The Board of Physician Quality Assurance is devoting a significant part of this Newsletter to helping Maryland prepare to handle public health emergencies that could result from terrorism and bioterrorism. No single level of government nor segment of society is exempt from the need to plan ahead for emergencies. In November, Governor Glendening announced creation of regional “Rapid Response Teams” trained to assess situations, deploy resources, and coordinate services in case of emergencies. Maryland’s existing health care providers and facilities—physicians, pharmacists, nurses, local health departments, hospitals, etc—would play a major role in case of emergency. After the September 11th disasters, the Maryland Department of Health and Mental Hygiene received numerous calls from health care workers who wanted to volunteer their services. It became apparent that with preplanning and organization, Maryland would be in an excellent position to respond to terrorism, bioterrorism, or other public health threats.

Secretary Benjamin’s letter invites your participation in the State’s planning for emergencies. If you are willing to volunteer, please take a few minutes to fill out the form on page 3 and return it to the Board.

Samir Neimat, M.D.

Since the September 11, 2001 disaster, there has been heightened awareness and concern that all states are prepared and ready in the event of another disaster. As part of Maryland’s emergency preparedness efforts, the Department of Health and Mental Hygiene has identified the need for physician volunteers to help staff hospitals, clinics, alternate treatment facilities and potentially work in other environments. Physicians may also be asked to provide technical knowledge or experience in the recognition and handling of a biological, chemical or radiological agent(s) and/or treatment in the event of an incident(s) or large scale disaster event.

The purpose of this message is to request that you consider volunteering your time in the event of an emergency or disaster situation. If you would be willing to volunteer, please complete the Physician Contact Volunteer Information form and mail or fax it to the Board of Physician Quality Assurance (BPQA).
**Frequently Asked Questions**

**Medical Records**

Question: May I charge patients when they request a copy of their medical records?

Answer: Yes, you may charge for the copying of a medical record. Effective July 2001, the charges for copying a medical record (except x-rays) are as follows:

- Preparation fee of no more than $17.90;
- No more than .59 cents per page copied;
- Actual cost of postage.

Question: How long do I have to retain a patient medical record after the patient has died or ceased coming to my practice?

Answer: If the patient is an adult, you must retain the medical record for 5 years from the date the record was created. For a record created about a minor patient, the record must be maintained until the patient reaches the age of majority plus three years (i.e., 18 + 3 = 21 years of age) or 5 years after the record was created, whichever is later.

Question: May I refuse to disclose a medical record to a patient, if the patient fails to pay for health care rendered by me?

Answer: No, you may not refuse to disclose a medical record because of the patient's failure to pay a medical bill from you. In addition, if you do not disclose the medical record for this reason, you could be found guilty of a misdemeanor and on conviction could be subject to a fine not exceeding $1,000 for the first offense and not exceeding $5,000 for each subsequent conviction for this violation.

Question: What is considered a "timely response" to a request for medical records?

Answer: A physician should mail a copy of the medical record within 21 business days. Maryland Code Annotated, Health General Article Section 4-309(a) states "a reasonable time but no more than 21 working days after the date a person in interest requests the disclosure."

**Office Rental**

Question: Can an office rental agreement constitute an illegal kickback or self-referral?

Answer: Yes. The most obvious situation which might raise legal difficulties is a lease in which the rent is adjusted based on referrals from the tenant-physician to the landlord-physician. This situation might well violate the Maryland Medical Practice Act, which prohibits payment or the acceptance of compensation for referrals. Such an arrangement may also violate Maryland law against self-referrals, which prohibits referrals to any health care provider with whom the physician has a compensation arrangement. The Board is required by statute to enforce both of these laws. Federal law also prohibits physicians from referring Medicare patients to persons with whom the physician has a financial relationship. Although renting an office from another physician may appear to be a simple matter, conditioning rent in any way upon referrals could lead to serious legal difficulties.

**Transmitting Prescriptions**

In light of recent studies on medication errors, the Board of Physician Quality Assurance wants to clarify who may transmit a physician's prescription by telephone to another health care facility, provider, or pharmacy. Frequently, unlicensed staff are transmitting prescriptions by telephone. Is this legal?

Maryland regulations (COMAR 10.32.12) allow a physician to delegate certain acts to an unlicensed assistant so long as the physician ensures that the assistant has necessary training, supervises the assistant, and retains responsibility for the delegated acts. One responsibility that may be delegated to an assistant is transmitting a prescription to a pharmacy, but not to another health care facility. A physician cannot transmit the prescription to an "assistant" at a facility and "delegate" to that individual transmitting the prescription on to a pharmacy. To prevent medication errors and conform to accepted practice, the physician or his assistant should transmit the prescription directly to the pharmacy.

By: Donald Chambers, M.D. Vice Chair

**Law and Human Rights**

The Board of Physician Quality Assurance acknowledges the American Medical Association's ethical opinion, "Physician-Patient Relationship: Respect for Law and Human Rights." The opinion states that physicians who offer their services to the public may not decline to accept patients because of race, color, religion, national origin, sexual orientation, or any other basis that would constitute invidious discrimination. The Board cautions that physicians who disregard the AMA policy may be in violation of the Maryland Medical Practice Act and may be subject to discipline for immoral or unprofessional conduct in the practice of medicine.

Note: Full text of AMA Opinion 9.12 may be accessed online at [http://www.ama-assn.org/ama/pub/category/2503.html](http://www.ama-assn.org/ama/pub/category/2503.html)

By: Donald Chambers, M.D. Vice Chair
Physician Volunteer Contact Information

COMPLETE AND MAIL OR FAX BACK TO BPQA
FOR MAIL, DETACH FROM NEWSLETTER, FOLD INTO THIRDS, TAPE OR STAPLE THE FREE EDGE, $.34 POSTAGE IS REQUIRED.

4201 Patterson Avenue                     Fax: 410-358-2252
Baltimore, Maryland  21215                         410-358-1298

Yes, I would be willing to volunteer my time to provide medical care in an emergency situation.

Name ___________________________ License# ____________ Exp. Date: ___ / ___ / ___

Pager__________________________Cell ______________________ E-mail (home)____________________

E-mail (work)__________________Home phone ( ) __________Work phone ( ) __________

Fax (home)________________________Fax (work)____________________

GIVE US THE ONE BEST NUMBER OR E-MAIL ADDRESS THAT SHOULD BE USED IN THE EVENT OF AN ACTUAL EMERGENCY.

Daytime: __________________________ Nighttime: ____________________

☐ Check here if willing to serve in any area of the State, or list the counties in which you would prefer to volunteer:

________________________________________________________________________
________________________________________________________________________

Name of Practice: __________________________

Work Address: __________________________

County: __________________ Zip Code: _________ Phone: __________________ Fax: ________

Home Address: __________________________

City, State __________________________ Zip Code: _________

Tell us about any particular training and experience you have regarding any specific agents _______chemical_____biological_____radiological. (Check all that apply)

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

__________________________________
Legislative Updates

Sunset
The 2002 session of the Maryland General Assembly closed at midnight on April 8, 2002. After a “sunset review” which analyzed the functioning of the Board of Physician Quality Assurance in detail, bills were considered that would have extended the life of the Board and changed some operating details (HB 846, SB 613).

One pivotal issue was the peer review process used when the Board is investigating charges that a physician failed to meet the standard of care. Currently, peer review is coordinated by MedChi, using two reviewers who are generally Maryland physicians practicing in the same specialty as the physician being evaluated. Possible changes considered were to use an agency other than MedChi to coordinate the reviews, to use a third reviewer if the first two reviewers differed on whether the standard of care had been met, and specifying qualifications for the reviewers.

Another issue was increasing or changing Board membership and changing the process for nominating physicians for consideration by the Governor for Board membership (now done by MedChi). In the end, the General Assembly did not pass any “sunset” legislation.

Does the failure of the General Assembly to pass one of these bills mean that physician licensing will come to a halt in Maryland? Fortunately, the Board continues to exist through July 1, 2003. The 2003 General Assembly will have to reach resolution on these issues.

Medical Radiation Technologists and Nuclear Medical Technologists
The General Assembly did pass legislation (SB 534 and HB 518) to incorporate into law many of the provisions now in regulations governing the licensure, scope of practice, and related details of the Board operations to certify and discipline three categories of allied health professionals working with radiation. Thanks to cooperation with the legislators, the bills were amended to make them consistent with most current practices. Staff in a physician’s office who were not hired primarily to take x-rays, who took a 30-hour course and were approved by the Board in 1994 may continue to take the x-rays permitted by the 1994 law under the new provisions.

Medical Radiation Technologists and Nuclear Medical Technologists

Exception to seven-year rule
Two bills (SB 42 and HB 375) would have required the Board to adopt regulations granting an exception to the 7-year rule for passing licensure examinations for applicants whose medical training was interrupted by serious illness. The Board decided it was preferable to amend the regulations to extend the time period for all applicants, allowing them up to ten years, with no more than 3 fails on each step. Proposed amendments to the licensure regulations are expected to be printed in the Maryland Register on May 3, 2002. As a result, the two licensure bills received an unfavorable report in the House Environmental Matters Committee.

Physician Assistants
HB 533, which passed the General Assembly, makes changes in the Maryland Physician Assistant’s Act. This bill allows for alternate supervising physicians for physician assistants working in the community, so that a physician assistant can continue to work when his primary supervising physician is on leave. In detention centers and public health facilities, supervising physicians will be permitted to supervise (and have delegation agreements with) more than two physician assistants. The bill also directs the Board, the Board of Nursing, and others to study and report on what education and training should be required for a physician assistant to administer anesthesia.

Drug Therapy Management
After extensive work last summer and fall, a multi-disciplinary committee convened by the Board of Pharmacy crafted a bill (SB 676/HB 781) which allows physicians and pharmacists to collaborate more closely to improve outcomes for patients with chronic conditions. The Boards of Pharmacy and Physician Quality Assurance will be jointly responsible for developing regulations and implementing the program. With the consent of the patient, physician, and pharmacist, this bill will allow the pharmacist to assist the patient in maintaining adequate control of conditions such as diabetes and hypertension.

For those bills which passed both Houses and are signed by the Governor, you will hear more in the next few months as the Board takes action needed to implement the changes. If you are interested in obtaining more information, including copies of the bills discussed in this article, you can access them through the General Assembly’s website: mlis.state.md.us. That site will also let you know which bills have been signed by the Governor.

MHCC BOOKMARK OFFER TO HELP YOUR PATIENTS FIND OBJECTIVE INFORMATION ON MARYLAND HMOS, NURSING HOMES & HOSPITALS

The Maryland Health Care Commission (MHCC) is offering to send physicians a free supply of consumer handouts for their patients. The handout, in the form of a “bookmark,” briefly describes the three types of performance evaluation guides for consumers that the MHCC produces and posts on its website: http://www.mhcc.state.md.us. Interested physicians may request bookmarks by contacting the MHCC 4201 Patterson Avenue, 5th Floor, Baltimore, MD 21215, Phone: 410-764-3460 or 1-877-245-1762 toll-free. E-mail Zeke Barbour: zbarbour@mhcc.state.md.us
Gerald H. Fink, M.D.
REPRIMAND, PROBATION FOR 3 YEARS. License #: D02125
Specialty: Psychiatry
Silver Spring, MD, Date of Action: April 4, 2001

Barbara A. Solomon, M.D.
REVOCATION, License #: D10472
Specialty: Internal Medicine
Baltimore, MD, Date of Action: April 4, 2001

Paul A. Mullan, M.D.
SUSPENSION, License #: D08462
Specialty: Pediatrics
Towson, MD, Date of Action: April 11, 2001

Melvin J. Duckett, M.D.
SUSPENSION; FINE OF $10,000 AND TERMS AND CONDITIONS;
AFTER 3 MONTHS IF TERMS AND CONDITIONS MET, PROBATION
FOR 4 YEARS. License #: D32401
Specialty: Urological Surgery
Sparks, MD, Date of Action: April 24, 2001

Mark Davis, M.D.
TERMINATION OF DECEMBER 8, 1995 ORDER, PERMANENT CONDITIONS,
License #: D23760
Specialty: Internal Medicine
Abingdon, MD, Date of Action: April 25, 2001

Nathan D. Goldenenthal, M.D.
REPRIMAND. License #: D36337, Specialty: General Preventative Medicine
Scottsdale, AR, Date of Action: April 25, 2001

Daniel R. Howard, M.D.
DISCONTINUATION OF THE PRACTICE OF OBSTETRICS,
License #: D43386, Specialty: OB/GYN
Baltimore, MD, Date of Action: April 25, 2001

Roland Imperial, M.D.
SUMMARY SUSPENSION ORDER UPHELD, License # D05276
Specialty: Unspecified
Bethesda, MD, Date of Action: April 25, 2001

David C. Allen, M.D.
SURRENDER OF LICENSE, License #: D25230
Specialty: Internal Medicine
California, MD, Date of Action: May 23, 2001

Barry Ray Byram, M.D.
SURRENDER OF LICENSE, License #: D50059
Specialty: General/Family Practice
Laguna Beach, CA, Date of Action: May 23, 2001

Robert T. Horton, M.D.
SUSPENSION, License #: D54056, Specialty: Psychiatry
Baltimore, MD, Date of Action: January 9, 2002

Melvin Duckett, M.D.
SUSPENSION EFFECTIVE APRIL 24, 2001, STAYED; PROBATION
FOR 4 YEARS. License #: D32401, Specialty: Urological Surgery,
Sparks, MD, Date of Action: December 19, 2001

Suhayl S. Kalash, M.D.
STAY OF SUSPENSION OF SEPTEMBER 19, 2001 CONSENT ORDER;
PROBATION FOR 4 YEARS. License #: D23768
Specialty: Urological Surgery, Cockeysville, MD,
Date of Action: December 19, 2001

Mary H. Fang, M.D.
LICENSE REINSTATED, PROBATION FOR 2 YEARS,
License #: D23448, Specialty: Internal Medicine
Potomac, MD, Date of Action: May 23, 2001

Alan S. Greenberg, M.D.
REVOCATION, License #: D04728
Specialty: Neurology
Jarrettsville, MD, Date of Action: May 23, 2001

David M. O'Neil, M.D.
REPRIMAND WITH CONDITIONS, License #: D22619
Specialty: OB/GYN
Baltimore, MD, Date of Action: May 25, 2001

Paul J. Scheel, Jr. M.D.
REPRIMAND, License #: D39882
Specialty: Unspecified
Ellicott City, MD, Date of Action: May 25, 2001

Hanif A. Gopalani, M.D.
SUMMARY SUSPENSION, License #: D37448
Specialty: Psychiatry
Baltimore, MD, Date of Action: June 11, 2001

Ronald J. Crisp, M.D.
DENIAL OF LICENSE, License #: No License
Specialty: Not Specified
Frederick, MD, Date of Action: June 27, 2001

Arvind Kumar Pathak, M.D.
REPRIMAND, License #: D12867, Specialty: Family Practice Reston, VA,
Date of Action: June 27, 2001

Joel Cohen, M.D.
REPRIMAND; PROBATION FOR 2 YEARS, License #: D08672
Specialty: Psychiatry
Potomac, MD, Date of Action: July 11, 2001

Alfredo J. Herrera, M.D.
SUSPENSION, License #: D17863, Specialty: Pediatrics
Ellicott City, MD, Date of Action: July 18, 2001

Arvind K. Pathak, M.D.
REPRIMAND, License #: D23448, Specialty: Pediatrics
Ellicott City, MD, Date of Action: July 18, 2001

Alfredo J. Herrera, M.D.
REPRIMAND, License #: D17863, Specialty: Pediatrics
Ellicott City, MD, Date of Action: November 28, 2001

Ross Joseph Brechner, M.D.
SUSPENSION, PHYSICIAN NOT TO PRACTICE SURGERY,
License #: D39783, Specialty: Ophthalmology
Phoenix, AZ, Date of Action: July 25, 2001

William F. Eberlin
FINE $15,000. No License, No Specialty
Gaithersburg, MD 20877, Date of Action: September 19, 2001

Suhayl S. Kalash, M.D.
SUSPENSION FOR 1 YEAR; $10,000 FINE; IF FINE PAID, PROBATION
FOR 4 YEARS. License #: D37448
Specialty: Urology, Cockeysville, MD, Date of Action: September 19, 2001
### BOARD ORDERS  April 04, 2001 -  March 31, 2002

<table>
<thead>
<tr>
<th>Pricha Phattiyakul, M.D.</th>
<th>William K. Kelly, M.D.</th>
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<tr>
<td>SUSPENSION FOR 12 MONTHS, SIX MONTHS STAYED, TERMS AND CONDITIONS; IF SUSPENSION STAYED 3 YEARS PROBATION, License #: D17730</td>
<td>SUMMARY SUSPENSION, License #: D39979</td>
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<tr>
<td>Specialty: Anesthesiology</td>
<td>Specialty: Medical Oncology</td>
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<tr>
<td>Frederick, MD,  Date of Action: September 19, 2001</td>
<td>Bethesda, MD,  Date of Action: January 23, 2002</td>
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<th>George Yossif, M.D.</th>
<th>Paul A. Mullan, M.D.</th>
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<td>REINSTATEMENT, License #: D21314, Specialty: Psychiatry</td>
<td>REVOCATION STAYED, License #: D08462, Specialty: Unspecified</td>
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<td>Baltimore, MD,  Date of Action: July 25, 2001</td>
<td>Towson, MD,  Date of Action: January 23, 2002</td>
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<th>William H. Choate, M.D.</th>
<th>Mahmoud F. Abbas, M.D.</th>
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<td>REPRIMAND; PROBATION FOR 3 YEARS, License #: D01030</td>
<td>DENIAL OF REINSTATEMENT Lic# D12722, Specialty: Psychiatry, Ellicott City, MD,  Date of Action: July 25, 2001</td>
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<td>Specialty: General Practice</td>
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<td>Annapolis, MD,  Date of Action: August 22, 2001</td>
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<th>Romanus O. Nwanna, M.D.</th>
<th>Israel Kogan, M.D.</th>
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<td>DENIAL OF LICENSE, No License, Specialty: Unspecified Scotch Plains, NJ,  Date of Action: August 22, 2001</td>
<td>SUSPENSION FOR 6 MONTHS; STAY AFTER 3 MONTHS IF CONDITIONS MET; PROBATION FOR 3 YEARS. License #: D14110, Specialty: OB/GYN, Washington, DC Date of Action: March 15, 2002</td>
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<tr>
<th>Young H. Yu, M.D.</th>
<th>William Ellis, M.D.</th>
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<td>SURRENDER, License #: D09075, Specialty: OB/GYN</td>
<td>REPRIMAND, TERMS AND CONDITIONS. License #: D04173, Specialty: Ophthalmology, El Cerrito, CA, Date of Action: March 20, 2002</td>
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<td>Towson, MD,  Date of Action: August 22, 2001</td>
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<th>James T. Hicks, M.D.</th>
<th>Jeffrey I. Goltz, M.D.</th>
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<td>REVOCAUTION, License #: D05178, Specialty: General Practice</td>
<td>REINSTATEMENT WITH A CONDITION. License #: D16463, Specialty: Orthopedic Surgery, Boca Raton, FL Date of Action: March 20, 2002</td>
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<td>Oakbrook Terrace, IL, Date of Action: September 5, 2001</td>
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<th>Mahmoud Nemazee, M.D.</th>
<th>Hassan H. Hodjati, M.D.</th>
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<tr>
<td>TERMINATION OF SUSPENSION PER THE CONSENT ORDER OF MARCH 28, 2001, REINSTATEMENT WITH A CONDITION, License #: D38784 Specialty: Internal Medicine, Santa Monica, CA,  Date of Action: January 23, 2002</td>
<td>SUMMARY SUSPENSION. License #: D23383, Specialty: General Surgery, Silver Spring, MD,  Date of Action: March 20, 2002</td>
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<tr>
<th>John P. Serlemitsos, M.D.</th>
<th>Tsu-Chun Lin, M.D.</th>
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<td>REVOCAUTION, License #: D32654, Specialty: Internal Medicine, Crownsville, MD,  Date of Action: December 19, 2001</td>
<td>SURRENDER. License #: D24756, Specialty: Pediatrics, Gambrills, MD,  Date of Action: March 20, 2002</td>
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<tr>
<th>Robert Michael Elliott, M.D.</th>
<th>Shirley E. Brown-Ornish, M.D.</th>
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<td>DENIAL OF REINSTATEMENT, License #:D42601 (non-renewed), Dermatology San Juan Capistrano, CA,  Date of Action: January 16, 2002</td>
<td>SUSPENSION UNTIL CONDITIONS MET, FINE OF $10,000. License # D53085, Mitchellville, MD, Date of Action: March 28, 2002</td>
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<tr>
<th>Sol Witriol, M.D.</th>
<th>Rory C. Byrne, M.D.</th>
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<tr>
<td>STAY OF SUSPENSION LIFTED, License #: D29137 Specialty: General Practitioner</td>
<td>PRACTICING WITH A LAPSED LICENSE, License #:D46196, Specialty: Unspecified Ellicott City, MD,  Date of Action: May 23, 2001</td>
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<td>Baltimore, MD,  Date of Action: September 26, 2001</td>
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<tr>
<th>Alan Brody, M.D.</th>
<th>Nancy V. Brown-Holt, M.D.</th>
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<tr>
<td>SUSPENSION FOR 6 MONTHS; 3 MONTHS STAYED; PROBATION FOR 3 YEARS; License #: D26759, Specialty: Psychiatry Potomac, MD,  Date of Action: October 17, 2001</td>
<td>FAILURE TO PROVIDE DOCUMENTATION FOR CME'S, License #: D41854, Specialty: OB/GYN Baltimore, MD,  Date of Action: October 24, 2001</td>
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<tr>
<th>Norman L. Clark, M.D.</th>
<th>Donald J. Fishman, M.D.</th>
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<th>Carmen N. DiMario, D.O.</th>
<th>Karen J. Jones, MRT</th>
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<tr>
<td>REVOCAUTION, License #: H47569, Specialty: Plastic Surgery West Chester, PA, Date of Action: January 23, 2002</td>
<td>PRACTICING WITH A LAPSED CERTIFICATION, Certification #: R06238, Radiologic Technologist Essex, MD, Date of Action: February 6, 2002</td>
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<tr>
<th>Hanif A. Gopalani, M.D.</th>
<th>Julia Yu-Yun Lee, M.D.</th>
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<td>SURRENDER, License #: D37448, Specialty: Psychiatrist Olney, MD,  Date of Action: January 23, 2002</td>
<td>PRACTICING WITH A LAPSED LICENSE, License #: D27788, Specialty: Unspecified Ellicott City, MD,  Date of Action: May 9, 2001</td>
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### ADMINISTRATIVE FINES

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<th>Rory C. Byrne, M.D.</th>
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<td>PRACTICING WITH A LAPSED LICENSE, License #: D18250, Specialty: Neurology Potomac, MD,  Date of Action: February 6, 2002</td>
<td>PRACTICING WITH A LAPSED CERTIFICATION, Certification #: R06238, Radiologic Technologist Essex, MD, Date of Action: February 6, 2002</td>
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| Julia Yu-Yun Lee, M.D. |  |
Renewal Notice
Physicians whose last names begin with the letters A-L must renew their medical licenses by September 30, 2002. Renewal applications will be mailed in early July to the last address the physician supplied to the Board. If you do not receive your application by the end of July, please contact the Board or take advantage of the new option to renew online.

This year physicians will be able to renew online, 24 hours a day, 7 days a week. You will be able to update any information which has changed, but will not have to re-enter information which has not changed. We hope to offer electronic payment as a feature for the online renewal.

Physicians must earn 50 category I CME credits for renewal. The dates when your credits were earned must fall within the current licensing cycle. For those renewing this year, credits must have been earned between October 1, 2000 and September 30, 2002.

Physicians whose renewal applications are not postmarked by September 30, 2002 will no longer be licensed to practice medicine in Maryland on October 1, 2002. Physicians practicing without a valid license are subject to fines up to $50,000.

New Physicians Orientation Goes Online
On March 20, 2002, the BPQA approved a web-based alternative to the classroom presentation of the New Physician Orientation Program. The new format was designed in part in response to suggestions by attendees that the program be available on the Internet. Since 1999, BPQA regulations require all newly licensed physicians to complete a BPQA approved orientation program as a condition for their first renewal. The web-based program allows physicians to complete this requirement at their own pace without having to travel to attend the session. The program content remains focused on orienting the newly licensed physician to the structure and function of the BPQA using case studies and question-and-answer format to convey information. Information on the program will be posted at http://www.bpqa.state.md.us and http://www.docboard.org.