STATE OF MARYLAND
DHMH
Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201
Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

NOV 1 6 2009

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House Room H-107
Annapolis, Maryland 21401

The Honorable Michael Erin Busch
Speaker of the House
State House Room H-101
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 2009 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 Mr. C. Irving Pinder, Jr., Executive Director of the Maryland Board of Physicians, at 410-764-4757 or Ms. Anne Hubbard, Director of Governmental Affairs, at 410-767-6481. Again, thank you for your continued support of the Department and the Board of Physicians.

Sincerely,

John M. Colmers
Secretary

Enclosure

cc: C. Irving Pinder
Anne Hubbard
Sarah Albert, MSAR# 1414

MARYLAND
BOARD OF PHYSICIANS

ANNUAL REPORT TO
LEGISLATIVE POLICY COMMITTEE

FISCAL YEAR 2009

John M. Colmers, Secretary

Department of Health and Mental Hygiene

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, one agency, the Maryland Board of Physicians (formerly known as the Maryland State Board of Physician Quality Assurance), has had the responsibility for licensure and discipline of physicians and allied health practitioners under the Maryland Annotated Code, Health Occupations Article, Title 14 and Title 15. Senate Bill 500 Department of Health and Mental Hygiene –Board of Physicians (Chapter 252, 2003 Laws of Maryland effective July 1, 2003) reconstituted the Board and made other changes to the regulation of physicians by the state medical board. Senate Bill 255 (Chapter 539, 2007 Laws of Maryland) reauthorized the Board through July 1, 2013 and made a number of other changes in the law governing the Board.

MISSION

The mission of the Board of Physicians 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, with ongoing development and enforcement of the Maryland Medical Practice Act.

BOARD COMPOSITION

The Board currently consists of 21 members, appointed by the Governor, based on specific criteria found in the statute. The 21 members include:

- 11 practicing licensed physicians, including 1 Doctor of Osteopathy, appointed by the Governor with the advice of the Secretary of Health and Mental Hygiene and the advice and consent of the Senate;
- 1 practicing licensed physician appointed at the Governor's discretion;
- 1 representative of the Department nominated by the Secretary;
- 1 certified physician assistant appointed at the Governor’s discretion;
- 1 practicing licensed physician with a full-time faculty appointment to serve as a representative of an academic medical institution, 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 listing of Board members appears as Exhibit 1. Five Board member appointments expired at the end of fiscal year 2009, which includes three physicians, one physician’s assistant and one consumer member. The Board is awaiting confirmation on vacancy appointments.

EXECUTIVE DIRECTOR'S STATEMENT

During FY 2009, the Board of Physicians continued its efforts to process and close complaints more efficiently to reduce the "backlog" of open cases. Since complaints are filed throughout the year, there will always be open cases. Therefore, for clarity, the Board has defined "backlog" as cases that have been open in excess of 18 months. In FY 2009, the percentage of "backlogged" cases remained constant with FY 2008 at 12 percent.

Under the 2003 Sunset bill (SB 500), complaints involving alleged failure to meet the standard of care are required to be reviewed by peer reviewers under a contract between the Board and one or more nonprofit organization(s). The first three-year contracts for peer review services ended November 30, 2006. Therefore, the Board issued an Invitation for Bid and solicited bids from a variety of vendors. This process resulted in new contractors for peer review services. The contracts became effective December 1, 2006. Under the 2007 Sunset bill (SB 255), the Board has the option of contracting with a non-profit or for profit entities and directly with specialty groups for peer review services within the specialty. New peer review contracts began in early 2009. Two specialties, psychiatry and anesthesiology, were sole sourced.

The 2007 Sunset bill also required the Board to request proposals from non-profit agencies to operate the Board's physician rehabilitation program by January 1, 2008. If no responsive proposal was received, the Board had the option to provide those services in-house. Bids were requested in 2008 and 2009. No responsive proposal was received. A third bidding process is underway and the Board expects to have bids to consider before the end of the calendar year.

As a result of legislation passed in the 2008 session, the Board provided representation on certain task forces: the Task Force on the Discipline of Health Care Professionals and Improved Patient Care, and the Task Force to Review Physician Shortages in Rural Maryland. Legislation was submitted in 2009 reflecting several of the recommendations of the first task force (HB 1275/SB 965). The bills failed because they sought provisions which went beyond the recommendations of the task force. The second task force on physician shortages recommended legislation establishing a new and separate Maryland Loan Assistance Repayment Program (MLARP) for primary care physicians who practice in designated shortage areas (SB 627/HB 714). The legislation was successful and funds from the Board of Physicians were required to be redirected to the new program as of July 1, 2009.

The Board continued activities in recruitment of a force of volunteer physicians and allied health practitioners who have indicated their willingness to serve in a volunteer capacity in the event of a disaster such as bioterrorism, hurricane, flood or other catastrophic health emergency. With the emergence of the H1N1 flu virus and possibility of a flu pandemic, the volunteer corps has taken on new importance. As of September 1, 2009, 649 volunteers were registered with the Maryland Board of Physicians Volunteer Corps. In addition to the volunteer corps, the Board has participated in DHMH sponsored educational initiatives to keep physicians and early responders up to date on current trends in H1N1 activity. This includes providing DHMH with an information and electronic conduit by which information is passed directly to active practitioners.

Beginning in July 2009, the Board required physicians renewing their licenses to use the online renewal system, with the caveat that if a physician needed assistance, assistance would be provided by appointment at the Board. Of renewing physicians, 90% used the online system in FY 2009, a 2% increase from FY 2008. The Maryland Board of Physicians has partnered with the Maryland Health Care Commission to implement 100% online renewal of all physician licenses in FY 2010, and augment the data gathering methods to support the mission of the Task Force on Health Care Access and Reimbursement. This initiative included changes to the current renewal application that helped to identify physician shortage issues and identifiers.

During FY 2009, the Board initiated a 100% online renewal system for allied health professionals. Such efforts toward efficiency are crucial for the Board to keep up with its expanding allied health programs. The Board has begun to license polysomnographic technologists, expects to begin licensing radiologist assistants in November and will be establishing an advisory committee and developing regulations for athletic trainers in 2010.

LICENSURE DIVISION

The Licensure Division is responsible for processing applications for Initial, Reinstatement, Post Graduate Teaching, Conceded Eminence, and Volunteer Licenses. It also registers unlicensed medical practitioners (UMPs) - medical school graduates enrolled in an internship, residency or fellowship program; performs continuing medical education audits on licensed physicians, provides verification of deceased physicians, and administers Exceptions from Licensure for visiting physician consultants licensed in other jurisdictions.

Each application for medical licensure is reviewed by an analyst to assure that the applicant meets minimum qualifications for licensure, and that the documents presented are accurate and authentic. Minimum qualifications for an initial medical license include: primary source verification of a Medical Doctor or Doctor of Osteopathy degree and medical licensure examination scores, the successful completion of one year of clinical post graduate medical training in an ACGME/AOA- accredited training program for an applicant who graduated from a Board recognized medical school in the United States, two years of training for a graduate of a foreign medical school, and the review of physician profiles from the Federation of State Medical Boards and the National Practitioner's Data Bank. Licensure staff performs initial inquiries for compliance investigations on applicants who present with questionable character or fitness issues and malpractice claims. Following guidelines, a compliance issue may be administratively closed by the Licensure Division, or as appropriate, referred to the Compliance Division for further investigation and presentation to the Board for consideration.

In FY 2009, the Licensure Division issued 1,541 initial medical licenses, reinstated 184 licenses, and registered 2,418 UMPs – interns, residents and fellows. These figures represent a 2.2% increase in new physicians licensed in Maryland and a 20% increase in the number of medical school graduates that have entered their post graduate training programs, a prerequisite to becoming a physician. The UMPs data is an indicator of the potential growth of the physician population. The unit continues to work in collaboration with medical facilities by receiving UMP data electronically, thus reducing the amount of staff time and other resources needed to perform this administrative function.

NEW MEDICAL LICENSES	FY 2008	FY 2009
Licensed	1,508	1,541
Closed (denied, withdrawn, ineligible)	26	44
Total Applications Completed	1,534	1,585
REINSTATED LICENSES		
Licensed	146	184
Closed (denied, withdrawn, ineligible)	18	5
Total Applications Completed	164	189
TOTAL APPLICATIONS PROCESSED	1,698	1,774
UMPs REGISTERED	2,017	2,418
TOTAL	3,715	4,192

Licensure staff continues to refine and improve this process to insure accuracy and efficiency. This year, the Licensure Unit again suffered several vacancies; however, the unit was able to issue licenses to 97% of qualified applicants within 10 days of receipt of the last qualifying document.

EXECUTIVE SERVICES DIVISION

The Executive Services Division provides financial and personnel support for the Board's internal and external customers. The Licensure and Allied Health Divisions, rely on the Executive Services Division to collect, identify and organize promptly and efficiently the initial applications received for licensing health care practitioners, and accounting for fees: initial licensing, renewals, reinstatements and fines. The Division is also responsible for processing payment of Board expenses.

The Division maintains physician and allied health profiles, which provide consumers with useful information via the Internet about physicians and allied health practitioners, hospital privileges and other information to help consumers make informed decisions about their health care. Currently, there are 37,493 profiles of active practitioners on the Board's Internet site at www.mbp.state.md.us.

The Executive Services Division and the Information Systems Division continue to collaborate to improve web-based programs that allow physicians to change certain profile information on the Internet, including their public address. The changes appear on the website within 24 hours and the physician receives an e-mail confirmation notice of the changes. In FY 2004, Senate Bill 500 required the Board to include certain malpractice information on the physician profiles. The Executive Services Division continues to work closely with the insurance carriers to collect this information.

The Board continued to successfully utilize the credit card option in addition to personal checks and third party payment options for the physician FY 2009 online renewal system. The system also provides a mechanism for physician feed-back concerning satisfaction with the online renewal process.

During FY 2009, 13,575 physicians with last names beginning with letters "A" through "L" renewed their license, representing an increase of 7% for the same pool of renewals (FY 2007) . Of the physicians that renewed, 90% renewed online. Of the physicians that renewed online, 88% of these renewed by credit card. FY 2009 showed an online renewal increase of 2% over FY 2008.

Type of Renewal	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Paper Renewal	41%	28%	19%	16%	12%	10%
Online Renewal	59%	72%	81%	84%	88%	90%

ALLIED HEALTH DIVISION

Physician Assistants

The Board regulates over 2,000 physician assistants in Maryland. The Physician Assistant Advisory Committee, a subcommittee of the Board created in 1986 by the Maryland Physician Assistant's Act, works in conjunction with Board staff to evaluate and process the various transactions associated with credentialing Physician Assistants.

In FY 2009, the Committee met monthly, reviewed, and made recommendations for approval to the Board concerning 828 delegation agreements. These documents contain a description of the qualifications of the supervising physician and physician assistants and the setting and supervision mechanisms that will be employed as well as certain attestations about the delegated medical acts. The Committee also made recommendations to the Board to approve 34 requests to perform advanced duties. These duties require additional education and training beyond what physician assistants receive through their training programs, and are generally added to an existing delegation agreement. Documentation includes a description of the procedure(s), training certificates, procedure logs indicating the number of times the physician assistant performed the procedure during training, supervision mechanisms, and if applicable, delineation of hospital privileges.

During the 2009 legislative session, the Board submitted a bill amending the Physician Assistant Act. Suggested changes included: changing the term "certification" to "licensure", modifying the current delegation agreement process to eliminate prior approval from the Physician Assistant Advisory Committee and the Board if the physician assistant is performing routine duties in a hospital setting, modifying the process for submitting requests to perform advanced duties in all settings, and modifying the hearing provision that allows a physician assistant to come before the full board if the Board disapproves a request to perform "advanced duties". The bill was eventually withdrawn. The Board anticipates the introduction of a new bill in the upcoming legislative session and is working on quality improvement initiatives to help expedite the credentialing/licensure process.

During FY 2009, the Board implemented an online renewal process for physician assistants. The renewal process for physician assistants began in early May 2009 and ended on June 30, 2009. The online application system was available 24 hours a day, seven days a week. Licensees had three payment options: paying online by credit card, sending a personal check or having a third-party payer send payment.

During FY 2009, the Physician Assistant Advisory Committee had two physician assistant committee member vacancies. Mark Dills, PA-C, former Committee Chair and consultant and Matthias Goldstein, PA-C., filled these vacancies. The Committee elected Mr. Dills Committee Chair.

Certified	FY 2008	FY 2009
Initial Certification	250	200
Reinstatements	36	11
Delegation Agreements	861	828
Renewals	N/A*	2066

* These practitioners renew in odd numbered years only.

Committee Members:

Mark Dills, PA-C, Chair
Kevin Gerold, D.O., Board Liaison
Priscilla Warnock, PA-C, Secretary
Matthias Goldstein, PA-C
Suresh K. Gupta, M.D., Internal Medicine
J. Lawrence Fitzpatrick, M.D., Surgeon
Richard Bittner, Esq., Consumer Member

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

The Board regulates over 6,000 radiation therapists, radiographers, and nuclear medicine technologists, representing a 9% increase from FY 2008.

The Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiologist Assistance Advisory Committee of the Board met three times during FY 2009. Topics included scope of practice and drafting regulations to support the amended statute.

The law requiring the Board to regulate radiologist assistants passed during the 2008 legislative session and went into effect on October 1, 2008. The Committee worked diligently with staff to develop regulations for these new practitioners. The regulations will include educational requirements and a scope of practice and will go into effect in the fall of 2009.

When the new law went into effect, it also changed the Committee composition. The number of members increased from eight to ten by adding a radiologist who supervises a radiologist assistant and a radiologist assistant. The Committee now has the authority to elect a chair every two years instead of the Board appointing a Board member to chair the Committee. When the Board-appointed Chair vacated the position during FY 2009, the Committee elected a new Chair.

During FY 2009, the Board implemented an online renewal process for radiographers, radiation therapists, and nuclear medicine technologists. The renewal process began in early March 2009 and ended on April 30, 2009. The online application system was available 24 hours a day, seven days a week. Licensees had three payment options: paying online by credit card, sending a personal check or having a third-party payer send payment.

Certified	FY 2008	FY 2009
Initial Licensure	486	524
Reinstatements	101	85
Renewals	N/A*	5951
Interns	79	N/A

* These practitioners renew in odd numbered years only.

Committee Members:

John Wojtowycz, R.T. Radiographer, Chair
Richard Hudes, M.D., Radiation Oncologist
Anthony Chiaramonte, M.D., Radiologist
Carmen Contee, Consumer Member
Frederic K.J. Yegenah, M.D, Nuclear Medicine Radiologist
Board Member - Vacant
Robin Krug, R.T.(T) Radiation Therapist
Harish Vaiydia, C.N.M.T. Nuclear Medicine Technologist
Supervising Radiologist Assistant – Vacant
Radiologist Assistant - Vacant

Respiratory Care Practitioners

The Board regulates over 2,300 respiratory care practitioners. The Respiratory Care Professional Standards Committee met once during FY 2009. Topics discussed included respiratory care practitioners performing advanced procedures, administration of controlled drugs and emergency preparedness.

Licensed	FY 2008	FY 2009
Initial Licensure	226	200
Reinstatements	45	57
Renewals	2,354**	N/A

These practitioners renew in even numbered years only.

** Includes 16 psychiatric assistants that renewed during FY 2008.

Committee Members:

Gary Poole, RRT, Chair
Thomas P. McCarthy, RRT
Robert L. Joyner, Ph. D., RRT
Ernest Crofoot, Consumer Member
Clifford Boehm, M.D, Anesthesiologist
Laeeq Ahmad, M.D., Cardiovascular and Thoracic Surgeon
William Krimsky, M.D., Pulmonologist

Polysomnography

The Polysomnography Professional Standards Committee met twice during FY 2009. The Committee discussed issues concerning educational programs, draft regulations, extending the licensure deadline, and creating a process in the event the legislature does not extend the licensure deadline date.

In December 2008, in anticipation of the licensure requirement becoming mandatory on October 1, 2009, Board staff sent letters to sleep laboratory directors informing them of the licensure requirement and asking them to inform their employees.

During the 2009 legislative session, the Maryland General Assembly extended the licensure requirement from October 1, 2009 to October 1, 2011. Board staff sent another letter to sleep laboratories informing them of the extension. Board staff also included a survey requesting certain demographic information such as the number of non-physicians practicing polysomnography, the number of individuals planning to take the polysomnography national certifying exam and the number of individuals planning to attend an accredited educational program. These data were collected to aid the committee in strategic planning initiatives.

At this time, Essex Community College has the only accredited polysomnography program. Montgomery College has a Polysomnography Certificate program that began in the summer of 2008, but has not been accredited by the accrediting agency recognized by the Board in its regulations. The Institute of Health Sciences, is a distance-learning provider, which provides an accredited Electroneurodiagnostic (END) educational program with a polysomnography "add-on" track. Graduation from an END program with the polysomnography add-on track is one of the programs individuals may use to meet the educational requirement for licensure.

Committee Members:

Nancy Collop, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine
Brian Bohner, M.D., Internal Medicine Pulmonary Disease and Sleep Medicine
Marc Raphaelson, M.D., Neurology and Sleep Medicine
Anne Harter, RRT, RPSGT
Michael DeLayo, RPSGT
Douglas Rousseau, RRT, RPSGT
Stanley Gordon, Consumer Member

Licensed	FY 2008	FY 2009
Initial Licensure	N/A	19
Reinstatements	N/A	N/A
Renewals	N/A	N/A

Athletic Trainers

During the 2009 legislative session, the Maryland General Assembly passed House Bill 173/Senate Bill 247 that mandated the Board to regulate Athletic Trainers. The new law, which goes into effect on October 1, 2009, requires the Board to license Athletic Trainers on or before October 1, 2011. Preparations are underway to develop a mechanism by which the Allied Health Division can fully implement this new program in a seamless and cost effective manner. Provisions for additional staff and resources were not provided in the bill.

INFORMATION SYSTEMS DIVISION

The Practitioner Profile System provides a valuable service to Maryland citizens. This Internet based system enables Maryland citizens to become more informed consumers about their health care providers. Information such as facility privileges, specialties and disciplinary actions are listed on the profile pages. Medical practitioners may also update their personal profile information online, saving the Board a significant amount of resources. Practitioners may update their confidential, practice and public addresses as well as areas of concentration, specialties and postgraduate training programs.

There are currently 89,174 total practitioner records in the profile system. **This includes 37,493 active practitioners.**

FY 2009 marked the seventh year of the Internet-based renewal system, allowing physicians to renew medical licenses online. This system has reduced the time it takes a practitioner to complete the license renewal process, and has greatly increased the accuracy of data collection. The online renewal system has been expanded to include Allied Health practitioners as well. This system saves the Board thousands of dollars by eliminating the costs of printing and mailing paper renewal forms, and greatly simplifies and streamlines the process. This project was undertaken as a cooperative venture between the Board and the Maryland Health Care Commission.

The Division has been helping the Department disseminate important health information to Maryland physicians. Important health bulletins and educational materials are available at the Board's website www.mbp.state.md.us.

The Division continues to maintain its "Facility Page" website. This is a "permissions only" website, designed to communicate directly with Maryland health care facilities and to facilitate their credentialing work. Activities of the Physician Privilege Data System are summarized in Exhibit 2.

Facility Page Activity Pursuant to HO§14.411 Access Restricted to Maryland Facilities		
	FY 2008	**FY 2009**
Number of logins	7,356	7,127
Number of Practitioners searched	23,343	23,785
Number of active facilities	31	27

POLICY UNIT

Titles 14 and 15 of the Health Occupations Article form the legal basis for the Board. The Policy Unit supports the work of the Board, its committees, and its staff by researching and drafting policies, regulations, and legislative proposals on issues within the purview of the Board. The Policy Unit of the Board reviews proposed legislation, drafts position papers and fiscal impact estimates for legislative proposals, and coordinates Board representation at legislative hearings. This unit is also responsible for developing regulations and declaratory rulings. The unit handles telephone inquiries and correspondence related to policy issues, coordinating with appropriate subcommittees of the Board.

The Board worked with the legislature on HB 1517 (Chapter 328 of the Acts of 2008) to update two subtitles within the Medical Practice Act (Subtitle 14-5A and 14-5B) which govern the licensure and practice of radiology technologists and respiratory care practitioners. The intent was to update language and achieve a greater consistency between allied health statutes. The Board issued emergency regulations with respect to these issues, effective October 1, 2008. The proposed amendments were also processed and were approved with an effective date of November 3, 2008.

Before HB 1517 was passed, it was amended to include licensure and discipline of radiologist assistants. Radiologist assistants have additional training beyond that of a radiology technologist, and are expected to work at a higher level and more independently than a technologist. The Allied Health Division, Policy Unit, and the Board's Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee worked together to establish regulations for this new profession. A number of other changes resulting from HB 1517 were incorporated into the draft, and published in the *Maryland Register* on June 19, 2009.

As noted in the previous section, the Maryland Athletic Trainers Act (HB 173/SB 247) was passed and signed into law in 2009. This bill requires the licensure and regulation of athletic trainers by October 1, 2011.

Regulations to implement 2006 legislation establishing the profession of polysomnographic technologists became effective on December 1, 2008. The Board has begun licensing polysomnographic technologists. Simultaneously, the Board, recognizing that it would be impossible for all personnel performing the functions of a polysomnographic technologist to be licensed by the original deadline of October 1, 2009, worked with the legislature and polysom advisory committee to ensure passage of legislation (SB 433/HB 597) delaying this deadline. The original deadline was amended to October 1, 2011.

The Board continued to work with the Board of Pharmacy on the Drug Therapy Management Joint Committee (HB 781, 2002) Chapter 249. The authority for this program was extended through September 30, 2010 by HB 233 (Chapter 650, Acts of 2008) in order to allow more time for program evaluation. This program is designed to allow certain pharmacists to participate in providing care to individuals with chronic conditions which must be monitored over time. With the consent of physician, pharmacist, and patient, and using a protocol approved by both the physicians' and pharmacists' licensing boards, the pharmacist can order diagnostic tests, evaluate the patient, and make changes to the patient's treatment plan, such as increasing or decreasing medication.

PHYSICIAN REHABILITATION

In FY 2009, the Board of Physicians continued to directly administer the Professional Rehabilitation Program (PRP) that provides services to those who are in need of treatment and rehabilitation for alcoholism, chemical dependency, or other physical, or psychological conditions. The PRP offers information, evaluation, and referral for treatment. On October 1, 2007, pursuant to legislation passed during the 2007 Legislative Session, the PRP shall provide services to only those individuals who the Board refers in writing. The referrals can include any individual licensed or certified by the Board or applicants for licensure or certification. In FY 2010 The Board will offer a new Request for Proposal for Board rehabilitation services.

Statistics for the Physician Rehabilitation Program are as follows:

Participants

Category of Problem	FY 2008	FY 2009
Chemical Dependence	8	11
Alcoholism	8	6
Psychiatric Diagnoses	7	11
Dual Diagnoses *	11	6
Total	**34**	**34**

* Dual Diagnoses is any psychiatric diagnoses with any other substance abuse problem(s).

Problem per Referral

Reported Problem	FY 2008	FY 2009
Chemical Dependence	18	11
Alcoholism	12	17
Psychiatric Diagnoses	15	13

Burton D'Lugoff, M.D., is Medical Director

Joanna Fitzick, LCSW/C, is the Case Manager.

The PRP contact information is as follows:

Phone: 443-803-4567 (24 hours per day/ 7 days per week)
Email: joanna_fitzick@yahoo.com
Address: Professional Rehabilitation Program
Spring Grove Hospital Center
55 Wade Avenue
Catonsville, MD 21228

LITIGATION

The Office of the Attorney General provides day-to-day legal advice to the Board regarding ongoing cases, investigations, procedures, contractual and procurement issues, and the writing of decisions. The office also advises the Board on regulations and legislation. In addition, the office was involved in the following litigation on behalf of the Board in FY 2009.

Jeffrey R. Beck, D.O. v. State Board of Physicians, (Court of Special Appeals Case No. 02692, September Term, 2008). Dr. Beck appealed the Board's decision revoking his license for immoral and unprofessional conduct in the practice of medicine. The circuit court affirmed the Board's decision in January, 2009. Dr. Beck then filed this appeal, which is pending in the Court of Special Appeals.

Steven Bernstein, M.D. v. State Board of Physicians, (Court of Special Appeals Case No. 2217, September Term, 2007). After a previous remand from the Court of Special Appeals reported at 167 Md. App. 714 (2006), the Board reprimanded Dr. Bernstein for inadequately supervising a nurse anesthetist during a hip replacement surgery. The Circuit Court for Baltimore County affirmed the Board's second decision. The Court of Special Appeals then affirmed the Board's second decision on November 24, 2008.

David A. Boetcher, M.D. v. Maryland State Board of Physicians, (Court of Special Appeals Case No. 01314, September Term, 2007). The Board's final decision reprimanded Dr. Boetcher and placed him on probation for two years based on its finding that Dr. Boetcher violated the standard of quality medical care in treating four patients because he did not offer or perform colorectal screening on patients who were fifty (50) years of age or older and failed to keep adequate medical records for these patients. On appeal, the circuit court affirmed the Board's decision. On further appeal, the Court of Special Appeals also affirmed the Board's decision. Dr. Boetcher filed a petition for certiorari with the Court of Appeals, but that court denied the petition on November 12, 2008. (Petition Docket No. 317, September Term, 2008)

Mark Davis, M.D. v. Maryland State Board of Physicians, (Court of Special Appeals Case No. 1852, September Term, 2007). Dr. Davis sued the Board, alleging that the Board was misled by its staff and "legal department" into filing charges and that the administrative hearing was unfair. The circuit court dismissed Dr. Davis's case. Dr. Davis then filed a further appeal, but the Court of Special Appeals, in an unreported opinion dated December 22, 2008, affirmed the circuit court's order dismissing the case.

Mark Davis, M.D. v. Maryland State Board of Physicians, (Court of Special Appeals Case No. 1894, September Term, 2007). Dr. Davis sued the Board again, alleging malicious prosecution in the same matter as his previous case. The Circuit

Court of Baltimore City dismissed Dr. Davis's case, and Dr. Davis filed an appeal to the Court of Special Appeals.

Mark Davis, M.D. v. Maryland State Board of Physicians, (Circuit Court of Harford County, Case No. 12-C-08002176). The Board revoked Dr. Davis's license for violating the standard of quality care and for keeping inadequate medical records. Dr. Davis appealed that decision to the circuit court. Briefing was concluded and oral argument was held on December 29, 2008, March 31, 2009 and July 14, 2009.

Rosita Dee v. Maryland State Board of Physicians et al. (Court of Special Appeals Case No. 390, September Term, 2008). The Board revoked Dr. Dee's license. The Circuit Court for Montgomery County affirmed the Board's decision, and Dr. Dee appealed to the Court of Special Appeals. That court dismissed her appeal on November 12, 2008 and denied her request for reconsideration on March 26, 2009.

Nelson DeLara, M.D. v. Maryland State Board of Physicians, (Circuit Court for Baltimore City, Case. No. 24-C-09-004071). Dr. DeLara appealed the Board's sanction for dictating an inaccurate medical report concerning which kidney needed to be removed. The appeal is pending.

In *Harold I. Eist, M.D. v. Maryland State Board of Physicians,* 176 Md. App. 82 (2007) the Court of Special Appeals ruled that the Board cannot obtain medical records in its investigations of physicians without the patient's consent and that the investigated physician can deny the consent on behalf of the patient. The Board petitioned the Court of Appeals, which granted *certiorari.* The case was briefed and was argued by the Solicitor General before the Court of Appeals on May 6, 2008. No decision has been issued.

Cheryl Harris-Chin v. Maryland State Board of Physicians, (Court of Special Appeals Case No. 437, September Term, 2009). Dr. Harris-Chin appealed the Board's order sanctioning her for her failure to comply with the terms of a previous order of the Board. The circuit court reversed the Board's decision. The Board filed this appeal to the Court of Special Appeals.

*Charles Y. Kim v. State Board of Physician*s, (Circuit Court of Frederick County, Case No. 10-C-08-002596 AA). Dr. Kim filed for judicial review of a Board decision sanctioning him for making a false statement on his application for renewal of his license.

Ian Kirk v. Maryland v. Maryland State Board of Physicians (Court of Special Appeals Case No. 834, September Term, 2008). The Board denied Dr. Kirk's application for licensure. The Circuit Court for Baltimore City affirmed the Board's decision and Dr. Kirk appealed to the Court of Special Appeals. The case was argued on June 1, 2009.

George Lakner, M.D. v. Maryland State Board of Physicians, (Court of Special Appeals, Case No. 01207, September Term 2006). The Court of Special Appeals affirmed the Board's decision that Dr. Lakner had committed unprofessional conduct, but remanded the case for the Board to impose a sanction that was not dependent on the sanction imposed by another state's board. On remand, the Board imposed such a sanction, imposing a three-year suspension and a $10,000 fine for falsifying a medical board document and submitting it to a prospective medical board employer.

In *Lakner v. Maryland State Board of Physicians*, (Circuit Court of Baltimore City, Case No. 24-C- 08002610), Dr. Lakner appealed the Board's new sanction. After briefing and oral argument, the circuit court again remanded the case to the Board with instructions to hold an allocution hearing. The Board subsequently held an allocution hearing and issued a third decision.

Dr. Lakner then appealed that third decision. *Lakner v. Maryland State Board of Physicians*, (Circuit Court for Baltimore City, Case No. 24-C-09-002652). The circuit court dismissed his appeal as untimely on June 15, 2009. Dr. Lakner filed a Motion for Reconsideration on July 2, 2009.

Lee-Bloem. v. State of Maryland, et al., 183 Md. App. 376 (2008). A psychiatrist who practices orthomolecular psychiatry sued the Board, other state officials, the Maryland Psychiatric Society and three individual peer reviewers to prevent the Board from investigating her treatment of a patient. The Circuit Court for Baltimore City dismissed the suit on October 26, 2007. Dr. Lee-Bloem filed an appeal to the Court of Special Appeals. The Court of Special Appeals issued an opinion on December 4, 2008 affirming the circuit court's order dismissing the case.

Kathy Mesbahi, M.D., Mina Nazemzadeh and Aghdas Ramati v. Maryland State Board of Physicians, (Circuit Court for Montgomery County Case No. 314648-V). The Board fined Dr. Mesbahi and placed her on probation for one year, and fined each of her two sisters, for respectively, practicing medicine without a license and aiding the practice of medicine without a license. All three respondents filed this appeal, which is pending.

Taju-Deen I. Ohiokpehai, M.D. v. Maryland State Board of Physicians, (Court of Special Appeals, Case No. 01137, September Term, 2007). Dr. Ohiokpehai appealed the Board's final decision permanently revoking his medical license, but the Court of Special Appeals affirmed the Board's decision. Dr. Ohiokpehai filed a petition for certiorari with the Court of Appeals, but that court denied certiorari.

Carl F. Oltman v. Maryland State Board of Physicians (Court of Special Appeals, No. 25, September Term, 2007). The Board denied Mr. Oltman's application for reinstatement because he had practiced while his license had been revoked. Mr. Oltman

appealed. The circuit court dismissed the appeal, and the Court of Special Appeals affirmed that decision in a reported opinion at 182 Md. App. 65 (2008). Mr. Oltman petitioned for certiorari to the Court of Appeals, but that court declined to take the case.

Pickert. v. Maryland State Board of Physicians, 180 Md. App. 490 (2008) ("*Pickert I*"). The Court of Special Appeals affirmed the Board's final order which sanctioned Dr. Pickert for providing substandard medical care to a patient with diabetes and high blood pressure. The decision also explains the difference between a Board proceeding and a malpractice case.

Potomac Valley Associates, et al v. Maryland State Board of Physicians, (Court of Appeals, No. 18, September Term, 2008). This is an appeal of the Board's Declaratory Ruling on a self-referral issue: whether a physician may refer a patient to have an MRI scan at a facility in which the physician has a financial interest. The Board ruled that Maryland's self-referral statute, Md. Health Occ. Code Ann. § 1-301 et seq., prohibits this type of referral. Potomac Valley Associates and several of the other parties petitioned for judicial review of the Board's ruling. The Maryland Radiological Society joined the case as a party, requesting that the Board's decision be upheld. The Circuit Court of Montgomery County affirmed the Board's Declaratory Ruling in May of 2008. Potomac Valley filed an appeal to the Court of Special Appeals, but the Court of Appeals on its own motion granted *certiorari* and took jurisdiction over the case. Six briefs, the briefs of three parties and three amici briefs on behalf of other interested groups, were filed**.** Oral argument took place on October 6, 2008. No decision has been issued.

William A. Rohde, M.D. v. Maryland State Board of Physicians, (Circuit Court for Frederick County, Case No. 10-C-08-003815). After the Board denied his application for reinstatement based upon the facts to which he stipulated during his disciplinary by the Massachusetts Board, Dr. Rohde filed a petition for judicial review. The stipulated acts concerned violations of the psychiatric standard of care.

Binyamin H. Rothstein, D.O. v. Maryland State Board of Physicians, (Court of Special Appeals, Case No. 2008, September Term, 2008). Dr. Rothstein appealed the Board's final order which revoked his medical license for five years based on standard of care violations, failure to cooperate with a lawful Board investigation, and violations of the probationary terms of a previous Consent Order. The circuit court affirmed the Board's decision, and Dr. Rothstein filed an appeal to the Court of Special Appeals, but that court dismissed the appeal on June 9, 2009.

Mahmoud Shirazi v. Maryland State Board of Physicians, (Circuit Court for Wicomico County, Case No. 22-C-09-000496). After the Board permanently revoked his medical license for sexual assaults against four female patients, Dr. Shirazi filed a petition for judicial review in the circuit court.

State Board of Physicians v. Rudman, 185 Md. App. 1 (2009) Dr. Rudman pled guilty (by an *Alford* plea) to a crime which the Board considered to be a crime of moral turpitude, *i.e*., second-degree assault with underlying facts of an improper sexual touching of a patient. The Circuit Court of Frederick County, however, reversed the Board's decision. The Board appealed to the Court of Special Appeals, and that court reversed the circuit court and ruled that the Board's decision was correct. The Court of Appeals granted *certiorari*, and the case is now pending in that court.

Ronald Shreve v. Maryland State Board of Physicians (Circuit Court of Frederick County, Case No. 10-C-08-112757). Mr. Shreve appealed the Board's decision that his conviction under Indiana law constituted a crime of moral turpitude for professional disciplinary purposes. Mr. Shreve had pled guilty to a felony possession of child pornography in the Indiana courts. The circuit court affirmed the Board's decision on January 29, 2009.

Oparaugo I. Udebiuwa, M.D. v. Maryland State Board of Physicians, (Court of Special Appeals Case No. 1784, September Term, 2008). Dr. Udebiuwa appealed the Board's decision revoking him for being convicted of Medicaid fraud. The circuit court affirmed the Board's decision, and Dr. Udebiuwa then filed an appeal to the Court of Special Appeals.

COMPLIANCE DIVISION

The Compliance Division is responsible for investigating all complaints, reports, and information involving licensees of the Board. Compliance investigates to determine if there has been a potential violation of the law governing physicians and other health care providers regulated by the Board.

There are major stages in the investigation of a complaint: a preliminary investigation, a full investigation stage, prosecution after a board vote to charge, and after the resolution of the case, monitoring by the Probation Unit of Compliance.

Monitoring by the Probation analysts will 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 Medical Practice Act.

As a result of the investigation of the original complaint the Board after a review of the investigatory information at the end of any stage of the process, may determine to close an investigation or to continue the investigation and ultimately take some form of action against a practitioner's license.

In FY 2009, Compliance received and resolved the following complaints as set out in the table below along with data for 2008:

Performance Measures	FY 2008	FY 2009
New Complaints Received	869	995
Complaints Pending from Previous Fiscal Year	673	656
Total Complaints	1,542	1651
Complaints Closed with No Action	581	632
Complaints Closed with Advisory Opinion	234	222
Complaints Closed with Formal Action	71	95
Total Complaints Closed	886	949
Complaints Pending	656	702
Participants Under Monitoring in Probation	103	110

Intake Unit

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

During the intake process, a complaint is reviewed and analyzed, relevant records are subpoenaed, the respondent is requested to respond to the complaint, and in most standards of quality care complaints a medical consultant will review all the materials obtained. Thereafter, the investigation is presented to the Investigative Review Panel. Most complaints are closed at this stage; others will go to a full investigation.

The Intake unit (Intake) received and processed 995 complaints during Fiscal Year 2009, representing a 15% increase over Fiscal Year 2008. Intake's responsibilities include performing preliminary investigations on all complaints where the Board has jurisdiction. To accomplish this task, Intake reviews and analyzes each complaint to determine the Board's jurisdiction with respect to allegations. In FY 2009, the average number of days for the closure of a preliminary investigation was 123 days**.**

Grounds and issues pursuant to the Maryland Medical Practice Act for physicians and allied health practitioners are assigned at intake. The potential Grounds under which the cases are investigated are also compiled for statistical purposes for the Board's Annual Report. Through review of the complaint and attachments, Intake also identifies any other practitioners who may have provided care in the case. Intake determines the priority of the case, particularly whether the case will proceed through the regular course or by special assignment.

Preliminary investigations involve notification of the complainant and respondent, and performing any medical or legal research necessary regarding entities of practice, practitioners, medical studies and other issues. As part of the preliminary investigation Intake determines what material is needed to complete that phase of the investigation, i.e., Quality Assurance files, medical records, drug surveys, death certificates, and other physician records. Intake conducts

telephone interviews when necessary, issues subpoenas and correspondence for materials and maintains a timeline for receipt of subpoenaed materials.

In addition, Intake determines the appropriate medical consultant to review the investigative materials in each case and transmits materials to selected consultants to obtain opinion and recommendation to present to the Investigative Review Panel (IRP). Upon receipt of all requested material and review of medical consultant recommendation, Intake reviews the materials for completeness of the preliminary investigation prior to proceeding to IRP.

Other Intake responsibilities include coordinating the schedule and agenda for the monthly IRP meeting. To accomplish this, Intake coordinates the case packets for IRP including cases from Intake, Probation and Compliance-Investigations. With respect to Intake presentations to IRP, Intake reviews those cases for sufficiency of information in the packets and presents them in appropriate categories on the agenda pursuant to consultant's recommendation, i.e., open, close with advisory letter, close. Particular attention is paid to the content of the packets to include but not limited to, the complaint, response from physician, and consultant report, physician profile and other relevant material.

Following the IRP meeting, Intake determines and conducts any additional investigation need as requested by the panel, drafts advisory letters for the Board Chairman's signature and the simple closure letters for the Executive Director's signature. Intake also compiles a list of cases opened for full investigation, including the case name, case number, specialty and synopsis of allegations for Chief, Compliance-Investigations, and compiles the list of standard of care cases opened for full investigation for inclusion in peer review processing.

The Intake Unit is responsible for referrals from the Allied Health and Licensure Units regarding all compliance matters that may result in disciplinary action. For this category of cases, Intake conducts the preliminary investigation and full investigations into the allegations. In all the cases resulting in full investigations, Intake conducts a comprehensive full investigation and prepares the investigative report. The findings of the investigation are presented as directed to IRP and or the full Board with recommendations. In addition, Intake handles the Ground "21" expedited track which involves drafting of Consent Orders for reciprocal action based on the actions taken by other states against Maryland practitioners. Additionally, Intake processes the Continuing Medical Education cases from drafting Consent Agreements to closure.

During Fiscal Year 2009, Intake generated a minimum of 5,000 items in correspondence through preparation of notifications, acknowledgments, letters, subpoenas and other written matter.

Intake handles the referral of non-Board jurisdictional complaints to appropriate agencies and maintains the Board advisory letter binder for reference by Compliance. Intake is actively involved in customer service at the Board by answering questions from complainants, respondents, attorneys, other state agencies and the public at large.

Investigations Unit

The Investigative unit is responsible for conducting full investigations into allegations filed against Physicians and Allied Health Care Providers that may involve violations of the Maryland Medical Practice Act (Act). The Unit also conducts full investigation into allegations filed against licensees previously under Board orders and or probation where the licensees have completed the probationary terms and conditions to the Board's satisfaction. The unit is responsible for fully developing the cases through investigative fact finding directed towards proving or disproving a violation of the Act. The full investigation includes, but is not limited to, analysis of the complaint, planning the investigation approach, development of investigative leads and implementing the investigative steps and strategies in each case, and analysis of the case material. Analysts are required to develop investigative strategies which assist in the development of each case.

At the commencement of the case, the investigations include the review of the complainant to determine the issues and the applicable grounds under the Act. The analysts make initial contact with the complainants and respondent in the cases. Analysts also identify fact witnesses to interview for essential information. All of this material is received pursuant to chain of custody protocol in the unit for the cases. Through their review of the materials, analysts extract relevant information pertinent to the development of the case.

The unit determines which entities and individuals are relevant and necessary to advance the Board's investigation. A significant amount of correspondence is drafted by the Unit at the beginning and throughout the investigation. As the investigation progresses, the need for subpoenas is assessed and multiple subpoenas for documents and testimony are also prepared and sent. All material received is handled pursuant to chain of custody protocol. The Unit maintains systems to keep track of and ensure the compliance by third parties with the Board's subpoenas and requests for information. The Unit conducts in-depth and comprehensive interviews of individuals including the Respondents, complainants and relevant witnesses to elicit information pertinent to the investigation.

Interviews are also conducted by the analysts to garner additional information for the development of the cases. These interviews are conducted in a logical and systematic manner. Prior to the interviews, the information obtained during the full investigation is subject to thorough review and analysis by the analysts. Using the information from the record, analysts approach the interviews in a deliberate and focused method.

The investigative findings and information obtained during the course of the investigation is also periodically reviewed by the analysts to determine completeness. Comprehensive investigative reports reflecting the investigative findings are drafted as the investigation progresses. Through the course of the investigation, the unit interacts with and consults with medical consultants, experts, physicians, attorneys, and law enforcement where applicable. Packets of material on investigations are prepared for the Board and Board panels.

During the course of the investigation as directed by the facts, analysts present cases to IRP with well reasoned recommendations for further directive by IRP. To accomplish this, packets with sufficient information are presented to the panel to make an informed decision. For the development of standard of care and or documentation cases, the analysts are responsible for

preparing the transmittal of the peer review record to the peer reviewers. These transmittals include a detailed and organized compilation of the entire peer review record developed in the cases. In furtherance of the cases, analysts prepare transmittals of the cases for expert review. Analysts are responsible for assuring the completeness of the record transmitted for peer and or expert review. The unit participates in and presents the cases and the investigative findings with recommendations at Board and panel meetings. The investigative findings, presentations and recommendations by the unit are considered by the Board and Board panels when making the decisions on the cases.

In addition, analysts testify at evidentiary hearings held before Administrative Law Judges at the Office of Administrative hearings. Prior to the evidentiary hearing, analyst review the entire record and the exhibit book to prepare for the hearing.

The unit has recruited staff with varying experience and background that facilitates the investigation of Board cases. The unit has also developed systems, research techniques, formats and templates directed towards ensuring that the Board cases are fully and thoroughly investigated. The unit is committed to continuous quality improvement initiatives which include expanded training strategies for new staff, in-house training sessions and sending staff to training sessions offered by third parties and continuous assessment of initiatives and outcomes. To further enhance presentation skills and delivery of testimony, the unit offers in-house programs targeted to those needs.

Intake and the Investigations units have integrated their operations to assure that comprehensive investigations are conducted in all Board cases.

Probation Unit

At the end of FY 2009, two full time employees were dedicated to actively monitoring 110 respondents who practice under terms and conditions of probation and investigate potential violations of their orders issued by the Board.

The unit is also responsible for monitoring those licensees who are suspended and not allowed to practice for a specified period of time and required to complete terms and conditions before they are allowed to petition the Board to practice while on probation subject to additional terms and conditions.

The Probation Analysts handle the reinstatement process for those who petition the Board for reinstatement of licensure after a revocation or surrender of license. Reinstatement is a detailed process that involves a review of all the application materials and further investigation of the applicant, transmittal to the Office of the Attorney General for comment on the petition, and participation in a Reinstatement Inquiry Panel of the Board to review the petition prior to the full Board's review. The process involves the gathering and vetting of numerous documents and investigation before the case is submitted to a Reinstatement Inquiry Panel.

Licensees are responsible for compliance with their orders and rehabilitation agreements with the Board. However, the active monitoring and investigating that this unit performs assists the licensees to improve and meet the requirements the Board has set for them. More importantly, it enables staff to quickly learn about non-compliance with the orders and agreements so that staff can investigate the potential violations. Based on these investigations, the Board can take the appropriate action which includes issuing charges for violations of probation and show cause hearings, all of which may result in further sanctioning by the Board to further protect the public.

Peer Review

Since July 1, 2003, the Medical Practice Act has required that the Board contract with a nonprofit entity or entities for physician peer review of allegations based on Health Occupations Article §14-404(a)(22). The Board has utilized the services of contractors since September 1, 2003, as a result of its first Invitation for Bid (IFB). A second IFB was offered in July 2006, and six contractors were awarded contracts. The third IFB was offered in September 2008. Three responsive bidders were awarded contracts for a five-year term. Two specialties, psychiatry and anesthesiology, were not included in the IFB. The Board entered into sole source contracts with the Maryland Psychiatric Society and the Maryland Society of Anesthesiologists for three year terms.

1. The peer review contractors from July 1, 2007 to June 30, 2009:

	FY 2008	**FY 2009**
Number of Cases Referred	95	80
Number of Cases Returned	99	69
Average Number of Days for Return of Report to Board	78	76

Obtaining consultants and expert witnesses in standard of care cases is highly regulated in Maryland. Unlike other states, the Maryland statute governing the medical board from 2003 to June 1, 2007 specified, that in standard of care cases, the following:

1. The medical board may only obtain consultants and expert witnesses (known as "peer reviewers" in Maryland) by way of contracting with an outside entity or entities.
2. Two peer reviewers are required.
3. During the first half of FY 2007, in the event of a disagreement between the two peer reviewers, the Board had to obtain a third reviewer (to break the tie) from the same contractor non-profit entity. This becomes highly likely when the Board sends multiple cases for review as the chances become greater for two reviewers to disagree on some aspect of the case. Thus, the requirements of the statute offer a disincentive to refer multiple cases. Senate Bill 255, Chapter 539, passed during the 2007 legislative session, lifted the requirement of the third review and left that to the discretion of the Board.
4. There is no exception to this process.
5. During the first half of FY 2007, the Board could not obtain its own peer reviewers even if the non-profit entity could not find the peer reviewer(s). The Board was required to ask any other qualified non-profit entity. Only if it has exhausted all qualified non-profit

entities, may it find its own peer reviewers. Senate Bill 255 has allowed the Board to either enter into a written contract with an entity or individual for peer review. Should our contractors fail to provide timely review of allegations, the Board has the authority to contract with individual reviewers.

The Legislative Report

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

- **Complaints Filed**

In FY 2009, the Board received 699 consumer complaints, and 296 complaints from other sources, for a total of 995 complaints. When added to the 656 complaints pending from FY 2008, the total number of complaints requiring investigation was 1,651.

The Board dismissed 632 complaints with no action and closed 222 with Advisory Opinions. The Board issued fines totaling $180,090 and closed 95 complaints with formal actions, resulting in 949 complaints closed in FY 2009.

In addition to the 95 complaints closed with formal actions (72 involving physicians; 23 involving allied health providers) the Board terminated 10 probations, orders and agreements (9 involving physicians and 1 involving an allied health provider), and issued 34 other orders, including but not limited to interim orders (for example, summary suspension orders), denials of reinstatement, violations of probations, terminations of suspensions and probation after suspension, and reinstatement orders. Therefore, the Board took action on a total of 139 licenses.

- **Advisory Opinions**

During FY 2009, the Board sent 222 advisory opinions to practitioners, which are letters that inform, educate, or admonish a health care provider in regard to the practice of medicine under the Medical Practice Act. The various issues addressed in these letters included: the importance of legibility of medical records and the advisability of consideration of a typed or electronic version of the records, the importance of ensuring the accuracy of all reports that the physician signs, the timely communication with patients, and the appropriate follow up after a patient undergoes a uteroscopy.

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

In FY 2009, the Board opened investigations on 902 physician licensees. The total allegations against the physicians are 1169 as found in Table A.

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

During FY 2009, the Board completed investigations of 1060 allegations for discipline. The allegations brought against physicians and the average length of time spent investigating these allegations appears in Table B**.** 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, 2009, 195 cases have not been resolved within 18 months. The following breakdown shows the last stage of each of these cases at the end of the fiscal year.

Case Management (full investigation)	119
Peer Review	2
Attorney General's Office	66
Board Counsel	8
Total Cases	195

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

Peer Review: The two cases in the peer review category are those for which the Board is waiting for a completed peer review from the peer review contractor. The current contractors have been performing well. Both of the cases were referred for peer review in June 2009. One had been completed by the end of August 2009.

Attorney General's Office: The process of Case Review instituted by the Board and the Office of the Attorney General (OAG) continues to be effective in maintaining the timely resolution of charged cases. Case Review is a process by which an Administrative Prosecutor reviews an investigation before a case is presented to the Board to consider issuing charges against the individual licensee or applicant. The average time for resolving a case after the Board has referred a case to the OAG for prosecution remains the same as FY 2008, somewhat more than 300 days. This average number includes cases that go to a full evidentiary hearing at the Office of Administrative Hearings and exceptions before the full Board.

The 66 cases at the Office of the Attorney General at the end of the fiscal year were transmitted as follows:

Five cases were transmitted in FY 2008. The remaining cases were referred in FY 2009. This also indicates the positive effect of the Case Review process.

D. The number of physicians who were reprimanded or placed on probation, or who had their licenses suspended or revoked during FY 2009.

Permanent Revocation	4
Permanent Revocation and $25,000 Fine	1
Revocation	3
Revocation for 3 years	1
Permanent Surrender	3
Surrender	3
Summary Suspension	7
Summary Suspension stayed subject to terms	2
Stay of Suspension; Probation	1
Suspension	1
Suspension; terms and conditions	2
Suspension and Probation	4
Indefinite Suspension	1
Suspension for 3 years; $10,000 Fine	1
Suspension; $30,000 Fine; terms and conditions; and Probation	1
Probation	2
Probation, terms, $20,000 Fine	1
Application for Initial Medical License Denied	1
Application for Reinstatement Denied	2
Application for Reinstatement Denied and no further application Will be considered	1
Application for Reinstatement granted if terms and conditions are met	2
Application for Licensure Granted subject to Probation	3
Reprimand; Surrender of license for 5 years	1
Reprimand; Suspension until terms are met	1
Reprimand and Probation	13
Reprimand, Probation, and $20,000 Fine	1
Reprimand and terms and conditions	10
Reprimand and $5000 Fine	1
Reprimand and $5000 Fine; Probation for 6 months	1
Reprimand and $2500 Fine	1
Reprimand and $10,000 Fine	1
Reprimand	5
Fine of $25,000 and terms and conditions	1
Administrative Fines (for failure to obtain required CMEs)	13
Motions for reconsideration of Final Orders denied	2
Terms	1
Termination of Stayed Suspension	1
Termination of Probation and Terms and Conditions	8
Corrective Action Agreement	2
Agreement to Cease and Desist	1
Total	111

Additional information regarding sanctions filed against physicians by the Board of Physicians can be found at the following Board website:
http://www.mbp.state.md.us/pages/newsletters.html

- Other Activities with Regard to all Licensees

Informal Disciplinary Action (Advisory Letters)	222
Total Number of Probation Cases	110
Charges Issued	74
Charges Dismissed	7
Total Fines for all Respondents	$180,090
Total Fines for Physicians	$168,590
Fines for Fraudulent Representation	
As Physicians and Practicing Medicine	$8000

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

A total of 1015 allegations (in 702 cases) remain unresolved and are pending before the Board as of July 1, 2009.

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

The following summarizes the investigations opened concerning allied health practitioners during FY 2009:

Allied Health Practitioners	**Number of Investigations**
Physician Assistant (C)	28
Radiographer and Radiation Therapist (R,O,M)	18
Nuclear Medicine Technologist (N)	2
Respiratory Care Practitioner (L)	9
Total	57

There were a variety of allegations that included 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 2009, the Board issued 24 formal actions in regard to allied health practitioners.

Physician Assistant —(1) Administrative fine for practicing as a Physician Assistant after certification had lapsed; (2) Suspension and Probation based on impairment/substance abuse issues; (1) Suspension based on action in another state and based on illegal prescribing; (1) Reprimand and Probation based on authorized access to a patient medical record; (1) Surrender for illegal and authorized prescribing of narcotics to family members; and (1) Permanent Revocation for sexual misconduct with patients.

Radiographer and Radiation Therapist—(6) Administrative fines for practicing prior to licensure; (1) Reprimand based on alternation of the ARRT card; (1) Denial of Reinstatement for alteration of the ARRT certificates of registration; (1) Stay of Suspension lifted resulting in an active suspension based on a relapse and violation a Board order and the underlying Rehabilitation Agreement; and (1) Denial of Licensure based on an extensive criminal history with some involving drug and alcohol related offenses.

Respiratory Care Practitioner —(4) Revocations; (1) Denial of Licensure based on false answers on an application and disciplinary action by another medical board; (1) Suspension and Probation for initiating a test without a physician's order; and (1) Termination of probationary conditions.

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

The expansion of allied health professionals is making a significant impact on our health care system, the Board and its resources. In addition to its primary mission, the Board of Physicians currently oversees well-established allied health professions and is in the process of completing the setup of licensure and disciplinary structures for polysomnographers and athletic trainers. The management of these new professions has been absorbed within the current staffing resources in the Allied Health unit of the Board. The Board anticipates additional professions being added in the next legislative sessions that will further tax the existing resources of the Board. Additional staffing is needed to address the ongoing expansion of health professions regulated by the Board.

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

Please refer to the report from the Office of the Attorney General. See Exhibit 3.

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

Please refer to the report from the Office of the Attorney General. See Exhibit 3**.**

J. Corrective Action Agreement

During FY 2009, the Board entered into two Corrective Action agreements with physician licensees.

TABLE A

NUMBER OF ALLEGATIONS AGAINST PHYSICIANS INVESTIGATED UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER H.O. §14-404
COMPLAINTS FILED DURING FY 09

Grounds	Description	Physicians
404(a)1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	0
2	Fraudulently or deceptively uses a license.	0
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	502
4	Is professionally, physically, or mentally incompetent.	11
5	Solicits or advertises in violation of H.O.§14-503.	0
6	Abandons a patient.	14
7	Habitually is intoxicated.	2
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	7
9	Provides professional services while under the influence of alcohol; or while using any narcotic or controlled dangerous substance, as defined in Section 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication.	2
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	0
11	Willfully makes or files a false report or record in the practice of medicine.	46
12	Fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to file or record the report.	0
13	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health General Article, fails to provide details of a patient's medical record to another physician or hospital.	60
14	Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician.	0
15	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient.	0
16	Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient unless the licensed physician discloses on the bill to the patient or third-party payor: the name of the laboratory; the amount paid to the laboratory for the test or test series; and the amount of procurement or processing charge of the licensed physician, if any, for each specimen taken.	0
17	Makes a willful misrepresentation in treatment.	0
18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	7
19	Grossly overutilizes health care services.	12
20	Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine.	0
21	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this	53
22	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.	376
23	Willfully submits false statements to collect fees for which services are not provided.	25
24	Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee: (i) surrendered the license...; or (ii) allowed the license ...to expire or lapse.	0
25	Knowingly fails to report suspected child abuse in violation of §5-704 of the Family Law Article.	2

TABLE A		
26	Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by §20-113 of the Health-General Article.	0
27	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes.	22
28	Fails to comply with the provisions of HO§12-102 (Physician Dispensing).	0
29	Refuses, withholds from, denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.	0
30	Except as to an association that has remained in continuous existence since July 1, 1963: (i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy, (ii) Employs a pharmacist for the purpose of operating a pharmacy, or (iii) Contracts with a pharmacist for the purpose of operating a pharmacy.	0
31	Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions.	0
32	Fails to display the notice required under HO§14-415.	0
33	Fails to cooperate with a lawful investigation conducted by the Board.	3
34	Is convicted of insurance fraud as defined in §27-801 of the Insurance Article.	0
35	Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education.	0
36	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.	21
37	By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0
38	By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board in furtherance of any investigation of the Board.	0
39	Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0
40	Fails to keep adequate medical records as determined by appropriate peer review.	2
404(b)	Crimes of moral turpitude	2
	TOTAL ALLEGATIONS AGAINST PHYSICIANS	**1169**

TABLE B			
ALLEGATIONS BROUGHT AGAINST PHYSICIANS UNDER EACH OF THE DISCIPLINARY GROUNDS ENUMERATED UNDER H.O. §14-404- COMPLAINTS RESOLVED DURING FY 09			
Grounds	**Description**	**Physicians**	**Days**
1	Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another.	0	0
2	Fraudulently or deceptively uses a license.	2	1076
3	Is guilty of immoral or unprofessional conduct in the practice of medicine.	448	270
4	Is professionally, physically, or mentally incompetent.	8	736
5	Solicits or advertises in violation of H.O.§14-503.	0	0
6	Abandons a patient.	14	182
7	Habitually is intoxicated.	1	195
8	Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in Section 5-101 of the Criminal Law Article.	6	378
9	Provides professional services while under the influence of alcohol; or while using any narcotic or controlled dangerous substance, as defined in Section 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical	3	636
10	Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain.	0	0
11	Willfully makes or files a false report or record in the practice of medicine.	34	460
12	Fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to file or record the report.	2	1296
13	On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health General Article, fails to provide details of a patient's medical record to another physician or hospital.	45	90
14	Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician.	0	0
15	Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient.	0	0
16	Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient unless the licensed physician discloses on the bill to the patient or third-party payor: the name of the laboratory; the amount paid to the laboratory for the test or test series; and the amount of procurement or processing charge of the licensed physician, if any, for each specimen taken.	1	1347
17	Makes a willful misrepresentation in treatment.	1	1358
18	Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine.	10	694

TABLE B			
Grounds	**Description**	**Physicians**	**Days**
19	Grossly overutilizes health care services.	7	1129
20	Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine.	0	0
21	Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section.	65	181
22	Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.	359	464
23	Willfully submits false statements to collect fees for which services are not provided.	12	347
24	Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee: (i) surrendered the license...; or (ii) allowed the license ...to expire or lapse.	1	438
25	Knowingly fails to report suspected child abuse in violation of §5-704 of the Family Law Article.	3	151
26	Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by §20-113 of the Health-General Article.	0	0
27	Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes.	13	581
28	Fails to comply with the provisions of HO§12-102 (Physician Dispensing).	0	0
29	Refuses, withholds from, denies or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.	0	0
30	Except as to an association that has remained in continuous existence since July 1, 1963: (i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy, (ii) Employs a pharmacist for the purpose of operating a pharmacy, or (iii) Contracts with a pharmacist for the purpose of operating a pharmacy.	1	596
31	Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions.	0	0
32	Fails to display the notice required under HO§14-415.	0	0
33	Fails to cooperate with a lawful investigation conducted by the Board.	6	355

TABLE B			
Grounds	**Description**	**Physicians**	**Days**
34	Is convicted of insurance fraud as defined in §27-801 of the Insurance Article.	1	438
35	Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education.	0	0
36	Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.	9	198
37	By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0	0
38	By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board in furtherance of any investigation of the Board.	0	0
39	Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings.	0	0
40	Fails to keep adequate medical records as determined by appropriate peer review.	6	433
40(b)	Crimes of moral turpitude	2	605
	TOTAL RESOLVED ALLEGATIONS AGAINST PHYSICIANS	**1060**	

EXHIBIT 1

Roster of Members of Board of Physicians

NAME	SPECIALTY/CATEGORY	TERM ENDS
Robert G. Hennessy, M.D., M.B.A. Chairman	Physician Neurosurgeon	2011
Paul T. Elder, M.D. Vice Chairman	Physician Anesthesiology	2012
J. Ramsay Farah, M.D. Secretary/Treasurer	Physician Pediatrics	2009
Habib A. Bhutta, M.D.	Physician Surgeon-General	2011
Kevin B. Gerold, D.O., J.D.	Physician Anesthesiology, Critical Care	2009
Suresh K. Gupta, M.D.	Physician Internal Medicine/Geriatrics	2010
Laura E. Henderson, M.D.	Physician Internal Medicine/Pediatrics	2011
Harry C. Knipp, M.D.	Physician Radiology	2009
Hilary T. O'Herlihy, M.D.	Physician Cardiology	2010
Nallan C. Ramakrishna, M.D.	Physician Cardiology	2012
Susan T. Strahan, M.D.	Physician Psychiatry DHMH Representative	2012
Theresa C. Rohrs, P.A.-C.	Physician Assistant	2009
Rosaire Verna, M.D.	Physician Family Medicine	2012
G. Melville Williams, M.D.	Physician Vascular Surgeon	2011
Douglas Wright, M.D.	Physician Orthopaedic Surgery	2010
Samuel K. Himmelrich, Sr.	Public Member with Experience in Risk Management	2010
Brenda G. Baker	Consumer	2012
Evelyn T. Beasley	Consumer	2011
Richard Bittner, Esquire	Consumer	2010
Carmen M. Contee	Consumer	2012
Harold A. Rose	Consumer	2009

EXHIBIT 2

ANNUAL REPORT TO LEGISLATIVE POLICY COMMITTEE – FY 2009

PHYSICIAN PRIVILEGE DATA SYSTEM

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

A. Number of licensed physicians in MD in FY 2009: 26,607

B. Participation: 65 hospitals, 233 nursing homes and health maintenance organizations report information on privileges, and request data generated by the system.

C. Malpractice Data: 485 certificates of merit records were added to the malpractice component of the data system, involving 660 physicians. The Board generated 4,989 notices of malpractice claims and sent these to the hospitals, nursing homes and alternative health care organizations where the affected physician has privileges.

D. Disciplinary Actions Taken by Hospitals, Nursing Homes and Alternative Health Care Systems: The Board sent 87 notification letters to health care facilities originating from 17 reports of disciplinary action taken by hospitals, nursing homes and alternative health care systems.

E. Board Disciplinary Actions: The Board sent 683 letters to health care facilities informing them of disciplinary actions and or charges against 162 physicians who have privileges at their facilities.

F. Inquiries from Health Care Facilities: 7 responses to written inquiries from Maryland hospitals, nursing homes and alternative health care systems were processed by the Board.

G. Verification Letters: The Board generated 4,249 letters verifying the status of physician licenses.

EXHIBIT 3

A. The Legislative Report

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

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

B. The Attorney General's Response

The Office of the Attorney General received and accepted ninety-six (96) cases for prosecution in fiscal year 2009, if there was a legally sufficient basis for going forward based upon the facts and circumstances of each case. The measure of legal sufficiency is generally found in Health Occupations Article, §14-404(a), which sets forth 40 enumerated grounds for prosecution; in §14-404(b), which provides for prosecution of physicians convicted of crimes involving moral turpitude; §14-205, which provides for denial of a license for reasons that are grounds for action under §14-404; and in the terms of consent orders executed between the Board and individual physicians. Evaluation of the facts and circumstances of individual cases involved review of Board files; conferences with peer reviewers; conferences with investigators; meetings with witnesses; and additional follow-up investigations.

The Office filed seventy-five (75) charging documents, of which six (6) were summary suspensions: (Harper, Simon, Gamez, Sood, Greenberg and Folashade).

In fiscal year 2009, the Office also prosecuted and/or closed a total of one hundred two (102) cases: thirty-nine (39) Final Orders, twenty-seven (27) Consent Orders, five (5) letters of surrender: DiCanio, Bulkley, Del Los Santos, Johnston, and Pribadi; four (4) return to board ("RTB"): Gowda, Evans, Nwaneri and Monopolis; there were four (4) reinstatements granted: Shapiro, Lazaro, Brown-Ornish and Taylor ; there were also four (4) cease and desist orders for: Feldman (fined $1,000) – Nazemzadeh (fined $5,000) – Rahmati (fined $1,000) – and Mesbahi

(fined $20,000); thirteen (13) revocations were: Shirazi, Sloan, Sunderland, Freeman, McLaren, Chigbue, Cornfeld, Shreve, Davis, Rosenberg, Schauber, Jefferson and Bryant (P.A.). One (1) Applicant was allowed to withdraw – Raines; also one (1) P.A. Delegation Agmt.: Bode Denied approval to perform advanced duties). Two (2) cases were rescinded: Miller & Imoke. There were six (6) denials: James, Zebrak, Valentin, Rhode, Ostrovsky and Schwartz, - six (6) dismissals: Lee-Bloem, Maffezzoli, Amoss, Lockhart, Velez, Greenan; and one (1) MRT application denied: Lloyd. There were also eight (8) other fines imposed: Rivas ($1,000) – Mackoul ($2,500) – Cornfeld ($25,000) – Shestopalova ($5,000) – Kim ($5,000) – Anderson ($25,000), Gaviria ($10,000) and Tzou ($10,000); and there was one (1) default order issued – Jefferson (RCP); and one (1) case - Pooya was stetted.

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 ninety-six (96) cases in FY 2009. The Office filed seventy-five (75) charging documents of which six (6) were summary suspensions. Thirty-nine (39) were closed with final orders, and twenty-seven (27) cases were closed with consent orders, five (5) were letters of surrender, four (4) return to board, and four (4) cease and desist with fines. The grounds for prosecution were as follows:

Grounds	No. of Cases
Under §14-404(a):	
(1)	1
(2)	3
(3)	6
(3)(a)(i)	11
(3)(a)(ii)	32
(4)	4
(7)	2
(8)	7
(10)	1
(11)	8
(12)	1
(13)	1
(17)	2
(18)	1
(19)	3
(21)	5
(22)	31
(24)	1
(27)	8
(31)	1
(33)	3
(36)	3
(40)	21
14-404:	
(b)(1)	1
(b)(2)	5
14-316(f)	1
COMAR 10.32.03.11B(3)	2
COMAR 10.32.03.11B(7), (10)(11)&(25)	1

RESPIRATORY CARE PRACTITIONER

14-5A-17()(3)	2
14-5A-17(a)(7)	2
14-5A-17(a)(8)	1
14-5A-17(a)(22)	2
14-5A-17(a)(24)	1
14-5B-14(a)(3), (14) & (23)	2
14-5B-14(C)(2)	1

14-601 Practicing w/o License	4
14-602	1
14-602(a)(b)	3
15-314(2)	1
15-314(3)	2
15-314(4)	1
15-314(5)	1
15-402(a)	1
15-402(b)	1
Violation of Consent Order	4
Petition for Reinstatement	7
Intent to Deny	3
Summary Suspensions	6
Letters of Surrender	5
Violation of Disposition Agreement	1