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LEGISLATIVE AUDITOR'S
LETTER REPORT

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Informational Report - Review of Website Functionality for Chapter 30 Licensing Boards

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June 12, 2022

The Honorable Craig Blair, President
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The Honorable Roger Hanshaw, Speaker
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Post Audit Subcommittee, Co-Chair
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Mr. President and Mr. Speaker:

In recent years, a number of audit reports issued by the Legislative Auditor has identified several issues related to web services provided by Chapter 30 Boards to both the general public and the respective licensees of various Boards. The Legislative Auditor conducted a review of the website functionality of all professional licensing boards established in Chapter 30 of W.Va. Code (Chapter 30 Boards). This review was conducted to determine the following:

1. The extent the Boards' websites provide general information and consumer protections for citizens of the State seeking professional services, such as licensee rosters, the ability to file complaints online, and access to Board discipline records;
2. The ability for licensees to file for licensure renewal and pay requisite fees online; and
3. The costs associated with the websites' design, creation, and maintenance.

From this review, the Legislative Auditor sought to determine if there could be any suggested improvements concerning these functionalities that would better serve the public, the licensees, and the State. Given the continued increase in use of online portals and tools to conduct business as well as the public use of the internet to seek out information concerning services it may

be seeking that fall under the purview of the professional licensing boards, it is believed this is an important area that these boards should focus on moving into the future.

Chapter 30 Boards regulate various professions within the state and ensure the public receives safe and fair services. Professional Licensing Boards are responsible for regulating the activities of thousands of individual licensees and businesses across a wide variety of occupations throughout the State such as doctors, nurses, professional engineers, and social workers among others. In addition to regulatory oversight, licensing boards also provide relevant information for their licensees, and members of the public seeking professional services from those licensed professionals and businesses.

To gain an understanding of the nature and structure of online information related to professional licensing, the Legislative Auditor performed an analysis of the websites of all 34 Chapter 30 Boards. Utilizing a specific set of metrics for comparison purposes, the Legislative Auditor's evaluation noted various similarities, trends, and outliers within the overall collection of professional licensing websites.

Access to Information and Consumer Protections

Ability to File Online Complaints

One of the core functions of licensing boards is to protect the public from harm. In fact, W.Va. Code 30-1-1a clearly delineates this purpose by stating, "*The fundamental purpose of licensure and registration is to protect the public. . .*" A key component in achieving this function is the complaint processes employed by each Chapter 30 Boards. The public may file complaints with the Boards in instances wherein the conduct of a licensee is in violation of established standards and/or applicable law which can serve to protect other citizens from harm and allow a board to investigate the complaint further. The Legislative Auditor sought to determine the extent to which Chapter 30 Boards allow licensees and members of the public to fill out and submit these complaints electronically.

In total, 20 licensing boards (59 percent) allow members of the public to easily file electronic complaints against licensees. Eleven (11) boards provide a complaint form that can be fully completed and submitted electronically on their websites, while nine (9) additional boards provide a downloadable complaint form for complainants to fill out and subsequently email to the board. However, 14 boards (38 percent) require members of the public to mail physical complaint forms. Boards which require complainants to mail physical complaint forms are the:

- Board of Chiropractic
- Board of Examiners in Counseling
- Board of Hearing Aid Dealers
- Board of Medicine
- Nursing Home Administrators Licensing Board
- Board of Osteopathic Medicine
- Contractors Licensing Board
- Board of Registration for Professional Engineers
- Board of Professional Surveyors
- Board of Examiners of Psychologists
- Board of Respiratory Care
- Board of Sanitarians
- Board of Social Work
- Board of Veterinary Medicine

The ability of members of the public to easily and conveniently file formal complaints with a Chapter 30 Board is a critically important consumer protection. Chapter 30 Boards have a vested public interest in removing unnecessary burdens to making formal complaints and ensuring that its processes for filing such complaints do not have a chilling effect on complainants. **Therefore,**

the Legislative Auditor recommends that each Chapter 30 Licensing Board consider facilitating online complaints via their public websites.

The Legislative Auditor also notes that a number of boards, in addition to requiring hard copy complaints to be physically mailed, also require complainants to have their complaint forms notarized. According to the National Notary Association:

Notarization is the official fraud-deterrent process that assures the parties of a transaction that a document is authentic and can be trusted.

The central value of notarization lies in the Notary's impartial screening of a signer for identity, willingness and awareness. This screening detects and deters document fraud and helps protect the personal rights and property of private citizens from forgers, identity thieves and exploiters of the vulnerable.

The Legislative Auditor notes that the process of having a complaint notarized requires both time and a nominal fee for service (\$10), which could have an unintended chilling effect on members of the public who wish to file complaints. Moreover, it is a long-standing best practice that licensing boards accept anonymous complaints, which is incongruent with a requirement to have formal complaints officially notarized which requires screening of a signer for identity. It is further the opinion of the Legislative Auditor that the costs of such a requirement likely outweigh the benefits. **Therefore, the Legislative Auditor recommends that all Chapter 30 licensing boards cease the practice of requiring notarization of formal complaints.**

Licensee Roster and Recent Disciplinary Actions

Two additional consumer protections required under current state law relate to providing members of the public with that ability to verify licensure and view recent disciplinary actions undertaken by licensing boards against licensees. W.Va. Code §30-1-13 directs Chapter 30 Boards to:

...prepare and maintain a complete roster of the names and office addresses of all persons licensed, or registered, and practicing in this state the profession or occupation to which such board relates, arranged alphabetically by name and also by the cities or counties in which their offices are situated. Each board shall make the roster available upon request to any member of the public.

Additionally, W.Va. Code §30-1-5 requires each Chapter 30 Board to:

Provide public access to the record of the disposition of the complaints which it receives in accordance with the provisions of chapter twenty-nine-b of this code, and shall provide public access on a website to all completed disciplinary actions in which discipline was ordered. If a board is unable to provide access, the Attorney General shall provide a link to this information on the consumer protection division website, together with a link to the website of all other boards subject to this chapter.

The Legislative Auditor reviewed the websites of Chapter 30 Boards to determine compliance with the provisions set forth in these two statutes. In determining compliance by Chapter 30 Boards with W.Va. Code §30-1-13, the Legislative Auditor noted varying modes of adherence to the statutory directive:

1. Twenty-one (21) boards included on their website an electronic roster featuring a comprehensive list of current license holders.
2. Twelve (12) boards included an electronic search function prompting users to enter an individual name and/or license number prior to viewing specific license data¹. While this function may be of benefit to users seeking information on an already known individual licensee it does not allow for an electronic search of all licensed professionals under the purview of a given board (See Appendix A).
3. One (1) board (Nursing Home Administrators Licensing Board) places their list of licensees within their annual report.

Additionally, the Legislative Auditor's analysis revealed that twenty-seven (27) board websites contain a link dedicated to disciplinary actions taken against licensees found to have violated one or more professional codes of conduct. The websites of seven (7) boards lacked a distinct link to disciplinary actions. Figure 1 provides more detail.

¹ Three of the twelve boards within this group stated that upon request the board would provide members of the public a registry of license holders, with two boards indicating the list must be purchased (1. Board of Osteopathic Medicine; and 2. West Virginia Board of Examiners for Licensed Practical Nurses affirmed that a "listing of all licensees can be obtained from the Board for a fee of \$100.00").

Figure 1
Boards Without a Distinct Disciplinary Action Web Feature

Board	Explanation
Examiners in Counseling	<i>“Currently, the disciplinary actions are not available on the Board's website. The completion of the database will rectify this issue. . . To date, this information is provided upon request.”</i>
Foresters	No explanation provided
Landscape Architects	<i>“To date there is not a "Disciplinary Actions" section on the website. We have not had any complaints filed or have had to take such actions against a licensee.”</i>
Nursing Home Administrators	<i>“The Board's website contains recent disciplinary actions taken by the Board against its licensees with links to the Minutes and also Annual Reports on the Homepage.”</i>
Optometry	<i>“The Disciplinary Report is normally posted under the Disciplinary Report tab. The disciplinary report was removed by the webmaster when an update was required recently. The Board is in the process of restoring the report. It is available by request by Contact Us, email or by phone.”</i>
Pharmacy	<i>“The Board does not currently list recent Board actions on our website. The Board's website includes a search function that enables the public to search for current licensees, and the result indicates whether that licensee has any discipline. . . We are currently in the process of including a link to view the related discipline, but at this time Board staff must provide it upon request. We are also considering the listing of recent Board actions on the website.”</i>
Sanitarians	<i>“It does not [contain a link for disciplinary actions] but no disciplinary actions have been needed in a number of years.”</i>

Source: Information provided by the respective licensing boards.

The Legislative Auditor notes that two of the seven boards in noncompliance stated that no disciplinary actions had been taken against licenses for a number of years. **The Legislative Auditor recommends that all boards comply with the provisions of West Virginia Code by making available on their websites an active roster of licensees and information concerning recent disciplinary actions.**

Website Encryption and .gov Domains

The Legislative Auditor evaluated each board’s website to determine if they were following national best practices with respect to website encryption and the use of easily identifiable website addresses ending in “.gov.” In total, the Legislative Auditor determined that six licensing boards (Foresters, LPNs, Massage Therapy, Nursing Home Administrators, Physical Therapy, and Sanitarians) do not have an encrypted website, meaning that their data are not protected from interception or alteration. Best practices throughout the country, including within the federal government, dictate that all government websites and web services that are publicly accessible should only be provided through a secure connection.

Moreover, government websites should be easily identifiable. However, the Legislative Auditor’s review identifies that 22 of the 34 licensing boards’ websites end in “.org” or “.com.”

This makes it harder to identify government websites. The United States General Services Administration's DotGov Program makes the ".gov" domain available to US-based government organizations. DotGov works to recommend security best practices so that users have confidences in a secure site (See Appendix A for list of boards).

The Legislative Auditor recommends that all Boards consider encrypting their websites. In addition, the Legislative Auditor recommends that all Boards consider registering for a ".gov" domain.

Online License Renewals

Each regulated occupation that requires a licensure typically requires each license to be renewed annually or every other year, which includes the payment of a licensure renewal fee. The Legislative Auditor evaluated each Board's website to determine whether they allow licensees the option to renew their professional licenses online. In total, eight professional licensing boards still require licensees to submit paper applications for licensure renewal:

- Chiropractic
- Examiners in Counseling
- Hearing Aid Dealers
- Landscape Architects
- Nursing Home Administrators
- Physical Therapy
- Psychologists
- Sanitarians

With the majority of Chapter 30 Boards being located in or around Charleston, the ability to do online license renewals is a convenience to the licensees of each Board, as members otherwise must mail or deliver paper checks in person.

Online license renewal is not only a convenience for a Board's licensees but can also serve as an important internal control. Many Chapter 30 Boards have a very small number of full-time staff. As such, it can be difficult, if not impossible, to ensure adequate segregation of duties when it comes to handling license renewals as well as Board revenues. As an example of appropriate segregation of duties for handling revenues, the West Virginia State Treasurer specifies in its Cash Receipts Handbook for West Virginia Spending Units:

an individual should not have the sole responsibility for more than one of the following cash handling components:

- *Collection,*
- *Depositing,*
- *Disbursement, and*
- *Reconciling.*

Many small Boards have mitigated this risk by making use of the State Treasurer's lockbox, which is offered to state spending units at a nominal cost. Use of the lockbox system establishes segregation of financial duties by allowing a Board's licensees to mail fees directly to a post office box that is only accessible by the State Treasurer. While many Chapter 30 Boards use the State Treasurer's lockbox, incorporating online licensure renewal would further mitigate the amount of revenue handled by Board staff. Additionally, the use of electronic forms and renewals may assist

boards in increasing efficiencies in document and records management, especially in boards with smaller staff.

IT Vendor Service

To evaluate the costs and features associated with the design, creation, and maintenance of Chapter 30 Board websites, the Legislative Auditor requested the vendor’s name and amounts charged for IT services for fiscal years 2019 through 2021. Based on information provided by the Boards, the Legislative Auditor analyzed data related to the cost and vendors used for each board website. The Figure below summarizes the three categories of vendors along with the annual cost range for IT services during the period (FY 2019-2021).

Figure 2 Breakdown of Website Vendors and Costs for All Licensing Boards 2019-2021 Totals		
Vendor	Number of Boards	Total Amount
WV State Government	12	\$38,341
WV Interactive	6	\$8,280
Albertson Consulting/Big Picture	4	\$342,786
In-House	3	\$0
Other	9	\$61,731
Total	34	\$451,138

The results of this analysis indicate that 12 boards use state government agencies (Treasurer’s Office or the Office of Technology) for their web services. In addition, the Legislative Auditor determined that 10 Boards collectively receive their web services from one of two vendors: 6 boards use WV Interactive, and 4 Boards use Albertson Consulting/Big Picture. Of the 12 remaining Boards, 9 boards use an assortment of individual IT vendors and 3 rely on in-house staff for their website needs.

To gain an understanding of the extent to which licensing boards nationwide have migrated to centralized online websites, the Legislative Auditor reviewed information issued by the Council for State Governments (CSG). CSG performed a case study on the Colorado Department of Regulatory Agencies, which uses a centralized website and licensing system for all professions regulated by the Department. The centralized website evaluated in this case study includes many of the informational and consumer protection components discussed herein, including licensee verification or look up, the ability to file an online complaint, access to disciplinary records for licensee, and the ability for licensees to renew their licenses online.

CSG notes some variation within states that have opted to utilize online centralized licensing systems. For instance, certain states have one centralized agency overseeing most, or all licensed professionals within the state, and therefore employ a master agreement type contract. In other states individual licensing boards may act independently when electing to switch to an online licensing model. Additionally, some states host a website that includes license management while other states partner with a software company to host and manage the process.

The Legislative Auditor notes that a majority of licensing boards rely either on in-house staff for the web needs, or the expertise of one of a small number of other state spending units (Office of Technology or State Treasurer’s Office). Overall, the web services for 24 of the 34

licensing boards (71 percent) is currently met by 1 of just 4 different vendors who received a total of \$389,407 between FY 2019 and FY 2021.

The Legislative Auditor has noted in prior reports the difficulties many of the smaller Chapter 30 Boards encounter in achieving efficient, secure operations with limited staff. In a 2019 audit of the Board of Acupuncture, the Legislative Auditor noted that 20 Chapter 30 Boards, or 59 percent, operate with 3 or fewer full-time employees. As such, some licensing boards, especially smaller boards, may benefit from economies of scale if they were to pool their financial resources with other licensing boards for a centralized website servicing multiple boards. **Therefore, the Legislative Auditor recommends that the Legislature and the individual licensing boards consider centralized web services for some or all licensing boards.**

Conclusion

While the size of licensing boards in West Virginia varies, it is no doubt true that larger boards approve and issue a high volume of licenses and permits each month. When the process is manual or paper-based, it can lead to backlogs and delays, especially as the volume of these requests increase.

The Legislative Auditor notes the majority (76%) of licensing boards have adopted online license renewal capabilities, however only about one-third of boards provide a complaint form in an exclusively digital format. An easily accessible mechanism that allows for independent reporting from members of the public is an essential component in a well-functioning regulatory board. Similarly, a public registry of disciplinary actions taken against licensees allows the public to make more informed decisions when seeking the services of licensed professionals (20% of the boards lack this resource on their website). Additionally, while most boards (62%) allow for online access of licensee rosters, the Legislative Auditor questions the policy of two boards requiring payment prior to the release of licensee listings in hard copy format.

Although an evaluation of the services provided by IT vendors is beyond the scope of this audit, the Legislative Auditor does note a wide price variance among the boards when comparing the costs for such services. However, most boards are employing the services of a small subset of vendors and economies of scale may be achievable by pooling resources.

Recommendations

1. The Legislative Auditor recommends that each Chapter 30 Licensing Board consider facilitating online complaints via their public websites.
2. The Legislative Auditor recommends that all Chapter 30 licensing boards cease the practice of requiring notarization of formal complaints.
3. The Legislative Auditor recommends that all boards comply with the provisions of West Virginia Code by making available on their websites an active roster of licensees and information concerning recent disciplinary actions.
4. The Legislative Auditor recommends that all Boards consider encrypting their websites.
5. The Legislative Auditor recommends that all Boards consider registering for a “.gov” domain.
6. The Legislative Auditor recommends that the Legislature and the individual licensing boards consider centralized web services for some or all licensing boards.

Appendix A

Chapter 30 Boards Licensee Roster by Search Function Only
Board of Examiners for Licensed Professional Nurses
Board of Funeral Service Examiners
Board of Speech-Language Pathology and Audiology
Board of Medicine
Board of Social Work
Board of Dietitians
Board of Pharmacy
Board of Registered Nurses
Board of Dental Examiners
Board of Osteopathic Medicine
Board of Physical Therapy
Board of Barbers and Cosmetologists

Chapter 30 Boards Without “.gov” Web Address
Board of Pharmacy
Board of Registration for Foresters
Board of Sanitarians
Board of Funeral Service Examiners
Board of Speech-Language Pathology and Audiology
Board of Dietitians
Board of Physical Therapy
Board of Barbers and Cosmetologists
Board of Respiratory Care
Board of Optometry
Board of Landscape Architects
Board of Social Work
Board of Dental Examiners
Board of Osteopathic Medicine
Board of Professional Engineers
Board of Veterinary Medicine
Board of Medical Imaging & Radiation Therapy Tech
Board of Occupational Therapy
Board of Acupuncture
Massage Therapy Licensing Board
Board of Healing Aid Dealers
Board of Examiners in Counseling

Chapter 30 Boards Without Encrypted Websites
Board of Registration for Foresters
Board of Physical Therapy
Board of Sanitarians
Massage Therapy Licensing Board
Board of Nursing Home
Board of Examiners for Licensed Professional Nurses