

Regulatory Board of Evaluation

**Board of Examiners
of Psychologists**

**The Board of Examiners of Psychologists Is
Necessary to Protect the Public**

**The Board Is In Compliance With Most Chapter 30
Provisions of West Virginia Code**

**The Board of Examiners of Psychologists Disagrees
on Creating Separate Licenses for Masters and
Doctoral Trained Psychologists**



**July 2006
PE 06-12-385**

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John Sylvia
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July 24, 2006

The Honorable Edwin J. Bowman
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The Honorable J.D. Beane
House of Delegates
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1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Regulatory Board Evaluation of the Board of Examiners of Psychologists, which will be presented to the Joint Committee on Government Operations on Monday, July 24, 2006. The issues covered herein are "The Board of Examiners of Psychologists Is Necessary to Protect the Public;" "The Board Is In Compliance With Most Chapter 30 Provisions of West Virginia Code;" and "The Board of Examiners of Psychologists Disagrees on Creating Separate Licenses for Masters and Doctoral Trained Psychologists."

We transmitted a draft copy of the report to the Board of Examiners of Psychologists on June 21, 2006. We held an Exit Conference with the Board on July 6, 2006. We received the agency response on July 13, 2006.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

JS/jda

Joint Committee on Government and Finance

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Executive Summary

Issue 1: The Board of Examiners of Psychologists Is Necessary to Protect the Public.

The Legislative Auditor has determined that there is a need for the Board of Examiners of Psychologists to protect the health and safety of the public. Without regulation, the public can be harmed through the unqualified or unprofessional practice of psychology. The finding of this issue is that licensing psychologists is necessary for public protection.

Without regulation, the public can be harmed through the unqualified or unprofessional practice of psychology.

Issue 2: The Board Is In Compliance With Most Chapter 30 Provisions of West Virginia Code.

The Board of Examiners of Psychologists is in compliance with most general provisions of Chapter 30 of West Virginia Code and other applicable laws. The Board has made improvements since the 2002 Regulatory Board Evaluation. In the 2002 evaluation the Board was not in compliance with the Open Governmental Proceedings Act (§6-9A). Documentation provided by the Secretary of State's Administrative Law Division showed only one meeting notice filed from June 1999 to June 2002. The current analysis shows that all the Board meetings were published in the State Register and the Board is now in compliance with the Open Governmental Proceedings Act.

The Board has made significant improvement in the time required to process the complaints and make decisions regarding disciplinary actions. However, the Board is still not complying with the 60-day requirement stating that an investigator review, investigate and present a report to the Board within 60 days.

The 2002 evaluation also found complaints were taking too long to process. Furthermore, the Board was not adhering to its 60-day rule regarding complaints that result in investigations. The Board has made significant improvement in the time required to process the complaints and make decisions regarding disciplinary actions. However, the Board is still not complying with the 60-day requirement stating that an investigator review, investigate and present a report to the Board within 60 days. The Board is financially self-sufficient but there are still relatively low end-of-year balances although the Board increased fees in 2003. Continuing education of licensees is required and audited. The Board is accessible to the public, meets regularly and maintains adequate records of its meetings.

The Legislative Auditor has concerns with the Board requiring that the executive director be a licensed psychologist. The Board has not established any policies or procedures for staff to follow in renewing the executive director's license, or processing a complaint against the executive director's license.

The Legislative Auditor has concerns with the Board requiring that the executive director be a licensed psychologist. The Board has not established any policies or procedures for staff to follow in renewing the executive director's license, or processing a complaint against the executive director's license. The Legislative Auditor also examined the membership of the Board. The Board has operated for the past three years with a vacancy. Some of the members have served on the Board for extended periods of time because there are no term limits set in WVC §30-21. The Legislative Auditor found all five bordering states limit the time that members on psychology licensing boards can serve.

Issue 3: The Board of Examiners of Psychologists Disagrees on Creating Separate Licenses for Masters and Doctoral Trained Psychologists.

The state of West Virginia is the only psychology licensing board in the United States to issue the same license and title of “psychologist” to those with masters and doctorate degrees.

In 2005, the West Virginia Board of Examiners of Psychologists proposed conferring the title of “Psychologist” only to doctoral trained applicants. At the same time, the Board proposed creating a “psychological practitioner” category of license for masters trained individuals that would include a narrower scope of practice. The majority of states in the country license only individuals with doctorate degrees as “psychologists”, although 25 states allow individuals with a masters degree to be licensed with some type of licensure recognition. Vermont has a unique approach to licensure. The educational attainment of the psychologist is denoted after the common title of “psychologist” such as “psychologist-master” or “psychologist-doctorate.” The state of West Virginia is the only psychology licensing board in the United States to issue the same license and title of “psychologist” to those with masters and doctorate degrees.

Since West Virginia has a shortage of psychologists with the present licensing of psychologists, the creation of two licenses and a restricted scope of practice for masters level degrees could impact the provision of services in the long run.

The Board’s proposed change to create two licenses for persons working in the field of psychology would benefit the citizens of the state by informing the public of the educational attainment of the licensee. However, since West Virginia has a shortage of psychologists with the present licensing of psychologists, the creation of two licenses and a restricted scope of practice for masters level degrees could impact the provision of services in the long run. Unless the growth in doctoral degree psychologists is adequate in the long run, a shortage of services in various locations in the state could occur. West Virginia is hindered in changing the licensing requirements due to the lack of existing psychologists, the small numbers of doctoral trained graduates from state institutions, the present division of the Board on the issue, and the active opposition of several organizations.

Recommendations

1. *The Legislative Auditor recommends that the Legislature continue the Board of Examiners of Psychologists.*
2. *The Legislative Auditor recommends the Board develop and implement written policies and procedures to safeguard the regulatory process in regard to handling complaints and renewal of the executive director’s license.*
3. *The Board should consider removing the requirement that the executive director must be a licensed psychologist.*
4. *The Legislature should consider legislation to set term limits for the members of the Board of Examiners of Psychologists.*

-
5. *The Board of Examiners of Psychologists should take all steps available to it to fill the vacant lay member position on the Board.*
 6. *The Board of Examiners of Psychologists should examine its complaint investigation process in order to comply with §17-4-5.15 of the Code of State Rules.*
 7. *The Board of Examiners of Psychologists should review its fee structure and its expenditures in order to achieve more prudent end-of-year balances.*

Review Objective, Scope and Methodology

Objective

This Regulatory Board Evaluation of the Board of Examiners of Psychologists is authorized by the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia Code. The evaluation is required to assess whether the public interest requires that the Board be continued; whether the Board complies with the policies and provisions of Chapter 30 of the West Virginia Code, and all other applicable laws and rules; and whether the Board follows a disciplinary procedure which observes due process rights and protects the public interest.

Scope

This Regulatory Board Evaluation covers the period from January 2002 to June 2006. This evaluation examined the Board's compliance to Chapter 30 requirements, financial self-sufficiency, public accessibility, and the complaint process. The financial information obtained by the Legislative Auditor dates from 1998 to 2006. The Legislative Auditor reviewed complaint files from 1997 to 2006.

Methodology

The Legislative Auditor examined the Board's administrative requirement that the executive director be a licensee. The evaluation reviewed the membership of the Board. The Legislative Auditor examined the licensing standards of the Board in regard to restricting psychology licenses to applicants with doctoral degrees. Information compiled in this evaluation was acquired from the West Virginia Code, interviews with the Board's executive director and administrative assistant, meeting minutes, examination of annual reports, the Digest of Revenue Sources in West Virginia, information from other states' licensing boards, web sites, statutes, and statements from several associations and individuals supporting and opposing changing the licensing requirements of psychologists. The review of the complaint process included cases that were opened an extended amount of time to determine if improvements were made in the complaint process. Every aspect of this evaluation complied with **Generally Accepted Government Auditing Standards (GAGAS)**.

Issue 1

Issue 1: The Board of Examiners of Psychologists Is Necessary to Protect the Public.

The West Virginia Board of Examiners of Psychologists is the regulatory body that oversees the profession of psychology. The seven-member Board is responsible for licensing psychologists and school psychologists. As of May 2006, there were 590 licensees, with 477 working within the state. Of those 590 licensees, 516 are psychologists and 74 are school psychologists.

As of May 2006, there were 590 licensees, with 477 working within the state.

Psychology involves principles, methods and procedures of understanding, predicting and influencing behavior. Psychologists treat individuals experiencing problems with adjustment, emotions and learning. School psychological services include activities that promote mental health and facilitate the education of school age children on school board property. Psychologists can have considerable influence over their patients. Their patients are emotionally vulnerable and are sometimes a danger to themselves and others. In the most serious cases, psychologists treat patients who are suicidal or homicidal. Psychologists also render opinions in legal matters, including competency to stand trial, length of jail terms, guilt or innocence, custody and visitation. Psychologists are in a unique position to be able to abuse, mislead and misinform patients. Incompetent or unethical psychologists can cause significant damage to individuals. Violations of confidentiality can cause public humiliation and financial losses to patients.

Psychologists can have considerable influence over their patients.

In West Virginia, a license to practice psychology requires a graduate degree in psychology or the equivalent from an accredited institution of higher learning, supervised professional experience, and successful completion of the written and oral examination in accordance with the Association of State and Provincial Psychology Boards. West Virginia gives the title of “psychologist” to recipients of both masters and doctoral degrees. The majority of private or public insurance carriers require licensure or regulation of the profession of psychology in order for treatment to be covered.

Licensure is required in all 50 states and the District of Columbia in order to practice psychology.

It is the opinion of the Legislative Auditor that public protection is provided by the Board of Examiners of Psychologists.

Licensure is required in all 50 states and the District of Columbia in order to practice psychology. The West Virginia Board of Examiners of Psychologists enforces ethical standards for psychologists, responds to complaints and assures that psychologists complete a rigorous application and supervision process. It is the opinion of the Legislative Auditor that public protection is provided by the Board of Examiners of Psychologists.

Recommendation

1. *The Legislative Auditor recommends that the Legislature continue the Board of Examiners of Psychologists.*

Issue 2

Issue 2: The Board Is In Compliance With Most Chapter 30 Provisions of the West Virginia Code.

The Board of Examiners of Psychologists complies with most applicable laws and rules. These laws and rules, found within the Board's own article of the Code and in the general provisions of Chapter 30, are important in the effective operation of a licensing board. The Board is in compliance with the following general provisions of Chapter 30:

- An official seal has been adopted (§30-1-4).
- The Board meets at least once annually (§30-1-5(a)).
- The Board maintains a record of its proceedings (§30-1-12(a)).
- A staff member of the Board has attended the orientation session provided by the State Auditor (§30-1-2a(b)).
- The Board's address and telephone number are listed in the State Government listing of the Charleston area telephone book (§30-1-12).
- An annual report has been submitted to the Governor and Legislature describing the transactions since the last regulatory board evaluation (§30-1-12(b)).
- The Board has a register of all applicants with the appropriate information specified in code (§30-1-12(a)).
- The Board maintains a complete roster of licensees (§30-1-13).

In 2002, the Legislative Auditor found three areas of non-compliance to requirements in West Virginia Code.

The Board was not in compliance with WVC §30-1-2a(b), which requires an officer of the Board to attend the annual orientation session provided by the State Auditor.

The Board's staff is now in compliance.

The Board Has Made Improvements Since the 2002 Legislative Evaluation

In 2002, the Legislative Auditor found three areas of non-compliance to requirements in West Virginia Code. Two of the non-compliant areas were within Chapter 30 requirements for training and requirements for mandatory information to be included in the register of applicants. In addition, the Board of Examiners of Psychologists was not in compliance with the Open Governmental Proceedings Act.

Orientation Session

The Board was not in compliance with WVC §30-1-2a(b), which requires an officer of the Board to attend the annual orientation session provided by the State Auditor. The previous audit revealed that after the departure of the employee who attended the orientation training, no board member or staff person had attended this orientation since June 10, 1999.

The Board's staff is now in compliance after receiving the training in September 2002.

Complete Register of Applicants

The general requirement of WVC Chapter 30 specifically instructs boards to maintain a register of all applicants (§30-1-12(e)). The 2002 Regulatory Board Evaluation showed the register of applicants was not in compliance. The Board's documentation lacked age of applicant; whether an examination was required; license number; renewals; suspensions or revocations. The Board has now developed a computerized register of applicants with information required by West Virginia Code and state laws, and is in compliance with these requirements.

The Board has now developed a computerized register of applicants with information required by West Virginia Code and state laws, and is in compliance with these requirements.

Open Governmental Proceedings Act

In the 2002 evaluation the Board was not in compliance with the Open Governmental Proceedings Act (§6-9A). Documentation provided by the Secretary of State's Administrative Law Division showed only one meeting notice filed from June 1999 to June 2002. An analysis of meeting minutes for the previous regulatory board evaluation indicates that the Board met 20 times between January 1999 and April 2002. The current analysis shows that all 42 meetings were published in the State Register from January 2002 to January 2006 and the Board is now in compliance with the Open Governmental Proceedings Act.

The Board Has Made Progress In Timely Complaint Resolution

The primary problem found as a result of the 2002 Regulatory Board Evaluation was that complaints were taking too long to process. In addition, many of the complaint files that were reviewed had incomplete information. Finally, the Board was not adhering to its 60-day rule regarding complaints that result in investigations. This rule requires an investigation report to be made to the Board within 60 days. Based on the present review of the Board's complaint files, this requirement is still not being met.

The Board is now in compliance with the Open Governmental Proceedings Act.

The Complaint Process

Any person, firm, corporation, member of the Board or public officer may make a complaint to the Board. The Board accepts complaints in any written form, but requests an official form be completed to start the ethical inquiry process. Once a complaint is received, the Board forwards a complaint to the licensee and requests a response within 30 days. When the licensee responds, a copy of the response is forwarded to the complainant, who is given 20 days to submit a written reply. After the review of a complaint, the Board is authorized to conduct an investigation if it determines one is necessary. Investigations are assigned to an investigator who is required by rule (§17-4-5.14) to report to the Board

within 60 days. The current investigator is a licensed psychologist who volunteers his time and is a former board member. After the investigator issues a recommendation, the Board meets to review the case and vote. The complainant and licensee are notified of the Board's decision. Complaints can be decided in several ways. They are:

The current investigator is a licensed psychologist who volunteers his time and is a former board member.

Table 1 shows the decisions made by the Board regarding all complaints that the Board has closed since 1997.

- No violation;
- No violation-educative letter. The Board can find no violation has occurred. In many no violation cases, licensees are issued an educative letter written by the executive director of the Board to transmit advisory and instructional information to the licensee;
- Violation/Reprimand;
- Violation/Consent Decree;
- Violation/Removal of License or License Eligibility

The Board also closes some complaints for lack of information, and sometimes the person making a complaint withdraws the complaint. Table 1 shows the decisions made by the Board regarding all complaints that the Board has closed since 1997.

Table 1 Disposition of Complaints 1997-2006	
Action	Number of complaints
No Violation	18
No Violation-Educative Letter	9
Violation-Reprimand	2
Violation-Consent Decree	2
Violation-Revocation of License Eligibility	1
Withdrawn	1
Closed-Lack of Evidence	5
Total	38
<i>Data Source: Board of Examiners of Psychologists 2002-2006 Ethical Inquiry Listing</i>	

2002 Findings

In the 2002 Regulatory Board Evaluation, after reviewing a sample of ten complaints from a three year period, the Legislative Auditor noted that the complaint process could be more timely. Nine of the ten cases required an investigation but only six had enough documentation in the file to determine the length of investigation. In the remaining three cases, investigations took five to nine months to complete, even though §17-4-5.14 of the Code of State Rules requires the investigator to provide the Board with

a report in 60 days upon receipt of a complaint and the psychologist's or supervised psychologist's response as well as any supporting documentation.

The Legislative Auditor examined 38 closed complaints dating from 1997. These complaints include ones that were open during the previous report. The Legislative Auditor found the Board improved the timeliness of the complaint process for complaints received after 2002.

The Legislative Auditor found documentation and procedures used by the Board to be effective in ensuring timeliness.

The Legislative Auditor found only one complaint which could have been subject to the new time requirements. However, the length of the case did not require the Board to send a status report to the complainant.

The Board is still not complying with the 60-day requirement in its rule that complaints requiring an investigation be investigated, and a report be made to the Board within 60 days.

2006 Findings

The Legislative Auditor examined 38 closed complaints dating from 1997. These complaints include ones that were open during the previous report. The Legislative Auditor found the Board improved the timeliness of the complaint process for complaints received after 2002. The Legislative Auditor divided the complaints into two categories, old complaints and new complaints. The first category consisted of ten complaints which were opened before 2002. It took the Board an average of 35 months to resolve the old complaints. For six of the old complaints the Board determined that there were no violations, although one licensee received an educative letter. Three of the old complaints were closed with no finding. The Board took only one disciplinary action with the old complaints when it issued a public reprimand to the licensee.

The second category of new complaints consisted of 28 complaints received after 2002. The Legislative Auditor found that the Board resolved the newer complaints in 8.4 months. The Legislative Auditor found documentation and procedures used by the Board to be effective in ensuring timeliness.

In June 2005, Chapter 30 of the West Virginia Code was amended to place limits on the length of time boards take in resolving complaints. According to WVC§30-1-5(c):

Every board...has a duty to investigate and resolve complaints which it receives and shall, within six months of the complaint being filed, send a status report to the party filing the complaint... and within one year of the status report's return receipt date issue a final ruling...."

The Legislative Auditor found only one complaint which could have been subject to the new time requirements. The complaint was only open for two months. However, the length of the case did not require the Board to send a status report to the complainant as specified in §30-1-5(c).

The Board has made significant improvement in the time required to process complaints and make decisions regarding disciplinary action. However, the Board is still not complying with the 60-day requirement in its rule that complaints requiring an investigation be investigated, and a report be made to the Board within 60 days. This could be due to the nature and complexity of the ethics investigations, and is compounded by the lack of investigators. The Board should consider forming an investigation committee with members from each region in the state, and obtaining investigation training for the committee members from the Council on Licensure, Enforcement and Regulation.

The Board Is Financially Self-Sufficient But There Are Some Concerns

Table 2 shows that although the Board is financially self sufficient, its end-of-year balances since FY 2003 have been precariously low for a board with annual expenditures around \$100,000. The Board increased fees in FY 2003; however, the fee increases would not impact revenues until FY 2005 when license renewals would occur. Revenue increased in FY 2005, however, expenditures also increased proportionately, which resulted in a modest increase in the end-of-year balance. The level of the Board's expenditures is fairly consistent within the \$90,000 to \$120,000 range over the past several years. However, revenues are more erratic, ranging from \$76,000 to \$123,000. While the Legislative Auditor cannot determine the exact cause of the low year-end balances, the figures call for close examination by the Board to determine a way to achieve more prudent end-of-year balances.

Although the Board is financially self sufficient, its end-of-year balances since FY 2003 have been precariously low for a board with annual expenditures around \$100,000.

Fiscal Year	Revenue	Expenditures	End-of-Year Balance
1999	\$90,607.60	\$66,642.56	\$47,792.03
2000	\$101,507.30	\$105,978.60	\$43,320.73
2001	\$112,081.55	\$95,983.03	\$59,419.25
2002	\$81,049.76	\$98,644.07	\$41,824.94
2003	\$76,543.55	\$111,402.48	\$6,966.01
2004	\$97,537.18	\$90,713.95	\$13,789.24
2005	\$123,697.53	\$121,297.74	\$16,189.03
2006*	\$79,255.00	\$87,780.99	\$7,663.04

*Data Source: West Virginia State Auditor's Office
As of February 2006.

While the Legislative Auditor cannot determine the exact cause of the low year-end balances, the figures call for close examination by the Board to determine a way to achieve more prudent end-of-year balances.

Continuing Education is Required and Audited

The Code of State Rules, §17-2-9, addresses license renewals. It provides for continuing education requirements for psychologists and school psychologists. Licensed psychologists are required to obtain 20 direct contact hours of Board-approved continuing education credits during the first two years of licensure and every two years thereafter. School psychologists are required to obtain 30 hours of continuing education credits or a valid National Certification card issued by the National Association of School Psychologists. The licensee is directed to present evidence of compliance with continuing education requirements on his or her application for license renewal. Before June 2006, the Board audited 10% of its

licensees during the quarterly license renewal process. The Board is now auditing all license renewals for the continuing education requirement.

The Legislative Auditor has Concerns with the Board Requiring that the Executive Director Be A Licensed Psychologist

The Legislative Auditor does not have a concern with the executive director also being a licensed psychologist, but is concerned with the Board making this a requirement of employment.

A qualification for the Board's part-time executive director position is that the executive director "Must be [a] licensed psychologist." The Legislative Auditor does not have a concern with the executive director also being a licensed psychologist, but is concerned with the Board making this a requirement of employment. While Ohio has an executive director who is also a licensed psychologist, this is not a requirement of the executive director position. Further, this is not required by the psychology licensing boards of the other surrounding states for their executive directors. In addition, the West Virginia Board of Examiners of Psychologists allows the executive director to practice as a licensed psychologist. The Legislative Auditor questions the requirement that the executive director must be a licensed psychologist. Also, the Board has not established any policies or procedures for staff to follow in renewing the executive director's license, or processing a complaint against the executive director's license. **It should be noted that the Legislative Auditor did not find any evidence that any problems or complaints exist with the present executive director.** The concerns raised are to acquaint the Board with the possible complications of its administrative requirement that its executive director be a licensed psychologist.

The Board has had a lay member vacancy since 2003, and some members have served on the Board for extended periods of time. This is because there are no term limits set in WVC §30-21.

The Legislative Auditor has Concerns with the Vacancy on the Board and the Lack of Term Limits for Board Members

The Board has had a lay member vacancy since 2003, and some members have served on the Board for extended periods of time. This is because there are no term limits set in WVC §30-21. The Code requires that members of the Board be appointed for overlapping terms of three years each but states that members may be reappointed for any number of terms. In the past 20 years of the Board's history, membership averages 6.3 years although individual Board members have served for longer periods. The longest serving board member had a tenure of 17 years on the Board. The Legislative Auditor notes the Board addressed the concern of term limits in May 2004 when the Board proposed several revisions to the psychology licensing law including limiting service on the Board to three successive terms. Term limits help a board maintain new perspectives and ideas.

All five bordering states set limits on the maximum terms that members on psychology licensing boards can serve.

The Legislative Auditor found that all five bordering states set limits on the maximum terms that members on psychology licensing boards can serve. Table 3 shows the term limits set by the five neighboring states.

Table 3 Term Limits of Border States		
State	Length of term	Maximum Time on Board
Kentucky	4 years	8 years
Maryland	4 years	8 years
Ohio	5 years	10 years
Pennsylvania	4 years	8 years
Virginia	4 years	8 years

Data Source: Compiled by PERD review of 5 state psychology licensing board statutes and codes.

Conclusion

The Board should review its fee structure and expenditures to determine how it can achieve more prudent year-end balances.

The Board does not address the potential problems arising from the stipulation that the executive director be a licensee. There should be established procedures to safeguard the regulatory process in regards to the executive director's license.

The Board of Examiners of Psychologists complies with most of the general provisions of Chapter 30 of the West Virginia Code. The Board is accessible to the public through its office, telephone listing and internet website. The Board meets regularly and maintains adequate records of meetings. Although the Board is financially self sufficient, there are concerns that its end-of-year balances are relatively low for a board of its size. The Board should review its fee structure and expenditures to determine how it can achieve more prudent year-end balances. The Board requires and audits the continuing education of licensees. The Board has improved the completeness of its complaint files and the timeliness of its complaint resolution since the 2002 Regulatory Board Evaluation. The Board still needs to improve on compliance to its 60-day rule which requires that an investigator's report be made to the Board within 60 days. The Board does not address the potential problems arising from the stipulation that the executive director be a licensee. There should be established procedures to safeguard the regulatory process in regards to the executive director's license. Such safeguards might be accomplished through the development of written policies and procedures to handle complaints and the renewal process of the executive director's license. Finally, the Board has operated for the past three years with a vacant position, and WVC §30-21 allows board members to serve unlimited consecutive terms. Term limits could help maintain new perspectives and keep the board responsive to the public.

Recommendations

- The Legislative Auditor recommends the Board develop and implement written policies and procedures to safeguard the regulatory process in regards to handling complaints and renewal of the executive director's license.*

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3. *The Board should consider removing the requirement that the executive director must be a licensed psychologist.*
 4. *The Legislature should consider legislation to set term limits for the members of the Board of Examiners of Psychologists.*
 5. *The Board of Examiners of Psychologists should take all steps available to it to fill the vacant lay member position on the Board.*
 6. *The Board of Examiners of Psychologists should examine its complaint investigation process in order to comply with §17-4-5.15 of the Code of State Rules.*
 7. *The Board of Examiners of Psychologists should review its fee structure and its expenditures in order to achieve more prudent end-of-year balances.*

Issue 3

Issue 3: The Board of Examiners of Psychologists Disagrees on Creating Separate Licenses For Masters and Doctoral Trained Psychologists.

The majority of states in the country license only individuals with doctorate degrees as “psychologists.”

The Board proposed creating a “psychological practitioner” category of license for masters trained individuals that would also include a narrower scope of practice.

The public interest would be served if the public were made aware of the educational distinction between psychologists with a masters or doctorate degree. However, restricting the title of psychologist and its scope of practice to only those with a doctoral degree could limit the psychological services available in the state.

The majority of states in the country license only individuals with doctorate degrees as “psychologists.” In these states individuals with masters degrees in psychology cannot function as licensed psychologists. In 25 states, individuals holding masters degrees can be licensed with some type of licensure recognition. In 23 of these states, individuals with masters degrees in psychology would be licensed by the psychology board, but with a title other than “psychologist,” such as “psychological practitioner” or “psychological associate.” Eight of these states allow individuals with masters degrees in psychology to practice independently under various titles of licensure. The exceptions are West Virginia and Vermont. The state of Vermont has a unique approach. It confers the title of “psychologist,” but it makes the distinction between masters and doctorate degrees by giving the titles “psychologist-master” and “psychologist-doctorate.” **The West Virginia Board of Examiners of Psychologists is the only psychology licensing board in the United States to grant without distinction the same license and the title “psychologist” to those with masters or doctorate degrees.**

The West Virginia Board has made several attempts in the past three decades to change the educational standard for licensing psychologists. The most recent attempt to revise the state code was in 2005. If this revision had been successful, the Board would conform to the American Psychological Association’s definition of a psychologist as having a doctoral degree. The Board proposed creating a “psychological practitioner” category of license for masters trained individuals that would also include a narrower scope of practice. West Virginia is hindered in making such a revision to its psychology licensing requirements by the existing lack of psychologists with either masters or doctoral level training in the state, the present division of the Board on this issue, and the active opposition of several organizations.

The Legislative Auditor understands that the public interest would be served if the public were made aware of the educational distinction between psychologists with a masters or doctorate degree. However, restricting the title of psychologist and its scope of practice to only those with a doctoral degree could limit the psychological services available in the state due to the small number of doctoral trained psychologists now in practice, and the relatively small number who graduate annually from state institutions of higher education. This could contribute further to the existing crisis in the number of behavioral health providers. There is no evidence based on complaints to the Board that masters level psychologists function less well in providing services than psychologists with a doctoral degree. In addition, both groups presently must meet the same licensing standards through examination before being awarded a license.

The Board Is Not in Agreement on Changing License Requirements

In 2005, the West Virginia Board of Examiners of Psychologists proposed creating distinct psychology licenses for individuals with masters degrees and doctoral degrees. This amendment would confer the title of “psychologist” only to individuals with doctoral training, and the title “psychological practitioner” would be conferred on individuals with masters training. The amendment would “grand-father” individuals with masters degrees who are presently licensed by the Board as psychologists so that the number of psychologists practicing in the state would not immediately change.

This amendment would confer the title of “psychologist” only to individuals with doctoral training, and the title “psychological practitioner” would be conferred on individuals with masters training.

The Board is divided on making this revision. Four of the present board members (three doctoral psychologists and the Board’s lay member) support making such a change while the two masters degree psychologists do not support this restriction. The present division of the Board on the issue of restricting the psychology license to doctoral applicants is also reflected by the lack of support of the West Virginia Behavioral Healthcare Providers Association and the West Virginia Association of Masters in Psychology. The West Virginia Psychological Association has not taken a position on this issue. The reasons for this proposed restriction, as well as opposing views, were presented to the Joint Committee on Government Organization during the August and December 2005 interim sessions. Since the Board is not in agreement on this change, the Legislature was unwilling to consider the proposed change. During a January 2006 meeting, the president of the Board reported that the suggested changes to WVC §30-21 would not be recommended to move forward in the Legislature. According to board minutes, no decision was reached about the future actions of the Board in regard to the restriction of the psychology license.

Since the Board is not in agreement on this change, the Legislature was unwilling to consider the proposed change.

According to Board minutes, no decision was reached about the future actions of the Board in regard to the restriction of the psychology license.

The president of the Board sent the following statement to the Legislative Auditor:

“In sum, our purpose in this proposal is the fulfillment of our mission, which is the protection of the public. The citizens of WV, we believe, are entitled to have confidence that professionals that they see under the title of Psychologist have the same level of training and expertise as citizens in other states. Concurrently, we see the legitimate need for masters level practitioners and want to see an appropriate role for their valuable services, under a title that is consistent with their training.”

The Board members and other psychologists who want to restrict the psychology license make the following arguments:

- **The West Virginia Board of Examiners of Psychologists is the only psychology licensing board in the United States to award**

the same license to psychologists trained either in a masters graduate program or a doctoral graduate program.

Masters degree candidates for licensure fail to pass the national written examination more frequently than doctoral trained candidates.

- **The masters degree training does not prepare an applicant for licensure as well as the doctoral degree.** The length of time that each degree takes to complete is different, with masters degrees taking one to two years with doctoral degrees requiring five or more years. Licenses are awarded based on educational training and passage of a written examination and an oral examination. In West Virginia, applicants at both educational levels must pass the same tests with the same criteria for passage. Masters degree candidates for licensure fail to pass the national written examination more frequently than doctoral trained candidates. In addition, more masters degree candidates must retake portions of the oral examination administered by the Board.
- **Masters degree programs are not standardized and do not have national accreditation for psychology standards.** However, doctoral programs have to meet national standards in psychology training.
- **The title “psychologist” in West Virginia does not meet the American Psychological Association’s definition of a psychologist as having a doctoral degree.**

Vermont issues a psychologist license with two levels; “psychologist-master,” or “psychologist-doctorate.”

In Vermont, licensees with either level are able to practice independently as psychologists with the same scope of practice, although they must display their license and use their distinct title in professional activity.

These arguments are primarily concerned with aligning the state with all other practitioners of the profession in the United States and Canada, and the training and subsequent ability of licensees to provide adequate services. In addition, there is the practical consideration of portability of the license, with only doctoral trained licensees having the ability to be licensed in other states as psychologists. Twenty-three states license masters trained psychologists at a subordinate level such as a psychology practitioner. Some of the states limit the functions, scope of practice and work settings while others do not. Additionally, some of these licensees work under supervision, while other states do not require such oversight. West Virginia and Vermont are the exceptions that allow masters level individuals to practice independently as “psychologists.” Vermont issues a psychologist license with two levels. Applicants with masters degrees receive a psychologist license but the title and license are designated as a “psychologist-master,” while applicants with doctoral degrees receive a license designated as a “psychologist-doctorate.” Both categories of applicants must pass a national examination at the same level, although Vermont does not require passage of an oral examination. Instead, Vermont requires passage of a jurisprudence examination. In Vermont, licensees with either level are able to practice independently as psychologists with the same scope of practice, although they must display their license and use their distinct title in professional activity. The Legislative Auditor examined the statutes of the states that allow masters level licensees to practice independently (see Table 4).

Table 4 Other States That Allow Independent Practice of Masters Level Trained Psychologists		
State	Title	Supervised
Alaska	Psychological Associate	No
Kansas	Licensed Clinical Psychotherapist	No
Kentucky	Licensed Psychological Practitioner/or Certified Psychologist with Autonomous Functioning	No
Oklahoma	Licensed Behavioral Practitioner	No
Oregon	Psychological Associate	Depends on Qualifications
Tennessee	Senior Psychological Examiner	No
Vermont	Psychologist-Master	No
<i>Data Source: PERD analysis of statutes governing each state's master level licensure requirements.</i>		

Nine West Virginia counties have no licensed psychologists

The Legislative Auditor examined the considerations raised by board members and others who are opposed to creating two distinct licenses. The following are concerns that have been raised:

- **The existing lack of psychologists in the state.** Nine West Virginia counties have no licensed psychologists, so that psychological services in those counties must be provided by a psychologist traveling to the county on a part-time basis. Twenty-five counties have no doctorate level psychologists.
- **Over half of all licensed psychologists presently working in the state have masters level training.** There are 423 psychologists presently working with the non-school population in West Virginia. Of these, 220 have masters training and 203 have doctoral training. In order to receive a psychology license, applicants must meet the same standards and pass the examinations at the same level. A restriction resulting in only licensing doctoral level as psychologists could create a decline in the number of psychologists available to provide services in the state over time. The Legislative Auditor examined the number of psychologists in the state and looked at the programs graduating psychologists with doctoral training. There have been 55 psychology doctorates granted by West Virginia University since 2001. This is an average of 11 per year for the past five years. Marshall University also has a new program but this program has not been in operation long enough to confer any doctoral degrees in psychology. In comparison with the five bordering states, West Virginia has the least number of doctoral psychologists.

There are 423 psychologists working with the non-school population in West Virginia; 220 have masters training and 203 have doctoral training.

The Legislative Auditor looked at the programs graduating psychologists with doctoral training. There have been 55 psychology doctorates granted by West Virginia University since 2001.

The Board finds that psychologists with both levels of education commit about the same number of violations.

It is possible in the long run that if the growth in doctoral degree psychologists is inadequate, a shortage of services in various locations in the state could occur because masters degree psychological practitioners would have a limited scope of practice.

The grand-father provision would not impact the short term supply of psychological services in the state.

Unless the growth in doctoral degree psychologists is adequate in the long run, a shortage of services in various locations in the state could occur.

- **Complaint Analysis.** There is little evidence based on complaints to the Board that the masters level psychologists function less well in providing services than psychologists with a doctoral degree. The Board finds that psychologists with both levels of education commit about the same number of violations. A review of 38 complaints since 1997 shows that 23 complaints were lodged against licensees with doctoral degrees, while 15 complaints were lodged against licensees holding masters degrees. Two of the licensees with doctoral degrees were found to have serious violations, while three of the masters level practitioners were found to have serious violations.
- **Crisis in Behavioral Health.** Several groups presented concerns about the impact on the provision of behavioral health to the committee. In March 2006, the Legislature passed WVC §16-42 establishing a comprehensive behavioral health commission to study the behavioral health delivery system in West Virginia. In establishing the commission, the Legislature stated “West Virginia is rapidly moving toward a state of crisis as a result of overcrowding of beds in state facilities and prisons, and inadequate community support services to prevent these problems... .”

The Legislative Auditor cannot determine what the impact on available psychological services would be in the long run by creating a masters level license and restricting its scope of practice. It is possible in the long run that if the growth in doctoral degree psychologists is inadequate, a shortage of services in various locations in the state could occur because masters degree psychological practitioners would have a limited scope of practice. However, in the short run, with grand-fathering of current licensees, there will likely not be an impact on psychological services.

Conclusion

The Legislative Auditor appreciates the value in informing the public of the educational differences between licensees with a masters or doctoral training. The Board’s proposed change to create two licenses for persons working in the field of psychology would benefit the citizens of the state, and would be in line with the psychology licensing of many other states. One license would be for “psychological practitioners” and would be for persons trained at a masters level of education. The current “psychologist” license would be awarded only to persons who have completed a doctoral degree. The masters license would have a restricted scope of practice compared to the doctoral license. The grand-father provision would not impact the short term supply of psychological services in the state. However, since West Virginia has a shortage of psychologists with the present licensing of psychologists with both masters and doctoral level training, the creation of two licenses and a restricted scope of practice for masters level degrees could impact the provision of services in the long run. Unless the growth in doctoral degree psychologists is adequate in the

If the West Virginia Board of Examiners of Psychologists revisits the issue of changes to the psychology license, it might consider whether the Vermont model of licensure offers a compromise to meet the needs of the state.

long run, a shortage of services in various locations in the state could occur.

Although West Virginia can implement the Board's proposal that is similar to what several other states have implemented, the lack of support may prevent it from being implemented. An alternative that may be more acceptable is the example of Vermont. The state of Vermont, another rural state with limited psychological services, has a psychology license with two levels: psychologist-master, and psychologist-doctorate. Those with a masters level license are able to work independently as psychologists. Further, the masters level can be upgraded with the addition of further education. If the West Virginia Board of Examiners of Psychologists revisits the issue of changes to the psychology license, it might consider whether the Vermont model of licensure offers a compromise to meet the needs of the state. Although Vermont does not limit the scope of practice between masters and doctorate trained psychologists, West Virginia has the option to make such limitations to the masters scope of practice that it deems necessary.

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

June 21, 2006

Jeffrey Harlow, PhD., Executive Director
West Virginia Board of Examiners of Psychologists
P.O. Box 3955
Charleston, WV 25339-3955

Dear Dr. Harlow:

This is to transmit a draft copy of the Regulatory Board Evaluation of the Board of Examiners of Psychologists. This report is scheduled to be presented during the July 23-25, 2006 interim meetings of the Joint Committee on Government Operations. We will inform you of the exact date, 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 the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting within the next two weeks at our office in Charleston. Please notify us to schedule an exact time. In addition, we need your written response by noon on Monday, July 10, 2006 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 340-3192 by Thursday, July 20, 2006 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

Joint Committee on Government and Finance

Appendix B: Agency Response



STATE OF WEST VIRGINIA
BOARD OF EXAMINERS OF PSYCHOLOGISTS
P.O. BOX 3955 * CHARLESTON * WV * 25339-3955
TELEPHONE (304) 558-3040 * wvpsychologybd@mail.state.wv.us * FAX (304) 558-0608
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July 13, 2006

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

RECEIVED
JUL 13 2006
PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Re: 2006 Regulatory Board Evaluation Report – Board Response

Dear Mr. Sylvia:

The Board views this final report as being more balanced than the previous draft and appreciates the director's consideration of its concerns.

Recommendations:

The Board's response to each recommendation is as follows:

1. The Legislative Auditor recommends that the Legislature continue the Board of Examiners of Psychologists. The Board concurs with this recommendation and appreciates the Division's recognition of the Board's mission to protect the public.
2. The Legislative Auditor recommends the Board develop and implement written policies and procedures for the executive director to safeguard the regulatory process in regards to handling complaints and renewal of the executive director's license. This recommendation will be implemented.
3. The Board should consider removing the requirement that the executive director must be a licensed psychologist. The Board will consider this alteration in its credential requirement for the executive director position.
4. The Legislature should consider legislation to set term limits for the members of the Board of Examiners of Psychologists. In principal the Board agrees with setting term limits. In its proposed law revision the Board addressed this issue with set term limits.
5. The Board of examiners of Psychologists should take all steps available to it to fill the vacant lay member position on the Board. This recommendation is supported by the Board and it will continue to pursue it via the Governor's Office.

6. The Board of Examiners of Psychologists should examine its complaint investigation process in order to comply with 17-4-5.15 of the Code of State Rules. A concerted effort is being made to be in compliance with the 60 day rule on receipt of the investigator's report.

7. The Board of Examiners of Psychologists should review its fee structure and its expenditures in order to achieve more prudent end-of-year balances. This is a complex issue. In the past, all Boards were admonished by the Legislature to not have reserve funds of more than \$50,000 dollars. On the other hand, a year end balance of \$7,663 is cutting it close. As recommended, the Board may have to alter its fee structure as more baby-boomer psychologists retire.

Issue 3:

In addition, the Board expresses the following comments in regard to Issue 3: "The Board of Examiners of Psychologists Disagrees on Creating Separate Licenses For Masters and Doctoral Trained Psychologists."

Oral Examination Study Results: Data from a multi-year study of oral examination results clearly indicate that substantially more master's candidates don't pass their initial oral examination. Master's and doctorate Board members agree that this data is accurate. The results indicate that master's level candidates submit more inadequate work sample reports and their ability to describe and discuss their psychological work with real West Virginia clients is far more frequently inadequate than the ability of doctoral candidates to do so.

Same Licensing Standards: The statement that masters and doctoral candidates "must meet the same licensing standards through examination" is inaccurate. An accurate statement would be, "both groups must pass the same written and oral examinations as part of the licensing process."

Comparison of West Virginia to Five Border States in Regard to Number of Doctoral Level Psychologists: First WV should be compared to states with similar populations, economies, and rural areas. Secondly, WV should only be compared to similar states that have licenses for both doctoral and master's level trained psychologists, i.e. these low population states listed in Table 4 – Alaska, Kansas, Kentucky, Oklahoma, Oregon, and Vermont. The comparison should be calculated on a per-capita basis.

Complaint Analysis: This analysis is used to advocate this illogical argument: Master's and doctoral licensure should remain the same because the number of ethical inquiries is equal. The equivalence in ethical complaints is not a measure of how well each group provides services. It is only a measure of how frequently given citizens file complaints.

Sincerely,


Jeffrey Harlow, Ph.D.
Executive Director