

## **Regulatory Board Evaluation**

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### **Board of Acupuncture**

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**Licensure of the Practice of Acupuncture  
is Needed to Protect the Life, Health  
and Safety of the Public**

**The Board's Operational Arrangement  
Limits Accessibility to the Public**

**The Board Satisfactorily Complies with  
Some of the General Provisions of Chapter 30,  
But Public Accessibility is a Concern**



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John Sylvia  
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May 16, 2004

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable J.D. Beane  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Regulatory Board Evaluation of the *Board of Acupuncture*, which will be presented to the Joint Committee on Government Operations on Sunday, May 16, 2004. The issues covered herein are "Licensure of the Practice of Acupuncture is Needed to Protect the Life, Health and Safety of the Public;" "The Board's Operational Arrangement Limits Accessibility to the Public;" and "The Board Satisfactorily Complies with Some of the General Provisions of Chapter 30, But Public Accessibility is a Concern."

We transmitted a draft copy of the report to the Board of Acupuncture on April 30, 2004. We held an exit conference with the Board on May 6, 2004. We received the agency response on May 7, 2004.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc

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*Joint Committee on Government and Finance*

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# Executive Summary

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The Board of Acupuncture was created in 1996 by the Legislature to protect the life, health and safety of the public. The Board's primary duties include issuing licenses to acupuncturists pursuant to the requirements set forth in WVC §30-36-10; regulating the practice of acupuncture; and reviewing complaints against acupuncture practitioners. The Board consists of five members; three licensed acupuncturists, one licensed physician and one member of the general public.

## **Issue 1: Licensure of the Practice of Acupuncture is Needed to Protect the Life, Health and Safety of the Public**

Acupuncturists are responsible for performing procedures that could be potentially harmful to the public if acupuncturists were not properly trained. Acupuncture is the stimulation of specific points located near or on the surface of the skin using disposable, stainless steel needles and often electrical currents. Many "acu-points" are located near nerves. Due to the potential harm acupuncture could cause, it is essential that the profession be regulated. In 2001 there were 42 states with acupuncture statutes. Therefore, it is the opinion of the Legislative Auditor that it is necessary to continue licensing this profession to provide for the protection of public health and safety.

## **Issue 2: The Board's Operational Arrangement Limits Accessibility to the Public**

The Board of Acupuncture currently operates with no staff and no physical facility. This presents difficulties for the Board and members of the general public who may be seeking assistance from the Board. The Board of Acupuncture presently has 45 licensees and operates on a small budget. In order to operate efficiently and to be accessible to the public, it is essential that the Board acquire staff and office space. However due to its size and budget constraints, it is not feasible for the Board to do so on its own. Because of the limited size of the profession, most states regulate acupuncture through either multi-professions boards, the Board of Medical Examiners or a state health agency.

*Most states regulate acupuncture through either multi-professions boards, the Board of Medical Examiners or a state health agency.*

The practice of acupuncture is regarded as safe with a low occurrence of accidents. However, it is still important to ensure that acupuncture is being practiced in a safe and sanitized environment. At the present time other professions regulated by the state have rules in place to inspect the locations where these professions are practiced to ensure sanitization requirements are being satisfied. Currently the Board of Acupuncture does not have rules and/or requirements regarding sanitization and inspections.

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To ensure the safety of acupuncture, the Board's statute should be expanded to require all acupuncture facilities be routinely inspected.

**Issue 3: The Board Satisfactorily Complies With Some of the General Provisions of Chapter 30**

The Board of Acupuncture is in compliance with some of the Chapter 30 General Provisions; however, all of the provisions are not fully met by the Board. In order to become an effective licensing board, it is imperative that the Board comply with all of the Chapter 30 General Provisions.

*All of the General Provisions of Chapter 30 are not fully met by the Board.*

The Legislative Auditor finds that the Board of Acupuncture complies with the following Chapter 30 General Provisions: it maintains a roster, it attended the State Auditor's orientation session, it maintains a record of its proceedings, it has adopted an official seal, and the Board is financially self-sufficient.

The Board requires licensees to complete continuing education and it randomly conducts audits to confirm compliance. There has been only one complaint to the Board and procedures for due process are located in the Board's rules. The Board has met annually, at least once, every year since 1996 *except* for 2002. The Board is listed in the state government section of the Charleston area phone book, however the listing does not include an address as required by the *Code*. The Board also maintains a website which contains valuable information, yet the licensee information was found to be out dated. The Board does not maintain a register of all applicants; it merely keeps a listing of current applicants for licensure. The Board has not submitted an annual report to the governor and the Legislature.

**Recommendations**

- 1. The Legislative Auditor recommends that the Legislature continue to require acupuncturists to be licensed by the state of West Virginia.*
- 2. The Legislative Auditor recommends that the Legislature consider creating a health care board to oversee all minor health-related state boards.*
- 3. The Legislative Auditor recommends that the Legislature consider regulating the profession of acupuncture within another health-related licensing board, a health-related state agency, or the Board of*



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*Acupuncture should seek to partner with another board or agency to share in the expenses of office space and staff.*

4. *The Legislative Auditor recommends that the Legislature consider expanding the statute governing the Board of Acupuncture to include routine inspections of acupuncture facilities.*

5. *The Legislative Auditor recommends that the Board of Acupuncture meet twice annually as required by the Code; or seek an amendment to its enabling statute to change the requirements to meet once a year.*

6. *The Legislative Auditor recommends that the Board submit its annual reports to the governor and the Legislature, as required by statute.*

7. *The Legislative Auditor recommends that the Board of Acupuncture begin to maintain a register of applicants to include all required information as required by statute.*

8. *The Legislative Auditor recommends that the Board update its website and schedule periodic updates to it to ensure the accuracy of the information contained within it.*



# Review Objective, Scope and Methodology

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This Regulatory Board Evaluation is required and authorized by West Virginia Sunset Law Chapter 4, Article 10 of the West Virginia Code, as amended.

## Objective

The objective of this report is to determine whether the Board is necessary for the protection of public health and to monitor the compliance of the Board with Chapter 30 regulations.

## Scope

The scope of this review covers the period from fiscal year 1996 to the present. However, if it was deemed necessary, the Legislative Auditor reviewed files dated prior to fiscal year 2000.

## Methodology

The methodology for this report **included reviewing relevant statutes within the West Virginia Code, board minutes, and information from the Secretary of State's Office. In addition, information particular to the Boards operation was provided as needed by the Board president. Every aspect of this review** complied with Generally Accepted Auditing Standards (GAGAS).



## **Licensure of the Practice of Acupuncture is Needed to Protect the Life, Health and Safety of the Public.**

This report is a *Regulatory Board Evaluation* which requires by law a determination of whether or not licensure is necessary for public protection. The primary consideration for determining whether or not the profession of acupuncture should be licensed is that the unregulated practice of acupuncture would endanger the life, health and safety of the public. The Legislature established the Board of Acupuncture in 1996. **The Legislative Auditor finds that the licensing of acupuncture is necessary for protecting the citizens of West Virginia.**

*The unregulated practice of acupuncture would endanger the life, health and safety of the public.*

The “practice of acupuncture” is defined in the WV Code (§30-36-2)(b)5 as:

*...the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance and restoration of health. (b) “Practice acupuncture” includes: (1) Stimulation of points of the body by the insertion of acupuncture needles; (2) The application of moxibustion; and (3) Manual, mechanical, thermal or electrical therapies only when performed in accordance with the principles of oriental acupuncture medical theories.*

The National Institutes of Health Consensus Development Conference released a statement in November 1997 which addressed the safety of acupuncture<sup>1</sup>. Within that release it stated:

*The occurrence of adverse events in the practice of acupuncture has been documented to be extremely low. However, these events have occurred on rare occasions, some of which are life-threatening.*

Possible acupuncture related accidents may include:

- Fainting - This is often due to nervous tension, delicate constitution, hunger, fatigue, improper position or too forceful manipulation.
- Stuck needle - This may arise from nervousness, strong spasm of the local muscle after the insertion of the needle, twirling the needle with

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<sup>1</sup>*This statement is an independent report of the panel and is not a policy statement of the NIH or the Federal Government.*

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too large amplitude or in one direction only, causing muscle fibers to bind, or from a change of the position of the patient after the insertion of the needles.

- Bent needle - This may result from unskillful manipulation or too forceful manipulation, or the needle striking the hard tissue, or a sudden change of the patient ' s posture for different reasons, or from an improper management of the stuck needle.
- Broken needle - This may arise from the poor quality of the needle or eroded base of the needle, from too strong manipulation of the needle, from strong muscle spasm, or a sudden movement of the patient when the needle is in place, or from withdrawing a stuck needle.
- Hematoma - This may result from injury of the blood vessels during insertion, or from absent pressing of the point after withdrawing the needle.
- After - effect - It is mostly due to the unskilled manipulation and forceful stimulation.

The Board of Acupuncture has educational requirements stated in §30-36-10 of the West Virginia Code. In order to qualify for licensure by the Board of Acupuncture, applicants should meet one of the following standards for education, training, or demonstrated experience, as stated in WVC §30-36-10(c):

- (1) Graduation from a course of training of at least one thousand eight hundred hours, including three hundred clinical hours, that is:
  - (A) Approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine; or
  - (B) Found by the Board to be equivalent to a course approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine;
- (2) Achievement of a passing score on an examination that is:
  - (A) Given by the National Commission for the Certification of Acupuncturists; or
  - (B) Determined by the Board to be equivalent to the examination given by the National Commission for the Certification of Acupuncturists;
- (3) Successful completion of an apprenticeship consisting of at least two thousand seven hundred hours within a five-year period under the direction of an individual

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properly approved by that jurisdiction to perform acupuncture; or

- (4) Performance of the practice of acupuncture in accordance with the law of another jurisdiction or jurisdictions for a period of at least three years within the five years immediately prior to application that consisted of at least five hundred patient visits per year; and

- (d) Achievement of any other qualifications that the Board establishes in rules.

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*It is the Board's responsibility to oversee the licensees' use of the many methods listed under the scope of practice.*

The President of the Board, Dr. C.P. Negri, states:

*It is the Board's responsibility to oversee the licensees' use of the many methods listed under the scope of practice and see to it that everyone who holds themselves out to be practicing along certain lines to be properly certified in that technique.*

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*With the number of acupuncturists growing each year it is imperative that the practice be regulated.*

The Board of Acupuncture currently has 45 licensees. In the year 1999, there were 34 jurisdictions regulating the practice of acupuncture; two years later in 2001, there were 42 jurisdictions with acupuncture statutes. The National Institutes of Health Consensus Development Conference stated in its November 1997 statement that, "An important factor for the integration of acupuncture into the health care system is the training and credentialing of acupuncture practitioners by the appropriate State agencies. This is necessary to allow the public and other health practitioners to identify qualified acupuncture practitioners". The acupuncture educational community has made substantial progress in this area and is encouraged to continue along this path." Thus, with the number of acupuncturists increasing and the potential for accidents, it is important to ensure that the competency of all acupuncturists is regulated.

## Conclusion

Acupuncturists are responsible for performing procedures which are potentially harmful to the public if competency is unregulated. Acupuncturists perform procedures which require direct contact to the patient's skin through usage of needles and often electrical currents. With the number of acupuncturists growing each year it is imperative that the practice be regulated. According to an article from the Summer 2002 Occupational Outlook Quarterly, the number of acupuncturists in the United States rose from 5,525 in 1992 to 14,228 in 2000. Therefore, it is the opinion of the Legislative Auditor that it is necessary to continue licensing this profession to protect the life, health, and safety of the public.

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## **Recommendation**

- 1. The Legislative Auditor recommends that the Legislature continue to require acupuncturists to be licensed by the state of West Virginia.*



## Issue 2

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### **The Board's Operational Arrangement Limits Accessibility to the Public.**

Since its inception in 1996, the Board has operated with no staff and no physical facility that solely represents the Board's operations. The Board is listed in the state government section of the Charleston area telephone book, however within this listing no address is provided, as required by the *Code*. Members of the public are able to contact the Board by calling the number listed in the telephone book, however this phone number is simply a voice mail system that will direct the public to either the Board's website or to the Board's secretary. The Board's website provides a post office box number and an email address for the Board as well as the Board members' phone numbers and email addresses; no physical addresses are provided for the public. Essentially, a person needing information and/or assistance from the Board would have to call the Board members' contact numbers to access the Board.

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*Members of the public are able to contact the Board by calling the number listed in the telephone book, however this phone number is simply a voice mail system.*

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Currently, members of the Board are located in several different cities in West Virginia. When the Board is preparing to have a meeting it must secure a meeting location and transport all necessary equipment and documents needed for the meeting to the specified meeting place. Presently, the Board's only major piece of equipment is a laptop computer that is kept in the possession of the Board's secretary. Since the Board's computer is in the possession of a single Board member, a conflict of interest may arise in assuring that the computer is used strictly for the business of the Board.

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*Given the small number of individuals in the acupuncture profession, most states regulate this profession within another health-related board or a health-related state agency.*

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The Board of Acupuncture has only 45 licensees and currently operates on a small budget consisting of \$4,000 - \$8,000 in revenues and \$3,000 - \$6,000 in expenses each year. Unfortunately, due to its small size and budget it may not be feasible for the Board to acquire needed office space and staff. Given the small number of individuals in the acupuncture profession, most states regulate this profession within another health-related board or health-related state agency. As seen in Table 1, there are only 9 states with independent acupuncture boards; 33 states regulate acupuncture either through multi-professions boards, the Board of Medical Examiners or a state health agency.

<b>Table 1 State Regulation of Acupuncture (2001)</b>	
States with Independent Acupuncture Boards	9
States Regulating Acupuncture Through State Agencies	9
States Regulating Acupuncture Under Multi-Professions Boards	10
States Regulating Acupuncture Through the Board of Medical Examiners	14
<i>Total Number of States Regulating Acupuncture (including the District of Columbia)</i>	42
States Not Regulating Acupuncture	9
<i>Source: www.acupuncture.com</i>	

*Consideration could also be given to place this Board in an already existing health related licensing board or a health-related state agency to share in the expenses of office space and staff. Such arrangements would allow the Board to have full time staff.*

The Legislature should consider creating a health care board to handle all of the duties of minor health-related boards in the state, such as the Board of Acupuncture. Consideration could also be given to place this Board in an already existing health related licensing board or a health-related state agency to share in the expenses of office space and staff. Such arrangements would allow the Board to have full time staff and a physical address where all files, documents and equipment belonging to the Board would be located. This would also create greater public accessibility to the Board such that the staff would be available to answer inquiries, process complaints, maintain files and attend to the normal operational activities of the Board.

*The Legislature should consider expanding the Acupuncture Board's statute to require the inspection of acupuncture facilities.*

Although the practice of acupuncture is viewed as safe with a low occurrence of accidents, it is important to ensure that acupuncturists are practicing their profession within a sanitized environment. Currently, professions such as barbers and beauticians are inspected routinely to ensure that all sanitary requirements, which are stated in the Board's rules, are being satisfied. The risks of spreading infectious diseases such as HIV could be considered greater in acupuncture due to the use of needles to treat patients. In 1996, the Food and Drug Administration changed the status of acupuncture needles from Class III to Class II. This change requires acupuncture needles to be labeled for single use only and bear a prescription labeling statement restricting their use to qualified practitioners only. Professions such as tattooing and body piercing, which also utilize needles, are required to submit to routine sanitary inspections. Given that the Department of Health and Human Resources is already required to inspect such facilities, the responsibility could be added for the inspection of acupuncture offices. Therefore, the Legislature should consider expanding the Acupuncture Board's statute to require the inspection of acupuncture facilities.

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## Conclusion

The Board lacks a physical facility and staff which creates accessibility problems for the public. Had this Board come through the state's Sunrise process, which is for the creation of a new licensing board, the Legislative Auditor would likely have recommended that this profession be regulated through an existing health-related board or state agency. However given that this Board did not go through the Sunrise process, consideration should be given by the Legislature to have this profession regulated under another health-related board, state agency or the Legislature should consider an "umbrella" board for small health related boards to share in the expenses of office space and staffing. Although acupuncture has a low risk of harm to the public, there should be controls in place to ensure that all acupuncturists are providing their patients with the highest level of safety possible. In order to secure this safety, all acupuncture facilities should be routinely inspected. Therefore, the Legislature should consider amending the Board's statute to require inspections of acupuncture facilities.

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*Had this Board come through the state's Sunrise process, which is for the creation of a new licensing board, the Legislative Auditor would likely have recommended that this profession be regulated through an existing health-related board or state agency.*

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## Recommendations

2. *The Legislative Auditor recommends that the Legislature consider creating a health care board to oversee all minor health-related state boards.*
3. *The Legislative Auditor recommends that the Legislature consider regulating the profession of acupuncture within another health-related licensing board, a health-related state agency, or the Board of Acupuncture should seek to partner with another board or agency to share in the expenses of office space and staff.*
4. *The Legislative Auditor recommends that the Legislature consider expanding the statute governing the Board of Acupuncture to include routine inspections of acupuncture facilities.*



# Issue 3

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## **The Board Satisfactorily Complies with Some of the General Provisions of Chapter 30, But Public Accessibility is a Concern.**

The Board of Acupuncture has satisfactorily complied with some applicable state laws and rules. These laws and rules, primarily found within the Board's own enabling statute of the West Virginia Code and in the general provisions of Chapter 30, are important for the effective operation of a licensing board. The Board has complied with the following:

- The Board maintains a roster of licensees (§30-1-12);
- A member of the Board attended the orientation session provided by the State Auditor's Office (§30-1-2a(b));
- The Board maintains a record of its proceedings (§30-1-12a);
- The Board has adopted an official seal (§30-1-4);
- The Board has at least one lay person on the Board, as required for health-related boards (§30-1-4a).

*The Board has only met twice annually in the years 1997 and 2001.*

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## **The Board Does Not Comply With Annual Meeting Requirements, Nor Has It Filed Meeting Notices With Secretary of State in All Cases**

The Board is required by Legislative Rule to meet twice annually; however since 1996 the Board has only met twice annually in the years 1997 and 2001, as shown in Table 2.

<b>Table 2 Board Meetings/Meeting Notices (1996-2003)</b>		
<b>Year</b>	<b>Date Meeting Filed with Secretary of State</b>	<b>Meeting Date</b>
1996	10/3/96	11/6/96
1997	02/05/97 10/01/97	03/08/97 11/15/97
1998	04/13/98	05/09/98
1999	03/24/99	04/10/99
2000	<i>No Notice Filed</i>	08/26/00
2001	04/02/01 06/22/01	04/14/01 07/07/01
2002	<b>No Notice Required</b>	<b>No Meeting Held</b>
2003	05/12/03	06/14/03
<i>Source: Secretary of State's Office-State Register</i>		

The Secretary of State's Office had no record of any notice for the meeting that took place on August 26, 2000. All other meeting notices were filed timely. In the year 2002 there was no meeting held for the Board.

*In the year 2002 there was no meeting held for the Board.*

### **The Board Has Not Submitted An Annual Report**

Within the general provisions of Chapter 30 is the following requirement as written in §30-1-12(b):

*On or before the first day of January of each year in which the Legislature meets in regular session, the board shall submit to the governor and to the Legislature a report of its transactions for the preceding two years, an itemized statement of its receipts and disbursements for that period, a full list of the names of all persons licensed or registered by it during that period, statistical reports by county of practice, by specialty if appropriate to the particular profession, and a list of any complaints which were filed against persons licensed by the board, including any action taken by the board regarding those complaints. The report shall be certified by the president and the secretary of the board, and a copy of the report shall be filed with the secretary of state and with the legislative librarian.*

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Currently the Legislative Library has no record of the Board of Acupuncture's annual report.

### **The Board Does Not Maintain a Register of Applicants As Required by Law**

The Legislative Auditor requested the Board's Register of Applicants for this review. However, the Board only provided the name of one person who applied for licensure in fiscal year 2004. The Board did not provide a list of *all* applicants, which would also include all of the current licensees as required by law. WVC§30-1-12(a) states:

*The Board's register did not list all applicants which would include current licensees.*

*The secretary of every board shall keep a record of its proceedings and a register of all applicants for license or registration, showing for each the date of his or her application, his or her name, age, educational and other qualifications, place of residence, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration, if required, and any suspension or revocation thereof...*

*The Board experienced expenditures exceeding revenues only once in 2000.*

For the one applicant the necessary information required by the Code was included: i.e., applicant's name, educational and other qualifications, and place of residence. However, in order for the Board to be in compliance with the Chapter 30 General Provisions regarding a register of applicants, it should modify the current listing to include all past applicants and current licensees to the Board and include all of the required information as stated in the aforementioned statute.

### **The Board is Financially Self-Sufficient**

Financial self-sufficiency of regulatory boards is required by West Virginia Code §30-1-6(c). The Board had an ending cash balance for FY 2003 of \$12,769, with average annual expenditures of less than \$3,500 over seven years. The Board receives revenues in the form of initial application fees (\$75), license fees (\$425), renewal fees (\$425), and late fees (\$50). As can be seen in Table 3 below, the Board experienced expenditures exceeding revenues only once in 2000 since the Board's creation.

<b>Table 3</b>				
<b>Actual Revenues and Expenses 1997-2003</b>				
<b>Fiscal Year</b>	<b>Revenues</b>	<b>Expenditures</b>	<b>Increase/(Decrease) in Cash Balance</b>	<b>EOY Cash Balances</b>
1997	\$3,150	\$766	\$2,384	\$2,384
1998	\$3,150	\$1,038	\$2,112	\$4,495
1999	\$6,105	\$1,899	\$4,206	\$8,701
2000	\$4,625	\$5,935	(\$1,310)	\$7,391
2001	\$6,050	\$5,625	\$425	\$7,816
2002	\$4,125	\$3,195	\$930	\$8,746
2003	\$8,525	\$4,502	\$4,023	\$12,769

### **The Board Requires Continuing Education**

*Since its creation, the Board has had one complaint filed.*

The Board of Acupuncture requires licensees to complete a minimum of 24 hours of continuing education for each renewal period of two years. *West Virginia Code* §30-1-7a requires the Board to establish criteria for continuing education. The *Code of State Rules* §32-9-7 specifies the rules adopted by the Board concerning continuing education requirements for licensee renewals. Biennially, not less than 10%, yet not more than 15% of the total number of licensees are audited to determine whether continuing education requirements are being satisfied. The duty of auditing licensees for continuing education has been alternated between the Board President and the Board Secretary. The auditing process consists of the selected licensees submitting photocopies of certificates gathered from the training seminars they attended and/or verification of any instructional hours relating to oriental medicine. Copies of all the continuing education credits are to remain in the individual licensee's file which is retained by the Board Secretary.

### **The Board Has Procedures in Place for Due Process**

Due process is provided by the Board pursuant to §30-36-19 for licensees against whom a complaint is filed. Since its creation, the Board has had one complaint filed, which was in 1997. The complaint involved an unlicensed practitioner who was advertising acupuncture services. A warning letter was issued to the individual and an opportunity to present his or her qualifications for licensure was given; however, the individual relocated to another state before any other actions were taken. The *Code of State Rules* Title 32 Series 7 specifies the rules adopted by the Board concerning due process.



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## The Board Maintains a Website

The Board of Acupuncture maintains a website at [www.state.wv.us/acupuncture/](http://www.state.wv.us/acupuncture/). The site includes a PO Box number for the Board, an email address, a list of fees, a downloadable complaint form, rules and regulations, continuing education requirements, a downloadable application, and a list of board members. The website also provides a listing of licensees; however, this information is out-dated. Within the licensee listing there are licensees listed whose licenses have expiration dates as far back as March 2001. Also, there are only 30 licensees listed on the website and there are licensees listed that are no longer licensed by the Board. The Board also has a link for the Board's meeting minutes, however the site is currently under construction. The Board of Acupuncture has a user friendly website which makes it easy and convenient for visitors, however, it should be maintained.

*The Board's website also provides a listing of licensees; however, this information is out-dated.*

## Conclusion

The Board of Acupuncture has satisfactorily complied with some of the general provisions of Chapter 30 of the West Virginia Code. The Board has adopted an official seal, maintains records of its proceedings and maintains a roster of its licensees. Also, a member of the Board has attended the orientation session provided by the State Auditor's Office and the Board requires and verifies continuing education of its licensees. In addition, the Board is financially self-sufficient and procedures for due process are in place. The Board is listed in the telephone book, yet the listing does not include an address and it has a website. The Board needs to comply with several of the Chapter 30 general provisions. Currently, the Legislative Library has no record of annual reports from the Board of Acupuncture. The Board has not fully complied with the meeting requirements and the register of applicants requirements as stated in the *Code*.

## Recommendations

5. *The Legislative Auditor recommends that the Board of Acupuncture meet twice annually as required by the Code; or seek an amendment to the Code changing the requirement to meet once a year.*
6. *The Legislative Auditor recommends that the Board submit its annual reports to the governor and the Legislature, as required by statute.*

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7. *The Legislative Auditor recommends that the Board of Acupuncture begin to maintain a register of applicants to include all required information as required by statute.*

8. *The Legislative Auditor recommends that the Board update its website and schedule periodic updates to it to ensure the accuracy of the information contained within it.*

# Appendix A: Transmittal Letter

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## WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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John Sylvia  
Director

April 30, 2004

Dr. C.P. Negri, President  
Board of Acupuncture  
P.O. Box 252  
Huntington, WV 25707

Dear Dr. Negri:

This is to transmit a draft copy of the Regulatory Board Evaluation of the Board of Acupuncture. This report is scheduled to be presented during the May 16-18, 2004 interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have a teleconference on May 5, 2004. Please notify us to schedule an exact time. In addition, we need your written response by noon on May 7, 2004 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, May 13, 2004 to make arrangements.

We request that your personnel treat the draft report as confidential and that it not be disclosed to anyone not affiliated with your Board. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".  
John Sylvia

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*Joint Committee on Government and Finance*

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# Appendix B

<b>Appendix 1 Acupuncture Regulation By States</b>	
Alaska - Division of Occupational Licensing	Arizona - Arizona Board of Acupuncture Examiners
Arkansas - Arkansas State Board of Acupuncture and Related Techniques	California - California Acupuncture Board
Colorado - Department of Regulatory Agencies - Office of Acupuncturists Registration	Connecticut - Department of Public Health
Washington D.C. - Advisory Committee on Acupuncture	Florida - Board of Acupuncture
Georgia - Composite State Board of Medical Examiners	Hawaii - Department of Commerce and Consumer Affairs Professional and Vocational Licensing Division Board of Acupuncture
Idaho - Idaho State Board of Acupuncture Bureau of Occupational Licenses	Illinois - Illinois Department of Professional Regulation
Indiana - Health Professions Bureau - Indiana Acupuncture Advisory Committee	Iowa - Iowa State Board of Medical Examiners
Kansas - State Board of Healing Arts	Louisiana - State Board of Medical Examiners
Maine - Department of Professional and Financial Regulation Office of Licensing and Enforcement	Maryland - State Board of Acupuncture
Massachusetts - Board of Registration in Medicine Committee on Acupuncture	Minnesota - Minnesota Board of Medical Practice Services
Missouri - Division of Professional Registration - Acupuncturist Advisory Committee	Montana - Department of Commerce Board of Medical Examiners
Nebraska - State Board of Examiners in Medicine and Surgery	Nevada - Nevada State Board of Oriental Medicine
New Hampshire - New Hampshire Board of Acupuncture Licensing Department of Health and Human	New Jersey - Board of Medical Examiners - Acupuncture Examining Board
New Mexico - Board of Acupuncture and Oriental Medicine	New York - Education Department - Office of the Professions - NY State Board for Acupuncture
North Carolina - North Carolina Acupuncture Licensing Board	Ohio - State Medical Board
Oregon - Oregon Board of Medical Examiners	Pennsylvania - Board of Osteopathic Examiners/Board of Medical Examiners
Rhode Island - Division of Health Services Regulation	South Carolina - Department of Labor, Licensing and Regulation Board of Medical Examiners
Tennessee - Medical Examiners' Acupuncture Advisory Committee	Texas - Texas State Board of Medical Examiners
Utah - Division of Occupational and Professional Licensing - The Acupuncture Licensing Board	Vermont - Office of Professional Regulation
Virginia - Board of Medicine - Acupuncture Advisory Board	Washington - Department of Health - Acupuncture Program
West Virginia - Board of Acupuncture	Wisconsin - Department of Regulation and Licensure - Acupuncture Advisory Committee
<b>States Where Acupuncture Is Not Regulated</b>	
Alabama Delaware Kentucky Michigan Mississippi North Dakota Oklahoma South Dakota Wyoming	
Source: <a href="http://Acupuncture.com">Acupuncture.com</a>	



# Appendix C: Agency Response

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Hon. Bob Wise,  
Governor

RECEIVED  
MAY 07 2004

~State of West Virginia~  
**Board of Acupuncture**  
(304) 529-9355 Secretary's Office  
(304) 529-4558 Voice Mail

PERFORMANCE EVALUATION AND  
RESEARCH DIVISION

Martha Ashelman  
Berkeley Springs  
Andrea Brown, M.S.O.M., L.Ac.  
Harpers Ferry  
C.P. Negri, O.M.D.  
Morgantown

D.E. Samples, N.D., O.M.D.  
Huntington  
Linda Shields, M.D.  
Harpers Ferry

6 May 2004

Natasha Caines  
Performance Evaluation & Research Division  
Building 1, Room W-314  
State Capitol Complex  
Charleston, WV 25305-0610

Dear Ms. Caines:

Please add the following statement to your report on the Acupuncture Board:

No meeting of the Acupuncture Board was held in 2002 owing to there being no Board business to transact, no pending investigations by the Board, and a difficulty in arriving at a date convenient for all members to attend. A question was put to the Board members as to whether it was productive to expend State funds for such an unnecessary meeting, and the unanimous decision was to forego the meeting. I am pointing this out to assure the review committee that the meeting was not missed out of negligence.

Sincerely,



C.P. Negri, O.M.D.

President,  
Board of Acupuncture, State of West Virginia

