

Regulatory Board Evaluation

Board of Respiratory Care Practitioners

The Board of Respiratory Care Practitioners
Is Necessary to Protect the Public

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



September 2006
PE 06-17-390

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John Sylvia
Director

September 11, 2006

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J.D. Beane
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Regulatory Board Evaluation of the *Board of Respiratory Care Practitioners*, which will be presented to the Joint Committee on Government Operations on Monday, September 11, 2006. The issues covered herein are "*The Board of Respiratory Care Practitioners is Necessary to Protect the Public*" and "*The Board is in Compliance with Most of Chapter 30 Provisions of West Virginia Code.*"

We transmitted a draft copy of the report to the Board of Respiratory Care Practitioners on August 25, 2006. The Board of Respiratory Care Practitioners opted not to have an exit conference. We received the agency response from the Board of Respiratory Care Practitioners on August 30, 2006.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

JS/tlc

Joint Committee on Government and Finance

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Executive Summary

Issue 1: The Board of Respiratory Care Practitioners Is Necessary to Protect the Public.

The Legislative Auditor has determined that there is a need for the Board of Respiratory Care Practitioners. The licensure of respiratory care therapists is important to protect the citizens of West Virginia because it ensures that the licensee must have adequate education and competency to perform medical procedures in a potential life or death situation. The finding of this issue is that licensing of respiratory therapist is necessary for public protection.

The licensure of respiratory care therapists is important to protect the citizens of West Virginia because it ensures that the licensee must have adequate education and competency to perform medical procedures in a potential life or death situation.

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

The Board of Respiratory Care Practitioners is in compliance with most general provisions of Chapter 30 of West Virginia Code and other applicable laws. The Board has made some improvements since the 2000 Preliminary Performance Review. The Board is now using the State Purchasing Card to purchase materials, supplies, and designated services, and it now issues an annual report to the Governor and Legislature as required by West Virginia Code §30-1-12. From the inception of the Board in 1995 until 1999, the previous report found that the Board failed to produce an annual report. Since 1999, the Board has issued an annual report as required by Code. The previous report indicated the Board began to file notices of meeting dates in accordance with the Open Governmental Meeting Act in 1999. According to the State Register, the Board has filed notices for all 15 meetings since 2000. Of these 15 notices, two were filed late. However, the Board needs to file all meeting notices in a timely manner because decisions could be contested if meetings are not properly filed.

The Board has made some improvements since the 2000 Preliminary Performance Review. The Board is now using the State Purchasing Card to purchase materials, supplies, and designated services, and it now issues an annual report to the Governor and Legislature as required by West Virginia Code §30-1-12.

The current report shows the register maintained by the Board lacks the date of birth of the applicant. The roster of the Board is not in compliance with West Virginia Code §30-1-13 because the Board omits the business addresses of licensees. The Board requires and audits continuing education of licensees. The Board is financially self-sufficient and is one of only two boards to transfer excess funds to the General Revenue Fund in accordance with Chapter 30. West Virginia Code §30-1-10 requires a board that receives money as fines to deposit that money into the general revenue fund of the state treasury. On March 13, 2006, the Board transferred \$4,350 to the general fund. The Board was unaware of the requirement to deposit the money collected from fines into the general fund until a recent State Auditor's training session. Finally, the Board has been operating with two vacancies and three members continue to serve the Board while awaiting reappointment from the Governor's Office. If the vacancies and reappointments are not addressed in a timely manner, the preservation of institutional knowledge of the Board could be compromised.

Recommendations

1. *The Legislative Auditor recommends that the Legislature continue the Board of Respiratory Care Practitioners.*
2. *Board of Respiratory Care Practitioners should improve its effort to comply with the Open Government Proceedings Act §6-9A.*
3. *The Board of Respiratory Care Practitioners needs to maintain the register with the information specified in West Virginia Code §30-1-12.*
4. *The Board of Respiratory Care Practitioners needs to maintain the roster with the information specified in West Virginia Code §30-1-13.*
5. *The Board of Respiratory Care Practitioners should consider making the roster available on its website*
6. *The Legislature should consider requiring all Chapter 30 Boards' rosters be accessible on their website.*
7. *The Board of Respiratory Care Practitioners should take all steps available to it to fill the vacant positions on the Board.*

Review Objective, Scope and Methodology

Objective

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

Scope

This Regulatory Board Evaluation covers the period from January 2000 to August 2006. This evaluation examined the Board's compliance to Chapter 30 requirements, the Board's financial self-sufficiency, the Board's public accessibility, the Board's continuing education requirement and the Board's complaint process. The financial information obtained by the Legislative Auditor dates from 2000 to 2006. The Legislative Auditor reviewed complaint files from 2000 to 2006.

Methodology

Information compiled in this evaluation was acquired from the West Virginia Code, interviews with the Board's president, meeting minutes, examination of annual reports, disciplinary complaint register, and the Digest of Revenue Sources in West Virginia. Information was also obtained from the Secretary of State's Office and the Budget Division of the Legislative Auditor's Office. Every aspect of this evaluation complied with **Generally Accepted Government Auditing Standards (GAGAS)**.

The Board of Respiratory Care Practitioners Is Necessary to Protect the Public.

The Board of Respiratory Care Practitioners was created by the Legislature in 1995 in order to protect the life, health and safety of the public by regulating licensure of respiratory therapists.

The Board of Respiratory Care Practitioners was created by the Legislature in 1995 in order to protect the life, health and safety of the public by regulating licensure of respiratory therapists. The seven-member board is appointed by the Governor and consists of one lay member; one practicing physician member with clinical training and experience in the management of pulmonary disease; and five respiratory practitioners. The licensure of respiratory care therapists is important to protect the citizens of West Virginia because it ensures that the licensee must have adequate education and competency to perform medical procedures in a potential life or death situation.

Respiratory care therapists evaluate, treat and care for patients with breathing or other cardiopulmonary disorders.

Respiratory care therapists evaluate, treat and care for patients with breathing or other cardiopulmonary disorders. They evaluate and treat all types of patients, ranging from premature infants to elderly people. Respiratory therapists provide temporary relief to patients with chronic asthma or emphysema, as well as emergency care to patients who are victims of a heart attack, stroke, drowning, or shock. To evaluate patients, respiratory therapists interview them, perform limited physical examinations and conduct diagnostic tests. For example, they test patients' breathing capacity and determine the concentration of oxygen and other gases in patients' blood. To treat patients, respiratory therapists use oxygen or oxygen mixtures, chest physiotherapy and aerosol medications. They perform chest physiotherapy on patients to remove mucus from their lungs and make it easier for them to breathe. Respiratory therapists connect patients to ventilators that deliver pressurized oxygen to patients who cannot breathe independently. They perform regular assessments of patients and equipment. In home care, respiratory therapists visit patients several times a month to inspect and clean equipment and to ensure its proper use. Respiratory therapists also administer aerosols that are liquid medications suspended in a gas that forms a mist which is inhaled by the patient. In some hospitals the traditional role of a respiratory therapist has expanded. Some respiratory therapists are extending into areas such as pulmonary rehabilitation, smoking cessation, counseling, disease prevention, case management, and polysomnography.¹

Respiratory care therapists are primarily employed in hospital departments of respiratory care, anesthesiology, or pulmonary medicine.

¹The diagnosis of breathing disorders during sleep, such as apnea.

Forty-eight states, the District of Columbia, and Puerto Rico require respiratory therapists to obtain a license.

In West Virginia there are 1,347 licensed respiratory care practitioners. There are three licenses that respiratory care practitioners can hold in this state; Certified Licensed Respiratory Therapist, Registered Licensed Respiratory Therapist and Licensed Respiratory Care Associates.

It is the opinion of the Legislative Auditor that public protection is provided by the Board of Respiratory Care Practitioners.

Other respiratory care therapists are employed in offices of physicians or other health practitioners, consumer-goods rental firms that supply respiratory equipment for home use, nursing care facilities and home health care services. The field of respiratory care is expected to increase faster than average for all occupations through the year 2014 because of substantial growth in the numbers of the middle-aged and elderly population and because of the expanding role of respiratory therapists in the early detection of pulmonary disorders, case management, disease prevention and emergency care.

Forty-eight states, the District of Columbia, and Puerto Rico require respiratory therapists to obtain a license. Respiratory care training is offered at the post-secondary level by colleges and universities, medical schools, vocational-technical institutes and the Armed Services. There are several accredited schools in West Virginia: West Virginia Institute of Technology/Carver Career Center (Charleston); Mountain State University (Beckley); Marshall University/Collins Career Center (Ohio); Wheeling Jesuit University (Wheeling); and West Virginia Northern College (Wheeling). An associate degree is required for entry into the field. Most programs award associate or bachelor degrees and prepare graduates for jobs as advanced respiratory therapists. According to the Commission on Accreditation of Allied Health Education Programs, 51 entry-level and 329 advanced respiratory programs were accredited in the United States, including Puerto Rico. In West Virginia there are 1,347 licensed respiratory care practitioners. There are three licenses that respiratory care practitioners can hold in this state. A person licensed as a Certified Licensed Respiratory Therapist (Certified LRT) has successfully completed the entry level examination of the National Board of Respiratory Care. A person licensed as a Registered Licensed Respiratory Therapist (Registered LRT) has successfully completed the registry examination of the National Board of Respiratory Care. Licensed Respiratory Care Associates were “grand-fathered” in after 1997 and must be supervised by a Certified LRT. There are 583 Certified LRTs and 736 Registered LRTs and 28 Licensed Respiratory Care Associates. It is the opinion of the Legislative Auditor that public protection is provided by the Board of Respiratory Care Practitioners.

Recommendation

1. *The Legislative Auditor recommends that the Legislature continue the Board of Respiratory Care Practitioners.*

The Board is in Compliance with Most Chapter 30 Provisions of West Virginia Code.

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

- An official seal has been adopted (§30-1-4).
- The Board meets at least once annually (§30-1-5(a)).
- The Board maintains a record of its proceedings (§30-1-12(a)).
- A staff member of the Board has attended the orientation session provided by the State Auditor (§30-1-2a(b)).
- The Board's address and telephone number are listed in the State Government listing of the Charleston area telephone book (§30-1-12(c)).
- An annual report has been submitted to the Governor and Legislature describing the transactions for the preceding two years, and budget data (§30-1-12(b)).
- The Board is financially self-sufficient (§30-1-6(c)).
- Continuing education requirements are established for licensed renewals (§30-1-7(a)).
- The Board has promulgated rules that specify the investigation and resolution procedure of all complaints (§30-1-8).
- The Board has a lay member to represent the interests of the public as required for medically related boards. (§30-1-4(a)).

The Board Has Made Improvements Since the 2000 Preliminary Performance Review But Still Is Not In Complete Compliance

The Board has made some improvements since the Preliminary Performance review conducted in May 2000.

The information that the Board provided that constituted its register did not have all the requirements of § 30-1-12(a) of the West Virginia Code.

The Legislative Auditor examined the Board's databases and determined the Board maintains all necessary information required for the register by Code except for the age of the applicant.

A preliminary performance review of the Board of Respiratory Care Practitioners was conducted in May of 2000. The Board has made some improvements since the review. The Board had frequently reimbursed members for such expenses as office supplies and postage instead of directly paying for these expenses from the Board's funds. According to Section Seven of the Purchasing Division's Agency Purchasing Manual, purchases of materials, supplies, and designated services that total \$1,000 or less per transaction should be made using the State Purchasing Card. The Board was ineligible for participation in the Purchasing Card Program until it hired an employee in October 1997. The Board now uses the State Purchasing Card. From the inception of the Board in 1995 until 1999, the previous report found that the Board failed to produce an annual report. Furthermore, the Board began to file notices of meeting dates in accordance with the Open Governmental Meetings Act in 1999. Since 1999, the Board has issued an annual report as required by Code. According to the State Register, the Board has filed notices for all 15 meetings since 2000. Of these 15 notices, two were filed late. However, the Board needs to file all meeting notices in a timely manner because decisions could be contested if meetings are not properly filed.

Register of Applicants Not Complete

The information that the Board provided that constituted its register did not have all the requirements of §30-1-12(a) of the West Virginia Code. The Code requires the Board maintain a register of applicants showing for each the date of application, name, age, educational and other qualifications, place of residence, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration and any suspension or revocation. The Board separates licensees by "Certified Therapists" and "Registered Therapists." The action of denying licensure to an applicant appears on the Board's Disciplinary Complaint Register. The Legislative Auditor examined the Board's databases and determined the Board maintains all necessary information required for the register by Code except for the age of the applicant. The Board is aware of this issue and is taking necessary measures to include date of birth on the 2007 license renewal forms.

Roster of Applicants Not Complete

The roster of the Board is not in compliance with West Virginia Code §30-1-13 because the Board omits the business addresses of licensees. Upon examination of the Board's files and databases, the Legislative Auditor concluded the required information is being collected but is not electronically available to be included in the roster.

The roster of the Board is not in compliance with West Virginia Code §30-1-13 because the Board omits the business addresses of licensees. The Code states the roster should include the name and business address of all persons licensed by the Board arranged alphabetically by name and also by the cities and counties. Upon examination of the Board's files and databases, the Legislative Auditor concluded the required information is being collected but is not electronically available to be included in the roster. The Board would have to manually provide the public with the business addresses.

The Board Resolves Complaints in a Timely Manner

The Board participates in the National Respiratory Care Disciplinary Database which is a national database of final disciplinary actions taken against respiratory care practitioners in over 48 states. On average, the Board resolves complaints in 2.5 months over the time period of 2000-2006.

In 2000, the Board took steps to clarify its legislative rules regarding disciplinary action (Title 30, Series 4). The disciplinary rule includes the investigation process, the range of possible disciplinary actions, and a detailed definition of professional misconduct. The Board accepts written or verbal complaints concerning the practice of respiratory care. Upon receipt of the complaint, the Board forwards a copy of the complaint to the licensee and requires a written response within 30 days. If the licensee responds, the response is forwarded to the complainant. At any point in the investigation of a complaint, the Board may assign the matter to an ethics investigator for review and investigation. The ethics investigator has 60 days from the date of receipt of the complaint to present the Board with a report. The current president received investigator training and investigates complaints and presents the findings to the board members. The president recuses herself from complaints she investigated. The complainant and licensee are both notified of the Board's decision. The Board participates in the National Respiratory Care Disciplinary Database which is a national database of final disciplinary actions taken against respiratory care practitioners in over 48 states.

Since 2000, the Board has received a total of 91 complaints. Of the 91 complaints, 71 are continuing education (CEU) violations. The remaining 20 complaints consist of allegations of professional misconduct. Table 1 shows the frequency of complaint resolution since 2000. On average, the Board resolves complaints in 2.5 months over the time period of 2000-2006. CEU violations are excluded from Table 1 due to the Board's immediate response of denying license renewal if CEUs are violated.

Table 1 Frequency of Complaint Resolution	
Months	Number of Cases*
0-3 months	13
3-6 months	4
6-9 months	1
9-12 months	1
12 + months	0
TOTAL	19**
*Excludes CEU violations	
**Excludes one active case	
Source: Board of Respiratory Care Disciplinary Complaint Register 2000-2006	

The Board averages two to three complaints alleging professional misconduct each year.

Table 2 shows the number of complaints alleging professional misconduct since 2000. The Board averages two to three complaints alleging professional misconduct each year. Of the 19 cases, eight were dismissed due to insufficient data or no jurisdiction.

Table 2 Disposition of Professional Misconduct Complaints 2000-2006	
Compliance Letter	2
Position Statement	1
Written Reprimand/Warning	1
Consent Order	5
Cease and Desist Order	1
Consent Order Pending	1
Active Case	1
Dismissed	8
TOTAL	20
Source: Board of Respiratory Care Disciplinary Complaint Register 2000-2006	

Continuing Education is Required and Audited

Continuing education units applicable to the renewal of the license are directly related to the professional growth and development of the respiratory care licensee and relevant to the clinical practice of respiratory care. The Board requires licensees to acquire 20 hours of CEUs every two years. All licensees are audited for continuing education credits. CEUs are prorated for new licensees. A CEU information guideline sheet is sent to licensees. It is the Board's decision to approve or deny credit for CEUs that are not addressed in the guideline sheet. The accrual period is October 1 of one year through September 30. Continuing education credits must be submitted by December 31. If the CEUs are not completed, the license is not renewed.

The Board requires licensees to acquire 20 hours of CEUs every two years.

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

The violation of CEUs results in disciplinary action of a fine and consent order.

“Because of the rapid changes in the technology especially with mechanical ventilation the WVBORC feels strongly that respiratory therapists obtain their continuing education units as stated in the statute. We feel strongly that this is a patient safety issue.”

CEU violations are listed on the Disciplinary Complaint Register and the National Respiratory Care Disciplinary Database because any violation that requires a payment of a fine is considered a disciplinary action. The violation of CEUs results in disciplinary action of a fine and consent order. Since 2000, there have been 71 CEU violations. Table 3 shows the CEU violations by year.

**Table 3
CEU Violations 2000-2006**

Calendar Year	Number of Violations
2000	10
2001	8
2002	32
2003	0
2004	21
2005	0
2006*	0
TOTAL	71
<small>*There were no CEU violations at the time of this report because CEUs are reportable in December 31, 2006. Source: Board of Respiratory Care Disciplinary Complaint Register</small>	

The Legislative Auditor commends the Board for clarifying its rules since unclear course descriptions could result in licenses losing their license or being fined, and spending money on irrelevant courses.

In 2005, 2% of the licenses experienced CEU violations. The Legislative Auditor concludes that the number of CEU violations is not excessive, and does not appear to be the result of poorly described courses or a low number of courses to choose from.

In 2000, the Board amended Title 30, Series 3, clarifying the number of credits required, the reporting requirements for licensees, and the description of approved programs. This was necessary because some licensees had appealed the Board’s rulings of CEU violations on the basis that the approved programs were not clearly described. The Legislative Auditor commends the Board for clarifying its rules since unclear course descriptions could result in licensees losing their license or being fined, and spending money on irrelevant courses. Continuing education violations occur because licensees are not taking applicable courses or are failing to accumulate the required number of hours during the accrual period. In 2005, 2% of the licenses experienced CEU violations. The Legislative Auditor concludes that the number of CEU violations is not excessive, and does not appear to be the result of poorly described courses or a low number of courses to choose from. The Board has clarified approved courses, and courses are widely available for licensees to obtain the required number of continuing education hours. Continuing education is accessible to licensees through activities, workshops, seminars and conferences related to practice; enrollment at a college or university in courses relative to respiratory care; reading professional journals that address specific continuing education issues; publishing a research article or chapter in a text; or successful completion of the National Board of Respiratory Care Advanced Practitioner Exam. Continuing education hours are also available on the internet through various organizations.

The Board is Financially Self-Sufficient

Chapter 30 Boards are required by §30-1-6(c) to set fees that are sufficient to enable boards to effectively carry out their responsibilities. The Board of Respiratory Care Practitioners has set its fees by rules and is financially self-sufficient. The application fee for licensure with the Board of Respiratory Care is \$200. Table 4 shows the revenue, expenditures and end-of-year cash balance for the Board.

The Board of Respiratory Care Practitioners has set its fees by rules and is financially self-sufficient.

Fiscal Year	Revenue	Expenditures	End-of-Year Cash Balances
2000	\$80,041.70	\$99,163.22	\$190,733.41
2001	\$83,808.00	\$104,844.39	\$174,924.54
2002	\$85,042.98	\$78,784.72	\$181,330.64
2003	\$86,986.00	\$90,907.34	\$177,409.30
2004	\$89,966.61	\$78,985.66	\$188,390.25
2005	\$97,201.00	\$74,950.99	\$210,640.26
2006	\$91,795.94	\$86,039.85	N/A
<i>Source: West Virginia State Auditor's Office as of July 25, 2006</i>			

West Virginia Code §30-1-10 states when the special fund of any board accumulates to an amount which exceeds twice the annual budget of the board or ten thousand dollars, whichever is greater, the excess amount shall be transferred by the state treasurer to the state general revenue fund.

West Virginia Code §30-1-10 states when the special fund of any board accumulates to an amount which exceeds twice the annual budget of the board or ten thousand dollars, whichever is greater, the excess amount shall be transferred by the state treasurer to the state general revenue fund. A Performance Evaluation and Research Division Special Report on Occupational Licensure Boards issued in January of 2006 found that some of the Occupational Licensure Boards have in excess of what is needed to regulate professions because the legislative intent to have excess funds transferred to the state general revenue fund is not accomplished. Some of the boards submit expenditure schedules that are significantly higher than the amount boards actually spend for the year represented. As a result of the inflated expenditure schedule, the State Treasurer's Office rarely transfers funds from licensing boards to the state general revenue fund. The report showed the Board of Respiratory Care was one of only two boards from FY 1996 to FY2006 to have excess funds transferred to the General Revenue Fund in accordance with West Virginia Code §30-1-10. The Treasurer transferred \$3,828.84 from the Board into the general fund in FY1998 and \$1,340.26 in FY 2006.

On March 13, 2006, the Board transferred \$4,350 to the general fund required by West Virginia Code §30-1-10. The Board was unaware of the requirement to deposit the money collected from fines into the general fund until a recent State Auditor's training session.

Term limits allow new people to serve on the board, while staggering board appointments ensure the preservation of institutional knowledge.

If the vacancies and reappointments are not addressed in a timely manner, the preservation of institutional knowledge of the Board could be compromised.

Furthermore, West Virginia Code §30-1-10 requires a board that receives money as fines to deposit that money into the general revenue fund of the state treasury. On March 13, 2006, the Board transferred \$4,350 to the general fund. This amount represented a total of the fines collected since 1995. The Board was unaware of the requirement to deposit the money collected from fines into the general fund until a recent State Auditor's training session. The Legislative Auditor has determined through its review of the number of fines assessed against licensees that the amount recently transferred to the general fund for fines previously not transferred is reasonably accurate.

The Legislative Auditor has Concerns with the Delay in Reappointing Members and Filling Vacancies.

Members are appointed to the Board of Respiratory Care for a four year term and can only be appointed to the Board for three consecutive terms. Term limits allow new people to serve on the board, while staggering board appointments ensure the preservation of institutional knowledge. As of June 30, 2006, the Board has two vacancies of its seven members. In 2005, the death of the lay member and the expiration of a physician member's term leaves the Board with only five active members. The terms of three practitioner members lapsed in 2005 and 2006 but these members still continue to serve the Board while awaiting reappointment from the Governor's Office. The remaining two members' terms expire June 30, 2007 and are not eligible for reappointment. If the vacancies and reappointments are not addressed in a timely manner, the preservation of institutional knowledge of the Board could be compromised.

Conclusion

The Board of Respiratory Care Practitioners complies with most of the general provisions of Chapter 30 of the West Virginia Code. The Board is accessible to the public through its office, telephone listing and website. The Board meets regularly, maintains adequate records of meetings, and submits an annual report. The Board resolves complaints in a timely manner. The Board requires and audits continuing education of licensees. The Board is financially self-sufficient and is one of only two boards to transfer excess funds to the General Revenue Fund in accordance with Chapter 30. However, the Board should improve its effort to file open meeting notices in the State Register at least five days prior to the meeting. The register maintained by the Board lacks the date of birth of the applicant. The roster of the Board is not

in compliance with West Virginia Code §30-1-13 because the Board omits the business addresses of licensees. Finally, the Board has been operating with two vacancies and three members continue to serve the Board while awaiting reappointment from the Governor's Office.

Recommendations

2. *The Board of Respiratory Care Practitioners should improve its effort to comply with the Open Government Proceedings Act §6-9A.*
3. *The Board of Respiratory Care Practitioners needs to maintain the register with the information specified in West Virginia Code §30-1-12.*
4. *The Board of Respiratory Care Practitioners needs to maintain the roster with the information specified in West Virginia Code §30-1-13.*
5. *The Board of Respiratory Care Practitioners should consider making the roster available on its website*
6. *The Legislature should consider requiring all Chapter 30 Boards' rosters be accessible on their website.*
7. *The Board of Respiratory Care Practitioners should take all steps available to it to fill the vacant positions on the Board.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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



John Sylvia
Director

August 25, 2006

Karen J. Stewart, President
Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311

Dear Ms. Stewart:

This is to transmit a draft copy of the Regulatory Board Evaluation of the Board of Respiratory Care Practitioners. This report is scheduled to be presented during the September 11-13, 2006 interim meeting of the Joint Committee on Government Operations. 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 committee may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us before August 30, 2006. Please notify us to schedule an exact time. In addition, we need your written response by noon on August 30, 2006 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday September 7, 2006 to make arrangements.

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

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B: Agency Response



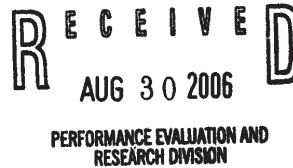
State of West Virginia
Board of Respiratory Care
106 Dee Drive, Suite 1
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Joe Manchin III
Governor

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August 28, 2006

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



Dear Mr. Sylvia,

The West Virginia Board of Respiratory Care would like to take this opportunity to thank Gail Higgins and Miranda Nabers for their time and diligence in conducting the performance evaluation for our board. We view all communications with other government agencies as an opportunity to learn and improve our operations to better serve the citizens of the State of West Virginia.

At this time, our board does not have any concerns that would warrant an exit conference. We concur with the findings of the report and will proceed to implement the recommendations set forth:

1. *The Legislative Auditor recommends that the Legislature continue the Board of Respiratory Care Practitioners.*
The board concurs.
2. *The Board of Respiratory Care Practitioners should improve its effort to comply with the open Government Proceedings Act §6-9A.*
The board concurs and has been working with Mr. Lewis Brewer of the Ethics Commission on our draft of Open Meetings Rule 8 for the board. It is our understanding that an official Advisory Opinion will be rendered during the committee meeting of September 7, 2006.
3. *The Board of Respiratory Care Practitioners need to maintain the register with the information specified in West Virginia Code §30-1-12.*

www.wvborc.org

Mr. John Sylvia
August 28, 2006
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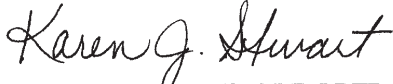
The board concurs and has already revised the 2007 License Renewal application to include the licensee's birth date as required information. The birth date of each licensee will be listed on our database by 12/31/06 which is the end of our license renewal period.

4. *The Board of Respiratory Care Practitioners need to maintain the roster with the information specified in West Virginia Code §30-1-13.*
The board concurs and will include the addresses of the licensee's employers on our database. Currently, we only list the name of the employer on our database and the employer's addresses are maintained in the licensee's paper file. The employer's addresses will be added to our database by 12/31/06 which is the end of our license renewal period.
5. *The Board of Respiratory Care Practitioners should consider making the roster available on its website.*
The board concurs and will consider this recommendation. The board is reviewing statutory guidelines into utilizing E-Commerce which would necessitate a new website and allow space for this recommendation. Currently, we only list the licensee's name and license number on our website.
6. *The Legislature should consider requiring all Chapter 30 Boards' rosters to be accessible on their website.*
The board would comply.
7. *The Board of Respiratory Care Practitioners should take all steps available to it to fill the vacant positions on the board.*
The board concurs. We have provided the Governor's office with recommendations on vacancies and have also contacted the West Virginia Society of Respiratory Care requesting that they submit names for the vacancies to our board. The board will continue in its efforts.

We are confident that our board continues to improve in all areas. We find the information supplied by the West Virginia State Auditor's Conference for Licensing Boards to be a very helpful and knowledgeable tool in our endeavors.

If you should have any questions, or if I may be of assistance, please contact me at 558-1382.

Respectfully submitted,



Karen J. Stewart, MS, RRT, LRTR, FAARC
Chairperson of the Board