

Regulatory Board Review of the Board of Examiners in Counseling

PERD

HIGHLIGHTS

Highlights of PE 21-01-635

PERD’s Objective:

The objectives of this review was to determine if the Board of Examiners in Counseling (Board) complied with the general provisions of Chapter 30, Article 1 of the West Virginia Code, the Board’s enabling statute §30-31, other applicable rules and laws, and if the Board’s website is user-friendly and promotes transparency.

Key Recommendations:

The Board should:

Work with the Office of Technology and the State Privacy Office to establish appropriate internal control regarding cybersecurity and ensuring the security of information it receives in its regulatory duties,

Consider encrypting its website and registering it for a “.gov” domain,

Improve the user-friendliness and transparency of its website,

Consider what measures it needs to take to improve handicap accessibility to its office,

Amend its rules to comply with W. Va. Code and caselaw as they relate to applicants with felony records, and

Discontinue the unnecessary practice of requiring complaints be notarized as it imposes an undue burden on the public.

Agency Purpose:

The purpose of the Board is to protect the public through its licensing process, and to be the regulatory and disciplinary body for licensed professional counselors and marriage and family therapists throughout the state.

What PERD found:

PERD found that the Board put case counseling notes that included a medical diagnosis and prescribed medication on an unsecured page of its website. This put the state at risk of liability. When notified of the exposure, the Board did not follow executive branch procedure and report the exposure to the Office of Technology. The Board sends unencrypted emails with the complaint files and passwords to board members and complaint committee members. Furthermore, the Board does not have an encrypted website which means that its data are not protected from interception or alteration.

PERD also found the following:

- The Board is financially self-sufficient (see Table 1 below).
- The Board follows most of the general provisions of Chapter 30 of the W. Va. Code; however, improvement is needed.
- The Board is accessible to the public, has established continuing education requirements, and maintains due process rights for licensees.
- The Board’s rules are not compliant with W. Va. Code and caselaw because they allow it to deny licensure to applicants who have been convicted of a felony.

Fiscal Year	Beginning Cash Balance	Revenues	Expenditures	Ending Cash Balance	End-of-Year Cash as a Percentage of Annual Expenditures
2016	\$215,628	\$93,810	\$151,954	\$157,484	104%
2017	\$157,484	\$253,124	\$140,108	\$270,500	193%
2018	\$270,500	\$116,483	\$175,073	\$211,911	121%
2019	\$211,911	\$219,113	\$192,515	\$238,509	124%
Average	\$213,881	\$170,633	\$164,913	\$219,601	133%

Source: Our Advanced Solution with Integrated Systems (WV-FIN-GL-151) for FY 2016 FY 2019 Cash Balance. PERD calculations of percentages.

- The Board’s rules also allow for the possibility that a committee of the board could make the final determination for the sufficiency of the applicant's education for licensure.
- While some portions of the building where the Board is located, including the building entrance, hallways and fire alarm systems generally met ADA requirements the building elevator and the office entrance may hinder physical access to the Board.
- The Board’s Website Needs More Improvement to Enhance User-Friendliness and Transparency.