



June 2021
PE 21-06-640

REGULATORY BOARD REVIEW

NURSING HOME ADMINISTRATORS LICENSING BOARD

AUDIT OVERVIEW

The Board Is Necessary to Protect the Public but Could Be Placed Within a Multi-Professional Licensing Agency.

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

The West Virginia Nursing Home Administrators Licensing Board Website Needs Modest Improvements to Enhance User-Friendliness and Transparency.



JOINT COMMITTEE ON GOVERNMENT OPERATIONS

Senate

Mark Maynard, Chair
Chandler Swope
Dave Sypolt
Glenn Jeffries
Richard D. Lindsay II

House of Delegates

Unassigned
Unassigned
Unassigned
Unassigned
Unassigned

Agency/ Citizen Members

Vacant
Vacant
Vacant
Vacant
Vacant

JOINT COMMITTEE ON GOVERNMENT ORGANIZATION

Senate

Mark Maynard, Chair
Chandler Swope, Vice-Chair
Patrick Martin
Mike Maroney
Eric Nelson
Randy Smith
David Stover
Dave Sypolt
Jack Woodrum
Mike Caputo
William D. Ihlenfeld
Glenn Jeffries
Richard D. Lindsay II
Mike Woelfel

House of Delegates

Brandon Steele, Chair
Geoff Foster, Vice-Chair
Phillip W. Diserio, Minority Chair
Jim Barach, Minority Vice-Chair
Trenton Barnhart
Josh Booth
Roger Conley
Roy Cooper
Mark Dean
Don Forsht
Danny Hamrick
Josh Holstein
Dean Jeffries
Joe Jeffries

Shannon Kimes
Carl Martin
Margitta Mazzocchi
Charlie Reynolds
Doug Smith
Terri Funk Sypolt
Evan Worrell
Barbara Evans Fleischauer
Evan Hansen
Doug Skaff
Kayla Young



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314
State Capitol Complex
Charleston, West Virginia 25305
(304) 347-4890

Aaron Allred
Legislative Auditor

John Sylvia
Director

Brandon Burton
Research Manager

Alice Hudson
Research Analyst

Stephen Young
Referencer

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

June 6, 2021

The Honorable Mark Maynard
West Virginia State Senate
Building 1, Room 217-W
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

The Honorable Brandon Steele
West Virginia House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Performance Review Act, we are transmitting a Performance Review of the West Virginia Nursing Home Administrators Licensing Board. The issues covered herein include *"The Board Is Necessary to Protect the Public but Could Be Placed Within a Multi-Professional Licensing Agency," "The Board Complies with Most of the General Provisions of Chapter 30 of West Virginia Code,"* and *"The West Virginia Nursing Home Administrators' Licensing Board Website Needs Modest Improvements to Enhance User-Friendliness and Transparency."*

We transmitted a draft copy of the report to the Nursing Home Administrators Licensing Board on April 14, 2021 and received the agency response on May 6, 2021.

Let me know if you have any questions.

Sincerely,

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

John Sylvia

Joint Committee on Government and Finance

CONTENTS

| | |
|---|----|
| Executive Summary..... | 7 |
| Issue 1: The Board Is Necessary to Protect the Public but Could Be Placed Within a Multi-Professional Licensing Agency..... | 11 |
| Issue 2: The Board Complies with Most of the General Provisions of Chapter 30 of West Virginia Code | 17 |
| Issue 3: The West Virginia Nursing Home Administrators Licensing Board Website Needs Modest Improvements to Enhance User-Friendliness and Transparency..... | 27 |

List of Tables

| | |
|---|----|
| Table 1: Surrounding State Nursing Home Administrators Licensing Agencies | 12 |
| Table 2: Nursing Home Administrators Licensing Board FY 2017-2020 | 18 |
| Table 3: Nursing Home Administrators Licensure Fees for West Virginia and Surrounding States | 19 |
| Table 4: Complaint Decision Statistics FY 2017-2020..... | 20 |
| Table 5: Continuing Education Requirements for Nursing Home Administrators In West Virginia and Surrounding States..... | 21 |
| Table 6: Nursing Home Administrators Licensing Board Expected and Actual Revenues FY 2017-2020..... | 23 |
| Table 7: Nursing Home Administrators Licensing Board Percentage of Expected and Required Expenditures | 24 |
| Table 8: West Virginia Nursing Home Administrators Licensing Board Website Evaluation Score | 27 |
| Table 9: Website Evaluation Score by Category | 28 |

List of Appendices

| | |
|---|----|
| Appendix A: Transmittal Letter..... | 31 |
| Appendix B: Objectives, Scope and Methodology | 33 |
| Appendix C: Website Criteria Checklist | 37 |
| Appendix D: Nursing Home Administrator Regulatory Agency by State | 41 |
| Appendix E: Agency Response..... | 45 |

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 Nursing Home Administrators' Licensing Board (Board) pursuant to West Virginia Code §4-10-10(b)(4). The objectives of this audit were to determine if the Board would benefit from participating in a multi-professional licensing agency, assess whether the Board was in compliance with the general 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.

CSR – Code of State Rules

NAB – National Association of Long-Term Care Administrators Board

COVID-19 – Coronavirus disease

DHHR – West Virginia Department of Health and Human Resources

Report Highlights:

Issue 1: The Board Is Necessary to Protect the Public but Could Be Placed Within a Multi-Professional Licensing Agency.

- State and federal law requires that nursing homes and long-term care facilities have an individual licensed by the state to serve as the administrator of the facility.
- The Board is responsible for reviewing licensee applications, administering the statewide examination, verifying required continuing education, and investigating complaints against nursing home administrators.
- The Board could benefit from opportunities to improve internal controls and operational efficiencies by participating in a multi-professional licensing agency.

Issue 2: The Board Complies 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 of West Virginia Code, including, being financially self-sufficient, and fully investigating and responding appropriately to complaints within the required time frames.
- The Board also has established continuing education requirements and has appropriately requested new member appointments in a timely manner.
- As the Board only has one full-time employee, it is not able to maintain adequate segregation of duties; however, reasonable steps have been taken to minimize the risk of fraud.
- The Board's roster of active licensees needs to be maintained and published in a more manner that clearly identifies active and inactive licensees, and the register of applicants should include all of the categories require by *W.Va. Code*.

Issue 3: The West Virginia Nursing Home Administrators' Licensing Board Website Needs Modest Improvements to Enhance User-Friendliness and Transparency.

- The Board's website is easy to navigate as there is a link to every page on the left of the website; however, the average readability of the website is high school reading level, which is higher than recommended 7th grade reading level.
- To promote accountability with the public the Board could improve transparency by incorporating elements such as an online complaint form and a Freedom of Information Act request form to its' website.

PERD's Response to the Agency's Written Response.

On May 6, 2021 PERD received the written response from the executive director of the Nursing Home Administrators Licensing Board, which can be found in Appendix E. The executive director agreed with six of the nine recommendations in the report. The executive director also provided additional feedback on some of the recommendations:

Agency Response: The Executive Director stated that it was unnecessary for the Board to be included in a multi-professional licensing agency as it is self-sufficient, operates economically, has implemented additional internal control mechanisms, such as the Lockbox system, and it is crucial that the Board be able to issue permits and process complaints so that facilities can maintain compliance with state and federal regulations. With regards to Recommendation 3 the executive director provided evidence that her only absence from the State Auditor's Seminar on Regulatory Boards during the audit period was due to a death in the family. Additionally, the executive director reported that the Board is planning for members who are currently serving under expired terms to attend the next available State Auditor's Seminar on Regulatory Boards meeting. In response to Recommendations 5 and 6 the executive director reported that as of March 15, 2021, the Board has been utilizing the State Treasurer's Lockbox System and is also considering utilizing an alternative database system to ensure that it maintains compliance will all code requirements. Finally, regarding Recommendations 7 and 8 the executive director agrees that inactive status licensees should not be listed together with active licensees in the Board's Annual Report. It was also reported that the Board is updating *21CSRI* to clarify that those licensees wishing to be placed on inactive status must make that request in writing otherwise they will be treated as a new applicant if their license has lapsed. Furthermore, Board staff will send notices to licensees, as well as their last known facility where they served as an administrator stating that their license has lapsed, and they have not submitted information for license renewal. If the Board does not receive an application for renewal or a written request to be made inactive the licensee will be considered a new applicant after a year.

PERD Response: PERD acknowledges that the Board has made every effort to operate as economically as possible and is encouraged by the staff's willingness to implement relevant recommendations to improve the Board's internal controls and operational efficiencies. Additionally, PERD recognizes that the Board's executive director absence from the State Auditor's Seminar on Regulatory Boards was understandable given the circumstances. However, it is PERD's responsibility to ensure that information such as this is reported accurately even if there is little to no concern for ongoing problems. Furthermore, because of the limited number of licensees and the inability of the Board to accurately predict the number of active licensees it will have in any given year, the Board runs the risk of depleting the available cash balance it currently carries from year to year which could result in the Board needing to increase fees again.

Recommendations

1. *The Legislative Auditor recommends that the Legislature consider requiring the DHHR to report why W. Va. §30-1-15 has not been implemented and report the feasibility of creating a consolidated health-related board.*
2. *The Legislative Auditor recommends that the Board be considered for inclusion in any multi-professional licensing agency that is created.*
3. *The Board's chairperson, executive director, and members should adhere to W.Va. Code 30-1-2a(2) and attend the State Auditor's Seminar on Regulatory Boards as required.*
4. *The Board should continue to request new member appointments from the Governor in a timely manner.*
5. *The Board should consider utilizing the State Treasurer's lockbox to further reduce the risk of fraud.*
6. *The Board should maintain a complete register of applicants as required by W.Va. Code 30-1-12(a).*
7. *The Board should consider establishing a procedure to notify licensees and nursing homes when licensees have not renewed their licenses and have not requested in writing to be placed on the inactive list.*
8. *The Board should maintain and publish accurate active and inactive licensee rosters.*
9. *The Board should make modest improvements to its website to provide more transparency and user-friendliness for online public users.*

ISSUE I

The Board Is Necessary to Protect the Public but Could Be Placed Within a Multi-Professional Licensing Agency.

Issue Summary

The West Virginia Nursing Home Administrators Licensing Board (Board) regulates the profession of nursing home or long-term care administrators who are responsible for managing the day-to-day operations of a nursing home. West Virginia is currently 1 of 13 states, including the District of Columbia, that utilizes a licensing board model to oversee nursing home administrators while the remaining 38 use a state agency to provide oversight of the profession. The Board is responsible for reviewing licensee applications, administering the statewide examination, verifying required continuing education, and investigating complaints against nursing home administrators. Legislation allowing for the creation of the Office of the Executive Secretary of Health Profession Licensing Boards includes nursing home administrators as one of the professions able to participate in this multi-professional licensing agency. It is the Legislative Auditor's opinion that the Board could benefit from opportunities to improve internal controls and operational efficiencies by participating in a multi-professional licensing agency.

The West Virginia Nursing Home Administrators Licensing Board regulates the profession of nursing home or long-term care administrators who are responsible for managing the day-to-day operations of a nursing home.

Nursing Home Administrators Are Regulated by All 50 States and the District of Columbia.

According to the Board, there are 321 licensees in West Virginia as of fiscal year (FY) 2020. Additionally, the West Virginia Office of Health Facility Licensure and Certification (OHFLAC) reports that there are 124 nursing home facilities licensed in West Virginia.

The National Association of Long-Term Care Administrators Board (NAB) reports that all 50 states and the District of Columbia regulate the profession of nursing home or long-term care administrators. A summary of surrounding states licensing agencies can be found in Table 1. Currently 13 states, including West Virginia and Ohio, utilize a licensing board model to regulate nursing home administrators, while the remaining 38 states use a state agency. Of the 38 states, 18 of them, including Maryland and Virginia, use the department of health to regulate nursing home administrators, while the other 20 states, including Kentucky and Pennsylvania, regulate the profession through a department focused on the regulation of industries and or professions. Information for individual states can be found in Appendix D.

Currently 13 states, including West Virginia and Ohio, utilize a licensing board model to regulate nursing home administrators, while the remaining 38 states use a state agency.

Table 1
Surrounding State Nursing Home Administrators
Licensing Agencies

| State | Regulatory Organization |
|---|--|
| Kentucky | Department of Professional Licensing |
| Maryland | Department of Health |
| Ohio | Board of Executives of Long-Term Services and Supports |
| Pennsylvania | Department of State Professional Licensing |
| Virginia | Department of Health Professions |
| West Virginia | Nursing Home Administrators' Licensing Board |
| <i>Source: NAB's website and each state's licensing board website and regulations</i> | |

Licensure of Nursing Home Administrators Is Statutorily Required.

The Board was created with the passage of House Bill 839 in 1969. *W. Va. Code of State Rules (CSR) Title 4, Series 13* requires a nursing home facility be administered by “A person licensed in the State of West Virginia as a nursing home administrator who is responsible for the day to day operation of the nursing home.” *W. Va. Code §30-25-1* makes it unlawful for any person to engage in services that would constitute nursing home administration without a license. Furthermore, Title 42, Part 483.75(d)(2) of the Code of Federal Regulations (CFR) relating to the requirements for long-term care facilities states that for a facility to receive Medicaid and Medicare reimbursement, the governing body for nursing home facilities must appoint an administrator “...who is licensed by the State where licensing is required.” As West Virginia is a state where licensing is required, each nursing home facility is required to have a licensed administrator to receive Medicaid and Medicare reimbursement.

As West Virginia is a state where licensing is required, each nursing home facility is required to have a licensed administrator to receive Medicaid and Medicare reimbursement.

The Board Is Responsible for Regulation of Nursing Home Administrators.

Nursing home administrators are currently responsible for:

- reviewing applications and licensing applicants,
- administering the statewide examination,
- providing a statewide criminal background check,
- monitoring administrators-in-training (AITs),

- issuing emergency and temporary permits,
- documenting state-required continuing education credits for licensees, and
- receiving complaints and following appropriate procedures to conclude a complaint.

The Board currently regulates licensed nursing home administrators, administrators-in-training, emergency permit holders, temporary permit holders, and emeritus status administrators. To be eligible for a West Virginia nursing home administrator's license, an applicant must have 1,000 hours of work experience, as well as pass both the national examination administered by NAB and the state examination administered by the Board.

From 2017 through 2020, the Board handled 30 complaints regarding West Virginia nursing home administrators. While most of these complaints found no violations, the ones that did resulted in board action, which illustrates the necessity of a board regulating nursing home administrators to ensure ongoing public safety. The ongoing Coronavirus (COVID-19) pandemic has reinforced the need for the regulation of nursing home administrators, as the Board would be partly responsible for adjudicating any complaints related to administrators handling of COVID-19 in their facilities. At the time of this report, the Board reported no complaints made against nursing home administrators related to COVID-19.

The Board Could Benefit from Consolidation with Other Licensing Boards to Create a Multi-Professional Licensing Agency.

In 1977, the Legislature created the Office of the Executive Secretary of Health Profession Licensing Boards (*W. Va. Code §30-1-15*). This legislation was intended to combine health-related boards under the Director of Health to coordinate purchasing, record keeping, and personnel for more efficient and economical operations of these boards. Nursing Home Administrators are one of 15 health-related professions included in this section of code. This legislation shows that the Legislature recognized the benefit of creating a multi-professional board that would facilitate efficiency and economy in the operations of these health-related boards. However, the Department of Health and Human Resources (DHHR) has not implemented this legislation. While there may be consideration of repealing this section of Code since no action has been taken to implement it, the Legislative Auditor recommends that the Legislature consider establishing a multi-professional agency for either health-related boards or for relatively small boards of any profession.

To be eligible for a West Virginia nursing home administrator's license, an applicant must have 1,000 hours of work experience, as well as pass both the national examination administered by NAB and the state examination administered by the Board.

Legislative Auditor recommends that the Legislature consider establishing a multi-professional agency for either health-related boards or for relatively small boards of any profession.

House Concurrent Resolution Number 92 (HCR 92) was passed during the 2010 legislative session with the directive to study the advisability and feasibility of developing a multi-professional and occupational board (umbrella board). The Legislative Auditor was given the task of conducting the study. A letter-report was issued that concluded that by consolidating small licensing agencies there was potential for cost savings. The 2010 report estimated that there could potentially be a savings of between \$6,600 to \$158,000 annually in rent under two different consolidation scenarios.

Additionally, a multi-professional licensing agency could provide opportunities for further cost savings and efficiencies by consolidating payroll, purchasing, and other operational expenses including rent and utilities. Furthermore, by merging staff, a multi-professional licensing agency could reduce the risk of fraud by allowing for the proper segregation of duties.

Therefore, the Legislative Auditor recommends that the Legislature require the DHHR to report why *W. Va. Code §30-1-15* has not been implemented and report the feasibility of creating a consolidated health-related board. Consideration should also be given to establishing a multi-professional licensing agency for relatively small boards of any profession that could benefit from a consolidation. This consolidation would create a more centralized infrastructure for human resources, technology, and other day-to-day operations necessary to complete licensing responsibilities. The multi-professional licensing agency would not be directly involved in the oversight or actions and decisions of each board and its members. Determinations related to licensing qualifications and complaints would remain the sole discretion of the appointed board members for each professional board. Furthermore, if the Legislature pursues full implementation of *W. Va. Code §30-1-15*, **the Legislative Auditor recommends that the Board be considered for inclusion in the multi-professional health-related agency.**

While the Board is necessary to protect public interest, it is the Legislative Auditor's opinion that the Nursing Home Administrators' Licensing Board could benefit from being included in a multi-professional licensing agency.

Conclusion

While the Board is necessary to protect public interest, it is the Legislative Auditor's opinion that, as with other similar sized boards, the Nursing Home Administrators Licensing Board could benefit from being included in a multi-professional licensing agency. By joining a multi-professional licensing agency, the Board could mitigate the effects of having a lack of internal controls and segregation of duties. Furthermore, the agency would have sufficient staff to adequately distribute job responsibilities such as processing payments without having to utilize DHHR Accounts Receivable/Payable as well as improve efficiency, reduce opportunities for fraud and waste, and improve agency accessibility to the public.

Recommendations

1. *The Legislative Auditor recommends that the Legislature consider requiring the DHHR to report why W. Va. Code §30-1-15 has not been implemented and report the feasibility of creating a consolidated health-related board.*
2. *The Legislative Auditor recommends that the Board be considered for inclusion in any multi-professional licensing agency that is created.*

ISSUE 2

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

Issue Summary

The Board complies with most of the general provisions of Chapter 30 of West Virginia Code, including, being financially self-sufficient, and fully investigating and responding appropriately to complaints within the required time frames. The Board also utilizes its national association database to verify licensee continuing education requirements are being met. While the Board is financially self-sufficient, there is concern that because the license renewal period coincides with the end of the fiscal year it complicates the Board's ability to appropriately record revenue by fiscal year. Furthermore, the Board has, and should, continue to request new member appointments from the Governor's Office. However, it must also ensure that the chairperson, executive director, and all board members attend the State Auditor's Seminar on Regulatory Boards as required by West Virginia Code. PERD's analysis of the Board's revenues and expenditures found a relatively low risk of fraud; however, there is still concern that while the Board has taken steps to mitigate the risks associated with handling revenue with only one full-time employee, the Board is unable to fully implement the segregation of duties that could be offered by utilizing the West Virginia Treasurer's Lockbox system. Finally, the Board needs to maintain an ongoing register of all applicants that includes the elements statutorily required.

The Board complies with most of the general provisions of Chapter 30 of West Virginia Code, including, being financially self-sufficient, and fully investigating and responding appropriately to complaints within the required time frames.

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

The Board complies 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 complies with the following major provisions:

- 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 (§30-1-7(a)).
- The Board has submitted an annual report to the Governor and

Legislature describing transactions for preceding two years (§30-1-12(b)).

- The Board has complied with public access requirements as specified by (§30-1-12(c)).
- 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:

- The Board’s chairperson and executive director are to annually attend the West Virginia Annual Seminar for State Licensing Boards (§30-1-2a(c)(2)).
- The Board should have 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, and suspensions, etc. (§30-1-12(a)).

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

The Board Is Financially Self-Sufficient.

The Board maintains an end-of-year cash balance that is in excess of one year of average expenditures (see Table 2). *W. Va. 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.

| Table 2 Nursing Home Administrator Licensing Board FY 2017 - 2020 | | | | |
|--|-------------------------------|----------------|----------------------|----------------------------|
| Fiscal Year | Beginning Cash Balance | Revenue | Disbursements | Ending Cash Balance |
| 2017 | \$156,746 | \$82,550 | \$89,562 | \$149,734 |
| 2018 | \$149,734 | \$86,900 | \$88,972 | \$147,662 |
| 2019 | \$147,662 | \$66,650 | \$98,547 | \$115,766 |
| 2020 | \$115,766 | \$100,950 | \$102,989 | \$113,727 |
| Average | \$142,477 | \$84,263 | \$95,017 | \$131,722 |

Source: West Virginia OASIS report WV-FIN-FL-151 and WV Legislative Budget Office

The Board’s annual revenues come from fees for applications, licensure, and renewals. Annual disbursements include staff salaries and benefits, utilities, and travel costs. At the end of FY 2020 there are 321 licensed nursing home administrators. The executive director reported

that approximately 90 percent of renewal fees are paid by corporate offices and the corporate checks are often received separately from the individual licensee's application. This results in a period where either the check or the application cannot be processed until both are received by the Board. Additionally, because the renewal period coincides with the end of the fiscal year, a payment received close to the DHHR Accounts Receivable cutoff date may be credited to the new fiscal year. It was the executive director's suggestion that the license issuance and expiration dates be moved to the end of the calendar year so that they do not conflict with the end of the fiscal year.

It was the executive director's suggestion that the license issuance and expiration dates be moved to the end of the calendar year so that they do not conflict with the end of the fiscal year.

The licensure and renewal fees for West Virginia and surrounding states can be found in Table 3. A 2009 PERD review found that in order to maintain financial self-sufficiency the Board raised its licensure and permit fees in 2002 from \$400 to \$600 for initial licensure and from \$200 to \$300 for license renewal. The Board's fees have remained the same since the increase in 2002.

Table 3
Nursing Home Administrators Licensure Fees
for West Virginia and Surrounding States

| State | Initial Licensure Fee | Renewal Fee | Renewal Cycle |
|---------------|-----------------------|-------------|---------------|
| Kentucky | \$250 | \$125 | Annual |
| Maryland | \$200 | \$200 | Biennial |
| Ohio | \$250 | \$300 | Annual |
| Pennsylvania | \$40 | \$297 | Biennial |
| Virginia | \$315 | \$315 | Annual |
| West Virginia | \$600 | \$300 | Annual |

Source: State licensure boards' websites and W.Va. Code of State Rules 21-1 & 21-2

The Board Investigates Complaints Timely and Sends Status Reports.

The Board's FY 2017-2020 disciplinary data and board-investigated complaints were reviewed by the Legislative Auditor. *West Virginia Code of State Rules (CSR) Title 21, Series 1 and Series 2* state that complaints against licensees can be filed with the Board by any person, firm, corporation, member of the Board, or public official. The Board's website provides the public with access to a complaint form; however, complaints can also be submitted to the Board in any written form. The Board also receives substandard quality of care (SQC) notices from OHFLAC which must be reviewed as well.

The Board's fees have remained the same since the increase in 2002.

Table 4 details a summary of the complaints received, disciplinary action taken, and the average time to resolve the complaints. *W. Va. Code §30-1-5(c)* requires each Chapter 30 board to close a complaint within 18 months after the initial filing. Additionally, the Board is required to provide a status report to the complainant six months after the complaint was originally filed if the complaint has not yet been resolved. During the period reviewed, the Board adhered to the statutory requirements in all cases and issued disciplinary action in two cases.

During the period reviewed, the Board adhered to the statutory requirements in all cases and issued disciplinary action in two cases.

**Table 4
Complaint Decision Statistics
FY 2017-2020**

| Fiscal Year | Number of Complaints Received* | Number of Disciplinary Actions | Average Resolution Time in Days |
|--------------------|---------------------------------------|---------------------------------------|--|
| 2017 | 0 | 0 | n/a |
| 2018 | 7 | 1 | 72 |
| 2019 | 13 | 0 | 78 |
| 2020 | 10 | 1 | 109 |

Source: The Board's Complaint Statistics
**Combined Total Number of Complaints filed with NHALB and OHFLAC SQC notices*

As part of the renewal process the Board utilizes the NABVerify CE Registry to record and verify that Nursing Home Administrators have completed at least 20 hours of NAB's continuing education by June 30th of each year.

The Board Has Established Continuing Education Requirements.

The Board has established continuing education (CE) requirements for its licensees. *West Virginia CSR §21-1-4* states that nursing home administrators shall obtain at least 20 hours of continuing education annually. The CE requirements for West Virginia and its surrounding states are detailed in Table 5. As part of the renewal process the Board utilizes the NABVerify CE Registry to record and verify that Nursing Home Administrators have completed at least 20 hours of NAB's continuing education by June 30th of each year.

| State | CE Hours | Renewal Period |
|---------------|-----------------|-----------------------|
| Kentucky | 30 | Biennial |
| Maryland | 40 | Biennial |
| Ohio | 20 | Annual |
| Pennsylvania | 48 | Biennial |
| Virginia | 20 | Annual |
| West Virginia | 20 | Annual |

Source: NAB's website and each state's licensing board website and regulations

The Board Should Ensure That Board Members Attend the Required Orientation Sessions.

Per *W. Va. Code §30-1-2c(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. Following a review of seminar attendance for FY 2017-2020 it was found that the Board's executive director had attended three of the four years, and the board president has not attended any of the State Auditor's seminars. Additionally, *W. Va. Code §30-1-2c(3)* states that each board member shall attend the seminar at least once during each term of office. The Legislative Auditor identified four of the seven board members who had appropriately attended the State Auditor's seminar during their appointed terms, though two of these members will need to attend the seminar again as they are continuing to serve as a board member until a replacement is appointed by the Governor. Of the remaining board members, two members have not attended a seminar during their tenure, and one member still needs to attend a seminar before the end of his or her current term. **Therefore, the Legislative Auditor finds that the Board's chairperson, executive director, and members should adhere to *W. Va. Code 30-1-2c* and attend the State Auditor's Seminar on Regulatory Boards.**

*The Legislative Auditor finds that the Board's chairperson, executive director, and members should adhere to *W. Va. Code 30-1-2c* and attend the State Auditor's Seminar on Regulatory Boards.*

The Board Has Requested New Appointments for Board Members.

According to *W. Va. Code §30-25-4(b)*, the Board's seven members are to serve a five-year term and may continue to serve until his or her successor has been appointed by the Governor. Three Board members are

currently serving under expired terms. The Board has requested, but not yet received, new appointments from the Governor's Office to fill these expired terms. **The Legislative Auditor recommends that the Board continue to request new member appointments from the Governor in a timely manner.**

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 employee who is responsible for handling revenue. The Board accepts payment for license fees via cashier's checks, money orders or corporate checks. It does not accept cash or personal checks. Appropriate internal controls include having an adequate segregation of duties that prevents an individual employee from performing two or more of activities associated with purchasing and receiving revenue. These activities include authorizing transactions, receiving merchandise, receiving and depositing revenue, recording transactions, and maintaining custody of assets.

As an example of appropriate segregation of duties for cash handling, 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."*

The Board does not utilize the State Treasurer's Lockbox system as it instead uses DHHR's Accounts Receivable department to deposit all payments received. The Board also utilizes DHHR's Accounts Payable for the payment of monthly utility bills. Furthermore, when a purchase is made using the Board's P-card, the executive director and the board chair or designee signs for the purchase. An itemized list of P-card purchases is also provided for board approval at every board meeting, and all receipts are maintained in files that include the receiving reports for reconciliation purposes each month or when purchases are made. **The Legislative Auditor recommends the Board consider utilizing the State Treasurer's lockbox to further reduce the risk of fraud.**

Appropriate internal controls include having an adequate segregation of duties that prevents an individual employee from performing two or more of activities associated with purchasing and receiving revenue.

The Legislative Auditor recommends the Board consider utilizing the State Treasurer's lockbox to further reduce the risk of fraud.

In order to assess the risk of fraud and gain 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 2017-2020 and found that actual revenue varied when compared to expected revenue (see Table 6). There is a concern when expected revenues are significantly higher than actual revenues as seen in Table 6 for FY 2017 and FY 2019. Occurrences of this nature require additional inquiry by PERD into a board's revenues. The executive director indicated that because most renewal fees are paid by corporate offices there is often a gap between when the licensee's application is received and when the corporate check is received. Furthermore, because the date licenses expire is the same date as the end of the fiscal year, June 30th of the current year, any revenue that comes in after the DHHR Accounts Receivable cutoff date is carried over to the new fiscal year. PERD examined all of the Board's deposits for FY 2017-2020 and was able to confirm when revenues were received and deposited. PERD's analysis of this information found the risk of fraud on the revenue side to be relatively low.

There is a concern when expected revenues are significantly higher than actual revenues as seen in Table 6 for FY 2017 and FY 2019.

Table 6
Nursing Home Administrator's Licensing Board
Expected and Actual Revenues
FY 2017-2020

| Fiscal Year | Number of Active Licensees | Annual Renewal Fee | Expected Revenues | Actual Revenues |
|--------------------|-----------------------------------|---------------------------|--------------------------|------------------------|
| 2017 | 311 | \$300-\$600 | \$92,100 | \$82,550 |
| 2018 | 260 | \$300-\$600 | \$85,200 | \$86,900 |
| 2019 | 255 | \$300-\$600 | \$86,400 | \$66,650 |
| 2020 | 321 | \$300-\$600 | \$96,300 | \$100,950 |

Source: PERD calculations based on the Biennial Report which documents the Board's active licensees and budget information from the Legislative Budget Office's annual reports

PERD also calculated the percentage of expected and required expenditures. PERD evaluated the Board's expenditures for FY 2017-2020 and determined that each year at least 95 percent of the Board's expenses consisted of expected and required expenditures to vendors (see Table 7). The Legislative Auditor's opinion is that when the Board's expected and 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. If, however, expected/required expenditures are significantly below 90 percent, then other expenditures are unduly high, which suggests a higher risk of fraud, questionable or abusive expenditures. In this case, PERD would conduct a further

FY 2017-2020 PERD evaluated the Board's expenditures and determined that each year at least 95 percent of the Board's expenses consisted of expected and required expenditures to vendors.

inquiry into the Board's expenditures. Since the percentage of expected/required expenditures were at or above 90 percent, the Legislative Auditor concluded that further review of the Board's expenditures for FY 2017-2020 was unnecessary.

Table 7
Nursing Home Administrator's Licensing Board
Percentage of Expected and Required Expenditures

| Fiscal Year | Percent of Expected & Required Expenditures ^S |
|-------------|--|
| 2017 | 95% |
| 2018 | 96% |
| 2019 | 96% |
| 2020 | 95% |

Source: PERD calculations based on data from OASIS WV-FIN-FL-151 report

The Board Does Not Maintain an Accurate Roster of Licensees

As stated previously, PERD examined all deposits by the Board for FY 2017-2020 to assess the risk of fraud in receiving revenue. However, in doing so, PERD found that each fiscal year several licensees had not paid the required renewal fee for at least a year, and in some cases more than a year, but were still listed as licensees in the Board's annual report as submitted to the governor. This is concerning since there is the potential that nursing home administrators could still be actively working in the profession without the legally required license, and the Board and nursing homes are unaware that individuals may be unlicensed. According to the Board's legislative rule CSR §21-1-5.2.g, a licensee who desires to cease engaging in the practice of a nursing home administrator temporarily shall send a written notice to the Board. Upon receipt of the notice, the Board is to place the licensee on an inactive list. The Board does not have a procedure in place to address when a licensee has not renewed his or her license and has not submitted a written notice to be placed on the inactive list. **Therefore, the Legislative Auditor recommends that the Board consider establishing a procedure to notify licensees and nursing homes when licensees have not renewed their licenses and have not requested in writing to be placed on the inactive list. Furthermore, the Board needs to maintain and publish accurate active and inactive licensee rosters.**

PERD examined all deposits for FY 2017-2020 and found that each fiscal year several licensees had not paid the required renewal fee for at least a year, and in some cases more than a year, but were still listed as licensees in the Board's annual report as submitted to the governor.

The Board Does Not Maintain a Complete Register of Applicants as Required by Law.

The Board is not maintaining a complete register of applicants as required by law. *W.Va. Code 30-1-12(a)* states:

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 is 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 license or registration, if required, and any suspension or revocation thereof....

The register of applicants provided by the Board to the Legislative Auditor lists only the applicant's name and place of residence.

The register of applicants provided by the Board to the Legislative Auditor lists only the applicant's name and place of residence. The register lacks the following fields:

- date of application,
- applicant's age,
- educational information and other qualifications,
- whether or not an exam was required,
- whether the applicant was rejected or accepted,
- date of this action,
- license number,
- renewals of the license, and
- a list of any suspensions or revocations.

The Legislative Auditor finds that the Board should maintain a complete register of applicants as required by *W.Va. Code 30-1-12(a)*.

Conclusion

The Board complies with most of the general provisions of Chapter 30. The Board should comply with *W. Va. Code 30-1-2(c)* and ensure that all members of the Board and the executive director attend the State Auditor's Seminar on Regulatory Boards as appropriate. As the Board has a staff of one, it is not able to maintain adequate segregation of duties; however, reasonable steps have been taken to minimize the

risk of fraud. Therefore, the Board should consider utilizing the West Virginia State Treasurer's Office lockbox to further reduce the risk of processing licensure and renewal fees. It is also recommended that the Board consider changing the license renewal date to prevent it from coinciding with the end of the fiscal year. Finally, the Board does not maintain a complete register of applicants and should include records of all categories as required by *W.Va. Code 30-1-12(a)*.

Recommendations

3. *The Board's chairperson, executive director, and members should adhere to W.Va. Code 30-1-2c and attend the State Auditor's Seminar on Regulatory Boards as required.*
4. *The Board should continue to request new member appointments from the Governor in a timely manner.*
5. *The Board should consider utilizing the State Treasurer's lockbox to further reduce the risk of fraud.*
6. *The Board should maintain a complete register of applicants as required by W.Va. Code 30-1-12(a).*
7. *The Board should consider establishing a procedure to notify licensees and nursing homes when licensees have not renewed their licenses and have not requested in writing to be placed on the inactive list.*
8. *The Board should maintain and publish accurate active and inactive licensee rosters.*

ISSUE 3

The West Virginia Nursing Home Administrators Licensing Board Website Needs 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/visual features may not be necessary or practical for some state agencies. Table 8 indicates the Board integrates 60 percent of the checklist items in its website. The measure indicates that modest improvement is needed for the Board's website to be more user-friendly and transparent.

| Table 8 West Virginia Nursing Home Administrator's Licensing Board 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% |
| | | 60% | |
| <i>Source: PERD staff's review of the Board website as of November 17, 2020</i> | | | |

The Board's Website Scores Needs Modest Improvement 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.

Government websites should user-friendly and easy to navigate in order to promote accountability and trust.

PERD staff reviewed the Board's website for both user-friendliness and transparency and found that the website needs modest enhancements

in these areas (see Table 9). The Board may want to consider adding more elements that could be beneficial to the public.

| Category | Possible Points | Agency Points | Percentage |
|-----------------|------------------------|----------------------|-------------------|
| User-Friendly | 18 | 10 | 56% |
| Transparency | 32 | 20 | 63% |
| Total | 50 | 30 | 60% |

Source: PERD staff's review of the Board's website as of November 17, 2020

The Board's Website Is Navigable, but Additional User-Friendly Features Should Be Considered.

The Board's website is easy to navigate as there is a link to every page on the left of the website; however, the website lacks a site map, social media links, and a foreign language accessibility tool. According to the Flesch-Kincaid Reading Test, the average readability of the website range between a 9th grade and 12th grade reading level, which is somewhat higher than the recommended 7th grade level for readability.

User-Friendly Considerations

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

- Foreign language accessibility – A link to translate all webpages into languages other than English.
- Site Functionality – The website uses san serif fonts, includes buttons to adjust font size, and resizing the text should not distort site graphics or text.
- Site Map – A list of pages contained in a website that can be accessed by web crawlers and users.
- Mobile Functionality- The website is available in a mobile version and/or the agency has created mobile applications.
- Online survey/poll – A page where users can voluntarily submit feedback about the website or particular section of the website.
- 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.

According to the Flesch-Kincaid Reading Test, the average readability of the website range between a 9th grade and 12th grade reading level.

- RSS Feeds – This allows subscribers to receive regularly updated work (i.e., blog posts, news stories, audio/visual, etc.) in a standardized format.

The Website Has Reasonable Transparency Features but Improvements Could Be Made.

A website that is transparent should promote accountability and provide information for citizens about how the Board is performing, as well as encouraging public participation. The Board’s website has more than 60 percent of the elements:

Transparency Considerations

Although some items may not be practical for this board, the following are some attributes that could improve the sites transparency:

- Complaint form – A specific page that contains a form to file a complaint, preferably an online form.
- Budget – Budget data are available at the checkbook level, ideally in a searchable database.
- FOIA Information – Information on how to submit a FOIA request, ideally with an online submission form.
- Calendar of events – Information on events, meetings, etc., ideally imbedded using a calendar program.
- Graphic capabilities – Allows users to access relevant graphics such as maps, diagrams, etc.
- Agency Organizational Chart – A narrative describing the agency organization, preferably in a pictorial representation such as a hierarchy/organizational chart.
- Audio/visual features – Allows users to access and download relevant audio and video content.
- Performance measures/outcomes – A page linked to the homepage explaining the agencies performance measures and outcomes.
- Website updates – The website should have a website update status on screen and ideally for every page.
- Job postings/links to Personnel Division website – The agency should have a section on the homepage for open job postings and a link to the Personnel Division application page.

Conclusion

The Legislative Auditor finds that some improvements are needed to the Board's website in the areas of user-friendliness and transparency. The website can benefit from incorporating or improving several common features. The Board has pertinent information on its website including licensure information, rules and regulations, and board meeting minutes. However, updating the website to allow users to submit complaints and FOIA requests online would improve user-friendliness and transparency.

The Board has pertinent information on its website including licensure information, rules and regulations, and board meeting minutes.

Recommendation

9. *The Board should make modest improvements to its website to provide more transparency and user-friendliness for online public users.*

Appendix A Transmittal Letter



WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX

John Sylvia
Director

April 13, 2021

Veronica Cummings, Executive Director
West Virginia Nursing Home Administrators Licensing Board
PO Box 522
Winfield, WV 25213

Dear Executive Director Cummings:

This is to transmit a draft copy of the Nursing Home Administrators Licensing Board Report. This report may be presented during a future interim meeting of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the 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 **Monday April 19, 2021**. In addition, we need your written response by **Monday May 3, 2021** in order for it to be included in the final report. If your agency intends to distribute additional material to committee members during the interim meeting, please contact the House Government Organization staff at 304-340-3192 by the Thursday prior to the meeting to make the necessary 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 cursive script that reads "John Sylvia".

John Sylvia

Enclosure

Appendix B

Objectives, 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 Nursing Home Administrators Licensing Board (NHALB) 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 NHALB, as established in West Virginia Code §30-25, is to protect the public through its license process, and to be the regulatory and disciplinary body for nursing home administrators throughout the state.

Objectives

The objectives of this review are to determine if the NHALB 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 NHALB's compliance with the general provisions of Chapter 30, Article 1 of the *West Virginia Code*, the NHALB's enabling statute §30-25, and other applicable rules and laws such as the Open Governmental Proceedings (WVC §6-9A) and purchasing requirements. Finally, it is the objective of the Legislative Auditor to assess the NHALB's website for user-friendliness and transparency.

Scope

The evaluation included a review of the NHALB's internal controls, policy and procedures, meeting minutes, complaint files from FY 2017 to FY 2020, complaint-resolution process, disciplinary procedures and actions, revenues and expenditures for the period of FY 2017 to FY 2020, continuing education requirements and verification, the NHALB's compliance with the general statutory provisions (WVC §30-1) for regulatory boards and other applicable laws, and key features of the NHALB'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.

PERD staff visited the NHALB's office in Winfield, WV and met with its staff. Testimonial evidence gathered for this review through interviews with the NHALB's staff or other agencies was confirmed by written statements and in some cases by corroborating evidence.

PERD collected and analyzed the NHALB's complaint files, meeting minutes, annual reports, budget information, procedures for investigating and resolving complaints, and continuing education. PERD also obtained information from the National Association of Long Term Care Administrators Boards, Centers for Medicaid and Medicare, WV Office of Health Facility Licensure and Certification, WV Legislative Budget Office, WV Auditor's Office, WV Treasurer's Office, and the WV Secretary of State's Office. This information was assessed against statutory requirements in §30-1 and §6-9A of the West Virginia Code as well as the

NHALB's enabling statute [§30-25] to determine the NHALB's compliance with such laws. Some information was also used as supporting evidence to determine the sufficiency and appropriateness of the overall evidence.

The Legislative Auditor compared the NHALB's actual revenues to expected revenues in order to assess the risk 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 FY 2017 to FY 2020. Revenues during this period were inconsistent. The Legislative Auditor obtained and reviewed NHALB deposit records for FY 2017 to FY 2020 and concluded that the risk of fraud on the revenue side was at a reasonable level and would not affect the audit objectives, and actual revenues were sufficient and appropriate.

The Legislative Auditor also tested the NHALB's expenditures for FY 2017 to FY 2020 to assess the risk of fraud on the expenditure side. The test involved determining if required and expected expenditures were at least 90 percent of total expenditures. Required and expected expenditures include: salaries and benefits, per diem payments, travel reimbursement, board-member compensation, insurance, office rent, and utilities. The Legislative Auditor determined that during the scope of the review, required and expected expenses were between 95 and 96 percent of total expenditures. These percentages gave reasonable assurance that the risk of fraud on the expenditure side was not significant enough to affect the audit objectives.

In order to evaluate state agency websites, the Legislative Auditor conducted a literature review of government website studies, 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 of the technology may not be practical or useful for some state agencies. Therefore, the Legislative Auditor compared the WV Nursing Home Administrators Licensing Board's website to the established criteria for user-friendliness and transparency so that the NHALB can determine if it is progressing in step with the e-government movement and if improvements to its website should be made.

The Office of the Legislative Auditor reviews the statewide single audit and the Division of Highways financial audit annually with regards to any issues related to the wvOASIS financial system. The Legislative Auditor's staff on a quarterly basis requests and reviews any external or internal audit of the wvOASIS financial system. In addition, through its numerous audits, the Office of the Legislative Auditor continuously tests the financial information contained in the wvOASIS financial system. Based on these actions, along with the audit tests conducted on the audited agency, it is our professional judgement that the information in the wvOASIS system is reasonably accurate for auditing purposes under the 2018 Government Auditing Standards (Yellowbook). However, in no manner should this statement be construed as a statement that 100 percent of the information in the wvOASIS financial system is accurate.

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 | | | |
|---|---|-----------------------------------|--|
| 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 | 10 |
| | | 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 | High School Level (9 th grade & higher) |
| 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 | 1 |
| 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 |
| 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 |
| 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 |

| Website Criteria Checklist and Points System | | | |
|---|---|-----------------------------------|---------------------------------|
| 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 state agency. | 1 point | 1 |
| Telephone Number | Correct telephone 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 | 1 |
| 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 | 1 |
| Privacy policy | A clear explanation of the agency/state's online privacy policy. | 1 point | 1 |
| 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 | 0 |
| FOIA information | Information on how to submit a FOIA request (1), ideally with an online submission form (1). | 2 points | 1 |
| Calendar of events | Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1). | 2 points | 1 |
| Mission statement | The agency's mission statement should be located on the homepage. | 1 point | 1 |

| Website Criteria Checklist and Points System | | | |
|---|--|----------|---|
| 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 |
| 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 |
| 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 | 1 |
| Graphic capabilities | Allows users to access relevant graphics such as maps, diagrams, etc. | 1 point | 0 |
| Audio/video features | Allows users to access and download relevant audio and video content. | 1 point | 0 |
| Performance measures/outcomes | A page linked to the homepage explaining the agencies performance measures and outcomes. | 1 point | 0 |
| Website updates | The website should have a website update status on screen (1) and ideally for every page (1). | 2 points | 1 |
| 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 | 1 |

Appendix D

Nursing Home Administrator Regulatory Agency by State

| Nursing Home Administrator Regulatory Agency by State | | |
|--|---|--|
| State | State Agency | Independent Board |
| Alaska | Dept. of Commerce Division of Corp, Business, & Professional Licensing | |
| Alabama | | Board of Examiners of NHA |
| Arizona | | Board of Nursing Care Institution Administrators & Assisted Living Facilities Managers |
| Arkansas | Dept. of Human Services | |
| California | Dept. of Public Health | |
| Colorado | Dept. of Regulatory Agencies | |
| Connecticut | Dept. of Public Health | |
| District of Columbia | | Board of Long-Term Care Administration |
| Delaware | Division of Professional Regulation | |
| Florida | | Board of NHA |
| Georgia | Professional Licensing Boards Division | |
| Hawaii | Dept. of Commerce & Consumer Affairs | |
| Idaho | Division of Occupational and Professional Licenses | |
| Iowa | Dept of Public Health | |
| Illinois | Dept. of Financial and Professional Regulation | |
| Indiana | Professional Licensing Agency | |
| Kansas | Dept. for Aging and Disability Services | |
| Kentucky | Dept. of Professional Licensing | |
| Louisiana | | Board of Examiners of NFA |
| Massachusetts | Dept. of Public Health | |
| Maryland | Dept. of Health | |
| Maine | Dept. of Professional & Financial Regulation | |

| | | |
|----------------|---|---|
| Michigan | Dept. of Licensing & Regulatory Affairs | |
| Minnesota | | Board of Examiners for NHA |
| Missouri | Dept. of Health & Senior Services | |
| Mississippi | | State Board of NHA |
| Montana | Dept. of Labor & Industry | |
| North Carolina | | Board of Examiners for NHA |
| North Dakota | | Board of Examiners for NHA |
| Nebraska | Dept. of Health & Human Services | |
| New Hampshire | Office of Professional Licensure & Certification | |
| New Jersey | Dept. of Health | |
| New Mexico | Regulation & Licensing Dept. | |
| Nevada | | Board of Examiners for LTCA |
| New York | Dept. Of Health | |
| Ohio | | Board of Executives of LT Services & Supports |
| Oklahoma | | Board of Examiners for LTCA |
| Oregon | Health Authority Public Health Division | |
| Pennsylvania | Dept. of State Professional Licensing | |
| Rhode Island | Dept. of Health | |
| South Carolina | Labor Licensing Regulation | |
| South Dakota | Dept. of Health | |
| Tennessee | Dept. of Health | |
| Texas | Health & Human Services | |
| Utah | Dept. of Commerce Division Occupational & Professional Licensing | |
| Virginia | Dept. of Health Professions | |
| Vermont | Secretary of State Office of Professional Regulation | |
| Washington | Dept. of Health | |

| | | |
|---|---|---------------------|
| West Virginia | | NHA Licensing Board |
| Wisconsin | Dept. of Safety & Professional Services | |
| Wyoming | Administration & Information | |
| Total | 38 | 13 |
| <i>Source: NAB's website and each state's licensing board website and regulations</i> | | |

Appendix E Agency Response



WV NURSING HOME ADMINISTRATORS LICENSING BOARD

P.O. BOX 522

WINFIELD, WEST VIRGINIA 25213

PHONE (304) 586-4070

FAX (304) 586-4079

May 1, 2021

Mr. John Sylvia, Director
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia:

This letter is in response to your correspondence of April 13, 2021 concerning the draft copy of the Nursing Home Administrator's Licensing Board audit report.

It was a pleasure working with Alice Hudson, Research Analyst and Brandon Burton, Research Manager, throughout the audit. As executive director, I have gained valuable knowledge relating to the recommendations given to improve the efficiency and transparency of the Nursing Home Administrator's Licensing Board.

The board members and I have read the listed issues and recommendations, and have responded to those listed in the audit draft. The responses are enclosed.

Thank you for the work that your research team has provided, and thank you for your service to our great State of West Virginia.

Sincerely,

A handwritten signature in blue ink that reads "Veronica S. Cummings".

Veronica S. Cummings
Executive Director

PERFORMANCE EVALUATION
MAY 6 2021
AND RESEARCH DIVISION

Audit - Brief Points Prior to Response Due by May 3, 2021

WV Nursing Home Administrator's Licensing Board

Page 3 Creation of a multi-professional licensing agency recommendation

The Nursing Home Administrator's Licensing Board currently is under DHHR Bureau for Public Health with an ex-officio, nonvoting member from DHHR. We are part of a health related bureau.

The NHALB is financially self-sufficient, has the lockbox in place and additional policies requiring two signatures for purchases for internal control.

The Board investigates complaints timely and sends status reports where needed, thus protecting the public, and also, the most vulnerable citizens.

It is very crucial at times to issue emergency permits, temporary permits, and process; to meet CMS guidelines, OHFLAC and the legislative rule for the NHALB. This is easily provided with efficiency by the Board.

****With the addition of the State lockbox, policies directed toward internal control, and approval of Certemy Software to provide accurate and real time ability to verify licenses, I respectfully point this out as not necessary to combine with smaller boards. The NHALB is part of a health related bureau and has worked successfully in this placement.**

Utilities and office rent are on average about \$800.00 per month, with the rent being \$600 as part of the total. The Board operates very economically in all areas. I have spoken with a number of directors within multi-professional agencies, and all have indicated to me personally, that it is not more economical, primarily due to the extensive software and controls needed along with additional employees. They also noted that the processing is slower.

Other State Boards such as North Carolina states that they have found that combined boards have actually increased their costs. We do not feel that a combined board will be beneficial to the West Virginia Nursing Home Administrator's Licensing Board's operations or processes.

Page 5

The Board is not in compliance with the following provisions:

- **The Board's chairperson or executive director are to annually attend the WV Annual Seminar for State Licensing Boards:**

Page 5 - Response: The Executive Director, Veronica S. Cummings, has attended every year since employed (see copies of certificates) with the exception of 2017, my husband passed away Nov. 27th and I was not able to attend due to his funeral (see obituary).

After a number of times contacting the Governor's Office through letters with recommendations for new board members, we have not received any reply. The extended term board members, at the time, that their recent terms ended, assumed that they had attended once each term and were in compliance. Until we have board members appointed by the Governor, ALL board members that are on extended terms will attend the October Annual Seminar and those, thereafter. The newly elected Board Chair, Rodney Hannah, was not able to attend last year due to another commitment. He had just been elected a few months into his first term and is in compliance.

I further disagree with the term “not in compliance” with this not being the responsibility for appointing board members. We complied with the letters of requests and recommendations to the Governor and will continue to do so. This has historically been a problem with many previous Governors, as well; as indicated by a number of Chapter 30 Boards also having open board seats, including ours. I respectfully request that the recommendation on Governor appointments be taken from the audit recommendations, since we have met requirements by contacting.

The board’s previous Chair, Roberta Kay Cottrill, did not attend 2020 due to an accident, and had to be refunded her registration fee. Roberta Kay Cottrill was in compliance on her terms of attendance previously as ALL board members were in compliance for their regular terms. There are 5 of the 7 members on the board that are on extended terms. They willingly agreed to serve until appointments could be made. I feel that the Board should not be considered out of compliance but clarified that when on extended terms, the member should continue attending once during that ongoing term.

Page 6 – Response: The Board is not in compliance with all of the requested information that is supposed to be in a register. The Board has a database that has name, address; e-mail, date of license issued, and test scores.

A proposal submitted by Anthony Warn, of Certemy Software, has been discussed previously and will be voted upon at our April 29, 2021 meeting. This will more than likely be approved, making the list easily accessible to the public as far as verification of licensure. All of the information required by Code will be in a visible register to be in compliance.

Page 9 – Response: A lockbox agreement was signed by the Board on March 15, 2021, and is now in use for the upcoming renewal period. Previous to the lockbox, I collected the checks with a deposit form and DHHR Accounts Receivable deposited in Oasis. With the State issued P-Card, the executive director and the board chair must sign. The P-Card is used for postal expenses and general office supplies and the printing of licenses each year from the Dept. of Corrections. In the recommendation, I respectfully request that it be part of the report that the lockbox is now in effect for the Board.

Page 11 – Response: The Board Does Not Maintain an Accurate Roster of Licensees

I respectfully request, if possible, to reevaluate with the newly presented verification on questions pertaining to the spreadsheet provided, such as: PERD found that each fiscal year several licensees had not paid the required renewal fee for at least a year, and in some cases more than a year, but were still listed as licensees in the Board’s annual report as submitted to the Governor.

Please note the verification provided and clarification of our CSR1 Rule on the definition of active/inactive status: When a licensee desires to cease practice as a nursing home administrator, they must state that in writing each year and meet requirements with 20 NAB approved CEU’s. There is no fee required for this. The licensee still meets requirements to be activated immediately upon paying the renewal fee and form. Many licensees activate their license when a facility administrator is on maternity leave, out sick, terminated, and other such circumstances.

Could there be a recommendation that the active/inactive list be separated in the Annual Report so that there would not be a future misunderstanding in revenue?

Additionally, If the inactive status licensee does not comply with the state rule, of notifying the Board they wish to place their license on inactive status, and does not submit an application for renewal of their license, there is a one year grace period that they can provide all CEU requirements without beginning as a new applicant.

If a licensee does not indicate their status and does not respond to requests for information on their status, after the one year grace period, they are removed from the database and must start as a new applicant. This requirement is stated in the CSR1 Rule.

*See attached policy that will meet the request for the established procedure of notification.

It was stated in the audit recommendation there is the potential that nursing home administrators could still be actively working in the profession without the legally required license, and the board and nursing homes are unaware.

There has been no notification by OHFLAC that an administrator is practicing without a valid license posted within the facility since I have been employed for eight years. During all types of OHFLAC surveys, proof of a current Administrator's license is required as well as a current license must be posted in a conspicuous place in the nursing facility.

With the Certemy Software and the policy of notification in place after the April 29, 2021 board meeting, the recommendation will be met to be in compliance. Going forward, the licensee's on inactive status, meeting requirements, will not be listed as active within the Annual Report. There will be a separate counting of valid inactive licensees.

For the recommendation of changing the expiration date of the licenses, this will be discussed and checked with other licensing boards for perhaps their solutions. Also, the lockbox, and the requirement of an earlier deadline to process could alleviate the problem of deposits going into another fiscal year.

Issue 3: Response – Website needs modest improvements – agreed and will work on that.



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