STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Van T. Mitchell, Secretary

October 3, 2016

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 2016 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, 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,

Van T. Mitchell
Secretary

Enclosure

cc: Legislative Policy Committee Members
Ms. Carol Swan, Department of Legislative Services
Christine A. Farrelly, Executive Director
Shawn Cain, Chief of Staff, Office of the Secretary
Ms. Sarah Albert, MSAR #1414

MARYLAND
BOARD OF PHYSICIANS

ANNUAL REPORT TO
LEGISLATIVE POLICY COMMITTEE

FISCAL YEAR 2016

Chapter 662 (Section 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. Chapter 252 of the Acts of 2003 (Senate Bill 500) – Department of Health and Mental Hygiene – State Board of Physicians reconstituted the Board and made other changes to the regulation of physicians by the State Medical Board. Chapter 539 of the Acts of 2007 (Senate Bill 255) State Board of Physicians – Sunset Extension and Program Evaluation. The Department of Legislative Services (DLS) completed a full sunset evaluation of the Board and its advisory committees in November 2011. Chapter 401 of the Acts of 2013 (House Bill 1096) codified many recommendations and extended the Board termination date to July 1, 2018. DLS is required to conduct a full evaluation of the Board by October 30, 2016.

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

Members of the Board 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.

The list of current Board Members and the expiration dates of their terms appear in Exhibit 1 on page 44.

EXECUTIVE DIRECTOR'S STATEMENT

There was a significant transition this past year with Board Membership with eight new appointments, including the Board Chair. Board Member training for all members was conducted on June 29, 2016.

Board staff have worked on several initiatives this past year, including revising the format and style of the Board's newsletter, improving practitioner profiles, updating and revising licensure applications and working to implement the Criminal History Record Check statutory mandate. In furtherance of ongoing initiatives to improve transparency, the Board has designated rosters of licensees and permit holders as immediately-available records under the Public Information Act. These records are posted on the Board's website. In addition, in accordance with the Open Meetings Act, the Board posts notices of its open meetings on its website.

The Board continues to make operational improvements to improve customer service and efficiency. This past year, significant progress has been made in providing services to licensees online and through the Board's website. The Board developed an online verification of licensure system that accepts credit card payments. This converted an entirely paper process into an electronic one and provides licensees with an immediate verification. The Board also developed an online "registration" for naturopathic doctor licensure applicants and an on-line credit card payment option. This is the first time the Board has been able to offer all of these services online as part of its efforts to move away from paper-based processes and payments by checks. Because of this success, the plan is to convert other applications from paper to online. The Board has also extensively researched the Uniform Application for physicians and is exploring how best to implement this in Maryland.

The Board continues to address fiscal responsibility. Over the past fiscal year, Fiscal Unit staff automated the redistribution of the lockbox fund and any money received from online transactions. Staff also set up specific budget codes for incoming revenue to track this for each practitioner type and by each type of service provided by the Board.

Board staff continue to be essential in developing enhanced communication, innovation to the processing of work, advancing and refining Board procedures, as well as promoting greater focus on customer service to further enhance Board operations.

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.

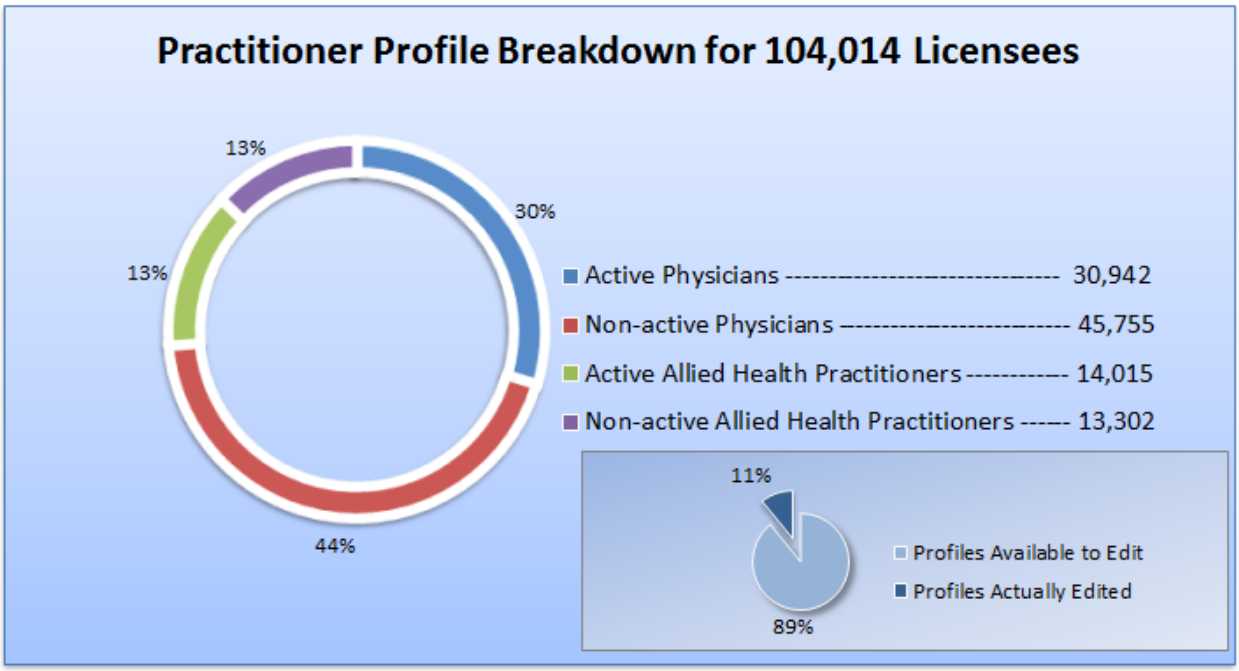
The unit is also responsible for the procurement functions. After completing year one (1) of three (3) in the Peer Review, Physicians Rehabilitation, and Information System contracts, the following had been expended in FY16:

- Peer Review - $409,500
- Physicians Rehabilitation - $597,313
- Information System - $211,890

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 104,014 licensees (both active and non-active).

The chart below illustrates the details of these profiles as of June 30, 2016.



Active physician licenses: 30,942
Non-active physician licenses (licenses are expired, inactive, suspended, revoked, etc.): 45,755
Active Allied Health Practitioners licenses: 14,015
Non-active Allied Health Practitioners licenses (licenses are expired, inactive, suspended, revoked, etc.): 13,302
Practitioner Profile Edits: 5,520
Website activity (Profiles, renewals, forms, etc.): 7 million requests for pages

The web-based Practitioner Profile System provides a valuable service to Maryland citizens. This web-based system enables Maryland citizens to become more informed consumers about their health care providers by allowing them access to information including facility privileges, specialties and disciplinary actions on from the profile pages. In order to eliminate some of the Board's manual processes, the Practitioner Profile system was enhanced in FY15, to allow practitioners to make changes to their hospital privileges, post-graduate training, and to update "Other States Licensed." It allows practitioners the opportunity to update their personal profile information, confidential practice and public addresses as well as areas of concentration, specialties and post-graduate training programs. Changes appear on the website within 24 hours of submission, and the practitioner receives an e-mail confirmation of the changes.

In FY 16 the Board added a new feature to the online renewal system to allow practitioners to print their own renewed license after submission of and payment for the license renewal application. In lieu of mailing licenses, practitioners can print as many copies of their license as needed from the website for up to two years. This process can be expected to save the Board thousands of dollars by eliminating the costs of printing and mailing licenses.

The Board has contracted with a Project Manager who began in June of 2015. The Project Manager has completed a systems requirements analysis and drafted a request for proposal (RFP). The Department of Information Technology (DoIT) rejected the draft RFP and is now requiring that the Board of Physicians include all other health occupation boards in the development of an RFP and any new IT system.

IT also assists DHMH and other organizations with the dissemination of important health information to Maryland physicians and AH practitioners. Important health bulletins and educational opportunities are available at the Board's website www.mbp.state.md.us or may be sent via e-mail blast to practitioners.

COMMUNICATIONS, EDUCATION AND POLICY UNIT

The Communications, Education and Policy Unit (CEP) is responsible for leading the Board's communications, training and outreach initiatives. The unit provides ongoing education and training to the Board members on various matters and directs educational outreach to licensees and the public. During FY 16, the unit provided training to Board members on the Board's processes and operations. The training was conducted on June 29, 2016 through the collaboration of Board staff, DHMH, the Office of Administrative Hearings ("OAH"), and the Office of the Attorney General ("OAG") specifically, Board Counsel and the Health Occupations Prosecution and Litigation (HOPL) Division's Principal Counsel.

The unit coordinates and facilitates several in-service training and external training opportunities for the professional development of the staff.

CEP also prepares responses to Public Information Act requests and subpoenas, controlled correspondence received at the Governor's or Secretary's office, and coordinates the preparation and submission of various mandated reports. The unit is responsible for coordinating timely

responses by the various Board units to several inquiries received in the Board's general e-mail account from the public, licensees, state and federal agencies and the media. In FY 16, the unit forwarded over 1,000 inquiries received in the Board's general e-mail account to the Board's units for processing. The unit also responds to the inquiries on the Board's statutes, regulations and policies from various stakeholders.

The CEP unit is also responsible for coordinating the Board's legislative agenda. This unit provides leadership, guidance, consultation, and support to the Board in the areas of governmental affairs, legislation, regulations and policy issues pertaining to the regulation and licensure of all health care providers regulated by the Board.

Workgroups and Regulations

Outreach efforts included responding to inquiries and providing information regarding the new continuing medical education ("CME") mandate. In February 2015, Governor Larry Hogan issued two Executive Orders, establishing the Heroin and Opioid Emergency Task Force and a separate Inter-Agency Coordinating Council to address the state's growing heroin and opioid crisis. To support the effort, the Board mandated that prescriber (physician and physician assistant) licensees complete one credit of CME dedicated to opioid prescribing (pain management, substance abuse, et cetera). To assist licensees in identifying appropriate courses, the CEP, maintains a chart of acceptable CME courses and activities, although licensees are free to select opioid prescribing courses offered through other sources. The chart is posted on the Board's website on a page that includes links to information on overdose prevention initiatives.

Naturopathic Doctors

As a result of 2014 legislation, Chapters 153 and 399, Acts of 2014 (SB 314 and HB 402), the State Board of Physicians was authorized to license Naturopathic Doctors beginning March 1, 2016. Leading up to licensure, the Board was engaged in the development of comprehensive regulations for naturopathic doctors. The regulations were developed based on recommendations from the Naturopathic Medicine Advisory Committee within the State Board of Physicians. COMAR 10.32.21. Licensure, Regulation and Discipline of Naturopathic Doctors, regulates the licensure-and discipline of naturopathic doctors. The effective date is September 12, 2016.

In addition to the regulations on Naturopaths, the Unit consistently updates regulations as a result of authorizing legislation (Criminal History Records Checks mandated reporting requirements, and Reciprocity for Physicians as examples), as well as all Board licensees such as Athletic Trainers, Nuclear Medicine Technologists, Perfusionists, Physician Assistants, Polysomnography, and Psychiatric Assistants. These updates are based on an ongoing regulatory review process.

The Board's Progress on Implementing Sunset Evaluation Recommendations

Chapter 401 of the Acts of 2013 (House Bill 1096) State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation, requested information regarding:

- Changes to the Board's discipline process and their effect on complaint backlog and resolution times;
- Progress in procuring and implementing a new information technology system to improve data management;
- A long-term financial plan;
- Financial Data for the preceding fiscal year; and
- Progress in implementing recommendations made by the Department of Legislative Services (DLS) in November 2011 Sunset Review Publication.

The Board is successfully moving forward on all recommendations, and the 2011 Sunset recommendations are addressed in detail in the annual Sunset update report. The Board is currently undergoing the 2016 Sunset Evaluation and will receive DLS evaluation later in the fall.

The 2016 Legislative Session – Statutory Changes Affecting the Board

The Board utilized the expertise and participation of a Board member legislative committee to review bills, provide information and position recommendations to staff on an ongoing basis.

The following were bills that impacted the Board from the 2016 legislative session:

Repeal of Assessment: SB 217/Ch. 178 – *State Board of Physicians – Distribution of Fees by Comptroller – Loan Assistance Repayment for Physicians and Physicians Assistants.* Since 1993, the Board was subject to an annual 12% assessment of revenues if the Governor did not put money in the budget to support two grant programs: Loan Assistance Repayment Program (LARP) and the Health Personnel Shortage Incentive Grant (HPSIG). Each grant program was allotted 6%, and the Maryland Higher Education Commission administered the grants. SB 217 repeals the funding for HPSIG and amended the assessment to a capped amount for the LARP program.

Preceptors: SB 411/ Ch. 385 and HB 1494/Ch. 386 – *Income Tax – Credit for Preceptors in Areas With Health Care Workforce Shortages.* These bills authorize an income tax credit for individuals who serve as preceptors working in rural and health care workforce shortage areas. This is a six-year pilot program, that for physician preceptors is supported by the unspent HPSIG funds and for nurse practitioner preceptors, by a fee collected by the Board of Nursing.

Naturopaths: SB 806/Ch. 700 - *State Board of Physicians – Naturopathic Doctors – Establishment of Naturopathic Doctors Formulary Council and Naturopathic Formulary*. This bill establishes a Naturopathic Doctors Formulary Council (Council) within the Board. The Council is to develop and recommend to the Board a formulary for use by licensed naturopathic

doctors. With a few exceptions, oxygen, autoinjectable epinephrine, diaphragms and cervical caps, the formulary may not include prescription drugs or devices or controlled substances. The Board is to appoint the Council by October 1, 2016.

Reciprocity: SB 1020/Ch. 460 and HB 998/Ch. 461 – *State Board of Physicians – Physician Licensing Reciprocity*. These bills authorize the Board to adopt regulations to license an applicant from another jurisdiction if the licensure requirements are determined to be substantially equivalent to Maryland and the applicant is in good standing in the other jurisdiction. The Board will develop an application and set the appropriate fee.

Exemption from Licensure: HB 119/Ch. 94 - *State Board of Physicians – Licensing Exemption – Physicians With Traveling Athletic and Sports Teams.* This bill creates an exemption for a physician from state licensure requirements if they have an active, unrestricted license in another jurisdiction, reside in another jurisdiction, and are designated as a team physician by an athletic or sports team based outside the State. The physician is limited to treating only the team's members, band members, cheerleading squad, mascot, coaches, and other staff traveling with the team.

Continuing Education: HB 185/Ch.99 – *State Board of Physicians – Licensed Physicians – Continuing Education Requirements.* This bill prohibits the Board from establishing a continuing education requirement that every licensed physician must complete a specific course or program, as a condition of license renewal.

Athletic Trainers: HB 232/Ch. 412 and SB 605/Ch. 411 – *Athletic Trainers – Evaluation and Treatment Protocols – Approval.* The bills allow an athletic trainer to assume duties under an evaluation and treatment protocol after receiving a written recommendation of approval from the Athletic Trainer Advisory Committee (ATAC), as long as it does not include specialized tasks or the specialized tasks have been previously approved by the Board. Before this legislation, an athletic trainer could not start work until the Board approved the evaluation and treatment protocol.

Other Major Issues Affecting the Board

Prescription Drug Monitoring Program (PDMP): HB 437/Ch. 147 – *Department of Health and Mental Hygiene – Prescription Drug Monitoring Program – Modifications.*

This bill requires prescribers and all pharmacists to register with the PDMP by July 1, 2017, and before registering complete a training course developed by DHMH. Beginning July 1, 2018, prescribers and pharmacists are required to request and assess prescription monitoring data under specific criteria. The bill allows a registered prescriber to utilize a "prescriber delegate" to access PDMP data. Prescribers and pharmacists are subject to disciplinary action by the appropriate licensing entity for failure to comply with the bill's mandatory registration and use requirements. PDMP may review prescription monitoring data for indications of a possible violation of law or a possible breach of professional standards by a prescriber or dispenser. If indicated, PDMP may notify and provide education to the prescriber or dispenser after obtaining certain clinical guidance from the technical advisory committee. The bill also requires DHMH

to develop and implement an outreach and education plan regarding mandatory registration with PDMP and submit specified reports.

Board Supervision: SB 1083 – *Secretaries of Principal Departments – Supervision and Review of Decisions and Actions by Units Within Department – Failed.* This bill was introduced in response to a recent Supreme Court case, North Carolina State Board of Dental Examiners vs. Federal Trade Commission (NC Dental). That case held that if the majority of state board members are active market participants, antitrust immunity applies only if two requirements are met. The Supreme Court held that a board is the same as a trade association or private party, and: (1) must act pursuant to a clearly articulated and affirmatively expressed state policy; and (2) ensure that the anticompetitive conduct is actively supervised by the State itself. The court reasoned that without active supervision, boards and commissions, made up of a majority of market participants, may act in their own interest rather than the public interest.

In an analysis of Maryland's boards and commissions, it was determined that the Departments of Agriculture, Environment, Health and Mental Hygiene, and Labor, Licensing and Regulation all have boards subject to the holding of NC Dental. SB 1083 was introduced by the Office of the Attorney General to address the issue of active state supervision highlighted in NC Dental. The bill required the secretary of each principal department to adopt regulations for the supervision of each unit of State government within the secretary's jurisdiction that is composed, in whole or in part, of individuals participating in the occupation or profession regulated by the unit in order to (1) prevent unreasonable anticompetitive actions by the unit and (2) determine whether the decisions and actions of the unit further a clearly articulated State policy to displace competition in the regulated market. The bill specifies the elements that must be included in the regulations. The bill also altered the power of the Secretary of Health and Mental Hygiene to disapprove or modify decisions of a board or commission under specified circumstances.

While the Board supports the necessity of public protection and preservation of antitrust immunity, SB 1083 was overly broad. The Board advocated for amendments that narrowed the scope of review. The vagueness of "decision or determination" in the bill as introduced could potentially include every action of the Board. The bill failed; however, an interim workgroup of stakeholders is expected so this issue can be addressed next session.

Marijuana: HB 104/Ch. 474 – *Medical Cannabis – Written Certifications – Certifying Providers.* This bill authorizes dentists, podiatrists, and certain registered nurses to be "certifying providers" – along with physicians – under the State's medical cannabis program, thereby expanding the types of health care practitioners who may discuss medical cannabis with a patient, complete an assessment of a patient's medical condition, and certify that the patient qualifies for medical cannabis. The bill subjects these certifying providers to the same processes for registration, restrictions, and protections that are required for certifying physicians under current law. Thus, the bill replaces "certifying physician" with "certifying provider" throughout the Natalie M. LaPrade Medical Cannabis Commission statute. To become a certifying provider, a dentist, podiatrist, or registered nurse must have an active, unrestricted license, be in good standing with their respective board, and have a State controlled dangerous substances (CDS) registration; a registered nurse must also have an active, unrestricted State Board of Nursing-issued certification to practice as a nurse practitioner or a nurse midwife.

Failed bills that would have had an Impact

There were many bills that would have impacted Board operations or established standard of care in statute. All of these bills *FAILED*:

- SB 30 – Maryland Anesthesiologists Assistants Act
- SB 441/HB 1160 – State Board of Physicians – Admissibility of Board Records – Workers' Compensation Commission
- SB 446 – Interstate Medical Licensure Compact
- SB 482/HB 1114 – State Board of Physicians – License Renewal – Grace Periods
- SB 644/HB 715 – Early Identification of Autism Act
- HB 6 – Criminal Law – Improper Prescription of CDS Resulting in Death
- HB 56/SB 63 – Investigational Drugs, Biological Products, and Devices – Right to Try Act
- HB 885 – Behavioral Health Administration – Creation and Maintenance of Mental Health Professional Profiles (Patient Protection Provider Information Act)
- HB 1103 – Health Care Practitioners – Use of Teletherapy
- HB 1278 – State Board of Physicians – Offices or Facilities for Performing Surgical Procedures

LICENSURE UNIT

The Licensure Unit (Licensure) is responsible for processing applications for Initial, Reinstatement, Postgraduate Teaching, Conceded Eminence, Exemption from License Fee (Volunteer licenses), and Exceptions from licensing (A physician licensed in another jurisdiction visiting to engage in consultation with a licensed Maryland physician). Licensure also registers unlicensed medical practitioners (UMPs) who are medical school graduates enrolled in internship, residency, or fellowship programs.

In FY 16, Licensure issued 1,964 initial medical licenses (1,456 were American Medical Graduates and 508 were Foreign Medical Graduates) and closed 46 applications. Licensure also issued 325 reinstated licenses and closed 52 applications, and registered 2,673 UMPs. The chart below illustrates the total physician licenses processed, including new and reinstated.

NEW MEDICAL LICENSES	**FY 15**	**FY 16**
Licensed	1,911	1964
Closed (denied, withdrawn, ineligible)	49	46
Total Applications Completed	1,960	2,010
REINSTATED LICENSES		
Licensed	264	325
Closed (denied, withdrawn, ineligible)	36	52
Total Applications Completed	300	377
TOTAL APPLICATIONS PROCESSED	2,260	2,387
UMPs Registered	2,552	2,673
TOTAL	**4,812**	**5,060**

Licensure staff continues to refine and improve the licensure process to ensure accuracy and efficiency. The unit issued licenses to 98% of qualified applicants within 10 days of receipt of the last qualifying document. The average processing time for licensure is 45 days.

Due to the discontinuance of Physician late renewals, the number of reinstatement applications has increased significantly.

ALLIED HEALTH UNIT

The Allied Health (AH) Unit is responsible for licensing and reinstating Physician Assistants, Radiation Therapists, Radiographers, Nuclear Medicine Technologists, Radiologist Assistants, Respiratory Care Practitioners, Polysomnographic Technologists, Athletic Trainers, Perfusionists and Naturopathic Doctors. AH also reinstates a small number of Psychiatrist Assistants. AH issued licenses to 94% of qualified applicants within 10 days of receipt of the last qualifying document.

The AH Advisory Committees advise the Board on matters concerning their professions. Each Committee is required to submit an Annual Report to the Board. The following is an account of each AH Advisory Committee's activities for FY 16.

Physician Assistants

The Board regulates over 3,400 Physician Assistants (PAs). The chart below illustrates the Board's application processing activities for FY 15 and FY 16.

Licensed	FY 15	FY 16
Initial License	349	377
Reinstatements	15	71
Delegation Agreements	1,241	1239
Renewals	2,945	N/A*

* Physician Assistants renew in odd numbered years only. * No renewals in FY 16

In FY 16, the Physician Assistant Advisory Committee (PAAC) reviewed and recommended the approval of 142 delegation agreement addendums for advanced duties. Board staff preliminarily approved 1,239 delegation agreements. Delegation agreements contain a description of the qualifications of the supervising physician and PAs, the practice setting and supervision mechanisms that will be employed as well as certain attestations regarding the delegated medical acts. Advanced duties require additional education and training beyond the basic training the PAs receive through their educational programs and are added to an existing delegation agreement. Documentation for advanced duties include a description of the procedures, 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.

PAAC discussed the concept of a uniform application for physician assistant state licensure and agreed that until there is a general consensus and a uniform practice statute for licensure, there is not much utility in a uniform application at this time.

Committee Members

Anthony Raneri, M.D., Surgeon, Chair	Lee Schwab, M.D., Internal Medicine
Natalie Orbach, PA-C	George Sobieralski, PA
Gigi Leon, PA-C	Ahmad Nawaz, M.D., Physician Board Member
Brenda Baker, Consumer Board Member	

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

The Board regulates over 6,700 Radiation Therapists, Radiographers, Nuclear Medicine Technologists and 6 Radiologist Assistants. The chart below illustrates the Board's application processing activities for FY 15 and FY 16.

Licensed	**FY 15**	**FY 16**
Initial Licensure	365	361
Reinstatements	108	139
Renewals	6,080	N/A*

* Radiation Therapists, Radiographers, Nuclear Medicine Technologists and Radiologist Assistants renew in odd numbered years only. * No renewals in FY 16.

The Committee recommended amending the nuclear medicine scope of practice to include a new exam that would allow Nuclear Medicine Technologists (NMT) to operate a PET/CT scanner. The new exam is administered by the Nuclear Medicine Technologist Certification Board. The exam mentioned in the current regulations is administered by the American Registry of Radiologic Technologists. Passing either exam would allow an NMT to operate a PET/CT scanner with or without contrast.

Committee Members

Clay Nuquist, CNMT, Nuclear Medicine Technologist, Chair	Radiographer - Vacant
Matthew Snyder, M.D., Radiation Oncologist	Ryan Carroll RT(T), Radiation Therapist
Darrell McIndoe, M.D., DVM, Nuclear Medicine	Lynn Harris-McCorkle, M.D., Radiologist
Carmen Contee, Consumer Board Member	Jonathan Lerner, PA-C, Physician Assistant, Board Member
Vacant - Radiologist Supervising Radiologist Assistant	Amy Taylor, RRA, Radiologist Assistant

Respiratory Care Practitioners

The Board regulates over 2,700 Respiratory Care Practitioners (RCPs). The chart below illustrates the Board's application processing activities for RCPs in FY 15 and FY 16.

Licensed	FY 15	FY 16
Initial Licensure	202	176
Reinstatements	55	44
Renewals	N/A*	2688**

*Respiratory care practitioners only renew in even years.

** This number includes 5 psychiatric assistants that renewed during FY 16.

In FY 16, the Respiratory Care Professional Standards Committee (RCPSC) discussed exceptions from licensure for RCPs transporting patients from out-of-state to Maryland and scope of practice issues. The Committee is also working on a position statement, for Board approval, that will delineate who may set up Bi-PAP and C-PAP equipment.

Committee Members

John E. Brown, M.D., Pulmonologist - Chair	Christopher Franklin, M.D., Anesthesiologist
Carroll Reese, RCP, RRT, MBA, PhD	Joseph Rabin, M.D., Thoracic Surgeon
Karen Goodison, MS, RRT-NPS, RPFT	Consumer Member - Vacant
Thomas French, BS, RRT, RCP	

Polysomnography

The Board regulates over 400 Polysomnographic Technologists. The chart below illustrates the Board's application processing activities for FY 15 and FY 16.

Licensed	FY 15	FY 16
Initial Licensure	20	22
Reinstatements	3	12
Renewals	327	54**

** There were 75 polysomnographers with an expiration date of 9/30/15 that needed their expiration date adjusted to match the required 5/30 expiration like the rest of the group.

In FY 16, the Committee recommended amending the regulations to streamline the initial licensure and reinstatement processes. They also recommended an equivalent examination for RCPS who wish to apply for a license as a Polysomnographic Technologist, determined the eligibility of certain applicants applying for licensure and clarified the requirements for licensure.

Committee Members

Susheel Patil, M.D., Chair, Internal Medicine Pulmonary Disease and Sleep Medicine	Katherine Buki, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine
Theresa Banks, RRT, RPSGT	Norman Schubert, RPSGT
Helen Emsellem, M.D., Neurology and Sleep Medicine	Angela Dawson, RPSGT, RST
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 15 and FY 16.

Licensed	FY 15	FY 16
Initial Licensure	120	127
Reinstatements	5	11
Renewals	N/A*	505
Evaluation and Treatment Protocols	203	153

*****Athletic trainers renew in odd numbered years only.

In FY 16, the Athletic Trainer Advisory Committee (ATAC) discussed amending the scope of practice to include tactical athletes and to allow Athletic Trainers to practice prior to Board approval of the evaluation and treatment protocol (protocol). These recommendations became House Bill 232 during the 2016 General Assembly legislative session. Expanding the scope of practice was eventually removed from the bill, but the section amending the statute to allow athletic trainers to practice prior to Board approval of the protocol, but after the ATAC Committee approval, passed as Chapter 412.

The Committee also discussed specialized tasks, athletic trainers practicing without a license, the investigative process, training for athletic trainers and exceptions from licensure, and recommended changes to the regulations that would clarify the evaluation and treatment protocol.

The Committee recommended approval of 153 evaluation and treatment protocols to the Board.

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
Benjamin Petre, M.D., Orthopedics	Theresa Lewis, Consumer Member
Benita Wilson, Consumer Member	

Perfusionists

The Board regulates over 90 Perfusionist-Advanced and Perfusionist-Basic licensees. The chart below illustrates the Board's application processing activities for FY 15 and FY 16.

Licensed	FY 15	FY 16
Initial Licensure (Perfusion-Advanced)*	11	15
Initial Licensure (Perfusion-Basic)**	6	12
Reinstatements (Perfusion-Adv. Only)	N/A***	2
Renewals (Perfusion-Adv. Only)	N/A***	73

*Passed the national certifying exam.
**The licensee still has to pass the national certifying exam, after performing the requisite tasks for sitting for the exam.
*** Perfusionists licenses did not expire until January 31, 2016.

In FY 16, the Perfusion Advisory Committee (PAC) discussed scope of practice issues. They also discussed the transportation of organs across state lines.

Committee Members

Keith Amberman, CCP, Chair	Jeffrey Sagel, D.O., Cardiothoracic Anesthesiology
Murtaza Dawood, M.D., Cardio-Thoracic Surgery	Chad Wierscke, BS, CCP
Jeffrey T. Swett, M.D., Internal Medicine	Brian P. Donahue, CCP
Theresa Lewis, Consumer Member	

Naturopathic Medicine Advisory Committee

The statute governing Naturopathic Doctors went into effect on October 1, 2014. The Board appointed five members to the Naturopathic Medicine Advisory Committee (NMAC). The NMAC meet monthly and worked diligently on developing and editing regulations.

Committee Members

Kevin Passero, N.D., Chair	Carrie Paddock, N.D.
Suresh K. Gupta, M.D., Board Appointee	Gregory Pokrywka, M.D., Physician with experience working the NDs.
Eldon Miller, Ph.D., Consumer Member	

The licensing requirement for Naturopathic doctors went into effect on March 1, 2016. To date the Board has licensed 21 Naturopathic doctors. The chart below illustrates the Board's application processing activities for FY 15 and FY 16.

Licensed	**FY 15**	**FY 16**
Initial Licensure	0	21
Reinstatements	0	N/A
Renewals	0	N/A

CUSTOMER SERVICE UNIT

The Licensure and Allied Health units rely on the Customer Service (CS) Unit to collect, identify and organize promptly all the credentials and data needed to license physician and allied health practitioners. The CS Unit assists both Licensure and Allied Health units in meeting their annual Managing For Results goals and objectives relating to the timeliness of processing applications. In FY16, the CS Unit also received and processed 25,939 credentials for physicians applying for licensure and processed 3,985 credentials for allied health practitioners applying for licensure.

Effective March 30, 2016, online verification of licenses (verifications) became available on the Board's website. After July 1, 2016, with the exception of special circumstances, paper verifications will no longer be processed. In FY16, the CS Unit processed 5,129 written

verifications. There were 1,112 online verifications processed from the inception of the program. The unit also handles the renewal of licenses for all the Board's licensees.

During FY 16, the Board renewed the licenses of 12,814 physicians out of 14,618 eligible to renew with last names beginning with letters "M" through "Z" that were scheduled to expire 9/30/15. The Board also renewed the licenses of 3,320 allied health practitioners through the online automated system during FY16.

The CS Unit will continue its goal of providing timely and efficient service to both its external and internal customers over the next fiscal year. The unit continues to evaluate the need for additional staff to meet the demands on the unit due to an increase in practitioner programs.

COMPLIANCE UNIT

The Compliance Unit (Compliance) is responsible for investigating all complaints, reports, and information involving licensees of the Board alleging violations of the Maryland Medical Practice Act (Act). The Board also investigates allegations of the unlicensed practice of the professions under its jurisdiction. Compliance staff conducts investigations to determine if there has been a potential violation of the law governing physicians and AH practitioners regulated by the Board. If violations of the Act are substantiated, a complaint moves forward and a Disciplinary Panel 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/Disciplinary Panel vote to charge, and after the resolution of the investigation, monitoring by the Probation Unit (Probation). 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 Act.

Intake Unit

Complaints are received from a wide variety of sources, including patients, family members, hospitals, physicians, other healthcare providers, pharmacies, pharmacists, other state agencies, law enforcement and the media. The Board also accepts, reviews and investigates anonymous complaints.

The complaints received by the Board cover a wide range of allegations, including boundary violations, sexual improprieties, substance abuse, standard of care and standard of documentation violations, illegal and illegitimate prescriptions, professional, physical or mental incompetency, misrepresentations in the medical record and in applications and practicing without a medical license.

The Intake Unit (Intake) performs preliminary investigations on all complaints under the Board's jurisdiction. To accomplish this task, Intake staff reviews and analyzes each complaint to determine the Board's jurisdiction with respect to allegations. As part of the intake process relevant records are subpoenaed and the Respondent (i.e. licensee who is the subject of the complaint) is provided with the opportunity to respond to the complaint. In standard quality care cases, a medical consultant will review all the material obtained. The findings of the preliminary investigation are presented to the Investigative Review Panel (IRP). Most complaints are closed at this stage because no violation of the Act occurred. Cases not closed will proceed to full investigation.

In FY 16, Intake received and processed 1,073 complaints, presented 493 cases to IRP for review, generated 168 advisory letters and prepared 5 Orders in reciprocal cases (i.e. cases where Maryland takes action because another state took action against the licensee). Intake also processed 11 cases involving deficiencies of continuing medical education/continuing education (CME/CE) credits. First-time offenders are offered an administrative fine for failure to obtain the required CME/CE hours.

In addition to handling preliminary investigations, the Intake Unit also processes drug dispensing applications. In FY16, there were 107 new drug dispensing permits issued by the Intake Unit. There are currently 1,099 active permits.

Investigations Unit

The Investigations Unit (Investigations) is responsible for conducting full investigations into allegations filed against physicians and AH practitioners that may involve violations of the Act and for fully developing the cases through objective investigative fact finding directed towards proving or disproving each alleged violation.

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, and 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 Office of Administrative Hearings (OAH). Following the Board's vote for a summary suspension, the case is transmitted to the Office of the Attorney General (OAG). The Board may also issue a Cease and Desist Order which prohibits the individual practitioner from practicing a certain area of medicine, but the practitioner can continue practicing other areas.

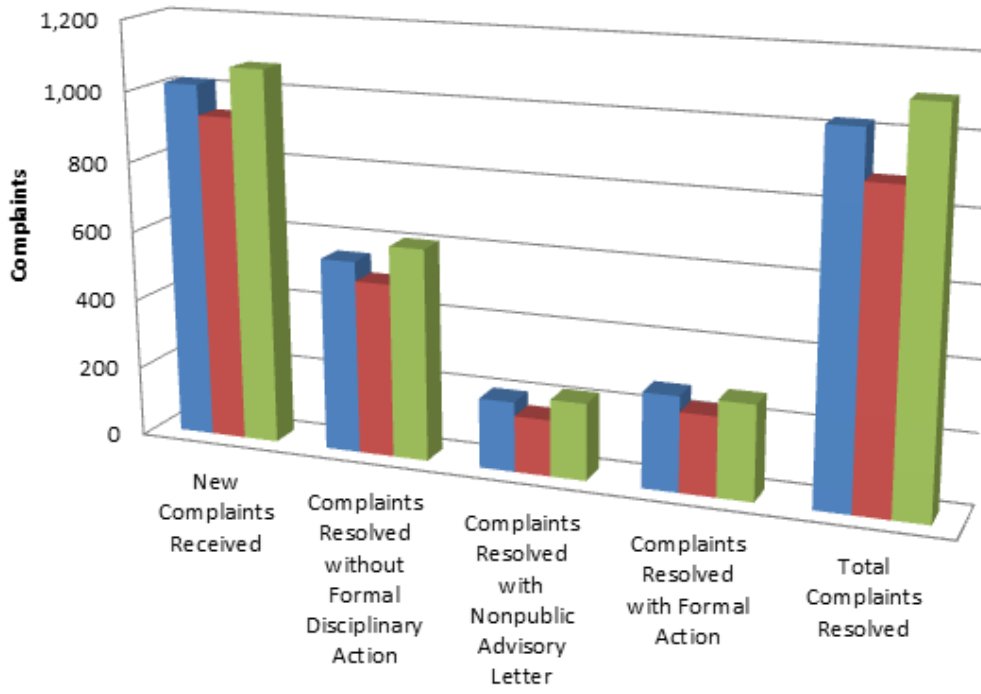
Upon receipt of the Summary Suspension documents from the OAG, Compliance handles service on the Respondent and prepares for the corresponding pre or post-deprivation hearings in the matter. These pre or post-deprivation hearings are not full evidentiary hearings; no witnesses are permitted. The issue is limited to whether or not the Respondent is an imminent danger to the public. If the Respondent is dissatisfied with the result, an evidentiary hearing at the OAH can be requested. 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 16, the Board issued 4 Summary Suspension Orders and held 4 hearings before the full Board on those Orders.

In standard of care cases, analysts also handle the supplemental response process whereby the Board provides the physician under investigation with an opportunity to review the completed peer review report and provide a supplemental response to the Board before the Board makes a decision on whether to issue charges.

Compliance is also responsible for oversight of the cases after completion of the Board's investigation from the time of issuance of charges until a final disposition. Compliance processes all Charging documents, Final Orders, Disposition Agreements, Letters of Surrender, Suspensions, Orders for Summary Suspension and Revocations.

After reviewing the investigatory information at the end of any stage of the process, the Board/Disciplinary Panel may close an investigation or continue the investigation and ultimately take some form of action against a practitioner's license. In FY 16, Compliance received and resolved the following complaints, as illustrated in the chart below along with data for FY 14, FY 15 and FY 16.



	New Complaints Received	Complaints Resolved without Formal Disciplinary Action	Complaints Resolved with Nonpublic Advisory Letter	Complaints Resolved with Formal Action	Total Complaints Resolved
FY 14	1,018	553	200	271	1024
FY 15	932	498	161	227	886
FY 16	1073	607	220	272	1099

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 Md. Code Ann., Health Occupations Article § 14-411.1. The unit 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 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.

Disciplinary Committee for Case Resolution

After the service of charges, the Board offers the Respondent the opportunity to appear before a Disciplinary Committee for Case Resolution (DCCR) which is a voluntary, informal, and confidential proceeding to explore the possibility of a Consent Order or other expedited resolution of the matter. The DCCR meets with the Respondent and administrative prosecutor to negotiate such a settlement. Complainants are invited to attend the DCCR. During FY 16, the DCCR reviewed 55 charged cases. Cases that are settled through negotiation, 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 DCCR or following the DCCR. 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 exceptions to the OAH decision with the Board. Once exceptions are filed by the parties, the case is scheduled for an Exceptions Hearing before the Board. After consideration of the exceptions, the Board may accept, reject or modify the proposed decision of the Administrative Law Judge (ALJ). During FY 16, the Board held 9 Exceptions Hearings. In addition, the Board considered 1 proposed ALJ decision in a case where the parties did not file exceptions.

Probation and Active Monitoring of Licensees under Board Order

At the end of FY 16, 3 Probation Analysts in the Probation Unit monitored 197 licensees who were under a Board Order imposing 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.

The Probation Unit is also responsible for monitoring suspended licensees. These licensees are required to complete terms and conditions before they can petition the Board to terminate suspensions. 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 16, 81 cases were resolved by the Probation Analysts.

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 set by the Board. 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 16, the Board held 6 Show Cause Hearings.

Maryland Professional Rehabilitation Program

Maryland law requires the Board to provide a Professional Rehabilitation Program to physicians, physician assistants and other 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 the safe practice of medicine.

The Center for a Healthy Maryland is the non-profit entity that administers the Board's rehabilitation program, known as the Maryland Professional Rehabilitation Program (MPRP). 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. The Board's program provides services to licensees who need of treatment and rehabilitation for alcoholism, chemical dependency, or other physical, or psychological conditions. The MPRP develops a comprehensive rehabilitation plan for each participant that involves providing information, testing, evaluation, referral for treatment and on-going monitoring of the adherence of the licensees to the requirements. The Board relies on the clinical expertise of the MPRP in developing an appropriate rehabilitation plan.

Compliance staff and MPRP staff communicate frequently and have at least 2 meetings per quarter to discuss participants that have been referred by the Board. The number of participants has increased over the past 3 years. At the end of FY 16, there were a total of 75 participants in the MPRP.

MPRP Participants by Licensure Type and Fiscal Year

Licensure Type	Number of Participants			
	FY 13	**FY 14**	**FY 15**	**FY 16**
M.D. or D.O.	43	46	56	51
Physician Assistant	5	2	2	4
Athletic Trainer	0	0	1	4
Nuclear Medicine Technologists	3	3	1	1
Respiratory Care Practitioners	2	3	11	4
Radiographer	1	4	8	10
Polysomnographic Technician	0	1	0	0
Perfusionist	0	0	0	1
Total Participants	**54**	**59**	**79**	**75**

MPRP Participants by Category

Category	Number of Participants			
	FY 13	**FY 14**	**FY 15**	**FY 16**
Alcohol	8	10	26	29
Drug/Chemical	27	22	26	24
Psychiatric Diagnosis	4	9	5	2
Dual Diagnoses*	6	6	5	4
Other /Behavioral	9	12	17	16
Total	**54**	**59**	**79**	**75**

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

MPRP Staff

Chae Kwak, LCSW-C
Director of Professional
Rehabilitation Program

Laura Berg, LCSW-C
Associate Director

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

Linda Rodriguez, LCSW-C
Clinical Manager

Tanya Bryant, LCSW-C
Clinical Manager

Annie Norton, LGSW
Clinical Manager

Mike Llufrio
Director of Operations

Domenica Stone
Program Assistant

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 of 1992 an Act concerning the State Board of Physician Quality Assurance, effective October 1, 1992, and by §6, Ch. 662 of the Acts of 1994 effective October 1, 1994.

Complaints Filed

In FY 16, the Board received 582 consumer complaints and 491 complaints filed from other sources, for a total of 1,073 complaints. The Board resolved 607 complaints with no action and 220 with Advisory Letters. The Board issued fines totaling $137,300. The Board issued 272 formal disciplinary actions (Details of the Board's Disciplinary Actions are on page 38).

Advisory Opinions

During FY 16, the Board sent 220 advisory opinions to practitioners, which are confidential letters that inform, educate, or admonish a health care provider with respect to the practice of medicine under the Maryland Medical Practice Act. The various issues addressed in these letters include: the importance of legible 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, allied health practitioners, and unlicensed individuals investigated under each of the disciplinary grounds enumerated under the Medical Practice Act.

In FY 16, the Board opened 1,073 new investigations on physician licensees, allied health practitioners, and unlicensed individuals. The total allegations against these individuals 1,348 as found in Table A beginning on page 29.

B. The average length of time spent investigating allegations brought against physicians, allied health practitioners, and unlicensed individuals under each of the disciplinary grounds enumerated in the Medical Practice Act.

During FY 16, the Board completed investigations of 813 complaints. The allegations brought against physicians, allied health practitioners, and unlicensed individuals and the average length of time spent investigating these allegations appear in Table B beginning on page 33. 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, 2016, only 2 cases at the Board have not been resolved within 18 months. There are 18 cases at various stages at the OAG. The following charts illustrate the last stage of each of these cases at the end of FY 16.

Cases at the Board

	FY 13	FY 14	FY 15	FY 16
Case Management	1	0	0	2*
Peer Review	0	0	1	0
Total	**1**	**0**	**1**	**2**

These figures may represent multiple case numbers on the same Respondent.
* The cases involve a complicated practice arrangement and the Maryland self-referral law.

Cases at the OAG

	FY13	FY 14	FY 15	FY 16
Prosecutor's Office (cases not yet charged)	8	4	9	7
Prosecutor's Office (cases charged; DCCR held or failed; case may or may not be set for hearing at OAH)	26	6	8	9
Board Counsel's Office (awaiting Final Order)	8	8	6	2
Total	**42**	**18**	**23**	**18**

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.

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 16.

The details of the disciplinary actions taken in FY 16 are found in the FY 16 Disciplinary Actions Chart found in Table C on page 38.

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

A total of 846 investigations remain unresolved and are pending before the Board as of June 30, 2016.

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 16:

Allied Health Practitioners	Number of Investigations
Physician Assistant	66
Radiographer and Radiation Therapist	9
Respiratory Care Practitioner	21
Athletic Trainers	35
Polysomnographic Technologists	4
Perfusionist	1
Psychiatrist Assistant	4
Total	**140**

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 16, the Board issued 59 formal actions with respect to AH practitioners.

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

Currently, the Board had an allocation of 71.1 full-time equivalent positions to conduct all Board business, however, three positions (3.0) were abolished in FY 16. Of the remaining positions (68.1) allocated to the Board, 12.8 full-time equivalent positions are at the OAG, but funded by the Board.

This level of staffing (55.3 FTE positions) remains inadequate to meet the current and emergent work of the Board projected beyond FY 16. A new health profession, the Naturopathic Doctors, began licensure in March of 2016 and is now regulated by the Board. New and future operations related to this program include but, are not limited to:

- Processing applications for initial licensure, renewals and reinstatements;
- Identifying and investigating cases implicating public protection during review of the initial applications;
- Conducting preliminary and full investigations on licensees;
- Reviewing and amending regulations based on current law and any changes to the law; and
- Researching and responding to policy questions regarding the program.

There is also a new Formulary Workgroup for Naturopathic Doctors (Workgroup) for the Board to administer. In addition to providing staff to facilitate the meetings, other duties will include conducting research and analysis, and preparing minutes and reports on matters considered by the Workgroup.

In the FY 16 Budget request, the Board requested three additional positions in anticipation of beginning criminal history record checks (CHRC). The Board's request for positions was not approved. The CHRC legislation requires that beginning October 1, 2016, all initial, renewal and reinstatement applicants submit to a CHRC as a qualification of licensure.

This is an entirely new program with a full range of operations requiring staff to perform all the related work. The Board hired a contractual IT position to make the necessary changes to the Board's database so that the CHRCs can be recorded as received. Positive criminal histories will require investigation. The Board does not have the positions to complete this work and is concerned about delays in licensure resulting from inadequate staffing. In order for the Board to effectively meet this new statutory requirement, the Board requires additional staff to process CHRCs and investigative positive results.

The Board contracted with an IT Project Manager who began in June of 2015. The Project Manager has completed a systems requirements analysis and drafted a request for proposal (RFP). The Department of Information Technology (DoIT) rejected the draft RFP and is now requiring that the Board of Physicians include all other health occupation boards in the RFP and in the development of a new IT system.

Although the Board continues in its efforts to implement an electronic, online system, there are certain elements of the Board's procedures that will remain paper-based and require data entry. For example, credentials for initial licensure are primary source verifications that are paper-based even if sent by electronic mail. At this time, there is no database that the Board can connect to in order to verify credentials, therefore, staff will have to continue to enter data, store, match, etc. more than 29,900 credentials on an annual basis. Additionally, all CHRCs are received via secure e-mail. State and Federal CHRCs are sent at different times and must be matched together for each applicant and/or licensee. The details of all positive results must be entered into the database manually.

The Board has made significant improvements in its operational efficiency; however, additional staff are required. The Board is simply unable to be proactive in further operational improvements without adequate staff. In its FY 17 budget request, the Board requested 7 new positions. All new positions were denied.

The Allied Health Unit continues to struggle with the volume of physician assistant delegation agreements, delegation agreement addendums (advanced duties) and terminations of delegation agreements. There were 1,226 delegation agreements received in FY 16 and 142 delegation agreement addendums for advanced duties that required staff and Committee review. Terminations of delegation agreements require some investigation to determine whether the termination may have been related to a violation of the Medical Practice Act. The Unit requires compensatory time on a routine basis in order to maintain timeliness. At least 1 additional position is required in the Allied Health Unit.

The Communications, Education and Policy Unit also requires additional staff. The Unit responds to the Board's general e-mail not handled by the other Board units and to the inquiries from all internal and external stakeholders on the Board's statutes, regulations and policies. In FY 16, the unit forwarded over 1,000 inquiries received in the Board's general e-mail account to the Board's units for processing. The unit is also responsible for developing and drafting all regulations pertaining to the Board's programs. In addition, the unit handles all the Public

Information Act requests and subpoenas received at the Board. Most of the requests are time sensitive or statutorily mandated. The Board continues to be concerned that the lack of staff will negatively impact the timeliness of the Board's responses.

The Board has initiated the process of converting the antiquated, paper-based licensure/compliance system to a web-based operating system to enhance efficiencies, and additional efforts are intended to expand the outreach initiatives with stakeholders and licensees. Accordingly, the Board requested an additional 7 fully-funded positions in the FY 16 budget request process, which were denied.

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 2 beginning on page 45.

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

Please refer to the report from the OAG. See Exhibit 2 beginning on page 45.

J. Corrective Action Agreements

During FY 16, the Board had no Corrective Action Agreements.

TABLE A - NUMBER OF ALLEGATIONS INVESTIGATED UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED HEALTH OCCUPATIONS FOR FY 16

Grounds	Description	Allegations
10.32.04	Psychiatrist Assistants	4
10-119.3	Child Support Enforcement Admin - Family Law Article 10-119.3	8
10320707(C)	Prohibited Conduct, Hearings, and Appeals for unlicensed medical practitioners	11
14-316(c)	COMAR 10.32.01.08 CME Deficiency in Renewal application	31
14-413	Fails to report	8
14-5A-17(a)(10	Willfully makes or files a false report or record in the practice of respiratory care.	1
14-5A-17(a)(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 this State	1
14-5A-17(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of respiratory care	4
14-5B-14(1)	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensed individual, or for another;	1
14-5B-14(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology.	3
14-5B-14(a)(7)	Is addicted or habitually abuses any narcotic or CDS as defined in 5-101 of the Criminal Law Article	1
14-5C-17(a)(10	Willfully makes or files a false report or record in the practice of polysomnography	1
14-5C-17(a)(19	Fails to meet appropriate standards for the delivery of polysomnographic services performed in a hospital sleep lab or a stand-alone sleep center	1
14-5C-17(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of polysomnography	1
14-5C-20	Practicing without (polysomnographer) license.	3
14-5D-14(3)	Is guilty of unprofessional or immoral conduct in the practice of athletic	2

	training	
14-5D-17	Practice [athletic training] without license prohibited.	29
14-5E-20	Practicing without (perfusionist) license.	1
14-601	Practicing without a license	95
14-602	Misrepresentation as practitioner of medicine	4
15-314(3ii)	Is guilty of unprofessional conduct in the practice of medicine	24
15-314(a)(18)	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;	1
15-314(a)(22)	Fails to meet appropriate standards for the delivery of quality care	19
15-314(a)(3)	PA - violates any provision of this title or any regulations...adopted under 14-404	15
15-314(a)(3)(i	Is guilty of immoral conduct in the practice of medicine	2
15-314(a)(36)	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	1
15-314(a)(40)	Fails to keep adequate medical records	2
15-314(a)(41)	PA- performs delegated medical acts beyond the scope of the agreement filed with the Board	3
15-314(a)(42)	PA-performs delegated medical acts without the supervision of a physician	2
15-314(b)(1)	On the filing of certified docket entries with the Board by the Office of the Attorney General, a disciplinary panel shall order the suspension of a license if the physician assistant is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.	1
15-401(a)	Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a license issued by the Board.	10
15-401(b)	Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope of the license and which is consistent with a delegation agreement filed with the Board.	3
1900107	Response of YES to one of "Questions" on application form.	1
1900207	Response of YES to one of "questions" on renewal form.	20

199414-404a001	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	1
1996-404a001	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;	1
1996-404a004	Is professionally, physically, or mentally incompetent	8
1996-404a006	Abandons a patient	11
1996-404a007	Habitually is intoxicated	2
1996-404a008	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Article 27 of the Code	3
1996-404a009i	Provides professional services - while under the influence of alcohol;	1
1996-404a011	Willfully makes or files a false report or record in the practice of medicine	14
1996-404a018	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine	17
1996-404a019	Grossly over utilizes health care services	6
1996-404a021	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 the US uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section	9
1996-404a022	Fails to meet appropriate standards as determined by appropriate peer review of the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State	286
1996-404a023	Willfully submits false statements to collect fees for which services are not provided	12
1996-404a027	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	5
1996-404a028	Fails to comply with the provisions of section 12-102 of this article (these pertain to physician dispensing)	21
1996404a030i	Except as to an Association that has remained in continuous existence since July 1, 1963 - Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy	1
1996404a030ii	Except as to an Association that has remained in continuous existence since July 1, 1963 - Employs a pharmacist for the purpose of operating a pharmacy	2
1996-404a033	Fails to cooperate with a lawful investigation conducted by the Board	2

1996-404a036	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	7
1997-404a013	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 the patient, another physician, or hospital	44
1997-404a040	Fails to keep adequate medical records as determined by appropriate peer review	32
1997-404b01	On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.	1
1997-404b02	After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a license on the certification by the Office of the Attorney General	3
2007-404a003I	Is guilty of immoral conduct in the practice of medicine.	27
2007-404a003II	Is guilty of unprofessional conduct in the practice of medicine.	518
	TOTAL ALLEGATIONS AGAINST PRACTITIONERS	1348

TABLE B - RESOLVED ALLEGATIONS AGAINST PRACTITIONERS UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER HEALTH OCCUPATIONS FOR FY 16

Grounds	Ground Description	Count of Cases	Avg. Days
2007-404a003II	Is guilty of unprofessional conduct in the practice of medicine.	206	210
1996-404a022	Fails to meet appropriate standards as determined by appropriate peer review of the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State	144	226
14-601	Practicing without a license	65	118
1997-404a013	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 the patient, another physician, or hospital	43	72
1900207	Response of YES to one of "questions" on renewal form.	32	145
1997-404a040	Fails to keep adequate medical records as determined by appropriate peer review	23	244
14-316(c)	COMAR 10.32.01.08 CME Deficiency in Renewal application	21	83
15-314(3ii)	Is guilty of unprofessional conduct in the practice of medicine	19	187
2007-404a003I	Is guilty of immoral conduct in the practice of medicine.	19	292
14-5D-17	Practice [athletic training] without license prohibited.	18	127
1996-404a027	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes	16	499
1996-404a018	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine	16	313
1996-404a004	Is professionally, physically, or mentally incompetent	15	286
1996-404a021	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 the US uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section	13	101
1996-404a023	Willfully submits false statements to collect fees for which	12	268

	services are not provided		
15-314(a)(22)	Fails to meet appropriate standards for the delivery of quality care	11	94
1996-404a028	Fails to comply with the provisions of section 12-102 of this article (these pertain to physician dispensing)	11	196
1996-404a011	Willfully makes or files a false report or record in the practice of medicine	11	281
15-401(a)	Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a license issued by the Board.	10	190
10320707(C)	Prohibited Conduct, Hearings, and Appeals for unlicensed medical practitioners	8	45
14-413	Fails to report	8	54
1996-404a006	Abandons a patient	7	107
10-119.3	Child Support Enforcement Admin - Family Law Article 10-119.3	7	36
1996-404a019	Grossly over utilizes health care services	7	185
15-314(a)(3)	PA - violates any provision of this title or any regulations...adopted under 14-404	5	109
14-5B-14(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology.	5	129
1996-404a036	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	5	63
14-5A-17(a)(3)	Is guilty of unprofessional or immoral conduct in the practice of respiratory care	4	132
1996-404a008	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Article 27 of the Code	4	305
1996-oth	Other ground than listed above- allied health, etc.	3	292
15-314(a)(3)(i	Is guilty of immoral conduct in the practice of medicine	3	277
1996-404a001	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;	3	226

1996404a030ii	Except as to an Association that has remained in continuous existence since July 1, 1963 - Employs a pharmacist for the purpose of operating a pharmacy	3	80
15-314(a)(40)	Fails to keep adequate medical records	2	89
14-5B-14(a)(18	Fails to meet appropriate standards for the delivery of quality radiation oncology/therapy technology care, medical radiation technology care, or nuclear medicine technology care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State	2	140
14-602	Misrepresentation as practitioner of medicine	2	127
15-314(a)(36)	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine	2	80
1900107	Response of YES to one of "Questions" on application form.	2	97
10.32.04	Psychiatrist Assistants	2	111
15-401(b)	Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope of the license and which is consistent with a delegation agreement filed with the Board.	2	109
14-5D-14(3)	Is guilty of unprofessional or immoral conduct in the practice of athletic training	2	29
15-314(b)(2)	After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, a disciplinary panel shall order the revocation of a license on the certification by the Office of the Attorney General.	1	461
14-5A-17(a)(10	Willfully makes or files a false report or record in the practice of respiratory care.	1	283
14-5B-14(1)	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensed individual, or for another;	1	5
14-5B-14(a)(7)	Is addicted or habitually abuses any narcotic or CDS as defined in 5-101 of the Criminal Law Article	1	198
14-5A-17(a)(7)	Is addicted to or habitually abuses any narcotic or controlled dangerous substance	1	186
199414-404b001	Crimes involving moral turpitude.	1	352

14-5C-20	Practicing without (polysomnographer) license.	1	137
14-5A-17(a)(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 this State	1	283
1996404a030iii	Except as to an Association that has remained in continuous existence since July 1, 1963 - Contracts with a pharmacist for the purpose of operating a pharmacy	1	79
199414-404a001	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	1	62
14-5D-14(b)	Crimes of moral turpitude	1	293
2007-404a041	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.	1	280
1996-404a009i	Provides professional services - while under the influence of alcohol;	1	245
1996404a030i	Except as to an Association that has remained in continuous existence since July 1, 1963 - Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy	1	182
1997-404b02	After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a license on the certification by the Office of the Attorney General	1	3
14-5A-17(a)(8)	Provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance.	1	186
15-314(b)(1)	On the filing of certified docket entries with the Board by the Office of the Attorney General, a disciplinary panel shall order the suspension of a license if the physician assistant is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.	1	103
199414-404a009	Provides professional services while under the influence of alcohol or controlled drugs.	1	216

1996-404a017	Makes a willful misrepresentation in treatment	1	140
14-5A-17(c)	On the filing of certified docket entries with the Board by the Office of the Attorney General, a disciplinary panel shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.	1	490
	Total Resolved Allegations Against Practitioners	813	
	Average Days to Resolve Allegations		179

Table C- FY 16 Disciplinary Actions

DISCIPLINARY DEFINITIONS	PHYSICIANS	PHYSICIANS ASSISTANTS	ALLIED HEALTH	UNLICENSED	TOTALS
LOSS OF LICENSE: Summary Suspension, Revocation, Suspension, Letter of Surrender & Denials	31	7	9	0	47
RESTRICTION OF LICENSE: Reprimand with Probation or Conditions, Probation, Conditions	52	2	5	0	59
OTHER PREJUDICIAL ACTION: Reprimand & Cease and Desist	17	0	2	9	28
OTHER PREJUDICIAL ACTION: CME's	11	0	0	0	11
OTHER PREJUDICIAL ACTION:	3	3	2	5	13
NON-PREJUDICIAL ACTION: Summary Suspension Lifted, License Granted,	59	5	5	12	81
NON-PREJUDICIAL ACTION: Non-Public Orders / Disposition Agreements	13	3	16	1	33
TOTAL DISCIPLINARY ACTIONS	186	20	39	27	272
FINES (Disciplinary)	$65,600	$0	$0	$0	$65,600
ADMINISTRATIVE FINES (CME'S)	$26,450	$0	$0	$0	$26,450
FINES (Unlicensed Practice of Medicine)	$16,000	$4,000	$750	$24,500	$45, 250
TOTALS FINES	$108,050	$4,000	$750	$24,500	$137, 300

BOARD COUNSEL'S REPORT

The Office of the Attorney General ("OAG"), through Board counsel, provided day-to-day legal advice to the Board regarding ongoing cases, investigations, procedures, contractual and procurement issues, memoranda of understanding and assisted the Board in writing 22 formal disciplinary decisions, which included 9 letters of surrender, 2 orders denying licensure, 2 orders reinstating licenses with conditions, and 3 orders following Show Cause hearings. Board Counsel also reviewed and finalized 1 Cease and Desist Order, 5 Summary Suspension Orders and 5 Termination of Suspension Orders. Following disciplinary panel meetings, the OAG also assisted in reviewing and finalizing 41 Consent Orders. 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 16.

Michael A. Basco, M.D. v. Maryland State Board of Physicians (Circuit Court for Charles County, Case No. 08-C-15-000225). A disciplinary panel of the Board suspended Dr. Basco's license and charged him with unprofessional conduct in the practice of medicine and sexual misconduct for inappropriately touching a patient's breasts, commenting on her appearance and putting ice down the pants of a co-worker. Dr. Basco filed a petition for judicial review of the panel's final order in the Circuit Court for Charles County. The Board has filed the administrative record, and the parties have filed briefs. Oral argument is scheduled for November 21, 2016.

Brian Chigbue v. William Brennan, Esq., et al. (Circuit Court of Baltimore City, Case No. 24-C-15-002196). Three Board employees were issued subpoenas for Board records. On May 26, 2016, the Board filed a Motion to Quash Subpoenas. On June 6, 2016, a motion for summary judgment submitted by defendants was granted, rendering the subpoenas moot.

James D. Clarke, M.D. v. Maryland State Board of Physicians (Circuit Court for Baltimore County, Case No. C-15-003500AA). A disciplinary panel of the Board reprimanded Dr. Clarke for unprofessional conduct in the practice of medicine based on his inappropriate prescribing to family members, as well as his inappropriate comments to and inappropriate touching of employees in his medical practice. Dr. Clarke filed a petition for judicial review in the Circuit Court for Baltimore County. Following the filing of the administrative record and briefs, the Court heard oral argument on November 13, 2015. The Court affirmed the disciplinary panel's decision on May 10, 2016 and filed a Revised Opinion affirming the panel's decision on May 26, 2016.

Lawrence D. Egbert, M.D. v. Maryland State Board of Physicians (Circuit Court for Baltimore City, Case No. 24-C-15-000044 AA). A disciplinary panel of the Board revoked Dr. Egbert's medical license for his actions as the medical director of a right to death organization and his participation in six patient suicides. Dr. Egbert petitioned for judicial review in the Circuit Court for Baltimore City. The Board filed the administrative record in March, 2015 and filed a Motion to Dismiss based on Dr. Egbert's failure to file a brief with the court. On July 9, 2015, the Court

heard oral argument and denied the Motion to Dismiss. On July 16, 2015, the Court affirmed the disciplinary panel's final decision.

Robert Joseph Klimczak v. Maryland State Board of Physicians, et al. (Circuit Court for Talbot County, Case No. 20-C-15-009221). *Robert Joseph Klimczak v. Office of the Attorney General* (Circuit Court for Talbot County, Case No. 20-C-15-009231). In September of 2015, Mr. Klimczak, a formerly licensed respiratory care practitioner, sued the Board and also sued the Office of Attorney General alleging invasion of privacy, defamation and slander, fraud, and contempt in relation to the Board's investigation of him, which concluded in the Spring of 2010. Mr. Klimczak voluntarily surrendered his license to practice respiratory care on April 21, 2011. The Board filed a Motion to Dismiss in both cases on the grounds that the complaint was barred by the statute of limitations; the Board has sovereign immunity; and that the complaint failed to state a claim upon which relief can be granted. On November 30, 2015, the Circuit Court for Talbot County granted the Board's motion to dismiss the Complaint.

Walter E. Kozachuk, M.D. v. Maryland State Board of Physicians (Circuit Court for Baltimore City, Case No. 24-C-16-002996). A disciplinary panel of the Board placed Dr. Kozachuk on probation and prohibited him from prescribing controlled dangerous substances for the duration of probation based on the findings of unprofessional conduct and a violation of the standard of care. The panel also found that Dr. Kozachuk gave patients medications in exchange for cash at a bar and violated the standard of care pertaining to his chronic pain practice. Dr. Kozachuk filed a petition for judicial review in the Circuit Court for Baltimore City. The Board has filed the administrative record, the case is pending and oral argument is scheduled for November 9, 2016.

David Geier v. Maryland Board of Physicians (Court of Special Appeals, No. 00709, September Term 2014). 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. Geier then appealed to the circuit court. The circuit court affirmed the Board's decision. Mr. Geier appealed to the Court of Special Appeals. On July 31, 2015, the Court of Special Appeals affirmed the Board's decision. Mr. Geier did not file a petition for certiorari.

Mark Geier, M.D. v. Maryland Board of Physicians (Court of Special Appeals, No. 1095, September Term, 2014). 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 was argued in Montgomery County. The circuit court affirmed the Board's decision. Dr. Geier appealed to the Court of Special Appeals. In a reported opinion issued on May 29, 2015, the appellate court affirmed the Board's decision and subsequently denied Dr. Geier's motion for reconsideration. Dr. Geier did not file a petition for certiorari.

Shawn Loper v. Maryland State Board of Physicians (Court of Special Appeals, No. 1575, September Term, 2015). Mr. Loper belatedly noted an appeal to the Court of Special Appeals

one year after the Circuit Court for Baltimore City affirmed the Board's December, 2013 decision to fine Mr. Loper for practicing medicine without a license. On December 8, 2015, the Court of Special Appeals dismissed the appeal because it was filed more than 30 days after the circuit court's judgment.

Paul J. MacKoul, M.D. v. Maryland State Board of Physicians (Court of Special Appeals, No. 02607, September Term 2014). The Board reprimanded Dr. MacKoul for unprofessional conduct in the practice of medicine based on his failure to communicate with an 89-year old patient and her family about his delay of her surgery on the scheduled date of the surgery and his subsequent false and accusatory statements to the patient and her family. In January, 2015, the Circuit Court for Montgomery County affirmed the Board's decision. Dr. MacKoul appealed to the Court of Special Appeals. Following briefing and oral argument in December, 2015, the Court of Special Appeals affirmed the Board's decision on January 20, 2016. Dr. MacKoul did not file a petition for certiorari.

Lawrence Markovitz v. Wilson Elser Moskowitz, Edelman & Dicker, LLP (Circuit Court of Baltimore City, Case No. 24-C-15-007070). The Board, the Attorney General of Maryland and an administrative prosecutor were issued subpoenas for Board records by Wilson Elser Moskowitz, Edelman & Dicker, LLP. The Board, the Attorney General and prosecutor filed a Motion to Quash Subpoenas and the motion was granted on February 22, 2016 for failure to comply with Maryland Rule 2-412. The subpoenas were reissued and the Board, Attorney General and prosecutor filed a motion for protective order to quash subpoenas. After oral argument on May 20, 2016, the Court issued a written order quashing all subpoenas on June 15, 2016.

Marshall v. Carole Catalfo & Andrew Moultrie, M.D., et al., (Circuit Court for Anne Arundel County Lead Case No. C-14-191256). Plaintiff Gregory Marshall, an inmate at the North Branch Correctional Institution in Cumberland, Maryland, filed a complaint alleging medical negligence by health care practitioners during treatment he received in prison and included Ms. Catalfo, a former Executive Director of the Board in the complaint. He failed to allege any facts regarding a cause of action against Ms. Catalfo. The Board filed a Motion to Dismiss the complaint against Ms. Catalfo, and requested that she be removed as a named defendant. The case was consolidated with other pending cases by the Plaintiff against other physician defendants. On July 7, 2015, the Board renewed its motion to dismiss. On July 30, 2015, the court advised that it had issued a court order closing the case on June 2, 2015.

Marshall v. Andrea Mathias, M.D. & Christine Farrelly, et al. (Circuit Court for Anne Arundel County Lead Case No. C-14-191256). Mr. Marshall filed two complaints against Board personnel Andrea Mathias, M.D. and Christine Farrelly, in the District Court of Maryland for Baltimore City, Case Nos. 0101-0011505-2014 and 0101-0015118-2014, alleging that they failed to investigate unlawful medical care by a physician. The cases were transferred to the circuit court of Baltimore City as Case Nos. 24-C-14-003831 and 24-C-14-004535, and the Board filed a motion to dismiss. The cases were subsequently transferred to the Circuit Court for Anne Arundel County, and consolidated with other cases pending by the Plaintiff against other

defendants in Lead Case No. C-14-191256. On July 7, 2015, the Board renewed its motion to dismiss. On July 30, 2015, the court advised that it had issued a court order closing the case on June 2, 2015.

Marshall v. Christine Farrelly & Maureen Sammons, et al. (Circuit Court for Anne Arundel County Lead Case No. C-14-191256). Mr. Marshall filed a complaint against Board personnel Christine Farrelly and Maureen Sammons, in the District Court of Maryland for Baltimore City, Case No. 0101-20632-2014, alleging that they refused to remedy a complaint he sent to the Board about a physician. The case was transferred to the circuit court of Baltimore City as Case No. 24-C-14-005766. The Board filed a motion to dismiss the complaint and to remove Ms. Farrelly and Ms. Sammons as defendants in the case. The case was subsequently transferred to the Circuit Court for Anne Arundel County, and consolidated with other cases pending by the Plaintiff against other defendants in Lead Case No. C-14-191256. On July 7, 2015, the Board renewed its motion to dismiss. On July 30, 2015, the court advised that it had issued a court order closing the case on June 2, 2015.

Marshall v. Christine Farrelly & Maureen Sammons, et al. (District Court for Baltimore City No. 0101-0004811-2015). Mr. Marshall filed another complaint against Board personnel Christine Farrelly and Maureen Sammons, in the District Court of Maryland for Baltimore City, alleging that they did not investigate a complaint that he sent to the Board about a physician treating him at the prison. The Board filed a Motion to Dismiss on March 30, 2015. The case was transferred to the Circuit Court of Baltimore City (Case No. 24-C-15-001657) and subsequently transferred to the Circuit Court for Anne Arundel County and assigned Case No. C-02-CV-15-001921. On July 30, 2015, the court dismissed the complaint.

Roger B. Olade, M.D. v. Maryland Board of Physicians (Circuit Court for Baltimore City, Case No. 24-C-15-003534). The Board reprimanded and fined Dr. Olade $10,000 for unprofessional conduct in the practice of medicine, for making a false representation when seeking a license, and for a reciprocal action based on grounds similar to the Board's standard of care and inadequate medical recordkeeping grounds. The Board based the charges on his failure to report prior discipline in Arizona on his renewal application and for a reciprocal action for the underlying conduct. Dr. Olade filed a petition for judicial review, and the Board filed the administrative record, but Dr. Olade failed to file a memorandum in support of his claims. The Board filed a motion to dismiss. Dr. Olade failed to appear in court on December 2, 2015. The court granted the Board's motion to dismiss on December 8, 2015.

Brenda Smith v. Delaware North Companies, et al. (Court of Appeals, Petition Docket No. 103, Sept. Term 2015). On May 18, 2016, the Board filed a brief as *Amicus Curiae* to bring to the attention of the Court of Appeals relevant matters not already brought to its attention by the parties in the case. These matters involve the interpretation and application of the evidentiary privilege established by Section 14-410(a)(2) of the Medical Practice Act and the decision of the Court of Special Appeals in *Pepsi Bottling Grp. v. Plummer,* 226 Md. App. 460 (2016). The Court heard oral arguments by the parties on June 1, 2016. A decision is pending.

Daniel Smithpeter, M.D. v. State Board of Physicians (Circuit Court for Baltimore City, Case No. 24-C-15-002028). On March 27, 2015, a disciplinary panel of the Board reinstated a prior Board 2011 sanction imposed on Dr. Smithpeter after the case had been remanded on July 27, 2013 from the Court of Special Appeals (No. 00819, September Term, 2012). The purpose of the remand was to address subpoenas to obtain the patient's mental health records issued by the Office of Administrative Hearings upon Dr. Smithpeter's request. The disciplinary panel also upheld the ALJ's quashing of the subpoenas. Dr. Smithpeter filed a petition for judicial review of the panel's reinstatement of the sanction in the Circuit Court for Baltimore City. On June 14, 2016, the circuit court affirmed the disciplinary panel's decision.

Daniel Smithpeter, M.D. v. State Board of Physicians (Court of Special Appeals, No. 1011, September Term, 2016). Dr. Smithpeter appealed the decision of the Circuit Court for Baltimore City to the Court of Special Appeals, which issued an order to proceed on July 29, 2016. The case is pending.

Cimenga M. Tshibaka v. Maryland State Board of Physicians (Circuit Court for Baltimore City, Case No. 24-C-15-003995). On August 6, 2015, a disciplinary panel of the Board revoked Dr. Tshibaka's medical license for sexually touching a female employee in the hospital twice in one day. Dr. Tshibaka petitioned for judicial review. On February 2, 2016, the Circuit Court for Baltimore City affirmed the panel's decision.

University of Maryland Medical Systems, Inc., et al. v. Maryland Board of Physicians & Albert L. Blumberg et al. v. Maryland Board of Physicians (Court of Appeals, Petition Docket No. 206, Sept. Term, 2015) UMMS and Dr. Blumberg filed a petition for certiorari following the Court of Special Appeals' dismissal of 2 cases on May 4, 2015 that involved complaints seeking an administrative mandamus and a declaratory judgment based on a Board Consent Order implicating the Maryland Patient Referral Laws. (Court of Special Appeals, No. 211, Sept. Term 2014). On August 24, 2015, the Court of Appeals denied the petition for certiorari.

John L. Young, M.D. v. Maryland State Board of Physicians (Circuit Court for Montgomery County, Case No. 396420-V). On February 13, 2013, the Board summarily suspended the medical license of Dr. Young and charged him with unprofessional conduct for treating patients of a physician whose license was suspended under the direction of that suspended physician. Dr. Young did not have any background or experience in treating the conditions he was treating. Ultimately, on September 26, 2014, after lifting Dr. Young's summary suspension, a disciplinary panel of the Board placed him on probation for one year (effective after his expired license was reinstated). Dr. Young petitioned for judicial review in the Circuit Court for Montgomery County. On February 25, 2016, the circuit court affirmed the disciplinary panel's decision. Dr. Young did not file an appeal.

EXHIBIT 1

ROSTER OF MEMBERS OF THE BOARD OF PHYSICIANS (2016)

NAME	SPECIALTY/CATEGORY	TERM ENDS
Damean W.E. Freas, D.O., Board Chair	Pain Management	2018
Arun Bhandari, M.D., Vice Chair	Oncology	2019
Jonathan A. Lerner, PA-C, Secretary	Physician Assistant	2017
Carmen M. Contee, Secretary	Consumer Member	2016
Brenda G. Baker	Consumer Member	2016
Marie-Alberte Boursiquot, M.D.	Internal Medicine	2020
Edward J. Brody	Public/Risk Management	2018
Lisa Burgess, M.D.	Psychiatry	2020
Alexis J. Carras, M.D.	Physician Anesthesiology	2017
Gary J. Della'Zanna, D.O.	Osteopathic Surgeon	2017
Charles J. Gast	Consumer Member	2019
Jacqueline M. Golden	Consumer Member	2017
Avril M. Houston, M.D.	Physician Pediatrics	2016
Celeste Lombardi, M.D.	Anesthesiology	2016
Jacek L. Mostwin, M.D.	Urology	2018
Mark D. Olszyk, M.D.	Physician Emergency Medicine	2017
Kevin Damien Pereira, M.D.	Otolaryngology	2019
Robert P. Roca, M.D.	Physician Psychiatrist	2017
Beryl J. Rosenstein, M.D.	Physician Pediatrics Full-time Faculty Appointee	2019
Martha Schaerr	Consumer Member	2018
Thomas M. Walsh, M.D.	Family Practice	2019
Moody D. Wharam Jr., M.D.	Radiation/Oncology	2018

EXHIBIT 2

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 thirteen (113) cases** for prosecution in Fiscal Year 2016. 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. II.§ 14-404(a), which sets forth forty-one (41) enumerated grounds for discipline. In addition, Health Occ. II. § 14-404(b) provides for prosecution of licensees convicted of crimes involving moral turpitude, Health Occ. II. § 14-205 provides for the denial of a license for reasons that are grounds for discipline under Health Occ. II. § 14-404, and Health Occ. II. §§ 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 Fiscal Year 2016, the OAG charged **eighty-three (83) cases**, of which **five (5) were summary suspensions.**

The OAG closed **one hundred thirty-one (131)** cases during Fiscal Year 2016. The closed cases included the following:

(a) Eighty-one (81) Consent Orders;

(b) Thirty-four (34) Final Orders;

(c) Five (5) Summary Suspensions

(d) Seven (7) Letters of Surrender

(e) One (1) Return to Board for Advisory Letter

(f) Eight (8) Administrative Closures

(g) Twenty-nine (29) Fines were imposed as follows:

$10,000	$2,000	$1,500	$1,000
$1,000	$10,000	$5,000	$2,500
$5,000	$1,000	$1,000	$5,000
$5,000	$1,000	$2,500	$5,000
$10,000	$1,000	$5,000	$500
$5,000	$10,000	$5,000	$1.000
$1,000	$500	$1,050	$1,050
$5,000			

(h) Ten (10) Revocations

(i) Two (2) cases had Charges Dismissed

(j) One (1) Cease & Desist Order

(k) Fifteen (15) pre-charge consent orders were filed

(l) Fifteen (15) licensees were Suspended;

(m) Forty-nine (49) licensees were Reprimanded

(n) Thirty-four (34) Probations were imposed

(o) Three (3) Reinstatements Granted

(p) Three (3) Denials

(q) One (1) Denied Delegation Modification

In Fiscal Year 2016, the Board continued to operate through a two-panel system. The two-panel system has ensured due process for licensees.

A. The Legislative Report

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

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

* * *

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

B. The Attorney General's Response

The Office of the Attorney General received **one hundred thirteen (113)** cases in fiscal year 2016. The Office filed **eighty-three (83)** charging documents of which **five (5)** were summary suspensions. **Thirty-four (34)** cases were closed with final orders, and **eighty-one (81)** cases were closed with consent orders, **seven (7)** were closed by letters of surrender, and **twenty-nine (29)** fines were imposed. Also included in those closings was **(1) Advisory Letter, and (8) Administrative Closures.** The grounds for prosecution were as follows:

Grounds	No. of Cases
Under § 12-102	1
Under § 14-205(a)	0
Under §14-307(b)	0
Under §14-404(a):	
(1)	2
(3)(a)(i)	6
(3)(a)(ii)	44
(4)	3
(7)	2
(8)	3
(9)	1
(9)(ii)	4
(17)	2
(18)	8
(19)	2

(22)	24
(27)	3
(28)	7
(36)	5
(40)	19
14-404 (b)(1)	1
14-404 (b)(2)	1
14-601	14
14-602(a)	1

Respirary Care Pract./Rad Tech.:

Violat of Disposit. Agrmt	1
14-5A-17(a)(3)	2
14-5A-17(a)(3), (10), (14) & (18)	1

Rad Tech:

14-5B-14(a)(3)	1

Physician Assistant:

15-314(a)(2), (3)(ii), (8), (9)(ii) & (11)	1
15-314(a)(2), (3)(ii), (8) & (11)	1
15-314(a)(2), (3)(ii), & (27)	1
15-314(a) (3)(ii), & 15-504(a)	1
15-401	1
15-402.1(a)	1

Polysomnograpy Tech:

14-5C-17(3)	1
Advanced Duty – Delegation Agrmt	1
Advisory Letter	1
Cease & Desist (C&D)	1
Charges Dismissed	2

Evaluation/Review Resp. Behavior	1
LOS	7
Reinstatement Denied	4
Reinstatement Granted	3
Revocations	10
Return to Board (RTB)	1
Summary Suspension	5
Suspension Terminated	1
Supplemtl' Ord after Shw Cause Hrg	1
Withdrew Requests/Application	1
Petition/Request f/Reinstatement	4
Request f/Termination Suspension	2
Request for Reinstatement	3
Violation of Consent Order/Probation	5
Violation of Disposition Agreement	1
Intent to Deny Medical License	1
COMAR 10.07.07C (2), (4), &(7)(b)	1
COMAR 10.32.03.10B	1
COMAR: 10.32.03.11C	1
COMAR: 10.32.07.07C(4) & (7)(b)	1
COMAR 10.32.17.02.04(v)	1