



STATE OF MARYLAND

DHMH Board of Chiropractic & Massage Therapy Examiners

Maryland Department of Health and Mental Hygiene

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Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

August 1, 2011

Honorable Senator Joan Carter Conway
Chair, Senate Education, Health &
Environmental Affairs Committee
Miller Senate Bldg., 2 West Wing
11 Bladen Street
Annapolis, MD 21401-1991

Honorable Delegate Peter A. Hammen
Chair, House Health & Government
Operations Committee
House Office Bldg.
6 Bladen Street
Annapolis, MD 21401

Final Post-Sunset Report of the State Board of Chiropractic & Massage Therapy Examiners

Background:

In 2009, the Office of Legislative Services conducted a Preliminary Sunset Review of the Board of Chiropractic & Massage Therapy Examiners. That Review found the Board to be efficiently operating within its statutory authority; accordingly, a full review was waived. The Sunset Report requested follow up reports from the Board in 2010 and 2011 regarding fund balances and licensee disciplinary processing. The following analysis/report regarding budget, licensing and disciplinary issues is respectfully submitted as directed by the Office of Legislative Services in its Sunset Report of December 2009 and by the State Legislature in SB104 and HB135. This is the second and final required report; the previous report was submitted on August 1, 2010.

Scope:

This report is a summary of the oversight and maintenance of the Board's fund balance in order to maintain operations within the Board's annual fiscal budget, while concomitantly reducing fees where possible and holding sufficient carryover funds to suggested limits. The interaction of fund balance and licensee database is also reflected. In addition, the report reflects the status of MFR goals for disciplinary case investigation, hearing and resolution. Finally, for both issues, internal and external driving factors affecting statistics are discussed and analyzed.

Wherever possible, *StateStat* data is used since it is collated and submitted on a monthly data and represents the most current and accurate available statistical data.

FUND BALANCE & LICENSE ISSUES

Budget, Fund Balance, License Issues:

This Board is special funded; all revenue is derived from license and miscellaneous administrative fees. At the close of FY11, the Board budget was \$889,313 and the fund balance (carryover) to FY12 was \$609,000. The appropriated budget for FY 2012 is \$986,313. Since late 2009, the Board has consistently reviewed monthly data to determine the optimum range of fund balance to professionally manage the Board administration while minimizing licensee fees. This data includes: extant fees; number of new licensees applying and testing for licensure each month; number of licensees transferring in from other jurisdictions; information received from Board approved schools regarding entrance and matriculation statistics.

Based on the aforementioned data, on January 1, 2010, to maintain an adequate fund balance while simultaneously reducing fees where possible, the following licensee fees were revised as follows:

2009 Chiropractor Renewal fee:	Reduced from \$700. to \$500.
Chiropractor Application fee:	Reduced from \$200. to \$100.
Chiropractic Assistant Application fee:	Reduced from \$200 to \$100.
Chiropractic Assistant Examination fee:	Reduced from \$300. to \$100.
Massage Therapist Licensure fee:	Reduced from \$200. to \$100.
Massage Therapist Examination fee:	Reduced from \$275. to \$100.
Licensee Request for CEU Course Reviews :	Waiver of \$25. per course fee

The above-cited fee revisions/reductions are still in force and the Board consistently monitors the expenditure and revenue balances to make any further

fee revisions that may be necessary. For example, for the upcoming chiropractor biennial renewal (September 1, 2011) the renewal fee is reduced from \$700. to \$600. Should sufficient revenue exist in Fall, 2012, the Board prospectively plans to reduce massage therapists' renewal fees to the extent permitted by the extant fund balance and projected revenue and expenditures.

At the close of FY11, the Board maintained jurisdiction over a total of 5,029 licensees as follows:

- Chiropractors 792
- Chiropractic Assistants 499
- Massage Therapists 3,341
- Inactive Licensees 397

The fund balance at the end of FY11 was: \$609,880. This fund balance on its face seems substantial. However, in fact, it is in line with the biennial licensure revenue and expenditure projections and variances. In calendar year 2010, the massage therapists renewed their licenses in October 2010 creating a higher-than-usual fund balance carryover. This is normal in the Board license cycle. Massage licenses are renewed biennially in even calendar years and Chiropractic licenses are renewed biennially in odd calendar years. Essentially, the higher carryover from the even years is needed. This is because, while the even calendar years result in greater revenue, odd calendar years produce substantially less revenue because of the disparity of licensee numbers between chiropractors and massage therapists.

To fully appreciate and understand the carryover concept, the reviewer must review an entire 3-4 year period instead of a single year snapshot. The bottom line is that the more significant revenue received in even years is necessary to support the budget over the lean odd years. This budget "ebb and flow" is required to insure efficacious operations and administration of the Board through projected budget analysis. Unexpected factors such as national and regional economic effects on the license base, as well as personnel issues, directly contribute to unanticipated expenditures or revenue.

A significant factor that unexpectedly increased the fund balance over the 2010-2011 period is the fact that the Board's Grade 14 Health Occ. Investigator and contract Grade 11 Administrative Specialist resigned in January and the positions were frozen for several months by DHMH and DBM. Finally, in June, 2011, a hiring freeze waiver was granted and the Investigator position is being advertised. It is anticipated that the position will be filled in September. DBM will not authorize rehiring for the Administrative Specialist position. With the positions

vacant, the fund balance increased by approximately \$100,000 reflecting budgeted funds not expended for staff positions. Mandatory furloughs and administrative shut-down days also added several thousand dollars of revenue to the fund balance.

The following reflects the projected revenue and expenditure statistics for FY 2012 and the projected 2012 fund balance carryover into FY 2013:

FY 2012 Appropriated Budget:

\$986,313

Revenue (Projected – Including FY 2011 fund carryover):

Chiropractor renewals 850 x \$600:	\$510,000
New Chiropractors: 50 x \$700:	\$35,000
New Chiro. Assts: 30 x \$400:	\$12,000
New Massage Therapists: 300 x \$450:	\$112,000
Miscellaneous (approx):	<u>\$ 25,000</u>
Total projected FY 2012 revenue	\$694,000
Fund balance carryover from FY 2011:	+ <u>\$609,000</u>
Total available funds for FY 2012:	1,303,000
Expenditures projected for FY 2012	- <u>\$986,000</u>
FY 2012 Projected Fund Balance Carryover:	<u>\$317,000</u>

As the above figures reflect, the Board is on track in managing its fund balance to meet the vagaries of license renewals for two different professions that occur biennially at different years. In addition, it is reasonable considering the unfilled Investigator PIN that left additional money in the fund balance. The figures support the foregoing analysis that, while more substantial revenue is derived during the even calendar years, it is needed to balance the leaner odd calendar years. Budget analysts recommend that this Board retain a fund balance carryover of approximately 25% - 30%. The projected carryover of \$317,000 is approx. 30% of FY2012 Budget. Accordingly, this is considered reasonable and necessary to meet all operational and administrative requirements of the Board for FY2012 while concomitantly providing sufficient carry over of funds into FY 2013.

Based on the foregoing, the Board confidently states that it is serving the public and licensees in a fiscally sound manner. It is efficiently and professionally monitoring, managing, and revising fees as necessary to: carry out all required duties, retain a sufficient fund balance, and reduce licensee fees as reasonably feasible.

Improvement of information retrieval:

Regarding previous issues relating to delays in promptly producing accurate licensing data records/reports, this has been resolved through the 2009 full implementation of the automated license database system. This system automatically tracks all revenue, payments, and refunds; matching it by fund code and licensee. Rather than reviewing hard copy logs, staff personnel enter a query and the data regarding revenue, licensee payment, license issuance, licensee numbers, etc is automatically and promptly retrieved.

Also, in 2009, the Board implemented its fully automated online license renewal system. Licensees are able to readily renew licenses using credit or debit cards, receiving an immediate verification and receipt for payment. The database tracks all individual and group licensees' data, including all payments. This information may be quickly and accurately retrieved. Three license renewals have been conducted utilizing this automated online system. Each iteration has been improved through quality assurance, implementing improvements learned from issues reflected in previous renewals. Accordingly, to date, the online renewal system has proved to be a tremendous asset to both Board staff and licensees. This is due to the ability of the system to produce immediate, accurate data and reports upon query.

LICENSEE DISCIPLINE & CASE PROCESSING

Board efficiency, timeliness, and caseload management are best reflected in the FY 2011 *StateStat* disciplinary case statistics ¹:

Number of Board Complaints/ Investigations:	63
% completed within quality measure Of 100% w/in 180 days:	97%
Board completed action (resolved through admin processes or hearings):	39
% completed within quality measure Of 100% w/in 60 days:	97%
% of licensees involved in disciplinary issues or investigations	1.25%

¹ Per DHMH *StateStat* Reports

Number of complaints adjudicated by Board:	29 ²
Number of complaints prosecuted @ hearing:	9
Number of complaints investigated & handled administratively	16

The foregoing reflects efficacious docket management by the Board, staff and Board Counsel. It must be noted that some cases simply take much longer to administer and prosecute because of vagaries of evidence and uncertainties of defense counsel manipulations and procedural road blocks. Moreover, each case is categorically different on facts and issues. While one case may proceed without difficulty in a minimal amount of time, a similar case may take longer due to legal motions, intransigence of witness, and unavailability of witnesses or evidence.

Additionally, review and prosecution by the DHMH AAG can be tenuous depending on its caseload. That office simply does not have sufficient attorneys to consistently handle the burgeoning caseload brought down on it by the various Boards. In order to maintain a streamlined docket and to keep within MFR and StateStat goals, this Board routinely convenes on multiple dates per month (as required by caseload) to administer hearings and case resolution conferences. On some dates, it will hear two cases. This dedication by the Board is a primary factor in keeping the docket moving to meet set statistical deadlines and goals.

Conclusion:

The foregoing reflects that the fund balance and fees are being properly administered, and are adequately reviewed and revised as necessary. Challenges still occur due to unexpected expenses, variances in licensee base, and resignation of staff personnel with the resulting delay due to DBM hiring freeze. As reflected in the foregoing statistics, the fund balance is positioned to address all expenditures while concurrently addressing the revision (decrease) in licensing fees where possible.

The disciplinary process is in very good shape and investigation and procedural parameters are well within acceptable MFR and StateStat deadlines. Of course, unanticipated delays may occur due to evidentiary issues, defense counsel

² Note – Some of these cases were carried over for adjudication from FY 2010

posturing and procedural road blocks and an unanticipated rise in cases. This Board continues to exert exceptional diligence, effort, and professionalism to insure that cases are reviewed and processed within set guidelines.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. J. Vallone', with a long horizontal flourish extending to the right.

J. J. Vallone, JD, CFE
Executive Director
For Stephanie J. Chaney, DC, President
By direction of the Board

cc: Grant Gerber, Esq. Board Counsel
Karl S. Aro, Exec. Director, Dept of Legislative Services, Office of Policy Analysis
Wendy Kronmiller, JD, DHMH Chief of Staff