



August 2017
PE 17-02-596

REGULATORY BOARD REVIEW

BOARD OF RESPIRATORY CARE PRACTITIONERS

AUDIT OVERVIEW

The West Virginia Board of Respiratory Care Practitioners Complies with Most of the General Provisions of Chapter 30 of the West Virginia Code

The West Virginia Board of Respiratory Care Practitioners' Website Needs Only Modest Improvements to Enhance User-Friendliness and Transparency



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Note: On Monday, February 6, 2017, the Legislative Manager/Legislative Auditor's wife, Ashley Summitt, began employment as the Governor's Deputy Chief Counsel. Most of the actions discussed and work performed in this report occurred prior to this date. Therefore, the Performance Evaluation and Research Division does not believe there are any threats to independence with regard to this report.

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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted a Regulatory Board Review of the West Virginia State Board of Respiratory Care Therapists (Board) pursuant to West Virginia Code §4-10-10(b)(9). Objectives of this audit were to assess the Board's compliance with the provisions of Chapter 30 and other applicable laws, and evaluate the Board's website for user-friendliness and transparency. The issues of this report are highlighted below.

Frequently Used Acronyms in this Report:

PERD – Performance Evaluation and Research Division
CEU – Continuing Education Units

Report Highlights:

Issue 1: The West Virginia Board of Respiratory Care Practitioners Complies with Most of the General Provisions of Chapter 30 of the West Virginia Code.

Issue Summary

- The Board is financially self-sufficient, accessible to the public, has established continuing education requirements, and maintains due process rights for licensees.
- The Board should comply with orientation attendance guidelines and have board members attend the State Auditor's Seminar on Regulatory Boards at least once during their term.
- The Board resolves complaints in a timely manner, however, on one occasion the Board failed to adhere to *W. Va. Code §30-1-5(c)* and send a status report to the complainant within six months of the complaint being filed. Therefore, the Board should comply with statutory language and submit status report updates for all complaints filed.
- The Board does not have adequate segregation of duties due to having only one full-time staff member, who serves as the executive director. However, steps have been taken to ensure that appropriate internal controls exist within the Board's procedures regarding the State Purchasing Card. The Board also utilizes the State Treasurer's Lockbox and online payment as a means to minimize the handling of revenue by the staff.

Issue 2: The West Virginia Board of Respiratory Care Practitioners' Website Needs Only Modest Improvements to Enhance User-Friendliness and Transparency.

- The Board's website is simple to navigate, but could use some user-friendly features such as social media links, foreign language accessibility, RSS feeds, and an online survey/poll to gauge user feedback.
- The Board's website could benefit from additional transparency features such as an agency organizational chart, audio/video features, FOIA information, and performance measures.

PERD's Response to the Agencies' Written Response

PERD received a written response to the report from members of the Board. The members concurred with all recommendations and will proceed to implement them.

Recommendations

1. *The Board should adhere to West Virginia Code §30-1-2a(c)(3) and ensure that all members attend the State Seminar on Regulatory Boards at least once per term.*
2. *The Board should comply with West Virginia Code §30-1-5(c) and submit status reports to the parties filing complaints within six months after complaints are initially filed if complaints have not been resolved.*
3. *The Legislative Auditor recommends that the Board enhance the user-friendliness and transparency of its website by incorporating more of the website elements identified.*

ISSUE1

The West Virginia Board of Respiratory Care Practitioners Complies with Most of the General Provisions of Chapter 30 of the West Virginia Code.

Issue Summary

The Board of Respiratory Care Practitioners (Board) is financially self-sufficient, accessible to the public, has established continuing education requirements, and maintains due process rights for licensees. However, the Board has members who have not attended an orientation session during each term of office and the Board has had an instance in which a status report was not sent to the complainant within six months of the complaint being filed. The Board has one full-time staff member; therefore, the Board is unable to properly segregate duties. However, the Board's risk of inappropriate use of resources is low. For example all revenue is collected by the West Virginia State Treasurer's office through the Board's website or from the State Treasurer's lock box system. Also, at each scheduled meeting, the Board is provided all PCard purchases and expenditures made since the last meeting. This list of purchases includes the transaction date, vendor, item purchased, and total purchase amount. The Board president signs the monthly statements after Board approval.

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

The Board Complies With Most of the General Provisions of Chapter 30.

The Board is in satisfactory compliance with most of the general provisions of Chapter 30 of *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, Executive Director, or the Chief Financial Officer shall 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 (§30-1-8);
- The Board has promulgated rules specifying the investigation and resolution procedure of all complaints (§30-1-8(k));
- The Board is financially self-sufficient in carrying out its responsibilities (§30-1-6(c));
- The Board has established continuing education requirements (§30-1-7a);

- The Board has a register of all applicants with appropriate information specified in code, such as the date of the application, name, age, education and other qualifications, place of residence, examination required, whether the license was granted or denied, any suspensions, etc. (§30-1-12(a));
- The Board has submitted an annual report to the Governor and Legislature describing transactions for the preceding two years (§30-1-12(b));
- The Board has complied with public access requirements as specified by (§30-1-12(c)); and
- A roster has been prepared and maintained of all licensees that includes names, and office addresses (§30-1-13).

The Board is not in compliance with the following provisions:

- Each board member shall attend at least one orientation session during each term of office (§30-1-2a(c)(3)).
- The Board shall investigate and resolve complaints which it receives and shall, within six months of the complaint being filed, send a status report to the party filing the complaint by certified mail with a signed return receipt and within one year of the status report's return receipt date issue a final ruling unless the party filing the complaint and the board agree in writing to extend the time for the final ruling (§30-1-5(c)).

The Board maintains an end-of-year cash balance that is in excess of one year of expenditures.

The Board Is Financially Self-Sufficient.

The Board maintains an end-of-year cash balance that is in excess of one year of expenditures (see Table 1). *West Virginia Code §30-1-6(c)* requires boards to be financially self-sufficient. It is the Legislative Auditor's opinion that cash reserves in the amount of one to two times a board's annual expenditures are an acceptable level.

Fiscal Year	Beginning Cash Balance	Revenue	Disbursements	Ending Cash Balance
FY 2014	221,605	125,114	113,730	232,989
FY 2015	232,665*	129,337	119,488	242,514
FY 2016	242,514	126,713	123,778	245,449
Average	232,261	127,055	118,999	240,317

*Sources: West Virginia State Budget Digest and the Financial Information Management Systems FY 2014-2016.
Budget Digest does not indicate 13th month expenditures.

The Board's annual revenues come from fees for application, licensure, and renewals. Annual disbursements include staff salaries and benefits, utilities, and travel costs. According to the Board's FY 2016 Annual Report, there are 1,727 active licensees with 1,194 practicing in West Virginia.

West Virginia and surrounding states' licensure and renewal fees can be seen in Table 2. Each of the surrounding states collect renewals every two years, while West Virginia does so on an annual basis. Therefore, on an annual basis, West Virginia has the third highest renewal fee, with Maryland having the highest. Also, both West Virginia and Maryland charge the highest initial licensure fee.

The Board's annual revenues come from fees for application, licensure, and renewals.

The Board Resolves Complaints in a Timely Manner, but Status Reports Need to Be Sent in All Cases Within Six Months of the Complaint Being Filed.

State	Initial Licensure Fee	Renewal Fee	Renewal Cycle
Kentucky	\$150	\$90	Biennial
Maryland	\$200	\$176	Biennial
Ohio	\$75	\$100	Biennial
Pennsylvania	\$30	\$25	Biennial
Virginia	\$130	\$135	Biennial
West Virginia	\$200	\$65	Annual

Sources: State licensure board websites.

The Legislative Auditor reviewed disciplinary data and complaints investigated by the Board for FY 2014-2016. Per *W. Va. CSR 30-5-5.1*, complaints against licensees can be filed with the Board by any person, firm, corporation, member of the Board, or public official. The Board provides a complaint form on its website, though complaints may be filed in any written form. Of the 22 grievances filed during our scope, 18 were levied by the Board itself. Sixteen of the complaints were the result of continuing education requirement violations. Table 3 provides an overview of the complaints received, disciplinary action taken, and average time to resolve the complaints.

Table 3
Complaint Decision Statistics
FY 2014-2016

Fiscal Year	Number of Complaints Received	Number of Cases with Disciplinary Actions	Average Resolution Time in Days
2014	2	2	284
2015	18	17	33
2016	2	2	46

Sources: West Virginia Board of Respiratory Care Practitioners Annual Reports and Disciplinary Data.

According to *W. Va. Code §30-1-5(c)*, each Chapter 30 board is required to close a complaint within 18 months of the initial filing. Furthermore, the Board is required to send status reports to the complainant six months after the complaint was initially filed if the case has not been resolved prior to six months. As shown in Table 3, the Board complies with closing complaints within the 18-month guideline. During the scope of the audit, the Board had four cases in which status reports were to be sent to the complainant six months after the complaint was initially filed. The Board adhered to the statutory requirement on three occasions. However, on one occasion, the Board failed to send a status report to the complainant within the required timeframe. **Although this represents only one instance, the Board should comply with West Virginia Code §30-1-5(c) and submit reports to the party filing the complaint within six months after the complaint is initially filed.**

The Board Has Established Continuing Education Requirements.

The Board has established continuing education requirements for its licensees. *W. Va. CSR §64-9-12(a)* states that individual licensees shall accrue a minimum of 20 hours of continuing education every two years. Table 4 provides the continuing education requirements in West Virginia and the surrounding states.

The Board complies with closing complaints within the 18-month guideline.

On one occasion, the Board failed to send a status report to the complainant within the required timeframe.

The Board has established continuing education requirements for its licensees.

Table 4
Continuing Education Requirements for Licensed Respiratory Care Therapists
West Virginia and Surrounding States

State	CE Hours	Renewal Period
Kentucky	24	Biennial
Maryland	16	Biennial
Ohio	20	Biennial
Pennsylvania	30	Biennial
Virginia	20	Biennial
West Virginia	20	Biennial

Sources: Each state's licensing board website and regulations.

Licenses have a period of two years to acquire 20 CEs relevant to the clinical practice of respiratory care. Each licensee is required to list the courses they completed, including the name, provider, date, and CEU earned. Licensees must submit the list for review, along with their license renewal application for the following year. The Board also verifies compliance with continuing education by randomly auditing 10 percent of registrants.

The Board Should Ensure Board Members Receive the Required Orientation Sessions.

Board members are required to have a background in a variety of fields. Per *W. Va. Code §30-34-3(a)*, membership must consist of one lay citizen, one practicing physician currently licensed in the state, and five members licensed and engaged in the practice of respiratory care for the five years immediately preceding their appointment. According to *W. Va. Code §30-1-2a (2)*, the chairperson, the executive director or the chief financial officer of the board shall annually attend the State Auditor's Seminar on Regulatory Boards. The Board is complying during the scope of the audit as attendance records provided by the State Auditor's Office document that the executive director has been present every year. Also, according to *W. Va. Code §30-1-2a (3)*, each board member shall attend at least one seminar during each term of office. Although the majority of board members have attended required orientation, one member, currently in his third term, has not attended the seminar during his first two terms. Another board member, also in his third term, attended a meeting in his first term but not in his second term. **The Board should adhere to W. Va. Code §30-1-2a(c)(3) and ensure that all members attend the State Seminar on Regulatory Boards at least once per term.**

The Board also verifies compliance with continuing education by randomly auditing 10 percent of registrants.

Although the majority of board members have attended required orientation, one member, currently in his third term, has not attended the seminar during his first two terms. Another board member, also in his third term, attended a meeting in his first term but not in his second term.

The Board’s Financial Management of Expenditures Lacks Internal Controls Because of an Inadequate Number of Staff; However, the Risk of Inappropriate Use of Resources Is Relatively Low.

The Board has one full-time staff member who serves as the executive director. With only one employee, it is impossible to segregate duties. Segregation of duties is important because it safeguards against improper use or loss of the Board’s resources. In order to have adequate segregation of duties, there should be controls in place that prevent one person from performing two or more control activities associated with purchasing and receiving revenue, such as authorizing transactions, receiving merchandise, receiving and depositing revenue, recording transactions, and maintaining custody of assets.

As an example of appropriate segregation of duties for handling cash, the West Virginia State Treasurer specifies in its *Cash Receipts Handbook for West Virginia Spending Units*, “Unless otherwise authorized by the State Treasurer’s Office, an individual should not have the sole responsibility for more than one of the following cash handling components:”

- collection,
- depositing,
- disbursement, and
- reconciling.

Because the Board only has one full-time staff member, efforts are taken to avoid the direct handling of funds. In fact, no revenue is physically handled by the Board. According to the executive secretary, “The West Virginia Treasurer’s Office Lock Box Processing Center handles the Board’s revenue for (1) New (Initial) Applications for Licensure, (2) Reinstatement Application for Licensure, and (3) “mailed-in” annual renewal of licenses.” If an applicant or licensee mails the information to the Board office in error, “...it is still mailed over to the PO Box (lock box) for payment processing.” Online payment is offered by the Board but only for annual renewal of licenses.

Expenditures are made by the executive director through approved purchasing card procedures and the OASIS financial system. Since the Board has one full-time employee, steps have been taken to ensure that appropriate internal controls exist within the Board’s procedures regarding the State Purchasing Card. For example, according to the executive director, “Since April 2, 2001, our board was directed, in writing, by the Director of Purchasing Care [sic] to provide a list of all purchases at each board meeting for approval and to include in the board minutes.

Because the Board only has one full-time staff member, efforts are taken to avoid the direct handling of funds. In fact, no revenue is physically handled by the Board.

Since the Board has one full-time employee, steps have been taken to ensure that appropriate internal controls exist within the Board’s procedures regarding the State Purchasing Card.

That is what we have been doing since.” The Board meets, on average, four times per year. The Board reviews agency purchases made since the last meeting. The list of purchases provided to the Board includes the transaction date, vendor, item purchased, and total purchase amount. Documentation supporting agency purchases and expenditures (including PCard statements, log sheets, vendor receipts, receiving reports, etc.) is also provided to board members. The board president signs the monthly statements after the Board’s approval.

PERD calculated the minimum expected revenue for the Board by multiplying annual fees by the number of licensees for FY 2014-2016 and found that actual revenue exceeded expected revenue.

In order to assess the risk of fraud and gain a reasonable assurance that fraud has not occurred, PERD examined the Board’s revenue and expenditures. For revenue, PERD calculated the minimum expected revenue for the Board by multiplying annual fees by the number of licensees for FY 2014-2016 and found that actual revenue exceeded expected revenue. There would be concern if expected revenues were significantly higher than actual revenues and would require additional inquiry by PERD. Table 5 provides a comparison of actual and expected revenues for the Board.

Table 5 Board of Respiratory Care Practitioners Expected and Actual Revenues FY 2014-2016		
Fiscal Year	Expected Revenues	Actual Revenues
2014	\$113,620	\$125,653
2015	\$110,305	\$129,336
2016	\$112,255	\$126,713

Source: PERD calculations based on the Board’s roster and fees, revenue data as compiled in the Digest of Revenue Sources in West Virginia, FY 2014-2016.

PERD also calculated the percentage of low-risk expenditures. PERD evaluated the Board’s expenditures for FY 2014-2016 and determined that on average 92 percent of the Board’s expenses consisted of expected and required expenditures to vendors. The Legislative Auditor’s opinion is that when the Board’s required expenditures are 90 percent or more of the Board’s total annual expenditures, the likelihood of fraud having occurred on the expenditure side is relatively low. Table 6 shows the annual percentage of expected and required expenditures.

Table 6
Board of Respiratory Care Practitioners
Percentage of Expected and Required Expenditures
FY 2014-2016

Fiscal Year	Percent of Expected & Required Expenditures
2014	95
2015	91
2016	91

Source: PERD calculations based on State Auditor's Office data.

Conclusion

The Board complies with most of the general provisions of Chapter 30. However, the Board should adhere to *W. Va. Code §30-1-2a(c)(3)* and ensure all members attend the State Seminar on Regulatory Boards at least once per term. Also, the Board should comply with *W. Va. Code §30-1-5(c)* and send official status reports to complainants within six months after the complaint is initially filed. Due to the lack of staff, the Board does not have adequate segregation of duties, however, the Board's risk of inappropriate use of resources is relatively low.

Recommendations

1. *The Board should adhere to West Virginia Code §30-1-2a(c)(3) and ensure that all members attend the State Seminar on Regulatory Boards at least once per term.*
2. *The Board should comply with West Virginia Code §30-1-5(c) and submit status reports to the party filing the complaint within six months after the complaint is initially filed if the complaint has not been resolved.*

ISSUE 2

The West Virginia Board of Respiratory Care Practitioners’ Website Needs Only Modest Improvements to Enhance User-Friendliness and Transparency.

Issue Summary

The Office of the Legislative Auditor conducted a literature review on assessments of governmental websites and developed an assessment tool to evaluate West Virginia’s state agency websites (see Appendix C). The assessment tool lists several website elements. Some elements should be included in every website, while other elements such as social media links, graphics and audio/video features may not be necessary or practical for some state agencies. Table 7 indicates the Board integrates 66 percent of the checklist items in its website. This measure indicates that the Board has a good website and only modest improvements in user-friendliness and transparency are needed.

This measure indicates that the Board has a good website and only modest improvements in user-friendliness and transparency are needed.

Table 7 West Virginia Board of Respiratory Care Website Evaluation Score			
Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
		66%	
<i>Source: The Legislative Auditor’s review of the West Virginia Board of Respiratory Care Practitioners’ website as of March 1, 2017.</i>			

The Board’s Website Scores Relatively High in User-Friendliness and Transparency.

In order to actively engage with the agency online, citizens must first be able to access and comprehend the information on government websites. Therefore, government websites should be designed to be user-friendly. A user-friendly website is understandable and easy to navigate from page to page. Government websites should also provide transparency of an agency’s operation to promote accountability and trust.

The Legislative Auditor reviewed the Board’s website for both user-friendliness and transparency. As illustrated below in Table 8, the website requires modest improvement to increase its user-friendliness and transparency. **The Board should consider making modest website improvements to provide a better online experience for the public.**

Table 8
Website Evaluation Score

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	13	72%
Transparency	32	20	63%
Total	50	33	66%

Source: The Legislative Auditor's review of the Board's website as of July 19, 2016.

The Board's Website Is Navigable but Could Use Modest User-Friendly Features.

The Board's website is easy to navigate, and according to the Flesch-Kincaid Test for readability, is written on an average 7th grade reading level, making it easily understood.

User-Friendly Considerations

Although some items may not be practical for this board, the following are a few attributes that could improve user-friendliness:

- **Social Media Links-** The website should contain buttons that allow users to post a Board's content to social media pages such as Facebook and Twitter.
- **Foreign Language Accessibility-** A link to translate all web pages into languages other than English.
- **RSS Feeds-** This allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.
- **Online Survey/Poll-** A short survey that pops up and requests users to evaluate the website.

The Board's website is easy to navigate, and according to the Flesch-Kincaid Test for readability, is written on an average 7th grade reading level, making it easily understood.

The Website Has Good Transparency Features but Some Improvements Can Be Made.

A website that is transparent should promote accountability and provide information for citizens about what the agency is doing, as well as encouraging public participation. The Board's website has 63 percent of the core elements that are necessary for a general understanding of the Board's mission and performance. The Board's website contains important transparency features such as email contact information, the agency's phone number, and public records such as statutes, rules, and meeting minutes.

Transparency Considerations

The Board should consider providing additional elements to the website to improve the Board's transparency. The following are a few attributes that could be beneficial:

- **Location of Agency Headquarters-** An embedded map that shows the Board's location.

- **Administrator's biography-** A biography explaining the administrator's professional qualifications and experience.

- **Agency Organizational Chart-** A narrative describing the agency organization, preferably in a pictorial representation such as a hierarchy/organizational chart.

- **Audio/Video Features-** Allows users to access and download relevant audio and video content.

- **FOIA information-** Information on how to submit a FOIA request, ideally with an online submission form.

- **Performance measures, goals and outcomes-** A page linked to the homepage explaining the agency's performance goals, measures and outcomes.

The Board should consider providing additional elements to the website to improve the Board's transparency.

- **Job postings/links to Personnel Division website-** A section on the homepage for open job postings and a link to the application page.

Conclusion

The Legislative Auditor finds only modest improvements are needed to the Board's website in the areas of user-friendliness and transparency. The website can benefit from incorporating several common features. The Board has pertinent public information on its website including its mission statement, rules and regulations, and a roster of its employees. The Board's contact information is also provided, as are downloadable publications such as application forms. However, providing website users with additional elements and capabilities, as suggested in the report, would improve user-friendliness and transparency.

Recommendation

3. *The Legislative Auditor recommends that the Board enhance the user-friendliness and transparency of its website by incorporating more of the website elements identified.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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John Sylvia
Director

June 29, 2017

Nancy Massey, Executive Secretary
West Virginia Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311

Dear Ms. Massey:

This is to transmit a draft copy of the audit report. This report is tentatively scheduled to be presented during the August 20 – 22, 2017 interim meetings 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 committee members may have during or after the meeting.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us by July 10th, 2017. In addition, we need your written response by noon on Monday, July 17th, 2017 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 304-340-3192 by Thursday, August 17th, 2017, 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,


John Sylvia

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 West Virginia Board of Respiratory Care Practitioners (Board) as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code (WVC)*, as amended. The purpose of the Board, as established in *West Virginia Code* §30-34, is to protect the public and be the regulatory and disciplinary body for registered professional respiratory care practitioners throughout the state.

Objectives

The objectives of this regulatory board review are 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 (*WVC* §30-34-et al.); and the Board's handling of complaints. Finally, it is also the objective of the Legislative Auditor to assess the Board's website for user-friendliness and transparency.

Scope

The regulatory board review included an assessment of the Board's financial internal controls; policy and procedures regarding internal controls and complaints; meeting minutes; complaint files from fiscal years 2014 through 2016; complaint-resolution process; disciplinary procedures and actions; revenues and expenditures for the period of fiscal years 2014 through 2016; continuing education requirements and verification; the Board's compliance with the general statutory provisions (*WVC* §30-1-et al.) for regulatory boards and other applicable laws; and key features of the Board's website.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

Testimonial evidence was gathered for this review through interviews or discussions with the Board's staff and confirmed by written statements. PERD staff made multiple visits to the Board's office to review files and meet with staff. PERD collected and analyzed the Board's meeting minutes; complaint data; budgetary information; annual reports; procedures for investigating and resolving complaints; continuing education; and procedures for collecting revenue and disbursing expenditures. Information was gathered from Ohio, Virginia, Pennsylvania, Kentucky, and Maryland's regulatory boards regarding their continuing education requirements and license fee structures.

The Legislative Auditor also tested the Board's expenditures for fiscal years 2014 through 2016 to assess risks of fraud on the expenditure side. The test involved determining if low-risk expenditures were at least 90 percent of total expenditures. Some low-risk expenditures include salaries, board-member compensation, office rent and utilities, printing and binding costs, rental equipment fees, and telecommunication costs.

Additionally, the Legislative Auditor also compared the Board's actual revenue to expected revenue in order to assess the risks of fraud, and to obtain reasonable assurance that revenue figures were sufficient and appropriate. Expected revenues were approximated by applying license fees to the number of licensees for the period of fiscal years 2014 through 2016.

In order to evaluate state agency websites, the Legislative Auditor conducted a literature review of government websites, reviewed top-ranked government websites, and reviewed the work of groups that rate government websites in order to establish a master list of essential website elements. 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 10 in both studies and reviewed all 3 states’ main portals for trends and common elements 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 considered for state websites to increase their 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 technology may not be practical or useful for some state agencies. Therefore, the Legislative Auditor compared the Board’s website to the established guidelines for user-friendliness and transparency so that the Board can determine if it is progressing in step with the e-government movement and if improvements to its website should be made.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe 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 State Board of Respiratory Care			
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	13
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	2
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
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0
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	3
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	1
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	1
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

Website Criteria Checklist and Points System West Virginia State Board of Respiratory Care			
FAQ Section	A page that lists the agency’s most frequent asked questions and responses.	1 point	1
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	1
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0
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
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
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	20
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1
Physical Address	General address of stage agency.	1 point	1
Phone Number	Correct phone number of state agency.	1 point	1
Location of Agency Headquarters	The agency’s contact page should include an embedded map that shows the agency’s location.	1 point	0
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	2
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0

Website Criteria Checklist and Points System West Virginia State Board of Respiratory Care			
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	1
Public Records	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: <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licensees • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	1
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	3
Mission statement	The agency's mission statement should be located on the homepage.	1 point	1
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	1
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	2
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
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	1
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0

Website Criteria Checklist and Points System West Virginia State Board of Respiratory Care			
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0
Performance measures/ outcomes	A page linked to the homepage explaining the agency's performance measures and outcomes.	1 point	0
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	1
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	2
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

Appendix D Agency Response



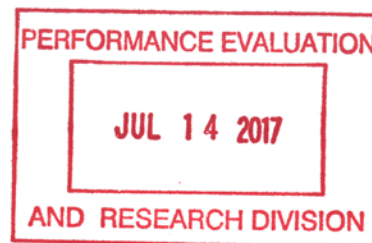
State of West Virginia
Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311

Jim Justice
Governor of West Virginia

Phone: 304 558-1382
Facsimile: 304 558-1383

July 11, 2017

Mr. John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
1900 Kanawha Boulevard, Bldg. 1, Rm. W-314
Charleston, West Virginia 25305-0610



Dear Mr. Sylvia,

The West Virginia Board of Respiratory Care would like to take this opportunity to thank Brandon Burton and Daniel Kanner for their time and diligence in conducting the performance evaluation for our board.

We viewed our evaluation as an opportunity to learn and improve our operations to better serve the citizens of the State of West Virginia.

At this time, our board does not have any concerns that warrant an exit conference. We concur with the findings of the report and will proceed to implement the recommendations set forth:

"1. The board should adhere to West Virginia Code §30-1-2a(c)(3) and ensure that all members attend the State Seminar on Regulatory Boards at least once per term."

The Board Concur

Note: Our Executive Secretary erroneously interpreted the code to mean that each member must attend at least one seminar per entire term on the board. Each board member has attended at least one seminar with the exception of the newly appointed member from February, 2017. This issue has been addressed and the board will ensure that all members attend at least once during their initial appointment and once in each subsequent reappointment term to the board.

"2. The board should comply with West Virginia Code §30-1-5(c) and submit status reports to the party filing the complaint within six months after the complaint is initially filed if the complaint has not been resolved."

The Board Concur

Note: The lone discipline case dated February 21, 2014 noted in this evaluation did not have a status report mailed to the complainant within six months. It is notable that information was subpoenaed from the complainant on June 20, 2014 (within six months) and the complainant was served a subpoena on November 3, 2014 to appear in person/teleconference as witness for the hearing dated December 15, 2014. While an official status report was not in the discipline

Mr. John Sylvia
 July 11, 2017
 Page Two

file of record, the board was in contact with the complainant thru the investigation and provided a final status report on December 26, 2014. In the future, the board will ensure official status reports are mailed to the complainant within six months and copies placed in each discipline file of record.

“3. The Legislative Auditor recommends that the Board enhance the user-friendliness and Transparency of its website by incorporating more of the website elements identified.”

The Board Concur

Note: The board launched its newly designed website in 2016 and is currently in its 3rd and final stage scheduled to be completed by November, 2017. We will incorporate the Legislative Auditor’s recommendations to make our site 100% user friendly.

The only other area of the evaluation which the board feels necessary to provide explanation is Table 2; Page 3, which provides a comparison of Respiratory Care Practitioner’s initial and renewal fees to the surrounding states. It is important to note that the fees in West Virginia were set in 1995 by taking an average cost of fees in like- size states with like-number of practitioners at that time. The board does not feel a true comparison can be made with our surrounding states due to their number of licensees:

<u>State</u>	<u>Number of Licensees*</u>
Kentucky	3,530
Maryland	2,837
Ohio	8,458
Pennsylvania	7,847
Virginia	3,833
West Virginia	1,746

**Source; American Association of Respiratory Care Website, July 11, 2017; www.aarc.org*

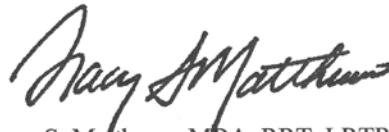
We are confident that our board continues to improve in all areas and makes every effort to comply with the laws and regulations governing Chapter 30 licensing boards.

If you should have any questions, or if I may be of assistance, please contact me at 558-1382.

Respectfully submitted,



Nancy J. Massey
 Executive Secretary



Tracy S. Matthews, MBA, RRT, LRTR
 Board President



WEST VIRGINIA LEGISLATIVE AUDITOR

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