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REGULATORY BOARD REVIEW BOARD OF ACUPUNCTURE

AUDIT OVERVIEW

The West Virginia Board of Acupuncture Complies With Most General Provisions of Chapter 30 of the W.Va. Code.

The Board of Acupuncture and Other Small Boards Could Benefit from Improved Operations and Efficiency Through the Development of a Multi-Professional Agency.

The West Virginia Board of Acupuncture Website Needs Improvements to Enhance User-Friendliness and Transparency.



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EXECUTIVE SUMMARY

The Legislative Auditor conducted a regulatory board review of the Board of Acupuncture authorized pursuant to West Virginia Code §4-10-10. 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 (W. Va. Code §30-36-et al.), determine if the rules and regulations protect the profession or the public, and if the Board's office location is generally accessible to state citizens with special needs as it relates to selected guidelines from the American with Disabilities Act (ADA).

The second objective considers consolidation of smaller West Virginia Chapter 30 boards previously cited by PERD in the past for lack of segregation of duties into a multi-professional and occupation board.

Finally, it is also the objective of the Legislative Auditor to assess the Board's website for user-friendliness and transparency. The highlights of this review are discussed below.

Frequently Used Acronyms in This Report:

PERD – Performance Evaluation and Research Division

ADA – Americans with Disabilities Act

MOU - Memorandum of Understanding

Issue 1: The West Virginia Board of Acupuncture Complies With Most General Provisions of Chapter 30 of the *W. Va. Code*.

- The Board is financially self-sufficient.
- The Board's procedure for financial management lacks controls with respect to segregation of duties. In order to correct this problem, the Legislative Auditor recommends the Board encourage more online payments and utilize the State Treasurer's Office lockbox banking system.
- One Board member has not taken the oath.
- The Board's office appears to comply with selected requirements of the American Disabilities Act.
- The Board's Legislative and promulgated rules appear to protect the public.

Issue 2: The Board of Acupuncture and Many Other Small Boards Could Benefit from Improved Operations and Efficiency Through the Development of A Multi-Professional Agency

- The small sized of the Board mandates it partner with other agencies in order to function.
- Consolidating smaller boards would reduce redundant costs, provide better public access to state citizens, and provide stronger internal controls and reduce the risk of fraud.
- Forty-four states and the District of Columbia utilize a multi-professional agency for professional licensures.

Issue 3: The West Virginia Board of Acupuncture Website Needs Improvements to Enhance User-Friendliness and Transparency.

- The Board should provide annual reports, board meeting notices, updated board meeting minutes, and budget information on its website.
- The website should contain a search box, preferably on every page.
- A link to translate all webpages into languages other than English.

Recommendations

1. *The Legislative Auditor recommends the Board create and maintain a register with the required information for acupuncture licensees.*
2. *The Legislative Auditor recommends the Board encourage online payment for application and renewal fees for all acupuncture licensees.*
3. *The Legislative Auditor recommends the Board begin utilizing the State Treasury's lockbox banking system to improve internal controls.*
4. The Legislative Auditor recommends the Board's staff keep records of reviews regarding continuing education documents on file for review.
5. *The Legislative Auditor recommends the West Virginia Legislature consider creating a multi-purpose agency; consolidating smaller boards to provide consistent daily operations, better public access, and more financial efficiency.*
6. *The Legislative Auditor recommends implementation of W.Va. Code §30-1-15.*
7. *The Legislative Auditor recommends the Board make improvements to its website to provide more transparency and user-friendliness online for online public users.*

PERD's Response to the Agencies' Written Response

PERD received the Board's response to the draft copy of the regulatory board review on December 4, 2019. The Board's response can be seen in Appendix D. The Board generally agrees with the recommendations within this audit.

ISSUE 1

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

Issue Summary

The primary purpose of the Board of Acupuncture (Board) is to protect West Virginia citizens through the licensure and regulation of acupuncturists. The Board reviews the credentials of all applicants to ensure only qualified individuals are permitted to practice acupuncture and oriental medicine in West Virginia. The Board meets the criteria for financial self-sufficiency. The office location is accessible to the public and the Board rules appear to protect the public through training and continuing education.

The primary purpose of the Board of Acupuncture (Board) is to protect West Virginia citizens through the licensure and regulation of acupuncturists.

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

The West Virginia Board of Acupuncture (Board) is compliant with most of the general provisions of Chapter 30 of the *W.Va. Code*. These provisions are important for the effective operation of regulatory boards. The Board is compliant with the following provisions:

- The Chair, Executive Director, or Chief Financial Officer must annually attend an orientation session conducted by the State Auditor (§30-1-2a(c)(2));
- Each Board member shall attend at least one orientation session during each term of office (§30-1-2a (c)(3));
- The Board has adopted an official seal (§30-1-4);
- The Board meets at least once annually (§30-1-5(a));
- Rules have been promulgated specifying the investigation and resolution procedure of all complaints (§30-1-8(h));
- The Board must be financially self-sufficient in carrying out its responsibilities (§30-1-6(c));
- The Board has established continuing education requirements (§30-1-7a);
- The Board has submitted the Annual Report to the governor and legislature describing transactions for the previous two years (§30-1-12(b));
- The Board has complied with some of the public access requirements as specified by (§30-1-12(c));
- The Board has prepared and maintained a Roster of all licensees which includes name, and office address (§30-1-13);
- The Board has procedures to investigate and resolve complaints which it receives to comply with (§30-1-5 (c), however the Board

The office location is accessible to the public and the Board rules appear to protect the public through training and continuing education.

had zero complaints to review during the audit period;

- Every board shall provide public access to the record of the disposition of the complaints which it receives in accordance with the provisions of chapter twenty-nine-b of this code, and shall provide public access on a website to all completed disciplinary actions in which discipline was ordered. (§30-1-5 (d)). The Board had no disciplinary actions during the audit period; and,
- The Board is listed in the Charleston phone book as required by §30-1-12(c).

The Board has not complied with the following Chapter 30 requirements:

- The Board does not maintain a register of all applicants with the appropriate information specified in code, such as date of application, name, age, education and other qualifications, place of residence, examination required, license granted or denied, suspensions, etc. (§30-1-12(a));
- One of the five board members has not complied with §30-36-4(f), taking and subscribing to the oath prescribed by section 5, article IV of the Constitution of the State. *The Board's Executive Director acknowledged the oversight once the Legislative Auditor informed her of the finding and the Board member filed the oath with the West Virginia Secretary of State's office on July 24, 2019.*

PERD staff found other minor administrative issues:

- A board member was reimbursed more than one year after expenses occurred and paid from the wrong fiscal year;
- Chapter §30-36-6 states the board shall meet at least twice a year; however, in 2018, only one meeting occurred;
- The Board did not submit a decision to deny a license renewal to the West Virginia Secretary of State as required by *W.Va. Code §29A-2-9*. The Legislative Auditor acknowledges the denied license was posted on the Board's website.

The Executive Director stated that 10% of licensed acupuncturists are reviewed annually for continuing education compliance. However, reviewed records are shredded and not kept on file. The Legislative Auditor is not able to confirm that the board conducts audits of acupuncturists' continuing education requirements.

One of the five board members has not complied with §30-36-4(f), taking and subscribing to the oath prescribed by section 5, article IV of the Constitution of the State.

The Legislative Auditor is not able to confirm that the board conducts audits of acupuncturists' continuing education requirements.

The Legislative Auditor recommends the Board’s staff keep records regarding the review of continuing education documents on file. Retaining these documents provides a record of the Board’s actions and whether licensees are keeping up-to-date with changing regulations and industry standards.

The Legislative Auditor is Concerned With the Board’s Financial Situation.

For the four-year average of the audit period, the Board maintained an end-of-year cash balance that is in excess of one year of expenditures, as shown in Table 1. *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. However, it should be noted that in 2017 and 2018, expenditures exceeded revenue and the final cash balance dropped 34% for the end of 2018¹. PERD is concerned with the continued decline of the Ending Cash Balance, and since 2017, expenditures exceeded revenue. The Board may not be able to afford multiple legal issues.

It should be noted that in 2017 and 2018, expenditures exceeded revenue and the final cash balance dropped 34% for the end of 2018.

Table 1 Board of Acupuncture Budget Information FY 2016 – 2019				
Fiscal Year	Beginning Cash Balance	Revenue	Expenditures	Ending Cash Balance
2016	\$20,291	\$9,995	\$8,368	\$21,918
2017	\$21,918	\$11,700	\$12,456	\$21,162
2018	\$21,162	\$7,480	\$14,689	\$13,953
2019*	\$13,953	\$9,835	\$9,951	\$13,838
Average	\$19,331	\$9,725	\$11,366	\$17,718

Source: West Virginia OASIS, FY 2016-18.
** The fiscal period of the audit is FY 2016- 18. FY 2019 is added because the information became available before the report was issued.*

The Board may not be able to afford multiple legal issues.

The Board’s annual revenue comes from acupuncturists’ fees for applications and licenses, renewals, endorsements, late fees, duplicate certificates, and reinstatement fees. Additionally, revenue may come from an acupuncture tutorial fee and a continuing education providers fee. Annual expenditures include staff salaries, rent, utilities, office supplies and equipment, travel and legal fees.

¹The Board spent \$6,144(34% of total expenditures) in 2017 and 2018 in legal fees to deny a license.

West Virginia and surrounding states' licensure and renewal fees are provided in Table 2. West Virginia's fees are second highest compared to those of the surrounding states.

State	Initial Licensure Fee	Renewal Fee	Renewal Cycle
Kentucky	\$150	\$150	Biennial
Maryland	\$525	\$525	Biennial
Ohio	\$100	\$100	Biennial
Pennsylvania	\$30	\$40	Biennial
Virginia	\$130	\$135	Biennial
West Virginia	\$425	\$425	Biennial

Source: State licensure boards' websites and W.Va. Code of State Rules.

West Virginia's fees are second highest compared to those of the surrounding states.

As with many Chapter 30 boards, the Board of Acupuncture lacks adequate internal controls or segregation of duties for reducing the risk of fraud. All application, renewal and other fees received are handled predominately by one person, the Executive Director (Director). The Director receives all initial and renewal license fees by mailed check. The Director completes all the financial tasks, from receiving fees from licensees, recording all financial transactions, creating deposit slips, depositing funds, maintaining receipts and paying invoices. Licensees can pay application, renewal, and other fees online, however, according to the Director, the preferred method of payment for licensees is mailed checks. Additionally, the Director makes all board purchases and pays all bills and invoices.

As with many Chapter 30 boards, the Board of Acupuncture lacks adequate internal controls or segregation of duties for reducing the risk of fraud.

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:

- *collecting,*
- *depositing,*
- *disbursement, and*
- *reconciling statements."*

The Board should, at a minimum, reduce the handling of revenue through encouraging additional online renewal payments and utilization of the West Virginia Treasurer's Office Lockbox system.

The Board’s Office Is Generally Accessible to the Public.

PERD conducted a site visit to the Board’s office located at 179 Summers Street, in downtown Charleston, also known as the People’s Building. This visit was to determine if the office and building meet select requirements of the American with Disabilities Act (ADA).

PERD’s review indicates handicap parking, the entrance, main doors, first floor hallway and elevators appear to meet ADA standards. The Board is located on the seventh floor, and PERD checked the hallway, the Board’s office entrance and office space, and all three appear to meet the ADA checklist requirements. One handicap bathroom is located on the building’s second floor. The Board’s office is generally accessible despite some minor issues.

PERD’s review indicates handicap parking, the entrance, main doors, first floor hallway and elevators appear to meet ADA standards.

PERD’s review did not assess the entire building, nor is the review intended to certify the building as ADA compliant. The audit team used professional judgment and the ADA checklist as a guide to determine that the building appears to provide reasonable accessibility for disabled individuals.

Board Rules Review.

PERD staff reviewed the Board’s rules to determine if the rules protect the public. In addition to specifying board procedures, all rules appear to protect the public from unlicensed individuals and protect the public through proper training and continuing education. Additionally, the rules mandate specific sanitary conditions to protect patients. Given the profession of acupuncture, ensuring the safety of the public is utmost. The Legislative Auditor is confident the Board’s rules are focused on public safety.

In addition to specifying board procedures, all rules appear to protect the public from unlicensed individuals and protect the public through proper training and continuing education.

Conclusion

The Legislative Auditor finds the Board of Acupuncture complies with most of the Chapter 30 requirements. However, the Board should work to correct the issues noted in the report.

Recommendations

1. *The Legislative Auditor recommends the Board create and maintain a register with the required information for acupuncture licensees.*

2. *The Legislative Auditor recommends the Board encourage online payment for application and renewal fees for all acupuncture licensees.*
3. *The Legislative Auditor recommends the Board begin utilizing the State Treasury's lockbox banking system to improve internal controls.*
4. *The Legislative Auditor recommends the Board's staff keep records of reviews regarding continuing education documents on file for review.*

ISSUE 2

The Board of Acupuncture and Other Small Boards Could Benefit From Improved Operations and Efficiency Through the Development of a Multi-Professional Agency.

Issue Summary

The West Virginia Board of Acupuncture (Board) is the smallest of the 33 Chapter 30 boards in terms of the number of licensees. The Board is one of 15 regulatory boards in the state that operate with one or less full-time employees. Relatively small boards with limited financial resources are not able to operate effectively and efficiently. Legislative audits over the last 10 years reported a lack of internal controls for 19 boards with staffs of three or less employees. This increases the risk of fraud and abuse of a board's resources. The Legislative Auditor recommended consolidating Chapter 30 boards in 2010 to reduce overhead costs and better serve the state's citizens. The current report revisits this issue and recommends consolidating 20 boards that have zero to three full-time employees into a multi-professional regulatory board to improve effectiveness, efficiency, public accessibility and responsiveness and reduce the risk of fraud and abuse of public resources.

The Board is one of 15 regulatory boards in the state that operate with one or less full-time employees.

The Board's Small Number of Licensees Dictates Partnering with Other Regulatory Boards.

The Board is the smallest Chapter 30 Board with only 39 licensees. Because of the Board's financial limitations, it partners with the Board of Massage Therapy and the Board of Sanitarians to perform day-to-day operations, share staff, rent and other functions.² The Boards of Acupuncture and Massage Therapy entered into a Memorandum of Understanding (MOU) in 2008, and Board of Sanitarians was added in the MOU in 2017. MOUs are authorized by W. Va. §30-1-19 allowing boards to combine staff functions. The Board of Landscape Architects, and Hearing Aid Dealers and Fitters also share expenses under an MOU. Moreover, the Executive Director (Director) stated that the six regulatory boards located in the Summers Street building work together on an ad-hoc basis outside of formalized agreements. This demonstrates the need for small boards to work together and share staff and expenses.

The Board is the smallest Chapter 30 Board with only 39 licensees.

²*Doubling the Board of Acupuncture's initial licensing and renewal fees to \$850 biennially would increase annual revenue to an average of approximately \$16,500, which would still be inadequate to operate effectively.*

Table 3
Boards Working Under a
Memorandum of Understanding

<u>2008 MOU</u>	<u>2019 MOU</u>
Acupuncture	Landscape Architects
Massage Therapy	Hearing Aid Dealers
Sanitarians	

Source: The Board of Acupuncture.

The Board does not have the finances to employ full time or part-time staff, but under the MOU, the Executive Director of the Massage Therapy Board is staff for the three boards and the Board of Acupuncture reimburses Massage Therapy five percent of the Director's annual salary. Such cost-sharing arrangements are beneficial for boards under MOUs. **PERD found that at least 20 of the 30 regulatory boards audited since 2009 have three or less employees that may also benefit from consolidation.** Table 4 provides a list of those boards along with the number of licensees, expenditures and the number of employees.

The Board does not have the finances to employ full time or part-time staff, but under the MOU, the Executive Director of the Massage Therapy Board is staff for the three boards and the Board of Acupuncture reimburses Massage Therapy five percent of the Director's annual salary.

Table 4
Boards With Small Numbers of Staff That Could
Benefit From Combining Staff Functions

Board	2018 Licensees	2017 Expenditures	Full Time Employees
Accountancy	2,132	\$350,820	3
Acupuncture	39	\$12,456	0
Architects	1,195	\$140,247	1
Chiropractic Examiners	315	\$104,969	1
Examiners of Psychologists	644	\$116,566	1
Foresters	343	\$11,989	0
Funeral Services Examiners	1,181	\$194,499	2
Hearing Aid Dealers and Fitters	64	\$20,937	0
Medical Imaging and Radiation Therapy Technology	3,153	\$224,532	2
Landscape Architects	83	\$9,339	0
Licensed Dietitians	292	\$26,431	0.2
Massage Therapy Licensure	1,035	\$120,671	1
Occupational Therapy	1,284	\$85,149	0.65
Optometry	296	\$132,160	1
Respiratory Care Practitioners	1,723	\$122,666	1
Sanitarians	169	\$12,760	0
Social Work	4,026	\$192,658	2.7
Speech-Language Pathology and Audiology	1,166	\$135,546	1.6
Surveyors	884	\$164,762	1
Veterinary Medicine	1,258	\$258,282	1.75
TOTAL	21,282	\$2,437,439	20.9

Sources: PERD's review of each board's Annual Report (with the exception of Acupuncture, data were not audited).

A combined agency consisting of the 20 boards listed in Table 4 would license and manage less than 21,500 licensees and approximately \$2.5 million in annual expenditures. In comparison, the Board of Examiners for Registered Professional Nurses employs 13.5 full-time employees responsible for more than 34,000 licensees and expenditures of \$2.1 million annually. Given that the majority of Chapter 30 boards employ three or fewer employees, PERD conducted additional research regarding past Legislative Audits for the boards listed in Table 4 and others.³

A combined agency consisting of the 20 boards listed in Table 4 would license and manage less than 21,500 licensees and approximately \$2.5 million in annual expenditures.

³The Board of Acupuncture and Massage Therapy Licensure Board's Executive Director also became the Acting Executive Director for the Board of Funeral Service Examiners on September 11, 2019.

The Legislative Auditor Recommended Board Consolidation in 2010.

The Legislature studied the concept of a multi-professional agency in 2010. PERD completed a letter report, in response to House Concurrent Resolution Number 92, addressing the consolidation and cost savings of creating a multi-professional and occupational board. The report provided two consolidation scenarios which could have saved the board's approximately \$6,600 to \$158,000 annually in rent, as well as additional savings in shared staff. While this report is not an update of the 2010 report's projected savings, boards can reduce costs and improve efficiencies from consolidation. Moreover, the West Virginia House of Representatives introduced House Bill 2502 in 2011 to consolidate five boards.⁴

It is the recommendation of the Legislative Auditor that in order to resolve the problems and issues associated with the majority of small boards, the Legislature should consider the creation of a multi-professional agency. This agency would be similar in structure to 43 other states and the District of Columbia using some form of an umbrella structure.

The Board's director stated these boards could consolidate payroll, purchasing, and other day-to-day operations to operate more efficiently. Consolidation should also reduce duplicate expenses, such as individual phone numbers, rent, and utilities, as well as potentially lowering its Board of Risk and Insurance Management (BRIM) costs.⁵

The Director also stated consolidating boards could share in the cost for a new licensing database instead of each small board purchasing separate databases. Cost sharing would also reduce the individual board's annual licensing database maintenance fees. Furthermore, a consolidated multi-professional agency would allow greater access for the public, providing a centralized phone number, website, complaint process, and office location for the public. The merged staff would allow for proper segregation of duties, thus reducing the risk of fraud.

The Legislature studied the concept of a multi-professional agency in 2010.

Cost sharing would also reduce the individual board's annual licensing database maintenance fees.

⁴House Bill 2502 proposed consolidating the Boards of Acupuncture, Licensed Dietitians, Foresters, Hearing Aid Dealers, and Massage Therapy in 2011.

⁵The Director provided an example of when the Board of Sanitarians moved from the Department of Health and Human Services oversight, BRIM premiums rose from \$52 to \$2,700 annually.

Inadequate Staffing Led to Lack of Internal Control Findings for Small Boards and Commissions.

Since 2009, PERD has audited 30 of the state's 33 Chapter 30 boards and cited 20 of the boards listed in Table 4 for a lack of internal controls predominately due to inadequate staffing to properly segregate duties. The 20 boards listed in Table 4 have fewer than three full-time employees, with 14 of the boards employing one employee or less to complete all financial duties and perform other day-to-day operations. The size of the smaller boards' budgets is not adequate to employ the staffing levels necessary to properly serve the state's citizens. Inadequate staffing increases the risk of fraud in all of the boards listed in Table 4.

The Legislature Created the Office of Executive Secretary of Health Profession Licensing Boards in 1977 But the Consolidation Has Never Been Implemented.

It is important to note that the Legislature recognized the benefit of consolidating regulatory boards in 1977 when it created the Office of the Executive Secretary of Health Profession Licensing Boards to combine 15 health-related boards (W.Va. §30-1-15). These boards were to coordinate purchasing, record keeping and personnel under an executive secretary to achieve an efficient and economical arrangement. The Director of Health at that time was required to appoint the executive secretary of the consolidated board. However, this consolidation was never implemented. Three of the 15 boards (Board of Funeral Services Examiners, Sanitarians and Hearing Aid Dealers and Fitters) are currently under MOUs. Given the Legislature's intention to consolidate regulatory boards as early as 1977, and the present need to consolidate small boards, **the Legislative Auditor recommends that the Legislature consider the implementation of W. Va. §30-1-15, and the creation of a multi-professional regulatory board for small non-health related boards.**

Conclusion

The Legislative Auditor recommends consolidation with a centralized infrastructure of human resources, technology, and other necessary day-to-day functions to carry out licensing responsibilities. The multi-professional agency would not directly oversee or direct the actions and decisions of board members. Determinations regarding licensing qualifications and complaints would continue to reside solely with the appointed board members.

Establishing a multi-professional agency should reduce or eliminate future findings of lack of internal controls and segregation of duties. The agency should be staffed adequately to distribute job functions, thus reducing opportunities for fraud and duplicate costs.

Since 2009, PERD has audited 30 of the state's 33 Chapter 30 boards and cited 20 of the boards listed in Table 4 for a lack of internal controls predominately due to inadequate staffing to properly segregate duties.

Establishing a multi-professional agency should reduce or eliminate future findings of lack of internal controls and segregation of duties.

Moreover, a multi-professional agency provides improved access to assist the public in a more accessible capacity. Additionally, this improves all board operations and functions and ultimately saves revenue for each board and licensees.

The West Virginia Legislature should consider creating a multi-professional agency for small boards to reduce costs and provide better access to the public.

Recommendation

5. *The Legislative Auditor recommends the West Virginia Legislature consider creating a multi-professional agency; consolidating smaller boards to provide consistent daily operations, better public access, and more financial efficiency.*
6. *The Legislative Auditor recommends implementation of W.Va. Code §30-1-15.*

Additionally, this improves all board operations and functions and ultimately saves revenue for each board and licensees.

ISSUE 3

The West Virginia Board of Acupuncture Website Needs 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 5 indicates the West Virginia Board of Acupuncture (Board) integrates 42 percent of the checklist items in its website. The measure indicates that improvement is needed for the Board’s website to be more user-friendly and transparent.

The West Virginia Board of Acupuncture (Board) integrates 42 percent of the checklist items in its website.

Table 5 West Virginia State Board of Acupuncture 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%
	42%		
<i>Source: PERD staff’s review of the West Virginia State Board of Acupuncture website as of May 29, 2019.</i>			

The Board’s Website Scores Moderately Low 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.

PERD staff reviewed the Board’s website for both user-friendliness and transparency and found that the website needs enhancements in these areas.

PERD staff reviewed the Board’s website for both user-friendliness and transparency and found that the website needs enhancements in these areas (see Table 6). **The Board may want to consider adding more elements that could be beneficial to the public.**

Table 6
Website Evaluation Score by Category

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	7	39%
Transparency	32	14	44%
Total	50	21	42%

Source: PERD staff's review of the Board's website as of May 29, 2019.

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 text is on a 9th grade reading level, which is slightly 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:

- **Search Tool** - The website should contain a search box, preferably on every page.
- **Foreign language accessibility** - A link to translate all webpages into languages other than English.
- **Site Map** - A list of pages contained in a website that can be accessed by web crawlers and users.
- **Mobile Functionality** - The agency's website is available in a mobile version.
- **FAQ Section** - A page that lists the agency's most frequent asked questions and responses.
- **Feedback Options** - A page where users can voluntarily submit feedback about the website or particular section of the website.
- **Online survey/poll** - A page where users can voluntarily submit feedback.
- **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.
- **RSS Feeds** - This allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.

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.

The Website Has Transparency Features But Improvements Can Be Made.

A website that is transparent should promote accountability and provide information for citizens about how well the Board is performing, as well as encouraging public participation. The Board’s website has 44 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, its telephone number, and address.

The Board’s website has 44 percent of the core elements that are necessary for a general understanding of the Board’s mission and performance.

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

- **e-Publications**-The Board should provide updated annual reports, board meeting notices, updated board meeting minutes, and budget information the public may find useful on its website.
- **FOIA Information** - Information on how to submit a FOIA request, ideally with an online submission form.
- **Performance Measures/Outcomes** - A page linked to the homepage explaining the agency’s performance measures and outcomes.
- **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 application page with the Personnel Division.

The Legislative Auditor finds more improvements are needed to the Board’s website in the areas of user-friendliness and transparency.

Conclusion

The Legislative Auditor finds more 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 current licensees. The Board’s contact information is also provided, as are online items, such as complaint forms. However, providing website users with additional elements and capabilities, as suggested in the report, would improve user-friendliness and transparency.

Recommendation

7. *The Legislative Auditor recommends the Board make 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
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John Sylvia
Director

October 25, 2019

Linda Lyter, Executive Director
West Virginia Board of Acupuncture
Suite 711
179 Summers Street
Charleston, WV 25301-2122

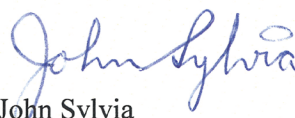
Dear Executive Director Lyter:

This is to transmit a draft copy of the West Virginia Board of Acupuncture report. This report is tentatively scheduled to be presented during the November 18-19, 2019 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 October 30, 2019. In addition, we need your written response by noon on Friday, November 1, 2019 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, November 14, 2019 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

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 Board of Acupuncture (Board) as authorized pursuant to W. Va. Code. The purpose of the Board, as established by *W. Va. Code* §30-36-1, is “to protect the life, health and safety of the public, any person practicing or offering to practice as an acupuncturist is required to submit evidence that he or she is qualified to practice, and is licensed as provided in this article.”

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 (*W. Va. Code* §30-36-et al.), determine if the rules and regulations protect the profession or the public, and if the Board’s office location is generally accessible to state citizens with special needs as it relates to selected guidelines from the American with Disabilities Act (ADA).

The second objective considers consolidation of smaller West Virginia Chapter 30 boards previously cited by PERD in the past for lack of segregation of duties into a multi-professional and occupation board.

Finally, it is also the objective of the Legislative Auditor to assess the Board’s website for user-friendliness and transparency.

Scope

The scope of Issue 1 includes calendar years 2016-18, and reviews of West Virginia Code relating to the Acupuncture Board to determine if the Board carried out its required obligations during the three year the audit period. The budget portion of the audit entails fiscal years 2016-18. The scope includes a review the Board’s rules and regulations and if the rules and regulations protect the public or industry. Finally, the scope includes a walkthrough of the Board’s office location regarding accessibilities to state citizens with disabilities.

The scope of Issue 2 covers calendar years 2009-19 and prior Chapter 30 PERD reports during the audit period. Additionally, PERD’s review covers other boards’ most current annual reports for the number of licensees and financial information and staffing.

The scope of Issue 3 includes a review of the key features of the Board’s website. PERD will review all the Board’s website pages for user-friendliness and transparency.

Methodology

For Issue 1, PERD requested all the required documents and information required in *W. Va. Code* §30-1-et al. and *W.Va. Code* §30-36-et al. The primary source of information for Issue 1 was from the Acupuncture Board. Specifically, PERD requested, collected and analyzed the Board’s meeting minutes,

meeting notices, complaint data, budgetary information, annual reports, procedures for investigating and resolving complaints, continuing education, board member oaths, board member travel and reimbursements, continuing education documents, roster, register, seals, and procedures for collecting revenue and disbursing expenditures. Additionally, the audit team determined if the Board asked applicants about child support and workers compensation verification information as required by law on the appropriate applications. PERD used information from the West Virginia Secretary of State's online database, Charleston phonebook, and additional budget information was obtained from the wvOASIS System Information database.

PERD staff used selected portions of the ADA to determine if the Board's office location is generally handicap accessible. The review was not a determination of whether the board's office or building which houses the board's office is ADA compliant. The audit team used professional judgment and ADA guidelines to determine if the building provides disabled persons reasonable access. The primary source for this portion of the report is the ADA checklist for existing facilities. PERD will use the checklist and measure and take photos with a tape measure to determine if parking, entrance doors, elevator doors, hallways, office space meeting minimum ADA requirements. Additionally, PERD measured and photographed ADA bathrooms in the building to determine what portions of the bathroom(s) meet the guidelines.

PERD also reviewed the legislative and procedural rules of the board to determine if the rules and regulations, using professional judgment, protect the industry or the public. The primary source is from the West Virginia code on the West Virginia Legislature's website.

For Issue 2, the primary sources of information included testimonial information from the Executive Director of the Acupuncture Board, prior PERD reports, appropriate sections of West Virginia Code, and other boards' annual reports. Audit staff reviewed all Chapter 30 board reports issued by PERD since 2009 to determine the number of boards cited for internal control findings predominately related to lack of adequate staffing. Ten larger Chapter 30 boards not considered for consolidation into the multi-professional agency were for comparison purposes. PERD also reviewed a 2010 letter report to the West Virginia Legislature recommending the creation of an umbrella board.

For Issue 3, 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 regard 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			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	7
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	0
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	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	0
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			
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	0
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	0
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	14
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1
Physical Address	General address of stage 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	0
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	0
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	2

Website Criteria Checklist and Points System			
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	0
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
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	<p>The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points:</p> <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licenses • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	1
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	0
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0

Website Criteria Checklist and Points System

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	0
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

PERFORMANCE EVALUATION

DEC 2 2019

AND RESEARCH DIVISION



179 Summers Street, Suite 711
Charleston, WV 25301

304-558-1060 phone
304-558-1061 fax

~State of West Virginia~
Board of Acupuncture

November 26, 2019

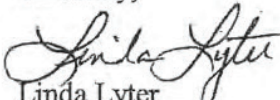
John Sylvia, Director
WV Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305

Dear Director Sylvia,

I want to take this opportunity to thank you for working with me on scheduling and various deadlines throughout this audit. It was a pleasure working with you and your staff. Enclosed is the boards response to the audit. I plan on attending the legislative interim meeting of the Joint Committee on Government Operations and the Joint Committee on Government Organization on December 16 or 17, 2019.

Thanks again for your consideration throughout this audit.

Sincerely,


Linda Lyter
Executive Director

The West Virginia Board of Acupuncture Audit Response

Issue 1: The West Virginia Board of Acupuncture Complies With Most General Provisions of Chapter 30 of the W. Va. Code.

The Board of Acupuncture is in agreement with the audit findings that the Board is in compliance with most of the general provisions of Chapter 30 of the W. Va. Code.

The Board is currently financially self-sufficient. Although, the audit report is concerned with maintaining financial self-sufficiency. During the audit period, the board did have expenditures related to legal fees and hearing costs. This is the only hearing the Board has had in over ten years. These fees were paid in two fiscal years so it directly affected the expenditures and revenues for fiscal years 2017 and 2018.

The Board does agree with the findings regarding future potential legal fees and hearing costs. If the revenue continues to decline and expenditures increase, the Board may need to consider increasing the license fees. The Board has not increased fees since it was created in 1996. The Board will not increase fees unless it is absolutely necessary. Beginning in Fiscal Year 2020, the Board now has another source of revenue. Hopefully, a fee increase will not be a necessity.

The Board does, at times, lack controls in relation to the segregation of duties. Although, when the part-time staff for the Massage Therapy Board is in the office, she opens and stamps in all of the mail and copies the checks and places them in a secure location until deposited.

Once the Board was made aware of a member that had not completed the oath of office, the board member took care of this as soon as possible and it was submitted to the Secretary of State's Office on July 24, 2019.

The Boards office is accessible to the public.

The Board does maintain a register of all applicants. It currently does not include all of the required information for all licensees. The Board has recently created a new database to include all of the required information and is working to add this information into the database.

The Board will encourage more online renewal payments and will research the State Treasurer's Office lock box system.

The Acupuncture Board reviews and verifies the continuing education certificates for

those licensees who are randomly selected for an audit on an annual basis. Once the continuing education certificates are verified, they are shredded. The Board will correct this and maintain a record of the continuing education for those licensees audited.

Issue 2: The Board of Acupuncture and Many Other Small Boards Could Benefit From Improved Operations and Efficiency Through the Development of a Multi-Professional Agency.

In 2004, the Acupuncture Board was audited and some of the findings of the audit report were: limited accessibility to the public, no staff, the recommendation to create a health care board to oversee all minor related state boards or to merge with another health related board.

In the 2007 audit report, some of the findings were for the Department of Health and Human Resources (DHHR) to provide staff and support to the Acupuncture Board. This was similar in nature to the services they provided for the Board of Sanitarians and the Board of Hearing Aid Dealers. Approximately 4 to 5 years ago, there was legislation passed to move Hearing Aid Dealers out of DHHR and approximately 2 to 3 years ago there was legislation passed to move the Board of Sanitarians out of DHHR.

Another issue of the 2007 audit, was the Board still did not have a permanent office location. As a result of the audit and in order for the Board to maintain a permanent office space and administrative staff; it was necessary for the Acupuncture Board to approach another licensing board. Since I had worked with most of the licensing boards while an employee at the Department of Administration, the Board approached me to inquire if they could share office space and staff with the Massage Therapy Board. Both boards agreed and a Memorandum of Understanding (MOU) was signed by both of the boards in 2008. This was a direct result of the audit report and is reflected in the MOU which was prepared by attorneys from the Attorney General's office.

After the Board of Sanitarians were moved out of DHHR a few years ago, they also approached me to share financial administrative staff functions for their board. The MOU was then updated to include them. All boards involved must agree and vote to include a board in a MOU.

Due to the necessity of needing office space and staff, another smaller board, the Board of Landscape Architects was interested in combining boards. I then approached the Board of Hearing Aid Dealers to inquire if they would want to enter into a MOU. Both boards and staff agreed. They now share staff and operate in the same office space. They are located within the same building as the Acupuncture Board.

In September of this year, I was approached by the Board of Funeral Service Examiners to step in and assist them. They were moving in a new direction and were replacing some of the staff. They are now included in the new MOU. Most of the boards are located in the same office building except for the Board of Sanitarians.

It is obvious that out of necessity, some of the smaller boards have had to work together to share office space and administrative staff. This is not only economically feasible, but necessary to operate and administer the functions of the boards.

The Acupuncture Board would support the creation of a multi-professional agency if it was done correctly. I have worked with the licensing boards for over 24 years in different capacities. I have always strived to achieve ways to enhance efficiencies including participating in the planning of the annual licensing board training. A multi-professional agency could potentially decrease costs for various expenditures for the smaller boards involved, such as sharing the cost of a licensee database, BRIM premiums, rent expense, etc.

I also serve as the President of the WV Association of Licensing Boards. A couple of years ago, the Association formed a committee of various board staff to research the smaller boards and report back to the full membership. It was the committee's conclusion, some of the smaller boards could definitely benefit from the sharing of office space and staff. The boards also discuss and address legislative issues that affect all of the Chapter 30 Boards. We consistently work together to improve processes and efficiencies.

As I was processing and paying invoices for the Sanitarians Board after their transition from DHHR, I learned the Board of Risk and Insurance (BRIM) premiums for this Board were \$52.00 per year. This was due to the premium being distributed among many sections and divisions within DHHR. Once an account was created for their own individual board, the annual premium increased to \$2,700.00. This was a significant increase in premiums for a board with a small budget and revenue. Some of these smaller boards do not generate enough revenue to support having their own individual office.

In regards to W.Va. Code §30-1-15, this section of code is outdated. In order to implement this section of code, it would be necessary to modify and update it.

In conclusion, I would be happy to work with the legislature to find a solution to assist the smaller boards.

Issue 3: The West Virginia Board of Acupuncture Website Needs Improvements to Enhance User Friendliness and Transparency.

The Board has already made some improvements and updated the website. The Board will continue to provide updates and improvements to the website to increase user friendliness and transparency.



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

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

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