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REGULATORY BOARD REVIEW

WEST VIRGINIA BOARD OF MEDICINE

AUDIT OVERVIEW

The Board of Medicine Complies With Chapter 30 General Provisions of the West Virginia Code, but the Legislature Should Consider Using the State's Prescription Drug Monitoring Program Proactively in Order to Enhance Public Protection

WEST VIRGINIA LEGISLATIVE AUDITOR
PERFORMANCE EVALUATION & RESEARCH DIVISION

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EXECUTIVE SUMMARY

The Board of Medicine (Board) is in compliance with requirements set forth in Chapter 30 of *West Virginia Code.* The Board is financially self-sufficient with a cash balance of over $1.2 million and licensure fees for professions licensed by the Board are slightly less than fees in surrounding states. The Board of Medicine has established continuing education requirements that are equal to the national average. Complaints brought to the attention of the Board are resolved in a timely manner with due process.

Media reports have identified large pill-mill operations within the state. One way the State can combat illegal prescription drug activities and abuses is to use its Prescription Drug Monitoring Program (PMP) in a proactive manner. Currently the use of the State's PMP is reactive. A study conducted by the U.S. Department of Justice found that states PMPs that are proactive in detecting drug diversion had more success in reducing the probability of prescription drug abuse than states that are reactive.

A study conducted by the U.S. Department of Justice found that states PMPs that are proactive in detecting drug diversion had more success in reducing the probability of prescription drug abuse than states that are reactive.

The West Virginia Board of Medicine does not currently conduct FBI criminal background checks on applicants for initial licensure while medical licensing boards in 33 other states do. A FBI criminal background check costs $18 and takes approximately 12 weeks to complete.

Recommendations

1. The Legislature should consider requiring the State's Prescription Drug Monitoring Program be used proactively by having it programmed to identify abnormal prescription drug activity and generate reports that would be forwarded to appropriate authorities.

2. The Legislature should consider amending West Virginia Code to authorize the Board of Medicine to conduct FBI criminal background checks on applicants for licensure.

3. The Legislature should consider amending West Virginia Code to authorize the Board of Medicine to conduct FBI criminal background checks on all persons renewing their license every five to six years.

OBJECTIVE, SCOPE & METHODOLOGY

This Regulatory Board Review of the Board of Medicine is required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code*, as amended. The purpose of the Board is to protect the public interest through its licensure process and to be the regulatory and disciplinary body for medical doctors, podiatrists and physicians assistants in this State.

Objective

The purpose of this audit is to determine if the Board is operating in compliance with the general provisions of Chapter 30 of the *West Virginia Code* and other applicable rules and laws.

Scope

The scope of this report is fiscal years 2006-2010.

Methodology

Information for this report has been compiled through communication with the Board, other appropriate state agencies, medical licensing boards in other states, and federal agencies. Documents obtained from the Board included annual reports, board minutes, board procedures for investigating and resolving complaints, and board and licensee rosters. The Performance Evaluation and Research Division (PERD) also gathered information from related PERD audits. Information from the United States Department of Justice and the United States Centers for Disease Control was also utilized. Finally, information regarding the licensing practices of other state medical boards was obtained through website resources as well as direct contact with those boards.

BACKGROUND

The West Virginia Board of Medicine (Board) is responsible for licensing medical doctors (M.D.s), podiatrists (D.P.Ms), and physician's assistants (P.A.s). The Board is also the primary disciplinary body for all professions licensed by the Board. Each year the Board receives and processes hundreds of applications for licensure and complaints filed against licensees while renewing thousands of licenses. Currently the Board of Medicine licenses approximately 7,123 individuals. The Board also licenses 500 medical corporations, 50 Professional Limited Liability Companies (PLLC), 15 special volunteer medical licenses, and 3 Medical School Faculty licenses. Table 1 details the number of persons licensed in each profession.

Currently the Board of Medicine licenses approximately 7,123 individuals.

Table 1
Number of Persons Licensed by the Board of Medicine

Medical Doctors	6,403
Podiatrist	116
Physicians Assistants	604
Total	**7,123**

Source: Board of Medicine 2009 Annual Report.

In order to be licensed by the Board, M.D.s and D.P.M.s must have graduated from medical school, passed the national exam, and completed at least one year of postgraduate training. P.A.s must have graduated from an approved program, have a bachelor's or master's degree, and have passed a national exam. Most applications are processed by the board within a two to three month timeframe. In FY 2009, the Board granted new licenses to 449 M.D.s, 67 P.A.s, and 5 D.P.M.s.

ISSUE 1

The Board of Medicine Complies With Chapter 30 General Provisions of the *West Virginia Code*, but the Legislature Should Consider Using the State's Prescription Drug Monitoring Program Proactively in Order to Enhance Public Protection.

Issue Summary

The Board of Medicine is in compliance with requirements set forth in Chapter 30 of the *West Virginia Code.* The Board is financially self-sufficient with a cash balance of over $1 million. Licensing fees are comparable to those of surrounding states. The Board's complaint process has due-process rights and is timely. Appropriate continuing education has been established and the number of hours required is the same as the national average. In conducting a review of the Board's complaints, PERD staff noticed that some doctors have had to make decisions of not prescribing drugs to certain patients because of suspicion of prescription drug abuse. Although these doctors showed due diligence in this cases, there have been recent reports of doctors who have illegally prescribed drugs. The State has a Prescription Drug Monitoring Program (PMP) that collects data in a database from pharmacies regarding controlled substances dispensed in the state. This database is housed within the Board of Pharmacy. However, the State's PMP is reactionary in that the database is not programmed to identify prescription drug activity that exceeds normal parameters. A study sponsored by the U.S. Department of Justice found that states that have reactionary PMPs are less effective in reducing the probability of prescription drug abuse than states that are proactive. The Legislature should consider having the PMP database programmed to identify unusual prescription drug practices and generate red-flag reports that would be forwarded to appropriate authorities.

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Chapter 30 Compliance

The Board of Medicine is in compliance with the following general provisions of Chapter 30:

- The Chair or Chief Financial Officer has attended an orientation session conducted by the State Auditor (§30-1-2a(b);
- The Board has adopted an official seal (§30-1-4);
- The Board has met at least once annually (§30-1-5(a);

- The Board's complaints have been investigated and resolved with due process (§30-1-5(c); (30-1-8);
- Rules have been promulgated specifying the investigation and resolution procedure of all complaints (§30-1-8(c);
- The Board has been financially self-sufficient in carrying out its responsibilities (§30-1-6(c);
- The Board has established continuing education (§30-1-7a);
- The Board has created a register of all applicants with the appropriate information specified in code (§30-1-12(a);
- The Board has submitted annual reports to the Governor (§30-1-12(b);
- The Board has complied with public access requirements as specified by (§30-1-12(c);
- The Board has prepared and maintained a Roster of all licensees which includes name, and office address (§30-1-13).

The current cash balance is over $1.2 million.

PERD staff reviewed the Board's compliance with the previous provisions and chose to place emphasis on certain areas such as the Board's self-sufficiency, continuing education requirements, and the complaint process.

The Board Is Financially Self-Sufficient

The Board collects initial licensure and licensure renewal fees from medical doctors, podiatrists, and physicians assistants. The current cash balance is over $1.2 million. Table 2 illustrates the Board's operating fund balance at the end of the past four fiscal years.

Table 2
West Virginia Board of Medicine Operating Budget
Fiscal Year 2006-2009

Fiscal Year	Starting Balance	Revenue	Expenditures	Ending Balance
2006	$313,456	$1,824,428	$1,143,614	$994,270
2007	$1,020,674	$1,080,270	$1,107,764	$993,179
2008	$1,033,118	$1,152,250	$1,098,289	$1,087,079
2009	$1,112,613	$1,262,935	$1,119,795	$1,255,752

Source: West Virginia Digest of Revenue Sources, FY 2006-2009, West Virginia Legislative Auditor's Office.

The initial licensure and renewal fees for medical doctors and podiatrists are $400. The initial licensure fee for physician's assistants is $200 and the renewal fee is $100. All persons licensed by the Board are required to renew their licensure every two years. The licensure fee for medical corporations is $500 while the fee for PLLCs is $100. Table 3 contains the licensure fees for medical doctors (M.D.s), physicians assistants (P.A.s), and podiatrists (D.P.M.s) in West Virginia and neighboring states.

Table 3
Profession Licensing Fees in WV and Bordering States

State	Profession	Initial Licensure Fee	Renewal Fee	Renewal Period
Kentucky	MD	$300	$300	Annual
	DPM	$250	$150	Annual
	PA	$100	$150	Biennial
Maryland	MD	$790	$480	Biennial
	DPM	$1,050	$1,050	Biennial
	PA	$175	$101	Biennial
Ohio	MD	$335	$305	Biennial
	DPM	$335	$305	Biennial
	PA	$200	$100	Biennial
Pennsylvania	MD	$35	$360	Biennial
	DPM	$30	$395	Biennial
	PA	$30	$40	Biennial
Virginia	MD	$302	$337	Biennial
	DPM	$302	$337	Biennial
	PA	$130	$135	Biennial
West Virginia	**MD**	**$400**	**$400**	**Biennial**
	DPM	**$400**	**$400**	**Biennial**
	PA	**$200**	**$100**	**Biennial**
Average	**MD**	**$410**	**$414**	**Biennial**
	DPM	**$436**	**$467**	**Biennial**
	PA	**$139**	**$104**	**Biennial**

Source: Information Received From Individual State Licensing Boards and the National Federation of State Medical Boards.

Initial licensure fees, as well as renewal fees, for all three professions licensed by the West Virginia Board of Medicine are slightly less than fees in the surrounding states. The P.A. licensure in Pennsylvania is significantly less than in surrounding states. The initial licensure fee for all three professions in Pennsylvania is $30; the license expires and must be renewed on December 31st of the first even numbered year after licensure is granted. After initial licensure, the renewal fee for P.A.s in Pennsylvania is $40.

Initial licensure fees, as well as renewal fees, for all three professions licensed by the West Virginia Board of Medicine are slightly less than fees in the surrounding states.

The fee structure in West Virginia is also comparable to most of the country with some states, such as Maryland, charging nearly twice as much for initial licensure for M.D.s and more than double for D.P.M.s. Application and renewal fees for professions licensed by the Board of Medicine have led to an adequate cash balance. It is the Legislative Auditor's opinion that the Board is facing no financial or budgetary concerns at this time.

The Board of Medicine Has Established Continuing Education Requirements

The Board of Medicine has established continuing education requirements for all three licensed professions. For M.D.s and D.P.M.s, a licensee must have 50 hours of continuing medical education (CME) every two-year period with at least 30 hours related to their specialty. A P.A. must complete 100 hours of CME every two years.

The national average for CME requirements for M.D.s and podiatrists is 25 hours per year.

Across every state, P.A.s must complete 100 hours of CME every two years as required by the National Commission on Certification of Physicians Assistants (NCCPA). The NCCPA is the only national credentialing organization for P.A.s in the United States. For M.D.s and podiatrist, CME requirements vary greatly from state to state. Six states require zero hours of CME for licensure renewal while 10 states require more than 50 hours of CME per year. The States of Illinois, Massachusetts, Michigan, New Hampshire, and North Carolina require 150 hours of CME every three years. The national average for CME requirements for M.D.s and podiatrists is 25 hours per year. Table 4 illustrates the CME requirements for M.D.s for West Virginia and surrounding states while Appendix B contains the CME requirements for M.D.s for all 50 states.

Table 4
Neighboring States' CME Requirements For MDs

State	Hours	Renewal Period
National Average	**50**	**2 years**
Kentucky	60	3 years
Maryland	50	2 years
Ohio	100	2 years
Pennsylvania	100	2 years
Virginia	60	2years
West Virginia	**50**	**2 years**

Source: Federation of State Medical Boards.

While West Virginia's CME requirements for MDs meet the national average, three of the states neighboring West Virginia require more CME hours for licensure renewal. Two of these states, Ohio and Pennsylvania, require double the CME hours that West Virginia requires. To ensure CME compliance, the West Virginia Board of Medicine conducts random CME audits each year.

Complaints to the Board Are Resolved Timely and With Due Process

All complaints except for two from the past three fiscal years have been resolved within 18 months as required by West Virginia Code.

The Board of Medicine receives nearly 200 complaints filed against licensees each year. PERD staff reviewed 99 closed complaint files from FY 2010 to determine the efficiency and fairness of the Board's complaint process. PERD staff found that the Board of Medicine appears to be consistent in disciplinary action taken against licensees. Additionally, all complaints except for two from the past three fiscal years have been resolved within 18 months as required by *West Virginia Code*. Table 5 details the number of complaints received each year for the past three fiscal years, the number resolved within 18 months, and the average time to resolution.

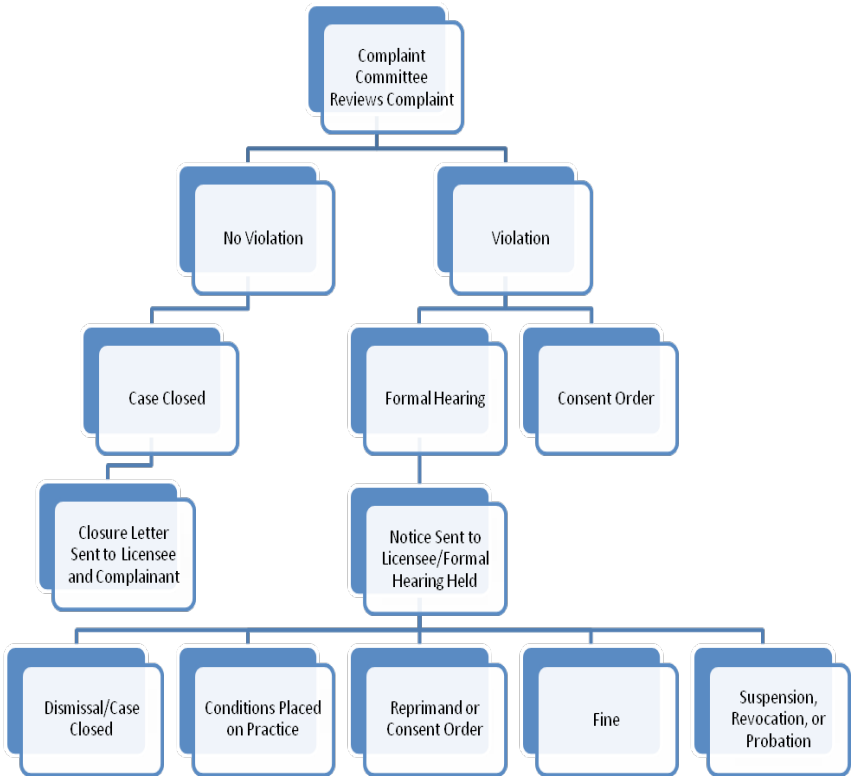
Table 5
Complaint Resolution Statistics

Fiscal Year	Number of Complaints Received	Number Resolved in 18 Months	Average Time to Resolution
2007	198	196*	5.5 months
2008	186	173**	5.1 months
2009	192	154***	4.7 months

* The two complaints resolved outside of the 18 month period were extended by agreement with the complainant in compliance with *WVC* §30-1-5(c).
**Thirteen matters from FY 2008 are still pending and have not yet fallen outside of the 18 month time frame.
***Thirty-eight cases from FY 2009 are still pending and have not yet fallen outside of the 18 month time frame.
Source: West Virginia Board of Medicine.

When a complaint to the Board of Medicine is received and filed, the Board is required to forward a copy of the complaint to the licensee for a response. The licensee must respond to the complaint within 30 days. After the licensee's response is received, it is forwarded to the complainant. The complainant then is also allowed a chance to respond. After the complainant's response is received by the Board, the information is then forwarded to the Board of Medicine's Complaint Committee. The Complaint Committee then reviews the complaint to determine if any action is needed. Figure 1 illustrates the complaint process after the Board's complaint committee has received all information and begins to review the complaint.

Figure 1
Board of Medicine Complaint Process



Source: Board of Medicine 2009 Annual Report.

In 2006, prescription drug overdoses were the leading cause of death for adults under the age of 45 in West Virginia.

West Virginia Faces Problems with Doctor-Shopping and Improper Prescribing Practices

In 2006, prescription drug overdoses were the leading cause of death for adults under the age of 45 in West Virginia. According to the United States Centers for Disease Control, 275 West Virginians died as a result of a prescription drug overdose, a rate more than three times the national average. According to a report issued by the American Medical Association, 93 percent of all prescription related deaths in West Virginia involved prescription painkillers. The report also found that 56 percent of the victims did not have prescriptions for the drugs they were taking and that 20 percent of all prescription overdose related deaths showed signs of doctor shopping.

Doctor-shopping is a situation that many persons licensed by the Board have encountered. Some doctors have shown due diligence in not prescribing to potential drug users or abusers. However, during 2009 and 2010 there were media reports detailing arrests and police investigations of medical doctors due to improper prescription practices regarding Schedule II drugs. Schedule II drugs include a large number of prescription pain killers such as Vicodin, Lortab, Lorcet, Demerol, and Oxycontin. Due to these reports, PERD reviewed the Board of Medicine's process for dealing with its licensees when complaints are filed or derogatory information is received concerning their practice.

The Board's review found that approximately 7 percent of all closed complaints within the past two fiscal years involved complaints against doctors who refused to prescribe medication for pain for the complainant. In these cases the doctor suspected questionable prescription drug activity.

While reviewing complaint files, PERD staff found that 8 individuals filed complaints against doctors because they refused to write prescriptions for the complainant. The Board's review found that approximately 7 percent of all closed complaints within the past two fiscal years involved complaints against doctors who refused to prescribe medication for pain for the complainant. In reviewing the complaints, PERD staff observed that the doctors in these cases had concerns that some complainants had questionable prescription drug activity which is why the doctors refused to write additional prescriptions for pain killers. In some cases doctors stated that they were justified in not prescribing pain killers to the complainant because the complainant failed drug tests for not having the presence of prescription painkillers in their system; and in others cases, doctors indicated that the complainant was receiving multiple prescriptions for the same medication.

Periodic Reports From the Prescription Drug Monitoring Database Could Assist Medical-Related Licensing Boards

According to the National Alliance for Model State Drug Laws, 20 of the 34 states with operational PMPs are considered to be proactive in the use of their PMP.

States around the country are attempting to address the growing problem of prescription drug abuse. One major step in addressing this problem is the development of a system of monitoring prescription drug purchases. West Virginia is one of 34 states that have a Prescription Drug Monitoring Database Program (PMP), and as of October 2010, an additional 9 states have enacted legislation to create a PMP. A PMP is a statewide electronic database that collects designated data from pharmacies regarding controlled substances dispensed in the state. West Virginia's PMP is currently housed within the Board of Pharmacy.

An important issue as it pertains to establishing a PMP is whether it will be used proactively or not. According to the National Alliance for Model State Drug Laws, 27 of the 34 states with operational PMPs are considered to be proactive in the use of their PMP. The definition of proactive is when a state has its PMP programmed to provide "red-flag" alerts on prescription drug practices and provides unsolicited red-flag

reports to appropriate organizations. West Virginia is a reactionary state where the PMP is only used when an investigation is being conducted by law enforcement or a licensing board.

It is the opinion of the Legislative Auditor that the Legislature should consider allowing the PMP to be used more proactively by having the PMP programmed to identify prescription drug activity that exceeds normal parameters. When certain parameters are exceeded, the PMP would issue a report that would be sent to the appropriate authorities. A study conducted by Simeon Associates Inc. and sponsored by the U.S. Department of Justice found that states that have operational PMPs reduce the probability of abuse of various prescription drugs more than states that do not have a PMP. Furthermore, of the states that have a PMP, those that are proactive in their use are more effective in reducing the probability of prescription drug abuse than states that are reactionary in the use of their PMP.[1] Appendix D contains information from the report that supports a proactive approach.

Of the states that have a PMP, those that are proactive in their use are more effective in reducing the probability of prescription drug abuse than states that are reactionary in the use of their PMP.

In several states, the PMP databases are currently providing state medical licensing boards with detailed reports about prescription writing habits. With the rising prescription drug abuse problem in West Virginia, the Legislative Auditor recommends that the PMP database should be utilized to provide similar periodic reports to appropriate medical-related licensing boards and other stakeholders, such as the State Police, regarding the prescribing habits of persons licensed to prescribe schedule II drugs.

Current statutory language prohibits access to the data in the PMP unless an organization has an ongoing investigation, and there is no statutory language that allows for an unsolicited report from the database.

Current statutory language prohibits access to the data in the PMP unless an organization has an ongoing investigation, and there is no statutory language that allows for an unsolicited report from the database. However, if the Board of Pharmacy were authorized to generated red-flag reports from the PMP and provide them to the appropriate authorities, it could provide agencies with enough information to initiate formal investigations and prevent further abuse. Modifying the PMP for a red-flag alert system will incur a one-time programming cost; however, the Board of Pharmacy does not have an estimate of the cost, and it is possible that the expense may be paid through available grants.

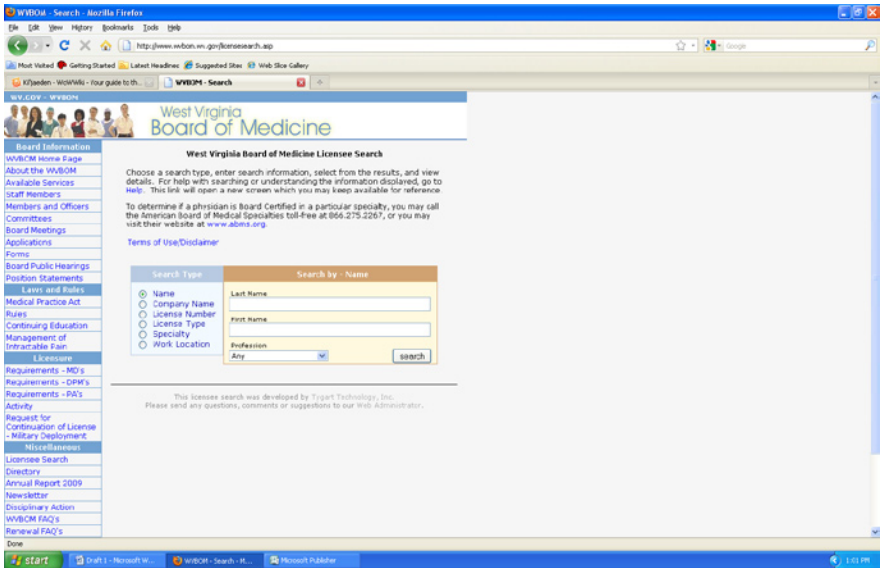
[1] *Ronald Simeone and Lynn Holland, An Evaluation of Prescription Drug Monitoring Programs, (Simeone Associates Inc., Albany, New York, 2006), p. 39.*

The Board of Medicine Is Publicly Accessible

The Board of Medicine posts meeting and public hearing dates on its website. The Board also supplies recent disciplinary action and has a profile for each individual licensed. Any member of the public can access the Board of Medicine's website at www.wvbom.wv.gov and review various information about professionals licensed by the Board. The licensee profiles include information about education; disciplinary actions taken by the Board against the licensee; pending and resolved malpractice cases; licensure dates; and primary medical specialites. Figure 2 shows the Board of Medicine's Licensee Search function on the Board's webpage There are various search types that can be used to quickly obtain information from the Board's database.

Figure 2

Board of Medicine Licensee Search



The Board of Medicine's Licensee Search feature makes gaining information about a doctor relatively easy for members of the public.

The Board of Medicine's Licensee Search feature makes gaining information about a doctor relatively easy for members of the public. Any website user can also use the search feature to find a new healthcare provider by specialty or to find someone closer to home by searching by work location.

Members of the public can also access information about the Board's meeting dates from the website or see recent actions of the Board. Anyone wanting to file a complaint against a person licensed by the Board can obtain a copy of the complaint form from the website. Additionally, licensees may obtain copies of required forms for licensure renewals, changes of address, or licensure applications. Continuing education requirements for licensees are also available on the Board's website.

The Board Does Not Conduct Criminal Background Checks on Initial Applicants

The West Virginia Board of Medicine does not have statutory authority to perform federal criminal background checks during the licensure application process for licensees. According to Public Law 92-544, a state may only utilize the national fingerprinting process by enacting legislation that specifically authorizes fingerprints be submitted to the FBI for a national criminal history check. Without proper authority the Board cannot require federal background checks for the licensure of medical doctors, podiatrists, or physician's assistants. By not conducting criminal background checks on potential licensees, the Board may enable an individual with a criminal history to become licensed to prescribe controlled substances to the public.

By not conducting criminal background checks on potential licensees, the Board may enable an individual with a criminal history to become licensed to prescribe controlled substances to the public.

The Board of Medicine uses the Federation of State Medical Boards' Disciplinary Action database. This database stores information regarding actions taken against a physician by licensing boards in other states throughout his or her professional career. Board staff believes this system replaces the need for a criminal background check. It is the Legislative Auditor's opinion that, while this tool provides adequate information about persons seeking licensure in West Virginia who have already been licensed in other states, it is not sufficient for initial licensure.

Currently, 30 states as well as the District of Columbia and the territory of Guam have authorized their state medical licensing boards to conduct federal criminal background checks.

Currently, 30 states as well as the District of Columbia and the territory of Guam have authorized their state medical licensing boards to conduct federal criminal background checks, while three states require only state-level criminal background checks. Twenty-eight (28) of these states require applicants to be fingerprinted while Virginia requires thumbprints only. Appendix C lists additional information about which states require criminal background checks as a condition of medical licensure.

Board staff stated that the Board is opposed to conducting criminal background checks because of the additional cost to applicants as well as the length of time necessary to conduct one. The cost for a criminal background check from the FBI is $18 and can take as long as 12 weeks to complete. The average time from application to licensure through the West Virginia Board of Medicine is two to three months. A minimal increase in licensure fees would cover the cost of the FBI background check and the background checks would be received within the same time-frame that a typical application for licensure is processed.

Within West Virginia a background check is required by code in several different instances. Persons seeking employment with the insurance fraud unit within the Office of the Insurance Commission or within the Office of Tax Commissioner must submit to a criminal background check. Before being hired as a license examiner within the Division of Motor Vehicles (DMV), a person must undergo a criminal background check. *West Virginia Code* §17B-2-5a forbids the applicant from being hired as a license examiner with the DMV until the results of the background check are available. Any applicant for certification as an emergency medical technician must submit to a national criminal background check. Additionally, persons seeking a retail license to sell alcohol or insurance must also undergo a criminal background check.

There is a contrast in which individuals seeking employment in these professions are more scrutinized than medical professionals who arguably have greater access to the public and are also expected to be trustworthy.

Persons seeking licensure or employment in any of the above fields perform vital roles in protecting the public and the Legislature has repeatedly taken action to ensure that trustworthy individuals fill these roles. Currently, there is a contrast in which individuals seeking employment in these professions are more scrutinized than medical professionals who arguably have greater access to the public and are also expected to be trustworthy. While expediting application speed is important for any licensing board, the primary role of licensing boards is to protect the public. **Therefore, the Legislative Auditor recommends that the Legislature should consider amending *West Virginia Code* to authorize the Board of Medicine to conduct FBI criminal background checks on applicants for initial licensure.** Currently, over 2,000 medical doctors licensed by the Board of Medicine are not practicing in West Virginia and the Board of Medicine is dependent upon licensing boards in other states for accurate information. Therefore, consideration should be given to establishing a criminal background check schedule that would allow for additional checks of all licensees every five to six years. As an alternative, criminal background checks could be scheduled randomly each year.

Conclusion

The West Virginia Board of Medicine is in compliance with all general provisions of Chapter 30 of the *West Virginia Code.* The Board of Medicine's complaint process is timely and has due-process rights. It is important to note that PERD's staff observed a potentially growing issue in the state concerning prescription drug abuse. This issue is also true in other states. States are addressing this issue by developing Prescription Drug Monitoring Programs. West Virginia is one of 34 states that currently have a PMP system in place, and 9 other states appear to be in the process of developing such systems. In order to better protect the public and regulate its medical-related licensees, the Legislative Auditor concludes that the Legislature should consider using the State's PMP in a proactive approach by allowing it to be programmed to identify unusual occurrences of prescription drug activity. Reports should be generated by the PMP and sent to the appropriate authorities.

It is important to note that PERD's staff observed a potentially growing issue in the state concerning prescription drug abuse.

Recommendations

1. The Legislature should consider requiring the State's Prescription Drug Monitoring Program be used proactively by having it programmed to identify abnormal prescription drug activity and generate reports that would be forwarded to appropriate authorities.

2. The Legislature should consider amending West Virginia Code to authorize the Board of Medicine to conduct FBI criminal background checks on applicants for licensure.

3. The Legislature should consider amending West Virginia Code to authorize the Board of Medicine to conduct FBI criminal background checks on all persons renewing their license every five to six years.

Appendix A: Transmittal Letter

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John Sylvia
Director

December 21, 2010

Mr. Robert C. Knittle, Executive Director
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311

Dear Mr. Knittle:

This is to transmit a draft copy of the Performance Review of the West Virginia Board of Medicine. This report is scheduled to be presented during the January interim meeting of the Joint Committee on Government Operations and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting at your earliest convenience. Please notify us to schedule an exact time. In addition, we need your written response by noon on Wednesday, December 29, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, January 6, to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Michael H. Midkiff,
Research Manager

Enclosure

Joint Committee on Government and Finance

Appendix B: Fifty State Continuing Medical Education Requirements for MDs

50 State CME Requirements			
State	HOURS	TERM	Average Per Year
Alabama	12	1	12
Alaska	50	2	25
Arizona	40	2	20
Arkansas	20	1	20
California	100	4	25
Colorado	0	0	0
Connecticut	50	2	25
Delaware	40	2	20
DC	50	2	25
Florida	40	2	20
Georgia	40	2	20
Hawaii	40	2	20
Idaho	40	2	20
Illinois	150	3	50
Indiana	0	0	0
Iowa	40	2	20
Kansas	50	1	50
Kentucky	60	3	20
Louisiana	20	1	20
Maine	100	2	50
Maryland	50	2	25
Massachusetts	100	2	50
Michigan	150	3	50
Minnesota	75	3	25
Mississippi	40	2	20
Missouri	50	2	25
Montana	0	0	0
Nebraska	50	2	25
Nevada	40	2	20
New Hampshire	150	3	50

50 State CME Requirements			
State	HOURS	TERM	Average Per Year
New Jersey	100	2	50
New Mexico	75	3	25
New York	0	0	0
North Carolina	150	3	50
North Dakota	60	3	20
Ohio	100	2	50
Oklahoma	60	3	20
Oregon	30	1	30
Pennsylvania	100	2	50
Rhode Island	40	2	20
South Carolina	40	2	20
South Dakota	0	0	0
Tennessee	40	2	20
Texas	24	1	24
Utah	40	2	20
Vermont	0	0	0
Virginia	60	2	30
Washington	200	4	50
West Virginia	**50**	**2**	**25**
Wisconsin	30	2	15
Wyoming	60	3	20
Average:	**-**	**-**	**25**
Average Removing States with Zero	-	-	**28**
Median	**-**	**-**	**20**
Source: Federation of State Medical Boards. Average and Median values calculated by PERD staff.			

Appendix C: Criminal Background Check Information by State

Criminal Background Check Information by State		
State	**Authority to Run Criminal Background Checks***	**Fingerprints Required**
Alabama	Yes	Yes
Alaska	No	-
Arizona	No	-
Arkansas	Yes	Yes
California	Yes	Yes
Colorado	No	-
Connecticut	No	-
Delaware	Yes	
DC	Yes	No
Florida	Yes	Yes
Georgia	Yes	No
Hawaii	No	-
Idaho	Yes	Yes
Illinois	Yes	Yes
Indiana	No	-
Iowa	Yes	Yes
Kansas	Yes	Yes
Kentucky	Yes	Yes
Louisiana	Yes	Yes
Maine	Yes(In State)	No
Maryland	No	-
Massachusetts	Yes(In State)	No
Michigan	Yes	Yes
Minnesota	No	-
Mississippi	Yes	Yes
Missouri	No	-
Montana	No	-

Criminal Background Check Information by State		
State	**Authority to Run Criminal Background Checks***	**Fingerprints Required**
Nebraska	Yes	Yes
Nevada	Yes	Yes
New Hampshire	Yes	Yes
New Jersey	Yes	Yes
New Mexico	Yes	Yes
New York	-	-
North Carolina	Yes	Yes
North Dakota	Yes	Yes
Ohio	Yes	Yes
Oklahoma	Yes	Yes
Oregon	Yes	Yes
Pennsylvania	No	-
Rhode Island	No	-
South Carolina	Yes	Yes
South Dakota	No	-
Tennessee	Yes	Yes
Texas	Yes	Yes
Utah	No	-
Vermont	No	-
Virginia	Yes(In state only)	Thumbprint Only
Washington	Yes	Yes
West Virginia	No	-
Wisconsin	Yes	No
Wyoming	No	-

***States are authorized to conduct federal background checks unless noted.**
Source: Federation of State Medical Boards.

Appendix D: Controlled Substances Sales Per Capita in States With Proactive PMPs Versus States With Reactive PMPs

Controlled Substance Sales Per Capita in States With Proactive PMPs Versus States With Reactive PMPs

Figure 17. PR Composite (Grams per 100,000)

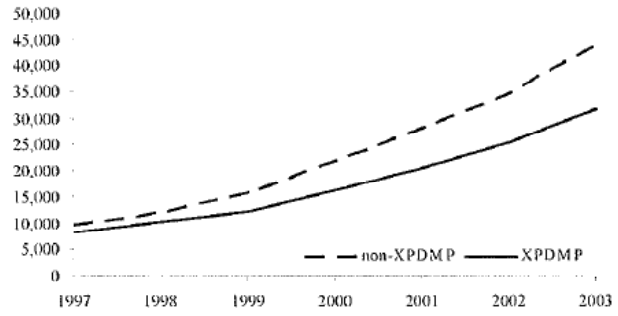

Figure 18. ST Composite (Grams per 100,000)

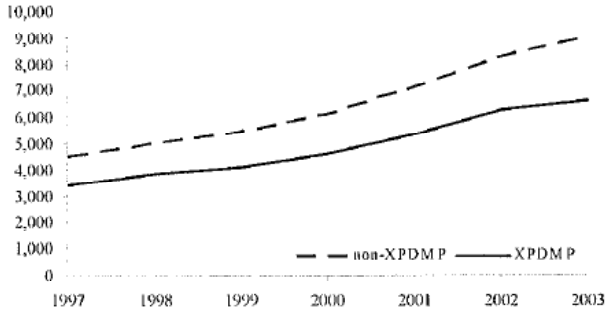

Figure 19. PR Composite (Grams per 100,000)

Figure 20. ST Composite (Grams per 100,000)

PR Composite represents prescription pain relievers while ST Composite represents prescription stimulants. The line referring to XPDMP means states which have a proactive Prescription Drug Monitoring Program; the non-XPDMP line refers to states which do not have a proactive Prescription Drug Monitoring Program.

Source: An Evaluation of Prescription Drug Monitoring Programs. Report produced by Simeone Associates, Incorporated for the U.S. Department of Justice. Both figures are presented here as they appear in the report on page 19.

Appendix E: Agency Respnse

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EXECUTIVE DIRECTOR

December 22, 2010

Michael H. Midkiff, Research Manager
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Mr. Midkiff:

I am responding to your request for a written response to the draft copy of the Performance Review of the West Virginia Board of Medicine received via email on December 21, 2010.

The Board of Medicine is in agreement with the Performance Evaluation Research Division (PERD) conclusion that the Board of Medicine is in compliance with the requirements set forth in Chapter 30 of the *West Virginia Code*. Our Board members and staff alike take our mission of safeguarding the public in the practice of medicine and podiatry very seriously and pride ourselves in consistently adhering to proper procedure and statute in the performance of our duties.

In response to the first of three recommendations noted in the draft review, let me respond by saying that the Board of Medicine has always been receptive and entertained complaints made by other State Boards including the Board of Pharmacy. As per our discussions during our performance review, the Board of Medicine will remain receptive to complaints from the Board of Pharmacy including those based upon reports generated from the Prescription Drug Monitoring Database Program (PMP) that indicate aberrant prescription writing patterns of allopathic physicians. However, as previously discussed, care must be taken to delineate those physicians who legitimately practice pain management and palliative care, as well as protecting the private medical information of the citizens of this State when generating such reports.

Mr. Midkiff
Page Two
December 22, 2010

In response to recommendations two and three, FBI criminal background checks are one of those ideas which sound much better than it actually is. As put forth in our letter to Mr. Michael Castle of June 28, 2010, we believe this process to be overly cumbersome, impedes the timely execution of licenses, expensive to enact and maintain, and of little additional value to the licensing process already in place.

We thank you for the opportunity to respond to this draft and look forward to the Exit Conference scheduled at our office on Tuesday, January 4, 2011, at 10:00 a.m.

On Behalf of the Board,

Robert C. Knittle

RCK/eb

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