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REGULATORY BOARD REVIEW

BOARD OF OCCUPATIONAL THERAPY

AUDIT OVERVIEW

The Regulation of the Board of Occupational Therapy Is Necessary To Protect the Public

The West Virginia Board of Occupational Therapy Is in Compliance With Most of the General Provisions of Chapter 30

The Board of Occupational Therapy Should Make Improvements to Its Website to Enhance User-Friendliness and Transparency

The Board of Occupational Therapy Board Members' Terms Have Expired



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EXECUTIVE SUMMARY

The Legislative Auditor conducted a regulatory board review of the Board of Occupational Therapy authorized pursuant to West Virginia Code §4-10-10. The report contains the following issues:

Report Highlights

Issue 1: The Regulation of the Board of Occupational Therapy Is Necessary To Protect the Public.

- Without regulation to allow only qualified individuals to obtain an occupational therapy license, the health and safety of the public would be at risk.

- Many citizens would not have occupational therapy services covered by their health insurance provider without state licensure.

Issue 2: The West Virginia Board of Occupational Therapy Is in Compliance With Most of the General Provisions of Chapter 30.

- The Board is financially self-sufficient; however, in the past the Board has over-charged its per diem. The Board is aware of the error and has since become compliant with Code, limiting the per diem to \$150 per day.

- The Board's procedure for financial management lacks controls with respect to segregation of duties. Although the Board has procedures for processing cash receipts, the Board cannot establish appropriate segregation of duties because it only has one employee. In order to correct this problem, the Legislative Auditor recommends that the Board begin utilizing the State Treasurer's Office lockbox banking system.

- The Board is in compliance with continuing education requirements, complaints are resolved in a timely manner with due process, and the Board is publicly accessible.

- The Board's register is incomplete; the register contains most of the required information except the licensee's age for all licensees and educational qualifications. In addition, the Board submits annual reports to the Legislature but not to the governor as required by Code.

Issue 3: The Board of Occupational Therapy Should Make Improvements to Its Website to Enhance User-Friendliness and Transparency.

- The Board website has both user-friendly and transparency components, but improvements would be beneficial.

Issue 4: The Board of Occupational Therapy Board Members' Terms Have Expired.

- The terms for all five board members have expired. The Board has made numerous attempts to have the Governor's Office appoint board members which is required by Code. However, the Governor's Office has not acted on these requests.

Recommendations

1. *The Legislative Auditor recommends that the licensing of Occupational Therapists is necessary for protecting the citizens of West Virginia.*
2. *The Legislative Auditor recommends that the Board begin utilizing the State Treasure's lockbox banking system to establish better financial internal controls regarding segregation of duties.*
3. *The Board of Occupational Therapy should add to its register the applicant's age, and educational qualifications as required in WVC §30-1-12(a).*
4. *The Legislative Auditor recommends that the Board submit an annual report to the Governor each year as required in WVC §30-1-12(b).*
5. *The Legislative Auditor recommends that the Legislature consider combining the requirements in Code that require Chapter 30 boards to submit an annual report to both the Legislature and the Governor's Office, and having the annual report published on a central State website.*
6. *The Board should consider providing public access to its performance goals via its website and include the current and historical performance measures, budget information, and other user-friendly and transparency website elements identified by the Legislative Auditor.*
7. *The Legislative Auditor recommends that the Governor's Office make the necessary board member appointments.*

ISSUE 1

The Regulation of the Board of Occupational Therapy Is Necessary To Protect the Public.

Issue Summary

The West Virginia Board of Occupational Therapy is charged with addressing physical, cognitive, psychosocial, sensory, and other aspects of performance of individuals. Individuals who seek the services of occupational therapists have developed or are at risk of developing various illnesses, injuries, disorders, impairments, or activity limitations that affect their ability to function at home, in the workplace, and other settings. In determining the need for the Board, a primary consideration is the extent to which significant and discernible adverse effects on public welfare would occur if the Board were abolished. **The Legislative Auditor finds that the licensing of Occupational Therapists is necessary for protecting the citizens of West Virginia.**

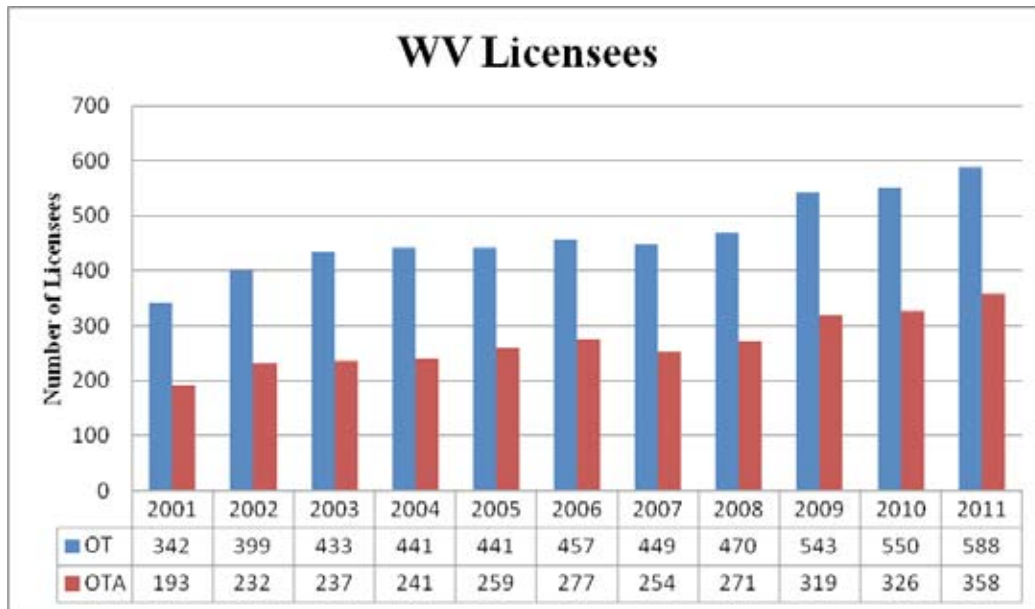
Individuals who seek the services of occupational therapists have developed or are at risk of developing various illnesses, injuries, disorders, impairments, or activity limitations that affect their ability to function at home, in the workplace, and other settings.

Background

The mission of the Board of Occupational Therapists is to protect consumers and promote quality of occupational therapy services, and to assure the highest degree of professional care and conduct on the part of occupational therapists and occupational therapist assistants.

According to the Board, in order to protect the public, promote quality of occupational therapy services, and assure the highest degree of professional care, it is important to restrict the practice of occupational therapy to individuals who have proven training and qualifications. Without regulation to allow only qualified individuals to obtain a license, define scope of practice, provide supervision guidelines, document continuing education, and a means to receive and resolve complaints from the public regarding occupational therapy providers, the health and safety of the public would be at risk. Figure 1 shows that from 2001 to 2011, the number of Occupational Therapist (OT) and Occupational Therapy Assistant (OTA) licensees has increased almost every year.

Without regulation to allow only qualified individuals to obtain a license, define scope of practice, provide supervision guidelines, document continuing education, and a means to receive and resolve complaints from the public regarding occupational therapy providers, the health and safety of the public would be at risk.

Figure 1: Number of Licensees From 2001 to 2011

All 50 States Require Occupational Therapists to Be Licensed

According to the Department of Labor's *Occupational Outlook Handbook*, all states require Occupational Therapists to be licensed. Licensure requires a degree from an accredited educational program and passing the National Board for Certification of Occupational Therapists (NBCOT) certification exam. Other requirements, such as continuing education and fees, vary by state. Additionally, according to NBCOT, Occupational Therapy Assistants are required licensure in 40 states; six require certification, and four only require supervision of a licensed Occupational Therapist.

Occupational Therapists held approximately 108,800 jobs in 2010. Forty-eight percent of Occupational Therapists worked in offices of physical, occupational and speech therapists, audiologists, or hospitals. Others worked in schools, nursing homes, and home health services.

Licensees Are Nationally Accredited

A master's degree or higher in occupational therapy is the minimum requirement for entry into the field as an Occupational Therapist. Entry level education for Occupational Therapy Assistants is an associate degree. Both must attend schools accredited by the Accreditation

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A master's degree or higher in occupational therapy is the minimum requirement for entry into the field as an Occupational Therapist. Entry level education for Occupational Therapy Assistants is an associate degree.

Council for Occupational Therapy Education (ACOTE) in order to sit for the national certifying exam. This national exam is administered by NBCOT, and is recognized by all state regulatory entities. Applicants must pass this exam to be eligible for licensure.

Insurance Carriers Require Licensure in Order For Treatment or Services To Be Covered

Insurance carriers require that Occupational Therapists be licensed by the state in which services are performed. According to the Centers for Medicare & Medicaid Services, under its *Physical, Occupational & Speech Therapy Billing Guide*, a “qualified professional” refers to a physical therapist, occupational therapist, speech-language pathologist, physician, nurse practitioner, clinical nurse specialist, or physician’s assistant, who is licensed or certified by the state to perform therapy services, and who also may appropriately perform therapy services under Medicare policies. In addition, in order to receive coverage from PEIA, an Occupational Therapist must be licensed.

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Conclusion

Currently, 50 states require licensure for Occupational Therapists and 40 states for Occupational Therapist Assistants. The number of Occupational Therapist and Occupational Therapy Assistant licensees has increased almost every year since 2001. In 2011, there were 588 Occupational Therapists and 358 Occupational Therapy Assistants licensed in West Virginia. Licensure in West Virginia assures that Occupational Therapists are nationally accredited and have obtained at least a master’s degree in Occupational Therapy. Both Medicare and PEIA require licensure by Occupational Therapists in order to receive coverage. Without regulation the health and safety of the public would be at risk. The Legislative Auditor finds that the licensing of Occupational Therapists is necessary for protecting the citizens of West Virginia.

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Recommendation

1. *The Legislative Auditor recommends that the licensing of Occupational Therapists is necessary for protecting the citizens of West Virginia.*

Issue 2

The West Virginia Board of Occupational Therapy Is In Compliance With Most of the General Provisions of Chapter 30.

The West Virginia Board of Occupational Therapy is in satisfactory compliance with most of the general provisions of Chapter 30 of the West Virginia Code. These provisions are important for the effective operation of regulatory boards. The Board is in compliance with the following provisions:

- The Chair or Chief Financial officer must attend an orientation session conducted by the State Auditor (§30-1-2a(c)(2));
- The Board has adopted an official seal (§30-1-4);
- The Board meets at least once annually (§30-1-5(a));
- The Board's complaints are investigated and resolved with due process (§30-1-5(b)); (30-1-8);
- Rules have been promulgated specifying the investigation and resolution procedure of all complaints (§30-1-8(h));
- The Board must be financially self-sufficient in carrying out its responsibilities (§30-1-6(c));
- The Board has established continuing education (§30-1-7a);
- The Board has complied with public access requirements as specified by (§30-1-12(c));
- The roster has been prepared and maintained of all licensees that includes name, and office address (§30-1-13).

The West Virginia Board of Occupational Therapy is in satisfactory compliance with most of the general provisions of Chapter 30 of the West Virginia Code.

The Board Is Financially Self-Sufficient

Financial self-sufficiency of regulatory boards is required by West Virginia Code §30-1-6(c). As shown in Table 1, the Board's end-of-year balances from FY 2007 through FY 2011 have been increasing and confirm that the Board is currently self-sufficient.

Table 1
Board of Occupational Therapy
Revenues and Expenditures 2007 to 2011

	Beginning of Year Cash Balance	Revenues	Expenditures	End of Year Cash Balance
2007	\$44,784	\$94,212	\$71,876	\$67,120
2008	\$67,120	\$90,664	\$64,933	\$92,851
2009	\$92,851	\$102,946	\$70,597	\$125,200
2010	\$125,200	\$113,765	\$77,436	\$161,530
2011	\$161,530	\$92,899	\$72,871	\$181,557

Source: West Virginia State Auditor's data as published in the Legislative Auditor's Digest of Revenue Sources FY 2007 to FY 2011.

Effective May 1, 2012, the initial license fee for an Occupational Therapist was reduced from \$250 to \$150; and for an Occupational Therapy Assistant license the fee was reduced from \$200 to \$100. The reduction in licensing fees was the result of the current financial position of the Board and to provide the licensees with a positive change. According to a cost analysis conducted by the Board, a reduction in these fees will impact the Board's budget by a decrease of approximately \$10,000 per year. The Board still anticipates having sufficient funds to operate as a result of these fee reductions.

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In August 2012, the West Virginia State Treasurer's Office notified the Board that its cash balance was more than twice its annual budget by the amount of \$8,461. The State Treasurer's Office informed the Board that the amount must be swept into the state General Revenue Fund pursuant to WVC §30-1-10. According to the State Treasurer, the transfer of excess cash to the General Fund was completed on September 4, 2012.

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In the Past the Board Has Over-Charged Its Per Diem

Although the Board has corrected the problem, from 2009 to 2011, the Board over-charged its per diem by \$2,180. According to WVC §30-1-11, each member of the Board is entitled to receive compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission. WVC §4-2A-3 allows members of the Legislature a compensation of \$150 per day. From 2009 to 2011, the Board paid board members \$18.75 for each hour attributed towards board activities with the reasoning that

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\$150 divided by 8 hours equals \$18.75 per hour. However, there were many instances where board members worked more than 8 hours and were paid the difference. **The Board is aware of the error and has since become compliant with WVC §4-2A-3, limiting the per diem to \$150 per day.**

Better Financial Internal Controls Should Be Established in Regards to Segregation of Duties

The Board's procedure for financial management lacks controls with respect to segregation of duties. Although the Board has procedures for processing cash receipts, the Board cannot establish appropriate segregation of duties because it only has one employee. Segregation of duties is an important internal control that guards against inappropriate use of funds received by the Board. The Board's single employee handles all components of transactions related to finances such as receiving all revenues, images and deposits all checks, and informs the West Virginia State Treasurer's Office of the deposit amounts and the source of the revenue.

The Legislative Auditor recommends that the Board begin utilizing the State Treasurer's lockbox. Use of the lockbox would establish a segregation of financial duties. The State Treasurer offers lockbox banking to state agencies for a nominal cost. This change would require that the Board's licensees mail fees directly to a post office box accessible only by the State Treasurer. See Appendix D for a description of the lockbox service.

Complaints to the Board Are Resolved Timely and With Due Process

The Legislative Auditor reviewed all 11 complaints received from 2008 to 2010. The nature of the complaints were allegations of falsification of records, practicing on expired license (late renewal), alleged neglect of patient, and fraudulent billing for services. These complaints were resolved within the 18-month period as mandated by statute. The complaint resolution time for the Board from 2008 to 2010 ranged from 2 months to 8 months, with an overall resolution time average of 4 months. Table 2 shows the number of complaints received yearly for the past three fiscal years and the average time to resolution.

The Board's procedure for financial management lacks controls with respect to segregation of duties. Although the Board has procedures for processing cash receipts, the Board cannot establish appropriate segregation of duties because it only has one employee.

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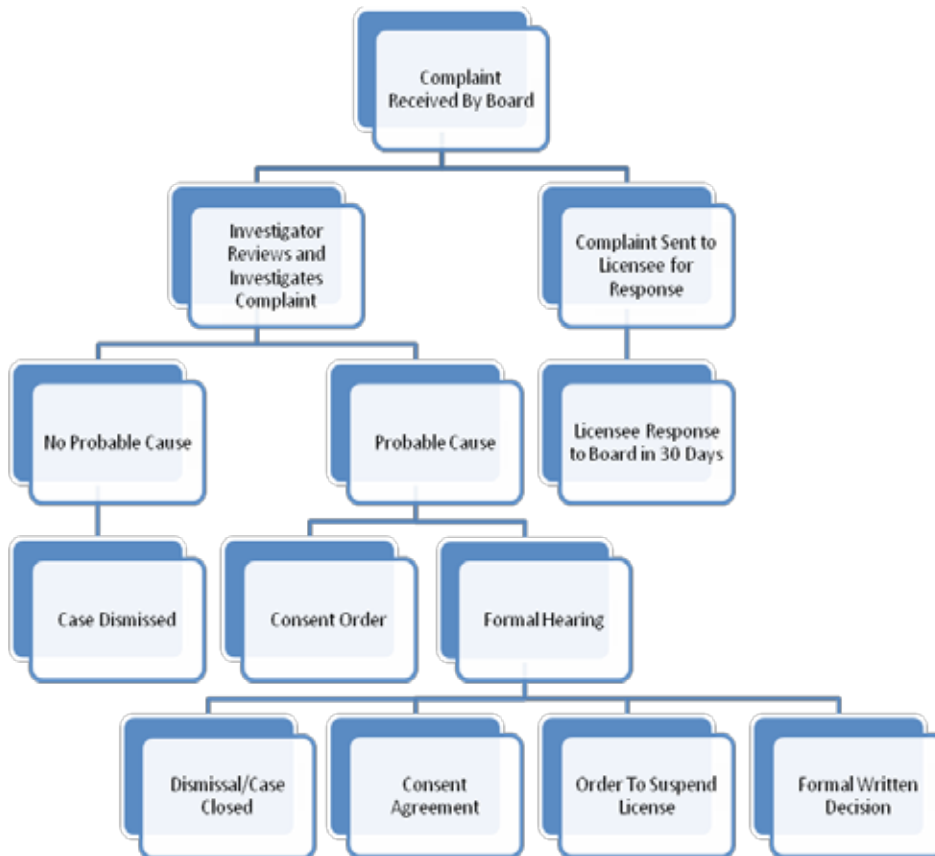
Table 2
Complaint Resolution Statistics

Fiscal Year	Number of Complaints Received	Number of Complaints Closed Within 18 Months	Average Time to Resolution
2008	2	2	4 months
2009	1	1	4 months
2010	8	8	3.75 months

Source: Legislative Auditor's review of Board of Occupational Therapy's complaint log.

When a complaint to the Board is received and filed, the Board is required to forward a copy to the licensee for a response. The licensee must respond to the complaint within 30 days. After receipt and review of complaint, the Board shall require any reasonable inquiry or investigation it considers necessary to be conducted to determine the truth and validity of the allegations set forth in the complaint. An assigned committee of the Board or an investigator/inspector shall, within 60 days, review and investigate the complaint and provide the Board with a report. Once the investigator reports findings, the Board votes to determine probable cause of Code violations. If probable cause is determined, disciplinary actions are taken and a formal decision is written. Figure 2 illustrates the Board's process for investigating and resolving complaints.

Figure 2: Board of Occupational Therapy Complaint Process



Each licensee shall complete a minimum of 24 contact hours of continuing education and competency activities during the two-year period preceding the application for renewal.

The Board Is Complying With Continuing Education Requirements

The Board is complying with continuing education requirements for its licensees. Each licensee shall complete a minimum of 24 contact hours of continuing education and competency activities during the two-year period preceding the application for renewal. The types of approved continuing education and competency activities recognized by the Board are listed and explained in CSR §13-4-3.8, with the maximum number of hours that may be earned for each category, if applicable. It is the responsibility of the licensee to assure that the selected courses meet his or her individual needs to maintain knowledge of theory and practice in accordance with the continuing education and competency options as outlined in the CSR.

The Board randomly selects seven percent of active licensees each renewal cycle to audit for compliance with continuing education and competency requirements. A letter notifying selected licensees is attached to

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the renewal application. To comply with the audit, licensees must submit copies of certificates of completion or other documentation substantiating completion of the continuing education activities listed on their renewal application. If a licensee fails to submit the audit information requested by the Board or meet the unit requirements, the Board communicates with the licensee and does not renew the license until all requirements are met.

During the time period from 2010 to 2012, the Board found that only 4 out of 115 licensees had been out of compliance regarding continuing education completion. The reason for the non-compliance was due to licensees not renewing their license or not sending in continuing education certificates of completion (see Table 3). According to the Board, in all cases where audited licensees did not renew, it was confirmed that they were no longer working in West Virginia and had moved out of state. In addition, the reason there are fewer audits for 2011 and 2012 is due to the Board's move to a biennial renewal schedule.

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Year	Number of Audits	Number of Licensees Not in Compliance	Reason for Non-Compliance
2010	52	1	Did Not Renew License
2011	31	1	Did Not Renew License
2012	32	2	Did Not Renew License

Source: West Virginia Board of Occupational Therapy.

The Board's Register Is Incomplete

The Board has compiled a register of applicants, but it is incomplete. According to WVC §30-1-12(a):

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.

According to the Board, in all cases where audited licensees did not renew, it was confirmed that they were no longer working in West Virginia and had moved out of state.

The register contains the applicant's name, address, status of license, date of license, and all renewals of the license. The register has the date-of-birth for some licensees, but not all. In addition, the educational qualifications for licensees are not included as required in WVC §30-1-12(a).

The Board Submits Annual Reports to the Legislature But Not to the Governor

As required in Code, the Board submits annual reports to the Legislature each year, but it does not submit reports to the Governor's Office. WVC §30-1-12(b) states:

On or before the first day of January or 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....

Documentation shows that the Board has provided the Legislature an annual report for the years 2007 to 2011. However, a report has not been received by the Governor's Office for those same years. **The Legislative Auditor recommends that the Board submit an annual report to the governor each year as required in Code.**

Since Chapter 30 boards have dual requirements to send their annual reports to the Legislature and the Governor's Office, duplication could be eliminated by combining these requirements and reporting the annual report on a central State website. **Therefore, the Legislative Auditor recommends that the Legislature should consider combining these annual report submission requirements and having the report published on a central State website.**

The Board of Occupational Therapy Is Publicly Accessible

The Board of Occupational Therapy is in compliance with the general provisions of Chapter 30 that require public accessibility. In compliance with statute, the Board has its telephone number listed in the Charleston telephone book. The website lists information such as professional credentials and term dates for each board member as well as staff. Additionally, the website allows users to access disciplinary measures taken by the Board against a licensee, legislative rules and applications/renewal forms, scheduled board meetings and fee information. The Board of Occupational Therapy's Licensee Search allows the public to access

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information about any of its licensees. In addition, the public can access complete license details and a statement of any disciplinary actions regarding the licensure of any licensee. For more detail on the Board's website, see Issue 3.

Conclusion

The West Virginia Board of Occupational Therapy is in compliance with most of the general provisions of Chapter 30 of the West Virginia Code. The Board is financially self-sufficient; however the Board should begin utilizing the State Treasury's lockbox banking system to establish better financial internal controls regarding segregation of duties. Complaints to the Board are resolved timely and with due process, the Board is complying with continuing education requirements for its licensees, and the Board is publicly accessible. Nevertheless, although the Board keeps a register, it is incomplete. In addition, the Board needs to submit an annual report to the Governor as required in Code. Ultimately, from 2009 to 2011, the Board over-charged its per diem by \$2,180. The Board is aware of the error and has since become compliant with WVC §4-2A-3, limiting the per diem to \$150 per day.

Recommendations

2. *The Legislative Auditor recommends that the Board begin utilizing the State Treasury's lockbox banking system to establish better financial internal controls regarding segregation of duties.*
3. *The Board of Occupational Therapy should add to its register the applicant's age, and educational qualifications as required in WVC §30-1-12(a).*
4. *The Legislative Auditor recommends that the Board submit an annual report to the Governor each year as required in WVC §30-1-12(b).*
5. *The Legislative Auditor recommends that the Legislature consider combining the requirements in Code that require Chapter 30 boards to submit an annual report to both the Legislature and the Governor's Office, and having the annual report published on a central State website.*

Issue 3

The Board of Occupational Therapy Should Make Improvements to Its Website to Enhance User-friendliness and Transparency.

Issue Summary

It has become common and expected that government convey to the public what it is doing through website technology. A number of organizations have developed assessment criteria to evaluate federal and state government websites for transparency and user-friendliness. The Legislative Auditor conducted a literature review on assessments of government websites and developed an assessment tool to evaluate West Virginia’s state agency websites (see Appendix C). The assessment tool lists a large number of website elements; however, some elements should be included in every state website, while other elements such as social media links, graphics, and audio/video features may not be necessary or practical for certain agencies. Table 4 indicates that the Board of Occupational Therapy integrates 36 percent of the checklist items within its website. This rating is at a level that shows the agency has given consideration to the issues of transparency and user-friendliness in the use of website technology; however, more improvements can be made.

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Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
	BOT 36%		

Source: The Legislative Auditor’s review of the Board of Occupational Therapy’s website.

The Board Website Has Both User-friendly and Transparency Components But Improvements Are Needed

In order for citizens to actively engage with an agency online they must first be able to access and comprehend information on governmental websites. Therefore, governmental websites should be designed with citizens in mind. A user-friendly website is readable, efficient and allows for citizens to easily navigate from page to page. Governmental websites should also be transparent and provide citizens with confidence and trust in the agency. Transparency promotes accountability and provides information for citizens about what government is doing.

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The Legislative Auditor reviewed the Board website for both user-friendliness and transparency. Table 5 demonstrates the Board website has both user-friendly and transparency components; however, more improvements are needed to address areas that are lacking.

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	7	39%
Transparent	32	11	34%
Total	50	18	36%

Source: Legislative Auditor's review.

The Board Website is Well-Designed But More Improvements Are Needed

The Board website is easy to navigate as every page is linked to the agency's homepage which has a search tool that acts as an index of the entire website. The Board website can also be comprehended by most citizens. According to the Flesch Kincaid Reading Test, the average readability of the text is on a 9th grade reading level making it readable for the majority of citizens.

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User-Friendly Considerations

The following are a few attributes that could lead to a more user-friendly website:

- **Site Map**- A list of pages contained on the website that can be accessed by the user.
- **Foreign Language Accessibility**- A link to translate all webpages into one or more languages other than English.
- **Site Functionality**- The website should use sans serif fonts, the website should include buttons to adjust the font size, and resizing of text should not distort site graphics.
- **Feedback Options**- A page where users can voluntarily submit feedback about the website or particular section of the website.

The Board Website Is Transparent, But Could Benefit From Additional Content

A website that is transparent will have elements such as email contact information, the location of the agency, the agency's phone number, as well as public records, the budget and performance measures. A transparent website will also allow for citizen engagement so that their government can make policies based on the information shared. The Board of Occupational Therapy Website Criteria Checklist and Points System (see Appendix C) demonstrates that the Board's website has less than half of core elements that are necessary for a general understanding of the agency. However, items such as email contact information, the location and telephone number of the Board, and a privacy policy enable citizens to adequately communicate with the agency.

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Transparency Considerations

The following are a few attributes that could be beneficial to the Board in increasing its transparency:

- **Board Budget-** A link to the annual Board budget.
- **Board Performance Measures-** A link from the homepage explaining the agency's performance measures.
- **Agency History-** The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.
- **Mapped Location of Board Office-** The Board's contact page should include an embedded map that shows the Board's location.
- **Administrator(s) Biography-** A biography explaining the administrator(s) professional qualifications and experience.

Conclusion

The emerging use of technology from paying bills to interactive communication has filtered its way to state government. In order to take advantage of this trend, state agencies are utilizing websites to engage citizens as active participants in the governmental process. Few studies have focused on legislative websites and those that have, use different criteria when reviewing sites. A literature review was conducted and

utilized to formulate a website checklist that graded the Board website on its user-friendliness and transparency. The Board website is well designed but more improvements are needed. The website could benefit from incorporating some interactive features such as a site map or by producing its annual budget to become more transparent.

The current Board website enables users to review contact information, and a summary of the Board legislative regulations. Currently the Board's performance measures and budget information are not listed within the website. Providing users with this information would enhance transparency. **It is the Legislative Auditor's opinion that to continue to strive for open government and transparency, the Board should consider implementing elements identified as deficient.**

Recommendation

6. *The Board should consider providing public access to its performance goals via its website and include the current and historical performance measures, budget information, and other user-friendly and transparency website elements identified by the Legislative Auditor.*

Issue 4

The Board of Occupational Therapy Board Members' Terms Have Expired.

Issue Summary

The terms for all five members of the Board have expired. According to Code, the Governor's Office is required to appoint new members or re-appoint existing members to the Board once their term is up. Board members' terms are for three years and may not serve more than two consecutive full terms. Nevertheless, a member may continue to serve until a successor has been appointed. The Board has contacted the Governor's Office numerous times requesting new appointments. However, the Governor's Office has not acted on these requests.

According to Code, the Governor's Office is required to appoint new members or re-appoint existing members to the Board once their term is up.

The Term For Each Board Member Has Expired

The terms for all five board members have expired. Statute indicates that a board member's term is for three years and may not serve more than two consecutive full terms unless a successor has not been appointed. WVC §30-28-5(e) states:

The terms for all five board members have expired.

The term shall be for three years commencing on January 1. A member may not serve more than two consecutive full terms. A member having served two consecutive full terms may not be appointed for one year after completion of his or her second full term. A member may continue to serve until a successor has been appointed and qualified.

The latest term ending for a Board member was in 2011. However, the Board has a member whose term ended back in 2005. Table 6 shows how long each board member's term has been expired.

Position	Date When Term Ended
President – Kathy Quesenberry	December 31, 2010
Secretary/Treasurer – Martin Douglas	December 31, 2005
Board Member – Phil Simpson	December 31, 2010
Board Member – Bambi Hill	December 31, 2011
Consumer Member – Gene Brooks	December 31, 2007

Source: West Virginia Board of Occupational Therapy

Presently, the Board does not have any problems having a quorum for its meetings. However, overextension of board members' terms could potentially affect the Board's ability to hold a quorum for future meetings if these positions become vacant, which could prevent the Board from carrying out its mandated duties.

The Governor's Office Has Not Made Board Member Appointments

The Board has made preparations and has contacted the Governor's Office numerous times requesting board member appointments. Between September 2011 and August 2012, the Board has contacted the Governor's Office seven times requesting board member appointments. In a letter sent by the Board to the Governor's Office in November 2011, the Board stated that it had received letters of interest and resumes to be a member of the Board and it had made a recommendation for the appointment. However, the Governor's Office has not acted on these requests. **The Legislative Auditor recommends that the governor make the necessary board member appointments.**

Presently, the Board does not have any problems having a quorum for its meetings. However, overextension of board members' terms could potentially affect the Board's ability to hold a quorum for future meetings if these positions become vacant, which could prevent the Board from carrying out its mandated duties.

Conclusion

Each member of the Board has had their term expire. The Board has made numerous attempts to have the Governor's Office appoint board members which is required by Code. However, the Governor's Office has not acted on these requests. Currently, all of the Board's members are still attending meetings. However, if those members choose to vacate their positions, this situation could potentially affect the Board's ability to hold a quorum for future meetings which could prevent the Board from carrying out its mandated duties.

The Board has made preparations and has contacted the Governor's Office numerous times requesting board member appointments.

Recommendation

7. *The Legislative Auditor recommends that the Governor's Office make the necessary board member appointments.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building I, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

September 18, 2012

Vonda K. Malnikoff, Executive Secretary
West Virginia Board of Occupational Therapy
3041 University Ave.
2nd Floor, Suite 6
Morgantown, WV 26505

Dear Ms Malnikoff:

This is to transmit a draft copy of the Regulatory Board Review of the Board of Occupational Therapy. This report is scheduled to be presented during the October 8-10, 2012 interim meeting of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. 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 committees may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting between the dates September 24-28, 2012. Please notify us to schedule an exact time. In addition, we need your written response by noon on September 27, 2012 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, October 4, 2012 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Brian Armentrout".

Brian Armentrout
Research Manager

Enclosure

Joint Committee on Government and Finance

Appendix B: Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the Board of Occupational Therapy as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code*, as amended. The purpose of the Board of Occupational Therapy, as established in West Virginia Code §30-28, is to protect the public through its license process, and to be the regulatory and disciplinary body of occupational therapists and occupational therapists assistants throughout the state.

Objective

The purpose of this review is to determine if the Board should be continued, consolidated or terminated, and if conditions warrant a change in the degree of regulations. In addition, this review is intended to assess the Board's compliance with the general provisions of Chapter 30, Article 1 of the *West Virginia Code*, the Board's enabling statute, and other applicable rules and laws such as the Open Governmental Proceedings (WVC §6-9A), and purchasing requirements. Finally, it was the objective of the Legislative Auditor to assess the Board's website for user-friendliness and transparency.

Scope

The evaluation included a review of the Board's internal controls, policy and procedures, meeting minutes, complaint files, complaint-resolution process, disciplinary procedures and actions, revenues and expenditures for the period of FY 2007 through 2011, continuing education requirements and verification, the Board's compliance with the general statutory provisions for regulatory boards and other applicable laws, and key features of the Board's website.

Methodology

The primary methodology for this review included communication with and receipt of information from the Board of Occupational Therapy, State Treasurer's Office, State Budget Office, Secretary of State's Office, Governor's Office, West Virginia Legislature, National Board for Certification of Occupational Therapists (NBCOT), Accreditation Council for Occupational Therapy Education (ACOTE), PEIA, Medicare, and United States Department of Labor. Interviews and verbal comments made by these agencies were confirmed by written statements and in many cases were confirmed by corroborating evidence as well. Data collected and analyzed from the Board included the Board's complaint log, meeting minutes, annual reports, licensee roster and register, board members' cash expenses, procedures for investigating and resolving complaints, procedures for processing cash receipts, and continuing education.

In evaluating the Board’s website, the Legislative Auditor conducted a literature review of government website studies and performed a review of top ranked government websites and groups that rate government websites in order to establish a master list of elements that would increase citizen engagement. The Brookings Institute’s “2008 State and Federal E-Government in the United States” and the Rutgers University’s 2008 “U.S. States E-Governance Survey (2008): An Assessment of State Websites” helped identify the top ranked states in regards to e-government. The Legislative Auditor identified three states (Indiana, Maine and Massachusetts) that were ranked in the top ten in both studies and reviewed all three states’ main portals for trends and common similarities in transparency and open government. The Legislative Auditor also reviewed a 2010 report from the West Virginia Center on Budget and Policy that was useful in identifying a group of core elements from the master list that should be incorporated into every state and local website to increase its transparency and e-governance. It is understood that not every item listed in the master list is to be found in a department or agency website because some of the technology would not be practical or useful. Therefore, the Legislative Auditor is recommending that an agency or department determine if it is progressing in step with the e-government movement that is emphasizing transparency and user-friendliness.

This performance audit was conducted in accordance with generally accepted government auditing standards (GAGAS). These standards require that the audit be planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The Legislative Auditor believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C: Website Criteria Checklist and Points System

Website Criteria Checklist and Points System West Virginia Board of Occupational Therapy			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	7
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	2 points
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")	2 points	2 points
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0 points
Content Readability	The website should be written on a 6 th -7 th grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	
Site Functionality	The website should use sans serif fonts (1), the website should include buttons to adjust the font size (1), and resizing of text should not distort site graphics or text (1).	3 points	0 points
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	0 points
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	0 points
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2 points
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	1 point

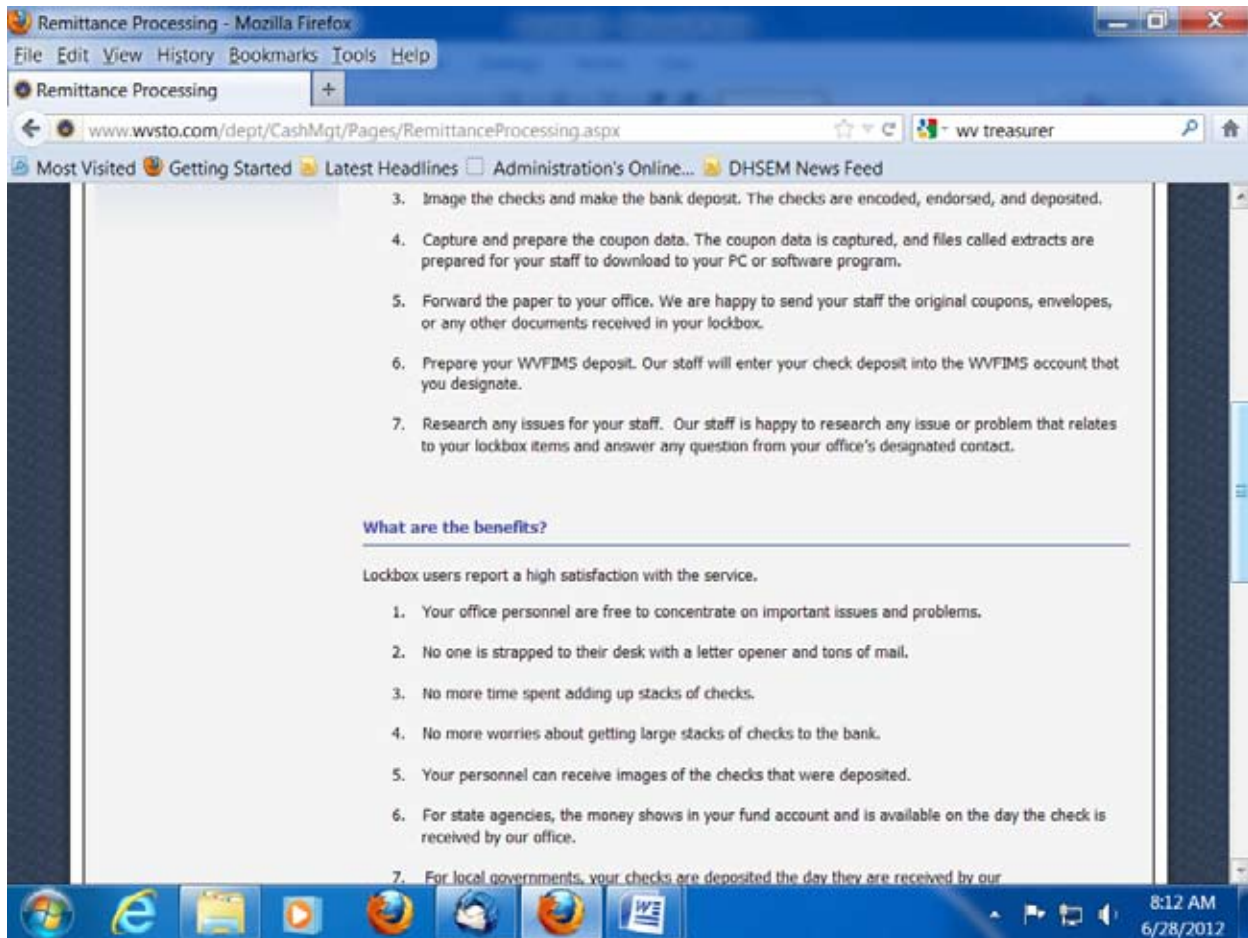
Website Criteria Checklist and Points System West Virginia Board of Occupational Therapy			
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	0 points
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0 points
Social Media Links	The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.	1 point	0 points
RSS Feeds	RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.	1 point	0 points
Transparency	Description	Total Points Possible	Total Agency Points
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	32	11
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1 point
Physical Address	General address of stage agency.	1 point	1 point
Phone Number	Correct phone number of state agency.	1 point	1 point
Location of Agency Headquarters	The agency's contact page should include an embedded map that shows the agency's location.	1 point	0 points
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	1 point
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0 points
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	0 points

Website Criteria Checklist and Points System West Virginia Board of Occupational Therapy			
Public Records	<p>The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points:</p> <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licensees • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2 points
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	2 points
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	0 points
Mission statement	The agency's mission statement should be located on the homepage.	1 point	1 point
Calendar of events	Information on events, meetings, etc. (1) ideally embedded using a calendar program (1).	2 points	1 point
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	1 point
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/organizational chart (1).	2 points	0 points
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	0 points
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0 points
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0 points
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0 points

Website Criteria Checklist and Points System West Virginia Board of Occupational Therapy			
Agency history	The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	0 points
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0 points
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the application page Personnel Division (1).	2 points	0 points

Appendix D: West Virginia State Treasurer's Lockbox Banking





Remittance Processing - Mozilla Firefox

File Edit View History Bookmarks Tools Help

Remittance Processing

www.wvsto.com/dept/CashMgt/Pages/RemittanceProcessing.aspx

Most Visited Getting Started Latest Headlines Administration's Online... DHSEM News Feed

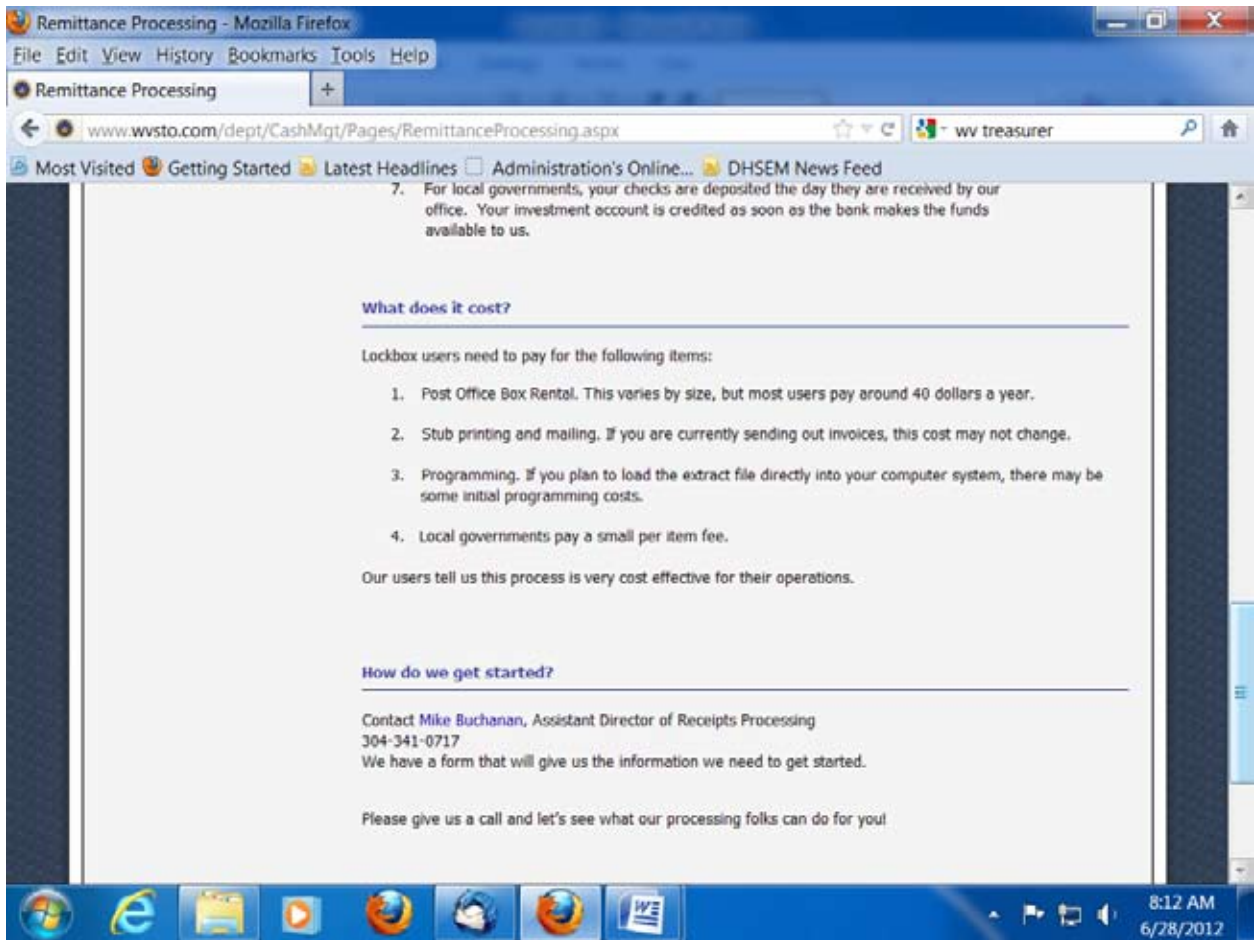
3. Image the checks and make the bank deposit. The checks are encoded, endorsed, and deposited.
4. Capture and prepare the coupon data. The coupon data is captured, and files called extracts are prepared for your staff to download to your PC or software program.
5. Forward the paper to your office. We are happy to send your staff the original coupons, envelopes, or any other documents received in your lockbox.
6. Prepare your WVFIMS deposit. Our staff will enter your check deposit into the WVFIMS account that you designate.
7. Research any issues for your staff. Our staff is happy to research any issue or problem that relates to your lockbox items and answer any question from your office's designated contact.

What are the benefits?

Lockbox users report a high satisfaction with the service.

1. Your office personnel are free to concentrate on important issues and problems.
2. No one is strapped to their desk with a letter opener and tons of mail.
3. No more time spent adding up stacks of checks.
4. No more worries about getting large stacks of checks to the bank.
5. Your personnel can receive images of the checks that were deposited.
6. For state agencies, the money shows in your fund account and is available on the day the check is received by our office.
7. For local governments, your checks are deposited the day they are received by our

8:12 AM
6/28/2012



Appendix E: Agency Response

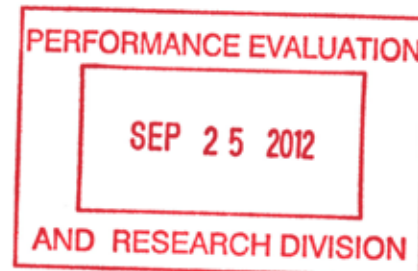
West Virginia Board of Occupational Therapy



3041 University Avenue
2nd Floor, Suite 6
Morgantown, WV 26505
304-285-3150 (fax & phone)
www.wvbot.org

September 25, 2012

Brian Armentrout
Research Manager
Legislative Auditor's Office
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610



Re: Response to Regulatory Board Review

Dear Mr. Armentrout,

Please find attached the response by the West Virginia Board of Occupational Therapy to the Regulatory Board Review performed by your staff. We appreciate the efforts of your staff to accurately report the functioning of the WV BOT, and your recommendations for improvement.

Please contact me if you have any questions regarding our response.

Sincerely,

A handwritten signature in black ink that reads "Vonda Malnikoff".

Vonda Malnikoff
Executive Secretary

West Virginia Board of Occupational Therapy

Response to Regulatory Board Review Recommendations

Recommendations

2. ***The Legislative Auditor recommends that the Board begin utilizing the State Treasurer's lockbox banking system to establish better financial internal controls regarding segregation of duties.***

The Board will explore alternative methods with the State Treasurer's Office, including the lockbox system, for processing our cash receipts to strengthen our internal controls. Our concern with the lockbox option is the time it would add to the application and renewal process. Another option we are exploring is the capability to apply for and renew licenses through an online application process that would accept credit card payments. This would minimize our cash receipts and reduce licensure processing time.

3. ***The Board of Occupational Therapy should add to its register the applicants age, and educational qualifications as required in WVC §30-1-12(a).***

The Board added date of birth to its register in August 1996. The register also includes the date the applicant passed the National Board Exam, their certification number from the exam, and a verification column to indicate the Board has received direct source verification of passing the exam. As applicants must have met the appropriate educational qualifications in order to take the exam, it is implied that these educational qualifications have been met. Therefore, the Board believes the information included in its register satisfies the requirement in WVC §30-1-12(a).

4. ***The Legislative Auditor recommends that the Board submit an annual report to the Governor each year as required in WVC §30-1-12(b).***

Since 2007, when the Legislature passed a bill regarding electronic filing of annual reports, we have been doing so, and believed this met the filing requirement as there is full open access to the reports through the Legislative website. The Board will send a CD with its annual reports from 2007 to 2012, and all future reports, to the Governor's office in addition to filing the report on the Legislative website. We appreciate the Legislative Auditor's recommendation that the Legislature consider consolidating the reporting requirements on a central State website to eliminate this duplication.

6. ***The Board should consider providing public access to its performance goals via its website and include the current and historical performance measures, budget information, and other user-friendly and transparency website elements identified by the Legislative Auditor.***

The Board continuously seeks to improve our website and will consider the additional elements identified by the Legislative Auditor. As noted in the Auditor's report, the assessment tool lists a large number of website elements, some of which may not be necessary or practical for all agencies. As such, we do not believe the resulting evaluation score accurately reflects the usefulness of our website to our targeted user group.



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

telephone: 1-304-347-4890 | www.legis.state.wv.us/Joint/PERD/perd.cfm | fax: 1-304-347-4939