

**STATE OF WEST VIRGINIA**  
**REGULATORY BOARD EVALUATION**  
**OF THE**  
**Board of Registered Professional Nurses**

**Licensure of the Practice of  
Registered Professional Nursing Is  
Needed to Protect Public Interest**

**Board Complies with the General  
Provisions of Chapter 30**

**OFFICE OF LEGISLATIVE AUDITOR**  
**Performance Evaluation and Research Division**  
**Building 1, Room W-314**  
**State Capitol Complex**

**CHARLESTON, WEST VIRGINIA 25305**  
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**July 2001**

**PE001-10-209**

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**July 2001**

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John Sylvia  
Director

July 8, 2001

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
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The Honorable Vicki V. Douglas  
House of Delegates  
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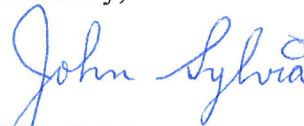
Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Regulatory Board Evaluation of the *Board of Registered Professional Nurses*, which will be presented to the Joint Committee on Government Operations on Sunday, July 8, 2001. The issues covered herein are "Licensure of the Practice of Registered Professional Nursing is Needed to Protect Public Interest" and "Board Complies with the General Provisions of Chapter 30."

PERD delivered a copy of the report to the Board on June 19, 2001. We conducted an exit conference with the *Board of Licensed Practical Nurses* on June 19, 2001. We received the agency response on June 26, 2001.

Let me know if you have any questions.

Sincerely,

  
John Sylvia

JS/wsc



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## Executive Summary

### **Issue 1: Licensure of the Practice of Registered Professional Nursing Is Needed to Protect Public Interest.**

This report is a *Regulatory Board Evaluation* which requires by law a determination of whether or not the Board is necessary for the protection of public health and safety. In determining if there is a need for the Board of Examiners for Registered Professional Nurses (RN), a primary consideration is whether the unregulated practice of the profession would endanger the health and safety of the public. **The finding of this issue is that licensing Registered Nurses is necessary for protecting the citizens of West Virginia.**

The RN must have knowledge from various disciplines in addition to the basic nursing skills which are taught through a prescribed curriculum. RN's are also independent in practice and are sometimes the sole source of advice and supervision for Licensed Practical Nurses who may be administering medications and/or treatments. Registered Nurses' workplaces are primarily within the confines of the hospital setting. In West Virginia, there were 21,950 RN's licensed during fiscal year 2000. Of that total, 79.5% worked within a hospital setting.

The Registered Professional Nurse is a profession which is directly involved with public safety and health. RN's are responsible for exercising knowledge based decisions effecting health care, performing numerous highly technical skills and certain administrative roles as well. Licensure ensures a minimal degree of competence relating to the skills required of a RN. Regulation of licensure for registered nurses provides a systematic and organized approach to licensure which ensures statewide conformity and standardization of rules and procedures

Every state licenses and regulates Registered Professional Nurses. West Virginia has two separate licensing boards of nursing although most states license and regulate the nursing profession through one board. In addition to licensing almost 22,000 individuals, the board is responsible for accrediting seventeen schools in West Virginia including a total of nineteen programs. These programs prepare persons for initial licensure by the board.

### **Recommendation 1**

*The Legislative Auditor recommends that the Legislature continue to require Registered Nurses be licensed by the State of West Virginia.*

### **Issue 2: The Board Complies with the General Provisions of Chapter 30.**

The Board of Examiners for Registered Professional Nurses has complied with applicable state laws and rules. These laws and rules, primarily found within the Board's own article of Code

and in the general provisions of Chapter 30, are important in the effective operation of a licensing board.

The Board of Examiners for Registered Professional Nurses requires continuing education which became effective on January 1, 1997. Every odd year, each individual applying for a license must certify that they have completed 30 contact hours (one contact hour is equivalent to 50 minutes of consecutive instruction) of continuing education within the prior two-year period on their renewal form. The Board has established a list of parameters for continuing education violations.

As required by law, the Board has submitted legislative rules (CSR §19-9-1) describing the complaint process. This rule provides, among other things, that complaints are logged by the Board, the complainant is sent an acknowledgment of the receipt of the complaint and the licensee is notified of the complaint by a Notice of Complaint and given an opportunity to respond to the allegations contained in the complaint. The Board keeps track of all complaints received against each licensee utilizing a database to account for each complaint. The Board states that each complaint is responded to in approximately one week and that complaints are reviewed by the Disciplinary Review Committee which consists of Board members and Board staff. In FY 2000, the average complaint was resolved in 222 days, which is over seven months. The Board states that the reason that cases take this length of time is because most nurses are represented by an attorney which increases the amount of time it takes to reach a final resolution.

Financial self-sufficiency of regulatory boards is required by West Virginia Code §30-1-6(c). The Board has a total budget for FY 2001 of \$833,728. The Board's licensing fees and administrative fees imposed against its licensees are remitted to the Board's special revenue fund, and the fines imposed are remitted to the State's general fund in accordance with the Code §30-1-10. The Board is self-sufficient through its licensing fees.



## **Review Objective, Scope and Methodology**

This regulatory board review of the Board of Examiners for Registered Professional Nurses was conducted in accordance with the West Virginia Sunset Law, Chapter 4, Article 10 of the *West Virginia Code* as amended. As stated in the *Code*, a regulatory board review is to determine whether 1) continuation is in the public's interest, and 2) whether the Board is operating in compliance with applicable laws and rules.

### **Objective**

This report will assist the Joint Committee on Government Operations in making one of the following recommendations to the Legislature for its next Regular Session:

1. the agency be terminated as scheduled;
2. the agency be continued and reestablished; or
3. the agency be continued and reestablished, but statutes governing it be amended in specific ways to correct ineffective or discriminatory practices or procedures, burdensome rules and regulations, lack of protection of the public interest, overlapping of jurisdiction with other governmental entities, unwarranted exercise of authority either in law or in fact and any other deficiencies.

### **Scope**

The regulatory board evaluation covers the period from 1998 to 2000. The Legislative Auditor examined: complaint procedures and resolutions; continuing education requirements; financial information; unemployment and workers' compensation records; meeting minutes and annual reports. The Legislative Auditor also determined if the Board was compliant with the general requirements of Chapter 30 and with the Board's specific requirements within its governing statute.

### **Methodology**

Information compiled in this report has been acquired from the *West Virginia Code*, interviews with the Board and its staff, annual reports, meeting minutes, complaints and expenditure schedules. This review was conducted in compliance with Generally Accepted Government Auditing Standards (GAGAS).



The board concurs with this assertion in a narrative provided by the board. The narrative stated:

*Licensure is important and the continued regulation of the license is as important as the initial license. Without an agency such as the Board, there would be no regulation of these individuals who are responsible for carrying out the health care needs of patients. **Mistakes by registered nurses could result in serious patient harm or death.** The number of complaints that are resolved by this agency indicate the proactive role the Board plays in disciplining its licensees and is proof that licensure should be required and regulation is necessary. (Emphasis added)*

Every state licenses and regulates Registered Professional Nurses. West Virginia has two separate licensing boards of nursing although most states license and regulate the nursing profession through one board.

In addition to licensing almost 22,000 individuals, the board is responsible for accrediting seventeen schools in West Virginia including a total of nineteen programs. These programs prepare persons for initial licensure by the board.

## **Conclusion**

The Board of Examiners for Registered Professional Nurses licenses highly skilled nurses who are directly involved with public health and safety. Licensure of this profession ensures a minimal level of competence. Regulation provided by this Board ensures standardization and provides a means of organization for the body of registered nurses as a whole. All 50 states license the occupation of registered nurse. **Therefore, it is the opinion of the Legislative Auditor that it is necessary to continue the Board of Registered Professional Nurses to provide for the protection of public health and safety.**

## **Recommendation 1**

*The Legislative Auditor recommends that the Legislature continue to require Registered Nurses be licensed by the State of West Virginia.*



## **Issue 2: The Board Complies with the General Provisions of Chapter 30.**

The Board of Examiners for Registered Professional Nurses has complied with applicable state laws and rules. These laws and rules, primarily found within the Board's own article of Code and in the general provisions of Chapter 30, are important in the effective operation of a licensing board. The Board has complied with the following requirements:

- The Board is listed in the state government section of the Charleston area telephone book;
- The Board maintains an internet site;
- A representative of the Board has attended the orientation session provided by the State Auditor's Office;
- The Board meets at least once annually;
- The Board maintains a record of its proceedings;
- The Board files meeting notices as required by the Open Governmental Proceedings Act;
- The Board submits annual reports to the Governor and the Legislature;
- The Board maintains a register of applicants;
- The Board maintains a roster of licensees; and
- The Board has set fees by rule.

### **Continuing Education Requirements**

The Board of Examiners for Registered Professional Nurses requires continuing education which became effective on January 1, 1997. West Virginia Code §30-1-7a requires the Board to establish rules for continuing education and the Code of State Rules §19-11 specifies the rules adopted by the Board concerning continuing education requirements for licensee renewals. Every odd year, each individual applying for a license must certify that they have completed 30 contact hours (one contact hour is equivalent to 50 minutes of consecutive instruction) of continuing education within the prior two-year period on their renewal form. The Board randomly audits approximately 75-150 licensees per quarter to ensure compliance. The audited licensee must submit copies of certificates, transcripts or other documentation of completed continuing education activities. If an individual is not in compliance or an individual has not responded to the audit notification, the Board has established a list of parameters for continuing education violations.

## Complaint Process

The Board provides all licensees against whom complaints have been filed due process in accordance with the WV Code §29A-5-1 et seq., which is the State Administrative Procedures Act; by WV Code §30-1-1 et seq., with the specific sections pertaining to the disposition of complaints being §30-1-8 and §30-1-9; by the Board's own legislative rules, WV CSR §19-5-1 et seq., Contested Case Hearing Procedures; and WV CSR §19-9-1 et seq., Disciplinary Action. During FY 2000, disciplinary actions were for violations ranging from substance abuse, professional misconduct, patient abuse, and neglect.

As required by law, the Board has submitted legislative rules (CSR §19-9-1) describing the complaint process. This rule provides, among other things, that complaints are logged by the Board, the complainant is sent an acknowledgment of the receipt of the complaint and the licensee is notified of the complaint by a Notice of Complaint and given an opportunity to respond to the allegations contained in the complaint. This rule also provides that complaints will be investigated by the Board to determine merit. The rule allows for settling of complaints by way of a consent agreement and the dismissal of complaints through the Board's Disciplinary Review Committee.

The Board keeps track of all complaints received against each licensee utilizing a database to account for each complaint. The Board states that each complaint is responded to in approximately one week and that complaints are reviewed by the Disciplinary Review Committee which consists of Board members and Board staff. In FY 2000, the average complaint was resolved in 222 days, which is over seven months. The Board states that the reason that cases take this length of time is because most nurses are represented by an attorney which increases the amount of time it takes to reach a final resolution. Nurses do remain employed during the disciplinary process. The majority of disciplinary cases result in a consent agreement between the Board and the licensee. Table 1 shows the number of complaints logged for the past 4 years and the manner in which many were resolved.

**Table 1**  
**Complaints Filed 1998 - 2001**

<b>Year</b>	<b># of Complaints</b>	<b>Assessed Fines</b>	<b># of Fines</b>	<b>Suspensions</b>	<b>Probations</b>	<b>Revocations</b>
1998	99	\$12,650	18	9	15	1
1999	98	\$24,100	24	11	22	0
2000	129	\$10,925	25	10	15	0
2001*	71	\$21,915	41	5	11	0

\* as of May 17, 2001

## Financial Self-Sufficiency

Financial self-sufficiency of regulatory boards is required by West Virginia Code §30-1-6(c). The Board has a total budget for FY 2001 of \$833,728. The Board's licensing fees and administrative fees imposed against its licensees are remitted to the Board's special revenue fund, and the fines imposed are remitted to the State's general fund in accordance with the Code §30-1-10. As shown in Table 2, the Board is self-sufficient through its licensing fees.

**Table 2**  
**Board Revenues and Expenses (1998 - 2000)**

	<b>FY 1998</b>	<b>FY 1999</b>	<b>FY 2000</b>
<b>Revenues</b>	\$713,955	\$747,211	\$710,468
<b>Expenditures</b>	\$628,204	\$736,825	\$696,130
<b>EOY Cash Bal.*</b>	<b>\$911,792</b>	<b>\$922,179</b>	<b>\$936,517</b>

\* The EOY Cash Balance includes expenditures disbursed in the 13<sup>th</sup> month of each fiscal year.

## Conclusion

The Board of Examiners for Registered Professional Nurses has complied with the general provisions of Chapter 30 of the West Virginia Code. The Board is accessible to the public through its various pamphlets, its telephone listing and its well-maintained website. The Board meets regularly and maintains adequate records of its meetings. In addition, the Board requires and verifies continuing education of its licensees, responds to licensee complaints, provides due process to licensees against whom a complaint has been filed, and maintains financial stability and independence.





**APPENDIX A**  
**Agency Response**





STATE OF WEST VIRGINIA  
**BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES**  
101 Dee Drive  
Charleston, WV 25311-1620

June 26, 2001

Denny Rhodes, Senior Research Analyst  
Office of Legislative Auditor  
Performance Evaluation and Research Division  
Building 1, Room W-314  
State Capitol Complex  
Charleston, WV 25305

Dear Mr. Rhodes:

Thank you for the opportunity to respond to the Final Draft of the report which is well done. The Board respectfully requests the addition of a phrase on page 8 in the first paragraph, second line which includes the decision making responsibility of the registered professional nurse. The sentence would read as follows:

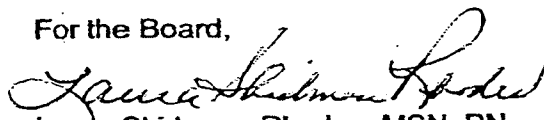
**"RN's are responsible for exercising knowledge based decisions effecting health care, performing numerous highly technical skills and certain administrative roles as well."** (Emphasis indicates added phrase)

The Board also requests that the word "tasks" in the last line of the same paragraph be changed to "skills" as this word encompasses the full extent of the requirements of the registered professional nurse.

The draft page you provided by fax yesterday looks fine. It is noted that the asterisk definition does not appear at the bottom of this page as it did on the previous draft.

Please let me know when we will be on the Interim schedule. Thank you again for the opportunity to review your report.

For the Board,

  
Laura Skidmore Rhodes, MSN, RN  
Executive Secretary

