspending the entire license. In appropriate circumstances, a cease and desist order allows a licensee to continue a limited practice, while still protecting the public from dangerous practices. This bill also repeals the authority for a physician or respiratory care practitioner to appeal a final decision of MBP in specified contested cases to the Board of Review and then take any further appeal allowed by the Administrative Procedure Act (APA). Instead, a physician or respiratory care practitioner may take a direct judicial appeal when aggrieved by a final decision of MBP in any contested case.

3) Chapter 585/Senate Bill 951 and Chapter 586//House Bill 879 - Health Occupations - Polysomnographic Technologists - Licensure and Discipline - authorizes, rather than requires, the Board to reinstate, under specified circumstances, the license of a polysomnographic technologist; repeals the requirement that the Board place a licensed polysomnographic technologist on inactive status under specified circumstances; authorizes the Board, subject to a specified provision of law, to deny a license or take specified action against a licensee for failing to cooperate with a lawful investigation conducted by the Board.

4) Chapter 588/House Bill 980 and Chapter 587/Senate Bill 954 - Maryland Board of Physicians - Authority to Issue Temporary Licenses and Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee - repeals the authority of the Board to issue temporary licenses to practice radiation therapy, radiography, or nuclear medicine technology and repeals specified provisions of law referring to specified temporary licenses.

5) Chapter 308/House Bill 900 and Chapter 307/Senate Bill 690 - Maryland Board of Physicians - Failure to Renew a License or Misrepresentation as a Licensed Person - Penalties - alters the penalties to which a person is subject if the person fails to renew a license to practice medicine or misrepresents to the public that the person is authorized to practice medicine in the State.

In FY 13, the Board's sanctioning guidelines for physicians and AH professionals were adopted. The Maryland Medical Practice Act dictates that complaints should be resolved within eighteen months (§ 14-401(k), Health Occupations Article) upon receipt. The Compliance Unit investigators cleared the backlogged cases and continued tracking and reporting complaint and other data for AH professions in the same manner as physicians within the capacity of the Board's current software system. As of July 1, 2013, only one case was not resolved within eighteen months.

The Board recognizes that there are still many improvements to be made and much more work to be done and appreciates the collaboration with our sister agencies to enhance the efficiency of Board operations. Board staff has been essential in developing ways to improve communication, bring innovation to the processing of its work, and to further advance and refine Board procedures.

FISCAL SERVICES UNIT

The Fiscal Services Unit (Fiscal) is responsible for the oversight, administration and processing of all Board expenditures. The Compliance, Licensure and Allied Health staff collaborates with Fiscal staff to identify, collect, and account for all fees associated with the application process, fines levied and other related licensure and disciplinary actions. Fiscal staff prepares the Board's Budget Request and various other budgetary and fiscal reports for the Executive Director, Legislature, Department of Budget and Management and the Board.

To comply with specific recommendations delineated in the 2011 Sunset Review and the "Report to the Maryland Board of Physicians" submitted by Dr. Jay Perman, the Board created a new project during FY 13. Specifically, effective July 1, 2012, a new cost code (R604S) was created for AH practitioners. The cost code was established to budget AH expenditures under a separate program code and to report AH licensure revenues separate from physicians.

INFORMATION TECHNOLOGY UNIT

The Information Technology (IT) staff continues to collaborate with all of the other Board unit personnel to improve data collection and retrieval processes. The Board maintains practitioner profile data on all licensees on the Board's website at www.mbp.state.md.us. The practitioner profile system currently contains profiles of 100,442 licensees (both active and non-active). The chart below illustrates the details of these profiles.

Active physician licenses: 29,562
Non-active physician licenses (licenses are expired, inactive, suspended, revoked, etc.): 42,414
Active allied licenses: 12,652
Non-active AH licenses (licenses are expired, inactive, suspended, revoked, etc.): 15,814

This web-based system enables Maryland citizens to become more informed consumers about their health care providers by allowing them access to information such as facility privileges, specialties and disciplinary actions from the profile pages. Additionally the following link https://www.mbp.state.md.us/bpqapp/ has been established on the home page of the Board's website for individuals to obtain malpractice information from the physician profile.

The web-based Practitioner Profile System provides a valuable service to Maryland citizens. It allows practitioners the opportunity to update their personal profile information, confidential practice and public addresses as well as areas of concentration, specialties and postgraduate training programs. Their changes appear on the website within 24 hours of submission and the practitioner receives an email confirmation of the changes.

FY 13 marked the eleventh year of the online renewal system. This system has reduced the time it takes a practitioner to complete the license renewal process and has greatly increased the accuracy of data collection. The online renewal system has been expanded to include AH practitioners as well. This system saves the Board thousands of dollars by eliminating the costs of printing and mailing paper renewal forms and greatly simplifies and streamlines the renewal process. This project was undertaken as a cooperative venture between the Board and the Maryland Health Care Commission.

The Board is seeking to purchase a new and integrated medical licensure and investigation software system to enhance and improve the functionality of its current operating system that was installed in 1995 and to meet the Board's obligations pursuant to the 2011 Sunset Review and Perman recommendations. The new software will facilitate the generation of more accurate reports related to data collection of ongoing and completed Board activities. It will also facilitate much more internet based interactions, thereby allowing applicants and clients to receive more timely status reports. This software will also correct some statistical deficiencies, as noted in the 2011 Sunset Review and Perman Report.

IT continues to maintain its "Facility Page" website. This is a "permissions only" website, designed to communicate directly with Maryland Health Care Facilities and to facilitate their credentialing work. Activities related to the Physician Privilege Data System are summarized in Exhibit 2 on page 33.

Facility Page Activity Pursuant to HO§14.411 Access Restricted to Maryland Facilities		
	FY 12	**FY 13**
Number of logins	7,515	7,632
Number of Practitioners searched	27,770	25,745
Number of active facilities	24	24

IT also assists DHMH with the dissemination of important health information to Maryland physicians and AH practitioners. Important health bulletins and educational materials are available at the Board's website www.mbp.state.md.us . Additionally, email notifications are sent to select specialties during State emergencies in cooperation with DHMH and the Office of Preparedness and Response.

COMMUNICATIONS, EDUCATION AND POLICY UNIT

The Communications, Education and Policy Unit (CEP) is responsible for leading various Board training and outreach efforts that include the development, coordination and facilitation of a variety of activities. To comply with the 2011 Sunset recommendations, CEP assisted with coordinating updates to the Board's website. CEP is also responsible for the development of the Board's quarterly newsletter and employees collaborate with other internal and external agency personnel to write or obtain articles. CEP also continued working on designing training for Maryland licensees on topical issues, and exploring initial strategies for developing Continuing Medical Education (CME) courses.

To comply with specific 2011 sunset recommendations, CEP designed and developed a new comprehensive training for all Board members (new and returning). The training was developed and was presented on August 15 and 29, 2012, in collaboration with Board staff, DHMH, the Office of Administrative Hearings (OAH), and the Office of the Attorney General (OAG) specifically, Board Counsel and Health Occupations Prosecution and Litigation (HOPL) Division personnel.

CEP supports the work of the Board, its committees, and staff through the performance of various activities related to the regulatory process under the directives of the Executive Director and the Board. Policy analysts coordinate the development of regulations and legislative proposals, review proposed legislation, prepare position papers, and may represent the Board before the General Assembly. CEP staff attends AH Committee meetings and coordinates responses to regulatory and legislative inquiries addressed to the Executive Director and the Board.

In FY 13, the Board advanced the work that it originated in FY 12 on regulations related to sanctioning guidelines for physicians and AH practitioners as required by Chapter 534, Acts of 2010, (HB 114). The sanctioning guidelines for physicians were re-proposed in November, 2012, to incorporate comments received from interested stakeholders and became effective on January 13, 2013. The sanctions for AH practitioners were originally proposed in July, 2012, with the exception of Athletic Trainers which were submitted in August, 2012. All of the AH regulations were re-proposed in May, 2013, to mirror the changes made in the re-proposed physicians' sanctioning guidelines. The anticipated effective date for the AH sanctioning guidelines re-proposal is July 22, 2013. Regulations to provide an alternate pathway to licensure for radiation therapists, radiographers, nuclear medicine technologists, and radiologist assistants were proposed in January, 2013, but are not yet in effect.

During the 2013 legislative session, the Board Chair assembled an ad hoc Legislative Committee which, together with Board staff, reviewed and tracked 107 House Bills (HB) and 87 Senate Bills (SB) and took a position of Support, Support with Amendments, Oppose, Letter of Support, or Letter of Concern on 62 bills and testified at over 50 hearings. Some of the bills that the Board and/or Board staff addressed or testified on are as follows:

HB 54/SB 354 - Criminal Procedure - State Vulnerable-Adult Abuser Registry;

HB 57/SB 355 - Office of Health Care Quality - Abuser Registry Workgroup;

HB 59 - Dedicated State Funds Protection Act;

HB 67/SB 121 - Health Care Decisions Act - Incapacity to Make Informed Decision - Certification by Psychologist;

HB 179/SB 401 - Pharmacists - Administration of Vaccinations - Expanded Authority and Reporting Requirements;

HB 218 - Physician Assistants - Performance of X-Ray Duties;

HB 225/SB 273 - Veterans Full Employment Act of 2013;

HB 312/SB 334 - Mammograms - Dense Breast Tissue – Notification;

HB 326/SB 333 - Criminal Procedure - Vulnerable Adult Abuse Registry;

HB 327/SB 385 - State Government - Health, Education, and Social Services - Submission of Documents in Electronic Form;

HB 536/SB 738 - Health Occupations - Magnetic Resonance Imaging Services – Study;

HB 630/SB 747 - Rules of Interpretation - Interpretation of "Physician" - Inclusion of Advanced Practice Nurse and Physician Assistant;

HB 716/SB 617 - Drug Therapy Management - Physician-Pharmacist Agreements;

HB 717/SB 285 - Health Occupations - Kinesiotherapy – Study;

HB 723 /SB 460 - Health Occupations - Physician Assistants – Authority to Practice;

HB 854/SB 479 - Criminal Procedure - Expungement of Records - Not Criminally Responsible;

HB 879/SB 951 - Health Occupations - Polysomnographic Technologists - Licensure and Discipline;

HB 890/SB 610 - Health - Overdose Response Program – Establishment;

HB 897/SB 570 - Professional Licensing and Certification Governing Bodies - Child Abuse Mandated Reporter Training and Discipline;

HB 898/SB 455 - Public Health - Abortion Survey System;

HB 899/SB 550 – State Board of Physicians – Disciplinary and Licensure Procedures - Revision;

HB 900/SB 690 - Maryland Board of Physicians - Failure to Renew a License or Misrepresentation as a Licensed Person – Penalties;

HB 980/SB 954 - Maryland Board of Physicians - Authority to Issue Temporary Licenses and Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee;

HB 1006 - Criminal Records - Shielding - Nonviolent Misdemeanor Convictions;

HB 1009 - Cosmetic Surgical Facilities – Regulation;

HB 1014/SB 815 - Public and Nonpublic Schools - Epinephrine Availability and Use – Policy;

HB 1029/SB 783 - State Board of Physicians - Naturopathic Doctors;

HB 1032/SB 166 - Dentists, Physicians, and Podiatrists - Dispensing Prescription Drugs - Inspection by Division of Drug Control;

HB 1042/SB 798 - Hospitals - Credentialing and Privileging Process – Telemedicine;

HB 1096/SB 672 - State Board of Physicians and Allied Health Advisory Committees - Sunset Extension and Program Evaluation;

HB 1115/SB 593 - Health Occupations Boards - License Renewal, Investigation of Alleged Violations, and Immunity from Liability;

HB 1116/SB 509 - Cosmetic Surgery – Regulation;

HB 1151/SB 760 - State Board of Nursing - Certified Nurse-Midwives - Standards and Practice Guidelines;

HB 1202 - Health Occupations - Certified Professional Midwives - Pilot Program;

HB 1263/SB 894 - Prosecution of Offenses Related to Practicing Medicine Without a License - Statute of Limitations – Repeal;

HB 1293/SB 647 - Higher Education and Health Occupations - Nurse Midwifery Program – Study;

HB 1296/SB 981 - State Board of Physicians - Quasi-Judicial Powers and the Board of Review – Revisions;

HB 1313/SB 942 - State Board of Physicians - Consultation, Qualification for Licensure, License Renewal, and Representation to the Public;

HB 1356/SB 512 - Health Care Practitioners - Identification Badge;

SB 44 - Occupational and Professional Licensing - Military Training and Military Spouses;

SB 56 - Unauthorized Institutions of Postsecondary Education - Transcripts, Diplomas, and Grade Reports – Penalties;

SB 80 - Public Health - Prescription Drug Monitoring Program - Disclosure of Prescription Monitoring Data;

SB 94 - Child Abuse and Neglect - Notice and Reporting Requirements, Disclosure, and Task Force;

SB 114 - Health - Pregnant Women - Hepatitis B Testing; and,

SB 153 - Higher Education - Academic Credit for Military Education, Training, and Experience.

SB 781 - Pharmacists - Biosimilar Biological Products – Substitutions;

HB 971 - Regulations - Fees and Fines - Legislative Approval Required;

LICENSURE UNIT

The Licensure Unit (Licensure) is responsible for processing applications for Initial, Reinstatement, Postgraduate Teaching, Conceded Eminence and Volunteer licenses. Licensure also registers unlicensed medical practitioners (UMPs) who are medical school graduates enrolled in an internship, residency, or fellowship program, and administers Exceptions from Licensure for visiting physician consultants licensed in other jurisdictions.

In FY 13, Licensure issued 1,800 initial medical licenses and closed 61 applications, issued 152 reinstated licenses and closed 17 applications, and registered 2,650 UMPs – interns, residents and fellows. The chart below illustrates the total physician licenses issued, including new and reinstated.

Licensure staff continues to refine and improve the licensure process to ensure accuracy and efficiency. The division issued licenses to 93.5% of qualified applicants within 10 days of receipt of the last qualifying document.

NEW MEDICAL LICENSES	**FY 12**	**FY 13**
Licensed	1902	1800
Closed (denied, withdrawn, ineligible)	90	61
Total Applications Completed	1992	1861
REINSTATED LICENSES		
Licensed	163	152
Closed (denied, withdrawn, ineligible)	23	17
Total Applications Completed	186	169
TOTAL APPLICATIONS PROCESSED	2178	2030
UMPs Registered	2899	2650
TOTAL	**5077**	**4680**

Renewing physicians and AH practitioners licenses is also a function of Licensure. During FY 13, the Board renewed the licenses of 14,149 physicians with last names begin with letters "A" through "L" through the online automated system. The system also provides a mechanism for physician feed-back concerning satisfaction with the online renewal process.

During FY 13, the Board renewed 8,699 AH practitioners through the online automated system.

ALLIED HEALTH UNIT

The Allied Health Unit (AH) is responsible for licensing and reinstating Physician Assistants, Radiation Therapists, Radiographers, Nuclear Medicine Technologists, Radiologist Assistants, Respiratory Care Practitioners, Polysomnographic Technologists, Athletic Trainers, and Perfusionists. AH also renews and reinstates a small number of psychiatrist assistants. AH issued licenses to 89% of qualified applicants within 10 days of receipt of the last qualifying document.

The AH Committees advise the Board on matters concerning their professions. Each Committee is required to submit an Annual Report to the Board. At the September 2012 Board meeting, each Committee Chair presented their annual report to the Board describing their activities for FY 12. The following is an account of each of AH Advisory Committee's activities for FY 13.

Physician Assistants

The Board regulates over 2,800 Physician Assistants (PAs) in Maryland. The chart below illustrates the Board's application processing activities for FY 12 and FY 13.

Licensed	**FY 12**	**FY 13**
Initial License	299	281
Reinstatements	45	11
Delegation Agreements	973	990
Renewals	N/A*	2580

* Physician Assistants renew in odd numbered years only.

In FY 13, the Physician Assistant Advisory Committee (PAAC) met 10 times, reviewed, and recommended the approval of 80 delegation agreement addendums for advanced duties to the Board. Board staff preliminarily approved 990 delegation agreements. These documents contain a description of the qualifications of the supervising physician and PAs and the setting and supervision mechanisms that will be employed as well as certain attestations about the delegated medical acts. Advanced duties require additional education and training beyond what PAs receive through their training programs and are added to an existing delegation agreement. Documentation for advanced duties includes a description of the procedure(s), training certificates, procedure logs indicating the number of times the PA performed the procedure during training, supervision mechanisms, and if applicable, approved delineations of hospital privileges.

In addition to approving delegation agreement addendums for advanced duties, the PAAC discussed various scope of practice issues concerning the qualifications for PA practicing psychotherapy, the role of a PA in skilled nursing facilities and PAs using non-fluoroscopic

equipment. The PAAC was also given the opportunity to comment on legislation that authorized PAs to:

- Complete birth and death certificates;
- Serve as witnesses to a written or oral advanced directive;
- Provide an oral emergency medical services do not resuscitate order;
- Update or complete a Medical Orders for Life-Sustaining Treatment (MOLST) form;
- Certify medical conditions or disabilities for an applicant to qualify for a special disability registration number and license plates from the Motor Vehicle Administration (MVA); and
- Certify the existence of a permanent disability for an applicant for a temporary or permanent parking placard from the MVA.

Committee Members:

Mark Dills, PA-C, Chair	Chimene Liburd, M.D., Internal Medicine
Matthias Goldstein, PA-C	Anthony Raneri, M.D., Surgeon
Gigi Leon, PA-C	Ahmad Nawaz, M.D., Board Liaison
Brenda Baker, Consumer Member	

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

The Board regulates over 6,500 radiation therapists, radiographers, nuclear medicine technologists and three radiologist assistants. The chart below illustrates the Board's application processing activities for FY 12 and FY 13.

Licensed	**FY 12**	**FY 13**
Initial Licensure	425	386
Reinstatements	113	81
Renewals	N/A*	6,119

* Radiation Therapists, Radiographers, Nuclear Medicine Technologists and Radiologist Assistants renew in odd numbered years only.

The Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiologist Assistance Advisory Committee (Rad Tech Committee) of the Board met three times during FY 13. Topics included expanding the qualifications for licensure, program accreditation and applicants who did not graduate from accredited educational programs.

In October 2011, the Joint Review Committee on Educational Programs in Nuclear Medicine Technology (JRCNMT) accredited the nuclear medicine technology program at Frederick Community College. In May 2012, the Joint Review Committee on Education of Radiologic Technologists (JRCERT) accredited the radiography program Howard Community College.

The Board continues to receive licensure applications from applicants who have not graduated from an accredited educational program. As a result, the Rad Tech Committee developed regulations that would expand the education qualifications for radiation therapists, radiographers, and nuclear medicine technologists, however these regulations are not effective yet. The

expanded qualifications would allow the Board to consider applicants for licensure who did not graduate from an accredited educational program.

The Rad Tech Committee welcomed Dr. Matthew Snyder, MD, Radiation Oncologist and Amy Taylor, RRA, Radiologist Assistant, to the Committee.

Committee Members:

Anthony Chiaramonte, M.D., Radiologist, Chair	Kentricia McClease, RT(R), Radiographer
Matthew Snyder, M.D., Radiation Oncologist	Robin Krug Enders, RT(T), Radiation Therapist
Darrell McIndoe, M.D., DVM, Nuclear Medicine	Clay Nuquist, C.N.M.T. Nuclear Medicine
Carmen Contee, Consumer Member	Jonathan Lerner, PA-C, Board Member
Vacant - Radiologist Supervising Radiologist Assistant	Amy Taylor, RRA, Radiologist Assistant

Respiratory Care Practitioners

The Board regulates over 2,800 respiratory care practitioners (RCPs). The chart below illustrates the Board's application processing activities for RCPs in FY 12 and FY 13.

Licensed	**FY 12**	**FY 13**
Initial Licensure	195	222
Reinstatements	40	37†
Renewals	2,591**	N/A*

*Respiratory care practitioners only renew in even years.
** This number includes 11 psychiatric assistants that renewed during FY 12.
† Includes one psychiatrist assistant

The Respiratory Care Professional Standards Committee (RCPSC) met twice during FY 13. Topics discussed included reciprocity of out-of-state RCPs transporting patients to Maryland and whether the out-of-state RCPs can perform respiratory procedures on a patient in an ambulance if the ambulance is in Maryland, defining basic pulmonary function testing and non-respiratory care practitioners setting up durable medical equipment, specifically Continuous Positive Airway Pressure (CPAP) and Bilevel Positive Airway Pressure (BiPAP) equipment. RCPSC is working on preparing a position statement about who may setup CPAP and BiPAP machines.

RCPSC welcomed Dr. Dilip Nath, cardio-thoracic surgeon, Dr. John E. Brown, pulmonologist and Julie Rogers, consumer member to the committee.

Committee Members:

Matthew Davis, RRT, Chair	Thomas Grissom, M.D, Anesthesiologist
Robin Smith, RRT	Dilip Nath, M.D., Thoracic Surgeon
Kylie O'Haver, RRT	Julie Rogers, Consumer Member
John E. Brown, M.D., Pulmonologist	

Polysomnography

The Board regulates over 150 Polysomnographic Technologists. The chart below illustrates the Board's application processing activities for FY 12 and FY 13.

Licensed	**FY 12**	**FY 13**
itial Licensure	33	52
Reinstatements	1	1
Renewals	100	N/A*

*Polysomnographic technologists renew in even years.

The Polysomnography Professional Standards Committee (PPSC) met four times during FY 13. The PPSC discussed establishing a clinical component of an educational program, scope of practice issues (e.g., performing home or nursing home sleep tests), licensure requirements for out-of-state applicants, exemption of respiratory care practitioners from the polysomnography licensure requirement and a physician's role in polysomnography.

The PPSC welcomed Brenda McKinley, consumer member, to the Committee. FY 13 was the end of the second term of four of the original committee members.

Committee Members

Brian Bohner, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine	Susheel Patil, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine
Anne Harter, RRT, RPSGT	Douglas Rousseau, RRT, RPSGT
Helen Emsellem, M.D., Neurology and Sleep Medicine	Michael DeLayo, RPSGT
Brenda McKinley, Consumer Member	

Athletic Trainers

The Board regulates over 500 Athletic Trainers. The chart below illustrates the Board's application processing activities for FY 12 and FY 13.

Licensed	**FY 12**	**FY 13**
Initial Licensure	404	106
Reinstatements	N/A*	N/A
Renewals	N/A*	N/A
Evaluation and Treatment Protocols	414	130

*The first renewal cycle will begin on August 5, 2013 for athletic trainers. Their licenses expire on September 30, 2013.

The Athletic Trainer Committee (ATC) met six times during FY 13. The ATC discussed expanding the scope of practice to include tactical/industrial athletes, amending the statute to allow athletic trainers to practice prior to Board approval of the evaluation and treatment protocol, frequently asked questions for the website, and concussion management. They reviewed seven evaluation and treatment protocols with specialized tasks.

Committee Members

John Bielawski, ATC, Chair	Richard Peret, PT - Physical Therapist
Karl Bailey, ATC	John Michie, D.C., Chiropractor, Sports Medicine
Lori Bristow, M.Ed, ATC	Karen James, OTR/CHT – Occupational Therapist
Valerie Cothran, M.D., CAQ, Family and Sports Medicine	Andrew Morris Tucker, M.D., Orthopedic and Sports Medicine
Richard Hinton, M.D., Orthopedics and Sports Medicine	Theresa Lewis – Consumer Member
Benita Wilson – Consumer Member	

Perfusionists

The statute governing Perfusionists went into effect on October 1, 2012. The licensing requirement will go into effect on October 1, 2013. The Board appointed seven members to the Perfusion Advisory Committee (PAC). The PAC first met on October 4, 2012 and met six more times during FY 2013. They have been working diligently on developing and editing regulations.

Committee Members:

Phillip E. F. Roman, M.D., MPH Cardiothoracic Anesthesiology	Keith Amberman, CCP
Bryan M. Steinberg, M.D. Cardio-Thoracic Surgery	Shelley Dulik-Brown, BS,CCP
Jeffrey T. Swett, M.D., Internal Medicine	Tim Moretz, CCP
Theresa Lewis, Consumer Member	

COMPLIANCE UNIT

The Compliance Unit (Compliance) is responsible for investigating all complaints, reports, and information involving licensees of the Board. Compliance staff investigates to determine if there has been a potential violation of the law governing physicians and other health care providers regulated by the Board. If violations of the law are substantiated, the Board may reprimand any licensee, place any licensee on probation, or suspend or revoke a license.

There are different stages involved in the investigation of a complaint: a preliminary investigation, a full investigation, prosecution after a board vote to charge and after the resolution of the investigation, monitoring by the Probation Unit (Probation) of Compliance. Monitoring by the Probation analysts may include further investigation that results in new charges, orders to show cause, summary suspensions, and surrenders for violations of probation and other provisions of the Maryland Medical Practice Act.

Intake Unit

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

During the intake process, a complaint is reviewed and analyzed, relevant records are subpoenaed and the respondent (i.e. licensee who is the subject of the complaint) is requested to respond to the complaint. In most standard of quality care cases a medical consultant will review all the materials obtained. Thereafter, the investigation is presented to the Investigative Review Panel (IRP). Most complaints are closed at this stage because no violation of the Maryland Medical Practice Act occurred. Cases not closed will proceed to a full investigation.

The Intake Unit (Intake) performs preliminary investigations on all complaints in which the Board has jurisdiction. Intake received and processed 988 complaints during FY 13. To accomplish this task, Intake staff reviews and analyzes each complaint to determine the Board's jurisdiction with respect to allegations. Intake presented 622 cases for review by the Investigative Review Panel (IRP). Intake generated 115 advisory letters, prepared 13 Orders in reciprocal

cases (i.e. cases where Maryland takes action because another state took action against the licensee) and processed 12 cases involving deficiencies of continuing medical education credits (first-time offenders receive an administrative fine for missing CME/CEU hours).

Investigations Unit

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

The complaints received at the Board cover a wide range of allegations, including but not limited to, boundary violations, sexual improprieties, substance abuse, standard of care and standard of documentation violations, illegal and illegitimate prescriptions, professional, physical or mental incompetency, misrepresentations in the medical record and in applications and practicing without a medical license. Investigations is responsible for fully developing the cases through objective investigative fact finding directed towards proving or disproving each alleged violation of the Act.

Based on information gathered during an investigation, the Board may determine that there is a risk of imminent danger to the public health, safety and welfare posed by the licensee. The Board may vote to Summarily Suspend the practitioner's license. A Summary Suspension suspends the practitioner's license before the evidentiary hearing is held at OAH. Following the Board's vote for a summary suspension, the case is transmitted to the OAG.

Upon receipt of the Summary Suspension documents from the OAG, Compliance handles service on the Respondent and prepares for the corresponding pre or post-deprivation hearings in the matter. These pre or post deprivation hearings are not full evidentiary hearings; no witnesses are permitted. The issue is whether or not the respondent is an imminent danger to the public. If the respondent is dissatisfied with the result, he or she can also request an evidentiary hearing at the OAH. Once the pre or post-deprivation hearing at the Board is completed, a summary suspension case follows the usual track of issuing a formal charging document, offering a settlement conference, and if not settled, a full evidentiary hearing at the OAH. In FY 13, the Board issued 17 Summary Suspension Orders and held 16 hearings before the full Board on those orders.

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

Compliance is also responsible for cases after completion of the Board's investigation and oversees cases from the time of issuance of charges until the case has a final disposition.

Compliance also processes all Charging documents, Final Orders, Disposition Agreements, Letters of Surrender, Suspensions, Orders for Summary Suspension and Revocations.

As a result of the investigation of the original complaint the Board, after a review of the investigatory information at the end of any stage of the process, may determine to close an investigation or to continue the investigation and ultimately take some form of action against a practitioner's license. In FY 13, Compliance received and resolved the following Complaints, as illustrated in the table below along with data for FY 10, FY 11 and FY 12:

Performance Measures	**FY 10**	**FY 11**	**FY 12**	**FY13**
New Complaints Received	994	988	1,202	988
Complaints Pending from Previous Fiscal Years	702	739	870	254
Total Complaints	1,696	1,727	2,072	1242
Complaints Resolved without Formal Disciplinary Action	628	589	1,272	633
Complaints Resolved with Nonpublic Advisory Letter	227	167	261	238
Complaints Resolved with Formal Action	102	180	197	342
Total Complaints Resolved	957	936	1,747	1213
Participants Under Monitoring in Probation	110	120	140	211

Notification of Board Disciplinary Actions and Mandated Reporting of Actions

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

Case Resolution Conference

After the service of charges, the Board offers the respondent a Case Resolution Conference (CRC) which is a voluntary, informal, and confidential proceeding to explore the possibility of a consent order or other expedited resolution of the matter. The Board has a designated CRC committee comprised of a panel of the Board which meets with the respondent and administrative prosecutor to negotiate such a settlement. A proposed Consent Order must be affirmed by a majority of the quorum of Board. During FY 13, the CRC reviewed 96 charged cases and Compliance staff presented 128 Consent Orders, Letters of Surrender and Final Orders to the Board for ratification. Cases that are settled by a Consent Order do not proceed to a formal, evidentiary hearing at OAH.

Cases Proceeding to the Office of Administrative Hearings

A licensee may request an evidentiary hearing in lieu of CRC or following the CRC. Compliance is responsible for referring the case to the OAH. Following the evidentiary hearing, OAH issues a proposed decision which is received by Compliance. Both parties, the licensee and the administrative prosecutor, may file with the Board exceptions to the OAH decision. Once exceptions are filed by the parties, the case is set for an Exceptions Hearing before the full Board. After consideration, the Board may accept, reject or modify the proposed decision of the Administrative Law Judge (ALJ). During FY 13, the Board had 16 Exceptions Hearings. In addition, the Board considered nine proposed ALJ decisions in cases where the parties did not file exceptions.

Probation and Active Monitoring of Licensees under Board Order

At the end of FY 13, five Probation Analysts in the Probation Unit (Probation) monitored 211 licensees who were under a Board Order requiring terms and conditions for continued practice. Terms and conditions can include probation, chart review, peer review, enrollment in the Maryland Professional Rehabilitation Program (MPRP), completion of coursework, payment of fines and any other sanctions imposed by the Board.

Compliance is also responsible for monitoring suspended licensees. These licensees are required to complete terms and conditions before they are allowed to petition the Board to terminate their suspension. After completion of terms and conditions of the Board's order, a licensee can request termination of probation and/or suspension. This process generally involves submitting a petition to the Board, further investigation by the Probation Analyst and verification of the conditions being met. The case is then presented to the Termination of Order Panel, comprised of a panel of the Board. In FY 13, 27 cases (18 Termination of Probation, 4 Termination of Suspension, 1 Termination of Corrective Action Agreements and 4 Termination of Consent Orders) were presented by the Probation Analysts to the Termination of Order Panel. In FY 13, the Probation Analysts presented five (5) cases to the Reinstatement Inquiry Panel.

Licensees are responsible for compliance with their Orders and rehabilitation agreements with the Board. However, the active monitoring and investigating assists and encourages the licensees to improve and meet the requirements the Board has set for them. Any potential violations of Board Orders are investigated as violations of the order issued by the Board. Based on these investigations, the Board can take the appropriate action which could include issuing charges for violations of probation and Show Cause Hearings, all of which may result in further sanctioning by the Board. The licensee is provided with a Show Cause Hearing before the Board to demonstrate why the Board should not take further disciplinary action. In FY 13, the Board held two Show Cause Hearings.

Enforcement of Maryland's Self-Referral Law

The Maryland Self-Referral law, enacted in 1993, prohibits a health care practitioner from referring a patient to another health care entity in which the health care practitioner has a financial interest. This is a complicated law with many exceptions. The Board issued a

declaratory ruling in 2006 addressing particular fact patterns of alleged self-referrals, with the intent of indicating the Board's view on the propriety of certain referrals. The Board's ruling on MRI scans was appealed and ultimately affirmed by the Maryland Court of Appeals on January 24, 2011.

In June of 2011, the Board opened preliminary investigations on additional 47 physicians as a result of potential self-referral complaints. In March of 2013, 46 cases were closed with no formal disciplinary action and one case was closed with a Consent Agreement with no formal disciplinary action.

Maryland Professional Rehabilitation Program

Compliance monitors the contract awarded to The Center for a Healthy Maryland, the entity that administers the Board's rehabilitation program, known as the Maryland Professional Rehabilitation Program (MPRP). The contract term is from January 1, 2010, to December 31, 2014. The Board's program provides services to licensees who are in need of treatment and rehabilitation for alcoholism, chemical dependency, or other physical, or psychological conditions. The MPRP develops a comprehensive rehabilitation plan for participants that involves providing information, testing, evaluation, referral for treatment and monitoring of the licensees' adherence to the requirements. The Board relies on the clinical expertise of the MPRP in developing an appropriate rehabilitation plan.

Pursuant to Chapter 539 (SB 255) passed during the 2007 Legislative Session; the MPRP provides services only to individuals whom the Board refers in writing. The referrals can include any individual licensed by the Board or applicants for licensure. Compliance staff and MPRP staff communicate frequently and have at least two meetings per quarter to discuss participants that have been referred by the Board. At the end of FY 13 there were a total of 54 participants in the MPRP. The Board anticipates an increase in the number of participants.

Participants by Licensure Type

Licensure Type	**Number of Participants**	
	FY 12	**FY 13**
M.D. or D.O.	32	43
Physician Assistant	4	5
Nuclear Medicine Technologists	1	3
Respiratory Care Practitioners	3	2
Radiographer	3	1
Total Participants	**43**	**54**

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

Participants by Category

Category	**FY 12**	**FY 13**
Alcohol	10	8
Drug	24	27
Psychiatric Diagnosis	4	4
Dual Diagnoses*	5	6
Other /Behavioral	0	9
Total	**43**	**54**

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

MPRP Staff:

Chae Kwak, L.C.S.W.-C
Director of Professional Rehabilitation Programs

Laura Berg, LCSW-C
Senior Clinical Case Manager

Susan Bailey, M.D.
Medical Director, Professional Rehabilitation Program

Linda Rodriguez, LCSW-C
Clinical Case Manager

Janice Whelchel
Program Assistant

Maryland law requires the Board to provide a Professional Rehabilitation Program (PRP) to physicians, and physician assistants and AH professionals. The program is intended to encourage physicians and all AH practitioners to seek assistance with addressing alcohol and drug abuse and other impairing conditions that may affect safe practice of medicine.

Although other AH practitioners participate in the physician rehabilitation program, currently, only a percentage of the application fees of physicians and physician assistants are transferred to support the program. The 2011 sunset recommends eliminating this fee; however, the Board is considering an analysis to extend the percentage across all practitioners' license fees to support the program.

THE LEGISLATIVE REPORT

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

Complaints Filed

In FY 13, the Board received 633 consumer complaints and 355 complaints from other sources, for a total of 988 complaints. The Board resolved 633 complaints with no action and 238 with Advisory Letters. The Board issued fines totaling $288,800. The Board issued 342 formal disciplinary actions (see detail of Board Disciplinary Actions, Page 22, D.).

Advisory Opinions

During FY 13, the Board sent 238 advisory opinions to practitioners, which are confidential letters that inform, educate, or admonish a health care provider in regard to the practice of medicine under the Maryland Medical Practice Act. The various issues addressed in these letters include: the importance of legibility of medical records and the advisability of consideration of a typed or electronic version of the records, the importance of ensuring the accuracy of all reports that the physician signs, the timely communication with patients and the appropriate follow up after a patient undergoes a surgical procedure.

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

In FY 13, the Board opened 1,242 investigations on 1,036 physician licensees. The total allegations against the physicians are 1,145 as found in Table A beginning on page 23.

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

During FY 13, the Board completed investigations of 1,213 allegations. The allegations brought against physicians and the average length of time spent investigating these allegations appear in Table B beginning on page 26**.** Table B includes the number of days from initial complaint until final disposition.

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

As of July 1, 2013, 43 cases have not been resolved within 18 months. There is one case at the Board; there are 42 cases at various stages at the OAG. The following charts illustrate the last stage of each of these cases at the end of FY 13.

Cases at the Board

	FY 11	**FY 12**	**FY13**
Case Management	73	18	1
Peer Review	6	7	0
Total	**79**	**25**	**1**

These figures may represent multiple case numbers on the same Respondent.

Cases at the OAG

	FY 11	**FY 12**	**FY13**
Prosecutor's Office (cases not yet charged)	42	38	8
Prosecutor's Office (cases charged; CRC held or failed; case may or may not be set for hearing at OAH)	49	67	26
Board Counsel's Office (awaiting Final Order)	11	5	8
Total	**102**	**110**	**42**

These figures may represent multiple case numbers on the same Respondent.

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

Office of the Attorney General: The process of Case Review instituted by the Board and the OAG continues to be effective in maintaining the timely resolution of charged cases. Productivity of investigations in bringing cases to the Board for charging and a number of cases requiring emergency action and summary suspension processes resulted in the OAG receiving a significant increase in the number of referrals to its office. In addition, respondents may take cases to trial which significantly extends the time before a case can be resolved.

D. The number of physicians and AH practitioners who were reprimanded or placed on probation, or who had their licenses suspended or revoked during FY 13.

FY13 DISCIPLINARY ACTIONS

Disciplinary Definitions	PHYSICIANS	PHYSICIAN ASSISTANTS	ALLIED HEALTH	TOTALS
LOSS OF LICENSE: Summary Suspension, Revocation, Suspension, Letter of Surrender & Denials	90	8	18	116
RESTRICTION OF LICENSE: Reprimand with Probation or Conditions, Probation, Conditions	77	3	5	85
OTHER PREJUDICIAL ACTION: Reprimand & Cease & Desist	22			22
OTHER PREJUDICIAL ACTION: CMEs	11		4	15
OTHER PREJUDICIAL ACTION: Practicing without a license	9	1	9	19
NON-PREJUDICIAL ACTION: Summary Suspension Lifted, License Granted, Termination & Non-Public Orders	71	2	12	85
TOTAL DISCIPLINARY ACTIONS	**280**	**14**	**48**	**342**
FINES (Disciplinary)	$177,000			$177,000
ADMINISTRATIVE FINES (CMEs)	$31,100		$4,700	$35,800
FINES (Unlicensed Practice of Medicine)	$71,000	$500	$4,500	$76,000
TOTAL FINES	**$279,100**	**$500**	**$9,200**	**$288,800**

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

A total of 747 allegations remain unresolved and are pending before the Board as of June 30, 2013.

TABLE A

NUMBER OF ALLEGATIONS INVESTIGATED UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER HO §14-404
COMPLAINTS FILED DURING FY 13

Ground	Description	Complaints
404(a)1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	0
2	Fraudulently or deceptively uses a license.	1
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	556
4	Is professionally, physically, or mentally incompetent.	16
5	Solicits or advertises in violation of HO§14-503.	1
6	Abandons a patient.	8
7	Habitually is intoxicated.	1
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	1
9	Provides professional services while under the influence of alcohol; or while using any narcotic or controlled dangerous substance, as defined in Section 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication.	1
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	1
11	Willfully makes or files a false report or record in the practice of medicine.	15
12	Fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to file or record the report.	1
13	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health General Article, fails to provide details of a patient's medical record to another physician or hospital.	63
14	Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician.	0
15	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient.	2
16	Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient unless the licensed physician discloses on the bill to the patient or third-party payor: the name of the laboratory; the amount paid to the laboratory for the test or test series; and the amount of procurement or processing charge of the licensed physician, if any, for each specimen taken.	0
17	Makes a willful misrepresentation in treatment.	0
18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	6
19	Grossly over utilizes health care services.	8
20	Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine.	1
21	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section.	26

22	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.	331
23	Willfully submits false statements to collect fees for which services are not provided.	16
24	Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee: (i) surrendered the license..; or (ii) allowed the license to expire or lapse.	1
25	Knowingly fails to report suspected child abuse in violation of §5-704 of the Family Law Article.	1
26	Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by §20-113 of the Health-General Article.	0
27	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes.	30
28	Fails to comply with the provisions of HO§12-102 (Physician Dispensing).	1
29	Refuses, withholds from, denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.	1
30	Except as to an association that has remained in continuous existence since July 1, 1963: (i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy, (ii) Employs a pharmacist for the purpose of operating a pharmacy, or (iii) Contracts with a pharmacist for the purpose of operating a pharmacy.	0
31	Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions.	0
32	Fails to display the notice required under HO§14-415.	0
33	Fails to cooperate with a lawful investigation conducted by the Board.	0
34	Is convicted of insurance fraud as defined in §27-801 of the Insurance Article.	0
35	Is in breach of a service obligation resulting from the applicant’s or licensee’s receipt of State or federal funding for the licensee’s medical education.	0
36	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.	15
37	By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0
38	By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board in furtherance of any investigation of the Board.	0
39	Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0
40	Fails to keep adequate medical records as determined by appropriate peer review.	40
41	Performs a cosmetic surgical procedure in an office or a facility that is not accredited by the American Association for Accreditation of Ambulatory Surgical Facilities, the Accreditation Association for Ambulatory Health Care; or the Joint Commission on the Accreditation of Health Care Organizations or certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act.	0
404(b)	Crimes of moral turpitude	1
TOTAL ALLEGATIONS AGAINST PHYSICIANS		**1145**

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

The following chart illustrates the investigations opened concerning AH practitioners during FY 13:

Allied Health Practitioners	Number of Investigations
Physician Assistant (C)	67
Radiographer and Radiation Therapist (R,O,M)	50
Nuclear Medicine Technologist (N)	11
Respiratory Care Practitioner (L)	24
Athletic Trainers (A)	1
Polysomnographic Technologists (Z)	0
Total	**153**

There were a variety of allegations that included drug and or alcohol abuse, termination of employment for being unavailable to patients, continuing to practice after expiration of certification, allowing a non-licensed radiographer to perform CT scans and competency issues due to hearing and vision impairments. In FY 13, the Board issued 62 formal actions in regard to AH practitioners.

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

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

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

Please refer to the report from the OAG. See Exhibit 3.

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

Please refer to the report from the OAG. See Exhibit 3**.**

J. Corrective Action Agreements

During FY 13, the Board had no Corrective Action Agreements.

TABLE B			
ALLEGATIONS BROUGHT AGAINST PHYSICIANS UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER HO §14-404- COMPLAINTS RESOLVED DURING FY 13			
Grounds	**Description**	**Allegations**	**Days**
1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	0	0
2	Fraudulently or deceptively uses a license.	1	20
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	317	357
4	Is professionally, physically, or mentally incompetent.	27	439
5	Solicits or advertises in violation of HO§14-503.	1	67
6	Abandons a patient.	9	188
7	Habitually is intoxicated.	4	161
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	9	648
9	Provides professional services while under the influence of alcohol; or while using any narcotic or controlled dangerous substance, as defined in Section 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication.	5	445
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	2	573
11	Willfully makes or files a false report or record in the practice of medicine.	23	659
12	Fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to file or record the report.	1	78
13	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health General Article fails to provide details of a patient's medical record to another physician or hospital.	52	100
14	Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician.	0	0
15	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient.	0	0
16	Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient unless the licensed physician discloses on the bill to the patient or third-party payor: the name of the laboratory; the amount paid to the laboratory for the test or test series; and the amount of procurement or processing charge of the licensed physician, if any, for each specimen taken.	0	0
17	Makes a willful misrepresentation in treatment.	1	1214
18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	15	464
19	Grossly over utilizes health care services.	13	558
20	Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine.	1	81

21	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section.	26	169
22	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.	254	417
23	Willfully submits false statements to collect fees for which services are not provided.	22	725
24	Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee: (i) surrendered the license...; or (ii) allowed the license ...to expire or lapse.	2	61
25	Knowingly fails to report suspected child abuse in violation of §5-704 of the Family Law Article.	0	0
26	Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by §20-113 of the Health-General Article.	0	0
27	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes.	45	455
28	Fails to comply with the provisions of HO§12-102 (Physician Dispensing).	1	61
29	Refuses, withholds from, denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.	1	63
30	Except as to an association that has remained in continuous existence since July 1, 1963: (i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy, (ii) Employs a pharmacist for the purpose of operating a pharmacy, or (iii) Contracts with a pharmacist for the purpose of operating a pharmacy.	0	0
31	Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions.	0	0
32	Fails to display the notice required under HO§14-415.	0	0
33	Fails to cooperate with a lawful investigation conducted by the Board.	0	0
34	Is convicted of insurance fraud as defined in §27-801 of the Insurance Article.	0	0
35	Is in breach of a service obligation resulting from the applicant’s or licensee’s receipt of State or federal funding for the licensee’s medical education.	0	0
36	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.	30	275
37	By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0	0
38	By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board in furtherance of any investigation of the Board.	0	0

39	Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0	0
40	Fails to keep adequate medical records as determined by appropriate peer review.	24	382
41	Performs a cosmetic surgical procedure in an office or a facility that is not accredited by the American Association for Accreditation of Ambulatory Surgical Facilities, the Accreditation Association for Ambulatory Health Care; or the Joint Commission on the Accreditation of Health Care Organizations or certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act.	0	0
404(b)	Crimes of moral turpitude	7	425
TOTAL RESOLVED ALLEGATIONS AGAINST PHYSICIANS		**893**	

The OAG provided day-to-day legal advice to the Board regarding ongoing cases, investigations, procedures, contractual and procurement issues, and assisted the Board in writing 53 decisions. The office also advised the Board on regulations and legislation. In addition, the office was involved in the following litigation on behalf of the Board in FY 13.

Barson v. State Board of Physicians, 211 Md. App. 602 (2013). Dr. Barson sued in the Circuit Court for Baltimore City, seeking an order requiring the Board to revise a consent order that she has entered into with the Board a few months earlier. The circuit court dismissed her suit. Upon further appeal, the Court of Special Appeals affirmed the dismissal, ruling that a party who has entered into a consent order with the Board does not have the right to revise it.

Battle v. Board of Physicians (Cir. Ct. Balto. City No. 24 C-12-2010). Dr. Battle, who was not sanctioned by the Board, requested that the Board pay his litigation fees. When the Board declined, Dr. Battle appealed that denial to the circuit court. The circuit court denied his request.

Blumberg, DeWeese, Maryland Radiological Society and Johns Hopkins Health System Corporation v. Board of Physicians (Balto. Co. Cir Ct. consolidated cases Nos. 03-C-13-004430 and 03-C-13-005167). The plaintiffs in this case were complainants before the Board who alleged that the operations of Chesapeake Urology Associates violated the Maryland Patient Referral Law. The Board investigated that complaint but declined to issue charges. The Board instead entered into a consent order with Chesapeake Urology which included a temporary limit on certain referrals. The plaintiffs appealed, arguing that they have standing to appeal because they were the complainants and because the Board's action affected their interests. The University of Maryland Medical Systems Corporation and the Maryland Hospital Association have petitioned the court to be allowed to join as additional plaintiffs in the case. The Board moved to dismiss the action, and the parties are awaiting a hearing on that motion and other pending motions.

Blumberg, DeWeese, Maryland Radiological Society and Johns Hopkins Health System Corporation v. Board of Physicians (DHMH Board of Review Case No. 14-49). These are parallel cases to those brought by the same parties in the Baltimore County Circuit court.

Carr v. Board of Physicians (DHMH Board of Review Case No. 13-62). Karen Carr was fined by the Board for practicing medicine without a license based on her treatment of two pregnant

women and two of their newborn babies, one of whom died after Ms. Carr advised the mother, against the advice of emergency medical personnel on the scene, that the newborn did not need to be hospitalized. The case has been briefed, and oral argument is scheduled for September 26, 2013.

Choudry v. Board of Physicians (Court of Special Appeals No. 01707, September Term, 2012). Dr. Choudry was sanctioned by the Board for appearing for work at the hospital under the influence of alcohol. Dr. Choudry appealed to the Circuit Court for Montgomery County, but that court affirmed the Board's decision. Dr. Choudry then appealed to the Court of Special Appeals, but he withdrew his appeal on April 18, 2013.

Barry Cohen v. Board of Physicians (Cir. Ct. Mont. Co. No. 376583V). Dr. Cohen appealed the Board decision sanctioning him for failing to keep adequate medical records. The case is pending.

Davis v. Knipp, et al, (Court of Appeals, Petition Docket No. 124, September Term, 2012). Dr. Davis sued ten current and ten previous members of the Board, the Executive Director, the Administrative Prosecutor, and DHMH in the Circuit Court for Harford County for a total of $78 million in damages and reinstatement of his license, based on allegations of negligence, gross negligence, malice, libel, and violations of his civil rights. The circuit court dismissed the case on the ground of *res judicata, i.e.,* on the ground that Dr. Davis had brought the same case against the same defendants three times before and had lost. Dr. Davis appealed to the Court of Special Appeals. That court, however, agreed that the circuit court had properly dismissed the case. (No. 01939, September Term, 2010). Dr. Davis then filed a petition for *certiorari* in the Court of Appeals. The Court of Appeals denied certiorari on August 12, 2012. On April 26, 2013, the Board filed a motion for attorney's fees in the Circuit Court for Harford County. That motion is pending. (Case Number 12-C-09-004203).

Davis v. Maryland State Board of Physicians (Cir. Ct. Harford Co. Case No. 12-C-11-003310). Dr. Davis filed essentially the same claims that he filed in *Davis v. Knipp, et al*, Circuit Court for Harford County (Case Number 12-C-09-004203), suing this time the Board itself rather than the individual Board members. The Board has moved to dismiss the case.

Dino Delaportas v. Board of Physicians (Cir. Ct. Wash. Co. No. 12-C-13-046735). Dr. Delaportas has appealed the Board's decision sanctioning him for providing deficient care. The case is pending.

David Geier v. Maryland Board of Physicians (Cir. Ct. Mont. Co. Case No. 374822V). The Board found that Mr. David Geier practiced medicine without a license in the offices of his father, Dr. Mark Geier. Mr. David Geier filed an appeal to the Board of Review of DHMH, but that board affirmed the physicians' board's ruling. Mr. David Geier then appealed to the circuit court, where the case is now pending.

*Dr. Mark Geier v. Maryland Board of Physician (*Cir. Ct. Montgomery County, No. 368510-V). Dr. Mark Geier's license was revoked by the Board for multiple failures to meet standards for the appropriate treatment of patients. Dr. Geier then filed petitions for judicial review

simultaneously in Baltimore City and in Baltimore and Montgomery Counties. After considerable litigation, Dr. Geier dismissed two of these suits, and the suit in Montgomery County is being briefed on the merits.

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

Greenberg v. Maryland Board of Physicians (Court of Special Appeals, No. 0039, September Term, 2012). After the Board revoked Dr. Greenberg's license for violation of a previous consent order, Dr. Greenberg filed a petition for judicial review in the Circuit Court of Montgomery County. That court affirmed the Board's decision. Dr. Greenberg then filed an appeal to the Court of Special Appeals, but that court affirmed the Board's decision in an opinion dated April 9, 2013.

Joseph G. Jemsek, M.D. v. Maryland State Board of Physicians (Court of Special Appeals, No. 02813, September Term, 2011). The Board denied Dr. Jemsek a Maryland medical license based on discipline by the State of North Carolina for violations of the standard of quality care and unprofessional conduct in that state. The circuit court affirmed the Board's decision. Dr. Jemsek then appealed to the Court of Special Appeals, which also affirmed the Board's decision. Dr. Jemsek then filed a petition for *certiorari* in the Court of Appeals, but that court denied *certiorari* on September 24, 2012. (Petition Docket No. 233, September Term, 2012)

Marshall v. Koya, et al. (District Court. of Maryland for Baltimore City No. 01010027900-2012). Mr. Marshall alleged that a Board employee refused to stop physicians and other providers from denying him medical care in prison. The court granted the Board's motion to dismiss on January 14, 2013.

Oscar Ramirez, M.D. v. Maryland State Board of Physicians (Court of Special Appeals, No. 02657, September Term, 2012). After the Board sanctioned Dr. Ramirez for violations of the standard of care in his performance of cosmetic surgery, Dr. Ramirez filed a petition for judicial review with the Circuit Court of Baltimore City. That court, in Case No. 24-C-11-005114, affirmed the Board's decision. Dr. Ramirez then appealed to the Court of Special Appeals, but that court also affirmed the Board's decision. Dr. Ramirez then petitioned for *certiorari* to the Court of Appeals, but that court denied *certiorari* on July 5, 2013. (Petition Docket No. 138, September Term, 2013)

Donald Roane, M.D. v. Maryland State Board of Physicians (Court of Special Appeals, No. 00271, September Term, 2012). The Board summarily suspended Dr. Roane's license after a full evidentiary hearing, for sexually predatory activities towards patients. Dr. Roane filed a petition for judicial review with the Circuit Court of Anne Arundel County. That court dismissed his petition as moot, because Dr. Roane's license had since been revoked. Dr. Roane then appealed to the Court of Special Appeals, which held oral argument on May 2, 2013.

Donald Roane, M.D. v. Maryland State Board of Physicians (Court of Special Appeals No. 000542, September Term, 2012). The Board revoked Dr. Roane's license for sexually predatory behavior towards patients. Dr. Roane filed a petition for judicial review with the Circuit Court of Anne Arundel County. That court affirmed the Board's decision. Dr. Roane then appealed to the Court of Special Appeals, which held oral argument on May 2, 2013.

Nicola Riley v. State Board of Physicians (Balto. City Cir. Ct. No. 24-C-13-003573). Dr. Riley appealed the Board's decision revoking her license for making false statements on her application and violating the standard of care and requested that the court stay the Board's decision. After the Board filed an opposition to the stay, Dr. Riley withdrew her motion. The case is pending.

Michael Rudman v. Maryland State Board of Physicians (Court of Special Appeals, No. 0072, September Term, 2013). After the Board revoked Dr. Rudman's license for the indecent sexual touching of patients, Dr. Rudman filed a petition for judicial review. The Circuit Court for Frederick County reversed the Board's decision. The Board filed an appeal to the Court of Special Appeals. That appeal is pending.

Daniel Smithpeter v. State Board of Physicians (Court of Special Appeals, No. 00819, September Term, 2012). After the Board sanctioned this psychiatrist for inappropriate sexual activities with a patient, he appealed to the Circuit Court of Baltimore City. That circuit court affirmed the Board's decision. Dr. Smithpeter then appealed that decision to the Court of Special Appeals. That court heard oral argument on June 6, 2013.

EXHIBIT 1

ROSTER OF MEMBERS OF THE BOARD OF PHYSICIANS (2013)

NAME	SPECIALTY/CATEGORY	TERM ENDS
Andrea Mathias, M.D., MPH Board Chair	Physician Family Medicine, DHMH Representative	2016
Laura E. Henderson, M.D. Board Vice Chair	Physician Internal Medicine/Pediatrics	2015
Alexis J. Carras, M.D.	Physician Anesthesiology	2017
Gary J. Della'Zanna, D.O.	Surgical Hospitalist/Program Director	2017
Suresh C. Gupta, M.D.	Physician Internal Medicine	2015
Suresh K. Gupta, M.D.	Physician Internal Medicine/Geriatrics	2014
Avril M. Houston, M.D.	Physician Pediatrics	2016
Jonathan A. Lerner, PA-C	Physician Assistant	2013
John R. Lilly, M.D.	Physician Family Medicine	2014
Celeste M. Lombardi, M.D.	Physician Anesthesiology	2016
Ahmed Nawaz, M.D.	Physician Internal Medicine	2016
Hilary T. O'Herlihy, M.D.	Physician Cardiology	2014
Robert P. Rocca, M.D.	Physician Psychiatrist	2017
Beryl J. Rosenstein, M.D.	Physician Pediatrics	2015
Devinder Singh, M.D.	Physician Full-time Faculty Appointment	2015
Laurie S. Y. Tyau, M.D.	Physician Obstetrics/Gynecology	2013
Brenda G. Baker	Consumer member	2016
Carmen M. Contee	Consumer member	2016
Deborah R. Harrison	Consumer member	2015

EXHIBIT 2

ANNUAL REPORT TO LEGISLATIVE POLICY COMMITTEE – FY 13

PHYSICIAN PRIVILEGE DATA SYSTEM

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

A. Number of licensed physicians in Maryland in FY 13: 29,562

B. Participation: 62 Hospitals, 232 Nursing Homes and Health Maintenance Organizations report information on privileges, and request data generated by the system. We have also added an additional 140 alternative health care facilities into this system.

C. Malpractice Data: 1 certificate of merit record was added to the malpractice component of the data system, involving 1 physician. The Board generated 8 notices of malpractice claims and sent these to the hospitals, nursing homes and alternative health care organizations where the affected physician has privileges.

D. Disciplinary Actions Taken by Hospitals, Nursing Homes and Alternative Health Care Systems: The Board sent 26 notification letters to health care facilities originating from reports of disciplinary action taken by hospitals, nursing homes and alternative health care systems.

E. Board Disciplinary Actions: The Board sent 818 letters to health care facilities informing them of disciplinary actions and or charges against 131 physicians who have privileges at their facilities.

F. Inquiries from Health Care Facilities: There was 1 inquiry from a Maryland hospital, nursing home or alternative health care systems.

G. Verification Letters: The Board generated 5,192 letters verifying the status of physician licenses.

EXHIBIT 3

A. The Legislative Report

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

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

B. The Attorney General's Response

The Office of the Attorney General ("OAG") accepted one hundred and twenty-one cases for prosecution in FY 13. The OAG accepted the cases for prosecution after determining that there was a legally sufficient basis for prosecution based on the facts and circumstances of each individual case.

The measure of legal sufficiency is generally found in Md. Code Ann., Health Occ.§ 14-404(a), which sets forth forty-one (41) enumerated grounds for discipline. In addition, Health Occ. § 14-404(b) provides for prosecution of licensees convicted of crimes involving moral turpitude, Health Occ. § 14-205 provides for the denial of a license for reasons that are grounds for discipline under Health Occ. § 14-404, and Health Occ. §§ 14-601 to 14-606 provide the standards for administrative prosecution of unlicensed practice.

The legal sufficiency evaluation includes the review of board investigative files, consultations with peer reviewers and other expert witnesses, meetings with board investigators, meetings with witnesses, and additional follow-up investigation. The legal sufficiency analysis may also include legal research, including the review of prior Board orders.

In FY13, the OAG charged one hundred twenty-one cases, of which fifteen were summary suspensions.

The OAG closed one hundred seventy-nine cases during FY13. The closed cases included the following:

(a) Ninety-nine Consent Orders;

(b) Thirty-four Final Orders;

(c) Eight Letters of Surrender;

(d) Four Return to Board ("RTB");

(e) Twenty-six Fines were imposed on licensees;

(f) Fifteen Revocations**;**

(g) Six cases Charges Dismissed**;**

(h) Fifty-five licensees Reprimanded;

(i) Six Reinstatements or Initial Applications were Denied**;**

(j) Four Reinstatements or Initial Licenses were Granted**;**

(k) Three Supplemental Orders**;**

(l) Seven Suspensions Terminated**;**

(m) Two respondents' were allowed to Withdraw**;** and there were

(n) Three administrative closures.

In conjunction with the Board, the OAG focused extensively on the early resolution of cases in FY 13 in order to reduce the length of time necessary to resolve disciplinary cases. The Board's settlement process resulted in the resolution of a large percentage of cases. For example, between August 2012 and December 2013, the OAG participated in forty-two (42) settlement conferences before the case resolution panel of the Board. Of the 42 cases presented to the case resolution panel, thirty-eight (38) of those cases resulted in settlements or approximately 90% of the cases. The OAG also started coordinating the pre-charge settlement of cases in cooperation with the Board.

A. <u>The Legislative Report</u>

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

SECTION 5. AND BE IT FURTHER ENACTED, that the Department, on or before October 1 of each year, shall submit a report to the Legislative Policy Committee that contains the following information of the previous year:

* * *

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

B. The Attorney General's Response

The Office of the Attorney General received one hundred and twenty-one cases in fiscal year 2013. The Office filed one hundred and twenty-one charging documents of which fifteen were summary suspensions. Forty-two cases were closed with final orders, and ninety-nine cases were closed with consent orders, six were closed by supplemental orders or administrative closures, eight letters of surrender, four cases were returned to the Board, and twenty-six fines were imposed. The grounds for prosecution were as follows:

Grounds	No. of Cases
Under 14-205(a)	1
Under §14-307(b)	4
Under §14-316(D)(4)	1
Under §14-404(a):	
(1)	3
(2)	3
(3)(a)(i)	11
(3)(a)(ii)	58
(4)	14
(7)	4
(8)	2
(9)	4
(9)(ii)	2
(11)	15
(13)	1
(17)	1
(21)	2
(22)	33

(23)	1
(24)	1
(27)	12
(28)	1
(33)	3
(36)	12
(37)	1
(40)	22
14-404(b)(1)	2
14-404 (b)(2)	4
14-601	8
14-602(a)	4
14-603	1
14-5B-14(a)(1),(3),(7),(22) & (26)	1
COMAR 10.13.01	1
COMAR 10.13(36)	1
COMAR 10.19.03.10	1
Fitness For Duty	1
Intent to Deny	2
Intent/Revoke Medical License	1
Intent/Revoke PA	1
14-5A-09(a)&(b)	1
14-5B-14(a)(6),(7) & (8)(i)(ii)	2

14-4B-14(6)&(17)	1
Physician Asst:	
15-314(a)(3)(i)(ii),(8),(11)&(27)	1
Request for Termination of Suspension	2
Self-Referral Law – 1-302 &1-307 & State Government. 10-226	1
Violation of Consent Order	3
Violation of Final Order	1
Violation of Disposition Agreement	1
Violation of Rehab. Agreement	1
Probations	69
Reprimands	55