
Sunset Review: Evaluation of the State Board of Dental Examiners

**Presentation to the
House Health and Government Operations
Committee**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

December 15, 2009

Presentation Overview

- History, purpose, and composition of the board
- Growth in regulated professionals
- Recent scrutiny and subsequent progress by the board
- Focus of the 2009 sunset evaluation
- Findings and recommendations relating to:
 - statutory and regulatory changes, complaint resolution process, administrative issues, customer service, fund balance, License 2000 software, and extension of the board's termination date
- Conclusion

State Board of Dental Examiners

- Established in 1884 to protect the public's health through the licensing and regulation of dentistry
- Regulatory authority expanded in 1947 to include dental hygienists
- Currently regulates dentists, dental hygienists, dental assistants, and dental radiation technologists
- Main objectives are to license dental professionals, set standards for the dental industry, and receive and investigate complaints from the public
- Composed of 16 members: 9 licensed dentists, 4 licensed dental hygienists, and 3 consumers
- Meets on the first and third Wednesday of each month and accomplishes most work through 15 standing and several ad hoc committees

Growth in Regulated Professionals

Regulated Dental Professionals Fiscal 2006-2009

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Dentists	5,205	5,392	5,637	5,668
Dental Hygienists	2,819	2,916	3,068	3,134
Dental Radiation Technologists	4,595	4,802	5,285	5,381
Dental Assistants	3,045	3,268	3,527	3,755
Total	15,664	16,378	17,517	17,938

Note: Dentists include dental teachers, limited dental licensees, volunteer licensees, and retired volunteer licensees.

Source: State Board of Dental Examiners

Recent Scrutiny and Subsequent Progress by the Board

- Legislative Branch:
 - Full sunset evaluations in 1998 and 2004
 - Chapters 211 and 212 of 2008 created disciplinary task force and placed mandates on board
- Executive Branch:
 - Office of the Inspector General audit in 2007
- Board has taken proactive steps to address problems, including improving its licensing and complaint resolution processes (*i.e.*, Triage Committee and online license renewal)

Focus of the 2009 Sunset Evaluation

- This sunset evaluation explored issues that were raised in past reviews, as well as the Office of the Inspector General report, including:
 - timeliness of the licensure and complaint processes
 - effectiveness of License 2000 software system
 - collection of racial and ethnic data
 - board fund balance
 - customer service
- The Department of Legislative Services (DLS) recognizes the positive changes the board has implemented thus far; however, many areas in need of improvement still exist
- Based on our findings, DLS makes a total of 22 recommendations

Statutory and Regulatory Changes

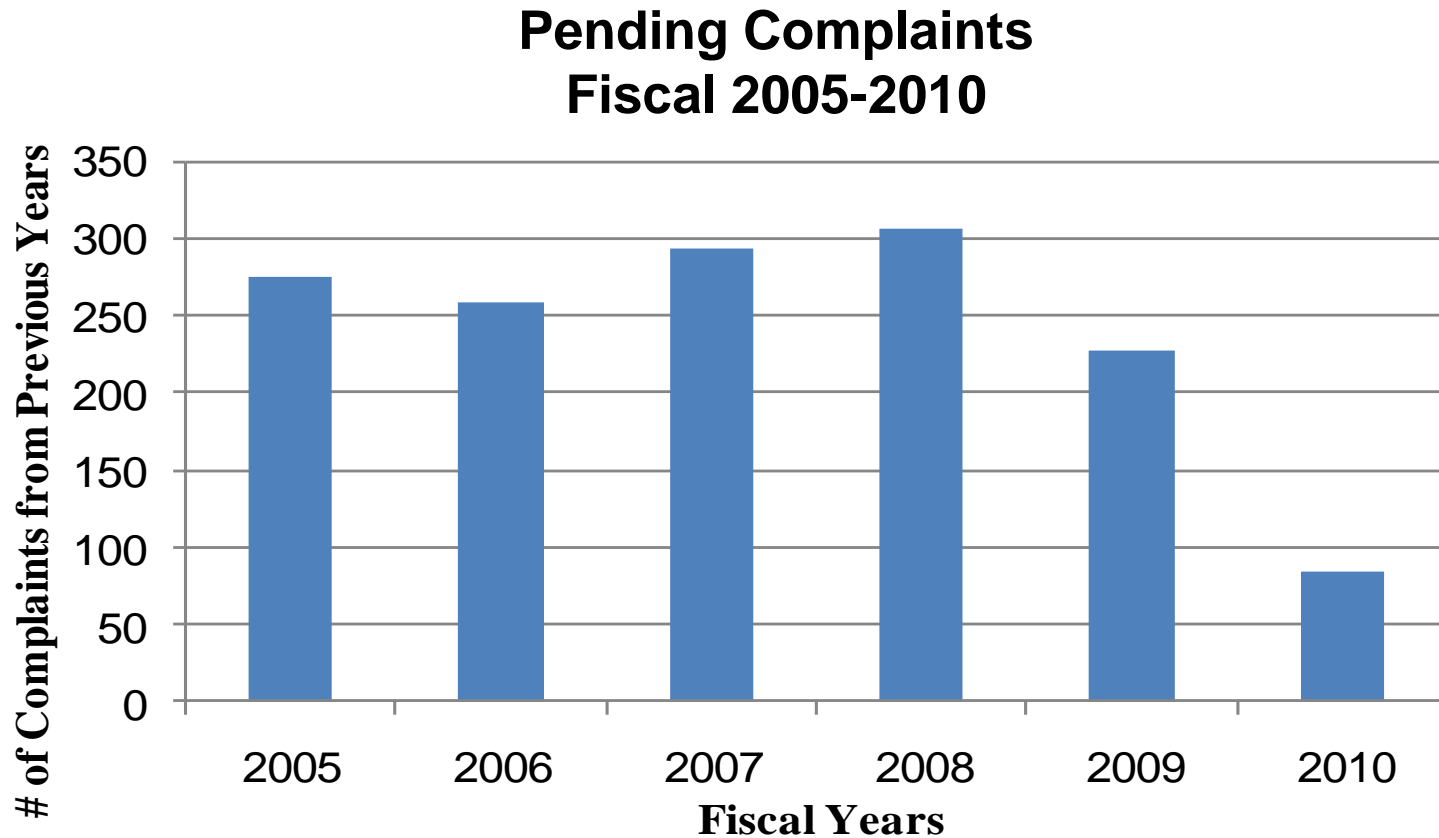
- While the board generally complies with its statutory and regulatory mandate, DLS found instances where the board's statute and regulations could be amended to facilitate operations
- Nomination process for board members is cumbersome
 - The new nomination process resulting from Chapters 211 and 212 of 2008 has proved cumbersome to implement
 - **Recommendation 1 (pg. 10): Statute should be amended to allow the *entire* nomination process to be conducted electronically**

Statutory and Regulatory Changes (cont.)

- Board's recusal policy does not include the dental compliance officer
 - **Recommendation 2 (pg. 11): The board should amend regulations on the recusal policy to include the dental compliance officer**
- Statute is unclear concerning jurisdiction and terminology with respect to the Well-being Committees
 - **Recommendation 3 (pg. 13): Statute should be amended to clarify that the Dental Hygienist Well-being Committee also provides assistance to dental radiation technologists and dental assistants**
 - **Recommendation 4 (pg. 13): Statute should be amended to replace the term “rehabilitation” with “well-being” for both committees to make it consistent with regulations and practice**

Complaint Resolution Process

Since fiscal 2005, the board has reduced its pending complaints



Source: State Board of Dental Examiners

Complaint Resolution Process (cont.)

- Board established a Backlog Committee in December 2008 to handle backlog cases
- Committee reviewed cases opened prior to fiscal 2008 (a total of 156 cases)
- Committee prioritized cases based on various factors
- Committee closed over half of those cases
- In 39 of those cases, the committee reversed prior board-approved sanctions

Complaint Resolution Process (cont.)

- Staff failed to carry out board-approved sanctions in some cases
 - **Recommendation 5 (pg. 26): Board staff should carry out all final actions taken by the board. Thus, board staff should send the 39 respondents the sanctioning letters that the board had previously voted to send by December 1, 2010**
- Moving forward, the board should ensure that informal disciplinary action is taken in a timely manner
 - **Recommendation 6 (pg. 27): The board should institute a policy that all letters of education and advisory letters be completed within 30 to 45 days following the board's final vote**

Complaint Resolution Process (cont.)

- DLS found other areas where the board could improve efficiency and ensure accountability to the public
- Disciplinary process could be improved with further OAG involvement
 - **Recommendation 7 (pg. 28): The prosecuting Office of the Attorney General should send a representative to serve as an advisor in all Discipline Review Committee meetings**
- Failure to comply with a board investigation is not currently grounds for discipline
 - **Recommendation 8 (pg. 29): Statute should be amended to include the failure to comply with a board investigation as grounds for discipline of dentists and dental hygienists**
- Board has difficulty securing expert witnesses for peer review
 - **Recommendation 9 (pg. 30): The board should consider ways to secure expert witnesses more efficiently**

Complaint Resolution Process (cont.)

- Chapters 211 and 212 of 2008 require specific disciplinary and data tracking actions on the part of the board:
 - collect race, gender, and ethnicity information on all licensees;
 - adopt new regulations for the rules of procedure for the disciplinary process;
 - develop a methodology of tracking the status of all complaints from initial allegation through sanctions and final action and keep records of the information for future audits;
 - develop a database so that data can be analyzed in a variety of ways and subjectivity and individual bias is reduced;
 - institute the development, use, and routine review of a comprehensive status report as a monitoring tool for all disciplinary cases; and
 - implement a case audit that studies selected cases, de-identifying files, and using outside experts

Complaint Resolution Process (cont.)

- To date, the board has not implemented all of the disciplinary and data collection provisions of Chapters 211 and 212
 - **Recommendation 10 (pg. 30):** The board should meet its obligation to adopt new, specified regulations for the rules of procedure for the disciplinary process, collect race and ethnicity information on *all* licensees during the application process, and meet the law's data manipulation requirements

Administrative Issues

- While the board has implemented some administrative changes that have improved board operations, DLS found several areas in need of improvement
- Rolling renewal process could balance workload
 - **Recommendation 11 (pg. 35):** After other administrative issues are addressed, the board should explore the costs and benefits of switching to a rolling year-round renewal cycle for licenses and certificates
- Board recordkeeping needs improvement
 - **Recommendation 12 (pg. 37):** Board staff should ensure that the data entered into License 2000 is accurate and matches what is recorded in the paper file
 - **Recommendation 13 (pg. 37):** Board staff should ensure that, moving forward, hard copy files have a consistent organizational structure to ensure that key documents can be located

Administrative Issues (cont.)

- Chronic turnover in the executive director position has led to deficiencies in several areas
- Performance evaluations are not conducted for all staff
 - **Recommendation 14 (pg. 39): The executive director should institute a policy for regular staff performance evaluations for all staff members**
- Cross training and procedure manuals are incomplete
 - **Recommendation 15 (pg. 39): The executive director should institute a policy to cross train staff members. Board staff should also develop procedure manuals that explain the responsibilities of each unit**
- Staff distribution is uneven
 - **Recommendation 16 (pg. 39): The executive director should reassess the current distribution of staff to determine if the proper balance exists between the functions of the office**

Customer Service

- The board could improve the availability of information for licensees and the public
- Public orders should be more readily available
 - **Recommendation 17 (pg. 40): Board staff should upload a list of public orders to the web site at least quarterly**
- Some licensing forms are out-of-date
 - **Recommendation 18 (pg. 40): Board staff should ensure that all forms are updated regularly**
- Board's newsletter is not timely
 - **Recommendation 19 (pg. 40): Board staff should publish the newsletter at least twice a year**

Fund Balance

Fiscal Status of the State Board of Dental Examiners Fiscal 2006-2010

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>Projected FY 2010</u>
Starting Fund Balance	\$1,205,724	\$1,286,762	\$1,345,509	\$1,108,411	\$940,683
Revenues Collected	1,583,259	1,699,697	1,327,771	1,727,135	1,665,640
Total Funds	\$2,788,983	\$2,986,459	\$2,673,280	\$2,835,546	\$2,606,323
Total Expenditures	\$1,502,220	\$1,640,950	\$1,564,869	\$1,894,863	\$2,033,816
 Ending Fund Balance	 \$1,286,762	 \$1,345,509	 \$1,108,411	 \$940,683	 \$572,507
Balance as % of Expenditures	85.7%	82.0%	70.8%	49.6%	28.1%
 Target Fund Balance (\$)	 300,444	 328,190	 312,974	 378,973	 406,763
Target Fund Balance as %	20.00%	20.00%	20.00%	20.00%	20.00%

Fund Balance (cont.)

- The board has proactively taken steps to lower its annual fund balance
- However, future costs could push expenditures beyond the revenue that sustains the board
 - **Recommendation 20 (pg. 44): The board should continue to reduce its fund balance to a more reasonable level, while being cognizant of future expenses, in order not to overcorrect and result in an inadequate fund balance**

License 2000 – Licensing and Compliance Software System

- The board has experienced many problems with its software system, License 2000, which tracks licensees regulated by the board as well as disciplinary cases
- Unfortunately, the board has not updated the system to address these ongoing problems

License 2000 – Licensing and Compliance Software System (cont.)

- License 2000 hinders staff productivity in the following ways:
 - staff cannot access licensing and compliance information on the same screen;
 - the system does not allow users to print directly from the screen;
 - the system does not record out-of-state disciplinary sanctions pertinent to Maryland licensees; and
 - the system does not alert staff when steps in the compliance process are due

License 2000 – Licensing and Compliance Software System (cont.)

- License 2000 impedes the board from enacting the following three requirements of Chapters 211 and 212:
 - tracking the status of all complaints from the initial allegation through final action and keeping records of the information for future audits;
 - analyzing data in a variety of ways in order to reduce subjectivity and individual bias; and
 - instituting the development of a comprehensive status report as a monitoring tool for all disciplinary cases

License 2000 – Licensing and Compliance Software System (cont.)

- **Recommendation 21 (pg. 47): The board should consult with the administrators of License 2000 to determine whether the system can be upgraded to perform specified tasks described in the report. The board should also explore other licensing and compliance tracking systems that may better assist the board in meeting its obligations if modifications to License 2000 prove to be too costly or are unable to satisfy the board's needs**

Conclusion

- The board has taken many steps to address concerns raised by the Legislative and Executive branches and DLS
- DLS believes that prospects for improving board operations are generally good
- Changes recommended by DLS will take time to implement and yield results
 - **Recommendation 22 (pg. 49): Extend the termination date for the board by 10 years to July 1, 2021, and require the board to report to the committees by October 1, 2011, on the implementation status of nonstatutory recommendations made in this report**