

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

December 5, 2016

The Honorable Craig Blair
Building 1, Room W-217
1900 Kanawha Blvd. E.
Charleston, WV 25305

The Honorable Gary G. Howell
Building 1, Room E-213
1900 Kanawha Blvd. E.
Charleston, WV 25305

Dear Chairmen:

You requested that the Performance Evaluation and Research Division (PERD) review previous audits of the following boards and commissions and make a determination of whether the following boards and commissions should be continued, modified, or terminated:

1. Board of Licensed Dietitians,
2. Board of Registration for Foresters,
3. Massage Therapy Licensure Board,
4. Medical Imaging and Radiation Therapy Technology Board of Examiners,
5. Nursing Home Administrators Licensing Board,
6. Board of Sanitarians¹,
7. Oil and Gas Conservation Commission, and
8. Women's Commission

The following information summarizes PERD's past audits of the aforementioned boards and commissions along with the related information you requested in you April 5, 2016 letter.

¹PERD added the Board of Sanitarians since it is recommending termination of this board in its current review (August 2016).

Board of Licensed Dietitians

The Board of Licensed Dietitians (Board) regulates dietitians through licensure.

Years Audited: 1999, 2000, and 2010

Previous Recommendations

All three PERD reports recommended termination of the Board. The 2010 PERD report also offered less restricted regulation options to having a stand-alone board. These options included:

- 1) Placing the current licensure process and board within another state agency or licensing board,
- 2) Establishing a certification process within another state agency or board,
- 3) Establishing a registration process within another state agency or board, or
- 4) Enacting statutory language specifying the requirements of a dietitian with appropriate penalties for violators.

PERD recommends termination of the Board due to the Board's credentialing requirements for being a "licensed dietitian" are the same as those needed for the national credential of "registered dietitian" through the Academy of Nutrition and Dietetics (Academy), formerly the American Dietetic Association. The difference between the Board and the Academy is that the Board has a complaint process, whereas the Academy does not. However, the Board receives few complaints and none are serious. **It should be noted the Board was terminated in 2001, however, it was reestablished in the 2002 regular legislative session, prior to when it was to cease operations on July 1, 2002.**

Current Recommendation

The Legislative Auditor recommends the Legislature consider terminating the Board of Licensed Dietitians and enact statutory language specifying the education, training, credentialing requirements of a dietitian with appropriate penalties for violators who use the title of dietitian and do not meet the aforementioned statutory requirements.

Regulation of Dietitians in the Bordering States

Kentucky - Dietitians are licensed by the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists which is located in an umbrella licensing agency, the Kentucky Office of Occupations and Professions.

Maryland –Dietitians are licensed by the Maryland Board of Dietetic Practice Board within the Maryland Department of Health and Mental Hygiene.

Ohio - Dietitians are licensed by the Ohio Board of Dietetics, a stand-alone board.

Pennsylvania - Dietitians are licensed by the Pennsylvania State Board of Nursing within the Pennsylvania Department of State.

Virginia – Dietitians are not regulated by a state agency. There is no licensure, certification, or registration. Dietitians are regulated through statutory language specifying the educational, training, and credentialing requirements of a dietitian with appropriate penalties for violators use the title of dietitian and do not meet the aforementioned statutory requirements. The statute is enforced by local law enforcement.

Nationally, dietitians are regulated by 46 states, 32 through licensure, 13 through certification, and 1 through registration.

Impact Board Has On General Revenue Fund

The Board poses no cost to the general revenue fund. The Board’s cash balance of its special revenue fund was \$56,589 at the end of FY 2016.

Board of Registration for Foresters

The Board of Registration for Foresters regulates foresters through registration.

Years Audited: 2003 and 2013

Previous Recommendations

Both PERD reports recommended the termination of the Board since the agency’s statute only provides title protection and does not prevent anyone from practicing forestry in the state. The Board receives few complaints and none are serious. Also, there are national organizations that register foresters. These organizations include the Society of American Foresters and the Association of Consulting Foresters.

Current Recommendation

The Legislative Auditor recommends termination of the Board of Registration for Foresters.

Regulation of Foresters in the Bordering States

Kentucky - Foresters are not regulated by the state of Kentucky.

Maryland - Foresters are licensed by the Maryland Board of Forestry which is located in an umbrella licensing agency, the Maryland Division of Occupational and Professional Licensing.

Ohio – Foresters are not regulated by the state of Ohio.

Pennsylvania – Foresters are not regulated by the state of Pennsylvania.

Virginia – Foresters are not regulated by the state of Virginia

Nationally, there are 16 states that regulate forestry, 6 through licensure, 1 through certification, and 9 through registration.

Impact Board Has On General Revenue Fund

The Board poses no cost to the general revenue fund. The Board’s cash balance of its special revenue fund was \$51,117 at the end of FY 2016.

Massage Therapy Licensure Board

West Virginia Massage Therapy Licensure Board regulates massage therapists through licensure.

Years Audited: 2000, 2003, and 2014

Previous Recommendations

All three PERD reports recommended termination of the Board. If the Legislature wishes to continue the regulation of massage therapy, a less restrictive form of regulation should be considered such as registration administered by another licensing board or the Secretary of State.

Current Recommendation

The Legislative Auditor recommends termination of the Massage Therapy Licensure Board. The regulation of massage therapists can be less restrictive such as registration administered by another licensing board or the Secretary of State, or enacting statutory language specifying the educational, training and credentialing requirements of a massage therapist with appropriate penalties for violators.

Regulation of Massage Therapists in the Bordering States

Kentucky – Massage therapists are licensed by the Kentucky Board of Licensure for Massage Therapy.

Maryland – Massage therapists are licensed and massage technicians are registered by the Maryland Board of Chiropractic and Massage Therapy Examiners.

Ohio – Massage therapists are licensed by an umbrella board, the State Medical Board of Ohio.

Pennsylvania – Massage therapists are licensed by the Pennsylvania State Board of Massage Therapy.

Virginia – Massage therapists are certified by the Virginia Board of Nursing.

Nationally, there are 45 states that regulate massage therapy, 44 through licensure and 1 through certification.

Impact Board Has On General Revenue Fund

The Board poses no cost to the general revenue fund. The Board's cash balance of its special revenue fund was \$206,784 at the end of FY 2016.

Medical Imaging and Radiation Therapy Technology Board of Examiners

The Medical Imaging and Radiation Therapy Technology Board of Examiners regulates medical imaging and radiation therapy technologists through licensure.

Years Audited: 2013

Previous Recommendations

The 2013 PERD report recommended termination of the Board. The Board significantly duplicates the national regulatory organizations including the American Registry of Radiologic Technologists (ARRT), Nuclear Medicine Technology Certification Board (NMTCB), Joint Review Committee on Education in Radiologic Technology (JRCERT), and Joint Review Committee on Educational Programs in Nuclear Medicine Technology (JRCNMT). The Board receives an average of six complaints per year.

Current Recommendation

The Legislative Auditor recommends termination of the Medical Imaging and Radiation Therapy Technology Board.

Regulation of Medical Imaging and Radiation Therapists in the Bordering States

Kentucky – Medical imaging and radiation therapists are licensed by the Kentucky Board of Medical Imaging and Radiation Therapy.

Maryland - Medical imaging and radiation therapists are licensed by the Maryland Board of Physicians.

Ohio - Medical imaging and radiation therapists are licensed by the Ohio Department of Health.

Pennsylvania - Medical imaging and radiation therapists are regulated by the Pennsylvania State Board of Medicine through passing an examination for auxiliary personnel performing radiologic procedures.

Virginia- Medical imaging and radiation therapists are licensed by the Virginia Department of Health Professions.

Nationally, there are 38 states that regulate medical imaging and radiation therapy technologists, 26 through licensure, 9 through certification, and 3 through registration.

Impact Board Has On General Revenue Fund

The Board poses no cost to the general revenue fund. The Board's cash balance of its special revenue fund was \$295,999 at the end of FY 2016.

Nursing Home Administrators Licensing Board

The Nursing Home Administrators Licensing Board regulates nursing administrators through licensure.

Years Audited: 2001 and 2009

Previous Recommendations

Both reports recommended termination of the Board and determine that regulation was needed but within the Bureau of Public Health (Bureau) within the West Virginia Department of Health and Human Resources. The Board regulates approximately 200 licensees and therefore has to charge fees that are at least twice as much as those of bordering states in order to be self-sufficient. The Bureau would be a more efficient option in regulating nursing home administrators and lowering fees licensees must pay. The agency regulates nursing homes and is knowledgeable of the requirements and responsibilities of nursing home administrators. Seven states regulate nursing home administrators through a similar state agency. These states include Alaska, California, Connecticut, Illinois, Texas, Utah, and Vermont.

Current Recommendation

The Legislative Auditor recommends termination of the Board and transfer of regulating nursing home administrators to the Bureau of Public Health.

Regulation of Nursing Home Administrators in the Bordering States

Kentucky - Nursing home administrators are licensed by the Kentucky Board of Licensure for Long-term Care Administrators.

Maryland - Nursing home administrators are licensed by the Maryland Board of Examiners of Nursing Home Administrators.

Ohio - Nursing home administrators are licensed by the Ohio Board of Executives of Long-Term Services & Supports.

Pennsylvania - Nursing home administrators are licensed by the Pennsylvania Board of Examiners of Nursing Home Administrators.

Virginia - Nursing home administrators are licensed by the Virginia Board of Long-Term Care Administrators within the Virginia Department of Health Professions.

Nationally, all 50 states regulate nursing home administrators through licensure.

Impact Board Has On General Revenue Fund

The Board poses no cost to the general revenue fund. The Board's cash balance of its special revenue fund was \$165,237 at the end of FY 2016.

Board of Sanitarians

The Board of Sanitarians regulates sanitarians through licensure (it should be noted that licensure is often termed as registration by this profession, in other words, a "registered sanitarian" is the same as a "licensed sanitarian").

Years Audited: 2007 and 2016

Previous Recommendations

PERD's 2007 report concluded that regulation of sanitarians is necessary to protect the public and recommended the Board be continued. However, PERD's 2016 report concluded that regulation of sanitarians is not necessary due to the fact that 94 percent of all sanitarians in the state are employed by state and local governments in supervised positions. This was not

considered in the 2007 report. Since the Division of Personnel reviews education and experience against specific job classification requirements for sanitarians and most county health departments and state agencies are required to hire individuals through the state register maintained by the Division of Personnel, the Board provides little additional protection to the public.

Current Recommendation

The Legislative Auditor recommends termination of the Board of Sanitarians.

Regulation of Sanitarians in the Bordering States

Kentucky - Sanitarians are certified by Kentucky Cabinet for Health and Family Services.

Maryland - Sanitarians are licensed by the Maryland Board of Environmental Health Specialists.

Ohio – Sanitarians are licensed by the Ohio Sanitarian Registration Board.

Pennsylvania - Sanitarians are not regulated in Pennsylvania.

Virginia - Sanitarians are licensed by the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals.

Nationally, there are 21 states that regulate sanitarians, 17 through licensure and 4 through certification.

Impact Board Has On General Revenue Fund

The Board poses no cost to the general revenue fund. The Board's cash balance of its special revenue fund was \$18,887 at the end of FY 2016.

Oil and Gas Conservation Commission

The Oil and Gas Conservation Commission regulates the spacing of deep wells, as well as makes and enforces reasonable rules and orders reasonably necessary to prevent waste of oil or gas and protect correlative rights of operators and royalty owners. The Commission meets as needed.

Years Audited: 1996 and 2000

Previous Recommendations

PERD's 1996 report recommended termination of the Commission due to the agency not have quorums at the majority of its meetings. PERD's 2000 report identified the meeting

attendance by the Commission had improved resulting in more quorums at 70 percent of its meetings held since the previous audit.

Meeting Attendance for the Last Three Years

A review of meeting attendance for the last three years shows that the Commission has had a quorum at every meeting with at least four members in attendance as can be seen in the table below.

Oil and Gas Meetings and Attendance, 2012-2015					
Date	DEP Secretary or Representative	Oil and Gas Chief	Independent Producer	Public Member	Registered Professional Engineer
2/8/2013	X	X	X	X	X
4/11/2013	X	X	X		X
8/15/2013	X	X	X	X	X
2/28/2014	X	X	X	X	X
9/11/2014	X	X	X		X
3/19/2015		X	X	X	X
10/6/2015		X	X	X	X
Source: Oil and Gas Conservation Commission meeting minutes.					

Current Recommendation

The Legislative Auditor recommends the continuation of the Oil and Gas Conservation Commission. The Commission continues to have a sufficient level of attendance of its members to have quorums at all of its meetings. Also, the Commission functions as an administrative mediation and decision-making body in the spacing of oil wells and pooling of oil and gas resources. The Commission's mediation process is meant to arrive at a fair and equitable resolution of issues between operators and royalty owners which keeps potential conflicts related to the drilling of oil and gas resources out of the court system.

Impact Board Has On General Revenue Fund

The Commission poses no cost to the general revenue fund. It is funded by a special conservation tax for administrative expenses of the Commission in carrying out provisions of W. Va. Code §22C-9. This fund's cash balance was \$1,034,475 at the end of FY 2016. During FY 2016, the conservation tax raised approximately \$200,000 in revenue, while the Commission's annual expenditures were approximately \$150,000.

Women's Commission

The Women's Commission was created in 1977 to advocate and educate on issues relating to women. The agency seeks to improve the legal, social, economic, educational, and political status of women. Meetings are held quarterly.

Years Audited: 1998, 2001, and 2005

Previous Recommendations

PERD's 1998 report recommended termination of the Commission because it overlapped other state programs. However, if the Legislature chose to continue the agency, the report recommended that the agency identify a unique, non-duplicative role for itself in promoting women's issues. PERD's 2001 report conclude that the agency was in the process of identifying a unique role for itself. The agency still had to improve in numerous areas. PERD's 2005 report recommended termination of the agency since it was having a substantial portion of its budget cut. However, if the Legislature chose to continue the Commission, the agency would need additional funding to be effective. The 2005 report also found the agency to be insufficient in the areas of developing a legislative initiative, creating policy statements and using the media.

Current Recommendation

The Legislative Auditor recommends termination of the Women's Commission.

Impact Board Has On General Revenue Fund

The Women's Commission was appropriated \$156,408 from the general revenue fund for FY 2017. The agency also receives funding through the Women's Commission Operating Fund which is funded by gifts, donations, and registration fees. This fund's cash balance was \$32,739 at the end of FY 2016.

Steps Necessary to Meet a Recommendation of Termination and Regulation Transfer

The Performance Review Act identifies the necessary processes for termination of an agency. West Virginia Code §4-10-12 requires a wind-up year in which the agency or regulatory board shall continue in existence until the first day of July of the following year for the purpose of winding up its affairs. During the wind-up year, the impending termination may not reduce or

otherwise limit the powers or authority of the agency or regulatory board. West Virginia Code §4-10-13 identifies steps required for the disposition of agency or regulatory assets, equipment, and records after termination. These steps included the following:

- On or before the thirtieth day of June of the wind-up year, the terminated agency or regulatory board shall file a written statement with the Secretary of the Department of Administration and the division describing the disposition of its funds, assets, equipment and records.
- The division shall review the statement of the terminated agency or regulatory board and report the results of its review to the committee and the joint standing committee.
- Any unexpended funds of the terminated agency or regulatory board shall revert to the fund from which they were appropriated or, if that fund is abolished, to the General Revenue Fund.
- All remaining assets and equipment of a terminated agency or regulatory board shall be transferred to the secretary of the department of which it was a part or to the state agency for surplus property in the Department of Administration.
- The records of a terminated agency or regulatory board shall be deposited with the Department of Administration.

In the case of a board being terminated and having regulation transferred to another agency, the above process is to be followed with the exception that the board's remaining funds within its special revenue account would need to be re-appropriated by the Legislature to the agency taking over the duties of the board. The Department of Administration would transfer the program and fiscal records to the agency taking over regulation. Also, the agency taking over regulation should report to the Legislature within the first year of assuming regulation the cost of regulation and any appropriate license fee changes.

I hope this addresses your inquiry regarding these boards and commissions. If there are any further questions that you have in this area, we are always available to assist you.

Sincerely,



John Sylvia



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Earl Ray Tomblin
Governor

West Virginia Women's Commission
State Capitol Complex, Building 6, 8th Floor, Suite 850
Charleston, West Virginia 25305
Telephone: (304) 558-0070 Fax: (304) 558-5167

Karen L. Bowling
Cabinet Secretary

Commissioners

Alicia Besenyei
Raleigh County

Belinda Biafore
Marion County

Diana Bell
Ohio County

Jean Ford
Wood County

Kenyatta Grant
Kanawha County

Kathleen McDermott
Ohio County

Kameron Miller
Kanawha

Stacy Nori
Monongalia County

Michelle Russell
Berkeley County

Robin Young
Kanawha County

**Ex-Officio
Representatives**

Kelly Petry
Division of Labor

Laura Savilla
Human Rights
Commission

Nancy Cline
Department of
Education

Nancy Sullivan
Department of Health
& Human Resources

Keri Ferro
Higher Education
Policy Commission

Jackie Hoppe
Division of Personnel

Julie Warren
Office of the
Attorney General

Staff

Julie C. Palas
Interim Executive
Director

September 6, 2016

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



Dear Director Silva:

Although the West Virginia Women's Commission has not had a PERD Audit performed recently, the Commission members appreciate the opportunity provide written responses to a draft letter report of PERD's conclusions based on its previous audits on the Commission in 1998, 2001, and 2005, per your August 19, 2016 letter requesting a response.

Per the January 6, 2006 successful response letter for the 2005 PERD Audit to you from then Executive Director of the Women's Commission, Kathy Pauley, "When the Legislature enacted legislation to form the Commission, it did not contain specific language giving the Commission the responsibility for improving women's status. It recognized that a single state agency of two to three full time employees [now one and a half] cannot, on its own, improve the status of all the women and families in West Virginia."

The primary focus of the Commission is research, advocacy and education relating to women. Although we want to help teach women to use their own voice, there still needs to be a concerted voice that speaks on behalf of women in a state where we received a "D" grade as compared to other states in key areas impacting women, per *The Status of Women in West Virginia, 2015: Highlights* report published by the Institute for Women's Policy Research (see Status of Women Report 2014 Attachment). At the request of the Women's Commission, a statewide needs assessment regarding the status of women and girls was completed in 2009 which provided valuable information of specific needs in West Virginia (see Needs Assessment Article Attachment).

The assessment helped develop the five policy pillars that direct our efforts -- including the activities of our three working committees and our recommendations to the legislature. The five policy pillars are Child Well Being, Economic Empowerment, Education, Health, and Violence Against Women Prevention.

The Commission has grown into an effective proponent for women in West Virginia. By forming creative coalitions and partnerships, promoting statewide events involving issues that impact women, and creating policy statements and legislative initiatives and recommendations, the Commission has managed to make major accomplishments with a very small budget and an extremely small staff. The Commission would like to provide additional research and analysis on women's issues in the coming year and if needed will look for grants and to the state colleges and universities to help the cost of such studies.

We have participated in coalitions, partnerships and public policy meetings with numerous groups including the Alliance of Family Resource Networks, American Association of Retired Persons, Center for American Women in Politics Ready to Run Program, Generation West Virginia, Girls Scouts of the Black Diamond Council, Inspire West Virginia, Ohio River Valley Women's Business Council, West Virginia Coalition Against Domestic Violence, West Virginia Women Work, Covenant House, and YWCAs across the state, just to name a few. We hold partner meetings, typically quarterly, and more often in the fourth quarter to prepare for our legislative recommendations. The Commission holds its regular meetings quarterly that are opened to the public, including an annual strategic planning meeting to prepare for future activities and events. The Commission's three working committees meet when needed, usually on a monthly basis, sometimes more often.

In an effort to reduce spending the Commission decided not to continue publishing its past publications, but has begun updating its women's resource list to add to a Women's Commission webpage now under construction on the West Virginia Department of Health and Human Resources website. Any future publications will be provided via the Internet with limited hard copies upon request.

In 2011, focus groups were conducted throughout the various regions of West Virginia to further refine and develop the information obtained in the needs assessment. By using the coalition and partners to align each entities' data and ideas, we are able to present a united effort in getting legislation passed – such as H.B. 108 establishing a regulatory system for sexual assault forensic examinations; S.B. 22 requiring PEIA to cover maternal health costs for dependent daughters; S.B. 663, the Feed to Achieve Legislation; and the Public Breastfeeding law in the WV Code at §16-1-19.

The Women's Commission coalesces the information from many different data sources to develop plans and policy agendas for the Governor and Legislature that speaks directly to the issues that West Virginia's women face (see samples in the Public Policy Agendas 2009, 2012 and 2014 Attachments).

The Status of Women and Girls in West Virginia was published in 2002, and again in 2013, by the Institute for Women's Policy Research, with highlights updates in 2004 and 2015 (see Status of Women Reports 2002, 2004, 2013, 2015 Attachments). The reports show that although we still have a long way to go to get West Virginia on par with the rest of the country, we have made progress. As requested in your August 19, 2016 letter, in order to distribute additional information to the legislative joint committee members, we will send you a comparison analysis of data from the aforementioned Status of Women Highlight reports, along with any additional information, before the Thursday, September 15, 2016 due date.

The Commission provides information regarding policies and events to the public through a comprehensive statewide media list including the Associated Press and state entities (see Media Attachment for some sample articles and event promotions).

The Commission also uses social media as an effective and less expensive means to promote our policy agenda and events. The Commission has a very active Facebook page at <https://www.facebook.com/pages/West-Virginia-Womens-Commission/91192172900> and a twitter account at <https://twitter.com/womenscommissio>. There have been numerous interviews for various media outlets including with CNN (transcript in Media Attachments), the WV Library Television Network show "Women's Perspective" (clip at <http://www.librarycommission.wv.gov/programs/ltn/videoserver/Pages/womensperspective.aspx>), Legislature Today on WV Public Television, and for local newspapers and television newscasts. During the Girls' Day at the Legislature in 2014, several of the girls were interviewed on WV MetroNews Talk line. The C-Span Bus was also at that event and provided a unique look at the news and politics for our girls.

To promote awareness about women's continued struggles, the Commission has provided direct outreach to various groups such as the Federation of Women's Clubs, Family Resource Networks, Technical Fair in Wheeling, the Business Women's Conference at Tamarack, various senior centers, town hall meetings and others. Along with the West Virginia Division of Culture and History, we co-sponsored the showing of the feature documentary film "Lioness" about female Army support soldiers who were part of the first program in American history to send women into direct ground combat. We also sponsored the showing on college campuses of "Iron Jawed Angels" about the women's suffrage movement and we are planning to participate with Libera, Inc. in the coming year throughout the state to show the film "Chosen" about sex trafficking prevention.

The National Association of Commissions for Women chose West Virginia to host the national convention in 2012, coinciding with the 35th anniversary of the Women's Commission and the Girl Scouts of the Black Diamond Council. We were able to showcase not only our Commission, but also our state to visitors from all over the United States (see National Women's Conference 2012 Article Attachment). We were able to do this because of sponsors from businesses and women's organizations that believe in our mission.

We have had events with sponsorships from groups and businesses who have a vested interest and wish to see women and girls grow and succeed in West Virginia. Our annual events are widely publicized in newspapers and magazines, on television, and on the Internet (see samples in Media Attachment). Our events include Women's and Girls' Day at the Legislature during the legislative session to learn about laws, the legislative process, policy-making and networking; Women's History Month activities in March; Equal Pay Day on April 12 bringing awareness that it takes that long for women to make as much as men did the year before; Women's Equality Day on August 26 celebrating when the 19th Amendment was added to the Constitution allowing women the right to vote; and the Legacy of Women Awards celebrating women of distinction in West Virginia. During these events we provide workshops and/or educational materials to both women and men who are committed to improving the lives of West Virginia's women through legislation, policy improvements and community services.

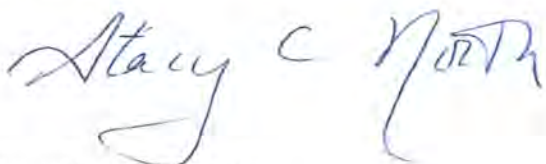
Last year we sponsored the Ready to Run Program in an effort to get more women interested in running for public office, as well as becoming members of local and state boards and commissions to address the unique challenges faced by women (see Media Attachment). This October the Commission is hosting a "College Dreams Ignited" program for adult women seeking a college education and are planning for 500 participants from across the state (see Media Attachment). We plan to also offer these programs every year.

If we want to keep the best and the brightest women in West Virginia we need to provide a place where they can learn, grow and prosper. We cannot afford to pretend that everything is already equitable for all our citizens. We need the Women's Commission to continue providing research, educating the legislature and the public, and advocating for best practices to move forward on issues impacting women -- and therefore, improving the lives of other family members and communities, and the state as a whole.

It is important to note that the article titled "Five Decades of Remarkable but Slowing Change in U.S. Women's Economic and Social Status and Political Participation" in the Russell Sage Foundation Journal of Social Sciences, 2 (4), 1-32, (2016), reported that while women have made important gains in the last five decades, progress has now slowed to a virtual halt. So noted, there is work still to be done in West Virginia. An example of this is with gender pay inequity. If we continue the trend at the current speed toward pay equity (currently at approximately 70%), it will be the year 2101 until women in West Virginia make the same as men. 85 years is not soon enough.

Based on our continued efforts from 2006 forward as mentioned above and because West Virginia still is behind the national average in important areas impacting women, we respectfully ask that the West Virginia Women's Commission be allowed to continue its work for many years to come or until gender true equality is achieved in West Virginia.

Sincerely,



Stacy C. North, Chair



Julie C. Palas, Interim Executive Director

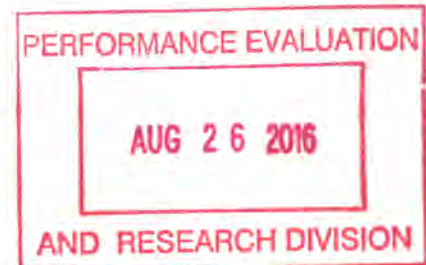


west virginia department of environmental protection

Oil and Gas Conservation Commission
601 57th Street, SE Charleston, WV 25304
(304)926-0499, Ext 1656

Earl Ray Tomblin, Governor
Barry K. Lay, Chairman
dep.wv.gov

August 24, 2016



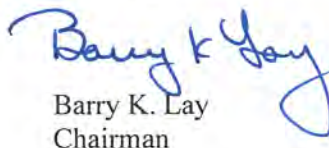
WV Legislature
Performance Evaluation and Research Division
1900 Kanawha Boulevard, East
Charleston, WV 25305

Dear Director Sylvia:

I want to acknowledge and thank you for the draft copy of your department's evaluation of the Oil and Gas Conservation Commission. Over the last several years the Commission has made a concerted efforts to have all members present and participating in our proceedings. I feel the Commission serves a meaningful function in conflict resolution and correlative rights for all the parties. We are also monetarily self-sufficient as you eluded to in your report. That all being said, we are extremely happy that you have recommended continuation of the Commission and whole heartedly agree with that recommendation. Also, thank you for working with our staff to gather the information you used for your findings and for your positive evaluation.

If we can be of further assistance please feel free to contact us at any time.

Sincerely,

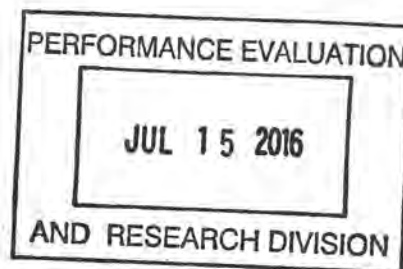

Barry K. Lay
Chairman



**WEST VIRGINIA
STATE BOARD OF SANITARIANS**

300 Second Street
Fairmont, WV 26554

July 14, 2016



John Sylvia, Director
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610

Dear Mr. Sylvia:

The West Virginia Board of Sanitarians is in receipt of the Legislative Audit conducted by your office. The following represents my response to the report.

I wish to thank the PERD team for working with us in a very professional and courteous manner in completing the audit as well as the exit interview. I am very appreciative for the opportunity to respond to the audit.

I have responded to the following specific responses to the recommendations contained in the report.

1. "The Legislative Auditor recommends the Legislature consider terminating the State Board of Sanitarians".

Response: I am very much opposed to this recommendation for several reasons. The Board exists to provide training, education, and certification to Sanitarians. If not for the standards set by the Board the professional standards that keep all West Virginians safe may not be met. The regulation of the profession of Sanitarians, through a certification process that verifies the education and experience of the Registered Sanitarian does afford the public confidence in the profession of environmental health services. Because of the "registration process" through the Board, communities gain assurance that the sanitarian workforce is competent, properly trained, and meets professional conduct standards necessary to carry out the required duties. Absent the Board of Sanitarians this assurance cannot be provided and the training requirements and professionalism would be lost. I believe that the regulation of the profession of Sanitarians is necessary to protect the public health and should be regulated by the Board. There is not a single individual in our state that is not touched every day by the work Sanitarians do on a daily basis. The report indicated the risk to the public is very

low. This is very true and reflects directly on the professional work Sanitarians do daily. The goal through all of our inspections is to reduce the risk of illness, injury, or other harm to our citizens. The fact that it is low is exactly what we work to achieve. Without the hard work of Sanitarians daily, the risk to our citizens would certainly go up exponentially. The report indicated that if the Board were to be eliminated Sanitarians would not be required to fulfil continuing education requirements unless required by their employer. This is true and the exact reason why the Board should not be terminated. Like all fields, things are constantly changing and we must mandate that training and education be current in order to fulfil our mission to our citizens. I am confident that DHHR and the BPH have neither the necessary budget nor manpower to fulfill the mission of continuing education, training, and registration. In fact, the last legislative audit conducted in 2007, the Commissioner of the BPH was very supportive of the Board and said..."The Bureau does not wish to be placed in the position of regulating sanitarians that are not employed by the BPH; nor do we wish to become the entity that provided registration for our own employees. We believe these functions can best be performed by an independent Board". In short, we would be doing a great disservice to our citizens if the Board were eliminated. Simply put, it works and our citizens deserve the best.

2. The Legislative Auditor recommends the Legislature consider amending the language in WV §30-1-10 to allow the transfer of excess funds to the state general revenue fund to be based on the sum of the previous two years of revenue or some other mechanism that will accomplish legislative intent.

Response: I am in agreement with this recommendation.

3. The Legislative Auditor recommends that the Board use the State Treasurer's office Lockbox system

Response: I agree with this recommendation. We have already made some necessary contacts.

4. The Board staff should be diligent in its review of its financial reports and take action on accounting errors.

Response: I agree with this recommendation.

5. The Legislative Auditor recommends that the Chairperson attend the State Auditor Orientation Session annually and that each Board member attends at least one State Auditor Orientation Session during each term in office.

Response: I agree with this recommendation. The Board has always attempted to comply. The one year in question, the newly elected Chairman attended in December of the year prior to assuming his duties in January. The reasoning was the information could be used at the beginning of his term as opposed to the end.

6. The Legislative Auditor recommends the Board file notice of meetings at least five days before each Board meeting occurs in compliance with WV §9-94-2.

Response: I agree with this recommendation.

7. The Legislative Auditor recommends that the Board ensure all licensees complete the required 15 hours of continuing education.

Response: I am in agreement with this recommendation. The Board does ensure all licensees comply with this requirement. Error occurred with the transition of going to computer from paper. The program apparently overrode the previous input data. Each year in December, the Board goes through all licensees to check for compliance.

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

Response: I agree with this recommendation

Again, I wish to thank PERD for the audit. We certainly desire to be in compliance with all laws pertaining to Chapter 30 boards. We have already begun the process of acting upon the recommendations and will continue to do so.

Thank you.


Jesse J. Rose III
Member, WV Board of Sanitarians

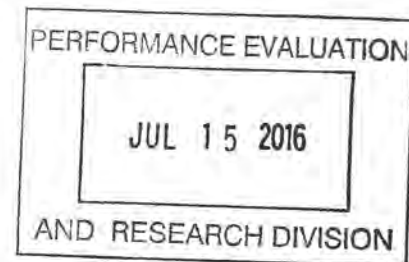


**WEST VIRGINIA
STATE BOARD OF SANITARIANS**

300 Second Street
Fairmont, WV 26554

July 12, 2016

John Sylvia, Director
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610



Dear Mr. Sylvia:

The West Virginia Board of Sanitarians is in receipt of the Legislative Audit conducted by your office. The following represents my response to the report.

I wish to thank the PERD team for working with us in a very professional and courteous manner in completing the audit as well as the exit interview. I am very appreciative for the opportunity to respond to the audit.

I have responded to the following specific responses to the recommendations contained in the report.

1. "The Legislative Auditor recommends the Legislature consider terminating the State Board of Sanitarians".

Response: I am very much opposed to this recommendation for several reasons. The Board exists to provide training, education, and certification to Sanitarians. If not for the standards set by the Board the professional standards that keep all West Virginians safe may not be met. The regulation of the profession of Sanitarians, through a certification process that verifies the education and experience of the Registered Sanitarian does afford the public confidence in the profession of environmental health services. Because of the "registration process" through the Board, communities gain assurance that the sanitarian workforce is competent, properly trained, and meets professional conduct standards necessary to carry out the required duties. Absent the Board of Sanitarians this assurance cannot be provided and the training requirements and professionalism would be lost. I believe that the regulation of the profession of Sanitarians is necessary to protect the public health and should be regulated by the Board. There is not a single individual in our state that is not touched every day by the work Sanitarians do on a daily basis. The report indicated the risk to the public is very

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5. The Legislative Auditor recommends that the Chairperson attend the State Auditor Orientation Session annually and that each Board member attends at least one State Auditor Orientation Session during each term in office.

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6. The Legislative Auditor recommends the Board file notice of meetings at least five days before each Board meeting occurs in compliance with WV §9-94-2.

Response: I agree with this recommendation.

7. The Legislative Auditor recommends that the Board ensure all licensees complete the required 15 hours of continuing education.

Response: I am in agreement with this recommendation. The Board does ensure all licensees comply with this requirement. Error occurred with the transition of going to computer from paper. The program apparently overrode the previous input data. Each year in December, the Board goes through all licensees to check for compliance.

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

Response: I agree with this recommendation

Again, I wish to thank PERD for the audit. We certainly desire to be in compliance with all laws pertaining to Chapter 30 boards. We have already begun the process of acting upon the recommendations and will continue to do so.

Respectfully submitted,

Lloyd R White RS MPH CTTS
Chairman WV Board of Sanitarians

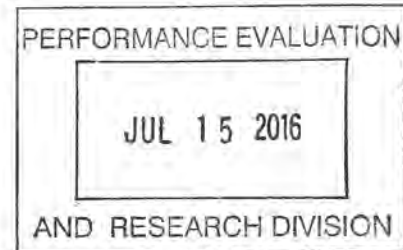


WEST VIRGINIA STATE BOARD OF SANITARIANS

300 Second Street
Fairmont, WV 26554

July 12, 2016

John Sylvia, Director
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610



Dear Mr. Sylvia:

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2. The Legislative Auditor recommends the Legislature consider amending the language in WV §30-1-10 to allow the transfer of excess funds to the state general revenue fund to be based on the sum of the previous two years of revenue or some other mechanism that will accomplish legislative intent.

Response: I am in agreement with this recommendation.

3. The Legislative Auditor recommends that the Board use the State Treasurer's office Lockbox system

Response: I agree with this recommendation. We have already made some necessary contacts.

4. The Board staff should be diligent in its review of its financial reports and take action on accounting errors.

Response: I agree with this recommendation. PERD identified an instance where a board member claimed travel twice for the same day. I did not claim travel twice for the same day, but due to an error in accounting, the travel was processed for pay twice. This has been corrected.

5. The Legislative Auditor recommends that the Chairperson attend the State Auditor Orientation Session annually and that each Board member attends at least one State Auditor Orientation Session during each term in office.

Response: I agree with this recommendation. The Board has always

attempted to comply. The one year in question, the newly elected Chairman attended in December of the year prior to assuming his duties in January. The reasoning was the Information could be used at the beginning of his term as opposed to the end.

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Response: I agree with this recommendation.

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Response: I am in agreement with this recommendation. The Board does ensure all licensees comply with this requirement. Error occurred with the transition of going to computer from paper. The program apparently overrode the previous input data. Each year in December, the Board goes through all licensees to check for compliance.

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

Response: I agree with this recommendation

Again, I wish to thank PERD for the audit. We certainly desire to be in compliance with all laws pertaining to Chapter 30 boards. We have already begun the process of acting upon the recommendations and will continue to do so.

Respectfully submitted,

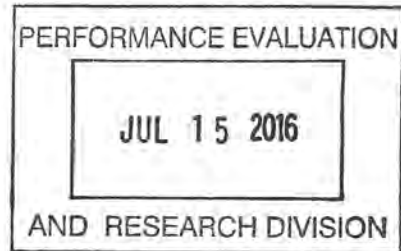
Richard L. Wheeler, R.S./R.E.H.S.
LTC (Ret), USA
Member, WV Board of Sanitarians



WEST VIRGINIA STATE BOARD OF SANITARIANS

300 Second Street
Fairmont, WV 26554

July 12, 2016



John Sylvia, Director
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610

Dear Mr. Sylvia:

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Response: I am in agreement with this recommendation.

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Response: I agree with this recommendation. We have already made some necessary contacts.

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Response: I agree with this recommendation.

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

Response: I agree with this recommendation

Again, I wish to thank PERD for the audit. We certainly desire to be in compliance with all laws pertaining to Chapter 30 boards. We have already begun the process of acting upon the recommendations and will continue to do so.

Respectfully submitted,

*Delores M. Cook,
Member of Board*

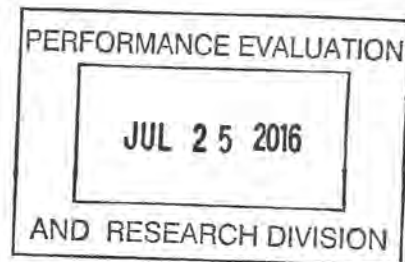


WEST VIRGINIA STATE BOARD OF SANITARIANS

300 Second Street
Fairmont, WV 26554

July 18, 2016

John Sylvia, Director
Performance Evaluation and Research Division
Building I, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610



Dear Mr. Sylvia:

The West Virginia Board of Sanitarians is in receipt of the Legislative Audit conducted by your office. The following represents our response to the report.

The Board wishes to thank the PERD team for working with us in a very professional and courteous manner in completing the audit as well as the exit interview. We are very appreciative for the opportunity to respond to the audit.

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Response: The Board is in agreement with this recommendation.

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Response: The Board agrees with this recommendation. We have already made the necessary contacts.

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

Response: The Board agrees with this recommendation

Again, the board wishes to thank PERD for the audit. The Board expressly desires to be in compliance with all laws pertaining to Chapter 30 boards. We have already begun the process of acting upon the recommendations and will continue to do so.

Cordially,



Phyllis L. Lowe, Member
WV State Board of Sanitarians



WV NURSING HOME ADMINISTRATORS LICENSING BOARD

P.O. BOX 522

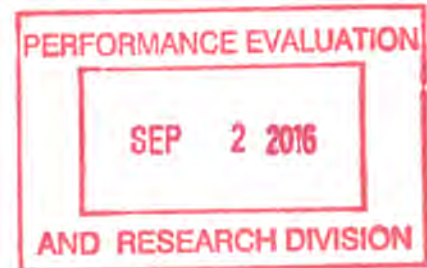
WINFIELD, WEST VIRGINIA 25213

PHONE (304) 586-4070

FAX (304) 586-4079

August 29, 2016

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



Dear Mr. Sylvia:

Thank you for the opportunity to review your letter dated August 19, 2016 to the Board of the WV Nursing Home Administrator's Licensing Board and the recommendations with that letter.

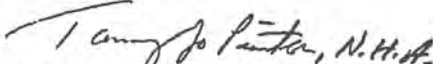
The WV Nursing Home Administrator's Licensing Board met on August 25, 2016 in a regularly scheduled board meeting and as part of that meeting reviewed the information from you. Attached you will find the Board's written response to the recommendations of the Performance Evaluation and Research Division for continuation, termination, or restructuring of the WV Nursing Home Administrator's Board.

The Board passed a motion to oppose the termination or restructuring of our Board with the most important reason being maintaining the health and safety of the most vulnerable and frail of West Virginia's citizens, and by assuring qualified administrators manage all certified nursing homes in the State.

In addition to the above mentioned point of concern, the following reasons to continue the Board as it is are outlined in the attachment.

We will have representatives from our Board at the meeting to address the committee's questions.

Respectfully,


Tammy Jo Painter, NHA
Chairman

Attachment

**WV Nursing Home Administrator's Licensing Board
(WVNHALB)**

Tammy Jo Painter – NHA, VP of Compliance AMFM, LLC
Board Chair

Joan Armbruster - RN, Retired, WV Bureau for Medical Services – Citizen Representative

Daniel Bucher – NHA, Director of Development Cortland Acres Nursing Home

Kay Cottrill - LSW, NHA, St. Barbara's Nursing Home - Board Secretary

Beverly Jezioro – RN, Retired Citizen Representative

Matt Keefer – NHA, Lakin Hospital

Roger Topping - NHA, Princeton Health Care Center

Veronica S. Cummings – Executive Director
P.O. Box 522
Winfield, WV 25213
304-586-4070

The WV Nursing Home Administrator's Licensing Board consists of five licensed nursing home administrators, two citizen members, and one ex-officio nonvoting representative from the Bureau for Public Health (Note: The Bureau for Public Health has not sent an ex-officio representative to any scheduled WVNHALB meetings). The diverse Board brings an extensive history of working with the frail and elderly in the field of long term care. Its purpose is to protect the public good as it relates to those who are most vulnerable and reside in nursing homes throughout the State, by ensuring that every West Virginia nursing home is administered by an individual who meets all requirements as stated in the WV Nursing Home Administrator's Licensing Rule; and holding administrators accountable in their practice of nursing home administration. The Board takes this responsibility with serious intent, faithfully meeting under quorum at least quarterly to perform the duties set forth by State Code.

According to **§CSR 30-25-5. Powers and duties of the board.**

(a) The board has all the powers and duties set forth in this article, by rule, in article one of this chapter and elsewhere in law.

(b) The board shall:

(1) Hold meetings, conduct hearings and administer examinations;

- (2) Establish requirements for licenses and permits;
 - (3) Establish procedures for submitting, approving and rejecting applications for licenses and permits;
 - (4) Determine the qualifications of any applicant for licenses and permits;
 - (5) Prepare, conduct, administer and grade examinations for licenses;
 - (6) Determine the passing grade for the examinations;
 - (7) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examinations and the pass and fail rate;
 - (8) Hire, discharge, establish the job requirements and fix the compensation of the executive director;
 - (9) Maintain an office, and hire, discharge, establish the job requirements and fix the compensation of employees, investigators and contracted employees necessary to enforce the provisions of this article;
 - (10) Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;
 - (11) Conduct disciplinary hearings of persons regulated by the board;
 - (12) Determine disciplinary action and issue orders;
 - (13) Institute appropriate legal action for the enforcement of the provisions of this article;
 - (14) Maintain an accurate registry of names and addresses of all persons regulated by the board;
 - (15) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;
 - (16) Establish the continuing education requirements for licensees;
 - (17) Issue, renew, combine, deny, restrict, suspend, restrict, revoke or reinstate licenses and permits;
 - (18) Establish a fee schedule;
 - (19) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and
 - (20) Take all other actions necessary and proper to effectuate the purposes of this article.
- (c) The board may:
- (1) Contract with third parties to administer examinations required under the provisions of this article;

(2) Sue and be sued in its official name as an agency of this state; and

(3) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

The Board employs only one employee, in full-time capacity, to perform the functions (under the direction and supervision of the Board) as stated in the aforementioned Code and related Rule.

The Board recently completed a substantial rewrite of the WVNHALB Legislative Rule that was passed by the Legislature and Governor, which became effective July 22, 2016. Additionally, the WVNHALB is currently working with universities in West Virginia to develop a long term care career path within their business programs.

The State Code and related Rule establishing the duties of the WVNHALB is complex, needing an experienced board to interpret many nuances that come from direct experience in the field of long term care.

Previous Recommendations on which this report is based:

Financial Impact to the State Government - None

The WV Nursing Home Administrator's Licensing Board has no financial impact on the WV State budget as it operates solely on licensing fees of the nursing home administrators. The board is fiscally independent.

The PERD report states that the board charges fees that are at least twice as much as those of bordering states in order to be self-sufficient. Please note the fees for the State of Virginia are \$315.00 and the State of Ohio are \$297.00. The West Virginia annual license renewal fee (as established in the WVNHALB Legislative Rule) is \$300.00. Other bordering states that have lower fees have a higher volume of applicants and renewals, therefore, providing for more revenue for their respective Boards.

The WVNHALB employs one full-time employee who has intense duties that a one person office requires. These include, but are not limited to, accounts payable and receivable, records management, testing and grading of exams for new applicants, issuing both annual, temporary and emergency permits, assuring responses to complaints, meeting legal time requirements, representing the Board as a voting delegate at national association meetings, preparing all notifications and correspondence, and working with our Assistant Attorney General on regulations and questions that arise that require legal interpretations.

It is clear that although the Board provides an organized entity that meets or exceeds the legal requirements mandated by State Code and related Legislative Rule, its existence and performance of duties does not impact the State budget in any manner.

Through consistently sound financial management, any and all expenses attributed to the operation of the Board are paid for through revenue generated from administrator's licensing fees. Therefore, terminating the WVNHALB does not make a financial improvement to the State budget.

Regulation of Nursing Home Administrators in Bordering States – majority of both bordering states and the United States have independent boards.

As noted in the PERD report the majority of states do not house the regulation of nursing home administrators within the state public health agency. In its report it is noted that only 7 of the 50 United States regulate nursing home administrators through a state agency such as the Department of Public Health.

The current board is able to remain self-sufficient while exceeding the current statutory requirements:

- Updated and improved the current rules governing the board and adopted by the Legislature in July, 2016.
- Successfully investigates and resolves complaints; assuring protection of the state's elderly and vulnerable.
- Exhibits that the costs are justified and appropriate in comparison to the volume of activity while not using valuable State funding.
- Does not duplicate any of the responsibilities of any other State board.
- Meets or exceeds the statutory requirements of reviewing substandard quality reviews sent to the Board from the Office of Health Facility Licensure & Certification.
- Meets or exceeds the meeting and quorum requirements on an ongoing basis.
- Follows established requirements when approving candidates for Administrator-in-Training programs and approving candidates for licensure. These requirements can be challenging and time consuming.
- Assures availability of both the national and state licensing exams in a prompt manner without delaying applicants needing licensures.
- Assures applicants renewing licenses meet the statutory educational requirements and executes licenses in the established time frame on an annual basis.
- Works with the National Associations of Long Term Care Administrator's Boards to advance nursing home administrator's national certification, supports their educational initiatives and quality programs for administrators.
- The Board is currently working to establish collaborations with universities in West Virginia for educational initiatives directed toward the study of long term care.

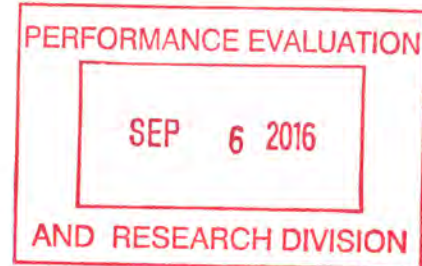


WEST VIRGINIA MEDICAL IMAGING & RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

Mailing Address: P.O. Box 638 – Cool Ridge, WV 25825-0638
Physical Address: 1715 Flat Top Road - Cool Ridge, WV 25825-0638
Telephone: (304) 787-4398 / TOLL FREE: (877) 609-9869 / Fax: (304) 787-3030
E-mail: wvrtboe@suddenlinkmail.com Web Page: www.wvrtboard.org

September 6, 2016

WV Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610



Director Sylvia,

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (**Board**) is essential to protect public safety. It ensures that there is a highly skilled and qualified workforce across the entire state of West Virginia, providing quality imaging and radiation therapy services in every community and clinical setting. The Board regulates Radiologic Technologists, Radiation Therapists, Nuclear Medicine Technologists, Magnetic Resonance Imaging Technologists, and Podiatry Medical Assistants. Licensed medical imaging technologists must graduate from a Board approved medical imaging school and pass a Board approved medical imaging exam.

The Board requires all new medical imaging schools in the state to apply and provide a detailed needs analysis. All medical imaging schools must also maintain accreditation with either the Joint Committee on Education in Radiologic Technology (**JRCERT**), and/or the Joint Review Committee on Educational Programs in Nuclear Medicine Technology (**JRCNMT**). The schools must also submit an annual report to the Board for review. The JRCERT and the JRCNMT have voluntary memberships and have no regulatory authority within the state of West Virginia.

The Board provides the Medical Imaging Technologists a state only exam and also recognizes several national exams. The nationally accepted exams are the American Registry of Radiologic Technologist (**ARRT**), the Nuclear Medicine Technology Certification Board (**NMTCB**) and the American Society of Podiatric Medical Assistants (**ASPMA**). The ARRT, NMTCB, and the ASPMA have voluntary memberships and have no regulatory authority over individuals practicing medical imaging and radiation therapy within the state of West Virginia. The Board only utilizes the testing results from



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Mailing Address: P.O. Box 638 – Cool Ridge, WV 25825-0638

Physical Address: 1715 Flat Top Road - Cool Ridge, WV 25825-0638

Telephone: (304) 787-4398 / TOLL FREE: (877) 609-9869 / Fax: (304) 787-3030

E-mail: wvrtboe@suddenlinkmail.com Web Page: www.wvrtboard.org

these organizations and does not require the Licensees to maintain memberships with these organizations.

The Board is governed by nine (9) Board members appointed by the Governor and is in compliance with all the General Provisions of Chapter 30. Moreover, the Board is self-sufficient and poses no financial burden to the General Revenue Fund. Other states have recently found it advantageous to have “boards” regulate Medical Imaging in their respective states. North Dakota, New Hampshire, and Tennessee recently joined West Virginia in being regulated by a board as well as Maine, Arizona, Louisiana, Oregon, South Carolina, Wyoming and Montana. *(Attachment 1)*

Kentucky, our neighboring state, recently moved its medical imaging licensure program from a medically related state agency to a board, The Kentucky Board for Medical Imaging and Radiation Therapy. Boards allow the skills and expertise of peers from different areas to come together through collaboration, uniting the different perspectives into one regulatory effort. *(Attachment 2)*

Only one hundred and twenty (120) years ago, Wilhelm Conrad Roentgen made an amazing discovery. He discovered X-rays. The discovery of X-rays would change the world forever. However, within several years after the discovery of x-rays, came another very important discovery. The discovery that x-rays are dangerous and even deadly! Clarence Madison Dally died after being over exposed to radiation while working with Thomas Edison on an X-ray fluoroscope machine. Radiation is an effective tool that can save lives, and at the same time radiation is very dangerous if used improperly. The World Health Organization’s (**WHO**) International Agency for Research on Cancer classifies X-rays as a carcinogen. *(Attachment 3)*

In 2009, the National Council on Radiation Protection and Measurement (**NCRP**) released a report entitled “Ionizing Radiation Exposure of the Population of the United States”. The NCRP report #160 was compared to a previous 1987 NCRP report # 93. The comparison showed an increase in the amount of radiation exposure from medical imaging procedures from 15% to 48%. This dramatic increase raised concerns from the general public and the scientific community regarding the need to reduce radiation exposure during medical imaging procedures. *(Attachment 4)*



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In 2009, the Food and Drug Administration (**FDA**) put out an alert for all Medical Imaging Departments to review their Radiation Safety Protocols after a prominent Los Angeles CA hospital made the national news after inappropriately overexposing 206 patients to radiation during Computerized Tomography (CT) scans. *(Attachment 5)*

In 2010, the FDA launched an initiative to “Reduce Unnecessary Radiation Exposure from Medical Imaging.” This initiative:

- 1) Promoted the safe use of Medical Imaging Devices;
- 2) Supported Informed Clinical Decision Making; and,
- 3) Called for increased Patient Awareness.

The FDA, as the approval agency for all new medical devices, also mandated manufacturers to adopt new hardware and software safeguards to prevent unintentional radiation overexposures. *(Attachment 6)*

In 2010 the American College of Radiology (**ACR**), Radiological Society of North America (**RSNA**), and the American Society of Radiologic Technologist (**ASRT**) launched the “Image Wisely Campaign.” This campaign was formed with the objective of lowering the amount of radiation used in medically necessary imaging studies and completely eliminating the unnecessary procedures. *(Attachment 7)*

In 2011, The Joint Commission (**TJC**) issued a Sentinel Event Alert #47, Radiation Risks of Diagnostic Imaging. This alert stated that in the past two decades in the United States total exposure to ionizing radiation has nearly doubled. The alert pointed out a key problem in that any Physician can order any radiation imaging procedure at any frequency without any knowledge of when the patient was last irradiated or how much radiation the patient previously received. The Alert also cautioned that from the 72 million CT Scans performed in the United States in 2007 there could develop 29,000 future cancers and 14,500 future deaths. This Alert:

- 1) Encouraged physicians to order non-radiation tests when possible;
- 2) The use of the lowest possible radiation dose for the diagnostic purpose;
- 3) Safe processes with only key personnel allowed to make radiation protocol changes; and,
- 4) Safe technologies with annual testing by medical physicists. *(Attachment 8)*

In 2012, the Medicare Improvement for Patients and Providers Act (**MIPPA**) went into effect. This Act required accreditation of all free standing Imaging Centers with



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Telephone: (304) 787-4398 / TOLL FREE: (877) 609-9869 / Fax: (304) 787-3030
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advanced imaging services. Noncompliance to this Act resulted in a reduction of reimbursement of services.

In 2014, due to the increase in Medical Imaging radiation exposure, the Environmental Protection Agency (**EPA**) updated the 1976 Radiation Protection Guidance for Diagnostic and Interventional X-ray Procedures. This guidance was issued to all federal facilities that perform diagnostic or interventional x-ray procedures. Private healthcare facilities were also encouraged to adopt the guidance and its recommendations.

(Attachment 9)

In 2015, The Joint Commission (**TJC**) issued “Diagnostic Imaging Requirements”. These minimal standards included:

- 1) MRI safety risk checks;
- 2) Radiation monitoring for all advanced imaging technologists;
- 3) Annual physicist surveys of all Medical Imaging Equipment;
- 4) Radiation protocols based on patient sizes and body habitus; and,
- 5) Collection of all data for all incidents involving the over exposure of radiation. *(Attachment 10)*

In 2016, Protecting Access to Medicare Act (**PAMA**) went into effect. This Act requires all Medical Imaging Departments to implement minimal CT Radiation Safety Parameters. The safety parameters include, but are not limited to:

- 1) Structured Radiation Dose reporting for all patients;
- 2) Radiation Dose Alerts for over exposure to radiation;
- 3) Automatic Exposure Controls (AEC) on all CT equipment; and,
- 4) Radiation Dose Protocols for different patient sizes.

Noncompliance to this Act will result in a reduction of reimbursement of services. As stated above, the recent dramatic increase in radiation during medical imaging procedures has raised many concerns, and multiple agencies are urging an increase rather than a decrease in the oversight of the practice of medical imaging. The efforts of these described Acts, recommendations and initiatives would be completely ineffective if the medical imaging technologists and radiation therapists were not appropriately educated and clinically competent.



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Mailing Address: P.O. Box 638 – Cool Ridge, WV 25825-0638

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Diagnostic radiation is an effective tool that can save lives if used correctly. A high dose of radiation can be damaging, but conversely, under exposure to radiation can lead to misdiagnosis. It is a dangerous and potentially deadly precedent to allow personnel who have not undergone rigorous training in radiation safety, radiation physics, radiation exposure technique, anatomy, and patient positioning to assume medical imaging responsibilities. A radiologic procedure is only as effective as the person performing it. To be clinically useful, radiologic procedures must meet a high standard of quality. Accurate diagnosis is virtually impossible without quality medical imaging information. Elimination of Medical Imaging Licensure and the oversight provided through this regulatory process for the operators of medical imaging equipment will pose a hazard to the public and will jeopardize the quality of health care and safety of our patients in West Virginia.

If the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners were eliminated, medical facilities would be able to hire whomever without any regulatory oversight. As with many medical facilities, the public would be faced with medical imaging technologists and radiation therapists with varying degrees of education and competency throughout the state of West Virginia.

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners is the regulatory body able to protect the public from unlicensed and substandard care given by technologists. Moreover, the Board receives multiple complaints every year. The most common complaints include unlicensed individuals performing medical imaging studies, ethical issues, and substance abuse problems.

Without the Board who would monitor and protect the public from these practices? The Board's work is not duplicative of the national organizations as referenced since these national organizations have no regulatory authority within the state of West Virginia. These organizations would be unable to halt practices that may be harming the public which this Board can and does address on a daily basis. The Board ensures that these individuals are properly licensed and educated before they ever work for any institution here in the state of West Virginia.

In closing, imagine your sick grandchild getting an x-ray. Who do you want to administer the radiation? The West Virginia Medical Imaging and Radiation Therapy



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Telephone: (304) 787-4398 / TOLL FREE: (877) 609-9869 / Fax: (304) 787-3030

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Technology Board of Examiners ensures that there is **only** a qualified workforce of educationally prepared and clinically competent professionals providing high quality imaging and radiation therapy services throughout the entire state of West Virginia.

Respectfully,

A handwritten signature in blue ink that reads "Jamie S. Browning".

Jamie S. Browning, BSRT(R)

Executive Director

WV Medical Imaging & Radiation Therapy Technology Board of Examiners

1715 Flat Top Road - PO Box 638,

Cool Ridge, WV 25825-0638

www.wvrtboard.org

Jamie.S.Browning@wv.gov

304-687-5292



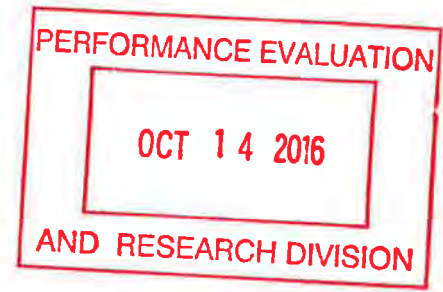
179 Summers Street, Suite 711
Charleston, WV 25301

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

~State of West Virginia~
**Massage Therapy
Licensure Board**

October 14, 2016

John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25302-0610



Dear, Mr. Sylvia,

I have attached the WV Massage Therapy Licensure Boards response for the request to respond to the review of certain boards and commissions for the purpose of determining whether they should be continued, modified or terminated. It is my understanding this topic will be on the agenda of the Joint Committee on Government Operations and the Joint Committee on Government Organization during the December Interim meetings. Please let me know when the date and time have been finalized. I plan to be in attendance to represent the board in reference to this report.

Sincerely,

A handwritten signature in cursive script that reads "Linda Lyter".

Linda Lyter
Executive Director

The Board respectfully disagrees with the audit finding that the regulation of massage therapists is not necessary to protect the public. Since the WV Legislative Audits conducted in 2000, 2003, and most recently in 2014; there have been significant changes in the regulation of the massage profession across the nation.

All of the states surrounding West Virginia now regulate the massage profession. Kentucky enacted legislation in late 2003 to license massage therapists after an audit recommended regulation was not necessary to protect the public. Pennsylvania enacted legislation in 2008. Other states that have recently enacted legislation for massage therapy licensure are Alaska, in 2014 and Oklahoma in 2016.

Since 2003, an additional fourteen (14) states have enacted legislation to regulate massage professionals for a total of forty-six (46) states. Contrary to the findings of the Legislative Audit; regulation of the profession of massage therapy, by the Board, is necessary to protect the public.

Regulation of this profession is necessary for public protection, due to the fact that there is no state agency or national organization that is structured to investigate complaints. Without licensure, there isn't any other mechanism for the public to be ensured that massage therapists have the appropriate education and training, as well as, the process to investigate complaints. This oversight function is necessary because most therapists work independently and do not have employers for reporting a complaint. Therefore, no other entity reviews and confirms educational requirements and processes complaints.

The Legislative Auditor understated the potential harm to the public. Board complaints and investigations show the potential harm to the public includes physical harm and sexual victimization that can result in emotional harm. The elimination of regulation of the profession would also send a message that the state is not concerned about sexual misconduct prostitution and unethical behavior. Termination of the Board would eliminate an effective recourse of action for victims of sexual improprieties as well as for any deviation from professional standards.

The Massage Therapy Board was Created to Protect the Public

Although, the prestige of being a licensed massage therapist is not necessarily inherent to the protection of the public; the license does represent a verification of professional competencies. The regulation of the massage professionals, by the Board, provides a complaint and investigation process

that both the public and the licensees rely on to keep the business playing field level; where everyone has to comply with the same clearly defined educational requirements, rules of professional conduct and ethical standards.

Because all of the surrounding states regulate massage therapists, licensure in West Virginia facilitates the ease for licensees in this state, to practice in all of the surrounding jurisdictions and alternately allows for out of state licensed practitioners to be similarly recognized here. The state boards also work together to identify any unethical and unprofessional activity relating to disciplinary actions on licensees.

It is important to note that massage therapy has continued to gain recognition as a health profession, which can be attributed in part, to the regulation and accompanying requirements of professional competencies for massage therapists. Licensure and the corresponding code of ethics for licensed professionals does help to distinguish the massage therapist from back room brothels and other illicit, if not illegal activity.

The nature of the complaints that this Board has investigated and continues to investigate have shown that regulation of massage therapy does protect the public from harm of unethical and unprofessional practitioners.

Harm to the Public can Result from: Physical Injury; Sexual Assault and the Corresponding Emotional Harm; and Sexualizing the Therapist Client Relationship is a Violation of the Professional Code of Ethics

After the City of Charleston de-prioritized the prosecution of prostitution in 2013, the Board received a complaint about sexual misconduct involving massage therapy services at an establishment, Asian Massage, in Kanawha City. The Board investigator confirmed illicit activity was taking place. The Board informed the Charleston City Police, who also investigated and confirmed the findings of the Board. Without the licensing Board's complaint process, the establishment would most likely still be open today.

The public and licensees rely on the Board to investigate and resolve complaints. Without the Board, complaint issues and enforcement would almost certainly fall through the cracks. It is not an easy process to report a sexual impropriety. According to a CNN report, by Nina Burleigh, "the shame of sexual assault is a burden that belongs on the predator, not the prey." As referenced in the report, sexual assault is characterized as a "threat and terrible secret." Public awareness of sexual assault has increased and the need for appropriate, efficient and effective public policy to protect the public from sexual assault has been affirmed. The licensure of massage therapists is

an important component of the regulatory enforcement tools that help protect the public from sexual assault in the professional setting of massage therapy.

Over the years, for example, the Board has investigated massage therapists that have engaged in sexual assaults and massage businesses that have allowed sexual favors to be performed on clients. With the help of Charles Bedwell, Director of the Legislative Commission on Special Investigations, the Charleston Police Department and the Princeton detachment of the West Virginia State Police, the Board has been able to protect the public by revoking the license of sexual predators and by shutting down businesses for allowing and performing these illicit sexual activities.

In 2004, the Board worked extensively with the Commission on Special Investigations to assist in the removal of the former chair of the Board, who was also a licensed massage therapist. Six years later, the Board received a complaint on this licensee that represented imminent harm to the public. Upon investigation, the Board found the complaint valid. The Board then suspended and eventually revoked his license for sexually assaulting a client. To this date, if it had not been for the Board and the complaint process, this therapist would still be practicing today and potentially victimizing other women.

This sexual assault case is a clear example of the harm to the public that can result from the unethical practice and sexual misconduct in the profession of massage therapy. The case resulted in severe emotional harm to the victim. Throughout the investigation, the Board was made aware of other women who had been the victim of the massage therapist and whereas, became witnesses in the case, as the public became aware of his misconduct.

The above case was also reported to law enforcement, who have yet to bring formal charges. Therefore, if not for the Board suspending and ultimately revoking his license, the therapist would most likely still be practicing today and potentially harming others. Even though the licensee appealed the Board decision; the Kanawha County Circuit Court and the West Virginia Supreme Court of Appeals both upheld the regulatory enforcement action of the Board to permanently revoke his license to practice massage therapy.

The Board disagrees with the Legislative Auditor's reference "the public is sufficiently protected through existing common law and civil remedies". The above case, is a clear example, that common law and civil remedies alone are not enough to protect the public from unprofessional conduct. The Board is aware that in addition to the complaint filed with the Board, there was also a civil lawsuit filed against the licensee. It is the Boards understanding the civil case was settled with a confidentiality agreement. The criminal aspect of the

complaint and the civil suit, in this case, represent examples where common law and civil remedies are inadequate to protect the public.

Eliminating the requirement for licensure of massage therapists does not protect the public and would set the profession of massage therapy back 50 years. This year, Ohio, for example, celebrated 100 years of massage therapy licensure. This profession has gained recognition in the health care industry. Massage therapy is moving into the future, not regressing into the past.

A Lower Form of Regulation Such as Registration is Not a Viable Alternative

The professions referenced in the 2014 audit, such as individuals who perform marriages, scrap metal dealers, athletic agents and credit service organizations who register with the Secretary of State are not health related professions. Those registered activities pose a relatively low risk of harm to the public. These individuals have no physical contact with their clients, unlike massage therapists where the profession itself, involves physical contact with the client.

Massage clients are routinely vulnerable, unlike clients of the individuals registered by the Secretary of State. Massage therapy is a recognized health modality where clients are almost always in a one on one setting with the massage therapist. Massage clients are even more vulnerable because the massage client is most often in a state of undress in the massage setting, requiring the highest degree of confidence and professionalism be maintained.

Registration with the Secretary of State will not provide the professional expertise that a professional licensing board provides. Chapter 30 Boards including the Massage Therapy Licensure Board, are established with the premise that licensed professionals on the boards have the professional expertise and education necessary to properly evaluate complaints against persons licensed in those professions. The office of the Secretary of State has no similar expertise or experience regarding massage therapy.

Conclusion

The Board is the governmental entity whose mission is to protect the public, regulate the profession and issue licenses. The Board verifies the education and credentials of all applicants for licensure. Historically, the justification for the licensure of massage therapists, including in this state, was to provide professional standards and adequate credentialing necessary to help distinguish the professionals from prostitution and illicit activity.

Protecting the public from harm is an inherently governmental function and the Board is an instrumental component in performing the regulatory duties that provide public safety. The Board is responsible for investigating and disciplining unprofessional and unethical conduct in the massage profession through the complaint process. The Board is the state entity best suited to receive and resolve complaints due to the nature of some of the complaints. In addition, when complaints reported to the Board indicate criminal activity; the Board works diligently with law enforcement in areas where the board lacks jurisdiction. Because unprofessional sexual activity in massage settings are difficult cases to prosecute criminally, the Board is the front line of defense for protecting the public from unethical practice in the profession.

The Board was able to successfully revoke the license of the massage therapist that sexually assaulted a client, while the corresponding criminal investigation was not pursued. The civil suit in the case did not result in protecting the public. Without the action of the Board, and due to the massage therapy licensure requirements, this individual would still be practicing massage therapy and potentially continuing to victimize countless other women.

The regulation of the massage professionals, by the board provides a complaint and investigation process that licensees rely on to keep the business playing field level. Everyone has to comply with the same clearly defined rules and ethical standards. Termination of the Board would further open the gateway for sexual improprieties, prostitution, human trafficking and other illegal activity. To eliminate the licensure requirement for massage therapists, the State of West Virginia would be regressing backward instead of moving forward.

Therefore, the position of the Board is licensure of massage therapists is necessary to protect the public.

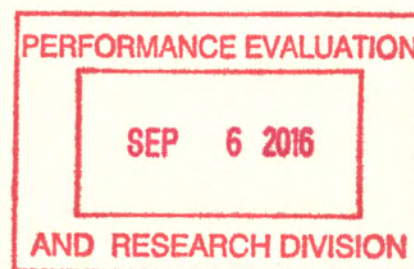


WEST VIRGINIA STATE BOARD OF REGISTRATION FOR FORESTERS

PO Box 1032
Ripley, WV 25271
Ph. 304-415-3952
e-mail: wvborf@gmail.com

August 30, 2016

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



Mr. Silva,

The West Virginia Board of Registration for Foresters has received your August 19, 2016 notice of a planned PERD review and, as President of the BORF, I am submitting the following information for your report to the Joint Committee on Government Organization and Joint Committee on Government Operations.

First, on a personal note, the BORF was most recently audited less than three years ago. I realize under WV Code 4-2-5 and 4-10-11 your agency and the Joint Committees have the authority to conduct reviews at any time, however, as a small business owner, employer and taxpayer I must question the expenditure of your agencies limited resources and staff in repeating this audit in such a short timeframe particularly since WV Code 4-10-9 only requires Chapter 30 Boards to be audited at least once every 12 years. At the Annual Seminar of State Licensing Boards last December 1, 2015 you did not indicate our Board was scheduled for an audit in 2016. Considering the financial problems our State is currently having and the cost to the taxpayers for your office to conduct a PERD review, I would think your funds and the Legislature's time could be better spent on other matters.

John Silva
August 30, 2016

The Legislature needs to recognize the importance of protecting the forest resources in the State. West Virginia is over 75% forested with 85% of our forests privately owned and is the third most forested state in the nation. Proper professional management of the forests of our State insures the continued production of higher quality and more valuable timber which helps our State economy grow and creates more jobs. Timber is a renewable resource and studies have shown that managed timberland will produce twice the timber volume as unmanaged timberland. Foresters have professional training to help the forest landowners of our State manage their timber resources. Foresters also assist banks, Trusts, Real Estate Appraiser's, CPA's, attorneys and the court system in timber valuation, Tax Basis calculations, timber income and growth valuations, estate planning and expert witness testimony for timber trespass. The Oil and Gas industry uses professional foresters to conduct timber damage appraisals for surface owner compensation. The BORF provides assurances to protect forest landowners and these other persons or groups from those who would fraudulently represent themselves as having the education and experience of a professional forester.

The BORF licenses both Foresters and Forestry Technicians. Minimum educational and experience standards have been created to guarantee the public that anyone representing themselves as a Registered Forester or Registered Forestry Technician has the education and experience to be given that license and title. Persons applying for Registered Forester status are also required to pass a written exam given by the BORF. All Licensees are required to annually have a minimum number of Continuing Education Credit hours from a CFE Course approved by the Society of American Foresters. Our current roster shows there are 303 Registered Foresters and 47 Registered Forestry Technicians in our State. This number does not include those who are retired, have Emeritus status, or have "In-Training" status.

PERD recommendations, draft report, Page 3, Title Protection:

The BORF has been in existence since 1963 when the Board was established by State Legislation. The BORF requires all Foresters to have a minimum of a Bachelor of Science Degree in Forestry or a 2 year Forest Technicians degree combined with a 2 year business or advanced natural resources degree in order to be considered for forester registration. These college degrees imprint the science of forest management and also include education in economics, finance, biology, botany, dendrology, chemistry, physics, soils, hydrology, ecology, recreation, accounting, and ethics. Combined with the experience and Continuing Education requirements of the BORF these standards help protect the public from the uneducated charlatans who would take advantage of unknowing forest landowners. A review of our Board's complaint history shows the BORF strictly enforces our title charge to protect the public. This alone is justification for continuance of the BORF.

John Silva
August 30, 2016

PERD Recommendations, Page 3, national organizations register foresters:

This is a false and misleading statement. There are no national organizations that register or have a roster of all foresters. The BORF has the only roster available to the public of Registered Foresters and Registered Forestry Technicians in the State.

The Society of American Foresters (SAF) is a national organization with a WV Chapter. Membership into the SAF is voluntary and they do not have a membership list available on either the national or state chapter websites. Their membership list would only include SAF dues paying members. Not all SAF members are degreed foresters. The SAF has a program for Certified Foresters (CF), but this too is voluntary. There are only 36 SAF Certified Foresters in West Virginia.

The Association of Consulting Foresters (ACF) is also a national organization with a WV Chapter. Membership into the ACF is also voluntary. Their National Office has a website showing only ACF members by State. There are 6 WV ACF Chapter members, but only 4 reside in West Virginia.

The BORF website is the only source the public has to find a list of all registered foresters in West Virginia. The WV Division of Forestry has a separate list of Stewardship Foresters on their website, but that is not an all-inclusive list of all the registered foresters in the State.

PERD Recommendations, Page 3+4, regulation in bordering states:

Ohio and Pennsylvania are currently discussing and moving towards registration of foresters. The BORF has been working with and discussing reciprocity with numerous other State Registration Boards. The importance of registration of foresters in West Virginia is greater than in most other States because of the acreage our State has in forestland. PERD should not compare West Virginia to other states that do not have the percent of forestland or the important forest resources as West Virginia.

Our State has maintained a Registered Forester Board for 63 years making our Board one of the oldest in our Nation. This is one area where we can safely say West Virginia is ahead of most other States in professional development. Why would the Legislature want to see our state rank as one of the lowest in this class by terminating the BORF?

John Silva
August 30, 2016

PERD Report, Page 4, Impact on General Revenue Fund

The BORF poses no cost to the general revenue fund. The BORF has a history of self-sufficiency and is funded only by dues and test fees therefore meeting the requirements of WV Code 30-1-6(c). In 2015 the State Treasurers office swept \$15,198.55 of the BORF funds into the States general account. The Board's current cash balance of its special revenue fund is \$49,000 which meets the past PERD recommended "prudent cash reserve" requirement.

Conclusion:

The BORF strongly disagrees with the Legislative Auditor's recommendation to terminate the Board of Registration for Foresters. West Virginia is one of the most forested states in the nation, and we need to protect our forest resources with continued registration of foresters through the BORF. The continuation of the BORF will help protect the public and forest landowners by providing the public with the oversight that anyone representing themselves as a forester will have the proper education and experience when providing timber appraisals, forest management recommendations or other forestry services. The BORF provides the only available public listing of all registered foresters in West Virginia. Our Board is recognized by other States Forester Registration Boards as one of the oldest and well known Boards, and our registration process has been looked at as a "good example" by other States. The BORF is self-funded and causes no financial burden to the general fund. The BORF works towards sustaining high professional standards for our profession, upholding our standards of ethics with no conflict of interest, all within the recognized national code of ethics and standards of conduct of the Society of American Foresters.

The continuation of the Board of Registration for Foresters is supported by many professional and landowner groups including the West Virginia Farm Bureau, WV Chapter of the Society of American Foresters, WV Chapter of the Association of Consulting Foresters of America, West Virginia Forestry Association, and the Tree Farm organization to name a few. We respectfully request the support of the Legislative Joint Committees in continuing the Board of Registration for Foresters.

Sincerely,



David W. Hill, RPF, CF
President
WV BORF

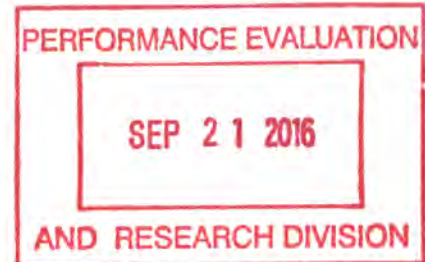


WEST VIRGINIA STATE BOARD OF REGISTRATION FOR FORESTERS

PO Box 1032
Ripley, WV 25271
Ph. 304-415-3952
e-mail: wvborf@gmail.com

September 9, 2016

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



Mr. Silva,

Enclosed is another support letter for the continuing of the Board of Registration for Foresters. This letter from the West Virginia Farm Bureau shows how important our Board is to the largest landowner organization in West Virginia. Please see that this letter and the three others mailed to you on September 8, 2016 are properly forwarded to the Joint Committees reviewing your PERD recommendations.

Sincerely,

A handwritten signature in blue ink that reads "David W. Hill / BM".

David W. Hill, RPF, CF
President
WV BORF

DWH:bm
Enclosure

cc by email: Denise Metten – House Government Organization Staff

West Virginia Farm Bureau, Inc.

"The Voice of Agriculture in the Mountain State"



62 Farm Bureau Road
Buckhannon, WV 26201

Phone: (304) 472-2080

Fax: (304) 472-6554

www.wvfarm.org

Mr. David Hill, RF
West Virginia Board of Registration for Foresters
682 Haymond Woods Rd
Salem, WV 26426

West Virginia Farm Bureau (WVFB) has recently learned of the recommendation to eliminate the West Virginia Board of Registration for Foresters (WVBORF). As the voice of Agriculture in the Mountain State, we ask that this recommendation not to be considered.

WVFB represents over 23,000 member families across the state. Several of those will call upon a professional forester from time to time for advice and assistance in the management, sale, and/or timber harvest of their timber stands.

West Virginia is the third most forested state in the nation. The vast majority of WV forest land is held by private landowners. It is essential that they be able to call upon a professional forester for proper management of the forest, and to provide sustainability for future generations.

The WVBORF provides a registration process so landowners know they are calling upon a professional in the forestry field. It is also important because landowners who participate in a county Farm Land Protection program may be required to follow a Timber Management Plan (TMP). The same applies to landowners who participate in a Manage Timberland Assessment.

Timber is a vital crop that requires proper management to reach its highest economic return to the landowner and citizens of this state. The Registered Foresters have and will continue to provide the services for this management. Therefore, WVFB strongly opposes any plan to eliminate the WVBORF.

Sincerely,

Steve Butler

WVFB Administrator/Secretary-Treasurer

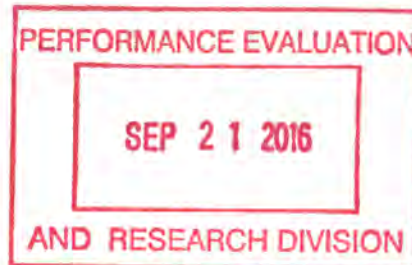


WEST VIRGINIA STATE BOARD OF REGISTRATION FOR FORESTERS

PO Box 1032
Ripley, WV 25271
Ph. 304-415-3952
e-mail: wvborf@gmail.com

September 8, 2016

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



Mr. Silva,

Regarding the Joint Committee of Government Organization review of the West Virginia Board of Registration for Foresters, enclosed I am forwarding to you the following letters of support for continuing the Board of Registration for Foresters. Included are the following:

1. Letter from the West Virginia Division of the Society of American Foresters;
2. Letter from the West Virginia Chapter of the Association of Consulting Foresters of America;
3. Letter from the West Virginia Forestry Association.

As this issue develops, there may be additional letters of support from other organizations to be submitted to House Government Organization Committee prior to our PERD review.

Please provide this information to the membership of the Joint Committee on Government Organization and Joint Committee on Government Operations.

If you have any questions regarding this letter or the enclosures, please do not hesitate to contact me at (304) 782-1977.

Sincerely,

A handwritten signature in blue ink, appearing to read "David W. Hill".

David W. Hill, RPF, CF

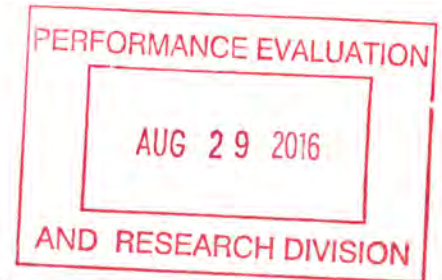
President
WV BORF

Enclosures

cc by email: Denise Metten – House Government Organization Staff



West Virginia Division
Society of American Foresters



August 29, 2016

Senator Craig Blair
Co-Chair, Joint Committees on Government Organization & Operation
Room 217W, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Senator Blair:

The West Virginia Division of the Society of American Foresters (WV SAF) works to ensure forests are well-managed and productive in West Virginia. These forests provide jobs, wood products, clean water, wildlife and many other services to all of us. As such, WV SAF supports the role of the WV State Board of Registration for Foresters (BORF) in certifying the credentials of professional foresters and monitoring their continuing education to insure WV and its citizens have access to ethical, well-trained professionals. W. Va. Code §30-19-1 prohibits persons from identifying themselves as a professional forester, forester, or the like in West Virginia without having BORF certification.

As with many professions, there are a number of certifying bodies with varying qualifications and authority. Generally, the BORF requires Registered Foresters to have a 4-yr degree in forestry from an accredited SAF college or university plus 2 years of full-time forestry work experience before applying for registration through a certification exam. Registered Forestry Technicians are required to have a 2-yr forestry degree plus 4 years of full-time forestry work experience.

Two additional forestry-related professional societies are SAF and the Association of Consulting Foresters (ACF). SAF promotes the Certified Forester (CF) program. While the CF program has gained national acceptance, adopting this standard would disadvantage some of our practicing foresters. First, while SAF-membership (\$145/yr) is not a requirement, compared to the BORF, non-members would pay almost double the annual licensing fees, require double the professional development hours (the BORF requires 10 hr/yr), and the CF program does not recognize the value of our 2-yr technical forestry programs that produce Registered Forestry Technicians. Similarly, the Association of Consulting Foresters (ACF) does not provide for Registered Forestry Technicians, nor does it allow membership for state and federal employed foresters.

Furthermore, a goal of the BORF is to maintain the professional standards of its licensed members. As such, the BORF, comprised of experienced and licensed foresters from West Virginia, reviews all complaints against foresters in the state. In the other licensing boards, the board or committee responsible for addressing complaints did not have a member from West Virginia (SAF), or the composition was not stated in their bylaws (ACF).

WV SAF promotes quality forest management and our members have a shared passion for caretaking WV's natural resources. WV SAF supports all of the efforts the BORF has made to safeguard these resources. WV SAF *does not* recommend the termination of the BORF by the state legislature. We believe that the BORF represents a balanced solution for ensuring forestry is undertaken in a professional and sustainable manner, without providing unnecessary burdens on its registered foresters and forestry technicians; and since the BORF officers are volunteers, the BORF functions at no cost to the taxpayers.

Thank you for your attention to this matter. If you have any questions or need further information, please do not hesitate to call me at 304-293-3896.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Schuler", with a long horizontal flourish extending to the right.

Jamie L. Schuler
Chair, WV Society of American Foresters
PO Box 6125
Morgantown, WV 26508

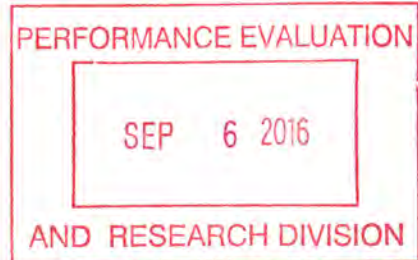
cc: Delegate Gary Howell, Co-Chair Joint Committees on Government Organization and Operation



**West Virginia Chapter
Association of Consulting Foresters of America, Inc.**

September 6, 2016

Mr. David Hill, RF
West Virginia Board of Registration for Foresters
682 Haymond Woods Rd
Salem, WV 26426



Dear Mr. Hill:

The West Virginia Chapter of the Association of Consulting Foresters(WVACF) would like to provide our strong endorsement that the West Virginia Board of Registration for Foresters (WVBORF) be retained as the registration agency for foresters in West Virginia. We find the possibility of the boards demise anathema to the sound practice of forestry in the state. As an organization of independent professionals organized around ethical standards, we promote the use of the best professional, economic, and ethical expertise in management of the forest resource. The WVBORF insures that any forester who practices in the state has met minimum standards of competency. This protects the forest from non-professional practices that ignore the concepts of multiple-use which yield both commodity and non-commodity benefits for all segments of society. With the West Virginia Division of Forestry currently unable to provide sufficient oversight of the state mandated Best Management Practices on logging sites, the need for strong standards in the forestry profession is of greater need than ever. The WVACF is strongly against any consideration of termination of the WVBORF. As a national association it is one of our objectives to raise the professional standards of forestry and enhance the public's perception of forestry and forestry activities. The WVBORF was not created without the same perceived need to raise the standards of forestry in the state. There was a lack professionalism that undermined the message of forestry that organizations such as the WVACF and others were promoting. Currently, West Virginia is seen as a proactive leader in forestry with a history of early adaptation of Best Management Practices and the creation of the WVBORF. The WVACF recently hosted the national convention of the Association of Consulting Foresters in West Virginia where discussion centered around our forestry industry and the safeguards we have in place for our forests. The elimination of the WVBORF would be a major movement towards removing those safeguards.

Very truly yours,

Jeff Hutchinson

Chair WVACF



West Virginia Forestry Association

P.O. Box 718 Ripley, WV 25271 Phone: 304-372-1955 Email: wvfa@wvfa.org

August 26, 2016

Mr. David Hill, RF
West Virginia Board of Registration for Foresters
682 Haymond Woods Rd
Salem, WV 26426

Dear Mr. Hill:

Recently, the members of the West Virginia Forestry Association become aware of a pending recommendation by the State Auditor's office to sunset the West Virginia Board of Registration for Foresters (WVBORF). We at WVFA recommend in the strongest possible terms that this consideration - and all future such considerations - of termination be dismissed.

WVFA is a non-profit organization funded by membership. Our members include individuals and businesses involved in forest management, timber production, firewood production and wood product manufacturing. WVFA is concerned with protecting the environment, as well as enhancing the future of West Virginia's forests through multiple-use management. Our organization encourages and promotes sustainable forest management, improved fire protection and suppression and true conservation of woodland resources in West Virginia.

West Virginia is the third most forested state in the United States. This is not an accident. Professional foresters are responsible. These professionals have the education, experience and wherewithal to be recognized by their peers as meeting scientific requirements to be "Registered Foresters" and Registered Forest Technicians." Without such credentialing bad actors have, in the past in West Virginia and elsewhere, been found to harm forested landscapes, the natural ecology and disadvantage the public good. For these reasons and more, West Virginia and most other forested states have chosen to protect their forests and people by peer-reviewing applicants for professional registration.

Successfully registered foresters are at the top of their professions. Just as professional accountants are certified for the public good (CPAs), as the American Bar Association requires proficiency in their field to operate and as the American Medical Association requires passage of professional standards reviews/examinations, the WVBORF does the same for forestry professionals; including an examination.

If indeed West Virginia hopes to compete nationally and internationally, then it is most necessary that professional standards organizations - organized for public benefits - remain in place. The dissolution of professional, state-mandated requirements is a step backward that no West Virginian can afford.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank M. Stewart III".

Frank M. Stewart III

WEST VIRGINIA BOARD OF LICENSSED DIETITIANS
723 KANAWHA BLVD., EAST, ROOM 105 UNION BLDG.
CHARLESTON, WV 25301
TELEPHONE: 304-558-1024 OR 1-800-293-9832 FAX: 304-558-1025
EMAIL: WVBOLD@WV.GOV WEB: WWW.WVBOLD.COM

September 5, 2016

The Honorable Craig Blair
Room 217, W. Bldg. 1
1900 Kanawha Blvd. E.
Charleston, WV 25305

The Honorable Gary G. Howell
Room 213 E, Bldg. 1
1900 Kanawha Blvd. E.
Charleston, WV 25305



Dear Chairmen:

The members of the West Virginia Board of Licensed Dietitians (WVBOLD) reviewed the audit submitted by the Legislative Auditor, John Sylvia, from the Performance Evaluation and Research Division (PERD) to the Joint Committee on Government Organization. Our response to PERD's recommendation to terminate the WVBOLD is as follows:

PERD's recommendation to terminate the Board due to the Board's credentialing requirements for being a "licensed dietitian" are based on your findings that the requirements are the same as those needed for the national credential of "registered dietitian" through the Academy of Nutrition and Dietetics (Academy), formerly the American Dietetic Association. As noted, the difference between the Board and the Academy is that "the Board has a complaint process, whereas the Academy does not." State jurisdiction regulates the practice. The concern that "the Board receives few complaints and none are serious to date" is not justification to terminate the Board. The Board has investigated complaints in the past and is currently in the process of handling one that validates our concern of misinformation being presented to the public from a person who does not have a license and may be practicing medical nutrition therapy.

The current recommendation from the "Legislative Auditor recommends the Legislature consider terminating the Board of Licensed Dietitians and enact statutory language specifying the education, training, credentialing requirements of a dietitian with appropriate penalties for violators who use the title of dietitian and do not meet the aforementioned statutory requirements." However, you also noted that our surrounding states have licensing laws. As most states do have licensing laws, why terminate a functioning Board, especially one that does not incur a cost to the taxpayers of our state?

We recognized the work our legislators do and their efforts to improve the welfare of our state citizens. However, we also know they lack expertise in the area of nutrition. Therefore, it is important there is a board of licensed dietitians to oversee the practice of nutrition and dietetics.

WEST VIRGINIA BOARD OF LICENSSED DIETITIANS
723 KANAWHA BLVD., EAST, ROOM 105 UNION BLDG.
CHARLESTON, WV 25301
TELOPHONE: 304-558-1024 OR 1-800-293-9832 FAX: 304-558-1025
EMAIL: WVBOLD@WV.GOV WEB: WWW.WVBOLD.COM

The need for dietitian services in West Virginia is evident. Our state's obesity rate¹ and its related conditions have increased every year since 1990. The current rate of obesity in WV is 35.6% ranking us second highest compared to 51 states and territories combined. Similarly, we rank second in the prevalence of diabetes at 14.5% and have the highest percent of citizens with hypertension at 42.7%. Dietitians are involved in the fight to reverse the obesity problem throughout the lifespan. They work for programs such as WIC, early childhood education and school lunch to provide children with the foundation of a healthy diet. They also provide nutrition education in out-patient and hospital settings to improve the health and wellbeing of adults and children alike.

The WVBOLD's role is to protect the public from misinformation related to nutrition and dietetics, to ensure practicing dietitians have the appropriate education by performing annual random audits of licensed dietitians and provide primary source verification which is important for medical facilities that require licensure of clinicians who are approved to take verbal orders by their medical staff.

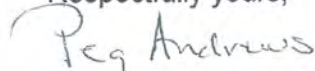
The educational requirements are regulated by the Accreditation Council for Education in Nutrition and Dietetics (ACEND). Dietitians must complete a Bachelor of Science degree from an accredited program in the U.S. as well as 1,200 supervised practice hours before sitting for a national examination.

The Commission on Dietetic Registration (CDR) administers the credentialing process for an individual to be able to use the RD or RDN (Registered Dietitian or Registered Dietitian Nutritionist) credential. CDR verifies the educational requirements through transcripts and Verification Statements issued by the accredited academic and supervised practice programs. The individual must successfully pass a national exam and complete 75 hours of continuing education every five years.

To be licensed in West Virginia, the RD/RDN must provide a notarized copy of their registration card issued by the CDR. All Licensed Dietitians (LD) in West Virginia must provide documentation of 20 hours of continuing professional education every two years. For those who have completed an approved supervised program but have not yet passed the national exam, a provisional license is available. The individual must submit a Verification Statement from the accredited program he/she completed.

It is not the Board's intent to monopolize the practice but rather ensure those who practice are competent, meeting the educational requirements, are ethical and provide evidence-based nutrition information. We feel the Board is better suited to perform the oversight of regulating the dietitians who practice in West Virginia. Our board is diverse. It includes a public member plus dietitians in academics, healthcare and research areas. As legislators who are concerned about the welfare of our state citizens, it is imperative you support to continue the WVBOLD.

Respectfully yours,



Peg Andrews, MA, RD, LD
Chair, WVBOLD

¹<http://stateofobesity.org/states/wv/>