Sunset Review: Evaluation of the State Board of Social Work Examiners

Department of Legislative Services
Office of Policy Analysis

Annapolis, Maryland

October 2002

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF THE EXECUTIVE DIRECTOR
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

October 31, 2002

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Casper R. Taylor, Jr.
Honorable Members of the General Assembly

Ladies and Gentlemen:

The Department of Legislative Services (DLS) has completed its evaluation of the State Board of Social Work Examiners as required by the Maryland Program Evaluation Act. This evaluation process is more commonly known as sunset review because the agencies subject to evaluation are usually subject to termination; typically, legislative action must be taken to reauthorize them. This report was prepared to assist the Senate Education, Health, and Environmental Affairs Committee and House Environmental Matters Committee, the committees designated to review the board, in making recommendations to the General Assembly. The board is scheduled to terminate on July 1, 2004.

DLS finds that there is a continued need for strong and effective protection of the public through regulation of the social work profession and recommends that the board's termination date be extended by ten years. However, a status report must be made to the committees in October 2003; at that time, the committees should determine whether further study is needed. We also recommend altering the board's membership to facilitate appointments to the board. Draft legislation to implement the recommended statutory changes is included as an appendix to this report.

This evaluation documents several serious concerns about the operations and financial management of the board. As a special fund board, the board must cover its costs through licensee fee revenue. However, the board was not adequately monitoring its fund balance, which resulted in a budget deficit. The board borrowed funds from another health occupations board and, a year ago, implemented a fee increase – with fees doubling, tripling, or quadrupling, depending on the licensure level. As these fee hikes were much larger than necessary to maintain operations and a healthy fund balance, we recommend that the board adjust fees again. In addition, we make a series of administrative recommendations to strengthen board operations.

We would like to acknowledge the cooperation and assistance provided by the board members and its staff throughout the review process. The board was provided a draft copy of the report for factual review and comment prior to its publication, and the board's written comments are included as an appendix to this report.

Sincerely,

Karl S. Aro
Executive Director

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Contents

Letter of Transmittal iii

Executive Summary ix

Chapter 1. Introduction 1

The Sunset Review Process 1

Research Activities 1

Report Organization 2

History of the Social Work Profession 3

Social Work Is a Growing Profession 4

Regulation of the Social Work Profession in Maryland 5

Legislation Has Focused on Scope of Practice and Board Membership 6

Board of Social Work Examiners Should Be Extended for Ten Years 8

Chapter 2. Board Structure and Regulatory Functions 9

Licenses Issued Based on Levels of Education and Experience 9

Board Composition Reflects Licensure Levels and Areas of Practice 10

Board Does Not Have Full Complement of Members 11

Board Relies on Other Professionals and Staff to Develop Regulations 13

Board Uses Committee Structure to Handle Other Business 14

Inadequate Staffing Hampers Board's Effectiveness 15

Staffing Levels Slashed 15

Additional Monitoring of Inconsistent Work Quality Needed 16

Chapter 3. Licensee Trends and the Licensure Process 21

Clinical and Graduate Licensees Steadily Growing 21

Four Licensure Levels Appropriate. . . 24

. . . But Will Require Review in Near Future 27

Tracking of Licensees Should Be Strengthened 28

Licensee Database Has Reporting Limitations and Is Not Routinely Maintained 29

Licensee Trends Not Tracked and Accurate Numbers of Licensees Not Known 30

Board Could Make Improvements in Licensing Process 31

Chapter 4. Financial Management of the Board 33

Board Raises Fees to Cover Gap Between Revenues and Expenditures 33

Fee Hikes Swing Board's Fund Balance Too High 35

Board Unveils Budget Initiatives to Be Funded from Enhanced Fees 37

Board Should Strengthen Financial Planning 38

Chapter 5. Disciplinary System 43

Complaints Generally Relate to Boundary Violations, Fraud, and Custody Situations 43

Number of Complaints the Board Receives Appears Low but Is Acceptable 44

Complaint Resolution Process Generally Results in Dismissal of the Complaint 45

Complaints Typically Resolved within a Few Months 49

Case Tracking System Should Collect Additional Information 49

Administrative Problems Hinder More Efficient Disciplinary Process 50

Rehabilitation Committee Referrals Limited 51

Chapter 6. Relationships with Partners 53

Board Has Limited Interaction with the Department of Human Resources 53

Board Does Not Utilize Resources within DHMH 55

Board Relies on Web Site for Outreach to Consumers 56

Appendix 1. Draft Legislation 59

Appendix 2. Board Membership and Staff 65

Appendix 3. Legislative Changes Since the Last Sunset Review 67

Appendix 4. The Board's Records Retention and Disposal Schedule 69

Appendix 5. Statutory Grounds for Disciplinary Actions 73

Appendix 6. Written Comments of the Board of Social Work Examiners 75

Executive Summary

The social work profession in Maryland is regulated by the State Board of Social Work Examiners. Housed in the Department of Health and Mental Hygiene (DHMH), the board protects and promotes public safety by licensing social workers, investigating complaints and disciplining licensees when appropriate, and updating regulations as necessary.

Pursuant to the Maryland Program Evaluation Act, the Department of Legislative Services (DLS) has evaluated the State Board of Social Work Examiners, which is scheduled to terminate on July 1, 2004. Findings and recommendations are summarized below.

Social workers almost always work in a one-on-one relationship with their clients, who typically are dealing with a number of trying circumstances such as substance abuse, domestic violence, and educational and employment difficulties. Consequently, clients are particularly vulnerable in these relationships. Therefore, there is a continued need for strong and effective protection of the public through regulation of the social work profession.

Recommendation 1: Legislation should be enacted to extend the termination date for the Maryland Board of Social Work Examiners to July 1, 2014. Additionally, uncodified language should be adopted requiring the board and the Department of Health and Mental Hygiene to report to the Senate Education, Health, and Environmental Affairs and House Environmental Matters committees, on or before October 1, 2003, on the implementation of the recommendations contained in this sunset evaluation report. At that time, the committees should determine whether interim study of the board's operations is needed.

Although the board is statutorily required to have 11 members, it has never had its full complement of members. The board has expressed concern with the time it takes to fill positions on the board, as board vacancies affect both business meetings as well as the workload required of the members between meetings. In addition to the timing issue with the appointments process, both the board and DHMH agree that the restrictive nature of the statute makes it difficult to fill board member positions.

Recommendation 2: Given the consistent grievances expressed by several health occupations boards that appointments are not made in a timely fashion, the Department of Health and Mental Hygiene should review the current appointments process, particularly the timing of the process, and consider revising its procedures under the new Administration.

Recommendation 3: Statute should be amended so that the board composition includes two licensed social workers who are required to work under supervision at all times in place of one licensed graduate social worker and one licensed social work associate.

Board procedures for developing and writing regulations vary depending on the complexity of the regulations, but the majority of the regulations are produced by a few people with limited board member

involvement. This contributes to regulations not being developed in a timely manner.

Recommendation 4: The board should be more efficient in developing and writing regulations. Board members need to become more involved in the regulations process in order to provide broader professional social worker input on all regulations.

As part of the Governor's cost containment measures in fiscal 2002, DHMH was required to cut positions in its department. Three vacant positions were eliminated from the board, which has had a negative impact on workload.

Recommendation 5: Future cost containments should focus on general funded expenses that can benefit the State budget rather than special funded positions. Also, DHMH should evaluate the board's staffing needs and determine which positions the board needs to request and fill in the future.

This evaluation identified serious problems with board operations. For example, board documents are not appropriately retained or stored. Also, social workers have complained about access to board staff and information. Inadequate management of staff has resulted in poor-quality work and inconsistent general operating procedures.

Recommendation 6: The board should become more involved in oversight of staff operations. Specifically, the board should require the executive director to develop a board operations manual based on best practices from a well-run health occupations board, which includes direction for typical board processes and correspondence as well as expectations for staff professionalism and accountability. The board chairman and secretary should work closely with the executive director to develop the manual and ensure that appropriate attachments are included such as an approved and updated Records Retention and Disposal Schedule. The board should also revise the current job descriptions, in consultation with the executive director, for each position to reflect a more balanced level of responsibilities and expectations of the staff. The board's oversight committee should continue to meet on a quarterly basis to assure that the board's operations are running smoothly both during board meetings and in office processes.

The full sunset evaluations conducted in 1982 and 1992 discussed whether four levels of licensure were necessary. While the current four-level licensure system is appropriate now due to changes in the scope of practice, the board should review the system in the near future given certain demographic trends.

Recommendation 7: The board should monitor licensee trends, in particular the licensed certified social worker (LCSW) population, in order to evaluate its position within the social work profession. Should any changes be made to the scope of practice for any of the licensure levels, the board should consider the decreasing number of LCSWs in its evaluation. However, if the scope of practice for each level continues with no changes, the LCSW position should remain in the system given its particular place as an advanced, nonclinical license.

The current licensee database does not provide any useful report for analyzing trends,

such as total number of current licensees on an annual basis by type, and the database is not routinely maintained. Moreover, current board staff are not trained in how to use the licensee database and thus are unable to update it on a regular basis. Also, trends in licensee growth, licensee retention, and nonrenewals are not tracked on a regular basis, due to a lack of expertise and resources. Because these projections help determine future revenues, this type of licensee trend analysis is crucial.

Recommendation 8: The board should work with the Department of Budget and Management's Information Technology Office to make a full inventory of its licensee database capabilities and insufficiencies, develop a report of its needs, and institute a phase-in of database requirements.

Recommendation 9: The board should require the staff to have a representative from the Annapolis Data Center train board staff in the appropriate usage and updating of the database.

Recommendation 10: The executive director and at least two other professional staff should be trained in computer software programs that allow for trend analysis, such as Access and Excel. Any new staff hired by the board should have basic skills in these or similar software programs. These programs should be installed on all board computers.

Recommendation 11: Board staff should be required to work with the Department of Health and Mental Hygiene to develop an appropriate five-year licensee projection model.

This evaluation also identified several problems in the licensing process that should be addressed by the board. For example, limited information is sent to new licensees, and some applicants pay an extra charge for review of their applications. The timeliness of issuing licensure certificates is questionable, and information on current licensees is poorly maintained.

Recommendation 12: The board staff, with consultation from the Department of Health and Mental Hygiene, should undertake a full review of its licensee processing and tracking procedures, including, but not limited to, addressing the concern of late receipt of certificates and invalid contact information. Moreover, the board should consider providing more information up front to new licensees and eliminating the second charge for applications which have already been received and reviewed by the board but not yet approved.

In fiscal 2001, the board found itself facing a major budget deficit, which resulted in the board raising fees by fall of 2001. In all cases the fees more than doubled and in some cases tripled or quadrupled. These fee hikes were too large, and the fund balance is now projected to be 90 percent of total operating costs by the end of fiscal 2003, significantly exceeding the board's fund balance target.

Recommendation 13: The board should adjust its fees in order to draw down its fund balance to a more appropriate level. The new fees should take into account the 25 percent average target level, future inflation, and realistic growth in expenditures.

The board does not engage in any significant financial planning, only forecasting the budget for the coming fiscal year. Questionable licensee numbers have made budget projections unreliable and board staff have been unable to support licensee data and their relationship to revenues. Board staff does not monitor revenues, expenditures, and fund balances on a regular basis.

Recommendation 14: Statute should be amended to make it the role of the board secretary to monitor board finances. In addition, the board should require the secretary to make at least semi-annual financial reports to the board and bring to the board's attention any major financial decisions to be made.

There is a serious lack of communication between board staff and board members regarding board finances. The board was not aware of the seriousness of the deficit it was facing until too late. Board staff are not keeping accurate records of finances, which hinders the board's ability to effectively track the financial status of the board.

Recommendation 15: Board staff should be required to meet with and provide the necessary information to the board secretary at least one month before each meeting on finances to discuss the board's financial situation. The information to be provided should include a balance sheet of expenditures, revenues, and fund balances for past, current, and future fiscal years.

While almost all health occupations boards share a fiscal officer to advise them about their budget, board staff is not taking full advantage of this assistance. The fiscal officer was not sought out for advice as to the level of fees necessary to offset the deficit and meet future expenses.

Recommendation 16: Board staff should develop a working relationship with the shared fiscal officer for the boards and commission. In addition, key board staff should be required to have training in basic fiscal accounting, forecasting, and record keeping.

The current tracking system for disciplinary cases does not include certain important information. Board members have expressed frustration about the tracking system for complaints not being clear about the status of a case throughout the disciplinary process. Also, problems with board meeting minutes contribute to confusion about the status of disciplinary cases.

Recommendation 17: The board should add to its tracking system fields for who the board liaison is on each case and for the location of the case in the disciplinary process so that it is easier for board members to be aware of the current status of each case. The tracking system should also contain time line information about the case throughout all stages of the disciplinary process, including the status of the case after the board takes its final action.

Recommendation 18: Additional oversight of board staff is needed to ensure that board staff reduce errors in minutes from board meetings in order for information about disciplinary cases to be accurate and clear. Administrative documents should accurately state information about disciplinary cases.

Since the creation of the rehabilitation committee, the board has only made a few referrals. Board members are unsure what the role and function of the rehabilitation committee should be.

Recommendation 19: The board, in consultation with the Department of Health and Mental Hygiene's Council on Boards and Commission, should examine how the rehabilitation committee could be used more effectively to help social workers get treatment they may need.

The Department of Human Resources (DHR) is the largest single employer of social workers in the public sector, but the board has no ongoing working relationship with DHR. A recent audit revealed significant problems with documentation of client files in child welfare services. Improper documentation is grounds for discipline by the board. When it has to interact with DHR on investigations, the board has expressed frustration with a lack of cooperation from the department.

Recommendation 20: As the Department of Human Resources is the largest single employer of social workers in the public sector, it is important for the board and the department to have a working relationship, particularly for disciplinary cases before the board. Because the OLA audit revealed serious problems with documentation, the board and DHR should improve outreach to professionals on established standards for documentation.

While the board functions as an independent entity, DHMH has oversight authority over its operations. Currently, there is limited involvement. DHMH has many resources which are not being utilized by the board.

Recommendation 21: The board and DHMH should work together to address problems raised in this evaluation. DHMH should exercise its oversight authority and take a more active role in providing assistance to the board, particularly with regard to the appointments process, staffing issues, and problems with board operations.

The board currently does limited outreach to members of the public, mainly through its web site. The web site contains limited and outdated information.

Recommendation 22: The board should engage in more public outreach by using its web site more efficiently. Regulations and statutes should be accessible through the board's web site for the convenience of the general public and social workers wanting more information about social work in Maryland. Also, the board should utilize its web site to provide information about how the disciplinary system works and about how consumers can make complaints to the board about social workers in the State. In addition, the board should consider other options of providing more public outreach, such as brochures specific to social work in licensee offices.

Chapter 1. Introduction

The Sunset Review Process

The Maryland Program Evaluation Act, § 8-401 *et seq.* of the State Government Article, provides a system of periodic legislative review of the regulatory, licensing, and other governmental activities of various units of State government. The Act is informally referred to as the "sunset law" and the associated review process as "sunset review" or "sunset evaluation" because governmental units subject to the Act are usually scheduled to terminate unless affirmatively re-established by the General Assembly. The goal of the sunset review process is to promote accountability in government operations.

The State Board of Social Work Examiners (BSWE) is one of 69 entities currently subject to evaluation. The board last underwent a full evaluation as part of sunset review in 1992. This is the board's third sunset review. A preliminary evaluation of the board conducted in 2001 recommended a full evaluation to assess the licensing process and activity, complaint activity and outcomes, the fiscal solvency of the board, the regulation promulgation process, and the board's financial planning.

This evaluation was undertaken to provide the General Assembly with additional information in making the determination about whether to re-authorize the board and for what period of time. Recommendations to improve the operations of the board are made throughout this document.

The board reviewed a draft of this report and provided the written comments attached as **Appendix 6**. Appropriate factual corrections and clarifications have been made throughout the document.

Research Activities

To complete this evaluation, staff of the Department of Legislative Services (DLS) engaged in extensive research activities, including:

- reviewing the State statute and regulations regarding the social work profession;
- conducting a telephone survey of board members;
- interviewing board staff and board officers;
- attending open, closed, and executive board meetings;

- reviewing board meeting minutes;
- interviewing officials from the Department of Health and Mental Hygiene (DHMH) and the Department of Human Resources (DHR);
- interviewing officials from the University of Maryland School of Social Work;
- visiting the board's office to analyze administrative processes and procedures;
- attending licensee disciplinary committee meetings;
- reviewing the Office of Legislative Audits' (OLA) audits of the Health Professional Boards and Commission, State Board of Physician Quality Assurance, and State Board of Nursing; and DHR's Out of Home Placement and Foster Care Systems;
- analyzing licensee and complaint data;
- confirming and summarizing the board's financial activity for the past five years;
- analyzing the sufficiency of the board's fund balance in meeting its financial obligations;
- interviewing officials of national and State professional associations; and
- conducting general research on the social work profession.

Report Organization

This chapter provides an overview of the social work profession, a summary of the sunset review process, and a list of the research activities undertaken to complete this evaluation. **Chapter 2** contains an overview of the board's structure and regulatory functions. **Chapter 3** examines the board's tracking of licensees. **Chapter 4** analyzes the board's financial status and management. **Chapter 5** describes the board's disciplinary and complaint process. **Chapter 6** examines the board's relationships with its partners. Each of the above chapters offers findings and recommendations. Draft legislation to enact all statutory changes is included as **Appendix 1**. **Appendix 2** contains a roster of the current board membership. **Appendix 3** contains a chart of legislative changes since the last sunset review of the board. **Appendix 4** provides a copy of the board's Records Retention and Disposal Schedule. **Appendix 5** contains statutory grounds for disciplinary action by the board. **Appendix 6** contains the board's written comments to this evaluation.

History of the Social Work Profession

The history of social work can be traced back to Jane Addams, who opened Hull House in 1889 to serve as a social settlement for immigrants and other residents in Chicago. Addressing socioeconomic dynamics stemming from the emerging industrial changes, Addams and her colleagues provided important services to families including child care and employment assistance, as well as cultural and educational services. Around the same time, the nation was waking up to social conditions as Jacob Riis' *How the Other Half Lives: Studies Among the Tenements of New York* was widely read and private relief organizations were founded. By 1898, this type of "charity work" emerged into a respected profession when the Columbia University School of Social Work was opened.

The Great Depression profoundly influenced social work practice and redefined the role of government as a provider of social welfare. The general public began to view poverty as the result of economic circumstances rather than personal failure. The idea that social welfare assistance was a government responsibility rather than a private charitable function gained more acceptance. These changes led to the creation of a wide range of government programs under the Roosevelt Administration like the New Deal, which ultimately evolved into a complex national social welfare system.

The centerpiece of the dozens of social welfare programs that comprised the New Deal was the Social Security Act of 1935. It expanded and improved standards of social welfare throughout the country. The scope of social welfare expanded beyond financial relief to the poor to include housing, recreation and cultural activities, child welfare programs, and various forms of social insurance to Americans of all classes. The growth of public welfare programs also necessitated the recruitment of new social workers, whose numbers doubled from 40,000 to 80,000 within a decade.

During World War II, many social workers accepted war-related assignments, initiated by the establishment of a special classification for military social work and the development of services for communities impacted by the war. In the decade after the war, extensive efforts were made to enhance the profession's status. These included increased standardization of agency practices, the development of interdisciplinary doctoral training programs, and the creation of core Master of Social Work curricula. The formation of the Council on Social Work Education in 1952 and the establishment of the National Association of Social Workers in 1955 further increased the professional status of social work.

In the 1960s, President Johnson's War on Poverty led to several new social welfare programs that increased the demand for social workers. Such programs included Head Start, an early education program for poor children; the Legal Services Corporation, which provides legal aid to poor families; and various health care programs

run out of neighborhood clinics and hospitals. Health insurance programs such as Medicaid and Medicare were developed to assist the needy and the elderly.

During the Reagan Administration, a focus on reducing the size of government and social welfare programs compelled social workers to turn to the private sector for job opportunities. The private practice of social work was also encouraged by changes in legislation and policy allowing social workers to accept third-party payments, or health insurance claims, for their services.

Social Work Is a Growing Profession

Social workers help people function the best way they can in their environment, deal with their relationships with others, and solve personal and family problems. The majority of licensed social workers provide direct services to clients with a focus on counseling and psychotherapy, a method for treating mental disorders and behavioral disturbances through therapeutic communication or interaction. Through direct counseling, social workers help clients identify their concerns, consider effective solutions, and find reliable resources. Social workers practice in a variety of settings, including the following:

- Hospitals and Psychiatric Hospitals: Social workers provide or arrange for a range of support services;
- Mental Health and Community Centers: Social workers provide counseling services to help people through personal or community emergencies, such as dealing with loss or arranging for disaster assistance;
- Schools: Social workers help children, parents, and teachers cope with problems;
- Social Service Agencies: Social workers provide counseling and therapeutic services to vulnerable children and adults and help people locate basic benefits such as income assistance, housing, and job training;
- Rehabilitation Facilities: Social workers offer counseling to those receiving therapy for addictive or physical disorders;
- Nursing Homes: Social workers offer counseling and service planning to residents;
- Employment Settings: Social workers counsel people with personal, family, professional, or financial problems affecting their work performance;

- Courts and Corrections Facilities: Social workers evaluate and counsel individuals in the criminal justice system to cope better in society; and

- Private Practice: Social workers provide clinical services covering a wide range of personal disorders.

Today, social workers comprise the largest percentage of professionals working in the fields of mental health and family services. According to the U.S. Bureau of Labor Statistics (BLS), social workers held about 468,000 jobs in 2000. About one in three jobs were in state, county, or local government agencies, primarily health and human services departments, mental health, social services, child welfare, housing, education, and corrections. Most private-sector jobs were in social service agencies, hospitals, nursing homes, home health care agencies, and other health centers or clinics. Realities of living in an urban environment tend to drive the demand for social workers in the cities.

It is estimated that, by 2005, there will be about 650,000 social workers, more than a 30 percent increase over ten years. BLS anticipates that employment of social workers will increase at a faster rate than all other occupations by 2010. This is due in part to the demand of the rapidly growing elderly population needing social and health services. Also, the baby boomers will need mental health and professional services as they deal with mid-life concerns. In addition, a greater awareness of the needs of individuals with mental and physical disabilities, as well as those with substance abuse problems, will increase demand for social workers.

Regulation of the Social Work Profession in Maryland

All states, plus several U.S. territories, now regulate social workers, primarily through regulatory boards. In 1975, the General Assembly passed the Maryland Social Workers Act (Chapter 853) making Maryland the seventeenth state to license social workers. The social work profession in Maryland is regulated by the State Board of Social Work Examiners. The board operates under Title 19 of the Health Occupations Article. The purpose of the board is to protect and promote the public safety through the licensing and regulation of social workers. The board is authorized by statute to establish minimum requirements for licensure, examine applicants, renew licenses, collect fees, and create and enforce a code of ethics. Currently, the board licenses almost 11,000 social workers, double the number licensed ten years ago, through four distinct levels of social work practice:

- licensed social work associate (LSWA);

- licensed graduate social worker (LGSW);

- licensed certified social worker (LCSW); and
- licensed certified social worker-clinical (LCSW-C).

According to the Association of Social Work Boards (ASWB), compared to other states Maryland has one of the most protective licensing statutes. All individuals must be licensed by the State in order to perform the duties defined as social work in the Maryland Social Workers Act. Only two exceptions apply: (1) an individual employed by the federal government while performing duties of that employment; and (2) an individual licensed as a social worker in another state while responding to an emergency in this State may practice in Maryland. In contrast, several other states make exemptions to the practice of social work. For example, Florida excludes government agency employees, employees of private nonprofit organizations, supervised students, nonstate residents, and other qualified professionals. Maryland used to exempt all social workers employed by federal, State, and local governments from licensure until a bill was passed in 1983 eliminating the exemptions.

Additionally, Maryland's regulations generally follow professional standards throughout the country. The ASWB commented that Maryland is on par with regulatory issues across the country. The board's supervision regulations (filed for publication April 24, 2002) that set out standards and requirements related to specific aspects of supervision are consistent with current supervision standards in other states. The number of supervision hours required are in line with other states, and the continuing education hours required for license renewal are somewhat above average nationwide. In addition, some states have specialized continuing education requirements in topics such as ethics or clinical practice content; Maryland's continuing education regulations will require a three-hour course in ethics, effective November 2003.

Legislation Has Focused on Scope of Practice and Board Membership

Several pieces of legislation enacted over the past ten years made changes to the social work profession. Chapter 333, Acts of 1993 specified that a LSWA may not make a clinical diagnosis or engage in the practice of psychotherapy. The legislation also extended the BSWE for another ten years and added a second consumer member. In addition, the legislation prohibited the board from authorizing a LSWA with less than two years experience from engaging in the private practice of social work without supervision. However, this provision was repealed pursuant to legislation in 2000 that required LSWAs to practice social work under supervision at all times.

Two other bills in the 1990s altered specific provisions of the social work statute. Chapter 611, Acts of 1994 authorized the board to waive the requirement that supervision be part of an employment contract for a LCSW if supervision under the specific requirements were not available while the applicant was obtaining the required two years

of experience. Chapter 114, Acts of 1999 required an applicant or licensee to pay the costs of a disciplinary hearing if the applicant or licensee has committed any acts prohibited by law. The bill also authorized the board to require a licensee under investigation to submit to an appropriate exam by a health care provider, if warranted.

Regulation of the profession underwent major revisions in the Maryland Social Workers Act – Revision of 2000 (Chapter 554, Acts of 2000). The bill was the result of a task force formed several years prior that consisted of representatives from agencies, professional associations, and schools of social work. The task force met monthly for the purpose of updating the social work statute. Chapter 554 revised the law in the following major areas:

- **Scope of Practice** – Altered supervision requirements for LCSWs and LCSW-Cs to make them more specific as to the type of supervised experience required; limited a licensed social worker, who is not a licensed certified social worker-clinical or a licensed certified social worker under the direct supervision of a LCSW-C, from providing counseling that includes diagnosis or treatment of mental disorders; outlined specific circumstances in which a licensed social worker may not practice social work, make any type of clinical diagnosis, or provide psychotherapy.

- **Disciplinary Authority** – Authorized the board to impose a fine of up to $5,000 on a licensee in disciplinary situations where a licensee may be placed on probation or where a license has been suspended or revoked; and required the board to issue a list of all social workers who have been disciplined by the board in the past year.

- **Regulation Promulgation** – Required the board, in consultation with social work organizations and specified departments, to adopt regulations defining appropriate supervision.

- **Board Operations** – Authorized the board to appoint an executive director who serves at the pleasure of the board and has the powers and duties assigned by the board.

- **Board Membership** – Altered board membership by increasing membership, requiring specific representatives from each licensure level, and requiring one board member to be a social worker employed by the Department of Human Resources. Prior to 2000, the requirements for social workers as board members were not related to licensure levels. Instead, the Governor had to appoint one licensed social worker from a list submitted by the Maryland chapter of the National Association of Social Workers (NASW), and one licensed social worker from a list submitted by the Metropolitan Washington chapter of NASW. In

addition, the Governor had to appoint three other social workers at large. The task force behind the 2000 legislation determined that the board should have at least one representative from each level of social work licensure.

In addition, the 2000 legislation deleted a statutory provision that allowed an individual licensed in another state to practice social work if the individual had recently become a resident of Maryland and had an application for a license pending before the board. The provision was deleted because people who were not licensed in Maryland worked as social workers for long periods of time without submitting their application to the board; consequently, the board had no jurisdiction over them. Deletion of this provision has had an unintended consequence, particularly for The Johns Hopkins Hospital, whereby social workers licensed in other states are not able to practice in Maryland upon employment. The board has expressed interest in adding this provision back into statute with language requiring an individual to become licensed within a period of time determined by the board in regulations. The General Assembly may wish to reconsider this exception to the license requirement.

Board of Social Work Examiners Should Be Extended for Ten Years

Social workers in both the private and public sector maintain close interaction with their clients. In almost all instances, there is a one-on-one relationship between the professional and their clients dealing with a number of trying circumstances such as substance abuse, domestic violence, and educational and employment difficulties. Such relationships put the clients in a vulnerable position. Sometimes social workers are tempted to, or actually violate, their licensee-client relationship, commonly known as a "boundary violation," emotionally, neglectfully, or sexually. The board is scheduled to terminate on July 1, 2004. As there is a continued need for strong and effective protection of the public, the board should be continued in order to regulate the social work profession.

Recommendation 1: Legislation should be enacted to extend the termination date for the Maryland Board of Social Work Examiners to July 1, 2014. Additionally, uncodified language should be adopted requiring the board and the Department of Health and Mental Hygiene to report to the Senate Education, Health, and Environmental Affairs and House Environmental Matters committees, on or before October 1, 2003, on the implementation of the recommendations contained in this sunset evaluation report. At that time, the committees should determine whether interim study of the board's operations is needed.

Chapter 2. Board Structure and Regulatory Functions

The Board of Social Work Examiners (BSWE) was established to serve as a regulatory authority of the social work profession. In other words, the board has several responsibilities in order to ensure the safety of the public, which include:

- licensing social workers;
- investigating complaints and disciplining licensees when appropriate; and
- updating regulations to stay current with national and State professional trends, as well as board-specific issues.

The board meets consistently on a monthly basis to deal with issues concerning each of the three major responsibilities listed above. Presided over by a chairman selected by the members, the meetings consist of a closed meeting and an open meeting. A majority of the board is statutorily required to conduct business. Typically closed meetings deal with disciplinary cases, while open meetings address a number of issues affecting the board such as proposed regulation changes and licensure requirements. In the case where the chairman would have a conflict of interest, the member-appointed secretary would preside over the meeting. Both the chairman and secretary serve a two-year term.

Licenses Issued Based on Levels of Education and Experience

The board licenses four levels of social workers which are distinguished by different levels of education and experience:

- licensed social work associate (LSWA);
- licensed graduate social worker (LGSW);
- licensed certified social worker (LCSW); and
- licensed certified social worker-clinical (LCSW-C).

Licenses are awarded for a two-year period; generally 60 percent of all licensees renew in one year and 40 percent the next year. According to the Maryland Social Workers Act, in order to obtain a license, an applicant must demonstrate to the board that he or she:

- has submitted a complete written application to the board;

- is at least 18 years old;
- is of good moral character;
- with certain specified exceptions, has successfully passed an examination or examinations prescribed by the board; and
- has paid all applicable fees specified by the board related to licensure.

Applicants must also meet specific education and experience requirements, detailed in Chapter 3.

The board is one of 49 states that uses a national exam developed by the Association of Social Work Boards to test applicants and licensees seeking higher licensure. California is the only state that uses its own exam. These exams are administered daily by a private company through the Prometrics Learning Centers. There are four separate exams to match the four licensure levels in Maryland. Maryland requires a weighted passing score of 75. Other states' passing rates range from 70 to 75. However, the board will accept a lower score from out-of-state applicants who meet that state's passing score.

In order to be qualified to renew a license, the licensee must pay a renewal fee and submit to the board the renewal application form and satisfactory evidence of compliance with continuing education requirements. The current regulations state that all licensees must complete at least 24 credit hours, half of which must be earned through formally organized learning activities, such as academic courses at an accredited academic institution, seminars, workshops, and training programs. New regulations, which will be in effect November 2003, raise the number of credit hours to 40, of which 20 must be from a formally organized learning activity. No documentation of completed continuing education units is required with the renewal form. However, staff, with some assistance from the continuing education committee, conduct a 3 percent audit of renewing licensees to see whether the requirements were met.

Board Composition Reflects Licensure Levels and Areas of Practice

Since the last full evaluation, the membership of the board has increased to 11 members. Following the last full evaluation (Chapter 333, Acts of 1993), the board membership increased from six to seven members when a second consumer member was added in order to enhance representation of the general public. In the Maryland Social Workers Act – Revision of 2000, four more licensed social workers were added to the board, bringing the total number of social workers on the board to nine and total membership to 11. The additional social workers were added to provide specific

representation of all social work licensure levels and add more board members to help with the board's work. Board members are limited to two four-year terms.

The current board reflects diverse areas of the social work field. While a majority of the members are clinical social workers, typically associated with private practice, they currently work, or have experience working, in the public setting. Members represent university faculty, hospitals and health-related organizations, and public schools. Two are currently in private practice. Added through the 2000 revision, one member works with the Department of Human Resources (DHR) at a local department of social services. This position serves as an important link between the local departments of social services, which employ the majority of LCSWs, and the board.

Board Does Not Have Full Complement of Members

While the board is statutorily required to have 11 members, it has never had its full complement of members. Currently, there are nine appointed members; one member resigned in October 2002, and the LSWA position has never been filled. The LGSW position was filled in the spring of 2002. One reason for the delay in appointing that member was that the first individual selected did not qualify for the position as a licensed graduate social worker.

According to statute, the Governor is to appoint all members of the board with the advice of the Secretary of Health and Mental Hygiene and the advice and consent of the Senate. In practice, the Secretary approves potential members from a list of nominees developed by the department's appointments office. Nominees are selected from submissions sent by professional State social work associations, any person with a statement of nomination signed by at least 25 social workers licensed in the State, or Secretaries of public agencies of the State where social workers are employed. After the Secretary approves the nominees, the list is forwarded to the Governor for review and approval.

Similar to other health occupations boards, the State Board of Social Work Examiners has expressed concern with the time that it takes to fill positions on the board. Such vacancies have an effect both on business meetings as well as the workload required of the members between meetings. By law, a quorum is required to do business, in this case six members. However, the board has generally been operating with only nine members, any additional board member absences made it difficult to have a quorum during meetings.

In addition to the timing issue, both the board and the Department of Health and Mental Hygiene (DHMH) agree that the restrictive nature of the statute makes it difficult to fill the positions. Currently, of the nine social worker members, there must be:

- one licensed social work associate;
- one licensed graduate social worker at the time of appointment;
- one licensed certified social worker;
- four licensed certified social workers-clinical; and
- one licensed social worker employed by the Department of Human Resources.

Loosening up the restrictions on the types of licensed social workers needed will help DHMH and the Governor fill board member positions. However, it is important to retain a proper reflection of the current social work profession. Because clinical social workers represent approximately 60 percent of the profession, the current complement of licensed clinical social workers is appropriate. Moreover, the board must retain the LCSW because of the role these licensees play in the profession; almost all of the current LCSWs work at the local departments of social services. LCSWs represent the historical role the profession has played in society by helping the most needy as well as those individuals practicing nonclinical social work, which can include public policy or management roles. Although the DHR-designated position can represent these perspectives, it does not have to be a nonclinical social worker.

It is also important to retain members who are currently under supervision since they have a unique perspective of the social work profession, such as issues related to approval of supervisors and necessary hours of supervision requirements. DHMH has explained that the LGSW, which must be supervised at all times, has been difficult to fill over the past several years. One reason for this was that it was difficult finding a LGSW who wanted to serve on the board. Additionally, an LGSW usually cannot be reappointed since, by the end of an LGSW's first term, he or she typically will have become a LCSW or LCSW-C. As stated earlier, the LSWA member position, which also requires constant supervision, is still not filled.

Given these facts, it appears that board member requirements for LGSW and LSWA representation need revision. While the LSWA requires a bachelor's degree and the LGSW requires a master's degree, they have a similar scope of practice. The only difference is that the LGSW can practice supervised psychotherapy while the LSWA cannot. Therefore, by requiring that two members of the board be under supervision at the time of appointment, without specifying which level of licensure is necessary, the appointments office will have more flexibility in selecting nominees.

Recommendation 2: Given the consistent grievances expressed by several health occupations boards that appointments are not made in a timely fashion, the Department of Health and Mental Hygiene should review the current appointments process, particularly the timing of the process, and consider revising its procedures under the new Administration.

Recommendation 3: Statute should be amended so that the board composition includes two licensed social workers who are required to work under supervision at all times in place of one licensed graduate social worker and one licensed social work associate.

Board Relies on Other Professionals and Staff to Develop Regulations

Regulations are a significant method of ensuring adequate standards and requirements for social workers in order to protect the public, as mandated in § 19-102 of the Health Occupations Article. The board is granted authority to adopt rules and regulations to carry out the provisions of the social work title in the Health Occupations Article in § 19-205. The authority to adopt regulations is a crucial component of effective supervision of social workers by the board.

Board procedures for developing and writing regulations vary depending on the complexity of the regulations. Committees are usually formed to develop more complicated regulations, while the more straightforward regulations are developed by a small group consisting of two board staff members, the shared legislative officer who also coordinates regulations, and one board member. Recently, revisions to the continuing education chapter (effective April 1, 2002) and the addition of the supervision chapter (filed for publication April 24, 2002) were effectuated through the use of committees of social workers, headed by an appointed board member. The supervision committee was required by the Maryland Social Workers Act – Revision of 2000 and included provisions that the board was to consult with professional social work organizations and specific departments in the State in adopting the supervision regulations. Otherwise, regulations committees, such as continuing education, are formed by appointing a board member as chairman and sending out letters to the heads of social work associations and agencies in the State inviting them to participate, resulting in members of the social work community comprising the majority of the regulation committee.

These committees have worked well in providing broad feedback by social workers on the development of the regulations. However, other regulations are developed and written by the board secretary, the legislative officer, board counsel, and staff social worker. Out of this group, half of the individuals are social workers and half of the individuals are attorneys. Thus, there is limited professional social work input.

Most of the board member input on regulations is through reviewing regulations at board meetings. Although the regulations are sent to a list of social workers around the State, including to various social work associations, little public comment is typically received by the board. While associations are occasionally contacted regarding specific issues, such as finding out about fees in other states, the board typically does not have much interaction with social work associations for the purposes of developing regulations.

The timeliness of regulation promulgation could be improved. In 2000 the Maryland General Assembly passed the Maryland Social Workers Act – Revision of 2000. This legislation necessitated new or revised regulations in seven areas. Although the board discussed the proposed legislation and necessary regulations before the bill was signed into law, the regulations are still not complete two and one-half years later. The slow adoption of regulations is related to a number of factors. First, the lack of board member involvement in reviewing and updating regulations resulted in a higher workload for those involved in the process. Second, out of the small number of people who do the majority of the work on regulations, there is a lack of adequate representation of social workers, so more time than necessary is spent becoming familiar with aspects of the social work profession. Third, some regulations are more labor intensive than others and therefore take more time to develop. The supervision regulations required a lot of work compared to continuing education regulations, which is a more straightforward subject matter.

Recommendation 4: The board should be more efficient in developing and writing regulations. Board members need to become more involved in the regulations process in order to provide broader professional social worker input on all regulations.

Board Uses Committee Structure to Handle Other Business

The board has created several standing committees to deal with business outside of regular meetings. These include budget, disciplinary case review, credentialing, and newsletter. As noted earlier, the board also has special committees to deal with revisions to regulations when needed. An oversight committee was recently created to deal with staff and management issues. While these committees serve a critical board function, frustration has been expressed through interviews at the level of board member commitment for these committees, as well as poor attendance at full board meetings. For example, as a result of members' lack of interest in reviewing regulations, the staff almost entirely reviewed and revised the regulations for the board. Staff have stated this is troublesome because, with the exception of the staff social worker, they are not social workers and therefore do not have the professional expertise needed for this process.

The disciplinary case review committee is the most active committee of the board. When the board receives a complaint about a social worker, the complaint is first referred to the disciplinary case review committee. This committee meets monthly to discuss complaints received and makes recommendations for investigation or dismissal. The committee also appoints a board member liaison to cases meriting investigation. At monthly board meetings, the liaison presents the case with assistance from the investigator, and board members vote on disciplinary actions. The disciplinary system is discussed further in Chapter 5.

Inadequate Staffing Hampers Board's Effectiveness

Along with 17 other health occupations boards, BSWE operates under the Office of the Secretary, within DHMH. Although DHMH provides administrative and policy support, day-to-day activities are managed by the board staff. In addition, the board shares a fiscal officer, legislative officer who also coordinates regulations, and computer network specialist with most of the other health occupations boards.

Staffing Levels Slashed

Prior to cost containment measures taken by the Governor during fiscal 2002, the board's staff consisted of eight full-time employees. These positions included:

- one executive director;
- one staff social worker;
- one investigator;
- one executive assistant;
- one secretary III;
- two clerks; and
- one secretary II.

The board also employed several temporary employees to complete additional secretarial responsibilities. Four of the eight full-time employee positions, or 50 percent of its entire staff, were vacant, including the secretary III, secretary II, and the two clerks prior to cost containment.

Due to the State's fiscal situation, DHMH was required to cut a certain number of positions in its department, including the professional boards. According to DHMH, the department tried to protect these positions by putting them in a strategic place on its priority list. However, since DHMH was required to cut more positions than anticipated, three of the four vacant positions (the two clerks and secretary II position) were eliminated. These positions had been vacant ranging from a few months to two years. This past summer, BSWE filled the remaining vacant secretary III position and has continued to rely on temporary employees to assist the other staff with clerical duties.

Board members and staff are very concerned about these position cuts and the obvious negative impact on workload. The board chairman has written a letter to DHMH requesting to be able to replace the eliminated positions with contractual positions. DHMH is waiting for approval from the Department of Budget and Management (DBM).

Recommendation 5: Future cost containments should focus on general funded expenses that can benefit the State budget rather than special funded positions. Also, DHMH should evaluate the board's staffing needs and determine which positions the board needs to request and fill in the future.

Additional Monitoring of Inconsistent Work Quality Needed

During the sunset evaluation, the Department of Legislative Services (DLS) assessed the daily operations of the board through interviews with staff and board members, review of board documents, and discussions with other State agencies. DLS uncovered serious problems, some of which may make the board vulnerable to litigation.

Severe Mismanagement and Storage of Board Documents

According to § 10-633 of the State Government Article, each unit of State government must have a "program for the continual, economical, and efficient management of the records of the unit." The program must include procedures that establish record retention and disposal schedules to ensure prompt and orderly disposition of records the unit no longer needs. **Appendix 4** provides a copy of the board's Records Retention and Disposal Schedule. According to the State Archives, these retention and disposal schedules should be updated approximately every five years.

The board's most recent schedule is almost 18 years old, approved December 1984. More significant, although the schedule requires many different types of records to be retained with the State Archives, the Archives has no record of any files being currently retained at the Hall of Records or other State records center. The board's approved schedule requires that minutes and agendas for closed and open board

meetings, as well as the examination scores for each candidate for licensure, be retained permanently at the Archives. Also, licensee applicant files, organized by licensure level; vendorship application files; and inactive complaint files are to be retained in the office for one year, and then stored in a State Records Center for ten years, after which they may be destroyed.

The schedule also describes the types of records to be kept within the office. For example, the board must retain a registry containing the names and addresses of licensees and certain other information regarding the licensees for at least three years. The board must also retain opinions of the Attorney General and audit reports permanently. Active complaint files must be kept in the office. Also, correspondence with individuals, institutions, and organizations as well as financial records and legislative action must be retained in board files for three years, after which they may be destroyed.

According to board staff, files have not been sent to the Hall of Records because it would be too hard to recover any important documents needed. However, board staff also stated that only in a few instances were materials actually needed from old files. After reviewing the board's files at its DHMH office, the evaluation team found that, although many of the required documents may be present, the limited storage space and scattered filing system may make it just as difficult to retrieve records from the board's own filing system as at the Archives.

During the evaluation, the team also found that the lack of good filing and record-keeping has negatively affected the work of the board. During board meetings, board members have expressed concern that licensee applications, which are State documents, were being thrown away too soon or without reason. In interviews, it was also noted that there is no record or file of correspondence from previous Attorneys General. Such a record is critical in helping counsel fully understand all cases that come before the board. Some interviews revealed that requests for historical information affecting official board work were not answered in a timely manner or not provided at all. Other information not easily accessible to the general public as required, such as licensure or complaint history, can put the board at risk of litigation. Again, while these records may be located at the DHMH office, board members and some staff either do not understand how, or are not able, to retrieve important board documents.

Limited Access to Board Information or Assistance

Social workers have complained about access to board staff and information. Responses to calls or correspondence are often slow. The board's web site, which should be able to answer many questions for the professionals, is greatly in need of being updated. For example, review of the board's web site as recently as October 31, 2002, revealed that the membership roster was last updated in September 2000 and consequently does not reflect the expanded board membership or correctly identify the

chairman and secretary. Additionally, there is no link to statute or regulations for the profession. Also, the email address link to obtain an application for licensure is invalid.

Inadequate Management and General Operating Procedures

Interviews with staff and board members revealed that management does not delegate responsibilities evenly among staff and ensure high-quality work products. Two staff generate most of the board work and are very productive. The remaining staff either have limited responsibilities or produce inconsistent work. Moreover, an inordinately high number of personal staff telephone calls has historically been a problem for the board. Such problems have fostered low staff morale, a poor working environment, and high turnover.

Several other concerns have been raised regarding the daily operations and professionalism of the staff. Due to a lack of proofreading of minutes, correspondence, and follow-up materials, the board spends an exorbitant amount of time making corrections during board meetings. This affects the business of the board in that it often has difficulty covering important items on its agenda, such as regulation changes and the budget, since it deals with corrections first.

It appears that the relative newness of board members and a number of vacant seats over the past decade resulted in limited oversight by the board of its staff. As part of the Maryland Social Workers Act – Revision of 2000, the board was given oversight authority of board staff by placing the executive director at the pleasure of the board. This provision was supported by the board to solve its management and staffing problems. Within the past year, the board has paid more attention to the quality of its staff work. An oversight committee was developed to address some of the concerns mentioned above. The board is also reviewing current staff evaluation processes and job descriptions in hopes of revising them accordingly. Through the sunset evaluation surveys, members expressed their interest in playing a more active role in staff evaluations. Nevertheless, other State agencies and partners of the board have expressed consistent and continuing concern regarding the management of board operations.

Recommendation 6: The board should become more involved in oversight of staff operations. Specifically, the board should require the executive director to develop a board operations manual based on best practices from a well-run health occupations board, which includes direction for typical board processes and correspondence as well as expectations for staff professionalism and accountability. The board chairman and secretary should work closely with the executive director to develop the manual and ensure that appropriate attachments are included such as an approved and updated Records Retention and Disposal Schedule. The board should also revise the current job descriptions, in consultation with the executive director, for each position to reflect a more balanced level of responsibilities and

expectations of the staff. The board's oversight committee should continue to meet on a quarterly basis to assure that the board's operations are running smoothly both during board meetings and in office processes.

Chapter 3. Licensee Trends and the Licensure Process

One of the most significant functions of the board is licensing. The licensure of social workers is a necessary function of the State's regulatory environment because it protects the health, welfare, and safety of the public. Social workers often work one-on-one with their clients, making diagnoses and providing appropriate treatment. Given the sensitive nature of these services and the inherent vulnerability of clients receiving such services, the regulation of social workers through licensing is critical to ensure a high level of professionalism.

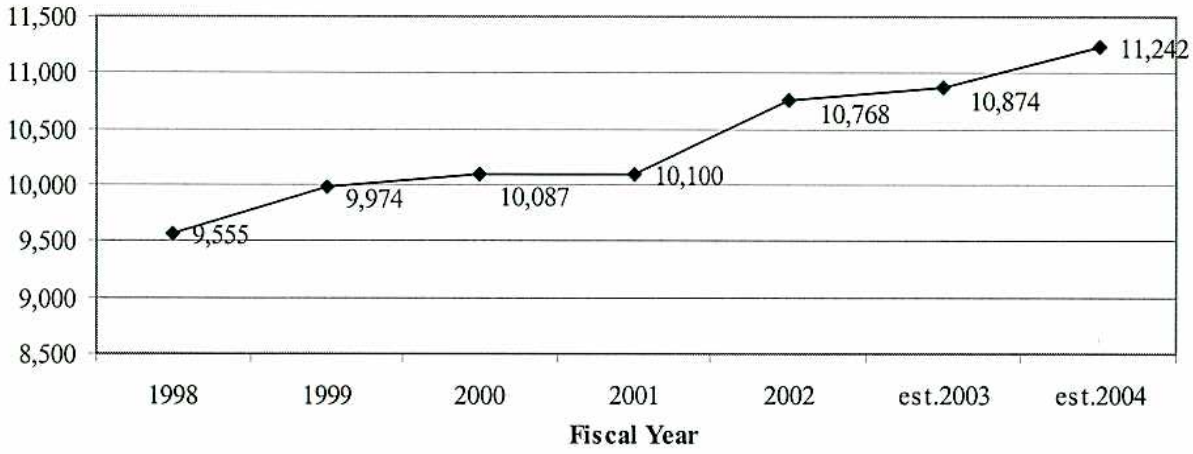
Clinical and Graduate Licensees Steadily Growing

During the last sunset evaluation in 1992, the estimated number of licensed social workers in Maryland was 5,670. Ten years later, that number has almost doubled at 10,768 in fiscal 2002. Most of this growth occurred in the mid-1990s. The growth over the past several years can be attributed to the growing awareness of social workers as a source of information and assistance as well as a higher demand for social welfare services, particularly in the areas of mental health and older adult services.

Exhibit 3.1 shows the growth in the total number of licensees in Maryland since 1998, while **Exhibit 3.2** breaks down the growth by licensee type. Due to significant database problems, discussed later in this report, these numbers may understate or overstate the actual number of licensees. During the preliminary evaluation, the board provided licensee numbers that differ from those presented in this report by as much as 200.

Over the past five years, the profession grew almost 13 percent; average annual growth was approximately 3 percent. The largest growth was in fiscal 2002 when the total number of licensees grew by 668, or 6.6 percent. As Exhibit 3.2 shows, this growth is mainly derived from graduate and clinical licensees. Although board staff was not able to explain this sudden jump in 2002, closer analysis of the data shows that this large increase is derived from a lower than usual exit rate by licensed graduate social workers (LGSWs) and licensed certified social workers - clinical (LCSW-Cs) combined with a slightly higher entry rate for the two levels. In 2002 for example, all but four LCSW-Cs renewed their license, whereas 177 did not renew the year before. Given the historically unprecedented renewal rate of 99 percent in 2002 and the problems with the board's licensee tracking system to be discussed later in this chapter, it is unclear whether the 2002 levels reflect real changes in the profession. Nevertheless, the board anticipates the overall number of licensees to grow, albeit at a slower rate, in fiscal 2003 and 2004.

Exhibit 3.1
Total Social Work Licensees in Maryland
Fiscal 1998 to Estimated Fiscal 2004

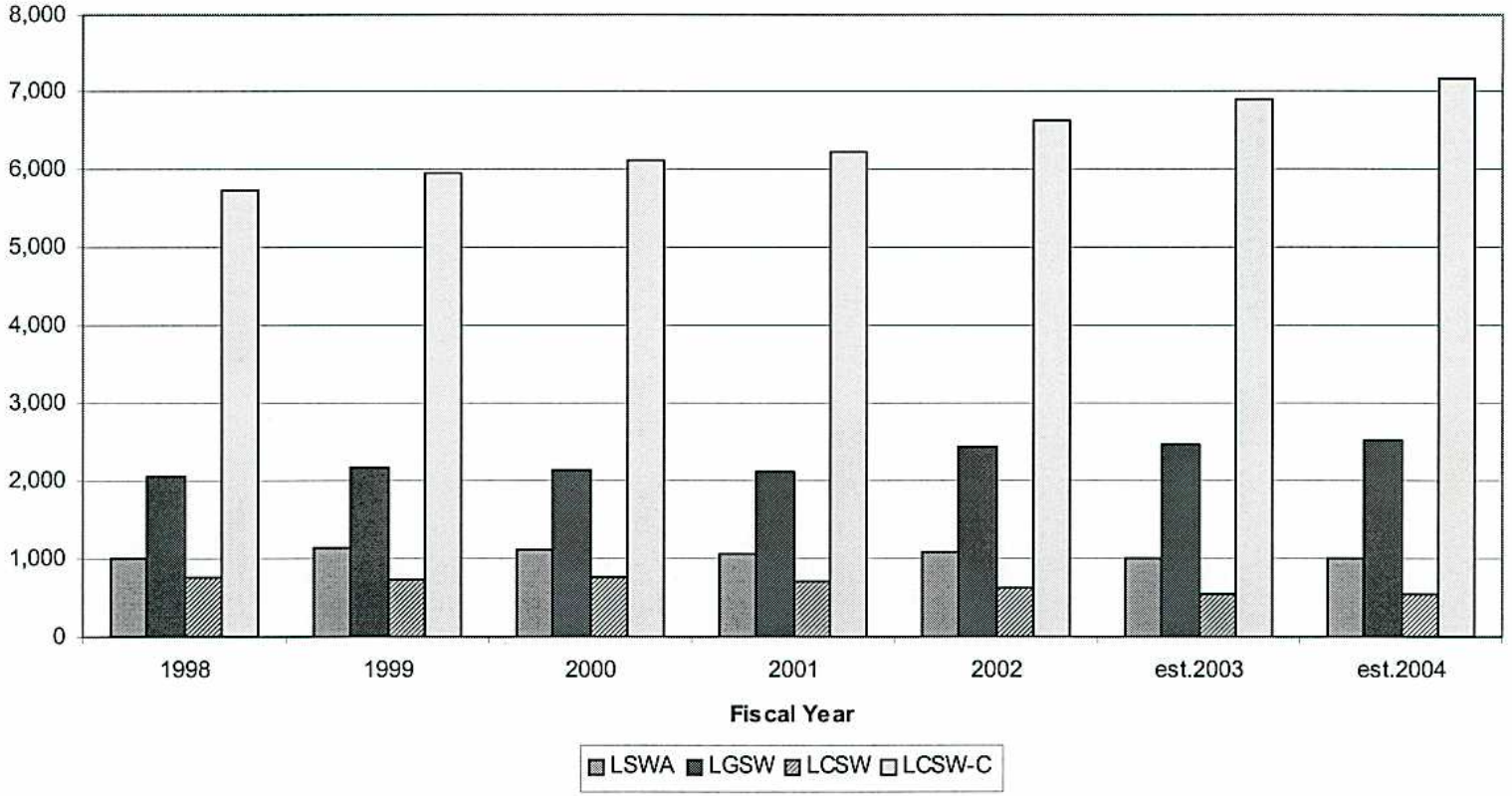


Source: Board of Social Work Examiners and Department of Legislative Services

The LCSW-C group comprises the largest percentage of licensed social workers at 61 percent in fiscal 2002, followed by LGSWs (23 percent), licensed social work associates (LSWAs) (10 percent), and licensed certified social workers (LCSWs) (6 percent). As Exhibit 3.2 demonstrates, between fiscal 1998 and 2002, the LCSW-Cs and LGSWs have grown steadily while the other two levels have remained relatively the same or slightly dipped. Mirroring national trends, Maryland's clinical social workers have grown over the past several years in response to their ability to receive third-party payments for clinical mental health services. In contrast, the LCSW level has been declining over the years through attrition. Those who may have historically become LCSWs are instead moving to the clinical level from the LGSW level because of the greater flexibility of practice. According to the board staff, most LCSWs are now employed by the local departments of social services.

The BSWE projects that the numbers of LCSW-Cs and LGSWs will increase while the numbers of LSWAs and LCSWs will remain relatively flat through fiscal 2004. According to board staff, the limited growth will be partially due to the higher licensure fees adopted in fiscal 2001. The University of Maryland School of Social Work explained that enrollment was down in 2001, and thus at least the level of LGSWs will be down in 2003. However, enrollment was up for 2002, a reaction to the weakening economy, and thus LGSWs are expected to grow in 2004. Given the unexplained sudden jump in 2002, it is unclear whether the profession will actually grow beyond 2002 at the same rate or drop to previous levels.

Exhibit 3.2
Annual Total Licensees by Licensure Level



Source: Board of Social Work Examiners and Department of Legislative Services

Four Licensure Levels Appropriate . . .

In both full sunset evaluations conducted in 1982 and 1992, the issue of whether all four levels of licensure were necessary to effectively regulate the profession was discussed. In both evaluations, the Department of Legislative Services (DLS) recommended that the LSWA and the LGSW levels be combined due to the fact that, even though there is a higher college degree separating the two levels (bachelor's versus master's), the scope of practice was the same. This issue was again raised in the 2001 preliminary evaluation. However, statutory changes made in 2000 altering the scope of practice for the LGSW are significant enough to merit the two separate licenses.

Exhibit 3.3 shows the distinctions among the four levels. The LSWA only requires a bachelor's degree in social work and is thus the most limited in practice: the licensee must always be supervised and cannot practice psychotherapy. The LCSW- C, which requires a master's degree in social work and 3,000 hours of supervised clinical experience, is the most flexible level in that the licensee can practice unsupervised clinical and nonclinical social work. The LGSW and LCSW are similar in that they both require a master's degree. However, while the LGSW must always be supervised, the LCSW only has to be supervised for psychotherapy services.

Looking specifically at the two entry-level licenses, the LSWA and LGSW differ by their educational degree but are similar in that they require no prior experience. The LGSW, however, is an important link to the two advanced levels. In order to become an LCSW or LCSW-C, one must have a master's degree and two years of post-graduate, licensed, supervised experience, in other words be an LGSW. Moreover, statutory changes made in 2000 permit the LGSW to practice certain clinical services under supervision in preparation for becoming an LCSW-C: the treatment of psychosocial conditions and mental disorders and the provision of psychotherapy. This particular experience helps prepare LGSWs for the LCSW-C license. Given these important distinctions, DLS believes that no change needs to be made to the LSWA and LGSW levels at this time.

The Association of Social Work Boards (ASWB) developed a Model Law for the social work profession in 1997. The Model Law includes three separate levels of licensure: Baccalaureate in Social Work, Master in Social Work, and Clinical Social Worker. **Exhibit 3.4** compares Maryland's system with the Model Law. As the exhibit shows, there are only two significant differences between Maryland's system and the Model Law. First, the Model Law permits the least advanced level of social work, the Baccalaureate in Social Work, to be able to be an independent practitioner. While the ASWB makes a point to explain that the licensee cannot have a private practice, the licensee can practice social work unsupervised. Maryland's LSWA is not able to practice unsupervised, reflecting the State's interest in more closely monitoring those with limited education and work experience.

Exhibit 3.3
Levels of Licensure – Board of Social Work Examiners

Level of Licensure	Educational Requirements	Experience Requirements	Scope of Practice and Supervision Requirements
Licensed Social Work Associate (LSWA)	Bachelor in Social Work		Supervised nonclinical social work by an LCSW, LCSW-C, or LGSW who meets certain conditions specified in regulation.
Licensed Graduate Social Worker (LGSW)	Master in Social Work		Supervised by LCSW, LCSW-C, or LGSW who meets certain conditions specified in regulation for: nonclinical social work; treatment of psychosocial conditions and mental disorders; and provision of psychotherapy.
Licensed Certified Social Worker (LCSW)	Master in Social Work*	At least 3,000 hours post graduate, supervised experience by LCSW-C, of which 144 must be face-to-face.	Unsupervised nonclinical social work, supervised treatment of psychosocial conditions and mental disorders, and the provision of psychotherapy by LCSW-C.
Licensed Certified Social Worker-Clinical (LCSW-C)	Master in Social Work*	At least 3,000 hours post graduate, *clinical* supervised experience by LCSW-C, of which 144 must be face-to-face; must be a part of an employment contract.	Unsupervised nonclinical social work; unsupervised *evaluation, diagnosis*, and treatment of psychosocial conditions and mental disorders; provision of psychotherapy.

*Some licensees may also have a doctorate; however, a master of social work degree is required.
Source: Laws of Maryland and COMAR 10.42.01.04

The second difference is that the Model Law does not provide for a separate license for those who have a master's degree but have not attained the required work experience. Maryland makes this distinction with the LGSW and LCSW. However, the Model Law requires that the Master's in Social Work be provisional for those still acquiring their supervised work experience. Therefore, the Model Law's Master in Social Work is virtually the same as Maryland's.

Other states have a number of different levels of licensure, ranging from one to five, but typically three to four levels. According to the ASWB, a higher level of regulation helps protect the public by covering all types of social work services provided and Maryland is certainly in line with this theory.

Exhibit 3.4

Comparison of Model Law to Maryland's System of Licensure

	Model Law	Difference from Maryland's System
Baccalaureate in Social Work	Must have bachelor's degree from an accredited social work program and a certain level of supervised work experience determined by the board to become an independent practitioner.	LSWA cannot be an independent practitioner and, therefore, must always be supervised.
Master in Social Work	Must have a master's degree in social work from an accredited program and a certain level of supervised work experience determined by the board to become an independent practitioner.	Two separate licenses for those who have not completed post graduate supervised experience (LGSW) and those who have (LCSW).
Clinical Social Worker	Must have a master's degree or doctorate in social work from an accredited program and supervised, post-graduate clinical experience approved by the board.	No significant difference.

Source: *Social Work Laws and Regulations – A Comparison Guide*, Association of Social Work Boards and Department of Legislative Services

Board members have expressed their general satisfaction with the categories. Moreover, the national and State associations did not state any major problems with this system from the perspective of the social work profession. However, members did describe instances where social workers were confused about supervision and work experience requirements when moving from the LGSW to the advanced levels. This

primarily occurred after clarifying regulations were implemented; the board worked to ameliorate this confusion through alerts in its newsletters. In the board member surveys, one respondent reported that the LCSW was not necessary, while another said the LCSW-C was not necessary.

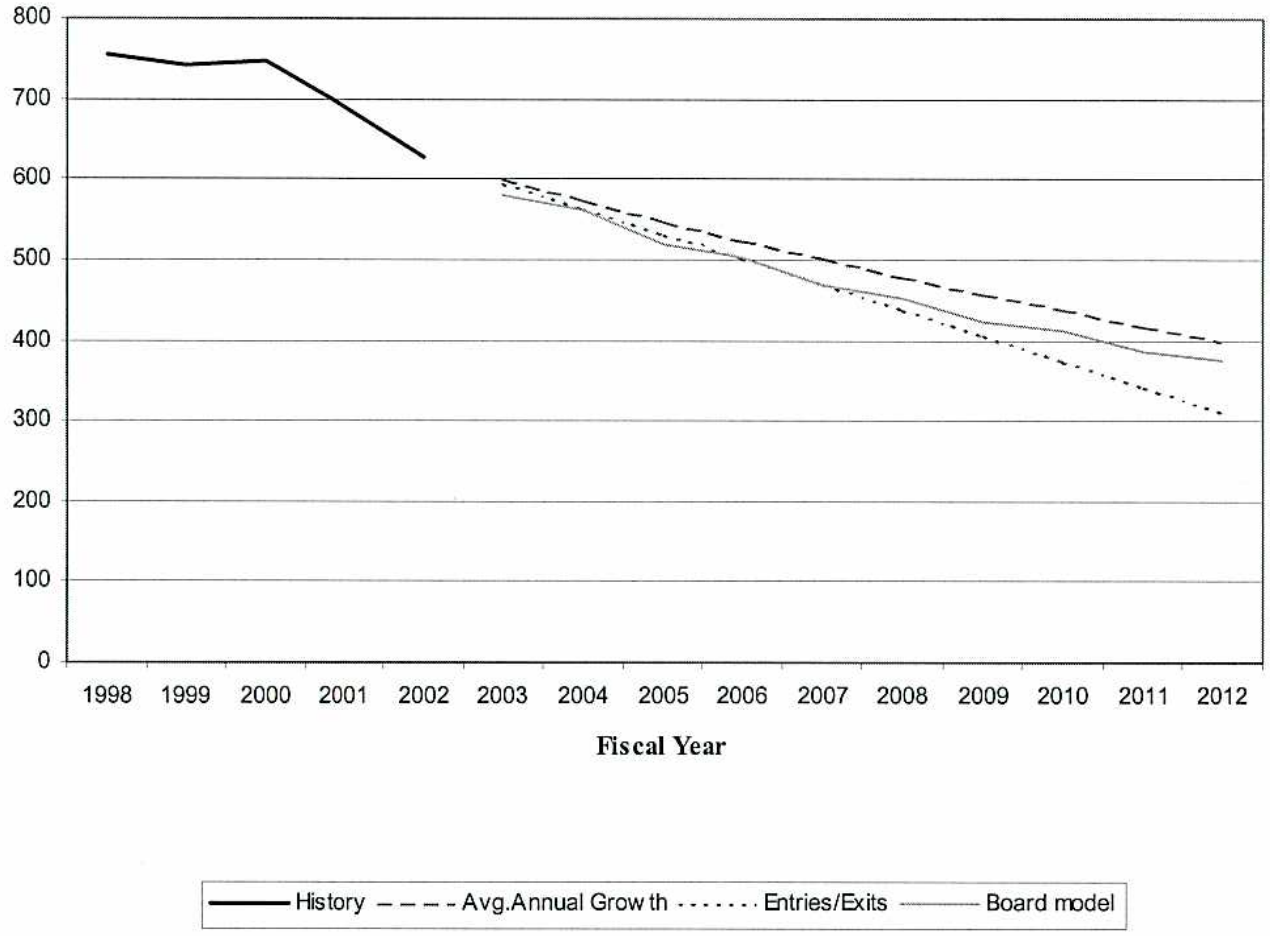
. . . But Will Require Review in Near Future

While the current four-level licensure system is appropriate now, the board should review the system in the near future given certain demographic trends, in particular the declining LCSW population. In 1998 there were approximately 755 LCSWs. By fiscal 2002, this number had shrunk to 628. Annual new LCSW licensees have averaged about 15 in the past several years; in 2002 there were only 6 new LCSWs. Furthermore, the renewal rate of these licensees has been declining, down from 94 percent in 1999 to 76 percent in 2002. The board attributes this decline to more applicants seeking either the graduate level or the clinical level, which carries more prestige and flexibility in practice than the LCSW.

Exhibit 3.5 shows estimates for the LCSW level over the next ten years using three different projection models. The first model takes the average annual growth of LCSWs over the past four years and applies it to fiscal 2003 through 2012. The second model applies the average net growth of entries and exits over the past four years to the total number of LCSWs over the same future time period. The third model uses the board's own projection model: an 85 percent renewal rate plus the five-year average of new licensees, 13, for fiscal 2003 and beyond. This last model is overly optimistic given that the renewal rate of LCSWs in the past two years was only 75 percent. In each of the three scenarios, projections show a continued decline in the LCSW population. By 2012, the LCSW level is projected to reach between 300 and 400. Given that the LCSWs make up only 6 percent of the current profession, it can be expected that by 2012 their presence among the profession will be minimal.

Recommendation 7: The board should monitor licensee trends, in particular the LCSW population, in order to evaluate its position within the social work profession. Should any changes be made to the scope of practice for any of the licensure levels, the board should consider the decreasing number of LCSWs in its evaluation. However, if the scope of practice for each level continues with no changes, the LCSW position should remain in the system given its particular place as an advanced, nonclinical license.

Exhibit 3.5
Licensed Certified Social Worker Growth Projections



Source: Board of Social Work Examiners and Department of Legislative Services

Tracking of Licensees Should Be Strengthened

The tracking of licensees is a critical function of the board. Having the appropriate tracking system helps the board follow trends in the profession; analyze changes in Maryland as they relate to national trends; link growth (or shrinkage) to revenues; and make projections for the budget. Tracking licensees is also important to see whether there is movement among the several levels. The evaluation team found major problems in three areas described below.

Licensee Database Has Reporting Limitations and Is Not Routinely Maintained

The licensee database has severe problems that need to be addressed so that the board can accurately report on the number of licensees at each level on a monthly and annual basis. Ideally, the board's database would have the ability to generate reports aggregating the current number of licensees by year and licensure level. The current database is not able to perform this nor provide any useful reports for analyzing trends. Indeed, when asked by the evaluation team to provide statistics on licensees, board staff provided numbers based on a set of formulas and calculations. In some cases, these statistics did not match the described formula, the formula did not include certain important population subsets, and the statistics represented implausible results. For example, the rate of renewal for a particular year and level was more than 100 percent in some instances.

Moreover, when asked to provide the source for these numbers, board staff provided monthly computer reports that generate information at the individual licensee level. Because the database is not able to provide the total number of current licensees on an annual basis by type, staff must manually count the number of licensees in all four categories for each month to arrive at total numbers. Undoubtedly this creates a lot of work and mistakes due to human error.

Board staff also acknowledged that the database, which is housed at the Annapolis Data Center (ADC), is downloaded and updated by staff infrequently. Other health boards' databases are downloaded and updated on a daily or weekly basis. In contrast, BSWE's database is updated every two to three months, according to one staff person. Other staff stated the database had not been updated since April 2002. Also, a network specialist working for several other health occupations boards has explained that he has had problems downloading the system from ADC.

At one point in time, the board had a staff person who understood and was able to update the database, but that staff person has since left. Additionally, the board had a part-time computer specialist who helped to improve the database. This specialist helped restructure the database and eliminate some problems. However, since the specialist left, as well as other staff that helped keep the database current, the database remains problematic for the board. Current staff are not trained in the system and, according to staff management, are not likely to be trained given the high level of turnover in the office.

Recommendation 8: The board should work with the Department of Budget and Management's Information Technology Office to make a full inventory of its licensee database capabilities and insufficiencies, develop a report of its needs, and institute a phase-in of database requirements.

Recommendation 9: The board should require the staff to have a representative from the Annapolis Data Center train board staff in the appropriate usage and updating of the database.

Licensee Trends Not Tracked and Accurate Numbers of Licensees Not Known

In addition to database problems, the board also suffers from a lack of expertise and resources for licensee trend analysis. Trends in licensee growth, licensee retention, and nonrenewals are not tracked on a regular basis. Rather, the executive director tracks a limited number of statistics to the extent that they affect revenues in the coming year. No out-year licensee projections had been made beyond fiscal 2004, at the time of this report. Because these projections help determine revenues in future years, this type of analysis is crucial. In interviews, the executive director has acknowledged his lack of training in historic and future-year trend analysis, particularly with software programs. Moreover, the executive director has demonstrated a lack of understanding of how the ADC database works and the need to update it regularly.

As a result of these issues, the board has been unable to provide accurate and consistent licensee numbers over the course of the preliminary and full sunset evaluations, as well as the audit conducted by the Office of Legislative Audits (OLA). For example, licensee data provided to DLS contradicted historical and projected data presented in the board's "Units of Measurement" form for fiscal 2003, which is presented to the Department of Health and Mental Hygiene (DHMH) with its budget request. As noted earlier, licensee data provided in the preliminary evaluation differed from that provided for the full evaluation by as much as 200. Licensee numbers provided to the evaluation team also contradict updates provided in board newsletters.

Other staff acknowledged their lack of training or ability to follow licensee trends. Currently, the board has one full-time staff employee and one temporary employee working directly with the licensure process by reviewing applications and answering information requests from licensees. Due to the high level of workload concentrated among so few employees and the lack of software training available, these staff have expressed their frustration in not having the time and resources to fully review and analyze licensee trends over time.

Recommendation 10: The executive director and at least two other professional staff should be trained in computer software programs that allow for trend analysis, such as Access and Excel. Any new staff hired by the board should have basic skills in these or similar programs. These programs should be installed on all board computers.

Recommendation 11: Board staff should be required to work with the Department of Health and Mental Hygiene to develop an appropriate five-year licensee projection model.

Board Could Make Improvements in Licensing Process

This evaluation uncovered several problems in the licensing process which need improvement or review.

- **Limited Information Sent to New Licensees** – In staff interviews, it was noted that, upon becoming licensed, licensees receive a certificate but little else. When applying for a license, individuals do receive a copy of the statute and regulations. However, it is important to welcome the licensee into the profession with the appropriate materials for practice which should include a new or updated version of the regulations, the code of ethics, and a packet on the Board of Social Work Examiners (BSWE) purpose and operations. This packet should include a list of the board members, schedule of board meetings for the coming year, board responsibilities, and an explanation of the disciplinary process. Such information would help educate new licensees of their professional responsibilities and make them more aware of the board's presence.

- **Board Has an Extra Charge for Reviewing Certain Applications** – Staff also acknowledged that the licensure process requires applicants to be charged a second time for reviewing applications even when no additional work is required by staff. Often applicants send in their application, along with the required $100 fee, with the understanding they will be taking the licensure exam within the appropriate period. For whatever reason, they might miss the exam and, therefore, their application cannot be approved. However, after later taking the exam, these applicants must pay an additional $100 to have their application "reviewed," even though the board did not expend any time reviewing the application the second time around.

- **Timeliness of Licensure Certificates Questionable** – Each licensee receives a certificate of licensure upon being approved by the board. However, interviews with staff revealed that in many cases licensees were receiving their certificates as late as six months after approval. Unfortunately, the board's licensee database does not provide adequate information to show the length of time between approval of an application and when a certificate was sent out. Rather, the only fields are "Date Application Received" and "Date License Issued." Because some applicants may not have taken the licensure exam at the time of application, it is difficult to know how long it takes for licensees to receive their certificates after taking the exam.

- **Poor Maintenance of Information on Current Licensees** – In interviews, staff expressed concern regarding whether the board is actively tracking licensee contact information. The board receives back a large amount of correspondence, including licenses, due to old or otherwise incorrect addresses.

Recommendation 12: The board staff, with consultation from the Department of Health and Mental Hygiene, should undertake a full review of its licensee processing and tracking procedures, including, but not limited to, addressing the concern of late receipt of certificates and invalid contact information. Moreover, the board should consider providing more information up front to new licensees and eliminating the second charge for applications which have already been received and reviewed by the board but not yet approved.

Chapter 4. Financial Management of the Board

With almost all other health occupations boards, the Board of Social Work Examiners (BSWE) became self-supporting when in 1992 legislation was passed (Chapter 272) changing the board from a general-fund to a special-fund board. In effect, the board's operating costs became dependent on revenues generated by licensee fees. Although licensees renew every two years, about 60 percent renew in one year with the remainder renewing in the following year. Therefore, the board can rely on a somewhat less than even level of revenues for renewals from year to year. Revenues are also generated from new licensees through application fees. Fees for renewals are collected once a year in the fall while fees for new licensees are collected throughout the year.

One of the reasons the health occupations boards became special funded was that the board and their staff wanted more authority over the creation of their budget as well as general independent operating authority. Prior to this, the Department of Health and Mental Hygiene (DHMH) developed the board's budget needs and participated in the development of staff salaries. Once the board became special funded, it was responsible for tracking and developing its own budget, including keeping an eye on whether revenues were sufficient to cover operating costs. However, since the board became special funded, it did not raise fees to keep pace with growing expenditures related to inflation and other growing costs. As a result, by fiscal 2001 the board found itself facing a major budget deficit.

Board Raises Fees to Cover Gap Between Revenues and Expenditures

The board took action in the spring of 2001 to raise fees, effective later that year. Those renewing in the fall of 2001 were the first to pay the higher fees. This was the first time that the board raised fees in order to address a growing gap between expenditures and revenues. According to staff, the board members had been reluctant to raise fees earlier due to the limited salaries of their professional members. However, board members have expressed that they were surprised by the deficit and were not forewarned of the fiscal situation early on.

Exhibit 4.1 compares the old fees to the new fees. In all cases the fees more than doubled and in some cases tripled or quadrupled. Not surprisingly, the board has received many complaints from its licensees regarding the recently raised fees. In addition to fees paid to the board, all licensees except licensed social work associates (LSWAs) have to pay an additional $34 to the Maryland Health Care Commission. This fee is paid by several health occupation licensees and pays for shared costs of the commission. Therefore, many licensees, such as licensed certified social workers

(LCSWs) and licensed certified social workers-clinical (LCSW-Cs), have paid, or will be paying, $234 in total fees, although only $200 goes directly to the board.

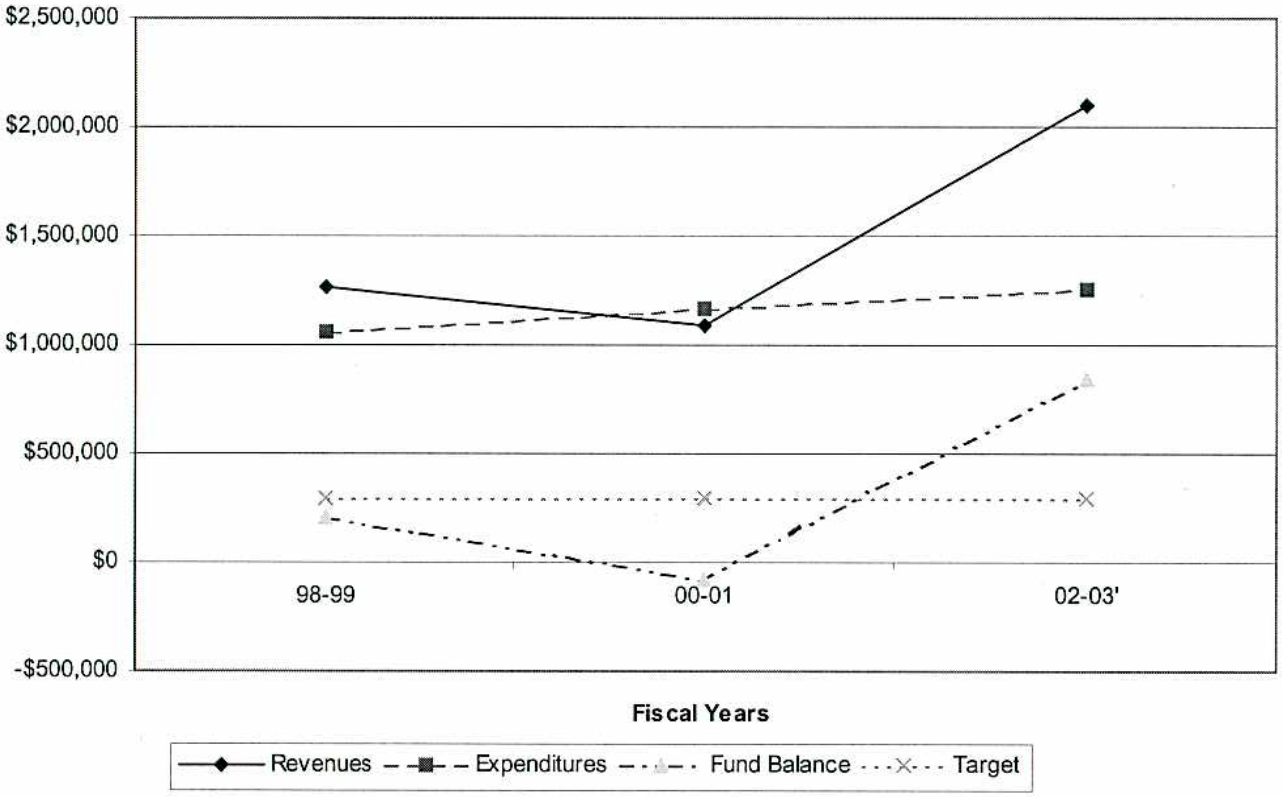
Exhibit 4.1
Board of Social Work Examiners' Fee Structure

	Old Fees, 1992	Revised Fees, as of August 2001
Application Fee	$25	$100
License Renewal		
• Associate	20	75
• Graduate	50	150
• Certified	50	200
• Clinical	100	200
Out-of-State Application	50	100
Inactive License	10	50
Late Fee	25	50
Reinstatement	Same as license fee	200

Source: Board of Social Work Examiners; COMAR 10.42.05.02

Exhibit 4.2 shows a simple picture of the board's financial history over the past few years. Fiscal years are combined based on the fact that licensee renewals are collected on a two-year cycle; two-year revenues represent the entire licensee population. In the 1998–1999 and 2000–2001 fiscal periods, expenditures surpassed revenues by $154,936 and $171,063, respectively. Since board financial data prior to 1997 are unavailable, it is difficult to know how long this gap between expenditures and revenues had been occurring. However, it appears that the board had been carrying a fund balance large enough to cover any deficits in prior years. By the end of fiscal 2000, the board had entirely depleted its fund balances. Moreover, new expenditures required by the State, including personnel reclassifications, particularly for the assistant attorneys general and e-government requirements, increased expenditures over normal growth; total expenditures grew by approximately 17 percent between fiscal 2000 and 2001. In fiscal 2001, the board faced another deficit, but this time without a fund balance to cover the gap.

Exhibit 4.2
Board of Social Work Examiners' Financial Situation



Source: Board of Social Work Examiners and Department of Legislative Services

To resolve the problem, BSWE received a $70,500 loan from the State Board of Psychology to offset the deficit. In its audit of the health occupations regulatory boards, the Office of Legislative Audits (OLA) has called into question the legality of this and similar loans among the boards. The board did also end fiscal 2000 with a deficit of approximately $6,500. However, the board made a "paper transaction" loan with the Board of Pharmacy that was never recorded in the Financial Management Information System (FMIS). As mentioned earlier, the board also increased fees for renewals and new licensees, as demonstrated by the large increase in revenues over expenditures in fiscal 2002 and 2003 in Exhibit 4.2.

Fee Hikes Swing Board's Fund Balance Too High

Exhibit 4.3 shows a more detailed account of the board's finances, incorporating the fund balance at the bottom. As noted already, revenues offset operating expenses,

primarily salaries, with the help of the fund balance in fiscal 1998 and 1999. However, the board was going into the red, with a negative fund balance of $6,577 and $70,500 by fiscal 2000 and 2001, respectively. As a result of the fee hikes in fiscal 2001, the fund balance swung to the other side, reaching $243,783 in fiscal 2002, or about 42 percent of operating costs. Projections for fiscal 2003 demonstrate that the fund balance will grow to $603,725, or about 90 percent of total operating costs.

Exhibit 4.3

Fiscal Status of the State Board of Social Work Examiners

Fiscal 1998 to 2003

	1998	1999	2000	2001*	2002* [Pre-closing]	2003 [Budgeted]
Funding						
Beginning Fund Balance	$255,499	$103,096	$100,563	($6,577)	($70,500)	$243,783
Revenues Collected	391,675	513,818	429,108	565,517	896,879	1,029,300
Total Available Funding	**647,174**	**616,914**	**529,671**	**558,940**	**826,379**	**1,273,083**
Operating Costs						
Direct Costs	444,861	414,874	428,780	538,773	487,705	529,571
Indirect Costs	99,217	101,477	107,468	90,667	94,891	139,787
Total Operating Costs	**544,078**	**516,351**	**536,248**	**629,440**	**582,596**	**669,358**
Ending Fund Balance	**$103,096**	**$100,563**	**($6,577)**	**($70,500)**	**$243,783**	**$603,725**

* During fiscal 2001, the board received a $70,500 loan from the State Board of Psychology to offset the State Board of Social Work Examiners' projected operating deficit for the year. This loan, which was recorded in the State's accounting records as revenue, had the effect of overstating the board's fiscal 2001 collections and eliminating the deficit at year-end, enabling the board to close with a $ -0- fund balance. Similarly, the repayment of the loan was treated as a reduction of revenue during the next fiscal year, thereby understating revenues for that accounting period. Totals presented do not include the effect of those transactions.

Source: State of Maryland Accounting System (FMIS) and the Office of Legislative Audits

Clearly, it was critical for the board to raise fees to cover past and future inflation, new projects, and any unforseen expenditures. However, such a large increase in revenues is questionable given the fact that expenditures fell in fiscal 2002, mostly due to cost containment measures. In fact, given the fiscal condition of the State, the board, like all State agencies, could face further cost containment measures in fiscal 2003 and 2004. Moreover, in its 2000 *Joint Chairmen's Report* response to the budget committees, DHMH outlined a fund balance target for the Board of Social Work Examiners at 25 percent of total operating expenses. These targets were requested at the

behest of the budget committees, which were concerned that the health occupations boards were accumulating substantial fund balances, reflecting either an overcharging of their professional licensees or mismanagement. Although DHMH has stated this target should be treated as an average target, projections demonstrate that the fund balance will far surpass this target.

Board Unveils Budget Initiatives to Be Funded from Enhanced Fees

At its September 13, 2002 meeting, the board discussed budget initiatives for fiscal 2003 through 2005. Interestingly, the budget committee and the executive director presented two separate reports. While for the most part the information was similar, the separate reports and lack of consistency with exact numbers speak to a larger issue of a lack of clear communication and agreement between the board and the staff. The reports consisted of three major initiatives:

- **New Personnel** – The executive director proposed two and one-half new contractual positions in fiscal 2004: an increase of the legislative counsel from part time to full time; a data network specialist; and a fiscal compliance officer. On the other hand, the budget committee recommended these positions be phased in over two years (adding the fiscal compliance officer in fiscal 2005) with the logic that it will take time for the board to be able to absorb the new positions organizationally.

- **Electronic Licensing** – This initiative would allow licensees to be able to apply for initial licensure and renewal over the Internet. The reports provided little information on this initiative but did include a cost estimate of between $200,000 and $600,000. However, the reports did not detail how the estimate was derived. The executive director suggested this initiative be added to the fiscal 2003 budget through budget amendment. Given the lack of planning for this proposal and other timing issues, it is unlikely the budget amendment would be approved for fiscal 2003.

- **Increased Office Space** – This initiative would increase office space by 2,000 square feet, or double the current allotment. Storage and office space have been a problem for the board, even with the reduced staffing levels. More storage space could help the board organize its files in a systematic way.

In its report, the budget committee also provided projections of the fund balance through fiscal 2005. The committee projects expenditures to increase by 15 and 10 percent for fiscal 2003 and 2004, respectively. Revenues are expected to grow by 49 percent in fiscal 2003, but then decrease by 14 percent in fiscal 2004. Although no projections were made for fiscal 2005, the budget committee projects a beginning fund

balance of $1.17 million. Given the rapid build up of the board's fund balance, this is not unrealistic. However, underlying problems in the data make the projection unreliable.

Both reports presented recognize that the board will have a considerable fund balance – large enough to cover most of its budget initiatives. Nevertheless, the initiatives listed are either one-time only or too small to bring the fund balance down to an appropriate level.

The board is projecting revenues to reach approximately $1.1 million and expenditures to reach $736,099 in fiscal 2004. This level of expenditures appears unrealistic given current operations and the State's overall fiscal climate. The board's projected fund balance will be $817,881, or 111 percent of its operating expenditures. If the board does not take action to lower fees and licensee numbers continue to grow, the board will continue to accrue a significant fund balance. **Exhibit 4.4** demonstrates the large swing in the fund balance in recent years and how large it may get in fiscal 2004 if action is not taken to reduce license fees.

Recommendation 13: The board should adjust its fees in order to draw down its fund balance to a more appropriate level. The new fees should take into account the 25 percent average target level, future inflation, and realistic growth in expenditures.

Board Should Strengthen Financial Planning

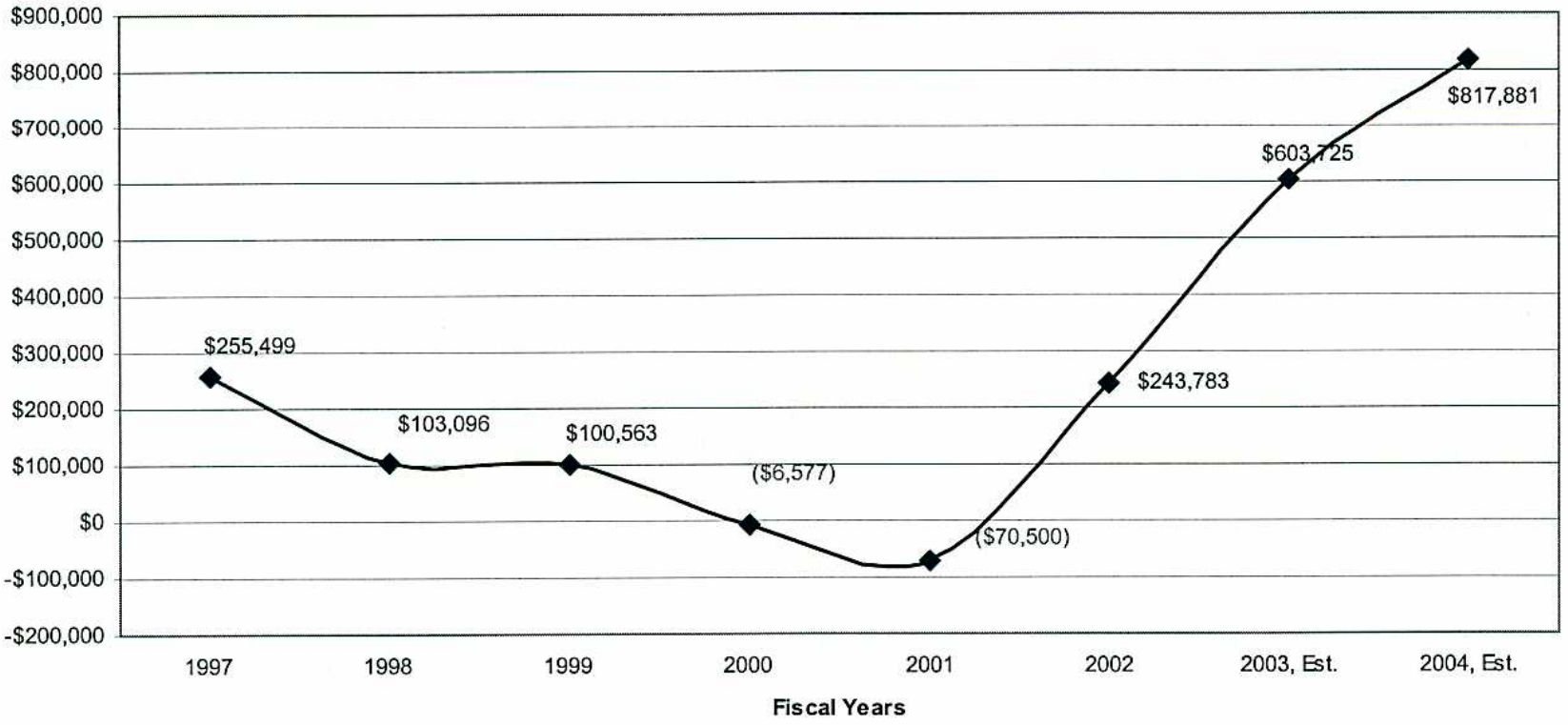
During the evaluation, several serious concerns have surfaced regarding the board's financial planning:

- **Budget Forecasting Is Historically Completed Only for the Coming Fiscal Year** – Board staff has stated that financial projections are conducted only once a year, during the summer, for the coming budget request cycle. Since the licensee renewal period is two years, minimally the board should be forecasting out two years to capture the entire revenue stream of all licensees. While a one-year projection will capture average annual expenditures, the one-year revenue projection will capture only 60 percent or 40 percent of total licensee revenues, depending on the renewal year. Accepted budget forecasting standards dictate a budget forecast of at least five years. This would give the board a picture of finances for at least two full renewal cycles.

Exhibit 4.4

Comparison of Fund Balances

Fiscal 1997 to 2004, Est.



Source: Department of Legislative Services

- **Questionable Licensee Numbers Make Budget Projections Unreliable** – Board staff was unable to support licensee data and their relationship to revenues. Moreover, when asked to explain how licensee numbers were derived for prior years, staff did not include critical data elements in the computations, which then needed to be corrected by the Department of Legislative Services (DLS). Also, when DLS evaluated the projections for licensees for fiscal 2003, the numbers presented by the board staff did not match the board's own formula for projections. Such findings make it difficult for DLS to develop solid projections, and the board's own projections very questionable. Finally, the inability of the board to provide licensee history prior to 1998 makes it difficult to follow trends necessary for revenue projections.

- **Board Staff Does Not Monitor Revenues, Expenditures, and Fund Balances on a Regular Basis** – Board staff was not able to provide DLS any type of balance sheet demonstrating its revenues, expenditures, or fund balances. According to board staff, this is not done regularly, demonstrating a passive approach to following budget trends. Furthermore, the financial information provided to DLS during the preliminary evaluation varies greatly from the data pulled from the FMIS, which is the State's certified financial data system used by all State agencies, for this evaluation. The lack of financial planning, together with a lack of understanding of the licensee base, no doubt created the deficits and the following high fund balances.

- **Communication with Board Members Regarding Finances Weak** – As mentioned earlier in this report, there are discrepancies between board member and staff statements as to the timing and quality of information provided regarding the fiscal 2001 deficit and subsequent loans. In the survey responses, there were mixed responses as to how often updates have been provided, from monthly to annually. Looking at past minutes, the budget committee has periodically reported to the members, with additional questions directed to the staff. However, the budget committee, which has taken a more active role in understanding the board's finances within the past two years, has expressed particular concern over its ability to receive clear and consistent financial information from staff. Through the survey, members have expressed that they would like to receive more understandable, quarterly updates or reports. In addition, they would like to be involved with the board's major financial decisions.

- **Board Staff Not Taking Full Advantage of Fiscal Officer** – Almost all of the health occupations boards have one collective fiscal officer to assist and advise the boards with their budget. For each board, the fiscal officer develops the budget, monitors monthly revenues and expenditures, and signs off on expenditures. In reviewing the boards' finances, the present fiscal officer has

taken an active role in multi-year forecasting, including foreseeing possible deficits, and high or low fund balances. Furthermore, the current fiscal officer has helped other boards determine the appropriate amount of fees needed to cover deficits.

Even though the staff would greatly benefit from the assistance of the fiscal officer, the working relationship is limited. Most significant, the fiscal officer was not sought out for advice as to the level of fees necessary to offset the deficit and future expenses, as other boards have done. Since the current staff has stated it does not have training in Excel spreadsheets, does not develop multi-year forecasting, and has not demonstrated a clear understanding of licensee trends, it is unknown how staff were able to develop the new fee schedule. Since staff did not use the full expertise of the fiscal officer in its work, the board did not have the benefit of accurate information that could have been used to avoid accepting loans and adjust fees more appropriately.

- **Board Staff Not Keeping Accurate Records of Finances** – Several concerns regarding accurate financial tracking were highlighted throughout the evaluation. For example, financial information prepared for the budget is often late and generally does not match data maintained with FMIS. Also, concerns were raised as to whether board staff is reconciling its budget on a monthly basis. The problem of accurate financial records was also a major finding included in the Office of Legislative Audits' audit of all health occupations boards.

Recommendation 14: Statute should be amended to make it the role of the board secretary to monitor board finances. In addition, the board should require the secretary to make at least semi-annual financial reports to the board and bring to the board's attention any major financial decisions to be made.

Recommendation 15: Board staff should be required to meet with and provide the necessary information to the board secretary at least one month before each meeting on finances to discuss the board's financial situation. The information to be provided should include a balance sheet of expenditures, revenues, and fund balances for past, current, and future fiscal years.

Recommendation 16: Board staff should develop a working relationship with the shared fiscal officer for the boards and commission. In addition, key board staff should be required to have training in basic fiscal accounting, forecasting, and record keeping.

Chapter 5. Disciplinary System

Under statute, there are 21 grounds for disciplinary action by the board which are listed in **Appendix 5**. Violations leading to disciplinary actions range from submitting a false statement to collect a fee to providing professional services while under the influence of alcohol or drugs.

Complaints Generally Relate to Boundary Violations, Fraud, and Custody Situations

A common complaint is that a social worker has engaged in "boundary" violations, meaning to engage in conduct beyond the bounds of a professional encounter with a client. Such allegations cover a wide range of behaviors, from inappropriate personal comments directed to a client, to meeting a client for lunch or a social gathering, to engaging in sexual relations with a client. This wide range of involvement has resulted in a corresponding wide range of sanctions to licensees, ranging from a letter of education or a letter of admonishment to harsher sanctions including suspension or revocation of the social worker's license to practice.

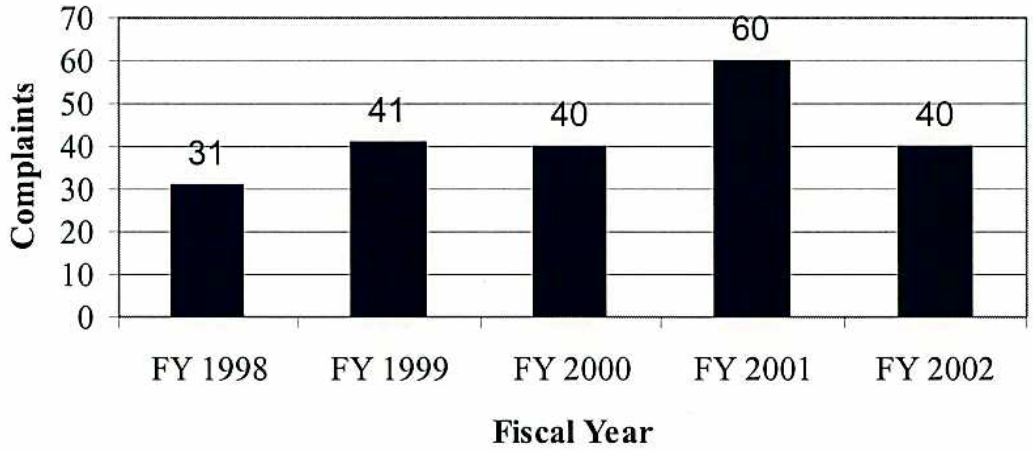
Social workers who treat persons involved in parental custody situations are frequently the subject of a complaint by the parent who loses the custody battle. These complaints often present situations in which counseling has been ordered by court personnel and either the costs, the frequency, the duration, or the purpose of the therapy has not been made clear to all parties. Several complaints have arisen in the area of child abuse. The complaints are generally that a social worker has failed to report child abuse by or to a client to the proper authorities as required by law or that the social worker reported abuse to authorities based on insufficient evidence that actual abuse occurred.

Several complaints also come to the board involving inappropriate or nonexistent record keeping. Many social workers have declined to keep records of individual therapy sessions, trusting their memories as a way of keeping track of the progress of therapy. The board promulgated regulations in October 1999 requiring all licensees to keep records reflecting the services provided for each session and the time and date of the session. The board is hopeful that the new requirement will cause the complaints in this area to diminish notably.

Number of Complaints the Board Receives Appears Low but Is Acceptable

The preliminary evaluation raised the issue that the board receives complaints on less than 1 percent of its licensees each year. Over the last five fiscal years, the board has averaged about 42 complaints a year or about 1 complaint for every 256 licensees. **Exhibit 5.1** shows the total number of complaints over the last five fiscal years.

Exhibit 5.1
Number of Complaints by Fiscal Year
Fiscal 1998 – 2002



Source: Board of Social Work Examiners

There are a number of possible reasons for the low number of complaints. Clients may be unaware of their rights and may not know what constitutes grounds for disciplinary action. Also, due to the counseling relationship between a social worker and a client, the client may blame him or herself for problems that arise and therefore not seek assistance. The client may fear that the social worker is in too much of a position of power over the client, deterring the client from contacting the board.

Although the number of complaints received each year appears to be low, the number of formal disciplinary actions taken by the board appears to be above average compared to other states with large numbers of licensees. **Exhibit 5.2** shows the total number of reported disciplinary actions to the Association of Social Work Boards for ten

states, including Maryland, that have more than 10,000 licensees. Maryland ranks third among these states in the ratio of disciplinary actions to licensees.

Exhibit 5.2
Comparison of Formal Disciplinary Actions by Selected States

State	Licensees (as of 2001)*	Final Formal Disciplinary Actions**	Ratio of Disciplinary Actions to Licensees
Illinois	10,001	117	1:85
California	13,881	142	1:98
Maryland	11,238***	76	1:148
Wisconsin	12,052	71	1:167
Texas	19,734	95	1:208
Ohio	23,795	112	1:213
New York	40,000	159	1:252
New Jersey	15,894	59	1:269
Michigan	23,749	61	1:389
Massachusetts	20,005	14	1:1,429

* Total licensees as of 2001, as provided to the Association of Social Work Boards.

** Total number of revocations, probations, suspensions, and other formal disciplinary actions reported to the Association of Social Work Boards from 1992 through June 4, 2002.

*** This number for Maryland licensees is based on information obtained from the Association of Social Work Boards, but it is inconsistent with licensee figures given by the board to the Department of Legislative Services and with figures calculated by the Department of Legislative Services.

Source: Association of Social Work Boards and Department of Legislative Services

Complaint Resolution Process Generally Results in Dismissal of the Complaint

The complaint resolution process begins when the board investigator receives a possible complaint by telephone or through the mail, usually by a client. The board

investigator forwards a cover letter and complaint packet to the complainant within five business days after receiving the initial informal complaint. The complaint packet contains a:

- copy of the statutes relating to the board and all board regulations;
- complaint form;
- copy of the board's complaint procedure;
- copy of the board's disciplinary process; and
- stamped, self-addressed envelope to the board investigator.

After the board investigator receives a completed complaint form, the complaint is assigned a case number and a copy of the complaint form is sent to the disciplinary case review committee, a subcommittee of the full board that meets monthly, prior to the regular board meeting. Board members on the committee review the complaint, make a recommendation for the next board meeting, and, if the case is being recommended for investigation, appoint a member of the board as the board liaison for the case. On average, a complaint goes before the disciplinary case review committee and the full board about a month after the formal complaint was received. In rare cases, if the situation warrants, investigations may be expedited and the board may issue a summary suspension while the formal disciplinary process continues.

At the monthly board meeting, the board either dismisses the complaint without investigation or refers the case to the board investigator to initiate the official investigation. If the board votes to refer the case for investigation, the board investigator interviews the complainant, any witnesses, and obtains evidentiary material, such as client records. The licensee is notified in writing of the complaint and is asked to contact the investigator to discuss the situation.

Upon finishing the investigation, the board investigator will discuss the case with the board liaison and submit a written report of the investigation to the board. After receiving the report, the board may:

- dismiss the complaint;
- request additional information;
- issue a cease and desist letter;
- issue a letter of education;

- issue a letter of admonishment; or
- vote to charge the licensee.

If the board finds that a complaint is valid, it may take either formal or informal action. Informal actions include letters of education (a nondisciplinary letter suggesting ways to avoid a similar problem in the future) or letters of admonishment (a disciplinary letter indicating that the board has grounds to charge the licensee but declines to do so because of mitigating circumstances – as long as the conduct is not repeated). Formal actions consist of charging the licensee with a formal violation. The majority of complaints received by the board do not require the more formal disciplinary actions.

If the board decides to charge the licensee, the executive director sends a memorandum to the Attorney General's Office notifying counsel that the board has decided to charge the licensee. In the memorandum, the board includes recommendations of appropriate charges and requests that a prosecuting attorney be assigned. Upon board approval, the prosecuting attorney schedules a case resolution conference (CRC) to be held at the board's office, in addition to a pre-hearing conference and a hearing to be held at the Office of Administrative Hearings (OAH). If the licensee and the board liaison reach an agreement on how the charges can be resolved at the CRC, the board will consider the recommended agreement at the next board meeting. At that time the board accepts, rejects, or modifies the proposed agreement. If no agreement is reached at the CRC, the case proceeds to a formal hearing at OAH. After a formal hearing, the following will occur:

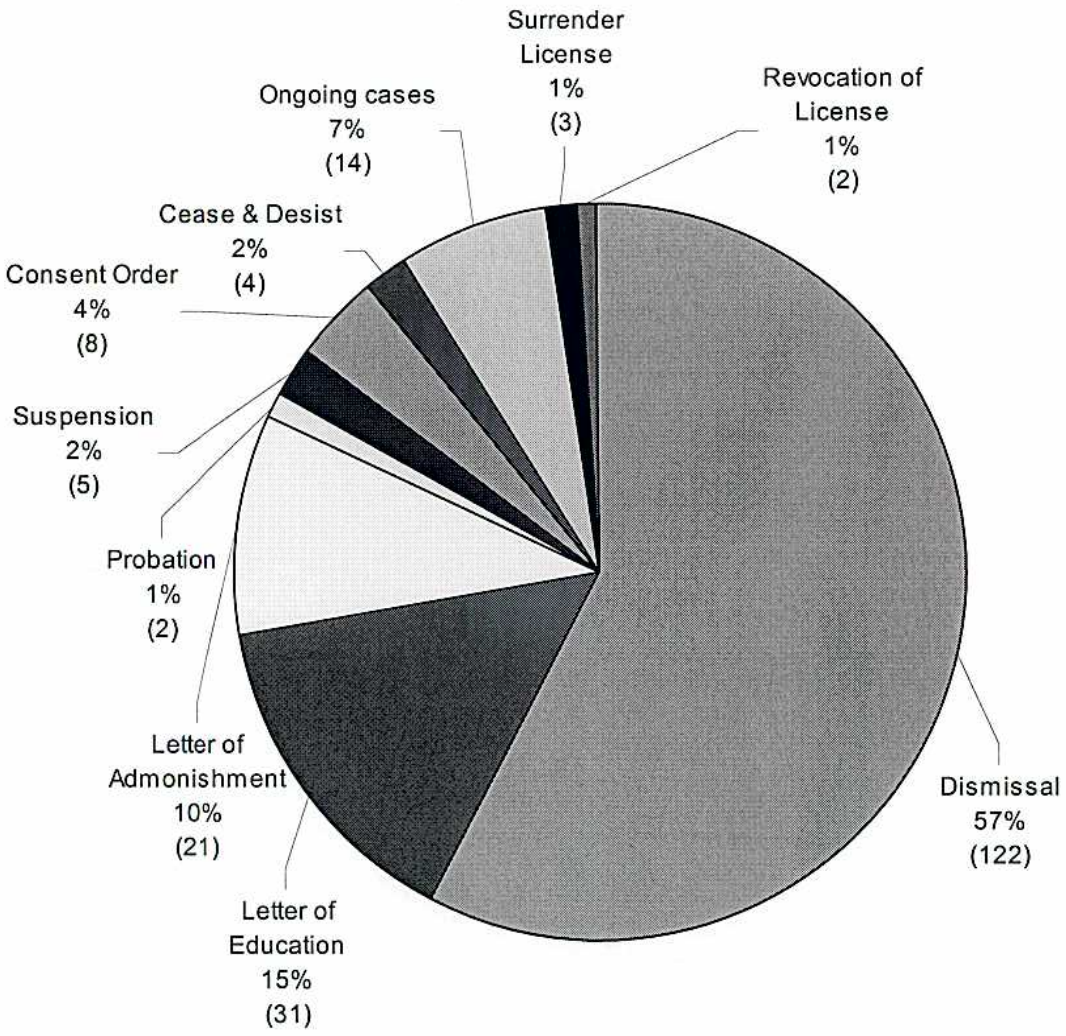
- The administrative law judge issues a recommended decision.
- After the judge issues the decision and it is reviewed by all interested parties, there is an opportunity to file exceptions and file for an exceptions hearing.
- The board issues its final order.
- The licensee has the opportunity to appeal the board's decision to the circuit court.

Over the past five years, 57 percent of the complaints received by the board have been dismissed. The high number of dismissals is related to the nature of the social work profession and the complex involvement between a social worker and a client that may exist in a counseling relationship. This may contribute to an emotionally charged situation in which complainants report situations where no violation of statute or regulations has occurred, as is common in custody dispute situations.

The most common types of disciplinary actions taken by the board are letters of education, letters of admonishment, and consent orders. The types of disciplinary actions

the board imposes are similar to other states. **Exhibit 5.3** shows the outcomes of complaint investigations over the last five fiscal years.

Exhibit 5.3
Outcomes of Complaint Investigation
Fiscal 1998 – 2002

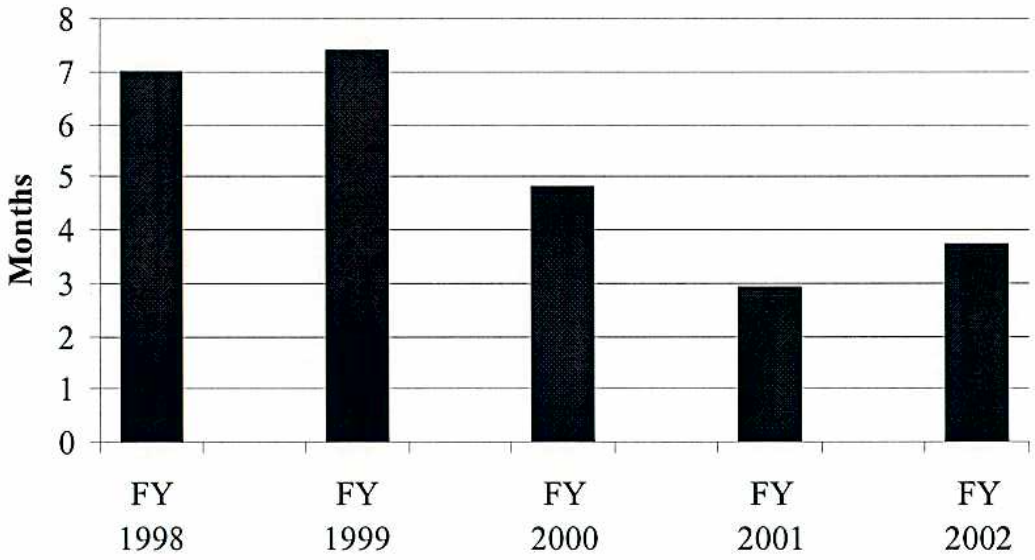


Source: Board of Social Work Examiners and Department of Legislative Services

Complaints Typically Resolved within a Few Months

The board strives to come to a resolution about a complaint and vote on the type of disciplinary action to impose within three to four months of receiving the formal complaint, although it takes longer for the board to send out the letter stating the disciplinary action to the licensee. The board investigator does a good job of completing investigations thoroughly and quickly and serves as a valuable resource of information about cases for the board. Complaint resolution time has improved in recent years, with cases involving formally charging licensees having the longest resolution due to delays inherent with involvement of the Attorney General's Office. **Exhibit 5.4** shows the average time for complaint resolution over the last five fiscal years.

Exhibit 5.4
Average Complaint Resolution Time



Source: Board of Social Work Examiners and Department of Legislative Services

Case Tracking System Should Collect Additional Information

The board has a tracking system for all complaints the board receives. Overall, the tracking system functions well, but it could be improved. Currently, the tracking system provides information about the date a complaint was received, information about

the licensee, if the licensee has been disciplined by the board before, what the board's disciplinary action is, and the date the case was closed. The tracking system contains information for all social workers who have been complained about to the board at any point in time. Only certain staff have access to the tracking system.

Board members have expressed some frustration at the tracking system not being clear about who the board liaison is for the case and what the ongoing status of a case is in the disciplinary process. In addition, the tracking system needs to contain clear information on the last date the board dealt with the case separate from the date the case was closed, as the dates are not always the same if the board issues an order that is imposed for a period of time. Also, the tracking system should provide accurate information about the various dates of board activities while the case moves through the disciplinary process, such as when the board referred the case to investigation and when the board voted on the disciplinary action. More detailed information about a case will make the tracking system a more useful resource for the board.

Recommendation 17: The board should add to its tracking system fields for who the board liaison is on each case and for the location of the case in the disciplinary process so that it is easier for board members to be aware of the current status of each case. The tracking system should also contain time line information about the case throughout all stages of the disciplinary process, including the status of the case after the board takes its final action.

Administrative Problems Hinder More Efficient Disciplinary Process

Problems with basic board operations also affect the disciplinary process. Misinformation and errors in past board meeting minutes and board meeting agendas contribute to board member confusion about the status of disciplinary cases. Types of administrative mistakes include not listing the proper board liaison for cases and misreporting what the specific board member responsibility is in certain cases. As a result, time is spent during board meetings identifying and correcting the mistakes. In addition, board members may not be aware of the necessity of reviewing cases and drafting disciplinary letters by a particular date if they are unclear on the status of the case. Due to the importance of the disciplinary system as part of the board's function, administrative errors impede a more efficient disciplinary process.

Recommendation 18: Additional oversight of board staff is needed to ensure that board staff reduce errors in minutes from board meetings in order for information about disciplinary cases to be accurate and clear. Administrative documents should accurately state information about disciplinary cases.

Rehabilitation Committee Referrals Limited

As a result of the 2000 revision to the statutes governing the practice of social work, the social worker rehabilitation committee was revised to include representatives from the Maryland chapter of the National Association of Social Workers and the Metropolitan Washington chapter of the National Association of Social Workers. The committee is intended to act as a mechanism to evaluate and provide assistance to any social worker in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition. The committee was established by Chapter 661, Acts of 1990, which established rehabilitation committees in most health occupations boards.

Currently, one member of the board is appointed as a liaison to the rehabilitation committee, which is run by the National Association of Social Workers. Information about the rehabilitation committee, as well as a toll-free telephone number, is published in board newsletters to licensees. However, since its creation, the board indicates that, despite notifications to licensees about the committee, no one has voluntarily sought assistance from the committee. The board has only made a few referrals to the rehabilitation committee since that committee was established. Substance abuse problems are rarely in front of the board and are not issues that routinely appear in complaints. In addition, the rehabilitation committee may not be used that much because social workers have more access to treatment resources in the community by nature of their profession. Thus, board members are unsure what the role and function of the rehabilitation committee should be.

Recommendation 19: The board, in consultation with the Department of Health and Mental Hygiene's Council on Boards and Commission, should examine how the rehabilitation committee could be used more effectively to help social workers get treatment they may need.

Chapter 6. Relationships with Partners

As the regulating entity of social workers, the board deals with different agencies and consumers across the State. The Department of Human Resources (DHR) is the largest single employer of social workers working for the State. The Department of Health and Mental Hygiene (DHMH) provides administrative oversight of board operations such as the board budget and board staff. Consumers who receive social work services contact the board to make complaints. There are significant reasons for the board to have ongoing relationships and involvement with all of these groups, as they all partner with the board in different ways.

Board Has Limited Interaction with the Department of Human Resources

There are approximately 2,800 social workers working as State employees in DHR, the Maryland State Department of Education, DHMH, and the Department of Juvenile Justice. The majority of State-employed social workers are in DHR, where they have a large presence in child welfare services in the Social Services Administration. Almost all social workers employed by DHR are licensed graduate social workers (LGSWs), but there are also associate, certified, and clinical level social workers in DHR. Moreover, almost all licensed certified social workers (LCSWs) in the State are in DHR's local departments of social services. Social workers in DHR serve as caseworkers, supervisors, and directors.

Not all caseworkers in DHR are social workers. Nevertheless, most caseworkers are in fact licensed social workers: there are 2,134 caseworkers in DHR working in family services and child welfare, and 1,210 of those positions require social work licensure. Social workers working as caseworkers in DHR interact with a large number of people in situations where they provide crucial services to children and families. Thus, social workers in DHR work with more vulnerable populations. While these social workers are hired by DHR and are under the department's authority, the board still is the regulating entity for these social workers. Therefore, the board needs to have a working relationship with DHR.

In May 2002, the Office of Legislative Audits (OLA) in the Department of Legislative Services published a performance audit report of the out-of-home care program in the Social Services Administration in DHR. The out-of-home care program consists of foster care, kinship care, and adoption services for children who are unable to live at home because they are victims of child abuse or neglect. The performance audit raised significant questions about the monitoring and delivery of services to children in the State's out-of-home care program by caseworkers. Although the audit did

not address how many of these caseworkers were social workers, there are approximately 1,000 LGSWs working as caseworkers in child welfare in DHR.

Concerns about child welfare services have increasingly received public attention, both nationwide and in Maryland. Earlier this year, a Florida child welfare agency received national attention when the Florida Department of Children and Families lost track of a five-year-old child under its supervision. In Maryland, specifically in Baltimore County, a nine-year-old girl died in 1997 as a result of severe abuse by her family. Multiple reports of suspected abuse had been made to the Baltimore County Department of Social Services. In that situation, the caseworker in charge of the case was a social worker, and she since has faced disciplinary action by the board.

The OLA performance audit of DHR's out-of-home care program found that case files did not contain sufficient documentation to show whether certain services had been provided as required. It is important to note that it was unclear whether the deficiencies resulted from a lack of performance or whether there was a lack of documentation by caseworkers. Nevertheless, statute provides that failing to maintain adequate patient records is grounds for discipline by the board. The performance audit found several major deficiencies, including:

- caseworkers did not appear to be maintaining the required contact with children and providers;

- coordination of permanent placement of a child was not practiced and permanency plans were not reassessed in a timely manner for the 163 cases tested in the audit, resulting in children remaining in the out-of-home care program for over four years on average; and

- 70 percent of current caseworkers who responded to the auditor's survey agreed that they have or monitor more foster care cases than the caseworker thought he or she could effectively handle.

The OLA performance audit also raised the issue that the problems found in the out-of-home care program were related to caseworkers dealing with limited resources and large caseloads in DHR

The board was not aware of the OLA performance audit until the evaluation team brought it to the attention of the board chairman. In the survey of board members, members generally stated they were aware of problems related to the foster care program. However, most board members thought the board could only address these issues through the board's disciplinary system. Otherwise, board members stated that it was not a board function or responsibility to address problems in child welfare services in the State. In addition, board members brought up issues related to the high caseloads and limited resources that caseworkers deal with in DHR.

The board has no significant, ongoing working relationship with the Department of Human Resources. Currently, at least one licensed social worker employed by DHR is required to be a member on the board. This board member can function as a valuable liaison between the board and DHR and should be utilized to the greatest extent possible. However, overall there is limited communication between the board and DHR. Board members have stated that the local departments of social services in DHR are generally not cooperative with the board during investigations of social workers in DHR. Members believe DHR is protective of social workers working for the department and may prefer to deal with problems internally.

Recommendation 20: As the Department of Human Resources is the largest single employer of social workers in the public sector, it is important for the board and the department to have a working relationship, particularly for disciplinary cases before the board. Because the OLA audit revealed serious problems with documentation, the board and DHR should improve outreach to professionals on established standards for documentation.

Board Does Not Utilize Resources within DHMH

While the board functions as an independent entity, DHMH has oversight over board operations. DHMH approves potential board members from a list of nominees developed by the department's appointments office. DHMH also has authority over the board staff, since board staff are State employees in DHMH. The department is in charge of reviewing staff evaluations and approving personnel changes. In addition, the DHMH fiscal officer for health occupations boards and the board's executive director put together the board's budget, which is then submitted to DHMH's Office of Budget and Management. DHMH must approve the board's budget, which is considered with all the other health occupations boards and DHMH's overall budget by the Administration and later by the General Assembly. Thus, the board is subject to cost containment like any other State agency, as it is considered with DHMH's budget.

Currently, despite the oversight role that DHMH has over the board, the board and DHMH have limited involvement. There are a number of areas where improved communication and a stronger relationship between the board and DHMH could greatly benefit the board.

As discussed earlier, the board has had difficulties in filling board member vacancies in a timely manner. In addition, the board and the appointments office in DHMH have had some miscommunication regarding the process for interviewing potential board members. As board members have also expressed frustration about lack of commitment or time availability of some other board members, the board and the appointments office in DHMH should work together to determine how to select potential

candidates for the board. Also, there has been confusion over the training DHMH provides to new health occupations board members, and board members have expressed interest in certain topics being added.

The board is facing serious problems with regard to the elimination of board staff positions. When DHMH was required to cut positions due to the State's fiscal situation, the board was not clear on why it had more positions cut than any other board. In addition, the board has had difficulties determining how to file exceptions to the ongoing hiring freeze, and the board chairman had problems determining who to contact in DHMH in order to discuss the board's options. Also, the board is not taking advantage of DHMH staff resources already available to the board, such as the fiscal officer and computer network specialist for the health occupations boards. Therefore, there is a lack of general communication and engagement between the board and DHMH regarding board staff and resources.

Finally, this evaluation has identified several significant problems with board management and operations. Board members and other State agencies have also raised concerns. The board has expressed frustration in its attempts to contact DHMH to get help with problems with the board staff. There has also been concern by board members regarding the annual evaluations of board staff and the responsibilities of the board chairman. DHMH has taken a passive approach to the management of the board and has only exercised a broad oversight role. DHMH does not take an active role in reviewing board staff evaluations.

DHMH and the board currently have limited communication and interaction. The board could profit from the information and knowledge DHMH has to offer. DHMH has many resources of which the board should be taking advantage, such as the central staff available to health occupations boards. The board needs to improve its relationship with DHMH in order to facilitate more efficient operation of the board.

Recommendation 21: The board and DHMH should work together to address problems raised in this evaluation. DHMH should exercise its oversight authority and take a more active role in providing assistance to the board, particularly with regard to the appointments process, staffing issues, and problems with board operations.

Board Relies on Web Site for Outreach to Consumers

The board currently does limited outreach to members of the public. The main access the general public has to the board is through its web site. However, the board's web site contains outdated information, is not user friendly, and does not contain all of the information that consumers or licensees may be seeking. For example, the board's

regulations are not easily accessible through the board's web site. Currently, only proposed regulations may be accessed through the board's web site. While proposed regulations should also be available in order to facilitate feedback from the community, all regulations that the board has implemented should be accessible through the web site. In addition, the board could provide information regarding open board meetings. The Internet could be a valuable resource for providing information to social workers and interested individuals, especially to licensees who would benefit from being able to easily access all board regulations.

In addition, there is little outreach to the public about the board's complaint and disciplinary system. Clients may not know what constitutes a violation of Maryland law or how to file a complaint against a social worker. This may contribute to the fact that the board receives complaints for less than 1 percent of its total licensees. The board's web site does contain limited information about the disciplinary process, as well as a telephone number to call for more information. However, the information is not easy to find and does not contain anything about possible grounds for disciplinary action. DHMH's Council on Boards and Commission has a brochure it distributes to the public about health occupations boards in general, but the board does no independent public outreach aside from the limited information on its web site. Thus, the board takes a more reactive role instead of attempting to ensure that the public is aware of how to file a complaint against a social worker.

Recommendation 22: The board should engage in more public outreach by using its web site more efficiently. Regulations and statutes should be accessible through the board's web site for the convenience of the general public and social workers wanting more information about social work in Maryland. Also, the board should utilize its web site to provide information about how the disciplinary system works and about how consumers can make complaints to the board about social workers in the State. In addition, the board should consider other options of providing more public outreach, such as brochures specific to social work in licensee offices.

Appendix 1. Draft Legislation

Bill No.: _____
Requested: _____
Committee: _____

Drafted by: Kaplan
Typed by: rs
Stored – 10/25/02
Proofread by _____
Checked by _____

By:

A BILL ENTITLED

AN ACT concerning

State Board of Social Work Examiners – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Social Work Examiners in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination of provisions relating to the statutory and regulatory authority of the Board; altering the composition of Board membership; requiring the duties of the Board Secretary to include monitoring Board finances; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board and the Department of Health and Mental Hygiene to submit a certain report to certain committees on or before a certain date; and generally relating to the State Board of Social Work Examiners.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 19–202(a), 19–203, and 19–502

Annotated Code of Maryland

(2000 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

Section 8–403(a)

Annotated Code of Maryland

(1999 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(64)

Annotated Code of Maryland

(1999 Replacement Volume and 2002 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

19–202.

(a) (1) The Board consists of 11 members.

(2) Of the 11 Board members:

(i) 9 shall be licensed social workers of whom:

1. **[**1 is a licensed social work associate;

2. 1 is a licensed graduate social worker at the time of appointment**]** 2 ARE LICENSED SOCIAL WORKERS REQUIRED TO BE UNDER SUPERVISION BY A LICENSED CERTIFIED SOCIAL WORKER, LICENSED CERTIFIED SOCIAL WORKER–CLINICAL, OR LICENSED GRADUATE SOCIAL WORKER WHO MEETS THE REQUIREMENTS SPECIFIED IN REGULATIONS WHILE ENGAGING IN THE PRACTICE OF SOCIAL WORK;

[3.**]** 2. At least 1 is a licensed certified social worker;

[4.**]** 3. At least 4 are licensed certified social workers–clinical; and

[5.**]** 4. 1 is a licensed social worker employed by the Department of Human Resources; and

(ii) 2 shall be consumer members.

(3) The Governor shall appoint all members of the Board with the advice of the Secretary and the advice and consent of the Senate.

(4) The Governor shall appoint all social work members of the Board from a list of nominees containing names submitted by:

(i) Professional social work associations in the State;

(ii) Any person who provides a statement of nomination signed by at least 25 social workers licensed in the State; or

(iii) The secretaries of public agencies of the State where social workers are employed.

19–203.

(a) From among its members, the Board shall elect a chairman and a secretary every 2 years.

(b) (1) The Board shall determine:

[(1)**]** (I) The manner of election of the chairman and secretary; and

[(2)**]** (II) The duties of each officer.

(2) THE DUTIES OF THE SECRETARY SHALL INCLUDE MONITORING BOARD FINANCES.

19–502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, **[**2004**]** 2014.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(64) Social Work Examiners, State Board of (§ 19–201 of the Health Occupations Article: July 1, [2003] 2013);

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Social Work Examiners and the Department of Health and Mental Hygiene shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before October 1, 2003, in accordance with § 2–1246 of the State Government Article, on the implementation of the recommendations of the Department of Legislative Services contained in the sunset evaluation report dated October 2002.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003.

Appendix 2. Board Membership and Staff

Board Members

Mary C. Burke, LCSW-C - Board Chairman
Emanuel Mandel, LCSW-C - Board Secretary
Sheila D. Scriggins, LCSW-C
Wanda W. Moore, LCSW-C
Anne E. Walker, LCSW-C
Maxwell C. Manning, LCSW-C*
Isadora R. Hare, LCSW
Stephanie E. Sharpe, LGSW
Vacant, LSWA
Dr. Charles W. Griffin - Consumer Member
Laurie T. Thomas - Consumer Member

Board Staff

Harold G. Gordon, Executive Director
Delia Schadt, Assistant Attorney General
Howard F. Kenney, Investigator
Gloria J. Hammel, Staff Social Worker
Bernnadette Staten-Evans, Administrative Specialist
Diane Cooper, Office Secretary
Kevin D. Brydie, Office Secretary

Shared DHMH Staff

James D. Slade, Regulations Coordinator and Legislative Officer
Linda Beyer, Fiscal Officer
Henry Harle, Computer Network Specialist

*Vacant as of October 2002 due to resignation of member.
Source: State Board of Social Work Examiners

Appendix 3. Legislative Changes Since the Last Sunset Review

Major Legislative Changes Since the 1992 Sunset Review

Year	Chapter	Change
1993	333	Extended the termination date of the board from July 1, 1994, to July 1, 2004; expanded the board membership to include two consumer members; established the social worker rehabilitation committee; specified that a licensed social work associate may not make a clinical diagnosis or engage in the practice of psychotherapy; and prohibited a licensed social work associate with less than two years experience to engage in the private practice of social work without supervision.
1994	611	Authorized the board to waive the requirement that supervision be part of an employment contract for a licensed certified social worker under certain circumstances.
1999	114	Required an applicant or licensee to pay the costs of a disciplinary hearing if the applicant or licensee has committed any acts prohibited by law; and authorized the board to require a licensee under investigation to submit to an appropriate examination, if warranted.
2000	554	Clarified the practice of social work applicable to each licensure category; expanded board membership to include nine licensed social workers; required the board to appoint an executive director that serves at the pleasure of the board; required the board to issue a list of all social workers who have been disciplined by the board in the past year; required licensed social workers to provide to the public disclosures relating to licensure, fees, and informed consent; and expanded the scope of the board's disciplinary and regulatory authority including authorizing the board to impose a fine of up to $5,000 in disciplinary proceedings.

Source: Laws of Maryland

Appendix 4. The Board's Records Retention and Disposal Schedule

DGS-550-1
REV. 6/78

DEPARTMENT OF GENERAL SERVICES
Records Management Division

SCHEDULE NO. 996

PAGE NO. 1 of 2

RECORDS RETENTION AND DISPOSAL SCHEDULE

DEPARTMENT OF HEALTH AND MENTAL HYGIENE — AGENCY

BOARD OF SOCIAL WORK EXAMINERS — DIVISION

Item No.	Description	Retention
1.	MINUTES OF THE BOARD File series contains minutes of board meetings covering the official acts of the board with respect to policy, administrative operations and procedures. Minutes are arranged chronologically in looseleaf binders and separated into open and closed sessions.	Retain permanently in Archives.
2.	AGENDA OF THE BOARD File series contains agenda of board meetings covering the official acts of the board with respect to policy, administrative operations and procedures. Agenda are arranged chronologically in looseleaf binders and separated into open and closed sessions.	Retain permanently in Archives.
3.	LICENSED SOCIAL WORKERS REGISTERS Registers contain names and addresses of licensed social workers, license numbers, level of licensure, last renewal date and current status. The registers are in computer printout form and are listed alphabetically and numerically.	Retain for three (3) years, or until superseded, whichever is later, then destroy.
4.	LICENSURE APPLICANT FILES Files contain the following credentials for each applicant: 1. Application form 2. Photograph of the applicant 3. Copy of application form to the testing agency 4. Professional reference forms 5. Official college transcript with graduation date, degree received and official seal. Files are divided into methods of licensure (Grandfathering, Reciprocity, Examination) and subdivided by level (Certified, Graduate, Associate)	Retain files in office for one (1) year after last entry, then retire to a State Records Center for ten (10) years, then destroy.
5.	VENDORSHIP APPLICANT FILES Files contain the following credentials for each applicant: 1. Application form 2. Applicant's statement of clinical practice and supervision 3. Verification of clinical supervision	Retain files in office for one (1) year after last entry, then retire to a State Records Center for ten (10) years, then destroy.

Schedule Approved by Department, Agency, or Division Representative

10/1/84 — Date
Mary C. Lord — Signature
Administrative Officer — Title

Schedule Authorized by Hall of Records Commission

12/6/84 — Date
Edward [illegible] — State Archivist

Item No.	Description	Retention
6.	RECORD OF EXAMINATION SCORES Printout of examination results containing the candidate's name, social security number,, test center, level, raw score and scaled score.	Retain permanently in Archives.
7.	SOCIAL WORK COMPLAINT FILES Files are separated into active and inactive containing correspondence, investigations, reports, notations of corrective actions taken, decisions of the Attorney General, and transcripts of hearings. This file series is arranged alphabetically by name.	Retain opinions of the Attorney General permanently. Retain all active files in office. Retain inactive files for one (1) year following last entry, then retire to a State Records Center for ten (10) years, then destroy.
8.	GENERAL CORRESPONDENCE FILES Correspondence with individuals, institutions and organizations relating to the business of the Board. Financial records, audit reports and legislative action are included in this file. Records are arranged alphabetically by subject.	Retain audit reports permanently. Retain all other files for three (3) years then destroy.

Appendix 5. Statutory Grounds for Disciplinary Actions

Section 19-311 of the Health Occupations Article provides that the board, subject to hearing provisions, may deny a license to any applicant, fine a licensee, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee does any of the following:

1. Obtains or attempts to obtain a license for the applicant or licensee or for another through fraud, deceit, or misrepresentation;
2. Fraudulently or deceptively uses a license;
3. Is mentally or physically incompetent;
4. Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;
5. Knowingly violates any provision of this title;
6. Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;
7. Violates any provision of this title or regulations governing the practice of social work adopted and published by the board;
8. Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
9. Provides professional services while:
    (i) under the influence of alcohol; or
    (ii) using any narcotic or controlled dangerous substance, as defined in Article 27 of the Code, or other drug that is in excess of prescribed amounts or without valid medical indication;
10. Is disciplined by a licensing or disciplinary authority of any state, country, branch of the armed services, or Veterans' Administration for an act that would be grounds for disciplinary action under this section;
11. Practices social work with an unauthorized person or supervises or aids an unauthorized person in the practice of social work;
12. Knowingly makes or files a false report or record in the practice of social work;
13. Knowingly fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file the report;
14. Submits a false statement to collect a fee;
15. Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;
16. Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services on the basis of race, age, gender, sexual orientation, disability, religion, or ethnic origin or because the individual is HIV positive;
17. Fails to cooperate with a lawful investigation conducted by the board;

18. By threats, force, or improper means, intimidates or influences, or attempts to intimidate or influence, for the purpose of:
    (i) causing any person to withhold or change testimony in hearings or proceedings before the board or otherwise delegated to the Office of Administrative Hearings;
    (ii) hindering, preventing, or otherwise delaying a person from making information available to the board in furtherance of an investigation by the board;
19. Knowingly fails to report suspected abuse or neglect of a vulnerable adult in violation of Article 27, § 35D of the Code;
20. Fails to comply with the requirements of any order entered by the board as a result of any disciplinary matter with the board, including payment of costs as required by § 19-312 of this subtitle; or
21. Fails to maintain adequate patient records.

Appendix 6. Written Comments of the Board of Social Work Examiners

STATE OF MARYLAND
DHMH
Maryland Department of Health and Mental Hygiene
4201 Patterson Avenue • Baltimore, Maryland 21215-2299
Parris N. Glendening, Governor – Kathleen Kennedy Townsend, Lt. Governor – Georges C. Benjamin, M.D., Secretary

State Board of Social Work Examiners
410-764-4788 1-877-526-2541

October 31, 2002

Mr. Warren G. Deschenaux, Director
Department of Legislative Services
Office of Policy Analysis
Maryland General Assembly
90 State Circle
Annapolis, MD 21401

Dear Mr. Deschenaux:

The Board of Social Work Examiners wishes to thank the Sunset Review panel for the opportunity to review its recommendations. The Board is in general agreement with the panel's findings and accepts its recommendations. We have attached comments on the recommendations as well as some corrections to a few factual errors or mis-statements.

Sincerely,

Mary C. Burke, LCSW-C, BCD
Board Chair

Harold G. Gordon
Executive Director, BSWE

MCB/HGG/dvc

Attachment:

Cc: Dr. Georges C. Benjamin
Mr. Richard A. Proctor
Mr. Karl S. Aro

FACTUAL ERRORS

Page 6, the last sentence in the 2nd paragraph: "However, some states require specialized continuing education requirements in topics such as ethics or clinical practice content, but Maryland does not."

Comment: Effective November 1, 2003, the new continuing education regulations will require a three-hour course in Category I in Ethics.

Page 8, the 12th line down from the top: Should read "The Johns Hopkins Hospital", not The Johns Hopkins University.

Page 8, under "**Board of Social Work Examiners Should be Extended for Ten Years**", the 5th line down in that paragraph: It is not unusual for social workers to be tempted to, or actually violate, their licensee-client relationship, commonly known as a "boundary violation," emotionally, neglectfully, or sexually.

Comment: It is unclear to the Board on what basis this comment was made. The majority of Maryland licensed social workers do abide by the statute and the Board's Code of Ethics. A small percentage of licensees actually engage in "boundary violations".

Page 10, 2nd paragraph 3rd sentence: "These exams are administered daily by a private company through the Sylvan Learning Centers", should read - the **Prometrics Learning Centers.**

Page 24, 2nd paragraph, next to the last sentence – should be **LCSW**, not LCSW-C

Page 47, 2nd paragraph, starting with the 4th sentence, it should read as follows: **"If the licensee and the Board liaison reach an agreement on how the charges can be resolved at the CRC, the Board will consider the recommended agreement at the next Board meeting. At that time, the Board accepts, rejects, or modifies the proposed agreement. If no agreement is reached at the CRC, the case proceeds to a formal hearing at OAH or before the Board".**

Page 53: The references made to LCSWs in the three paragraphs are incorrect. It should be LGSWs.

SUNSET REVIEW RECOMMENDATIONS

Recommendation 1: Legislation should be enacted to extend the termination date for the Maryland Board of Social Work Examiners to July 1, 2014. Additionally, uncodified language should be adopted requiring the board and the Department of Health and Mental Hygiene to report to the Senate Education, Health, and Environmental Affairs and House Environmental Matters committees, on or before October 1, 2003, on the implementation of the recommendations contained in this sunset evaluation report.

Reponse:

The Board agrees with this recommendation.

Recommendation 2: Given the consistent grievances expressed by several health occupations boards that appointments are not made in a timely fashion, the Department of Health and Mental Hygiene should review the current appointments process, particularly in the timing of the process, and consider revising its procedures under the new Administration.

Reponse:

The Board agrees with this recommendation.

Recommendation 3: The statute should be amended so that the board composition includes two licensed social workers who are required to work under supervision at all times in place of one licensed graduate social worker and one licensed social work associate.

Reponse:

This recommendation may not address the problem. Although every effort should be made to find representatives from these levels of licensure, if this is not possible in a timely fashion, then any professional social worker should be appointed.

Recommendation 4: The board should be more efficient in developing and writing regulations. Board members need to become more involved in the regulations process in order to provide professional social worker input on all regulations.

Reponse:

The Board basically agrees with this recommendation. This was an unusual period of time for the Board given the passage of the new statue and the need to develop a significant number of new regulations.

Recommendation 5: The Department of Health and Mental Hygiene should focus future cost containments on general funded expenses that can benefit the State budget rather than special funded positions. Also, DHMH should evaluate the board's staffing needs and determine which positions the board needs to request and fill in the future.

Reponse:

The Board agrees with this recommendation. Positions in special funded agencies should not be considered as vulnerable to cuts in the same way as general funded agencies.

Recommendation 6: The board should become more involved in oversight of staff operations. Specifically, the board should require the executive director to develop a board operations manual based on best practices from a well-run health occupations board, which includes direction for typical board processes and correspondence as well as expectations for staff professionalism and accountability. The board chairman and secretary should work closely with the executive director to develop the manual and ensure that appropriate attachments are included such as an approved and updated Records and Retention and Disposal Schedule. The board should also revise the current job descriptions, in consultation with the executive director, for each position to reflect a more balanced level of responsibilities and expectations of the staff. The board's oversight committee should continue to meet on a quarterly basis to assure that the board's operations are running smoothly both during board meetings and in office processes.

Reponse:

The Board agrees with this recommendation.

Recommendation 7: The board should monitor licensee trends, in particular the LCSW population, in order to evaluate its position within the social work profession. Should any changes be made to the scope of practice for any of the licensure levels, the board should consider the decreasing number of LCSWs in its evaluation. However, if the scope of practice for each level continues with no changes, the LCSW position should remain in the system given its particular place as an advanced, nonclinical license.

Reponse:

The Board agrees with this recommendation. We will continue to monitor the trends. However, because of the change in regulations, we anticipate a possible increase in the number of LCSWs.

Recommendation 8: The board should work with the Department of Budget and Management's Information Technology Office to make a full inventory of its licensee database capabilities and insufficiencies, develop a report of its needs, and institute a phase-in of database requirements.

Reponse:

The Board agrees with this recommendation.

The lack of database support and staffing hinders the Board in its ability to fully take advantage of what's currently in place. The Board will accept and appreciate any help the Department of Budget Management Information Technology Office is willing to give.

Recommendation 9: The board should require the staff to have a representative from the Annapolis Data Center train board staff in the appropriate usage and updating of the database.

Reponse:

The Board agrees with this recommendation.

Recommendation 10: The executive director and at least two other professional staff should be trained in computer software programs that allow for trend analysis, such as Access and Excel. These programs should be installed on all board computers.

Response:

The Board agrees with this recommendation.

Recommendation 11: Board staff should be required to work with the Department of Health and Mental Hygiene to develop an appropriate five-year licensee projection model.

Reponse:

The Board agrees with this recommendation.

Recommendation 12: The board staff, with consultation from the Department of Health and Mental Hygiene, should undertake a full review of its licensee processing and tracking system, including, but not limited to, addressing the concern of late receipt of certificates and invalid contact information. Moreover, the board should consider providing more information up front to new licensees and eliminating the second charge for applications which have already been received by the board but not yet reviewed.

Response:

The Board generally accepts the recommendation and will review the second charge for applications. Additionally, we would like to point out that contrary to the last sentence of this recommendation, the applications are reviewed upon receipt.

Recommendation 13: The board should adjust its fees in order to draw down its fund balance to a more appropriate level. The new fees should take into account the average target 25 percent level, future inflation, and realistic growth in expenditures. In the near term the board should consider offering a portion of this fund balance to be used in lieu of further budget reductions.

Reponse:

To the extent that it is needed, the Board will adjust its fees. The Board does not understand the meaning of the last sentence of the recommendation. If it is suggested that the Board use license fees to offset future Departmental budget cuts, the Board strongly disagrees with this recommendation.

Recommendation 14: Statute should be amended to make it the role of the board secretary to monitor board finances. The secretary should be required to make semi-annual financial reports to the board and bring to the board's attention any major financial decisions to be made.

Reponse:

The Board agrees with this recommendation. However, the statue should be amended to create an executive officer whose role it will be to monitor board finances. The Board disagrees that this role must be that of the secretary.

Recommendation 15: Board staff should be required to meet with and provide necessary information to the board secretary at least one month before each semi-annual meeting on finances to discuss the board's financial situation. The information to be provided should include a balance sheet of expenditures, revenues, and fund balances for past, current, and future fiscal years.

Reponse:

The Board agrees with this recommendation.

Recommendation 16: Board staff should develop a working relationship with the fiscal officer in the Department of Health and Mental Hygiene. In addition, key board staff should be required to have training in basic fiscal accounting, forecasting, and record keeping.

Reponse:

The Board agrees with this recommendation.

Recommendation 17: The board's tracking system should add fields for who the board liaison is for each case and for the location of the case in the disciplinary process so that it is easier for board members to be aware of the current status of each case. The tracking system should also contain time line information about the case throughout all stages of the disciplinary process, including the status of the case after the board took its final action.

Reponse:

The Board agrees with this recommendation.

Recommendation 18: Additional oversight of board staff is needed to ensure that board staff reduce errors in minutes from board meetings in order for information about disciplinary cases to be accurate and clear. Administrative documents should accurately state information about disciplinary cases.

Reponse:

The Board agrees with this recommendation.

Recommendation 19: The board, in consultation with the Department of Health and Mental Hygiene's Council on Boards and Commissions, should examine how the rehabilitation committee could be used more effectively to help social workers get treatment they may need.

Reponse:

The Board concurs with this recommendation and will explore further what can be done to make this committee work more effectively.

Recommendation 20: The board should improve its relationship and communication with the Department of Human Resources. Specifically, the board should increase interaction and cooperation with local departments of social service and the Department of Human Resources for disciplinary cases in front of the board and assist in developing appropriate standards for social worker performance in public programs.

Response:

The Board disagrees that it should foster relationships with particular agencies that employ social workers.

The Board's role is to license and discipline individual social workers. For the Board to maintain a special relationship with any one agency or employe is inappropriate and contrary to the Board's mission.

Recommendation 21: The board and DHMH should work together to address problems raised in this evaluation. DHMH should exercise its oversight authority and take a more active role in providing assistance to the board, particularly with regard to the appointments process, staffing issues, and problems with board operations.

Reponse:

The Board agrees with this recommendation.

Recommendation 22: The board should engage in more public outreach by using its web site more efficiently. Regulations and statutes should be accessible through the board's web site for the convenience of the general public and social workers wanting more information about social work in Maryland. Also, the board should utilize its web site to provide information about how the disciplinary system works and about how consumers can make complaints to the board about social workers in the State. In addition, the board should consider other options of providing more public outreach, such as brochures specific to social work in licensee offices.

Reponse:

The Board agrees with this recommendation.