

Special Report

Board of Registered Nurses

**The Board of Registered Nurses Does
Not Respond to Complaints Against
Licensees in a Timely Manner**



**December 2002
PE02-33-265**

JOINT COMMITTEE ON GOVERNMENT OPERATIONS

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John Sylvia
Director

December 15, 2002

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

The Honorable Vicki V. Douglas
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 *Special Report of the Board of Registered Nurses*, which will be presented to the Joint Committee on Government Operations on Sunday, December 15, 2002. The issue covered herein is "The Board of Registered Nurses Does Not Respond to Complaints Against Licensees in a Timely Manner."

We transmitted a draft copy of the report to the Board of Registered Nurses on November 22, 2002. We held an Exit Conference with the Board on December 3, 2002. We received the agency response on December 5, 2002.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

The Legislative Auditor under the authorization of West Virginia Code §4-2-5 conducted a review of the Board of Registered Nurses' complaint process. For this review, the Legislative Auditor wanted to determine how long it takes for the Board to inform licensees of a complaint against their license, and how long it took to resolve a complaint. Of the 100 files sampled, only 49 files contained information from which the Legislative Auditor could determine a complaint origination date and the case closing date. From these 49 files, the Legislative Auditor found that complaints took an average of 319 days before final resolution. This is a long time since nurses have to wait almost a year for a complaint on their license to be resolved.

Also in the sample, the Legislative Auditor calculated the time that it took for the Board to send a letter to the licensee informing them that a complaint had been filed against their license. From the 1999 - 2001 sample, the Legislative Auditor found documentation that identified the complaint date and the date the letter was sent to notify the licensee in 63 cases. The median time in these cases was 35 days or 5 weeks. However, almost one-third of the cases took from 53 days up to 275 days, which is 2 to 9 months. It is in the Legislative Auditor's opinion that 5 weeks is unsatisfactory when notifying licensees of a complaint against their license, especially since almost one-third of the time it takes the Board 2 to 9 months to inform licensees.

Recommendation

1. *The Board needs to improve the time it takes to inform licensees that a complaint has been filed against their license.*

Recommendation

2. *The Board should include copies of documentation in to their files that show dates of when a case complaint was received, dates of correspondence to the licensee, and any other dates representing different stages of the complaint resolution process.*

Review Objective, Scope and Methodology

This review of the Board of Registered Nurses was conducted in accordance with the West Virginia Sunset Law, Chapter 4, Article 2, Section 5 of the West Virginia Code.

Objective

The objective of this review is to determine whether the Board responds to complaints against licensees in a timely manner. The review will also analyze the length of time it takes to complete a case against a licensee.

Scope

This review samples cases completed during the calendar years 1999 through 2001.

Methodology

Information compiled in this report has been acquired from interviews with staff of the Board, information provided by the Board, and a review of the Board's case files. Every aspect of this review complied with Generally Accepted Government Auditing Standards (GAGAS).

The Board of Registered Nurses Does Not Respond to Complaints Against Licensees in a Timely Manner.

The Legislative Auditor under the authorization of West Virginia Code §4-2-5 conducted a review of the Board of Registered Nurses' complaint process. For this review, the Legislative Auditor wanted to determine how long it takes for the Board to inform licensees of a complaint against their license, and how long it took to resolve a complaint. According to a sample of complaints received by the Board from 1999 - 2001, **the Board took 35 days or 5 weeks before it informed licensees that a complaint had been filed against their license, however almost one-third of the cases took from 53 days up to 275 days.** The average complaint from this sample was resolved in 319 days. This is a lengthy process, and the time to inform licensees of complaints against them lengthens the process unnecessarily. The Legislative Auditor also found two complaints from licensees regarding the timeliness of the process.

Sample Methodology

The Legislative Auditor reviewed a sample of 100 Board licensee files in which a complaint had been received from 1999 - 2001. The following categories were reviewed in each file:

- i Date the complaint was received by the Board. If there was not a date received stamp on the complaint, then the date the letter was written was used.
- i Date the letter was sent by the Board. This was determined in most cases by the postage stamp date on the certified mail receipt. In cases where the receipt was not included or unintelligible, the date the letter was written was used.
- i Date the letter was received by the licensee. This was determined if available by the postage stamp date on the certified mail receipt.
- i Date the case was completed. Determined by the date the letter was written to the licensee stating the outcome of the case.
- i Type of complaint.
- i Action taken against licensee.

In addition, some notes were taken on individual cases, that may have warranted questions by the Legislative Auditor.

Sample Results

The Board stated that the reason that cases take a long time is because most nurses are represented by attorneys which increases the time that the case takes to reach final resolution. In reviewing the files of the Board, the Legislative Auditor found that attorneys were involved in many of the cases, although the Legislative Auditor could not determine if that was the cause of the delay. The Legislative Auditor also observed that the files would include detailed personnel requests from employers, in addition to medical information from doctors which also could possibly delay the process. Nurses do remain employed during the complaint investigation process, although nurses that have been fired may be hindered by the lengthy complaint process if they have trouble finding new employment because of an ongoing investigation into their license.

Of the 100 files sampled, only 49 files contained information from which the Legislative Auditor could determine a complaint origination date and the case closing date. From these 49 files, the Legislative Auditor found that **complaints took an average of 319 days before final resolution.** This is a long time since nurses have to wait almost a year for a complaint on their license to be resolved.

Also in the sample, the Legislative Auditor calculated the time that it took for the Board to send a letter to the licensee informing them that a complaint had been filed against their license. From the 1999 - 2001 sample, the Legislative Auditor found documentation that identified the complaint date and the date the letter was sent to notify the licensee in 63 cases. **The median time in these cases was 35 days or 5 weeks.** However, almost one-third of the cases took from 53 days up to 275 days, which is 2 to 9 months. **It is in the Legislative Auditor's opinion that 5 weeks is unsatisfactory when notifying licensees of a complaint against their license, especially since almost one-third of the time it takes the Board 2 to 9 months to inform licensees.** While responsibility cannot be determined, the excessive length of time for a licensee to be informed of a complaint should be a concern for the Board. In addition, the Legislative Auditor did note that two licensees had written to the Board complaining of the length of time that the case was taking. This also is evidence that the Board is experiencing some delays.

Conclusion

The Legislative Auditor finds that the Board of Registered Nurses should be concerned with the time frames for resolution of complaints. A sample of 49 cases found that the average case takes 319 days to be resolved. While there are some extenuating circumstances involved in resolving cases, such as the involvement of attorneys and retrieving medical records, another analysis of the sample shows that there could be some delay caused by the Board. This analysis found that the Board takes a median of 35 days to inform a licensee of the details of a complaint filed against them, and that in almost one-third of the sampled cases it took the Board 2 to 9 months to inform licensees of complaints. In the opinion of the Legislative Auditor 35 days (5 weeks) is unsatisfactory.

Recommendation

1. *The Board needs to improve the time it takes to inform licensees that a complaint has been filed against their license.*

Recommendation

2. *The Board should include copies of documentation in to their files that show dates of when a case complaint was received, dates of correspondence to the licensee, and any other dates representing different stages of the complaint resolution process.*

Appendix A Transmittal Letter to Agency

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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John Sylvia
Director

November 22, 2002

Laura S. Rhodes, RN, M.S.N.,
Executive Secretary
Board of Registered Nurses
101 Dee Street
Charleston, WV 25311-1620

Dear Ms. Rhodes:

This is to transmit a draft copy of the Special Report of the Board of Registered Nurses. This report is scheduled to be presented to the Joint Committee on Government Operations during the December 2002 interim meetings held between December 15 - 17. The expectation is that a representative from your agency will 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 on December 2, 2002 at 10 a.m. in our office to discuss any concerns you may have with the report. Please call us if the meeting time is inconvenient. In addition, we need your written response to this report by noon on December 4, 2002 in order for it to be included in the final report.

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

Sincerely,

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

John Sylvia

Joint Committee on Government and Finance

Laura S. Rhodes, M.S.N., R.N.
Executive Director

email:westvirginiam@ncsbn.org
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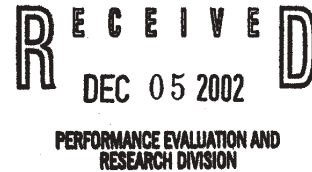


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STATE OF WEST VIRGINIA
BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES
101 Dea Drive
Charleston, WV 25311-1620

December 5, 2002

John Sylvia, Director
Performance Evaluation and Research Division
Office of Legislative Auditor
Building 1, Room W-314
State Capitol Complex
Charleston, WV 25305



Dear Mr. Sylvia:

Thank you for the opportunity to respond to the draft of the Special Report of the Board of Registered Nurses.

The West Virginia Board of Examiners for Registered Professional Nurses was reviewed in 2000 pursuant to the West Virginia Sunset Law. As a result of that review a bill was passed during the 2001 Legislative Session which continued the Board for a period of eight (8) years.

The Board regulates over 23,000 licensees. There are eight (8) full-time staff which includes three (3) professional staff members and five (5) support staff. Additional support staff are hired through a temporary employment agency during the renewal season each year. Because of the small staff and the high number of licensees, single individuals are vested with a great amount of responsibility.

The Discipline Department handles complaints filed; review of certified nurse midwife, exam, endorsement, reinstatement, prescriptive authority, continuing education and renewal applications with an affirmative answer to any of the questions related to discipline or inability to safely engage in the practice of nursing; provides support to the Disciplinary Review Committee; arranges for hearings when required; and a variety of other matters as they arise. The Director of Discipline is also General Counsel for the agency.

The Legislative Auditor requested 100 files for review. Twenty-five (25) of those files were considered "Not Applicable" by the Legislative Auditor. Therefore, seventy-five (75) files were included in this audit.

The Board appreciates the work of the Legislative Auditor, acknowledges the recommendations and will respond to the recommendations as they appear in the document.

Recommendation 1. *The Board needs to improve the time it takes to inform a licensee that a complaint has been filed against their license.*

The Board received notification of this audit on April 18, 2002. The Board began taking action to address the issues raised in the 2002 audit prior to this notification. Prior to this audit it was discovered that the person responsible for the maintenance of discipline files was not fulfilling the job responsibilities. As of March, 2002 this individual is no longer employed with this agency. Process changes and employee changes have already resulted in an improved notification time to licensees. It is important to note that in addition to the situations mentioned by the review team there are a variety of reasons which may increase the time period between the receipt of a complaint and the mailing of the notice. There are occasions when portions of an investigation must be complete or when staff need to seek input from the Disciplinary Review Committee prior to notifying the licensee. Nurses are not always working during this time period. Since July 1, 2002, the Board has received 40 complaints against licensees. This number does not include the various applications reviewed by the Discipline Department. The range of days until notification to the licensee is from 0 days (the notice was sent the same date the complaint was received) to 48 days. The average length of time before the notification was sent to the licensee is 8.65 or 9 days. For the 5 cases with a notification time greater than 30 days, the average notification time is 40 days. Two of these cases were individuals initially participating in the Impaired Nurse Treatment Program and for one of many reasons were removed from that program and placed in the disciplinary process. The average notification for the remaining 35 records is 4.01 or 4 days. The median is 6 days. The Board will continue this process.

Recommendation 2. *The Board should include copies of documentation in their files that show dates of when a case complaint was received, dates of correspondence to the licensee, and any other dates representing different stages of the complaint resolution process.*

The Board staff developed a system whereby a "status sheet" was placed inside the cover of the folder of the discipline file. Several of the files reviewed included these

forms. The staff then began using a Quattro Pro file to document this information so it could be accessed without retrieving the paper file. This file has been maintained for several years, however, accuracy of the data cannot be assured prior to March 1, 2001. The Legislative Auditor was aware of this file and the concerns about the accuracy of the information for the time period of the audit. The Board is in the process of obtaining an updated computer database which will include a feature for the reporting and recording of disciplinary events. The Board will maintain documentation of the aforementioned events.

The West Virginia Board of Examiners for Registered Professional Nurses employs a staff of hard working individuals dedicated to the mission of the Board; the protection of the citizens of West Virginia through the regulation of the practice of registered professional nurses. Our work is often offered as a bench mark for other agencies. We set our standards high. When these are not met action is taken to make the necessary changes to allow us to achieve our goals toward protecting the citizens of our state.

I will be available during the Interim Meeting to answer any questions the Committee may have. Should you have any questions prior to that time or require more information please contact me at this office.

For the Board,



Laura Skidmore Rhodes, MSN, RN
Executive Director

