



Maryland Board of Nursing

Joint Chairmen's Report (JCR)

Fiscal Year 2021

Gary N. Hicks, MS, RN, CEN, CNE Board President
Karen E.B. Evans, MSN, RN-BC, SD-CLTC, RN-CLTC, CLC Executive Director

I. Executive Summary

Pursuant to the 2021 Joint Chairmen's Report (p. 93), this report reviews the Maryland Board of Nursing (MBON) management and personnel to determine gaps in performance and make recommendations for improvement. Hagerty Consulting, Inc. (Hagerty) was retained in 2021 by the Maryland Emergency Management Agency to provide COVID-19 Response and Recovery. Under the recovery effort, an independent consultant was detailed to MBON to review the management and personnel, determine gaps, and make recommendations for improvement that are found in this report.

The Registered Nursing (RN) workforce is expected to grow from 3 million in 2019 to 3.3 million in 2029, an increase of 221,900 or 7%¹. In the state of Maryland the number of active nursing personnel in practice has grown from 202,906 in 2017 to 237,896 in 2021 (a 17% increase)². The growing complexity of nursing demands a strong and modern board of nursing. However, MBON has faced challenges in scaling operations to meet this growth.

Key Findings

1. Public Safety is in jeopardy as serious cases remain uninvestigated. The investigation department within the Accountability Division at MBON is significantly understaffed leading to unsafe and/or unethical nurses potentially in practice long after complaints are recommended for investigation.
2. MBON leadership structure is disorganized and leaders are poorly utilized. Examples include:
 - a. The Executive Director's span of control is overly broad.
 - b. The Deputy Director is currently "dual-hatted" as both the Deputy Director and the Director of the Enforcement Division.
 - c. The Executive Director is too focused on day-to-day matters that the Deputy Director should be responsible for handling.
 - d. The Chief Operating Officer (COO) role is currently combined with the Director of Information Technology (IT) who also has oversight for Fiscal
3. The Operations Division (Fiscal, IT and Human Resources (HR)) is largely overburdened.
 - a. Despite an increase in the MBON's workload and operational costs, there have been stagnant fiscal policies that have not allowed Board staff to efficiently address constituent concerns.
4. MBON needs a Communication Initiative as they are currently unable to communicate effectively with constituents (i.e., website, lack of call center, inadequate telecommunication infrastructure, overburdened staff, etc.)
5. Lack of adequate PINs, chronic vacancies, improperly classified roles, and poor performers have limited the ability of MBON to recruit and retain high-quality, permanent staff.
6. Outdated Strategic Goals which were last updated in 2014.

¹ Nursing Shortage. American Association of Colleges of Nursing. September 2020

² Calculated by MBON using licensure information technology systems (LARS and MyLicense Office).

Recommendations for Action

1. Hire sufficient additional investigators (both nurse and non-nurse) to ensure speedy due process and public safety.
2. Streamline the organizational structure to make leadership more effective and communicate new organizational chart to all staff, board members and MDH.
3. Designate a point-person (COO or Director of Operations) to build 90-day action plan to reboot fiscal, IT and HR departments with goals.
4. Create and staff a new Office of Compliance to implement all report recommendations across all divisions to ensure ongoing adherence to state and national standards.
5. Create and staff a Communication Department under the Operations Division to unburden operational staff from constituent communication and provide responsive service and improve public perception by establishing responsive, two-way communication and a social media upgrade.
6. Convene a joint MBON/MDH/DBM task force to fill all vacancies and process personnel actions.
7. Update strategic goals in a joint effort with the Board President and the MBON ED to assist with the development of new strategic goals.
8. Explore the reasons for the non-renewal through polling. Evaluate alternative revenue models in use in other states.

II. Background

MBON was created in 1904 by the Nurse Practice Act. MBON's mission can be defined in two-parts: 1. **Protect the public** by ensuring all nurses are properly licensed and any complaints investigated. 2. **Preserve the profession** through the accreditation of educational institutions and licensee examinations. The four function areas of MBON are described below.

1. **Licensure/Certification** - Manage over half a million nursing professionals (approx. 606k active and inactive).
2. **Accountability/Enforcement** (similar to a county government with its own detectives (internal affairs) who investigate complaints and a court that adjudicates cases) – This division protects the public by removing dangerous/incompetent nurses.
3. **Education/Exams**³⁴ (similar to an academic accrediting agency for colleges/universities) this division is responsible for certifying hundreds of educational curricula AND their faculty - both inside and outside Maryland - along with administering professional examinations. This includes active FBI investigations of fraudulent schools.
4. **Legislative Policy** – the Board's legislative committee reviews proposed legislation, suggests new regulations based on review of other state laws, and makes recommendations to the 14-member Board to advocate official policy positions to assist legislators.

MBON is a unique combination of enterprises within the state government. Some may consider the MBON as similar to a Division of Motor Vehicles because it serves as a licensing authority. At the same time, MBON is like a courthouse and/or police department because of its role in enforcement and accountability of its licensees. Furthermore, MBON acts as both an education accreditation agency and policy/advocacy entity.

MBON oversees the largest number of licensees in the state (606,000 active and inactive license/certificate holders) or approximately 70% of all health occupation professionals in Maryland. The sheer scale of MBON's constituents dwarfs the next largest board (physicians) five times over.

Within MBON, there is a 14 – member Board that governs nursing practice (formerly called the Board of Nurse Examiners until 1987) and is led by an elected President. The Board includes 8 Registered Nurses, 2 Licensed Practical Nurses, 2 Advanced Practice Registered Nurses, and 2 consumers. This Board is to be distinguished from Board staff which has 60 FTEs led by an at-will Executive Director (ED) who reports to the Board President.

The 14 – member Board spends the majority of their time on nursing practice issues - primarily on policy, regulation and adjudication of investigations. Board members serve no more than two consecutive four-year terms. The full Board meets monthly along with several regular key committee meetings. One of the key roles of the committees is to review investigative reports and make recommendations to the full Board.

³ MBON is the only Health Professional Board and Commission (HPBC) to have an education mission.

⁴ MBON has a unique and significant education mission accrediting all nursing programs both in-state and out-of-state. None of the other Health Professional Boards and Commissions (HPBC) have that mission, therefore making comparisons between MBON and other HBPCs inappropriate.

Between 2008 and 2011 the increased volume of work at MBON resulted in numerous service problems that eventually prompted legislative action. Section 2 of Chapter 621 of the Acts of the 2012 General Assembly⁵ required the Maryland Department of Health (MDH), in consultation with the Department of Budget and Management (DBM), to contract with an independent entity to perform a management and personnel study of MBON. The language further required DBM to oversee the performance of the study and report the results to the relevant Senate and House committees. A copy of the study can be found in the Appendix.

Furthermore, since 2007, MBON has had four (4) different EDs (previously there had been 1 ED serving in the role from 1981 to 2007). The current ED, Karen Evans, has been in the position since 2017. MBON's increased workload, coupled with lack of consistency in the ED position, has led to several challenges within MBON which are outlined in this report.

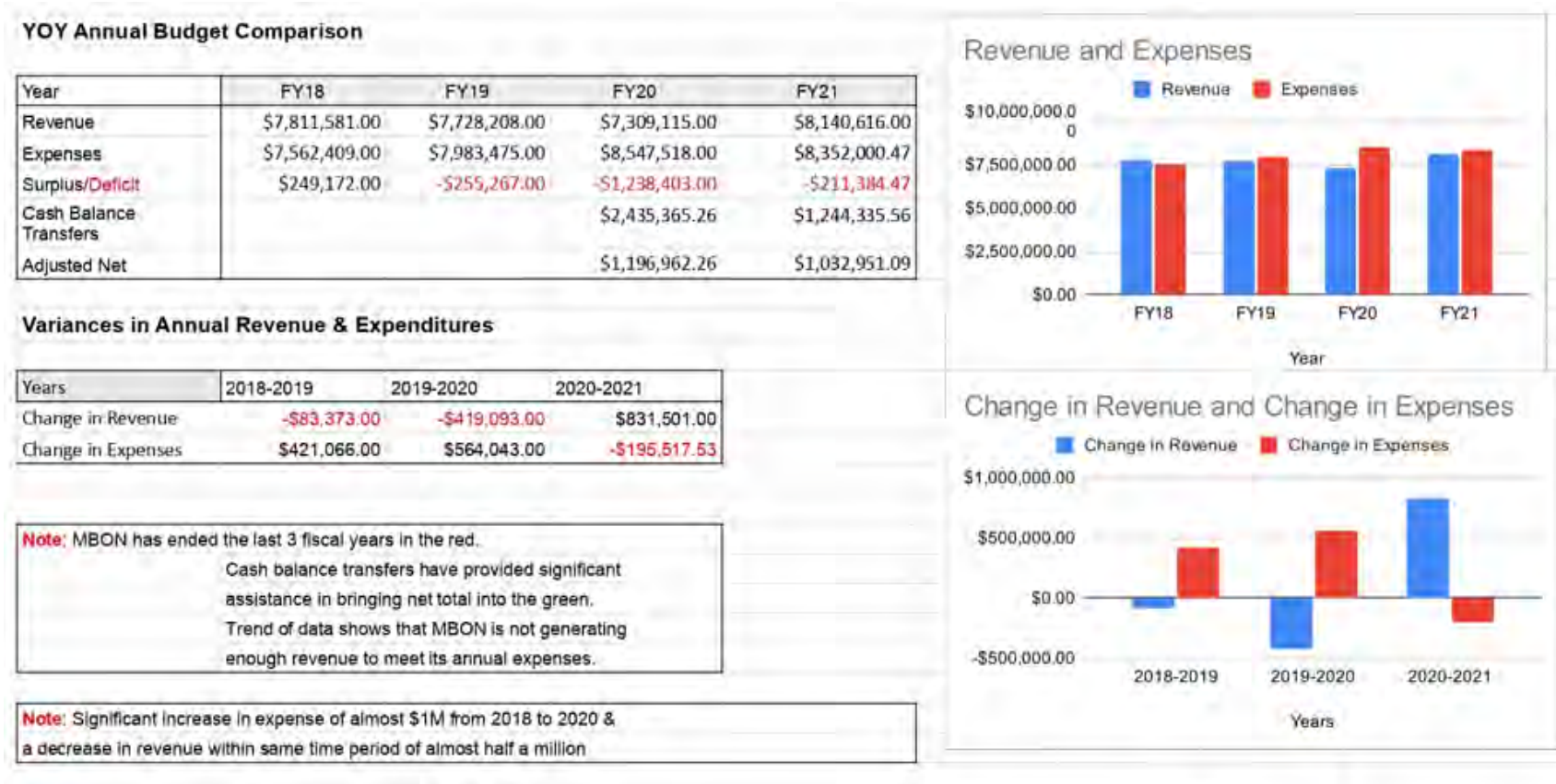
⁵ *Section 2 of Chapter 621 of the Acts of the 2012 General Assembly (Senate Bill 921)

Table 1: Total Number of Staff by Department – As of September 2021

Division	Department	Onboard	Vacant	Total FTE
Executive	Executive	6	0	6
Legislative	Legislative	1	1	2
Accountability	Complaints	2	1	3
	Investigations	6	2	8
	Discipline	2	0	2
	Compliance	2	1	3
	Safe Practice	1	1	2
Exams & Education	Exams	2	2	4
	Education	2	2	4
	CHRC	5	2	7
Licensure and Certification	Licensure	5	3	8
	Certification	6	2	8
Operations	IT	1	2	3
	Fiscal	0	4	4
	HR	1	1	2
Board	Legal	3	0	3
Health Occupations Prosecution and Litigation Division (HOPL)*	Legal	6	0	6
TOTAL		51	24	75

***8 PIN positions are carried on MBONs staffing matrix, but they are detailed to HOPL to work for other boards, so the actual PIN count for MBON operations is 60.**

Figure 1: Year-by-Year Budget Comparison



*Please Note: The increase in revenue from FY20 to FY21 may be attributable to a significant increase in LPN Endorsement Applications from FY20 (\$77K) to FY21 (\$2M). Additionally, the total revenue introduced in FY20 and FY 21 do not include the subtraction of fees owed to MHCC and NP Tax.

FY20 – Total Revenue – \$7,309,115 (minus MHCC Fee: \$965,354 and NP Tax: \$51,285) – Remaining Total – \$6,292,476

FY21 – Total Revenue – \$8,140,616 (minus MHCC Fee: \$1,060,406 and NP Tax: \$45,615) – Remaining Total – \$7,034,595

III. STAKEHOLDERS

The Board must prioritize and invest resources appropriately to address the needs and concerns of the constituents and stakeholders they serve. Due to the wide breadth of stakeholders and constituents it is important to outline how they impact the Board's operations and fiscal responsibilities.

1. Internal Stakeholders

MBON is made up of three functional divisions (Accountability, Licensure and Certification, and Exams and Education) and an operational division (Operations) that provides central services and support to the three functional divisions. Across these four divisions are 13 departments. In addition, there is a small legislative affairs team.

A. Enforcement Division

This division fulfills the Public Safety mission of MBON to review over 1,000 complaints annually, investigate, and dispense discipline following board adjudication and monitor compliance with board action. Additionally, the "Safe Practice" program allows licensees and certificate holders to self-report substance abuse violations and consent to a rigorous compliance and monitoring program as an "alternative to discipline".

B. Licensure and Certification Division

The board licenses two levels of nurses: registered nurses and licensed practical nurses. Applicants for licensure must graduate from an approved nursing education program and pass the National Council of State Boards of Nursing exam. (NCLEX). The board began to certify Certified Nursing Assistants (CNAs) in 1998 and Medication Technicians in 2004. The role of each department is outlined below.

- Licensure Department
 - New Applicants and Renewals
 - Approval of electrology and licensed direct-entry midwifery applications.
 - Endorsements - If an applicant is licensed in another state or country and meets requirements substantially equivalent to those in Maryland, the applicant is eligible for licensure without the NCLEX if they have at least 1,000 hours of active nursing practice within the last five years or complete a board-approved refresher course.
 - Advanced Practice - For RNs with 6 types of advanced training which include: Forensic Nurse Examiners (FNEs), Certified Registered Nurse Practitioners (CRNPs), Clinical Nurse Specialists (CNSs), Certified Nurse Midwives (CNMs), Certified Registered Nurse Anesthetists (CRNAs), and Worker's Compensation Medical Case Manager (WCCM).
- Certification Department: This department oversees 4 different certifications in nursing and medication technicians (CNA, GNA, CMA, and Med-tech) with 4 sub-specialties for the CNA designation (SHA, Dialysis Tech, DDA, and HHA). There are 202,000 CNAs in

Maryland and 71,000 are active. This department has been chronically understaffed and is the backlog is currently the highest it has been since 2005.

C. Exams and Education Division

- Exams - NCLEX - Nursing Certification Licensure Examination
 - Maryland, U.S. and International
 - Vet RN and LPN NCLEX exam applicants to ensure nursing licensure compact requirements have been met.
- Education
 - RN/LPN - Responsible for evaluating, accrediting, and approving all RN/LPN programs in the state and out-of-state programs for applicants endorsing into Maryland. A single staff member evaluates over 75 out-of-state programs for approval of substantial equivalence.
 - CNA - A single staff member approves over 300 CNA programs in the state⁶.

D. Operations

- i. Fiscal – Manages all of the Board’s revenues and expenditures, ensuring financial management necessary to support all business activities and operations.
- ii. Information Technology (IT) – Maintains computer network systems for the Board, including safeguarding data and information, creating and updating necessary licensure databases, and providing assistance to Board staff with technological problems.
- iii. Human Resources (HR) – Recruits, hires, and trains new staff at the Board.

E. The Board

Committees: (Meet monthly and make recommendations to the full Board)

1. Background Review
2. Case Resolution Conference (CRC)
3. CNA Advisory
4. Legislative/Regulation
5. Practice and Education
6. Report of Investigation (ROI) and Pre-Charge Case Resolution
7. Complaint Triage Committee
8. Probation, Reinstatement Review
9. Safe Practice
10. Direct-Entry Midwives Advisory
11. Electrology Practice

F. HOPL - Health Occupation Prosecution and Litigation - The Attorney General manages this office of prosecutors, but the salaries and PINs come from MBON.

⁶ CNA Training Programs must meet requirements set forth in COMAR 10.39.02. CNAs must meet certification requirements set forth in COMAR 10.39.01.

2. External Stakeholders

A. Nurse Constituents

Each year, tens of thousands of nursing professionals come to MBON for licensure, certification and a host of other issues from discipline to scope of practice.

Customer Type (Active)	FY2021		Total Customers Served*		
RN License	90,631		FY19	FY20	FY21
LPN License	12,365		202,959	218,882	237,801
APRN (Advanced Practice)	13,233				
CNA Certificates	72,201				
Medical Tech certificates	49,371				
TOTAL	237,801				

**These figures do not include constituents who take exams, require discipline, have questions about nursing practice, etc.*

B. Non-Nurse Constituents

Although MBON focuses on the nursing community in Maryland, the ED and her leadership team have a host of external stakeholders who require attention. MDH, MBON's primary constituent, is engaged through day-to-day interactions. The MBON's broad scope of responsibility additionally engages the following state governmental entities as well:

- Office of the Attorney General (AG) regarding thousands of nursing misconduct investigations - MBON provides 8 staff members to the AG.
- Maryland Child Support Administration (CSA)
- Department of Budget Management (DBM) for personnel vacancies/discipline
- Maryland Higher Education Commission (MHEC) regarding MBON's ability to certify academic nursing programs.
- Maryland General Assembly on pending legislation.
- Office of the Inspector General (OIG) and Office of Legislative Audits who examine MBON performance.

Added to these state governmental entities are the following who also look to MBON for leadership on relevant issues:

- General Public

- Media
- National/State organizations
 - National Council for State Boards of Nursing (NCSBN)
 - Maryland Health Care Commission (MHCC)
 - Maryland Higher Education Commission (MHEC)
 - Maryland Hospital Association (MHA)
 - Maryland Nursing Association (MNA)
 - Nurse Practitioner Association of Maryland (NPAM)
 - Electrology Association
 - Forensic Nurse Examiners
 - U.S. Dept. of Education - related to MHEC's work with nursing programs.
 - Sister Boards and Commissions

IV. Workforce Analysis

Hagerty was retained in 2021 by the Maryland Emergency Management Agency to provide COVID-19 Response and Recovery. Under the recovery effort, an independent consultant was detailed to MBON to review the management and personnel, determine gaps, and make recommendations for improvement that are found in this report.

1. **Current customer demand far outstrips the Board's capacity** to meet minimum customer service standards.

Constituents are unable to speak to someone without being on hold for hours. This is in part due to the fact that virtually the same number of staff handle an enormous and growing constituency as they did a decade ago. The lack of a call center requires staff to put their day-to-day duties on hold to accommodate constituent phone calls and emails.

2. MBON has **insufficient personnel capacity** to meet current customer demand.

MBON's insufficient personnel capacity is largely due to approximately 25% of MBON's positions being vacant. In FY 2011, MBON acquired 73.70 authorized positions that have been reduced to the current 60.0 authorized positions. MBON continues to have difficulties in filling vacant positions, particularly professional positions. Vacancies persist due to a high staff turnover rate, an inability to find qualified applicants, and the lack of competitive salaries.

Managing for Results data indicates that MBON has not met the standard for prompt investigations for the last five years placing public safety in jeopardy. The investigation department within the Accountability Division has approximately 2,500 current cases (defined as 2018-present) of recent misconduct under review. This does not include the 3,000 cold cases from before 2018. Approximately 30% of recent cases (715) are in the most serious category out of a four-level prioritization system defined as:

"Priority I: (Urgent) indicates an emergency or potential emergency, case given highest priority level. An emergency exists when licensee behavior poses an immediate danger to public health, safety, and welfare or poses an imminent threat of harm to a patient."^{7,8}

Each of MBON's six investigators currently has a caseload of over 250 cases. This is over 8 times the maximum number of cases (30) they should be working at any one time. Neighboring state investigators carry 20 to 30 cases maximum. Other boards in Maryland have between 8 - 15 cases per investigator. There is only one vacant investigator position at the present time. According to the 2013 MAGI study ordered by the 2012 General Assembly (see Appendix), the investigations department once had 11 positions, but this number has been reduced to 8 despite complaints increasing 33% since the last report was filed.

Unsafe and/or unethical nurses may be practicing long after complaints are recommended for investigation. Moreover, the high caseload risks burnout of investigators and reduced quality of investigations as the pressure to rapidly close cases increases with the volume.

⁷ Smith V. Navigating Investigations through Effective Triage Processes. *Arizona State Board of Nursing*.

⁸ Initial Review of Complaint. National Council of State Boards of Nursing (NCSBN).

Although the Board is special funded by license fees, from late July 2021 to early September 2021, MDH provided, approximately 20 temporary clinical administrative staff under its contract with Hagerty to assist with license/certificate applications and renewals and related activities. The contractual temporary staff provided by MDH had made considerable progress in reducing the application and email backlog, as well as providing needed customer service support. MDH loaned 13 desktop computers, monitors, keyboards, and mice which were returned by the MBON in early September. MDH provided a full – time operations consultant to assist MBON.

Additionally, MBON has recently received approval from DBM to start recruitment for 12 out of 14 employee vacancies. With the current recruiting process, these positions are estimated to be filled within the next 3 – 4 months.

V. Recommendations

1. Personnel Management

MBON has been working for years with no fewer than 25% of its positions vacant and of those positions actually filled, at least 15% are under or non-performing staff. Additionally, there is no dedicated HR leader at the MBON. Positions are vacant long periods of time, salaries are low, and roles are misclassified. Moreover, MBON has been chronically understaffed for years as the volume of nurses has grown. Many departments have only one or two staff members with no pipeline or "bench" when staff take vacations/sick time. Succession planning is challenging when there is no recruiting or onboarding mechanism with which to begin.

Although officially staffed with 60 PIN personnel, 5 of these PIN positions are taken by the HOPL office to fund prosecutors reducing the number available to handle the growing workload on the floor. It is recommended that MBON and MDH, in cooperation with DBM, form a joint HR task force to address vacancies in staff. A customized approach to restore normal operations is warranted. The HR task force team would construct a temporary priority mission to fill existing vacancies and assist with adverse personnel actions. Once these vacancies are filled, a six-month review period should commence to determine if more staff are needed EXCEPT for the investigation department which has a clear and urgent need for additional positions.

2. Fiscal

MBON performed a preliminary licensure fee assessment to review the existing fee structure and to evaluate whether current fees can adequately support MBON's operations and fiscal responsibilities. It was observed through this assessment that inflation alone has increased 28% since 2008. Yet, licensure and certification fees have not been adjusted or raised in 13 years. It is recommended that MBON perform a more comprehensive licensure fee study by surveying legislative and regulatory language from neighboring state Boards of Nursing, and by calculating a percent of income that would be cost effective for licensees and certificate holders.

3. Enterprise Licensing and Regulatory Management Solution (IT)

MBON has two antiquated IT systems for licensing and credentials that are due for replacement over a five-year period but at the moment neither system interfaces with the other. Moreover, there is no call center/IT resources to track incoming calls and emails. This leaves the staff to field daily phone calls and emails who must stop processing documents to handle client requests. Some constituents send multiple emails to multiple accounts leaving staff to duplicate efforts to resolve problems. Inbound phone volume is so high that staff members often cannot call out as all lines are blocked.

MBON requires an IT system capable of the management of every aspect of licensing and discipline. The IT solution at MBON is estimated at \$9M for acquisition alone (not including ongoing maintenance and software fees) which is more than the total annual budget of MBON in 2021. An upcoming Joint Chairmen's Report from MDH will be providing an update on the progress of the Major Information Technology project provides and MBON's transition to the updated IT system.

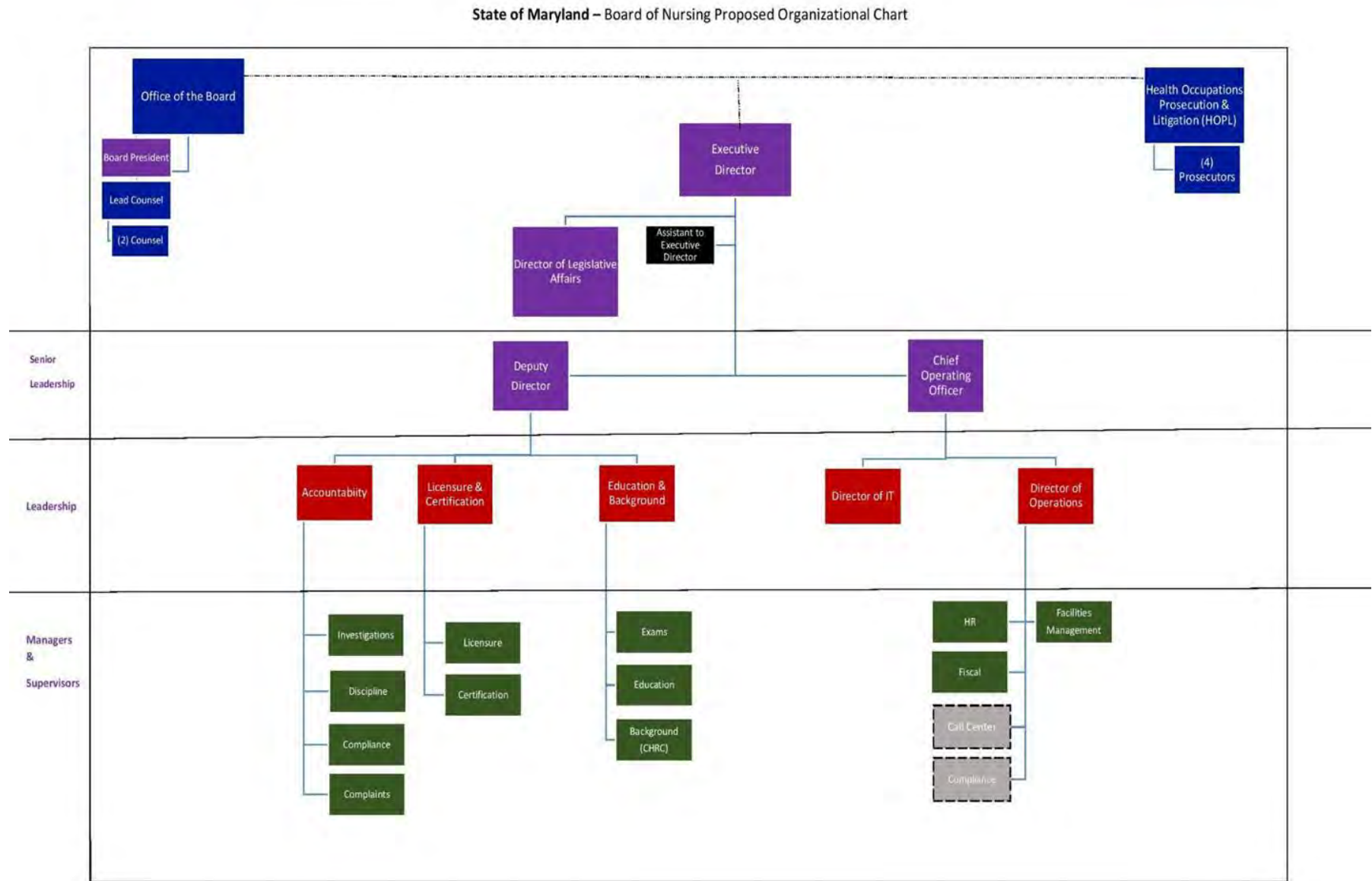
4. Leadership Structure

As MBON strives to make meaningful, permanent changes to accomplish its mission, leading from the top is critical. The Hagerty consultant working with MBON assisted with constructing a new organizational structure (Figure 2), based on hours of interviews with leadership at all levels. It has been endorsed by the ED who shared it with the leadership team.

The new organizational chart implements one of the recommendations from the 2013 MAGI report to reduce the ED's supervisory responsibilities by reducing direct reports from 12 to 4. This new paradigm reduces opportunities for micromanagement and frees the ED to be externally facing while the Deputy Director manages day-to-day operations. It also helps to grow leaders throughout the organization by empowering them to lead their divisions and departments.

Completing the ED's cabinet must be a priority to maximize the ED's effectiveness as a leader. Priority hires should include the Director of Legislative Affairs (DLA) and Director of IT. To fill the DLA position, a recommendation is to contract with the previous DLA and 20-year MBON veteran, on a short-term, part-time basis, to help lead the search and provide critical advice in other divisions during this time of transition and rebuilding at MBON.

Figure 2: MBON Organizational Chart



VI. Previous Legislative Reports

Over the past 11 years, three legislative reports have been completed that outline MBON's challenges. These reports can be found in the Appendix.

- Dec 2010 - Sunset Review
- Dec 2013 - MAGI - Management and Personnel Study
- Jan 2021 - OLA Report

VII. COVID-19 Response

Since March 2020, MBON has worked diligently to navigate and address the complexities that have arisen with the COVID-19 pandemic.

Communication Initiative

MBON utilized several methods of communication to actively engage and update the community on nursing and State related business. All Federal and State Executive Orders had been published on the Board's website, and email blasts were used to communicate urgent and/or important licensure and certification updates. The Board continued to hold monthly open session meetings to allow constituents to voice their concerns and bring awareness to any challenges they faced while in the field. Additionally, MBON regularly scheduled 'Lunch with the Board' meetings by inviting nursing leaders and stakeholders. These meetings addressed concerns related to assisting new graduates in receiving their license, allowing nursing and CNA programs to temporarily administer hybrid programs, and increasing the seating capacity for NCLEX testing. The ED had also presented at 4 – 5 State wide summits to discuss how COVID-19 had affected the nursing workforce in Maryland.

Regulatory Initiative

As a response to the concerns presented by constituents, the Board not only relaxed nursing regulations to fulfill the need for healthcare workers, they had also adopted federal and state waivers for nursing education and training. The Board allowed nursing graduates to practice in the field, without a license but under direct supervision, for a longer period of time. Additionally, the Board expanded the scope of practice for RNs, LPNs, CNAs, and GNAs. Since April 2020, MBON has continued to meet monthly with the Health Facilities Association of Maryland (HFAM), Life Span, and Leading Age to discuss workforce shortages in assisted living, skilled nursing, and long term care facilities. From this discussion, MBON had adopted the federal CMS waiver that waived traditional CNA education and instead allowed temporary nurse aides to work.

Licensure Initiative

To address the Governor's Executive Order on licensure renewal and expiration, the Board allowed nurses to submit renewal applications online and within 365 days past expiration as opposed to the mandatory 30 day grace period. Additionally, MBON has permitted nurses that have a valid license from non – compact states to practice within Maryland without having to

apply for endorsement. This has reduced the burden of cost and time for nurses in being granted a single state license. The Board, however, is expecting to be inundated with endorsement applications as the federal public health emergency ends.

Collaborative Initiative

The ED has continued to work closely with the National Council of State Boards of Nursing (NCSBN) to survey nationwide nursing initiatives to combat the COVID-19 pandemic and prevailing workforce shortage, in hopes of adopting successful initiatives in state of Maryland.

Since July 2021, MDH and MBON leadership has actively engaged with stakeholders including HFAM, the Maryland Hospital Association (MHA), Life Span, and Leading Age to encourage licensees and certificate holders to submit renewal applications, and to provide updates on MBON's progress on processing applications and the number of licensees and certificate holders who have not yet applied for renewal. MBON has also facilitated a partnership with stakeholders whereby they (HFAM, MHA, etc.) could submit lists of licensees and certificate holders directly to MBON to ensure pending applications were processed.

VIII. Conclusion

The purpose of this report was to inform the Maryland General Assembly (MGA) of MBON's current staffing levels given current workloads, and provide a discussion of the Board's role in COVID-19 recovery in the State, and further staffing needs that may have arisen in fulfilling this duty. Despite the challenges outlined in this report, MBON continues to work diligently to evaluate and improve its strategies to provide timely and efficient service to its external and internal constituents. The Board recognizes that the adoption of recommendations will be an ongoing process, but will proactively evaluate its progress and enhance its operations to meet the community's needs.



Maryland Board of Nursing Joint Chairmen's Report (JCR) Fiscal Year 2021 Appendix

- I. 2013 General Assembly Study of MBON
- II. 2010 Sunset Review Recommendations
- III. 2021 OLA Report



MARYLAND
DEPARTMENT OF
BUDGET & MANAGEMENT

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lieutenant Governor

T. ELOISE FOSTER
Secretary

DAVID ROMANS
Deputy Secretary

December 1, 2013

The Honorable Joan Carter Conway
Chairman, Education, Health & Environmental Affairs Committee
2W Miller Senate Office Building
Annapolis MD 21401-1991

The Honorable Peter A. Hammen
Chairman, Health & Governmental Operations Committee
241 House Office Building
Annapolis MD 21401-1991

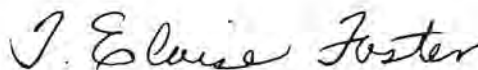
Dear Chairman Conway and Chairman Hammen:

Section 2 of Chapter 621 of the Acts of the 2012 General Assembly (Senate Bill 921) required the Department of Health and Mental Hygiene (DHMH), in consultation with the Department of Budget and Management (DBM), to contract with an independent entity to perform a management and personnel study for the State Board of Nursing. The language further required DBM to oversee the performance of the study and report the results to the Senate Education, Health and Environmental Affairs Committee and the House Health and Government Operations Committee. In accordance with this request, DHMH, in consultation with DBM, issued a request for proposals and contracted with the Management Advisory Group International, Inc. to conduct this study.

The attached report includes an analysis of the organizational structure of the State Board of Nursing and an evaluation of workload, personnel, and overall operations. As a result of that analysis, the report contains a number of recommendations to improve the Board's overall management, structure, and resource allocation.

If you have any additional questions, please contact me at 410-260-7041.

Sincerely,



T. Eloise Foster
Secretary

Enclosure

~Effective Resource Management~

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<http://www.dbm.maryland.gov>

cc: The Honorable Joshua Sharfstein, MD, DHMH
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Sara Fidler, DLS
Cindy Kollner, DBM
Rebecca Burner, DBM

Management and Personnel Study (Final Report)

for

Maryland Board of Nursing



September 30, 2013

By:

**MANAGEMENT ADVISORY GROUP
INTERNATIONAL, INC.**

13580 Groupe Drive, Suite 200
Woodbridge, Virginia 22192
(703) 590-7250



September 30, 2013

Ms. Cindy Kollner
Department of Budget and Management
Maryland Department of Health and Mental Hygiene
301 W. Preston Street, Room 609
Baltimore, MD 21201

Dear Ms. Kollner:

Management Advisory Group International, Inc. (MAG) is pleased to present this final report for technical services for a Management and Personnel Study for the Maryland Board of Nursing.

We appreciate the opportunity to be of service to the Board of Nursing and look forward to continuing our work with you on this important project.

Sincerely,

Donald C. Long, Ph.D.
President
Management Advisory Group International, Inc.
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MARYLAND BOARD OF NURSING

FINAL REPORT

MANAGEMENT AND PERSONNEL STUDY

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SECTION 1.0

EXECUTIVE SUMMARY

Section 1: Executive Summary

Project Goals and Objectives:

The Maryland Department of Health and Mental Hygiene (DHMH), in consultation with the Department of Budget and Management (DBM), issued a Request for Proposals (RFP) to contract with an independent entity to perform a management and personnel study of the Maryland Board of Nursing (MBON). The RFP indicated that the study to be performed should include an analysis of the organizational structure, the workload and personnel of the MBON and make recommendations as to the appropriate number, levels and types of staff for the MBON.

Major Project Phases:

- ✓ Project Initiation and Refinement of Approach
- ✓ Conduct Initial Interviews and Analysis
- ✓ Conduct Analysis and Develop Findings
- ✓ Develop Recommendations
- ✓ Prepare Preliminary Report by September 9, 2013
- ✓ Provide Final Report

Major Findings:

- ✓ MBON organizes largely along functional lines. Administrative and operational activities are mixed within the departments. Some operational work is being completed in the administrative functions and vice versa.
- ✓ The span of control for the Executive Director is somewhat broad, as 12 positions report directly to the Executive Director.
- ✓ In addition to the current 77 PIN positions, there appear to be four (4) Contractual positions within the agency, for a total of 81 positions.
- ✓ The number of licensees and certifications has risen by 24.4% or by 88,584 in the last two years.
- ✓ Annually, the number of denials has increased slightly for the RN's and LPN's, and has decreased substantially for the CNA's and CMT's.
- ✓ In the last two years, the overall number of new complaints has increased approximately one-third.
- ✓ Policies and the procedures related to CHRC's have been reduced to writing. MAG encourages better communication of these policies and procedures within the MBON organization and staff, as well as selective placement of them on the website.
- ✓ The website is antiquated.

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- ✓ CHRC's have had a crippling effect on Information Systems' ability to conduct their work and tasks associated with IT.
- ✓ The Deputy Director position is underutilized.
- ✓ There is no policy and procedures manual for MBON.

Major Recommendations:

- ✓ Consolidate operational responsibilities under the Deputy Director.
- ✓ Reassign Electrology from Administrative Services to the Department of Nursing Practice.
- ✓ Create two (2) additional high level positions in Information Systems, through upgrades to existing positions.
- ✓ Create the CHRC function as a stand-alone department reporting under the Deputy Director. Positions are moved from Information Systems to the new department.
- ✓ Delay seeking legislation to require CMTs to submit to CHRCs, until organizational efficiencies are achieved in the newly designed CHRC Department.
- ✓ Add two additional staff to MBON in the following classifications; one (1) Administrative Specialist II, and one (1) Nursing Program Consultant Admin I.
- ✓ Create and send out an RFP to totally redesign the website.
- ✓ Regularly update personal information regarding disciplinary action and other remedial actions for applicants and licensees/ certificate holders.
- ✓ Evaluate equipment needs in each department (computers, scanners, printers, etc.) to determine proper equipment to expedite the processing of critical paperwork.
- ✓ Update MBON's computer system in order to move towards a paperless environment.
- ✓ Create a policies and procedure manual.
- ✓ Identify additional key areas where cross-training of personnel will be most beneficial to application processing.
- ✓ Customer service survey questions should be revised. Customer service training should be added to the call personnel at MBON.
- ✓ MBON should hold weekly department head meetings.

SECTION 2.0

PROJECT UNDERSTANDING AND APPROACH

Section 2.0 – Project Scope and Approach

2.1 – Background

The Maryland Department of Health and Mental Hygiene (DHMH), in consultation with the Department of Budget and Management (DBM), issued a Request for Proposals (RFP) to contract with an independent entity to perform a management and personnel study of the Maryland Board of Nursing (MBON). The RFP indicated that the study to be performed should include an analysis of the organizational structure, the workload and personnel of the MBON and make recommendations as to the appropriate number, levels and types of staff for the MBON.

The preliminary report was to be completed by September 9, 2013, and the study must be completed on or before October 1, 2013.

2.2 – Scope of Work

The RFP identified critical areas of review for the project. They included:

A. Include an analysis of the workload of the MBON related to its licensure, certification, and complaint resolution functions.

MAG requested a variety of historical and current data from the MBON in reference to work load and program information for the MBON current programs. This included licensure data, certification data, and the number and types of complaints within the last several years. In addition to reviewing the number of applications, complaints, licenses and certifications, MAG reviewed the number of positions assigned historically and currently, to the various functions. Time estimates for the various administrative actions in support of the issuances have been considered through observation and personal interviews with management and staff.

B. MAG is to consider at a minimum:

- 1. The number of applications and complaints received by the MBON;**
- 2. The number of employees assigned to each step of each function; and,**
- 3. The amount of time an application or complaint remains at each step of each function.**

MAG has attempted to capture and review the data noted above through existing reports, memos, and supporting sources such as current databases. The various steps in each of the major processes will be documented through interactions with management and staff. A determination of whether the staff and time resources dedicated to the various functions are sufficient was reviewed with management and staff. MAG also reviewed the recent Sunset Review report.

C. Include an analysis of the impact on staffing needs of new processes.

MAG has reviewed, as appropriate, and where desirable, new processes or approaches for handling the work load in the agency. New processes should be expected to have a positive impact on the amount of time required to handle the work. MAG will estimate the number of staff that can be eliminated or re-directed to areas where the service level may be lower than desired. Consideration of the effect of the biennial licensing of nurses has been taken into consideration.

D. Make recommendations on:

1. The most effective use of existing staff;

MAG will make recommendations in reference to how existing staff may be more fully utilized. This can be accomplished through movement of functions and sub-activities to another office, and the re-purposing and re-focusing of work being done by positions.

2. Cross training of existing staff;

MAG will identify the major skill needs in the different functions to establish where there may be gaps or deficiencies. This has been done through in-depth discussions with management, staff, and HR. The areas where cross-training is appropriate are identified and prioritized.

3. Potential reassignment or realignment of existing staff.

MAG was requested to identify opportunities where positions can properly be re-purposed and re-focused in terms of their work efforts. There also may be situations where reorganization of positions and functions will be appropriate to maximize the service levels and the work being done in the agency.

4. Additional deployment or activation of currently available but unused online functionality.

MAG assigned its own IT Director the task of reviewing the MBON's online functionality, to assist in determining whether there are opportunities for improvement, expanded deployment, or further activation of specific functionalities. This has been supplemented by input from managers and supervisors within the agency, who bring their informed views of possible changes and adjustments.

5. Best practices regarding licensure and complaint resolution processes.

MAG solicited input from agency management to identify other Boards of Nursing that are considered agencies of excellence and/or are similar in size and requirements. MAG has reviewed selected major practices that may be beneficial for implementation in MBON.

6. The development of policies and procedures related to the handling of positive CHRC's.

MAG understands that positive backgrounds are reviewed by the Board prior to issuing a license. If the background check indicates arrests and/or convictions, additional information is requested from the applicant. The Board may deny licensure of an applicant, license the applicant with or without probation, or issue charges against a renewal applicant. MAG has reviewed this process in terms of the major procedures and handling to determine if improvements can be made.

7. Additional staffing requirements, including the use of contractual employees during the period that the MBON is transitioning to a fully-online application process.

MAG, through observation and interviews with management and staff, and the evaluation of work load data, has made recommendations as to the viability of using contractual employees as MBON moves towards a more automated application process.

MAG has considered the MBON's efforts to:

- A. Automate its applicant tracking system; (where data is available, comparison will be made to staff dedicated before and after implementation);
- B. Conduct cross-training, develop policies and procedures manuals, update its organizational chart and job descriptions for staff members; (MAG will review the agency's efforts in all of these areas to determine any impact on staffing level needs and requirements);
- C. Prioritize the certification of medication technicians;
- D. Move to biennial licensure and certification; (where data is available, comparison will be made to staff dedicated before and after implementation);
- E. Transition to online processing of initial applications for licenses and certifications, in addition to renewal applications, which already are online;
- F. Maintain annual data on the number of applicants denied licensure or certification based on positive CHRC results or, in the case of CMT applicants, self-disclosure of a criminal history;
- G. Evaluate the need to conduct CHRC for CMT's in light of the current self-disclosure policy;
- H. Develop and produce a catalog of complaint data reports to analyze the need for staffing and automation changes and improve overall the complaint resolution process;
- I. Assess its complaint backlog and, as necessary, hold additional hearings;
- J. Enhance the ability of consumers and the public to access information by improving the quality of service provided by call center operators, revamping the customer satisfaction survey, improving the MBON's website, and re-establishing an online newsletter;

2.3 – Project Approach

TASK 1.0: INITIATE PROJECT

Objectives:

- To gain a more in-depth understanding of the study background and the Board goals and expectations.
- To establish a mutually agreeable work plan, schedule, and progress monitoring procedure that will successfully meet the study expectations.
- To identify and collect key documents.

Activities:

- 1.1 Met with the Project Manager and appropriate key management staff to discuss our proposed objectives, scope, approach, work plan, schedule, and progress monitoring procedures. Any concerns or suggested modifications were discussed and plans revised, as appropriate.
- 1.2 Obtained and reviewed key documents, including:
 - relevant organization charts and employee data;
 - budgets and financial reports;
 - current audit documentation;
 - service level descriptions and background;
 - key management and operational reports; and
 - relevant policies.
- 1.3 Finalized the work plan and established consultant schedules with calendar dates for completing tasks.

Deliverables:

- Final Work Plan and Schedule

TASK 2.0: CONDUCT INITIAL INTERVIEWS AND ANALYSIS

Objectives:

- To collect the factual information needed in support of project objectives.
- To obtain management opinions and perceptions regarding major procedures, policies, staffing issues or concerns.

Activities:

2.1 Scheduled and conducted interviews. The objectives of these interviews were to:

- confirm breadth/scope of all functions;
- obtain information regarding historical practices, policies, and guidelines;
- understand organization-wide issues, needs and concerns; and
- request and evaluate key documents and data and determine its availability, reliability and source;
- conduct interview sessions with MBON department heads to identify issues of concern that may impede excellence.

2.2 Collected pertinent management and personnel documents and data including:

- annual reports;
- adopted budget;
- workload data;
- recent progressive improvements;
- organization chart;

Deliverables:

- Interviews and data collection meetings.

TASK 3.0: CONDUCT ANALYSIS AND DEVELOP FINDINGS

Objectives:

- To analyze and evaluate organizational staffing, policies and practices.
- To review best practices and determine feasibility of change.

Activities:

- 3.1 Analyzed the management and personnel data and other study information to identify improvement opportunities in all relevant study areas noted in RFP section 3.2.1.
- 3.2 Identified possible costs and cost savings during the analysis.
- 3.3 Reviewed the findings and conclusions to assure that factual information is complete and accurate and that the conclusions are justified.
- 3.4 Verified facts and/or collected additional information to formulate conclusions.
- 3.5 Communicated with other MBON's regarding best practices.
- 3.6 Met with the Project Manager to discuss key issues and concerns relative to management and staffing and organizational issues.

Deliverables:

- Study Findings and Conclusions

TASK 4.0: DEVELOP RECOMMENDATIONS
--

Objectives:

- To develop recommendations for RFP areas reviewed during Task 3.0.

Activities:

- 4.1 Consolidated the findings and conclusions developed during Task 3.0 and developed a recommendation for each significant finding identified. The recommendations will be based on:
 - Workload data;
 - Current and future demands;
 - Effectiveness and efficiency changes;
 - Consideration of all mandated programs;
 - Alternative approaches for service provision;
 - All related study issues.
- 4.2 Developed recommendations that are beneficial, realistic and implementable.
- 4.3 Refine recommendations, as appropriate.

Deliverables:

- Series of Recommendations

TASK 5.0: PREPARE PRELIMINARY REPORT BY SEPTEMBER 9, 2013

Objectives:

- To prepare a preliminary report documenting the study results.
- To discuss the preliminary report with the Project Manager and obtain comments.

Activities:

5.1 Prepared a preliminary study report. The report will include:

- executive summary;
- study objectives and methodology;
- findings and conclusions; and
- recommendations.

5.2 Discuss the preliminary report, and note comments and any suggested revisions.

Deliverables:

- Preliminary Study Report

TASK 6.0: PREPARE FINAL REPORT

Objectives:

- To revise the preliminary report and prepare the final study report.

Activities:

6.1 Revised the preliminary report, as appropriate, based on the comments and suggestions made during discussions.

6.2 Prepared and issue the final study report.

6.3 Present findings and recommendations to the Board.

Deliverables:

Final Study Report

SECTION 3.0

FINDINGS

Section 3: Findings and Current Situation

This section of the report will identify findings and will define the current situation in the organization, without analysis and recommendations. It will help the reader understand the Board of Nursing as it currently exists, without judgment or conclusions as to appropriateness or validity. The initial areas for findings include:

- ✓ Organization Structure
- ✓ Staffing
- ✓ Workload
- ✓ Major Processes
- ✓ Policies and Procedures
- ✓ Customer Service
- ✓ Administrative Issues

3.1 Organization Structure

The only overall organization chart provided to MAG was in the Request for Proposals. It appears to be generated through an Excel program. It shows the working titles of the department heads and various functions completed in their departmental areas. MAG has reproduced this chart in the first exhibit (Exhibit 3-1). Also, the same overall chart was reproduced using the state of Maryland's classification titles (Exhibit 3-2).

Although requested, MBON staff was not able to provide organization charts for the various departments. MAG has used various staffing reports to create the individual department organization charts to ensure that the reader is clear on the current organization structures.

The following pages illustrate the positions and the current reporting relationships, as can best be determined through interviews, research, and supporting report documents. The exhibits are:

Exhibit 3-1: MBON Functional Organization Structure with Working Titles

Exhibit 3-2: MBON Functional Organization Structure with State Titles

Exhibit 3-3: MBON Department Chart for Advanced Practice

Exhibit 3-4: MBON Department Chart for Investigations

Exhibit 3-5: MBON Department Chart for Legislation

Exhibit 3-6: MBON Department Chart for Information Systems and CHRC

Exhibit 3-7: MBON Department Chart for Discipline and Rehabilitation

Exhibit 3-8: MBON Department Chart for Administrative Services

Exhibit 3-9: MBON Department Chart for Nursing Practice

Exhibit 3-1. MBON Functional Org Chart with Working Titles

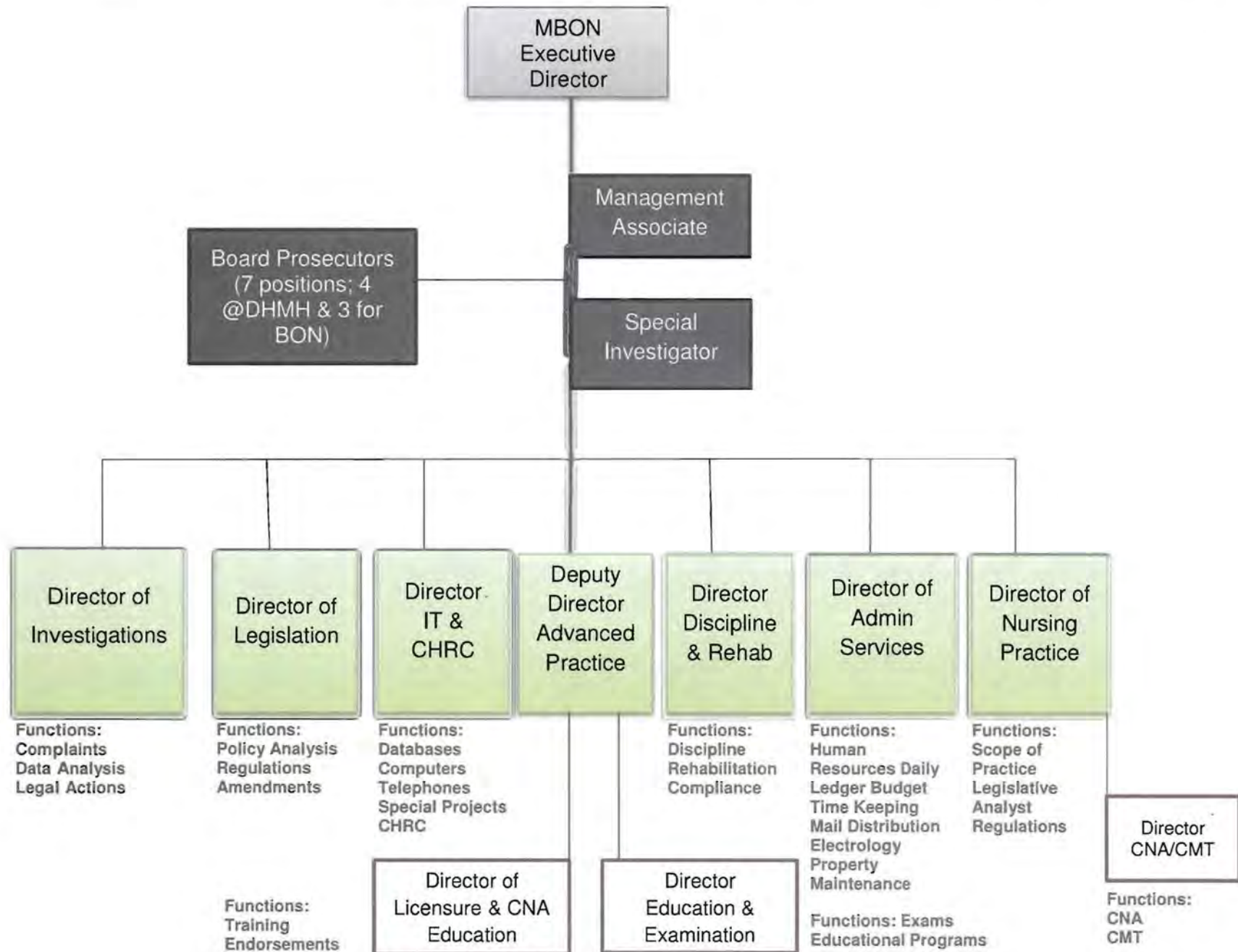


Exhibit 3-2. MBON Functional Org With State Titles

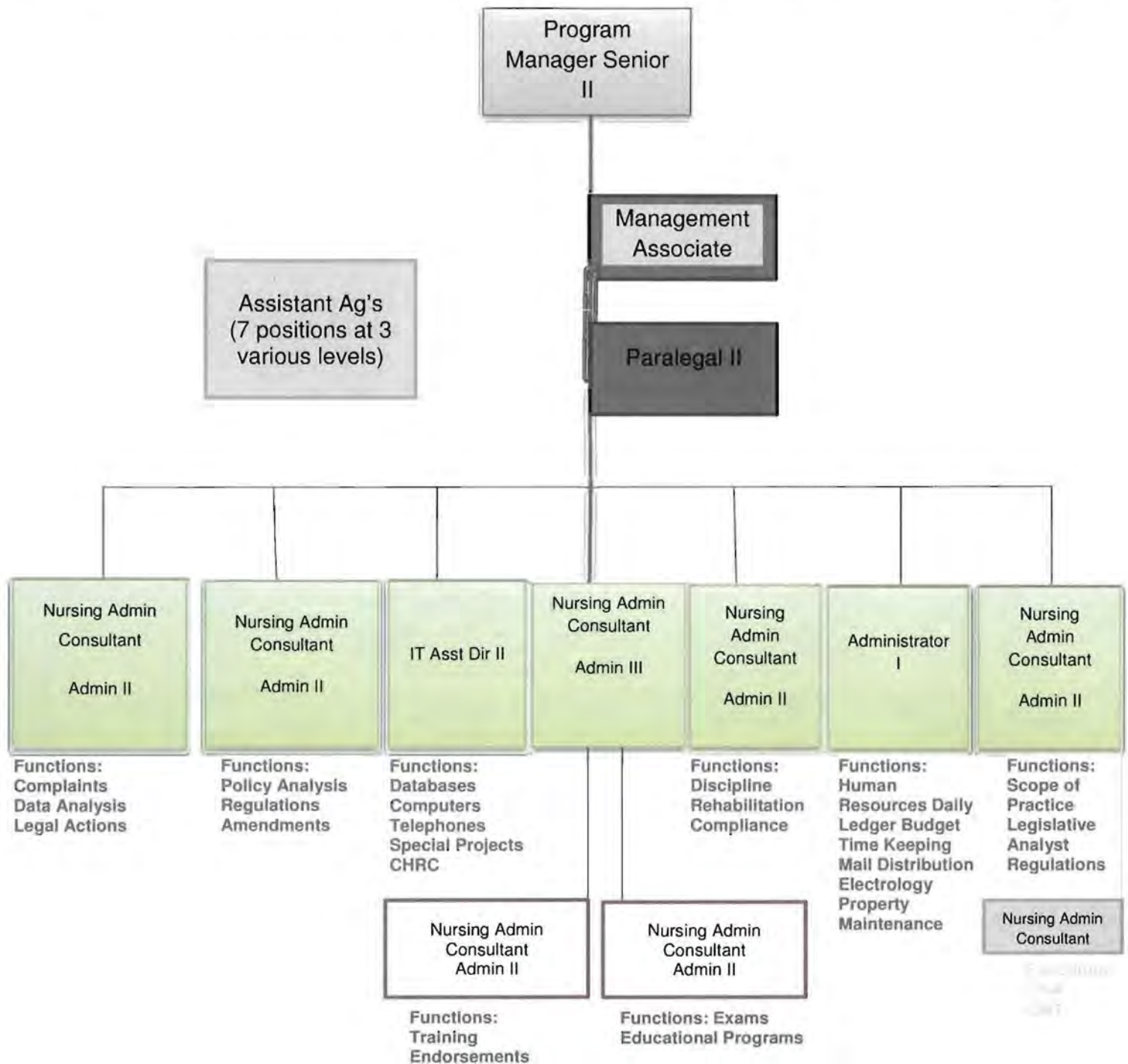


Exhibit 3-3. Department Chart Advanced Practice

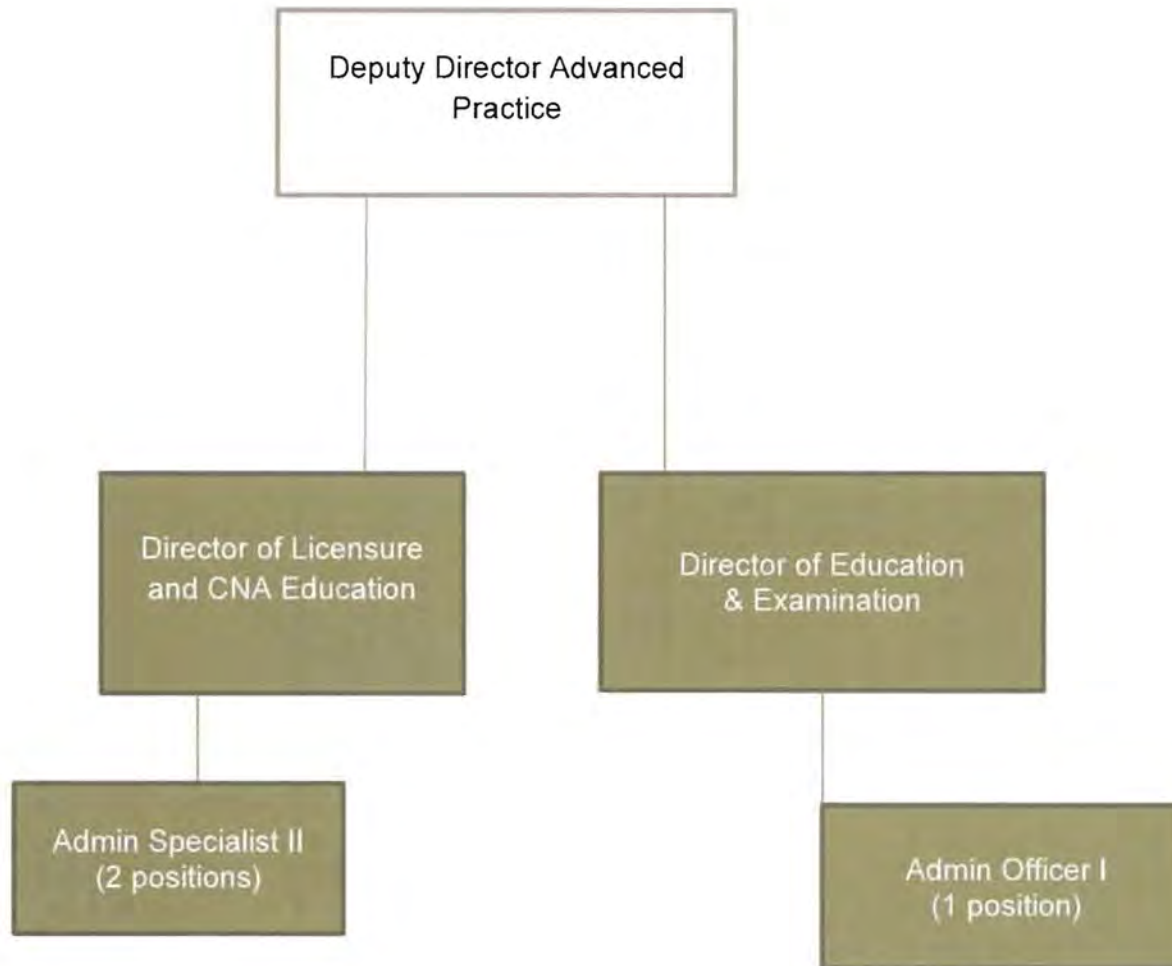


Exhibit 3-4. MBON Department Chart-Investigations



Exhibit 3-5: MBON Department Chart Legislation



Exhibit 3-6: MBON Department Chart Info Sys & CHRC

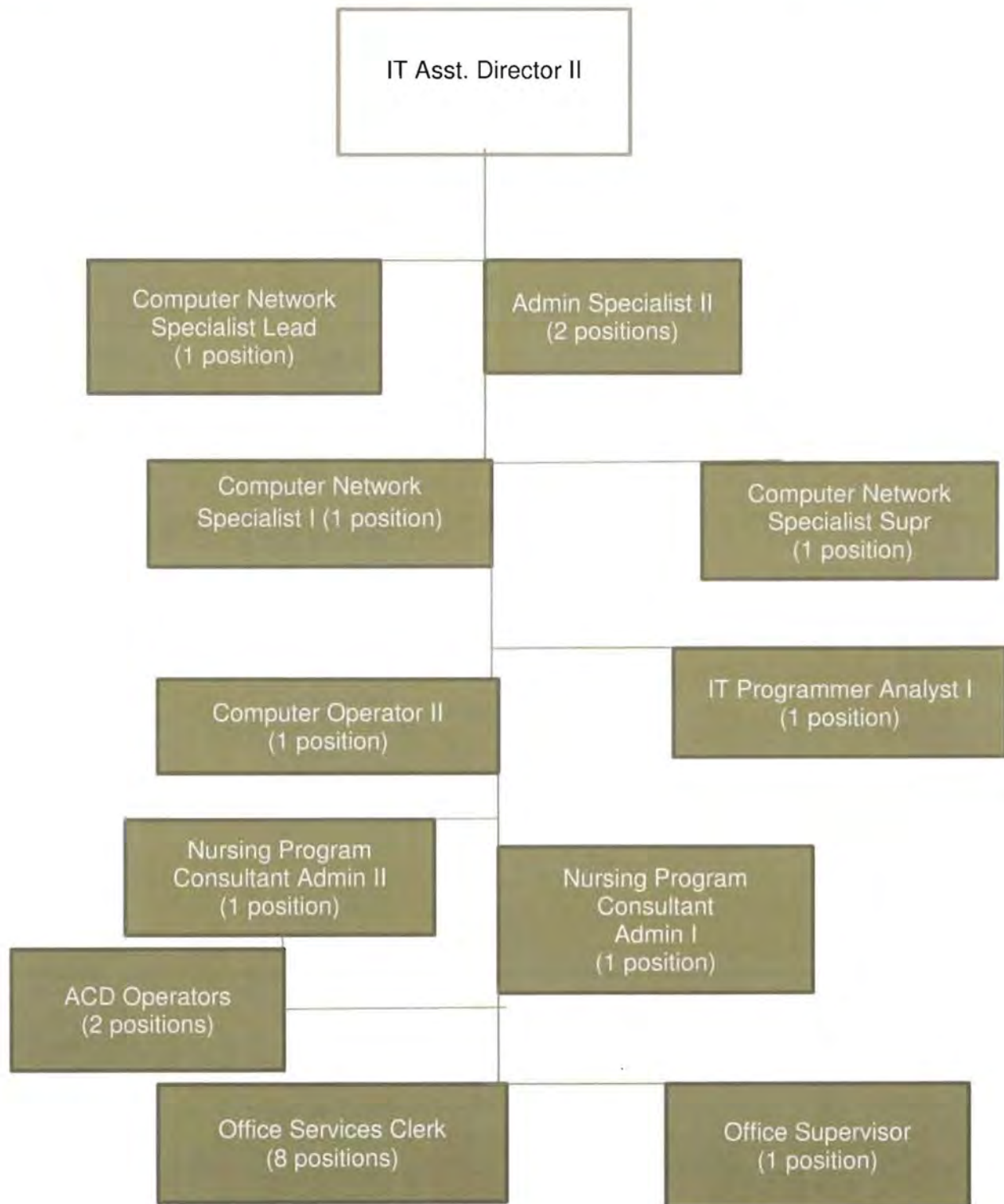


Exhibit 3-7. MBON Department Chart Rehab

Director of Discipline &
Rehabilitation

Paralegal
(2 positions)

Compliance Officer for
CNA's
(1 position)

Office Secretary III
(1 position)

Compliance Officer for
RN's
(2 positions)

Office Secretary I
(1 position)

Office Secretary II
(1 position)

Office Service Clerk
(1 position)

Exhibit 3-8. MBON Department of Admin Services

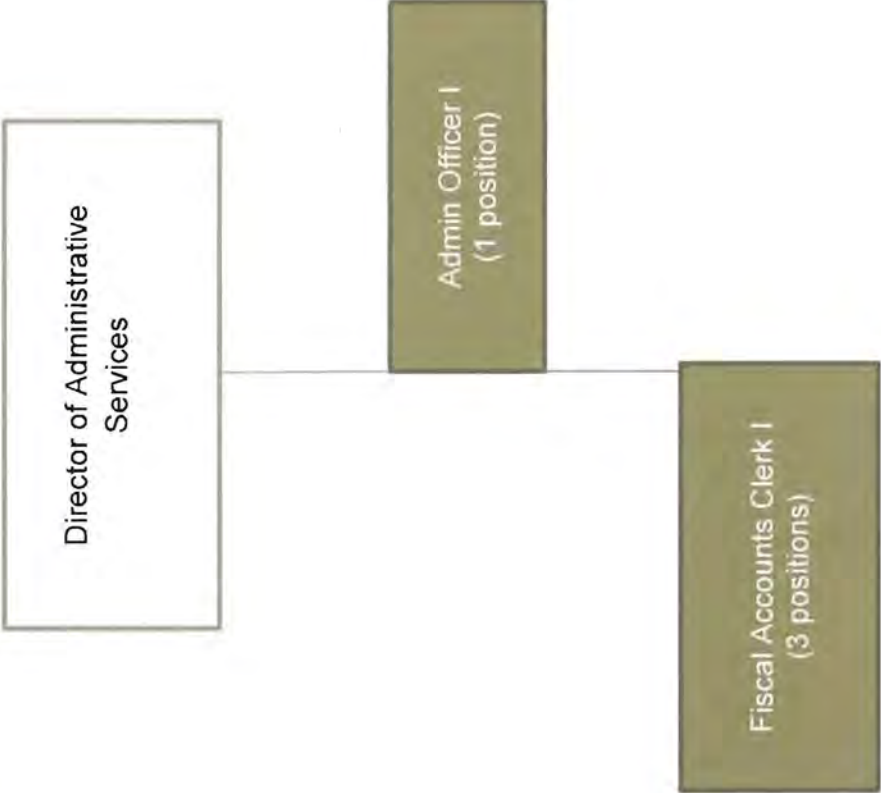
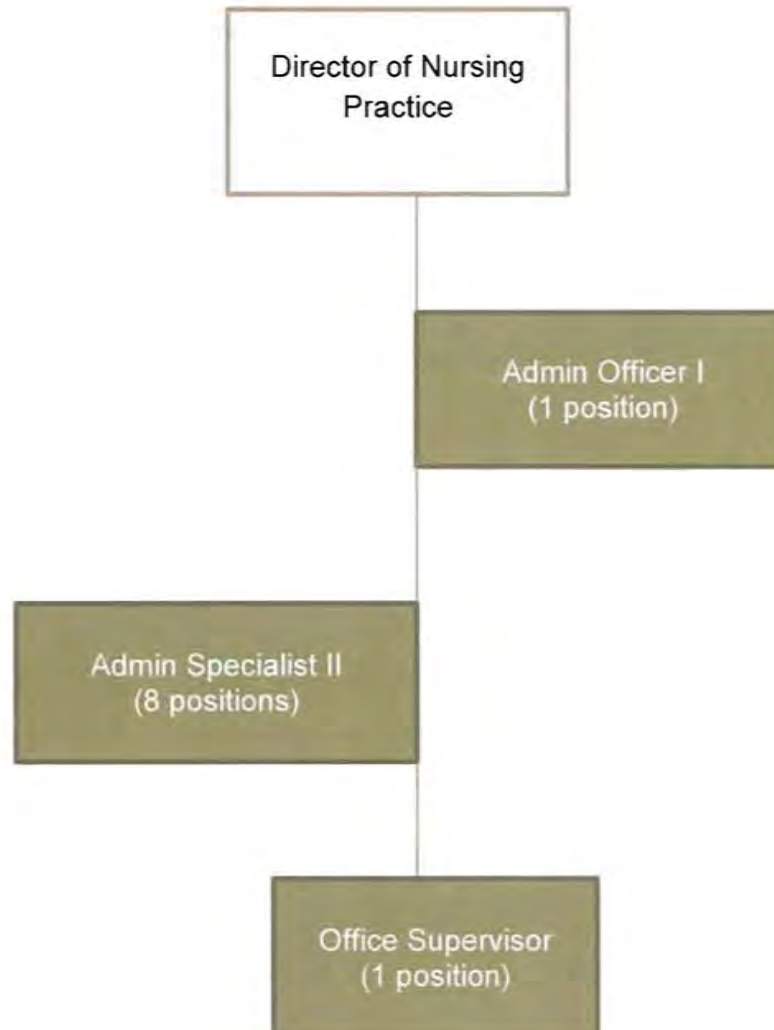


Exhibit 3-9. Department of Nursing Practice



3.1.1 MBON is Organized Functionally

In terms of the overall organization chart, whether reviewing the overall MBON chart with working titles or with state of Maryland formal job titles, one can see that the MBON organizes largely along functional lines. This reflects the various functional areas, such as Advanced Practice, Nursing Practice, Rehabilitation and Discipline, and Investigations. Support work to ensure success in the mission is completed by Administrative Services, Legislation, and Information Systems.

There appears to be some operational work being completed in the administrative functions. For example, the CHRC process is assigned to Information Systems. Also, the Administrative Services Director serves as the liaison between the Electrologists and the Board of Nursing. This includes setting up and attending quarterly meetings for the Electrology Committee, responding to inquiries from the public about obtaining an Electrology license, approval of CEUs, ensuring that renewal applications are sent in a timely manner yearly and reviewing and approving of applications for licensure.

The overall chart includes seven (7) legal positions that perform key legal work for the MBON. Four (4) of the Assistant Attorney General positions work outside of MBON in support of MBON needs, while three (3) Assistant Attorney General positions work inside of the organization in support of Board needs.

It appears that seven (7) department head positions report directly to the MBON Executive Director. In addition, there is a Management Associate, a Special Investigator, and the three (3) Assistant Attorney General positions that report directly to the Executive Director. This is a total of 12 positions reporting directly to the Executive Director. The legal positions work somewhat independently and typically do not require substantial supervision.

3.2 Staffing Levels

According to state of Maryland (DBM) records, there are 77 Permanent Identification Numbers. The following table summarizes these positions, by job classification.

Exhibit 3-10

Filled and Vacant MBON Positions, by Job Classification

State Title	# Filled	# Vacant	Total
ADMIN OFFICER I	5	1	6
ADMIN SPEC II	14	2	16
ADMIN SPEC III	1	0	1
ADMINISTRATOR I	1	0	1
ASST ATTORNEY GENERAL	7	0	7
COMPUTER NETWORK SPEC I	1	0	1
COMPUTER NETWORK SPEC LEAD	1	0	1
COMPUTER NETWORK SPEC SUPR	1	0	1
COMPUTER OPERATOR II	1	0	1
FISCAL ACCOUNTS CLERK II	3	0	3
HLTH FAC SURVEYOR NURSE I	3	1	4
HLTH FAC SURVEYOR NURSE II	5	0	5
HLTH OCCUPATIONS INVEST III	1	0	1
HLTH OCCUPATIONS INVEST SUPV	1	0	1
IT ASST DIRECTOR II	1	0	1
IT PROGRAMMER ANALYST I	0	1	1
MANAGEMENT ASSOCIATE	1	0	1
NURSING PRGM CONSLT/ADMIN I	0	1	1
NURSING PRGM CONSLT/ADMIN II	7	0	7
NURSING PRGM CONSLT/ADMIN III	1	0	1
OFFICE SECY III	2	1	3
OFFICE SERVICES CLERK	6	2	8
OFFICE SUPERVISOR	2	0	2

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PARALEGAL II	2	0	2
PRGM MGR SENIOR II	1	0	1
Totals	68	9	77

In addition to the 77 PIN positions, there appear to be four (4) Contractual positions within the agency, for a total of 81 positions.

These positions are assigned to the various departments as follows:

Exhibit 3-11

MBON Positions per Department/Function

Department/Area	Number of Positions
Administrative/Legal	10
Deputy Director/Advanced Practice	6
Investigations	11
Legislative	2
Rehabilitation and Discipline	10
Administrative Services	5
Nursing Practice	12
Information Systems/CHRC	21
Total	77

3.3 Workload

The State Board of Nursing (MBON) licenses two levels of nurses: registered nurses (RN's) and licensed practical nurses (LPNs). Some licensed RN's also receive a certification of advanced practice status in addition to their licensure as an RN.

The Board certifies seven types of advanced practice nurses: nurse anesthetists, nurse midwives, nurse practitioners, infusion therapy nurses, sexual assault forensic examiner (SAFE) nurses, workers' compensation medical case workers, and nurse psychotherapists. Each type of advanced practice certification has specific requirements set out in regulation. Applicants for licensure as an RN or LPN and applicants for certification as a nursing assistant must submit to a criminal history records check (CHRC).

Nurses may also be licensed by endorsement. If an applicant is licensed in another state or country and meets requirements similar to those in Maryland, the applicant is eligible for licensure without taking the National Council Licensure Examination (NCLEX) or other examinations outlined in Board regulations.

The Board certifies nursing assistants (CNAs) and medication technicians (CMTs). CMTs are required to complete a Board-approved medication training program.

3.3.1 Licenses and Certifications

The following table (Exhibit 3-12) indicates the number of licenses and certifications issued since 2006. MAG has added the last two fiscal years of workload measures to the measures noted in the 2011 Sunset Review of the MBON.

A review of the workload measures for the last two (2) fiscal years indicates a continuing upward trend in licensing and certification. The following increases are noteworthy:

- Overall, the number of certifications and licenses issued increased by 18% between FY 2011 and FY 2012. Between FY 2012 and FY 2013 there was a 7% increase. During the 2011 to 2013 period, there was a 24.4% overall increase, or an increase of 88,584 licenses and certifications issued.
- The largest increases in licenses and certifications issued over the last two (2) years were for CNA's, CMT's, and Advanced Practice certifications.
- Between 2011 and 2013, the number of CNA certificates increased by 13%, or 17,230.
- Between 2011 and 2013, the number of CMT certificates increased by 14.3%, or 11,584.
- Between 2011 and 2013, the number of AP RN certificates increased by 15%, or 817.
- In terms of actual numbers, overall, the number of individuals licensed or holding certificates was 273,336 in FY 2011, and was 361,920 in FY 2013.

Exhibit 3-12
Licenses and Certifications Held
From the State Board of Nursing
Fiscal 2006-2013

<u>Type of Activity</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
Licenses/Certificate Holders								
RNs	58,216	55,860	73,818	74,683	74,104	74,884	76,857	76,292
LPNs	10,607	11,063	15,283	14,820	15,283	14,605	14,443	14,334
CNAs	48,623	47,598	81,391	98,869	107,112	114,527	124,757	131,737
CMTs	40,721	15,643	20,384	57,354	62,744	69,246	64,953	80,830
Electrologists	110	108	111	98	85	74	74	74
<u>Additional Workload Measures Related to Nurses</u>								
Advanced Practice Certifications Held by RNs	3,127	3,831	4,003	5,912	4,932	4,598	5,161	5,415
Licensure by Endorsement	2,704	2,091	2,456	2,599	2,812	2,696	2,331	2,646
New Licensee/Exams	2,942	3,095	3,095	2,881	3,240	3,485	3,731	3,737

Notes: The number of electrologists licensed annually is included in this chart as an indicator of the board's workload. Licenses and certifications associated with nurses were recently changed to biennially, whereas certifications for nursing assistants and medication technicians were previously, and continue to be, issued biennially.

Source: State Board of Nursing

3.3.2 Initial Licenses and Certificates Denied due to Criminal History

MBON duties have been expanded to include review of criminal history records checks (CHRCs) on three-fourths of all applicants for both initial and renewal certification and licensure. Review of CHRCs has increased the staff workload and required MBON to expand its staff and adopt new policies and procedures. Relatively few individuals have been denied licensure or certification based on a criminal history check since the requirements were adopted. Nationally, 36 state boards of nursing, including all but 5 of the 24 compact states, mandate CHRCs as a requirement of licensure. CHRCs are conducted by the Federal Bureau of Investigation (FBI) and by the Criminal Justice Information System (CJIS).

As shown in Exhibit 3.13, over the last two year period, a total of nine (9) RN applicants, seven (7) LPN applicants, and 11 CNA applicants were denied initial licensure or certification due to a positive CHRC result. Annually, the number of denials has increased slightly for the RN's and LPN's, and has decreased substantially for the CNA's and CMT's. Overall, the absolute number of denials and the percentage denied has decreased.

**Exhibit 3-13
Initial Licenses and Certificates Denied
Due to Criminal History
Fiscal 2007-2013**

Denial Due to Positive Criminal History Records Check Results According to License Type

Registered Nurses (2007 thru 2011)	3
Registered Nurses (2012)	5
Registered Nurses (2013)	4

Total	12
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Licensed Practical Nurses (2007 thru 2011)	3
Licensed Practical Nurses (2012)	4
Licensed Practical Nurses (2013)	3

Total	10
--------------	-----------

Certified Nursing Assistant (2007 thru 2011)	124
Certified Nursing Assistant (2012)	7
Certified Nursing Assistant (2013)	4

Total	135
--------------	------------

Denial Due to Self-reporting of a Criminal History

Certified Medication Technician* (2007 thru 2011)	105
Certified Medication Technician (2012)	8
Certified Medication Technician (2013)	5

Total	118
--------------	------------

Total Denied (2007 thru 2011)	235
Total Denied (2012)	24
Total Denied (2013)	16

Total Overall Denials	275
------------------------------	------------

*Certified medication technician certificate denials are based on self-disclosure of criminal history on the initial application. Criminal history records checks are not currently required of certified medication technicians.

Source: State Board of Nursing

3.3.3 Complaints

The 2011 Sunset Review indicated that the volume of total complaints handled by the MBON had increased significantly. The Board had a sizeable backlog of complaints carried over from prior years. MBON had not been able to meet its goals for the timely resolution of complaints.

From fiscal 2011 to 2013, the number of new complaints received by the Board has increased significantly across the board, and particularly for RN's and LPN's. The overall number of new complaints has increased approximately one-third.

Conversely, over the last two (2) years, the number of pending complaints has decreased for RN's, LPN's, and CMT's. The number of pending complaints for the CNA's has increased in the last two (2) years.

It appears that the Board's efforts to reduce the backlog have been quite successful.

Exhibit 3-14
Trends in Complaints Handled by the State Board of Nursing
Fiscal 2008-2013

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
<u>RNs and LPNs</u>						
Pending Complaints	1,584	1,496	1,748	1,468	1,000	1,097
New Complaints	689	849	1,146	1,381	2,844	2,449
Subtotal	2,273	2,345	2,894	2,850	3,844	3,546
<u>Nursing Assistants</u>						
Pending Complaints	679	1,132	1,105	348	806	988
New Complaints	1,026	988	1,052	1,235	1,850	1,968
Subtotal	1,705	2,120	2,157	1,583	2,656	2,956
<u>Medication Technicians</u>						
Pending Complaints	394	467	201	83	13	7
New Complaints	423	301	274	301	576	573
Subtotal	817	768	475	384	589	580
Total	5,282	5,233	5,526	4,817	7,089	7,082

Note: The board received one complaint about a licensed electrologist in fiscal 2012, which is not included in the total.

Source: State Board of Nursing

3.4 Major Processes

The major processes that are critical to the successful accomplishment of the overall mission of the MBON include the online and paper application processes.

The next pages identify the online application process for RN's/LPN's, CNA's and CMT's as well as the paper application process for CNA's and CMT's.

3.4.1 RN, LPN, Advanced Practice, CNA/CMT Online Renewal Application Process

The LPN/RN/Advanced Practice online renewal license process is currently done on-site via computers located in the second floor of MBON's offices (upper level) or online---from each applicant's home/library, and the CNA/CMT is done on-site via computer or paper on the first floor of MBON's office. Both renewal processes are as follows:

Step 1. Fill in application. Pay initial application fee set by MBON.

Step 2. Pay for and submit fingerprints, educational requirements, and CHRC forms---as required per the application instructions. Note that LPN/RN/Advanced Practice licenses are currently processed at the second floor (upper level offices) of MBON while the CNA/CMT certificates are processed on the first floor of MBON..

Step 3. Fingerprints are run through both the STATE and NATIONAL databases and sent back to MBON Information Systems in two (2) separate files that must be converted to compatible files for the MBON system and merged/cross checked against each name of each applicant. This is a lengthy, technical, and time consuming task at this time. CHRC's, which are required for RN's, LPN's, AP Licenses and the CNA's at this time also run through two avenues, STATE and NATIONAL, and then are processed via the same two step conversion/merging process as the fingerprints.

Step 4. If the fingerprints and CHRC's come back negative (free of any criminal blemishes---MBON term that indicates that the applicant has no misdemeanors, felonies, etc.) the license is issued and the applicant is free to begin working.

Alternate Step 4. If the fingerprints or CHRC's come back positive (those with criminal histories of any form or fashion---MBON term indicates possible arrests or convictions according to each applicant) then the application goes to the in-house legal counsel for further investigation and recommendations (currently 3 members). Information regarding those crimes is compiled from the investigation by investigators, 13 plus hard copies are produced/13 plus are copied to flash drives and distributed to the Board for review.

Step 5. The applicant is notified of this hearing (date and time) via postcard in the US mail. The Board (currently 13 members) meets to determine the next step in this process. Meetings are held monthly and usually 12 cases can be heard per meeting. Meetings last the entire day. The applicant can have counsel represent them in this hearing.

Because the Board only meets monthly this creates lag time in the initial application process, depending on what time of the month the applicant applied and also on the number of cases the Board can hear per meeting. Time in this step can vary from a few weeks to over one (1) year depending on the situation.

Step 6. The Board can determine whether or not to proceed with licensure depending on the CHRC and other information presented to them during, and prior to, the hearing. i.e. if the applicant has a DUI they (the applicant) may be required to spend a number of years/months doing some type of rehabilitation under the Board depending on what is determined by the Board. Conversely, if there is a felony and the circumstances dictate that a license should be denied the Board may act accordingly.

Step 7. The Board, once the applicant has been provided with a certification number, has a certificate printed on bonded paper. These are printed once a week and then labeled and then placed in the mail.

Exhibit 3-15, on the following page, is a flow chart depicting the application process for the RN, LPN, Advanced Practice, and CNA/CMT online renewal application process.

Exhibit 3-15. All Categories Online Renewal Application Process Flowchart

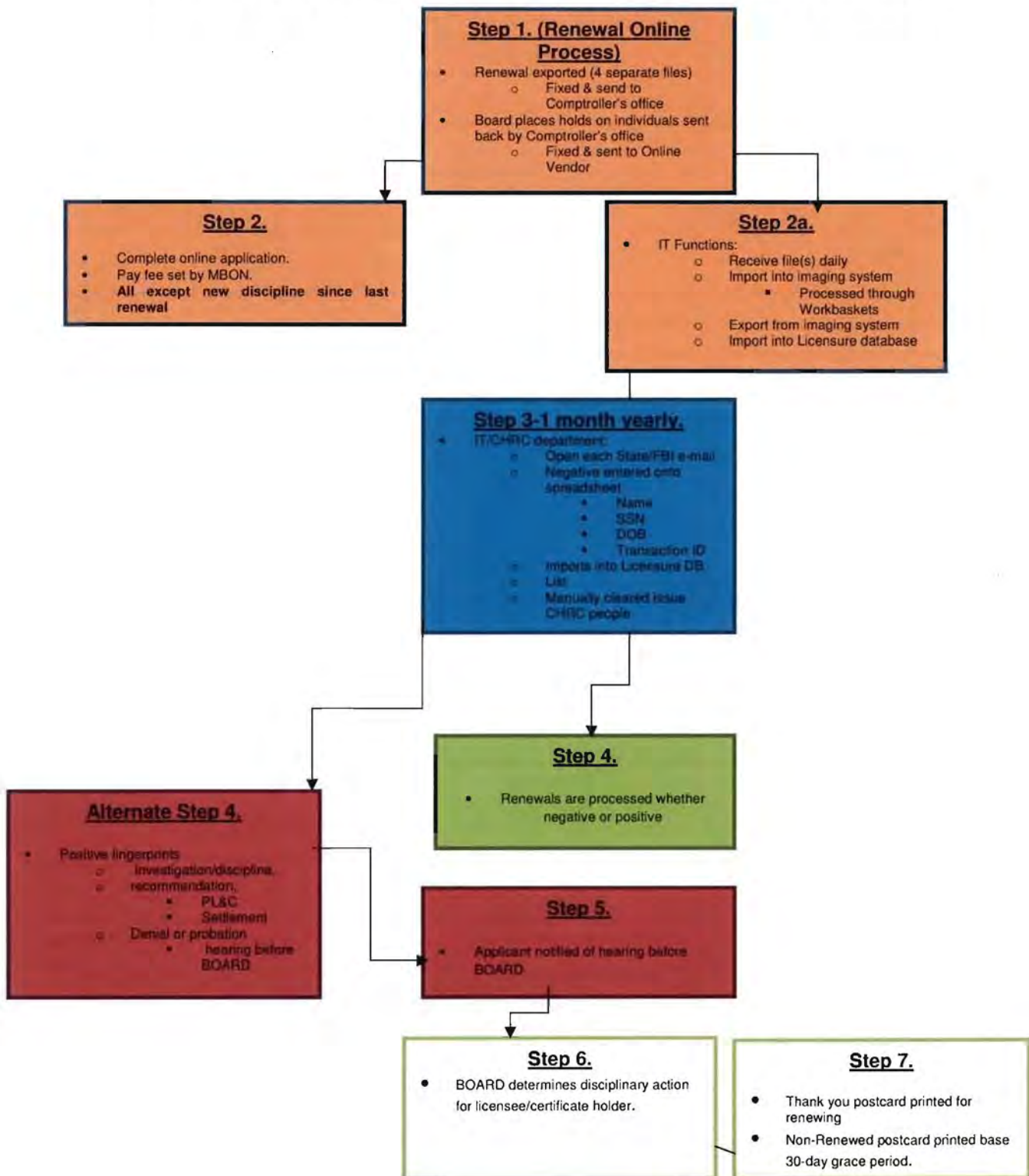


Exhibit 3.16.MBON LPN/RN/Advanced Practice Paper Renewal Application Process
Flowchart

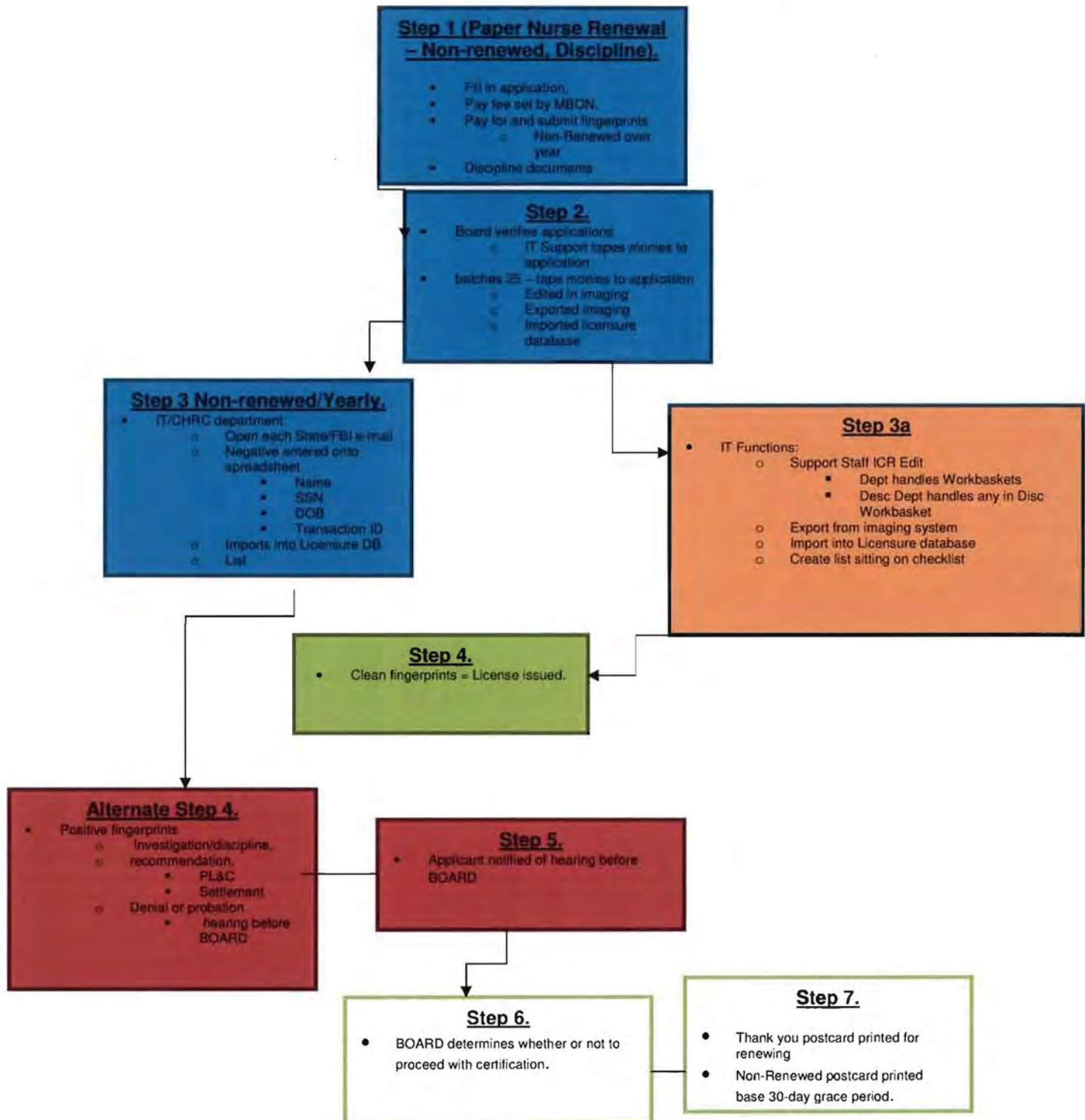
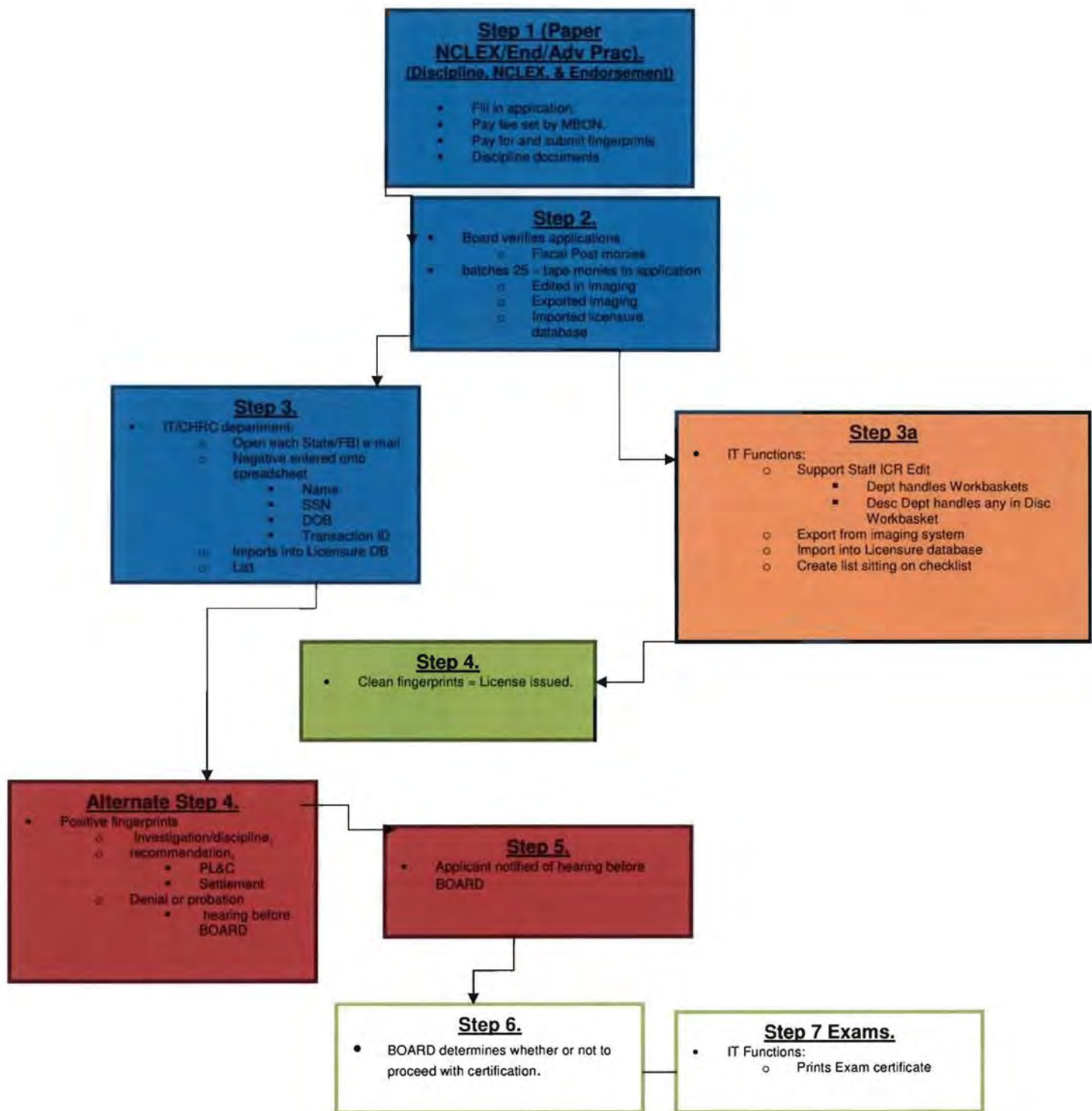


Exhibit 3-17.MBON LPN/RN/Advanced Practice Initial Paper Application Process
Flowchart



3.4.2 MBON CNA/CMT Application Process

The CNA/CMT initial certification process is currently done on-site via computers (in *kiosks*) located in (*reception area*) the lower level (first floor offices) of MBON or online---from each applicant's home/library, etc. and proceeds as follows: - (***Nursing Asst. initial applicants who have the following must complete a paper application: 1.) answer yes to any of the discipline questions, 2.) any NCLEX–Exam candidate failures need to submit paper application along with new set fingerprinting transaction, 3.) C.N.A. Endorsements***).

The applicant must have the 12-digit transaction number provided by the fingerprinting vendor, before starting the online process.

Step 1. Pay for and submit fingerprints, and educational requirements (**The only time the Nursing Assistant is required to provide hard copy of a fingerprint transaction and educational information is when they answer 'yes' to discipline question(s), or if they are Endorsing from another state, or if they are an Exam candidate who has failed**)—as required per the application instructions.

- The Board also must verify, via INAC class list, that each individual has taken the required class work. If they are RN/LPN Exam candidate and has failed, then the NCLEX department must verify that they have the required clinical hours and submit this information to the C.N.A. department.
- Once the IT Staff has received
 - Online application
 - Processed through imaging system
 - Moving applications that are ready for export
 - Import into licensure database
 - Received class list entered by instructor
 - List are generated daily
 - Sent to C.N.A. department notifying them these individuals meet qualifications for 90-day letter
- The C.N.A. department will then process a 90-day letter for each individual who meets the necessary requirements for certification.

At this time, August 2013, neither certificate requires a CHRC, but it has been noted that this requirement may change for the CMTs. (**At this time, the Med Tech is not required to do fingerprints. The Nursing Assistant is required whether they are in-state or endorsing from other state**)

Step 2. Fill in application. Pay initial application fee set by MBON.

The Med Tech initial application was placed online May 7, 2013, it becomes mandatory for all on January 1, 2014. The steps are as follows:

- The Delegating RN must enter class list/completed course online
 - All information must be there before the student can do their online application
 - This eliminates the Board having to verify a class list separate from the application
- The student then goes and processes their online application
 - Their name, social security number, date of birth must match class information
- If their information does not match the instructors information, the student cannot process their application
 - This eliminates individuals submitting false applications
- If all matches, then the student can either pay for application or complete process and notify their institution that application is ready for payment

Note that CNA/CMT applications are currently processed at the first floor of MBON's main office complex.

- **For all applications that are not completed online, these are the steps:**
 - The institution must submit completed applications to the Board
 - The applications must have a completed paper class list attached
 - Board staff then verifies
 - that all information is completed on the application
 - that payment equals all students
 - that individuals repeating class and already have certificate number are not included with initial applicants
 - must send all incomplete applications back
 - Board staff then puts applications in batches of 25, tapes all institution check(s) or money orders to applications and sends up stairs to be scanned
 - Once scanned, Fiscal removes the monies
 - IT staff completes Intelligent Character Recognition (ICR) editing
 - Board staff – lower level – processes any applications in workbaskets

- IT staff exports information from imaging and imports into licensure database
- Board staff – lower level – is then provided with list of eligible applicants ready for certification
 - Board staff – lower level- then opens each application on checklist
 - One staff member
 - pays fees
 - clears checklist items
 - makes complete
 - Second staff member
 - Approves – certifies, number provided
 - Sends to print batch
 - IT staff member then prints certificates and creates labels
 - IT staff member then
 - puts label on envelop,
 - matches name on envelop with certificate
 - closes clasp and meets requirements for mailing by DHMH

Step 3. Fingerprints are run through both the STATE and NATIONAL (**FBI**) databases and sent back to MBON Information Systems in 2 separate files (**e-mails**) that must be converted to compatible files for the MBON system and merged/cross checked against each name of each applicant. This is a lengthy, technical, and time consuming task at this time.

- The IT/CHRC department must do the following:
 - Each State and FBI negative report are open
 - FBI reports are entered 1st into a spreadsheet
 - Name from FBI
 - SSN – if they have provided to FBI
 - Date of Birth
 - State reports are then entered on spreadsheet
 - They must ensure
 - names match
 - Date of birth
 - CJIS does not include social security number on their reports
 - They provide the tracking number
 - This way the Board meets FBI requirements
 - Only use one result per licensure/certification type

Step 4. If the fingerprints come back free of any crimes the certificate is issued and the applicant is free to begin working. **(If the applicant has provided correct information: application, on class list provided by RN, payment, & negative background – then this individual can be processed and provided with a certification.)**

Alternate Step 4. If the fingerprints come back with misdemeanors or other crimes (the MBON term for this is POSITIVE) then the application goes to the in-house **(investigation/discipline department(s))** for further investigation and recommendations (currently 3 members). Information regarding these crimes is compiled from the investigation by the investigators, **(then it is sent to Pre-Licensing and Certification (PL&C); those which cannot be addressed in PL&C, if no discussion it goes to settlement conference, if denial or probation goes to the Board).** Thirteen (13) plus hard copies are produced/13 plus are copied to flash drives and distributed to the Board.

Step 5. The applicant is notified of this hearing (date and time) via (Certified) mail. The Board (currently 13 members) meets to determine the next step in this process. Meetings are held monthly and usually 12 cases can be heard per meeting. Meetings last an entire day. The applicant can have counsel represent them in this hearing.

Because the Board only meets monthly this creates lag time in the initial application process, depending on what time of the month the applicant applied and also on the number of cases the Board can hear per meeting.

Step 6. The Board can determine whether or not to proceed with licensure depending on the CHRC and other information presented to them during, and prior to, the hearing. i.e. if the applicant has a DUI they (the applicant) may be required to spend a number of years/months doing some type of rehabilitation under the Board depending on what is determined by the Board. Conversely, if there is a felony and the circumstances dictate that a license should be denied the Board may act accordingly.

Step 7. The Board, once the applicant has been provided with a certification number, has a certificate printed on bonded paper. These are printed once a week and then labeled and then placed in the mail.

Exhibit 3-18, on the following page, is a flow chart depicting the paper application process for the CNA's and CMT's.

Exhibit 3-19, on page 3-28, is a flow chart depicting the on-line application process for the CNA's and CMT's.

Exhibit 3-18
CNA and CMT Paper Application Process Flowchart

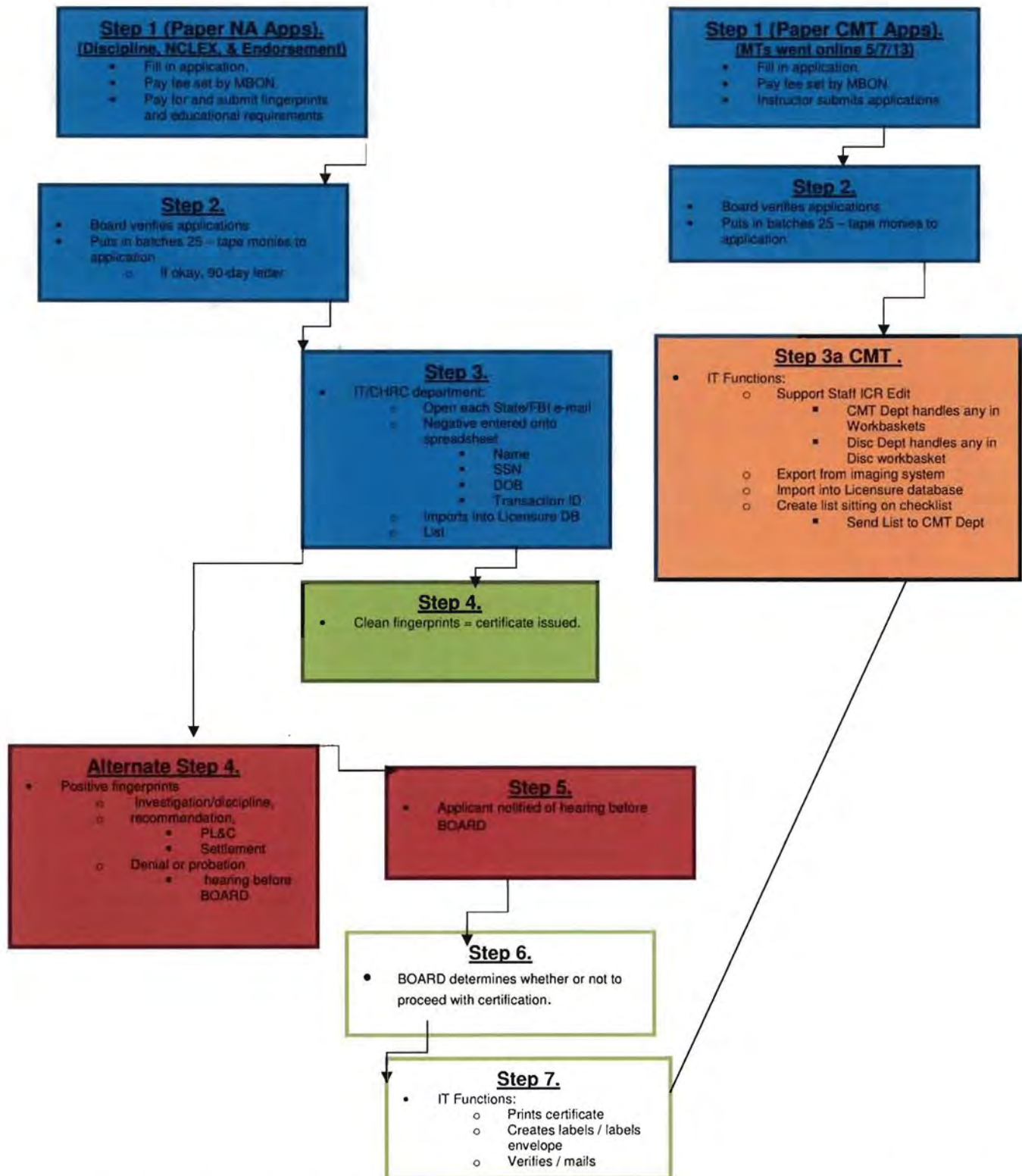
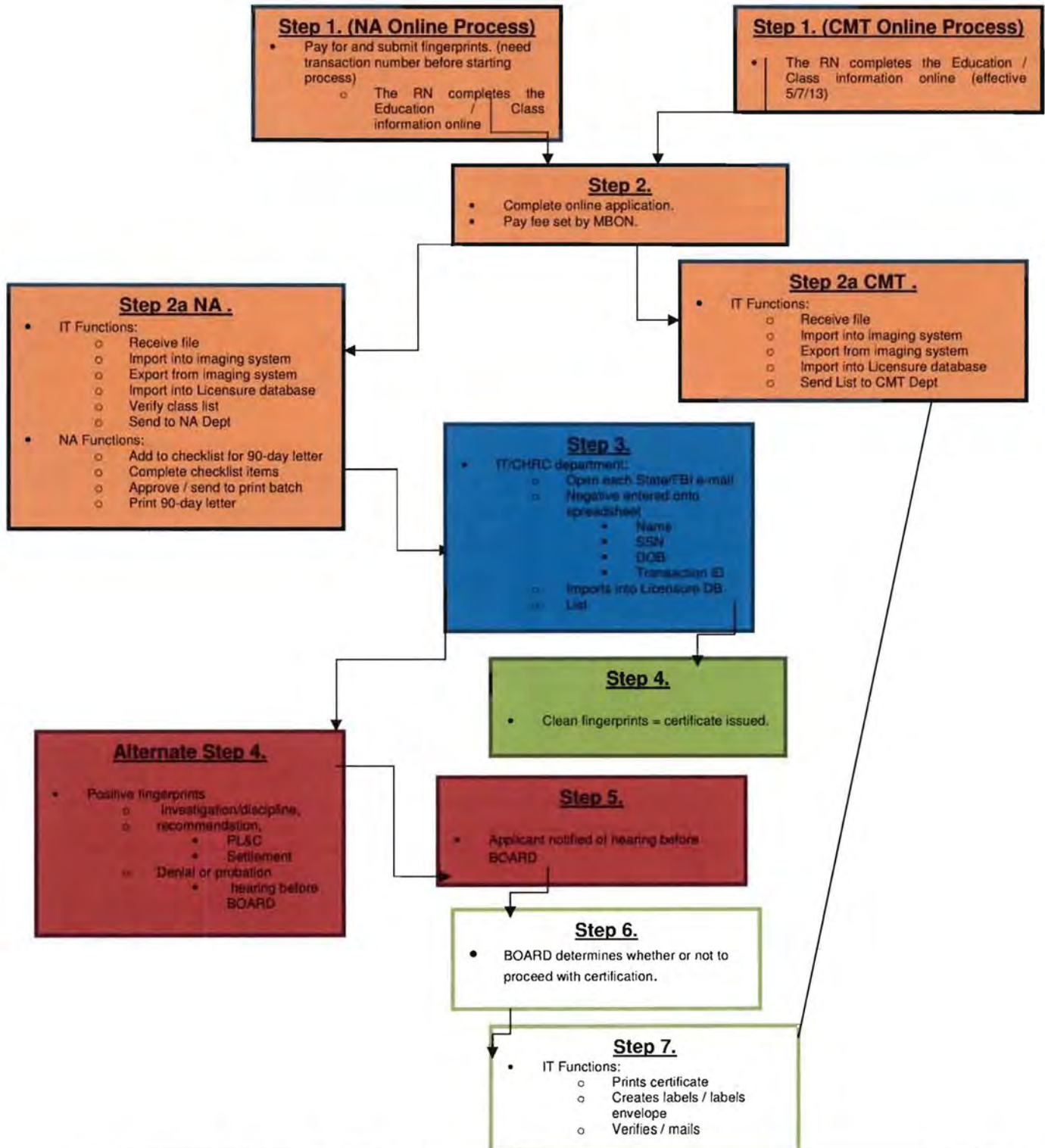


Exhibit 3-19. CNA and CMT Online Application Process Flowchart 2013

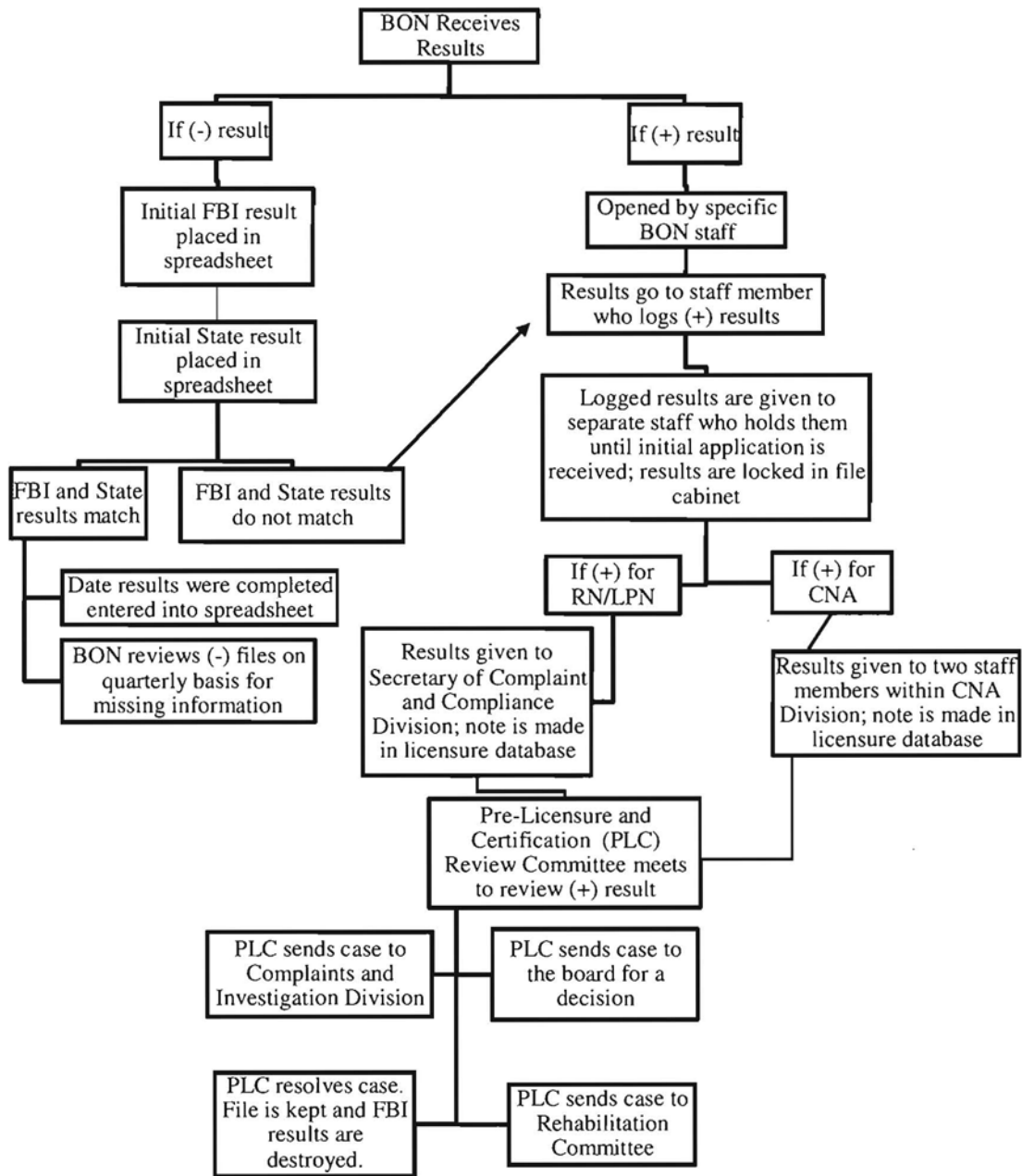


3.4.3 Criminal History Records Check Process

Applicants must apply for CHRCs before submitting their initial application for licensure or certification with the Board. Once the Board receives a CHRC result, the application can be processed in conjunction with the assessment of the CHRC result. Exhibit 3-20 outlines the process followed by the Board after receiving CHRC results from the FBI and CJIS. Please note that there are four (4) possible outcomes from the PL & C. They include:

- 1) the case can be sent to Complaints & Investigations,
- 2) the case can be sent to the Board for a decision,
- 3) the case can be sent to Rehabilitation & Discipline, or,
- 4) the case can be resolved and the files destroyed.

**Exhibit 3-20.Criminal History Records Check
Process
Followed by MBON Upon Receipt of Results**



3.5 Policies and Procedures

According to the 2011 Sunset Review, the Board has taken proactive steps in response to the increased workload presented by the implementation of CHRCs through organizational restructuring and the streamlining of complaint resolution policies associated specifically with positive results. MAG has been provided with a number of policies and the procedures related to the CHRC process. The MBON has developed an overview flow chart (Exhibit 3-18) that depicts the major steps in the CHRC review process. There are no supporting written procedures that provide any additional guidance in this process that are available on the MBON website, and MAG encourages communication of selected policies related to the CHRC process to inform and guide licensees and certificate applicants.

SECTION 4.0

RECOMMENDATIONS

Section 4: Analysis and Recommendations

In the previous section, MAG established a baseline of understanding for the reader, to ensure a common view of the structure, staffing and major processes within MBON.

In this section, MAG will develop recommendations for major processes including applications, CHRC's, and complaints; organizational structure, staffing and workload, customer service, and administrative issues. We will take into account how the processes are currently being completed and recommend changes that should effectively streamline those processes or create greater efficiencies. There are functions under each unit/department of the organizational structure that should, in our view, be changed to allow those departments to fully realize the skills and expertise of their staff.

This section will also include a review of customer service as it pertains to the online/in person/telephone conversations with licensees and certificate holders. Changes that might make the interactions between MBON and the public a better experience will be included. Lastly, any administrative issues will be addressed and recommendations made that should make the internal workings of MBON flow more smoothly.

4.1 Organization Structure

The MBON organizes largely along functional lines, which reflects the various functional areas, such as Advanced Practice, Nursing Practice, Rehabilitation and Discipline, and Investigations. Support work is completed by Administrative Services, Legislation, and Information Systems.

Mixing of Administrative and Operational Functions in MBON

There appears to be some operational work being completed in the administrative functions at MBON. For example, the CHRC process is assigned to Information Systems. Also, the Administrative Services Director serves as the liaison between the Electrologists and the Board of Nursing. MAG believes that the attempted integration of administrative and operational functions is not productive for the organization. The reader will see that MAG's recommended organizational structure separates out the CHRC review process as a distinct functional component. In addition, the handling of Electrologists and related activities surrounding their licensing will be broken out from Administrative Services to enable that unit to properly focus on administrative functions.

Executive Director Span of Control is Excessive

It appears that seven (7) department head positions report directly to the MBON Executive Director. In addition, there is a Management Associate, a Special Investigator, and the three (3) Assistant Attorney General positions that report directly to the Executive Director. This is a total of 12 positions reporting directly to the Executive Director. This is somewhat beyond a normal span of control for administrative and professional functions. It is a result of the underutilization of the Deputy Director position and the direct reporting of three (3) Assistant Attorney General positions. In this section, MAG will make recommendations to tailor the span of control for the Executive Director, consolidate the operational units, and maximize the high level position of Deputy Director.

Legal Support System for MBON is Unique but Effective

The current overall organization chart for MBON includes seven (7) legal positions that perform key legal work for the MBON.

Four (4) of the Assistant Attorney General positions work outside of MBON in support of MBON needs, while three (3) Assistant Attorney General positions work inside of the organization in support of Board needs. The assignment of these legal positions may appear a bit awkward to the outside reviewer, however, the organization and reporting relationships appear to be working relatively effectively. The ability of the legal positions to work independently enables the Executive Director to manage those support activities with relatively minimal time demands.

Information Systems and MBON as a Whole is Impacted by CHRC Alignment

Additionally, the requirement for criminal history records checks (CHRC's) as a condition of licensure or certification has had an impact on the Department of Information Systems and CHRC's responsibilities. MAG believes that the alignment of the CHRC review process within the Information Systems function is inappropriate and is not working. The ability of IT to focus its efforts on the critical and ongoing information needs of the organization is distracted by the placement of the administration of CHRC's within the department. Information systems and information management is at the core of a successful organization such as MBON. The efficiency and effectiveness of the entire organization is being adversely affected by the inappropriate organizational alignment.

Board Satisfies Mandates and Issues Licenses and Certifications

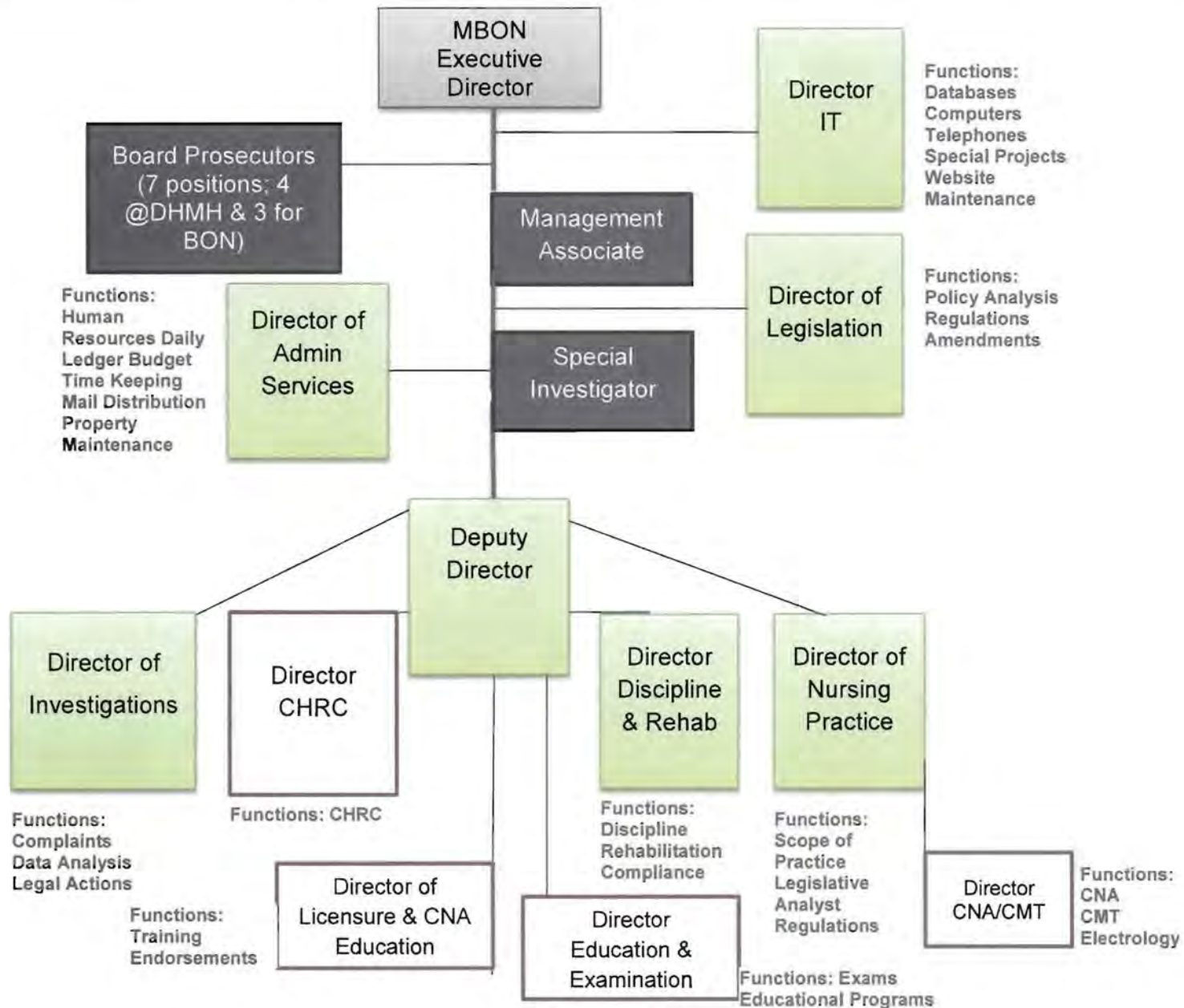
MAG agrees with the Sunset Review report indicating that there appears to be an atmosphere of disarray from the format of the board's website to its office organization to its staffing alignments to its equipment.

In spite of apparent lack of cohesion and coordination between departments and duties between staff, the board generally satisfies its statutory mandates but in a disjointed manner, as the Sunset Review concludes. MAG concurs that organizational deficiency was evident in the board's data collection and maintenance functions.

MAG's project team further concludes that with organizational realignments, changes to how staff is tasked to the major processes of licensing and certification, an overhaul of the website, authority to fill current vacancies, and upgrading of skills in the information systems function, substantial improvements can be made. A new, fresh look at the organization will also be possible with an incoming Executive Director and an energized Deputy Director position.

Exhibit 4-1, on the following page, represents the recommended MBON organization chart with MBON working titles.

Exhibit 4-1. MBON Functional Org Chart with Working Titles



4.1.1 Deputy Director: Consolidation of Operational Departments

The position of Deputy Director is currently underutilized within the organization. The position is the second highest classified position in the organization, yet has had the assigned duties minimized. The Executive Director currently supervises nearly all of the operational and administrative functions, in addition to handling interagency and Board interactions.

MAG asserts that a consolidation of operational functions under the Deputy Director position would yield increased utilization of both the Executive Director and Deputy Director positions. Staff indicated that both of these top positions will become open in the near future due to retirements. This will offer a fresh opportunity for this reorganization of major duties and functions.

Consolidating the operational functions under the Deputy Director position would create improved operational coordination and also enable the Executive Director to focus on broad and critical issues impacting on the mission of the MBON.

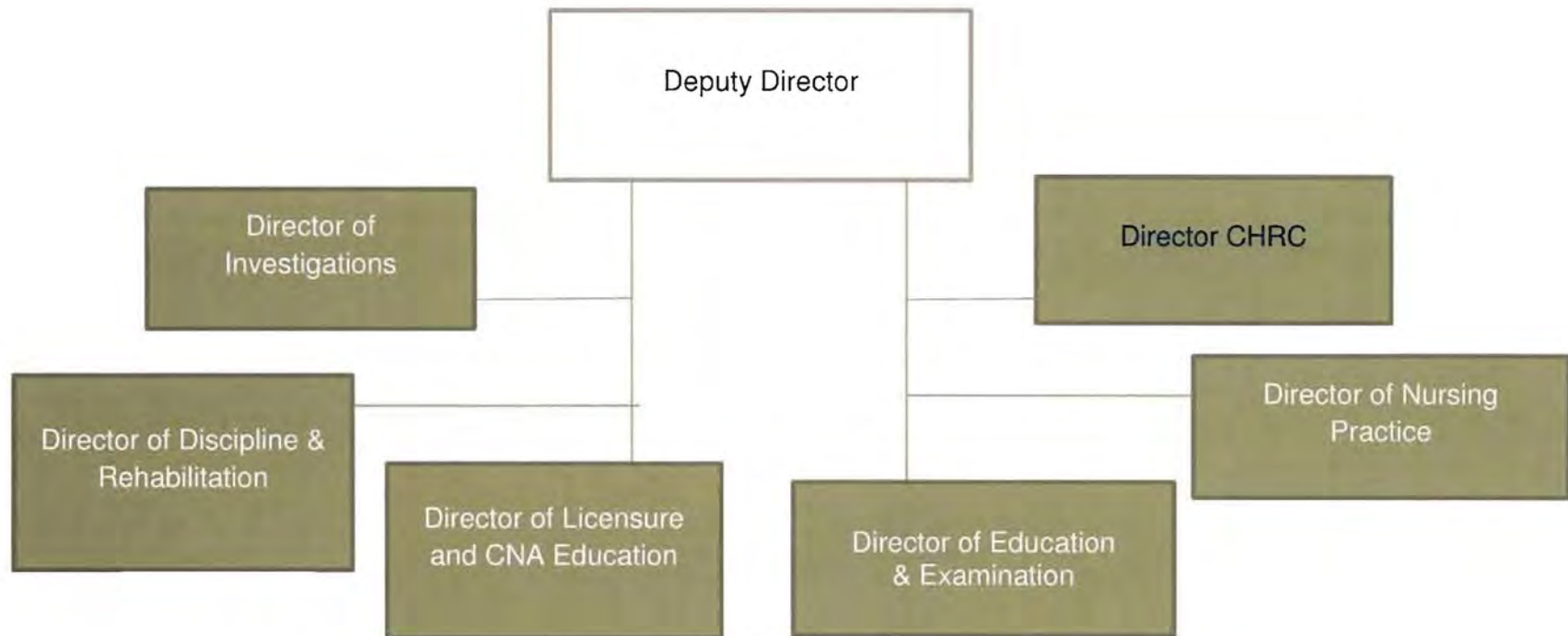
This action also would reduce the span of control for the Executive Director from twelve (12) to nine (9) positions. This includes six (6) department head positions plus the three (3) Assistant Attorney General positions.

Recommendation #1: MBON should consolidate operational responsibilities under the Deputy Director and reorganize the entire organization as follows:

- **The Deputy Director would be responsible for operational functions, including Licensure and Education, CHRC, Investigations, Discipline and Rehabilitation, Nursing Practice, and Advanced Practice.**
- **The Executive Director would directly supervise the Deputy Director, attorneys, special investigator, Information Systems, Administrative Services, and Legislative Departments.**

Exhibit 4-2, on the following page, shows the recommended direct reports for the Deputy Director position.

Exhibit 4-2 Department Chart – Deputy Director



4.1.2 Electrology Licensing: An Operational Function

There were 74 Electrologists licensed in FY 2013. The Administrative Services Director currently serves as the liaison between the Electrologists and the Board of Nursing. This includes setting up and attending quarterly meetings for the Electrology Committee, responding to inquiries from the public about obtaining an Electrology license, approval of CEUs, ensuring that renewal applications are sent in a timely manner yearly and reviewing and approving of applications for licensure.

MAG believes that the licensing of Electrologists is more of an operational function, similar to the licensing and certification of CNA's and CMT's, rather than an administrative function such as human resources and financial management.

This function and activities should be reassigned to an operational department. MAG believes that the perfect fit for this function is under Nursing Practice.

Recommendation #2: Reassign Electrology from Administrative Services to the Department of Nursing Practice. MAG recommends that the MBON move the electrology licensing under Nursing Practice, along with the certifications of the CNA's and CMT's. This frees up the Administrative Services Department to concentrate on the administrative functions within MBON.

4.1.3 Information Systems and CHRC's

The Department of Information Systems and CHRC's includes 21 assigned positions to the variety of important IT and operational functions.

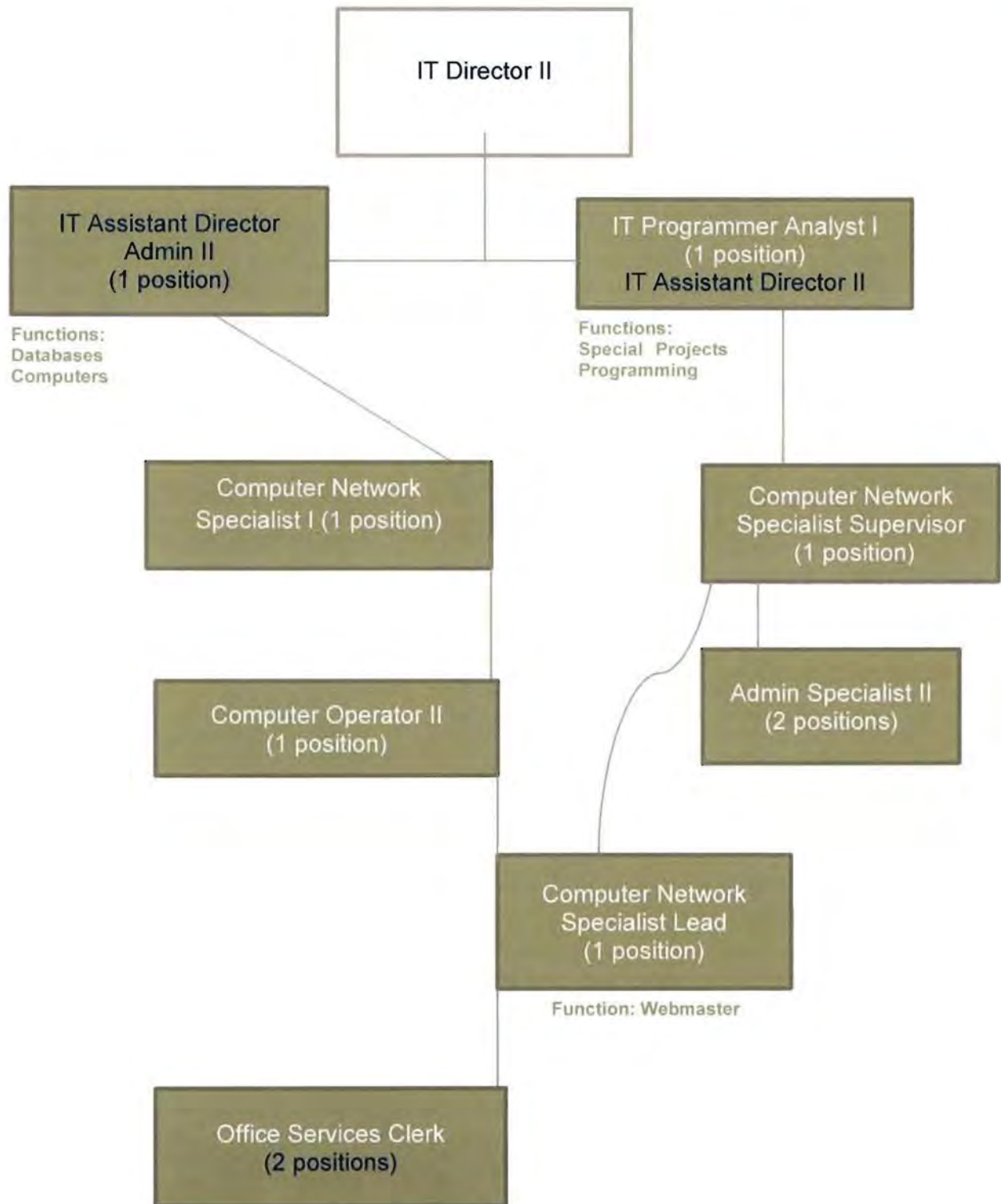
Information system management is a core and key function for the MBON, and deserves appropriate resources and top level skills. The work is substantial and ongoing, and staff is required to respond to the day to day issues and concerns that emerge. That leaves little time for systems improvement and adjustments. Many of the activities are routine, thus requiring entry level staff positions that currently exist at a sufficient level. However, there are higher level IT management and programming activities that do not receive adequate attention. Current managers with appropriate abilities are being spread thin.

The current IT Assistant Director II (state title) incumbent serves as the head of the department (MBON working title is Director of IT). This position is overburdened with both supervisory and day to day operational duties.

There is a need for additional management and high level skills in this department. MAG recommends continuing some of the high level duties for the current head of the department and assigning other high level duties to new, reclassified top IT management positions recommended (as described on page 4-8).

Recommendation #3: Create two (2) additional high level positions in Information Systems, through upgrades to existing positions.

Exhibit 4-3.MBON Department Chart Info Sys



These newly created positions would include an IT Director II position (state title) to oversee the Information Systems Department, and a second IT Assistant Director II (state title) position with high level programming/code writing skills. These positions should be funded from existing vacant positions (IT Programmer Analyst I and Computer Network Specialist Supervisor). There is no net increase in positions in this area, although there would be a slight increase in cost (estimated \$40,000) due to the positions being classified and paid at a higher level.

Duties of IT Assistant Director Positions

In terms of separation of duties and major functions, one of the IT Assistant Director II positions would be responsible for database management and computers, while the other IT Assistant Director II position would be responsible for special projects and programming.

This recommendation will have the effect of raising the overall level of IT management, code writing, and programming capabilities within the department.

CHRC's

Currently, the management and handling of the CHRC process is completed within Information Systems.

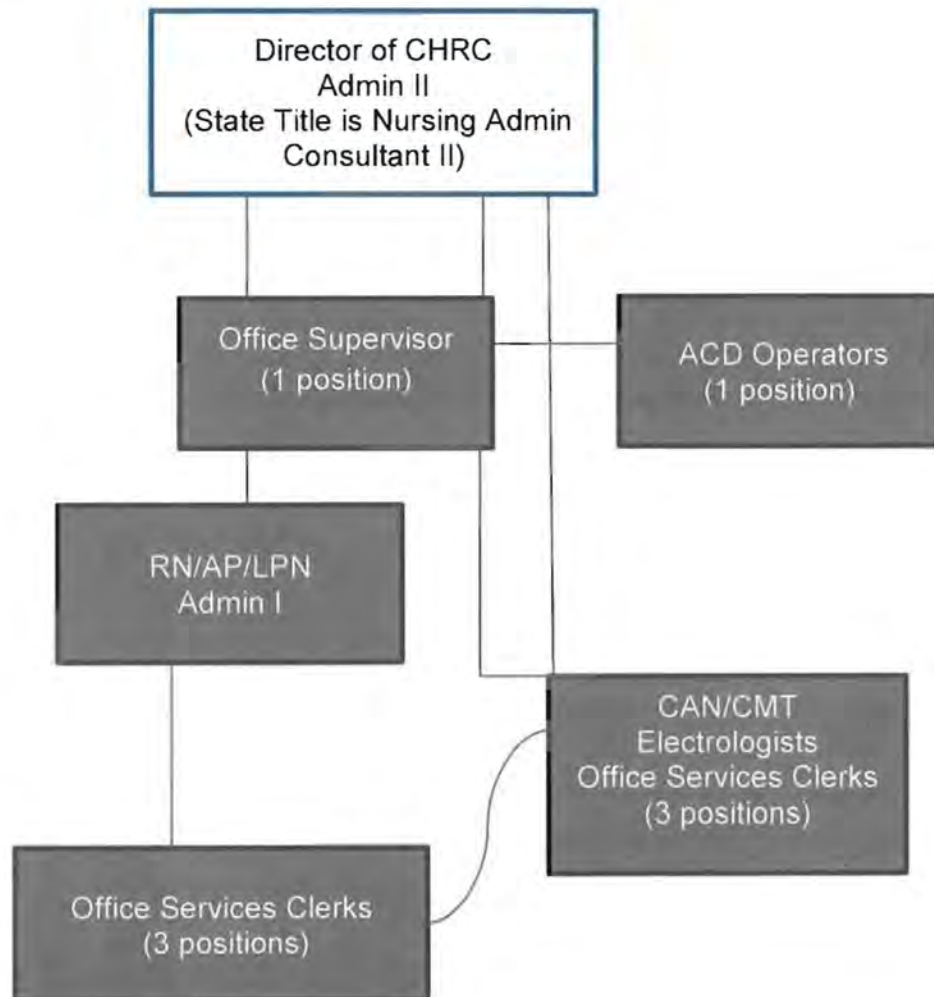
This function appears to have been assigned to IT because the criminal history data is currently being sent from CJIS and the FBI in files that only one incumbent in the Information Systems Department can open and organize. This process in and of itself needs to be corrected so that inefficiencies in this department can be recouped and the licensure and/or certification process can be streamlined. There has been some discussion at the management level with the providers of the criminal history data regarding the restructuring of the format that data is currently transferred, however, it has been insufficient to clarify the impact on MBON for the unwieldy and awkward format of the data as it now exists.

MAG believes that the handling of CHRC's is more of an operational function, similar to the licensing and certification of CNA's and CMT's, rather than an administrative function such as information systems management.

Recommendation #4: Create the CHRC function as a stand-alone department reporting under the Deputy Director. This will help expedite and integrate the criminal histories into the application and/or renewal process.

Recommendation #5: The board should delay seeking legislation to require CMTs to submit to CHRCs, until organizational efficiencies are achieved in the newly designed CHRC Department.

Exhibit 4-4 Director of CHRC



4.2 Staffing

As an overall observation, in reference to the number of PINS (77) and contractual positions (4) that exist within MBON, MAG believes that staffing for MBON is nearly adequate for current and anticipated needs, under the following conditions:

- Organizational restructuring is accomplished as noted in Recommendations 1, 2, and 4;
- Information Systems management positions are created through upgrades recommended in Recommendation 3;
- Selected positions are reclassified appropriately and filled through recruitment;
- Vacant positions are authorized to be filled;
- Cross training of office staff issuing certifications and licenses is accomplished.

MBON Staff Request for Positions

During interviews, Department Directors indicated a desire for additional staff positions in a variety of areas (but not all).

After careful consideration, MAG concludes that most of the staff requests are not needed, but, for the most part, instead can be accommodated by filling vacancies or placing the right person in the right job classification so the departments can operate at peak efficiency. For example, MBON staff noted that Information Systems is short of staff to perform the required duties. During our interviews we were able to identify an excellent picture of what would be appropriate for Information Systems, including upgrading some of the current positions to allow for a top level position as the Director of Information Systems and the merging of two other positions to allow for a second mid to high level position as the Assistant IT Director II. By adjusting the duties instead of having them all fall under one person, IT can recapture the lost inefficiencies that have been the brunt of their organizational distress.

Many of the current personnel under the Department of Information Systems will shift to become the newly created CHRC Department, i.e. the two (2) ACD Operators should move from Information Systems to CHRC, along with six (6) Office Service Clerks, one (1) Administrative Officer I, and one (1) Office Supervisor to help expedite the number of CHRC's that now nearly cripple the Information Systems Department. With reorganization and clear designation of duties, this department should shine and all CHRC's, which are voluminous, can be tabulated, managed, and tracked.

Filling Vacancies

Several Departments have vacant positions that should be filled to increase their operational efficiencies and to begin to make progress through the backlog of duties they have not been able to adequately remedy with the current number of staff levels.

Support Staff for the Deputy Director Position

The Deputy Director should be assigned an Administrative Specialist II to help ensure that the Departments that report to that position are getting the resources they request and duties are being performed at or above optimum. This position should be moved from Nursing Practice.

Move Two Support Positions from Nursing Practice to Assist in Paralegal Work

The Paralegal incumbents under Discipline and Rehabilitation have 474 open cases from the Office of the Attorney General (OAG). Currently they scan all documents, and then Information Systems distributes them to the Board for review. Two (2) office positions should be moved from Nursing Practice to aid the Paralegal in Discipline and Rehabilitation. Currently, Nursing Practice has vacant office positions (such as Administrative Specialist II and Administrative Officer I) that could be reclassified to Office Service Clerks. These positions could scan and free the Paralegals to manage the 474 open cases that need attention as soon as possible.

Overall Recommended Staffing Levels: 79 PINS and 4 Contractual

Top MBON staff initially indicated that MBON has 75 authorized positions and four (4) contractual positions. State documents provided indicated 77 positions plus four (4) contractual positions. Administrative Services provided internal information that indicated 80 positions.

Through a review of the various documents provided, MAG has attempted to determine the current number of positions available to MBON. The state documentation is used in this staffing review as the basis for analysis.

In the absence of departmental organizational charts provided by MBON, MAG has attempted to establish the reporting relationships and the number of staff within each of the various departments.

Following the analysis of MBON's needs and workload requirements, and the reorganization of functions and staff assignments, MAG is recommending a total staffing level of 83 positions, including contractual positions. The additional two (2) positions are an Administrative Specialist II position reporting to the Deputy Director, and a Nursing Program Consultant Admin I position to oversee and manage the CHRC process.

Exhibit 4-5, on the following page, indicates the recommended level of staffing for each of the departments.

Recommendation #6: Add two additional staff to MBON in the following classifications; one (1) Administrative Specialist II, and one (1) Nursing Program Consultant Admin I. This additional staff will be part of the newly reorganized CHRC Department and also serve as an assistant to the Deputy Director as those duties will now expand.

Exhibit 4-5

**Recommended MBON Positions
per Department/Function**

Department/Area	Number of Current Positions	Number of Recommended Positions
Administrative/Legal	10	9
Deputy Director/Advanced Practice	6	10
Investigations	11	12
Legislative	2	2
Rehabilitation and Discipline	10	10
Administrative Services	5	5
Nursing Practice	12	8
Information Systems/CHRC	21	11
CHRC		11
Licensure and Education		2
Education and Examination		3
Total	77 plus 4 contractual: 81	83

4.3 Major Processes

The current process responsibilities for MBON are to expedite the application and certification process, both in new licensures/certifications and renewals; to apply, where necessary, any administrative or disciplinary actions to those that they license and certify; and, to ensure that those educated in Maryland are adhering to a certain level of curriculum standards.

MAG was asked to determine the time required for the various processes (licenses/certifications-new or renewals, positive CHRC's, educational requirements, and other disciplinary actions deemed actionable by MBON are the basic processes managed by MBON at this time---see above) and number of personnel per process for MBON.

MAG has determined that MBON has many people involved in their various processes that could be streamlined to better expedite the licensure or certification process, whether new/initial or a renewal. The limitation on staff cross training within the licensing and certification processes emerged largely due to a criminal abuse by a person who was found to be selling certificates. In order to circumvent this abuse the MBON made it impossible for one or two people to take this process from beginning to completion/outcome. Since the abuse was stopped and that person fired, it is the belief of MAG that these processes could revert back to how they once were handled. Enabling certification staff to handle more processes would help ensure that all persons applying for licensure or certification have a seamless application process and enable them to speak to the same people on the same topic regarding where they are in this process at any given time. The risk of abuse can be monitored and should be balanced against enabling staff to handle multiple actions within the certification and licensing process.

Online Application Process and Online Experience

MBON has moved toward a near total online application process (entirely paperless for the RN/LPN and AP, as well as, the CNA) which has helped the organization to better manage the number of applicants that come through MBON for licensure and certification.

There are still technological steps in this process that can be upgraded to help ensure their customers are moving through this process as best they can. For example, the website is widely recognized internally (staff) as being neither user friendly nor professionally organized.

MBON Website

MAG's Information Technology Director has reviewed the current MBON website and offers the following selected suggestions:

I. Promote a serious yet calming web experience. Licensing can be a stressful time for most. The application and licensing process should evoke a sense of ease. This is usually done by introducing a combination of simple graphics and colors.

A. Color Combinations and Graphics

1. Use backgrounds to match font colors
2. Use various graphics for linking

B. Consistency

1. Consistently use standard graphic links
2. Easy to find webpages within the website
3. Cascading Style Sheets
 - a. Consistent font size and color
 - b. Consistent font properties (italicized, bold, and underlined).

II. Promote a sense of professionalism and confidence. The information needed to complete the process should be presented in a structured and consistent manner. This will give the user the confidence that one needs while obtaining the correct information in a professional manner.

A. Navigation

1. Frames (well suited for non-ecommerce type sites)
 - a. Left frame to house a Treeview navigation structure in order to better organize a topic/subtopic type structure.
 - b. Top frame to house a quick pull down type menu (i.e. About, FAQ, Contacts, Employment, etc.)

B. Frequently Asked Questions (FAQ)

1. Provide links to pages in question
2. Provide a place for a user to ask a question.

C. Inclusivity

1. Try to keep all data and information contained within the site itself. This promotes focus and importance.
2. Try to keep all links pointing to various internal pages or areas. This eliminates the problem of a broken link due to an external site that has been edited, is down or discontinued.

One staff incumbent in Information Systems has been acting as the webmaster, although his primary duties are database management. The duties of this department have been so varied that this person has been unable to effectuate any meaningful changes to improve the website.

Rather than trying to re-design the website in-house, MAG suggests that MBON send out an RFP to exact such changes as soon as possible.

With the additional staff recommended for Information Systems, we anticipate the ongoing cost of maintaining the website would be internalized. With the recommendations for higher level positions and structuring of duties, for the most part, updating would be accomplished by MBON staff rather than outsourcing the updating.

Recommendation #7: Create and send out an RFP to totally redesign the website. This should include changes in vernacular to reflect the educational levels and skills of those they serve, i.e. for the CNA/CMT applicants there need be basic terms used instead of jargon typical of the medical industry.

Updating of Website Data

MBON staff has stated that the information available on MBON's website is out of date and incorrect. This is critical and includes the information regarding updates to personal information on disciplinary action and other remedial actions for applicants and licensees/certificate holders. Updates need to be performed with greater regularity such that it can be accessed by potential employers and the applicants themselves. This should be done daily or weekly in order to keep abreast of changes that affect their licensure, certification, and livelihood.

Recommendation #8. Regularly update personal information regarding disciplinary action and other remedial actions for applicants and licensees/certificate holders.

Office Equipment

Various Departments within MBON have noted that they could use more or updated equipment to handle their duties and to create a seamless flow of information between departments and onto the website. Doing so would save time and money, as well as, ensure that all information required for various processes is managed as rapidly and effectively as possible.

Recommendation #9: Evaluate equipment needs in each department (computers, scanners, printers, etc.) to determine proper equipment levels to expedite the processing of critical paperwork.

Increase Use of Electronic Transfer and Use of Data

Information transfer within MBON now is executed via paper. This is an antiquated and wasteful way to exchange data and information between departments that are critical to the operation of the MBON mission and vision. The entire computer system at MBON requires revamping, including increase in bandwidth, databases, computer programs, etc., for expedited information access and transfer. This may require updating of the current system or simply be better served purchased anew.

While MAG is able to identify and communicate the major issues of concern in this area, MAG is not a computer consulting firm and therefore does not offer an estimate of cost for the broad needs in this area. The first step is to fully evaluate needs, which can be accomplished through a contracting process with an information systems firm.

For example, for Board meetings, currently one person has to copy many documents many times (13 times for each board member) and distribute them to the various Board members before each meeting. This is a waste of time that could be better spent executing the mission and vision of MBON. Thumb drives to insert in the loaner computers could be used at meetings and MAG was told had been used in the past. The MBON may also want to explore the use of tablet computers for Board members rather than using thumb drives, for a more permanent solution.

Recommendation #10: Fully evaluate computer system needs and update MBON's entire computer system in order to move towards a paperless environment.

Policy and Procedures Manual

MAG has noted via various interviews with key people at MBON that there is no manual of written policies and procedures. Many staff within MBON believe that a recognized internal set of procedures is necessary to ensure that all personnel know their various duties and how all of the functional areas should work together. MAG concurs and suggests that MBON do so as soon as possible. Regarding the CHRC policies and procedures, MAG, in concert with the Department of Information Systems, created a comprehensive flowchart depicting the exact CHRC procedures (both positive and negative). That flowchart is part of Exhibit 3-18 of this study.

Recommendation #11: Create a policies and procedure manual.

Cross Training to Open Bottlenecks

During the course of MAG's review of MBON it was discovered that, as a reaction to a one time serious abuse within the system (selling certificates), management changed the processes to prevent any one person from managing or having access to too much personal information about applicants. This change has impacted the length of time it takes to complete the application and renewal process greatly.

There is no one widely recognized bottleneck in the application process. The process, however, is slowed due to the restrictive access policy in place, in which office clerks and staff have limited work focus and data access. The organizational response to criminal acts performed by one person has caused a series of bottlenecks in the overall process of licensing and certification.

Therefore, MAG suggests that the policy of extreme limitation of staff access to data be changed and that personnel be cross-trained and authorized to handle an increased number of steps in the application and certification process. This cross training and expansion of office staff duties/authorizations would reduce the time necessary for the various functions of the application process to be completed.

Recommendation #12: Identify additional key areas where cross-training of personnel will be most beneficial to application processing.

4.5 Customer Service

Customer Service Survey

MAG has taken time to preview the current customer service survey located on the MBON website and has noted that it has not been revised according to the recommendations of the Sunset Review. It remains a short and not helpful set of unrelated questions. For instance, nearly half of the current survey questions regarding whether and how the respondent is licensed or certified.

MAG recognizes that most of the people using this survey are licensees or certificate holders, members of the public, including individuals lodging complaints and employers of licensees or certificate holders. MAG believes that the questions on the survey should focus more on the interaction between the respondent and the board and less on whether and how the respondent is licensed or certified by the board.

The Sunset Review suggested some valid questions that should be asked on the survey and MAG concurs. Those questions might include:

1. What was your reason for interacting with the board? (Initial licensure or certification, renewal of license or certificate, delay of licensure or certification, or making a complaint?)
2. Was the interaction online, by phone, or in person?
3. How long did it take to reach a staff member (amount of time on hold or amount of time to receive a returned call or email, or, if at the office, amount of time to physically speak to a staff member)?
4. Did the staff member help resolve the issue in a clear fashion? Please explain.
5. Did the staff member treat you courteously? Please explain.
6. Did you use the online application or renewal process? If so, did you find the process to be user friendly? Do you have any suggestions on how the process could be improved?

Additionally, the more responses to the survey the board receives, the more information the board will have to improve the services it currently provides. At this time the survey is only available through the homepage on the board's website. Access to the survey should be streamlined and the questions therein revised to provide more comprehensive information to MBON.

Recommendation 13: Survey questions should be revised to provide more comprehensive information to MBON.

Consistency in Phone Support

MAG has spoken to various departments within MBON and found that the callers are often sent from department to department and never find resolutions to the issues that they originally called in about. In addition to that, the callers are frequently left on hold instead of being responded to by the call personnel at MBON. If and when a caller gets to the call personnel, the responses are variable and inconsistent because they do not have access to the information required to adequately help the callers. The staff answering the phones for MBON should have access to the information regarding all applicants so they can effectively and efficiently aid them in any and all questions they might have instead of transferring them between the various departments with no resolve.

Recommendation 14: Customer service training should be added to the call personnel at MBON so staff responses are consistent.

4.6 Administrative Issues

The Sunset Review concluded that MBON should conduct monthly staff meetings. MAG was advised by MBON monthly meetings involving all staff lasting one half hours have been less than productive and resolving no issues of import to MBON.

MAG recommends that MBON hold weekly Department Head meetings to allow all departments to ascertain how things are functioning and what items/tasks/processes might be required to change to create a seamless work environment that satisfies the mission and vision of MBON.

Recommendation 15: MBON should hold weekly department head meetings.

SECTION 5.0

IMPLEMENTATION

5.0 IMPLEMENTATION PLAN OF RECOMMENDATIONS

STATE OF MARYLAND BOARD OF NURSING MANAGEMENT AND PERSONNEL STUDY					
Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
1	Consolidate operational responsibilities under the Deputy Director.	Executive Director	January 2014	Increased internal operational coordination.	None.
2	Reassign Electrology from Administrative Services to the Department of Nursing Practice.	Executive Director	January 2014	Consistent functional relationship for greater efficiency.	None.
3	Create two (2) additional high level positions in Information Systems, through upgrades to existing positions.	Board	January 2014	Improved functioning and management of in-house IT activities.	(\$40,000)
4	Create the CHRC function as a stand-alone department reporting under the Deputy Director. Positions are moved from Information Systems to the new department.	Executive Director	January 2014	Enables Information Systems to concentrate their efforts and skills on practical IT solutions.	None

**STATE OF MARYLAND BOARD OF NURSING
MANAGEMENT AND PERSONNEL STUDY**

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
5	Delay seeking legislation to require CMTs to submit to CHRCs, until organizational efficiencies are achieved in the newly designed CHRC Department.	Board	October 2014	Enables CHRC staff to streamline procedures and organize information collection and sharing.	None.
6	Add two additional staff to BON in the following classifications; one (1) Administrative Specialist II, and one (1) Nursing Program Consultant Admin I.	Board	January 2014	Create a smoother flow of information transfer and better allocation of current resources.	(\$100,000)
7	Create and send out an RFP to totally redesign the website.	Executive Director and IT Director	January 2014	Create professional image and enable all applicants to easily and effectively apply for new licenses and certifications and renewals.	(\$25,000)
8	Regularly update personal information regarding disciplinary action and other remedial actions for applicants and licensees/certificate holders.	Executive Director and IT Director	Ongoing	Ensure accurate and updated data for applicants and licensees/certificate holders.	None.

**STATE OF MARYLAND BOARD OF NURSING
MANAGEMENT AND PERSONNEL STUDY**

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
9	Evaluate equipment needs in each department (computers, scanners, printers, etc.) to determine proper equipment to expedite the processing of critical paperwork.	All Department Directors, coordinated by IT Director.	January 2014	Installation of modern and appropriate equipment to expedite processing.	TBD
10	Fully evaluate computer system needs and update BON's entire computer system in order to move towards a paperless environment.	Executive Director and IT Director	December 2014	Overall productivity and data accuracy.	TBD
11	Create a policies and procedure manual.	All Department Directors, coordinated by Deputy Director.	July 2014	Organizational coordination and cohesion.	Staff time, if completed internally,
12	Identify additional key areas where cross-training of personnel will be most beneficial to application processing.	All Department Directors, coordinated by Deputy Director.	July 2014	Increase in efficiency in handling of applications and renewals.	None.

**STATE OF MARYLAND BOARD OF NURSING
MANAGEMENT AND PERSONNEL STUDY**

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
13	Customer service survey questions should be revised.	Information Systems	March 2014	Provide more comprehensive information to BON.	None
14	Customer service training should be added to the call personnel at BON.	Executive Director	December 2013	Satisfied callers and ease of information access within BON.	Minimal
15	BON should hold weekly department head meetings.	Executive Director and Deputy Director	December 2013	Help BON department directors focus on inter-departmental processes and changes to increase efficiencies.	None

SUNSET REVIEW: EVALUATION OF THE STATE BOARD OF NURSING



DEPARTMENT OF LEGISLATIVE SERVICES OCTOBER 2011

Sunset Review: Evaluation of the State Board of Nursing

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

October 2011

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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux
Director

October 31, 2011

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
Honorable Members of the General Assembly

Ladies and Gentlemen:

The Department of Legislative Services (DLS) has completed its evaluation of the State Board of Nursing (BON) 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 committees designated to review BON – the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee – in making their recommendations to the full General Assembly. BON is scheduled to terminate on July 1, 2013.

DLS finds that there is continued need for BON to advance safe, quality nursing care in the State through licensure, certification, education, and accountability for public protection. BON's workload has increased significantly since the last full sunset evaluation of the board in 2001, due to expanded licensure and certification responsibilities and the implementation of a criminal history records check requirement for nearly all of the individuals regulated by the board. However, staff resources have not increased at the same rate. DLS found that BON has responded relatively well to its expanded workload, but additional improvements need to be made to BON's overall organization, particularly related to the collection of data, the backlog of certified medication technician applications, customer service, and public access to information.

In total, DLS offers 25 recommendations intended to make the board run more efficiently and improve the board's relationship with the individuals it regulates and the general public. Since the continued regulation of nurses is essential to public protection, DLS recommends that BON's termination date be extended by 10 years. Other recommendations require BON to contract with an independent entity to perform a personnel study; enhance its annual report to include specific licensing, certification, and complaint data; include a certified medication technician on the Nursing Assistant Advisory Committee; and report to the General Assembly on

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
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Page 2

its implementation of sanctioning guidelines and on the other recommendations made in the evaluation report.

Several administrative recommendations are made related to customer service, cross-training and communication among personnel, BON's website design, the maintenance and organization of data and administrative materials, and the criminal history records check and complaint review processes. Draft legislation to implement the recommended statutory changes is included as an appendix to this report.

We would like to acknowledge the cooperation and assistance provided by BON and the Department of Health and Mental Hygiene throughout the review process. The department and BON were provided a draft copy of the report for factual review and comment prior to its publication; BON's written comments are included as an appendix to this report.

Sincerely,

Warren G. Deschenaux
Director

WGD/JBC/mlm

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Executive Summary

Pursuant to the Maryland Program Evaluation Act, the Department of Legislative Services (DLS) has evaluated the State Board of Nursing (BON), which is scheduled to terminate July 1, 2013. DLS finds that there is a continued need for regulation of nursing by the State but has identified several areas in which the board could improve service to licensees, certificate holders, and the public. The 25 recommendations in this evaluation are summarized below.

Since fiscal 2005, the number of medication technicians certified by the board has more than doubled. While it is not surprising that BON has had difficulties in processing the high volume of applications, the continued delays have been significant and have required legislative intervention. Chapter 123 of 2011 requires the board to study and submit a report to the General Assembly by December 31, 2011, on the status of the online program for processing medication technician applications and staffing needs. DLS finds that the board should work with the provider community to develop policies for the more efficient certification of medication technicians by using the findings of this report.

Recommendation 1: The board should continue to prioritize certification of medication technicians; any statutory or regulatory changes related to the certification of medication technicians should be based on the findings of the report required by Chapter 123 of 2011, particularly the required staffing analysis. The board should also include

the provider community when developing policy related to the certification process and training requirements for medication technicians.

To improve the timeliness of the licensure process, the board has moved all registered nurse (RN), licensed practical nurse (LPN), certified nursing assistant (CNA), and certified medication technician (CMT) *renewal* applications online and is in the process of moving all RN, LPN, CNA, and CMT *initial* applications online, with a goal of having this process completed by early 2012. Additionally, biennial renewal for licensees begins January 1, 2013. While the implementation of online renewal and initial licensure capabilities and the movement to biennial licensure may require greater staff involvement during the implementation period, both processes should lead to increased staffing efficiencies in other areas, particularly among those individuals who handle paper applications.

Recommendation 2: The board should monitor any staffing efficiencies related to the online licensure process and the movement to biennial licensure and reallocate staff accordingly. The board should also use its customer service survey to monitor customer satisfaction with both processes.

Current law requires RNs, LPNs, CNAs, and electrologists to submit to national and State criminal history records checks (CHRCs) as part of the *initial* licensure and certification application and requires selected licensees and certificate holders to submit to CHRCs as a condition of *renewal*.

CMTs are not required to submit to CHRCs, although the application includes questions for self-disclosure of a criminal history. Board members and staff interviewed by DLS consistently stated that CHRCs are necessary to further the board's mission of advancing safe, quality nursing care. However, the board does not routinely track denials to determine whether and to what extent the CHRC requirement is furthering its mission.

Recommendation 3: The board should maintain annual data on the number of applicants for licensure as an RN or LPN and certification as a CNA that are denied licensure or certification based on positive CHRC results. Information should also be maintained on the number of applicants for certification as a CMT that are denied certification based on self-disclosure of a criminal history.

Board policies and procedures for processing CHRC results are designed to maintain confidentiality and require utilizing multiple staff throughout the process. However, many of these policies and procedures are not in writing. In order to ensure uniformity and consistency and promote transparency among licensees and certificate holders, any policies and procedures relating to the handling of positive CHRC results should be in writing and made available to BON staff and, as appropriate, the public.

Recommendation 4: The board should develop policy and procedure manuals on how the board handles positive CHRC results. These policies and procedures should be shared with board members and staff, and relevant policies should be published on the board's website.

Despite significant backlogs in the processing of CMT applications, the board

is considering seeking legislation during the 2012 session to extend the CHRC requirement to CMTs. However, such a requirement would have a significant impact on the workload of the board.

Recommendation 5: The board should delay seeking legislation to require CMTs to submit to CHRCs until the board has (1) implemented its online certification process for CMTs in a manner that results in the timely processing of certificates; (2) analyzed the effectiveness in protecting the public of the current criminal history self-disclosure policy for CMTs; (3) determined whether CHRCs are necessary in light of the self-disclosure policy; and (4) made any personnel changes relating to the certification of CMTs as a result of the personnel study recommended by this report. If and when legislation is introduced to require CMTs to submit to CHRCs, the board should consult with the provider and advocacy communities that employ and represent CMTs and take into consideration current statutory requirements related to CHRCs for adult dependent care programs.

Under Maryland law, applicants for licensure as an RN or LPN and applicants for certification as a CNA may be waived from the CHRC requirement if they have completed such a check through another state board of nursing within the previous five years. However, federal law prevents health occupations boards from sharing CHRC information with other states.

Recommendation 6: Statute should be amended to remove the authorization for applicants for licensure as an RN or LPN and applicants for certification as a CNA to be waived from a CHRC if they have completed such a check through another state board of nursing within the five

years preceding the date of their application. Such waivers cannot be granted because obtaining the criminal history records information from other states violates federal law.

DLS finds that the board has worked to streamline its complaint resolution process, which appears to have contributed to a reduced backlog of cases, particularly for CNAs and CMTs, and has enabled BON to hear cases in a more timely manner. However, DLS is concerned by the lack of written guidelines and the significant number of cases that continue to be carried over year after year while the number of new cases rises. One potential reason for delays in adjudicating complaints may be the inconsistent quality of investigative reports. In DLS interviews, board members stated that the non-nurse investigators often did not seek the type of information that would be sought from a nurse investigator because they lacked a nursing or medical perspective. Based on these findings, DLS makes the following recommendations to further improve the complaint resolution process:

Recommendation 7: The board, in consultation with the Office of the Attorney General, should develop a policy and procedure manual related to the complaint resolution process, including guidelines to be used by complaint review committees and in settlement conferences.

Recommendation 8: BON should continue to assess its complaint backlog and, as necessary, hold additional hearings.

Recommendation 9: Board members should meet with all investigative staff to discuss their expectations for investigations and should work with the

nurse investigators to develop training for non-nurse investigators in order to prevent future delays.

Chapters 533 and 534 of 2010 require all health occupations boards to adopt and report on use of sanctioning guidelines by December 2011. The board established a workgroup that has developed the guidelines, but the guidelines will not be implemented until after the December 2011 reporting deadline.

Recommendation 10: The board should report again to certain committees of the General Assembly on its implementation and use of sanctioning guidelines by December 1, 2012 (by which time the board is expected to have been using the guidelines for about one year).

The board has the capability to track significant data on current complaint activities. However, DLS observed that the board rarely runs data reports. Tracking complaint data would enable the board to measure the impact of its streamlined complaint resolution policies and monitor cases throughout the complaint resolution process.

Recommendation 11: The board should utilize its complaint tracking capabilities to develop, run, and maintain a catalog of complaint data reports on a regular basis and use the results to make staffing and automation changes to improve the overall complaint resolution process.

The board uses an automated call distribution (ACD) system to answer calls from the public. The board has increased the number of personnel answering phones, but complaints persist from both the public and board staff on wait times and the usefulness of the information provided by ACD operators.

Recommendation 12: BON should ensure that ACD operators have the appropriate training to handle frequently asked questions and that all staff who interact with the public are trained on phone etiquette for diffusing tense situations.

The board provides a considerable amount of information to the public and to the licensees and certificate holders it regulates through the board website. However, DLS found that the current organizational structure of the website can be difficult to navigate. Improvement of the website could reduce phone call volume and improve customer service.

Recommendation 13: The board should include all public board meetings under the “Public Meetings” link and should make the entire website easier to follow by placing everything needed for RNs under one link, LPNs under another link, and so on.

Current law requires the board to post final disciplinary orders online. The board has satisfied this requirement, but DLS found that the disciplinary information posted on the board’s website is inconsistent and misleading.

Recommendation 14: The board should ensure that posted disciplinary information is accurate, consistent, and up to date. In addition, the board should include descriptions of what information is available and directions as to how to access the information. The board should consider eliminating the “MBN Alert” and “Public Order” links and post disciplinary action by date with direct links to the public orders and include direct links to public orders under the “Look-up a Licensee” link.

The board posted a customer service survey on its website in July 2011 to measure the Managing for Results goal for the board to provide high quality customer service. The board could improve the effectiveness of the survey.

Recommendation 15: The board should add questions to the “Customer Satisfaction Survey” that are specific to the respondent’s interaction with BON staff. Further, the board should encourage more responses to the customer service survey by including prompts to complete the survey after the submission of an application or complaint and requiring ACD operators and staff to inform licensees, certificate holders, or the public about the online survey.

The board last published an online newsletter in September 2008 and instead now regularly posts updated board information on its website.

Recommendation 16: The board should reestablish an online newsletter as an opportunity to enhance communications between the board, its licensees and certificate holders, and the public.

BON is transitioning to a paperless application process and has indicated it needs additional employees to complete the transition. DLS finds that some of the information technology (IT) projects likely are one-time assignments and that after the application process becomes paperless the IT needs of the board may change.

Recommendation 17: Rather than request additional regular positions, the board should consider hiring contractual employees to complete the transition to a paperless application process.

The board provided DLS with anecdotal evidence of a need for additional positions but could not provide specific data to justify additional staff. The board does not regularly run data reports to assess and manage ongoing workloads. Additionally, the board continues to undergo significant changes that will impact its staffing needs, such as transition to a paperless application process, transition to biennial licensure renewal, and the anticipated requirement for CMTs to undergo CHRCs. The lack of data and ongoing changes that will affect staffing needs led DLS to a determination that further study is needed to determine appropriate distribution and levels of staff.

Recommendation 18: BON should contract with an independent entity to perform a personnel study to determine if and where additional staffing is needed. The study should be completed by October 1, 2013, and include an analysis of the board's workload in its major functions of licensure, certification, and complaint resolution and should consider at a minimum (1) the number of applications and complaints the board receives; (2) the number of employees assigned to each step of each function; and (3) the amount of time an application or complaint remains at each step of each function. The personnel study should include an analysis of the impact of the online processing of licenses and certificates and the movement to biennial renewal on staffing needs. Finally, the study should make recommendations relating to the most effective use of current staff including cross-training and reassignment.

Chapters 53 and 54 of 2010 changed the membership and qualifications for membership on the board. Currently, the board has four members with expired terms.

It is expected that the new appointments will increase representation on the board of the long-term care industry and, indirectly, CNAs and CMTs.

Recommendation 19: The board should work with the Department of Health and Mental Hygiene and the Governor's Appointments Office to reappoint or replace board members as required by Chapters 53 and 54 of 2010.

The Nursing Assistant Advisory Committee within the board was established to enable CNAs to have direct input into the certification and disciplinary processes. However, the advisory committee only meets every other month, several vacancies on the advisory committee need to be filled, and the advisory committee has not submitted an annual report to the board since 2001. Additionally, although the advisory committee has oversight of CMTs, the membership of the advisory committee does not include a CMT.

Recommendation 20: Statute should be amended to alter the membership of the Nursing Assistant Advisory Committee to include at least one CMT and to require the advisory committee to meet at least once a month. In addition, the board should fill vacancies on the advisory committee and adopt regulations clarifying the advisory committee's role.

DLS observed both a physical and collegial disconnect between the nursing staff and the nursing assistant staff that works on different floors. DLS finds that the lack of unity has reduced morale, which the board could improve by fostering a team atmosphere.

Recommendation 21: The board should reinstate its policy of holding monthly

staff meetings either with the entire staff or with division directors in order to enhance communication with and among board personnel.

With a few exceptions, staff members are not cross-trained to perform another staff member's job or function. Additionally, there are no comprehensive policy and procedure manuals that describe the responsibility of each function and the assignment of tasks within that function.

Recommendation 22: The board should conduct cross-training for employees, prepare more comprehensive documentation of board functions through the development of policy and procedure manuals, and update its organizational chart and job descriptions.

The board does not have sufficient technology to track the status of applications. Matching of CHRC results with applications is a manual process, subject to delays. Moreover, the processing of CMT applications has been fraught with significant delays.

Recommendation 23: The board should develop an automated system for tracking applications that can generate reports on how long applications have been in the licensing system and how long the applications remain at each step of the licensing process.

Current law requires the board to submit an annual report to the Secretary of Health and Mental Hygiene and the Governor. The board regulates the vast majority of health occupations professionals in the State and distribution of the annual report should be expanded to include the General Assembly. Additionally, the content of the annual report could be improved.

Recommendation 24: Statute should be amended to require the board to submit its annual report to the General Assembly, in addition to the Secretary of Health and Mental Hygiene and the Governor. The report should include specific data calculated on a fiscal-year basis in order to provide a clearer picture of the workload of the board.

The members and staff of the board work to fulfill the board's statutory duties. DLS has observed through interviews and board meetings that the board is capable and motivated to improve board operations. Throughout this report, DLS has recommended several administrative changes. These changes will make the board run more efficiently and improve the board's relationship with the individuals it regulates and the general public.

Recommendation 25: Legislation should be enacted to extend the termination date for the board by 10 years to July 1, 2023. Additionally, uncodified language should be adopted to require the board to report, by October 1, 2013, to certain committees of the General Assembly on the implementation status of nonstatutory recommendations made in this report. In particular, the board should report on how it has improved its use of data collection and tracking for the licensure, certification, and complaint resolution processes.

Chapter 1. Introduction

The Sunset Review Process

The Maryland Program Evaluation Act, enacted in 1978, requires the Department of Legislative Services (DLS) to periodically evaluate certain State agencies according to a revolving statutory schedule. Most of the agencies subject to review have a termination date in statute. The legislature must take action to reauthorize them or they will automatically terminate. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The State Board of Nursing (BON) is 1 of about 70 entities currently subject to evaluation. The board last underwent a full evaluation as part of sunset review in 2001. Based on those findings and recommendations, Chapter 165 of 2002 extended the board's termination date to July 1, 2013, and required the board to provide a report to certain committees of the General Assembly by October 1, 2002, on the implementation of report recommendations – including an action plan to reduce the backlog in complaints and a description of the efforts of the board to reduce operating costs through enhanced efficiency in the use of technology and personnel.

In advance of the board's 2013 termination date, a preliminary sunset evaluation was conducted by DLS in 2010 to assist LPC in determining whether to waive the board from further evaluation. The preliminary report found that the increased certification duties related to nursing assistants and medication technicians coupled with the requirement to conduct criminal history records checks (CHRCs) on all licensees and certified nursing assistants had significantly increased the workload of the board. DLS recommended that a full sunset evaluation be conducted to explore CHRCs, the complaint resolution process, personnel issues, and customer service issues. LPC concurred with the DLS recommendation. Thus, this evaluation is being undertaken to provide the General Assembly with additional information in making the determination about whether to reauthorize the board and for what period of time.

The State Board of Nursing

In Maryland, as in all other states, the District of Columbia, and five U.S. territories, a regulatory board oversees the practice of nursing. BON was created by the General Assembly in 1904. The mission of the board is to advance safe, quality care in Maryland through licensure, certification, education, and accountability for public protection. Along with 17 other health occupations boards, the board operates under the Office of the Secretary in the Department of Health and Mental Hygiene (DHMH). Although DHMH provides administrative and policy

support, board operations are managed directly by a staff that includes 75 authorized regular full-time equivalent and 0.51 contractual positions.

Board Composed Mostly of Registered Nurses

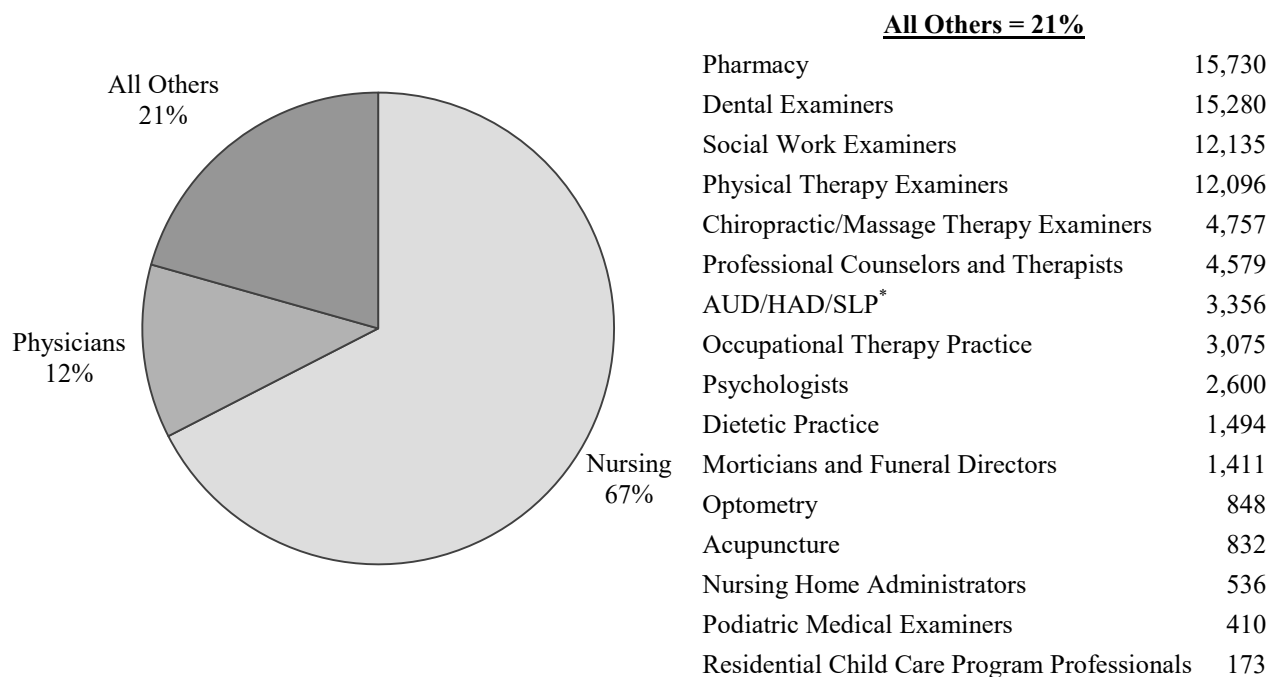
The board has 13 members: 8 registered nurses (RNs), 3 licensed practical nurses (LPNs), and 2 consumers. As outlined in statute, the RN members represent different segments of the profession, including a nurse administrator, nursing educators, nurse clinicians, and an advanced practice nurse. Members serve four-year terms. There are currently no vacancies on the board, but four members with expired terms are awaiting replacement. The issue of board appointments will be discussed in greater detail in **Chapter 6** of this report.

The board meets monthly and has several committees that meet on a monthly, quarterly, or as-needed basis. Each subcategory of licensee or certificate holder governed by the board is represented by a committee. In addition, the board forms workgroups to examine specific issues presented to the board. Recent examples of workgroups include the administration of intravenous moderate sedation by registered nurses and the licensure of distance learning schools. The board is supported by five rehabilitation committees, all of which meet on a monthly basis. The rehabilitation committees are statutorily created and provide an alternative to the board's disciplinary process for nurses and other regulated practitioners who are impaired by substance abuse or mental illness.

Board Workload Much Greater than Other Health Occupations Boards

The board is by far the largest of the health occupations boards in terms of the number of individuals who fall under its regulatory purview. As shown in **Exhibit 1.1**, the board oversees approximately two-thirds of all regulated health occupations professionals in the State, more than six times the number of individuals regulated by the second largest board, the State Board of Physicians. In fiscal 2010, the board issued about 265,000 licenses or certificates to RNs, LPNs, advanced practice nurses, nursing assistants (CNAs), medication technicians (CMTs), and electrologists – representing more than 259,000 individuals.

Exhibit 1.1
Active Licensees/Certificate Holders Governed by
Maryland Health Occupations Boards
Fiscal 2010



* Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists

Source: Department of Health and Mental Hygiene

Statutory Changes Affecting the Board Since the 2001 Sunset Review

Since the full evaluation in 2001, several statutory changes have affected board operations. As shown in **Exhibit 1.2**, legislation has focused on certification activities and scope of practice issues. The certification of medication technicians has expanded the board's regulatory authority. In addition, the requirement to add CHRCs as a condition of licensure or certification has increased the duties of the board significantly and will be discussed in more detail later in this report.

Exhibit 1.2
Major Legislative Changes Since the 2001 Sunset Review

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2002	165	Extends the termination date of the board by 10 years to July 1, 2013.
2003	422	Repeals the State Board of Electrologists and establishes the Electrology Practice Committee under the State Board of Nursing.
2004	455/456	Require the board to certify medication technicians.
2005	206	Authorizes the board to issue a temporary practice letter to a certified nurse practitioner or a certified nurse midwife subject to the approval of the State Board of Physicians. Authorizes the board to issue a temporary practice certificate to CNAs.
2006	49/482	Require electrologists to annually renew licenses with the board. Expand the grounds for disciplinary actions against electrologists to include failure to comply with continuing education requirements.
	390	Requires RNs, LPNs, selected nursing assistants, and electrologists to submit to a criminal history records check as part of the licensure and certification process.
	481	Authorizes the board to set standards for CNAs and CMTs. Alters the authority of the board's rehabilitation committee, the requirements of multistate licensing privileges, license renewal procedures, and the authority of the board to send an advisory letter to a licensee.
2007	544/545	Add an RN certified in an advanced practice nursing specialty as a member of the board.

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2007	598	<p>Requires an individual applying for reinstatement of a lapsed nursing license or other certificate to submit to a criminal history records check.</p> <p>Requires certificated individuals to present evidence of completion of 100 practice hours as a certified medicine aide or CMT within the two-year period prior to renewal.</p> <p>Requires certified medicine aides to complete continuing education.</p>
2008	232/233	<p>Authorize an RN certified as a nurse practitioner to make certain determinations regarding examination of a pregnant minor and “do not resuscitate” orders under specified circumstances and to provide vital data on birth, death, and other medical certificates.</p>
	301	<p>Authorizes the board to grant extensions of temporary licenses or temporary practice letters every 90 days for up to 12 months if the applicant does not meet specified practice requirements.</p>
	653	<p>Extends the date by which the board must check the criminal history records of existing certificate and license holders to July 2009.</p> <p>Authorizes the board to accept an alternative method other than fingerprints for a criminal history records check if two attempts to obtain legible fingerprints have failed.</p> <p>Authorizes the board to grant extensions of temporary licenses or temporary practice letters for 90 days pending receipt of criminal history records information.</p>
2010	53/54	<p>Alter the membership of the board and the process for board member nominations.</p>
	77/78	<p>Alter the scope of practice for nurse practitioners by requiring an approved attestation that the nurse practitioner has an agreement to collaborate and consult with a licensed physician and will refer to and consult with any other health care provider as needed.</p> <p>Repeal the requirement that the board and the State Board of Physicians jointly adopt regulations concerning the prescriptive authority of nurse practitioners.</p> <p>Require the board, in consultation with the State Board of Physicians, to develop a plan to implement the Acts.</p>

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2010	585/586	<p>Require applicants for licensure or certification to submit to an examination by a board-designated health care provider if the board has objective evidence that an applicant may cause harm to a patient.</p> <p>Establish biennial, staggered license renewal beginning in January 2013.</p> <p>Require the board to send renewal notices to licensees and certificate holders three months before a license expires.</p> <p>Require an additional criminal history records check of specified licensees and certificate holders every 12 years, rather than every 10 years.</p>
2011	107	<p>Specifies that each applicant for licensure as an electrologist must pass an examination approved by the board and a clinical examination approved by the board.</p> <p>Extends the term of an electrologist license from one to two years beginning January 1, 2013.</p>
	123	<p>Extends the time period from 90 to 180 days during which a medication technician graduate can practice without certification from the board (provision terminates April 12, 2013).</p>
	573	<p>Reauthorizes the Electrology Practice Committee until July 1, 2023.</p>

Source: Laws of Maryland

Research Activities

DLS utilized several standard research activities to complete the full evaluation of the board.

- Literature and Document Reviews** – DLS reviewed several sources of literature on the regulation and practice of nursing, including literature from the National Council of State Boards of Nursing; the Annotated Code of Maryland; the Code of Maryland Regulations (COMAR); internal board documents such as administrative policies, annual reports, and board minutes; other evaluations of the organization and management of the board; complaint and licensing files; and the board's financial records.
- Structured Interviews** – Numerous structured interviews were conducted to supplement the literature and document reviews including interviews with board members, board

staff, and staff from the Office of the Attorney General. Information was also sought from the Maryland Nurses Association, the Maryland Association of Community Services, the Nurse Practitioner Association of Maryland, and Mid-Atlantic Lifespan. The formal interviews focused on staff responsibilities and workload, board operations, licensure processes, disciplinary procedures, customer service, technological resources, and staff and management issues. Responses are not quoted or included as an appendix to this report but were used to identify potential problems with board management and operations, internal policies and procedures, and organizational structure.

- **Site Visits/Observation** – DLS also attended two meetings of the board, including disciplinary proceedings, to gain a better understanding of the issues confronting the board and the disciplinary process. In addition, DLS assessed BON's maintenance of files and office layout.
- **File Review** – DLS reviewed the board's licensing and complaint files to better understand how information is organized and tracked including information maintained in My License Office, the board's licensure software.

Report Organization

Chapter 1 of this report includes a review of the organization and history of BON and provides a review of statutory changes affecting the board since the 2001 sunset review. **Chapter 2** describes the board's licensing and certification functions, including a description of the online application and renewal process. **Chapter 3** outlines issues related to implementation of the CHRC requirement. **Chapter 4** describes the complaint resolution process. **Chapter 5** explores customer service issues. **Chapter 6** addresses resource and administrative issues including board finances, personnel issues, training of board staff, and documentation of board functions. **Chapter 7** summarizes and concludes the report.

As supplements to the report, two appendices are included. **Appendix 1** contains draft legislation to implement the statutory recommendations contained in this report. The board reviewed a draft of this report and provided the written comments included as **Appendix 2**. Appropriate factual corrections and clarifications have been made throughout the document; therefore, references in board comments may not reflect this published version of the report.

Chapter 2. Licensure and Certification

Licensure and Certification Are Central Functions of the Board

The State Board of Nursing (BON) licenses two levels of nurses: registered nurses (RNs) and licensed practical nurses (LPNs). RNs obtain an associate or bachelor's degree or graduate from a diploma program, while LPNs receive their education in trade or vocational schools and community colleges. Applicants for initial licensure as an LPN or RN must graduate from an approved nursing education program and pass the National Council of the State Boards of Nursing's licensure examination (NCLEX).

Nurses may also be licensed by endorsement. If an applicant is licensed in another state or country and meets requirements similar to those in Maryland, the applicant is eligible for licensure without taking NCLEX or other examinations outlined in board regulations. Applicants for licensure by endorsement must provide evidence of 1,000 hours of active nursing practice within the last five years or complete a board-approved refresher course.

The board certifies nursing assistants (CNAs) and medication technicians (CMTs). CMTs work under a delegating nurse and are trained to "pass" medications (distribute them to patients). CMTs are required to complete a board-approved medication training program. CNAs also work under a delegating nurse, but they work with individuals who are more medically complex. CNAs are required to complete a specified board-approved training program or course.

Applicants for licensure as an RN or LPN and applicants for certification as a nursing assistant must submit to a criminal history records check (CHRC). Statute currently waives this requirement for applicants who have completed a CHRC through another state board of nursing within the five years preceding the date of application for a Maryland license or certificate; however, as discussed in **Chapter 3** of this report, BON has not been able to grant such waivers in practice.

Board Also Certifies Seven Types of Advanced Practice Nurses

Some licensed RNs also receive a certification of advanced practice status in addition to their licensure as an RN. The board certifies seven types of advanced practice nurses: nurse anesthetists, nurse midwives, nurse practitioners, infusion therapy nurses, sexual assault forensic examiner (SAFE) nurses, workers' compensation medical case workers, and nurse psychotherapists. Each type of advanced practice certification has specific requirements set out in regulation.

Board Approves Educational Programs for Nurses

The board has statutory authority to approve educational programs for nurses. Additionally, the board approves programs for the certification of advanced practice nurses and CNAs. The approval process for an educational program requires a review of the curriculum, records of the school, interviews with staff and students, and an on-site inspection of the program. Standards for faculty education, training, and structure are also monitored by the board. The faculty of the nursing school must develop and implement an evaluation plan every three years, and all new programs must be approved by the board and the Maryland Higher Education Commission prior to admitting students.

Number of Certificate Holders Has Increased Substantially, Now Surpasses Number of Licensees

In addition to licensing RNs and LPNs and certifying advanced practice status, the board began certifying CNAs in fiscal 2000 and CMTs in fiscal 2004. As a result, the number of certificate holders has increased substantially. The number of CNAs has increased by 163% since fiscal 2005, while the number of CMTs has increased by 112%. As shown in **Exhibit 2.1**, the number of certificate holders now surpasses the number of licensees under the board's authority.

The number of RN licensees has increased from 61,148 in fiscal 2005 to 74,884 in fiscal 2011 (a 22% increase). Since fiscal 2008, the number of RN licensees has stabilized at around 74,000. Likewise, the number of LPN licensees has increased from 12,150 in fiscal 2005 to 14,605 in fiscal 2011 (a 20% increase) and has stabilized at around 15,000 licensees since fiscal 2008. The number of RNs who also hold advanced practice certifications has varied somewhat on an annual basis since fiscal 2005 but increased overall by 8% from fiscal 2005 to 2011. The steady increase in licensed nurses may provide good evidence that the shortage of nurses noted in the 2001 sunset evaluation is reversing. Also, as noted above, the number of CNAs and CMTs certified by the board since fiscal 2005 has increased significantly.

Exhibit 2.1
Licenses and Certifications Held
From the State Board of Nursing
Fiscal 2005-2012

<u>Type of Activity</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Estimated FY 2012</u>
Licenses/Certificate Holders								
RNs	61,148	58,216	55,860	73,818	74,683	74,104	74,884	75,000
LPNs	12,150	10,607	11,063	15,283	14,820	15,283	14,605	15,500
CNAs	43,500	48,623	47,598	81,391	98,869	107,112	114,527	115,000
CMTs	32,618	40,721	15,643	20,384	57,354	62,744	69,246	69,000
Electrologists	110	110	108	111	98	85	74	60
Additional Workload Measures Related to Nurses								
Advanced Practice Certifications Held by RNs	4,252	3,127	3,831	4,003	5,912	4,932	4,598	5,000
Licensure by Endorsement	1,741	2,704	2,091	2,456	2,599	2,812	2,696	2,600
New Licensee/Exams	2,516	2,942	3,095	3,095	2,881	3,240	3,485	3,300

Notes: Though licensed by the board, a separate sunset evaluation of the Electrology Practice Committee was conducted in 2010. The number of electrologists licensed annually is included in this chart as an indicator of the board's workload. Licenses and certifications associated with nurses are currently issued annually whereas certifications for nursing assistants and medication technicians are issued biennially.

Source: State Board of Nursing

Volume for Certification of Medication Technicians Is High

Although medication technicians are certified for two-year periods, the certification numbers shown above reflect total certificates held each year, rather than the number of certificates issued each year. Regardless, Exhibit 2.1 clearly shows the growth trend for CMTs; since fiscal 2005, the number of medication technicians certified by the board has increased by 112%, with 69,246 certificate holders in fiscal 2011. However, the board advises that another 20,962 applications made in fiscal 2010 and 2011 were still pending as of October 20, 2011.

Applicants for a medication technician certificate must be of good moral character, be at least 18 years old, successfully complete an approved course in medication administration or a

portion of an approved nursing education program, and submit a specified application and fee to the board. Applicants may not have committed any act or omission that would be grounds for discipline or denial of certification nor have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in another jurisdiction.

Training Requirements for CMTs May Be Too Onerous

Providers who employ medication technicians have expressed concerns about the training requirements. In 2010, the board established a workgroup to examine training requirements for medication technicians; the workgroup made several recommendations that were approved by the board. Providers stated that they were not included in the workgroup and that the training requirements recommended are too onerous on CMTs. As a result, the board has posted on its website a notice of a public hearing on the CMT training issue to be held in the fall of 2011. An additional area of concern for providers is the potential impact of requiring a criminal history records check as a requirement for certification as a CMT, which will be discussed in more detail in Chapter 3 of this report.

Delays in Processing Certifications Have Been Dramatic but Are Now Being Addressed

Medication technicians are often employed by nursing homes, assisted living facilities, and developmental disability providers, and they make an average of \$9 to \$10 an hour. The provider community repeatedly expresses concerns regarding the high turnover rate of CMTs due to their low wages and the impact that additional regulation has on individuals who can find higher paid employment in other fields. The provider community has also noted problems with delays in the board's processing of certificates. Providers testified before the General Assembly that they spent a great deal of time working through the delays, lost paperwork, and bureaucratic challenges presented by the board, and that such challenges often result in supervisors spending hours on the phone trying to get answers about the certification status of CMTs.

Based on these concerns, Chapter 653 of 2008 authorized medication technicians to practice for no more than 90 days from the date of completion of a medication technician training program. With continued provider complaints about the certification process, both the board and providers supported Chapter 123 of 2011, which extended the 90-day timeframe to 180 days. The board has attributed the delays in processing applications to an unanticipated increase in the number of medication technician applicants and to submission of incomplete applications. Board testimony on this legislation also indicated that implementation of the board's online application program would increase the timeliness of the certification process. Due to concerns with further extending the timeframe in which an "uncertified" medication technician could practice, Chapter 123 expires two years from the date of enactment and requires the board to study and submit a report to the General Assembly by December 31, 2011, on the status of the online program for processing initial and renewal CMT applications, the measures implemented to encourage the use of online applications, an analysis of current staffing, including staff added since January 1, 2011, and projected staffing needs.

The board has been actively working with providers to resolve the backlog of applications and provide training on completing online applications. Even so, almost 9,000 applicants from fiscal 2010 have been waiting for certification for at least 15 months. Although the board advises that none of these individuals is practicing without a certificate beyond the 180-day period allowed by Chapter 123, DLS can only reconcile such a long delay in certification if all such applicants just recently completed their training. Clearly, the board's efforts have not yet been successful, but board resources are being targeted to processing all pending applications on a first-in first-out basis.

Recommendation 1: The board should continue to prioritize certification of medication technicians; any statutory or regulatory changes related to the certification of medication technicians should be based on the findings of the report required by Chapter 123 of 2011, particularly the required staffing analysis. The board should also include the provider community when developing policy related to the certification process and training requirements for medication technicians.

Board Has Updated Licensure Database Software Which Should Facilitate Processing Initial and Renewal Applications

In 2010, the board updated its licensure database software from License 2000 to My License Office. The board offered training to its employees when moving to My License Office, which aided in a smooth transition to the new software. My License Office is a web-based service that allows for tighter security, better tracking, and added functionality for complaints and compliance. Individuals seeking licensure or certification from the board can log into the online verification site or call the Interactive Voice Response system to view the information that the board has received and what is still needed. However, according to the board, the software is more cumbersome when processing financial transactions and takes more time to conduct searches. Based on user complaints with the speed of the software, the board is adding a new database server with more memory and additional space. The software has enhanced data tracking capabilities that are currently not being fully utilized by the board. This issue will be discussed in more detail in **Chapter 4** of this report.

Board Has Evaluated Stumbling Blocks to Use of Online Licensing and Certification

In 2000, the board implemented online renewal of nursing licenses in order for licensees to have easier and faster access to the renewal process. In July 2003, the board implemented online renewal for certificate holders. According to the board's report to the budget committees in February 2011, 95% of nurses used online renewal, while 37% of CNAs and 20% of CMTs used the process. The board found that one of the major hindrances of the online renewal process for certificate holders was the requirement that the delegating nurse approve the certificate holder's application after the certificate holder completed the application online but

before the application was transmitted to the board. Therefore, the board discontinued this requirement in July 2010. Another hindrance was the board's policy of sending the renewal form in hard copy format to certificate holders at renewal time, which served as a disincentive to complete the process online. In February 2011, the board began sending certificate holders a reminder to renew instead of the renewal form. Over the last several months, the board has seen an increase in online renewals by certificate holders.

In 2010, the board began working with its online vendor (Edge Systems, Inc.) to supply all initial applications online. In anticipation of this action, meetings were held with each division within the board to ensure that all processes were addressed. The board also worked with the online vendor to include security measures and to capture the CHRC tracking number to ensure that the licensee or certificate holder had started the background check process. The board continues to work with the online vendor on methods to include disciplinary information and other necessary documentation and to allow any additional paperwork relevant to the application to be loaded online in a secure manner.

The board has moved all RN, LPN, CNA, and CMT *renewal* applications online. Currently, the board is in the process of moving all RN, LPN, CNA, and CMT *initial* applications online, with a goal of having this process completed by early 2012. The board has taken measures to increase access to online services for its licensees and certificate holders. In September 2011, the board installed two kiosks in the reception areas at the board on which nursing and CNA walk-in applicants can apply for licensure. The board plans to have five kiosks available for this purpose by January 2012. In order to complete its goal of having all initial applicants and renewals online, the board is working on ordering additional kiosks; adding secure software for receiving disciplinary information; placing initial applications for medication technicians, RN examinations, CNA endorsements, and compact state applicants online; placing compact state renewals and psychiatric nurse practitioner renewals online; and ensuring that electrologists can process their initial licenses and renewals online.

Managing for Results Goals for Processing Routine Renewals May Not Be Relevant Any Longer

In its annual Managing for Results (MFR) measures, the board set a goal of processing 95% of all routine renewal applications received by mail within five business days by fiscal 2012. The board met this goal in fiscal 2009 but then achieved a rate of just 85% in fiscal 2010. The board attributes the decline to problems with processing mailed-in renewal applications within five business days due to imaging issues that have since been resolved. In addition, the board cited increases in the numbers of licenses and/or certificates issued and inadequate staffing as reasons for the processing delays. Despite these recent delays in processing licenses and certificates, the board estimates that it will meet its MFR goals in fiscal 2012 due to the board's initiative to have all renewal candidates process their renewals online.

Annual Renewal of Licensure Will Change to Biennial in 2013

Currently, RN and LPN licenses are renewed on an annual basis according to the licensee's birth month. Licensees seeking renewal must show evidence of at least 1,000 hours of active nursing practice within the five years immediately prior to renewal. Licensees who do not meet the 1,000-hour requirement may apply for an inactive license or take a board-approved refresher course. The current system of annual license renewal is scheduled to change. Chapters 585 and 586 of 2010 establish biennial renewal for licensees beginning January 1, 2013. Licensees born in even-numbered years will be required to renew in even-numbered years, and those born in odd-numbered years will be required to renew in odd-numbered years. According to the board, the movement to biennial licensure is an effort to reconcile staffing shortages with the board's obligation to perform duties in other areas.

While the implementation of online renewal and initial licensure capabilities and the movement to biennial licensure may require greater staff involvement during the implementation period, both processes should lead to increased staffing efficiencies in other areas, particularly among those individuals who handle paper applications.

Recommendation 2: The board should monitor any staffing efficiencies related to the online licensure process and the movement to biennial licensure and reallocate staff accordingly. The board should also use its customer service survey to monitor customer satisfaction with both processes.

Chapter 3. Criminal History Records Checks

In recent years, the licensing and disciplinary duties of the State Board of Nursing (BON) have been expanded to include review of criminal history records checks (CHRCs) on three-fourths of all applicants for both initial and renewal certification and licensure. Review of CHRCs has significantly increased the board's workload and required BON to expand its staff and adopt new policies and procedures. Although board members and staff repeatedly expressed to the Department of Legislative Services (DLS) that CHRC requirements are critical to the board's mission, limited data provided by the board indicate that relatively few individuals have been denied licensure or certification based on a criminal history since the requirements were adopted. While DLS finds that the board has made progress in improving its CHRC review process, as discussed in this chapter, there is room for improvement.

Historically, the board learned about any criminal history of applicants for licensure or certification through voluntary self-reporting or as part of a complaint investigation. According to the board, many applicants did not self-report or underreported convictions, and the board only learned of the convictions after the individual was licensed or certified and a complaint was filed against the individual. The board also observed an increase in the number of convictions among licensees and certificate holders, as well as an increase in the number of serious violent crimes. In addition to these observations, in 2006, the administrators of the Nurse Licensure Compact (a multi-state agreement that enables nurses to practice across state lines) agreed to voluntarily implement CHRCs by 2008. As a member of the compact, BON pursued legislation to require CHRCs both to enhance public protection and voluntarily comply with the compact.

Criminal History Records Checks Have Significantly Increased the Board's Workload with More than 26,000 Results Reviewed Annually

Nationally, 36 state boards of nursing, including all but 5 of the 24 compact states, mandate CHRCs as a requirement of licensure. In Maryland, Chapter 390 of 2006 required registered nurses (RNs), licensed practical nurses (LPNs), certified nursing assistants (CNAs), and electrologists to submit to national and State CHRCs as part of the *initial* licensure and certification application. CHRCs are conducted by the Federal Bureau of Investigation (FBI) and by the Criminal Justice Information System (CJIS). Chapter 390 also required selected licensees and certificate holders to submit to a CHRC at least once every 12 years as a condition of *renewal* (implementation of this requirement was later delayed). These requirements alone have significantly increased BON's workload, but the impact has been further exacerbated by the explosion in the volume of licensees and certificate holders.

On October 1, 2006, the board implemented the CHRC requirement on all new licensees and CNAs. In June 2010, the board began reviewing CHRC information for licensees and CNAs seeking renewals. In total, the CHRC requirements have resulted in BON reviewing more than 26,000 CHRC results annually.

In fiscal 2010, the board reviewed 17,146 initial CHRC results, of which 14,819 (86%) were negative (no criminal history), 1,531 (9%) were positive (a criminal history was identified), and 796 (5%) were rejected (typically because the name of the applicant did not match with records or the fingerprints submitted could not be processed). An additional 8,896 CHRC results associated with renewal applications were also reviewed, of which 7,636 (86%) were negative, 793 (9%) were positive, and 467 (5%) were rejected. To handle this expanded workload, the board has dedicated four staff specifically to processing CHRC results.

Positive Criminal History Records Check Results Have Led to Relatively Few License/Certificate Denials

Even when CHRCs reveal a criminal history, most positive results do not affect fitness for licensure or certification. As shown in **Exhibit 3.1**, over the five-year period from fiscal 2007 through 2011, a total of 3 RN applicants, 3 LPN applicants, and 124 CNA applicants were denied initial licensure or certification due to a positive CHRC result. Thus, from the total of 63,915 CHRC results submitted to the board for initial licensure and certification between fiscal 2007 and 2011, only 0.2% of total RN, LPN, and CNA applicants were denied licensure or certification due to positive CHRC results.

Exhibit 3.1 Initial Licenses and Certificates Denied Due to Criminal History Fiscal 2007-2011

<u>License/Certificate Type</u>	<u>Number of Denials</u>
Denial Due to Positive Criminal History Records Check Results	
Registered Nurse	3
Licensed Practical Nurse	3
Certified Nursing Assistant	<u>124</u>
<i>Subtotal</i>	<i>130</i>
Denial Due to Self-reporting of a Criminal History	
Certified Medication Technician*	105
Total	235

*Certified medication technician certificate denials are based on self-disclosure of criminal history on the initial application. Criminal history records checks are not currently required of certified medication technicians.

Source: State Board of Nursing

In addition to those licenses and certificates denied due to positive CHRC results, 105 certified medication technician (CMT) applicants were denied certification due to self-reporting of a criminal history on the CMT application over the same period.

Board Does Not Routinely Track License/Certificate Denials Due to Positive Criminal History Records Check Results

Board members and staff interviewed by DLS consistently stated that CHRCs are necessary to further the board's mission of advancing safe, quality nursing care. Thus, information on denials is critical to determine whether and to what extent the CHRC requirement is furthering the board's mission. However, the board does not routinely track the number of license and certificate denials resulting from positive CHRC results; rather such information was specially produced upon request of DLS.

Instead of only running license or certificate denial data on request, the board should routinely use the information available to it to evaluate the implementation of the CHRC requirement. Data on the number of CMT denials would be useful in determining the effectiveness of the current self-disclosure policy and in analyzing the necessity of the board's proposal to extend the CHRC requirement to CMTs. Both of these issues are discussed in more detail later in this chapter.

Recommendation 3: The board should maintain annual data on the number of applicants for licensure as an RN or LPN and certification as a CNA that are denied licensure or certification based on positive criminal history records check results. Information should also be maintained on the number of applicants for certification as a CMT that are denied certification based on self-disclosure of a criminal history.

Board Review of Criminal History Records Check Results Involves Multiple Staff

In anticipation of the CHRC requirement, the board's former executive director established procedures for integration with the rest of the application for licensure or certification. The board established separate units for nurses and CNAs: the Exam or Endorsement Division processes CHRC results for RNs and LPNs (depending on whether the applicant is taking the exam or using reciprocity), while the CNA Division processes CHRC results for CNAs. Initial applicants receive all instructions on obtaining CHRCs from the board's website or directly from initial application log-in sites. (DLS review of the board's website found that information on how to comply with the CHRC requirement was easy to find and follow.) Applicants must apply for CHRCs before submitting their initial application for licensure or certification with the board. Once the board receives a CHRC result, the application

can be processed in conjunction with the assessment of the CHRC result. **Exhibit 3.2** outlines the process followed by the board after receiving CHRC results from the FBI and CJIS.

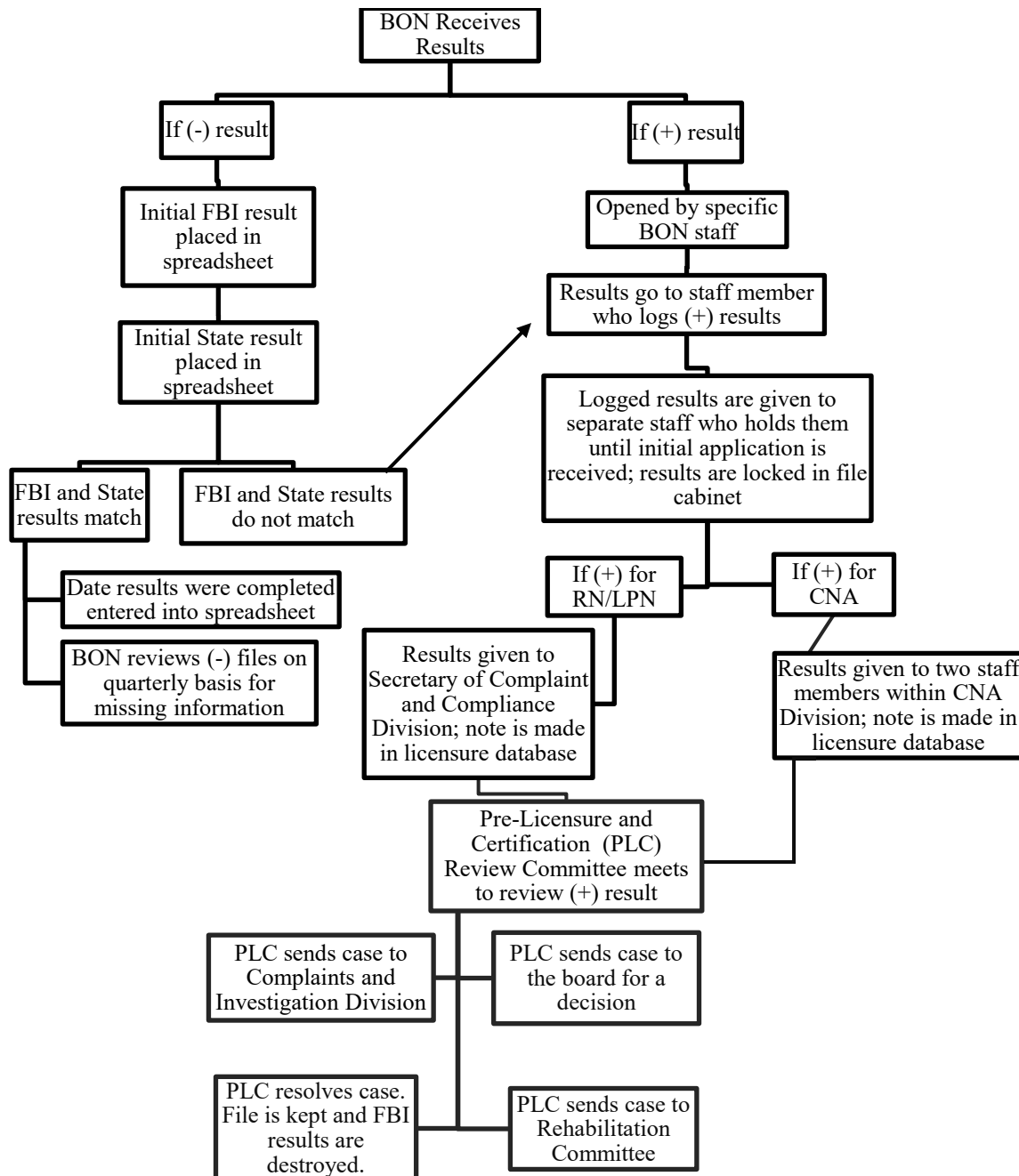
Board procedures for processing CHRC results are designed to maintain confidentiality and require utilizing multiple staff throughout the process. All negative results (no criminal history) are imported into the licensure database at least weekly. Board staff examines negative results on a quarterly basis and follows up on any applicants who are missing either an FBI or CJIS result to determine the cause of the delay. Positive CHRC results (those where a criminal history is identified) are handled by a separate staff member who holds the results until the board receives an application from the applicant. Positive results are separated based on license type with RN/LPN results going to the Complaint and Compliance Division and CNA results staying within the CNA Division, but being processed by separate designated staff.

BON Implemented Streamlined Review for Positive Criminal History Records Check Results in Anticipation of Increased Complaint Volume

In fiscal 2008, BON staff, in consultation with the board, implemented policies to streamline the review process for handling positive CHRC results. All positive results are classified as complaints and are investigated by a Pre-licensure and Certification (PLC) Review Committee that consists of the CNA coordinator for discipline and compliance, the discipline and rehabilitation coordinator for nurses, and the executive director. PLC meets twice per month. If a CHRC result shows a minor misdemeanor that is at least five years old, PLC has the authority to grant the certificate or license (or renewal) without the approval of the board. Felonies or misdemeanors that PLC is not comfortable with making a licensing determination on are sent to the full board. PLC also has the authority to make referrals to the appropriate rehabilitation committee of the board or to the Complaints and Investigations Division for additional investigation. If investigated, the division then contacts the applicant or current licensee or certificate holder for further documentation. The information is evaluated, the individual is interviewed, and the division determines the status of the application. Based on a representative sampling conducted by the board, approximately 85% of positive CHRC results are cleared by PLC, 9% are referred to the board, 5% are referred to a rehabilitation committee, and less than 1% is referred to investigations.

According to the board, in fiscal 2011, the board processed 1,810 complaints based on CHRC results or, in the case of CMTs, self-disclosure of criminal history. Of these complaints, 533 were for RNs and LPNs (29%), 1,013 were for CNAs (56%), and 264 were for CMTs (15%).

Exhibit 3.2
Criminal History Records Check Process
Followed by BON Upon Receipt of Results



Source: State Board of Nursing

Criminal History Records Check Policies and Procedures Should Be in Writing

The board has taken proactive steps in response to the increased workload presented by the implementation of CHRCs through organizational restructuring and the streamlining of complaint resolution policies associated specifically with positive results. However, these policies and the procedures related to them have not been reduced to writing. In order to ensure uniformity and consistency in implementing CHRC policies and to promote transparency among licensees and certificate holders who may be subject to investigation, any policies and procedures relating to the handling of positive CHRC results, including those followed by PLC, should be in writing and made available to both BON staff and, as appropriate, the public.

Recommendation 4: The board should develop policy and procedure manuals on how the board handles positive criminal history records check results. These policies and procedures should be shared with board members and staff, and relevant policies should be published on the board's website.

Board Should Delay Further Consideration of Expanding Criminal History Records Check Requirement to Medication Technicians

As discussed above, CMTs are not required to submit to CHRCs, although the application includes questions for the self-disclosure of a criminal history. In fiscal 2011, 264 CMTs self-disclosed a criminal history. Cumulatively over the past five fiscal years, a total of 105 medication technicians have been denied certification based on this self-disclosure. Despite the self-disclosure policy, the board is considering seeking legislation during the 2012 session to extend the CHRC requirement to CMTs (1) because they are responsible for direct patient care and have access to medications; and (2) to be consistent with current requirements imposed on other board licensees and certificate holders. According to the board, CMTs would be required to submit to CHRCs upon initial certification and then ultimately at least once every 12 years as a condition of renewal (as is currently required of other individuals regulated by the board). Board members interviewed by DLS all agreed that extending the CHRC requirement to CMTs was of utmost importance to protect the public.

Expansion Would Require the Board to Review Up to 25,000 Additional Criminal History Records Check Results and Handle Additional Complaint Cases Annually

Expanding the CHRC requirement to CMTs would have a significant impact on the workload of the board. New CMT certificates *issued* in fiscal 2011 totaled 11,862, and the board advises that an additional 11,996 applications made in fiscal 2011 were still pending as of October 20, 2011. Moreover, another 8,966 applications made in fiscal 2010 were still pending

on that date. Therefore, the administrative impact of processing up to 25,000 additional CHRC results annually (assuming the backlog is cleared) represents double the current workload for all other categories. Under the current CHRC requirement, 9% of all CHRC results received by the board are positive; thus, expanding the CHRC requirement to CMTs could add 2,250 complaints to the board's workload annually, assuming the same percentage of positive results applies to CMTs. Regardless, it would further delay the initial processing of CMT certificates. The estimated impact on workload would be even more significant when the CHRC requirement extends to renewals. What is not clear is the extent to which any positive results obtained would substitute for those identified through the current self-disclosure policy or instead simply add to the volume.

Given Delays, Employers Justifiably Concerned About Impact of Expanding Requirement to Certified Medication Technicians

Interviews conducted by DLS with provider organizations that employ CMTs found that providers are concerned with the impact of extending the CHRC requirement on their ability to recruit and retain CMTs. Providers are concerned that the additional delays associated with the board processing and reviewing CHRC results would further delay the timely certification of CMTs and exacerbate the already difficult process of recruiting low-wage direct support staff. Furthermore, most adult dependent care providers are already conducting background checks on their employees, some of whom are CMTs.

Under § 19-1902 of the Health-General Article, adult dependent care providers (including assisted living facilities, adult day care programs, and group homes) must apply for a State CHRC or request a private agency CHRC on employees who are not otherwise licensed or certified by a health occupations board and who have direct access to dependent adults in the program. Although not required to conduct these CHRCs on CMTs (as they are certified by the board), most providers do. According to providers, the cost of a private background check can be as low as \$15. Conversely, a national and State CHRC costs the applicant \$57.25. Before seeking extension of the CHRC requirement to CMTs, the board should work with stakeholders to explore the implications on providers and CMTs as well as the potential of altering or expanding the current requirement on adult dependent care providers.

Recommendation 5: The board should delay seeking legislation to require CMTs to submit to criminal history records checks until the board has (1) implemented its online certification process for CMTs in a manner that results in the timely processing of certificates; (2) analyzed the effectiveness in protecting the public of the current criminal history self-disclosure policy for CMTs; (3) determined whether criminal history records checks are necessary in light of the self-disclosure policy; and (4) made any personnel changes relating to the certification of CMTs as a result of the personnel study recommended by this report. If and when legislation is introduced to require CMTs to submit to criminal history records checks, the board should consult with the provider and

advocacy communities that employ and represent medication technicians and take into consideration current statutory requirements related to criminal history records checks for adult dependent care programs.

Receiving Criminal History Records Check Information from Other States Is Problematic for Board

Under Maryland law, applicants for licensure as an RN or LPN and applicants for certification as a CNA may be waived from the CHRC requirement if they have completed such a check through another state board of nursing within the previous five years. However, according to the board, other states cannot share the results of these checks due to confidentiality concerns. As a result, the board is requiring a new CHRC even if the applicant had recently submitted to a check in another state.

DLS review of this issue found that federal law prevents the board from sharing CHRC information with other states. P.L. 92-544 prohibits federal criminal records obtained by boards of nursing as part of the licensing process from being shared with health care employers or others. According to the National Council of State Boards of Nursing (NCSBN), several boards of nursing have had their CHRC collection policies and procedures audited by the FBI in order to ensure that confidential data are not shared. Since the current authorization to waive a CHRC requires the board to obtain information from other states that the board is unable to lawfully obtain, this authorization should be removed.

Eliminating the waiver authority should not have a significant impact on licensees or certificate holders. Although the board does not maintain specific data on this issue, the board stated that the number of individuals who have requested a waiver authority has been small. Furthermore, according to a survey conducted by NCSBN, Pennsylvania and Virginia (two of the most likely states from which nurses would attempt to utilize the waiver requirement) do not require CHRCs as a condition of licensure.

Recommendation 6: Statute should be amended to remove the authorization for applicants for licensure as an RN or LPN and applicants for certification as a nursing assistant to be waived from a criminal history records check if they have completed such a check through another state board of nursing within the five years preceding the date of their application. Such waivers cannot be granted because obtaining the criminal history records information from other states violates federal law.

Chapter 4. Complaint Resolution

Ensuring fitness to hold a license or certificate to practice extends to the State Board of Nursing's (BON) role in investigating complaints and taking disciplinary action against licensees and certificate holders where warranted. The volume of total complaints handled by the board has increased significantly, largely due to the criminal history records check (CHRC) requirement (discussed in detail in **Chapter 3** of this report) and the increasing number of individuals regulated. The board has also amassed a sizeable backlog of complaints carried over from prior years but has recently made progress in tackling the backlog. BON has not been able to meet its goals for the timely resolution of complaints, and it is unclear yet whether the actions taken to reduce its complaint backlog will enable it to do so. However, further changes to the complaint resolution process could make it more efficient.

Total Complaint Volume Handled by the Board Doubled from Fiscal 2006 to 2010 as Complaint Backlog Grew

As shown in **Exhibit 4.1**, between fiscal 2006 and 2010, the total number of complaints handled by the board for registered nurses (RNs), licensed practical nurses (LPNs), certified nursing assistants (CNAs), and certified medication technicians (CMTs) doubled. This significant increase can be attributed to the CHRC requirements, expansion of the board's jurisdiction to include certification of CMTs, and an overall increase in the total number of individuals licensed or certified by the board. From fiscal 2010 to 2011, however, the number of total complaints decreased by 13%.

As discussed in Chapter 3, all positive CHRC results (those that identify a criminal history) become complaint cases. Prior to the CHRC requirements, these complaints were not generated unless the board otherwise became aware of an applicant's criminal history. The impact of CHRC requirements can be seen beginning in fiscal 2008 when the board began reviewing CHRC results for all new licensees and CNAs and the number of new complaints sharply increased. For RNs/LPNs, the number of new complaints increased by 71% from fiscal 2007 to 2008. Since that time, annual growth has slowed but continues to increase by an average of 26% per year. For CNAs, the number of new complaints jumped by 70% from fiscal 2007 to 2008, then declined slightly between fiscal 2008 and 2009 (4%). Growth in the number of new complaints for CNAs resumed between fiscal 2009 and 2010 (6%) and fiscal 2010 and 2011 (17%).

As the volume of new complaints increased, so too did the volume of complaint cases that the board was not able to complete in a given year and thus carried over from one year to the next. In particular, in fiscal 2008, complaints pending from prior years against nurses increased by more than 270%. This increase reflects both a backlog of CHRC-related complaints, as well as a significant number of fiscal 2007 complaint files (595 cases) that the board discovered had

erroneously not been entered into the complaint database, accounting for an additional carryover of 595 cases from fiscal 2007 to 2008.

Exhibit 4.1
Trends in Complaints Handled by the State Board of Nursing
Fiscal 2006-2011

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
<u>RNs and LPNs</u>						
Pending Complaints	566	585	1,584	1,496	1,748	1,468
New Complaints	590	404	689	849	1,146	1,381
Subtotal	1,156	989	2,273	2,345	2,894	2,850
<u>Nursing Assistants</u>						
Pending Complaints	476	511	679	1,132	1,105	348
New Complaints	631	643	1,026	988	1,052	1,235
Subtotal	1,107	1,154	1,705	2,120	2,157	1,583
<u>Medication Technicians</u>						
Pending Complaints	0	358	394	467	201	83
New Complaints	486	347	423	301	274	301
Subtotal	486	705	817	768	475	384
Total	2,749	2,848	5,282	5,233	5,526	4,817

Note: The board received one complaint about a licensed electrologist in fiscal 2010, which is not included in the total.

Source: State Board of Nursing

Complaint Backlog Now Declining, but New Complaints Still Up

As shown in Exhibit 4.1, from fiscal 2010 to 2011, the number of new complaints received by the board, continued to increase in all categories, generally consistent with growth in the number of regulated individuals. However, the board's complaint backlog decreased significantly for every license and certificate category. For nurses, the number of pending complaints declined by 16%. The number of complaints pending for CNAs declined by 69%,

while the number of complaints pending for CMTs declined by 59%. The board has not been able to fully explain how it achieved these reductions in its long-standing and, heretofore, growing backlog. Nevertheless, it appears that the board's efforts to reduce the backlog, which are described below, have been quite successful.

Board Has Implemented Policies to Reduce Backlog

According to the board, many cases that are five years old or older are carryovers from previous investigators for whom cases were not reassigned. The board has been reviewing any such cases, with about 50 cases remaining. At the time of the transition to the current executive director, there were a total of 8 investigators; the board currently employs 11 investigators.

The board has implemented several policies to reduce the long-term backlog in complaints. For example, the executive director and a committee can review complaints that are five years old or older and choose not to refer them to the board. In addition, the board has established a complaint review committee that filters out serious and nonserious cases and prioritizes the serious cases. Although there are no written guidelines for what is considered a serious or nonserious case, the board considers the nature of the offense, whether the offense resulted in physical or emotional harm to another individual, and the amount of time that has passed since the offense was committed. Examples of serious cases include sex offenses, theft, or firearm possession while an example of a nonserious case would be a public intoxication conviction that is several years old.

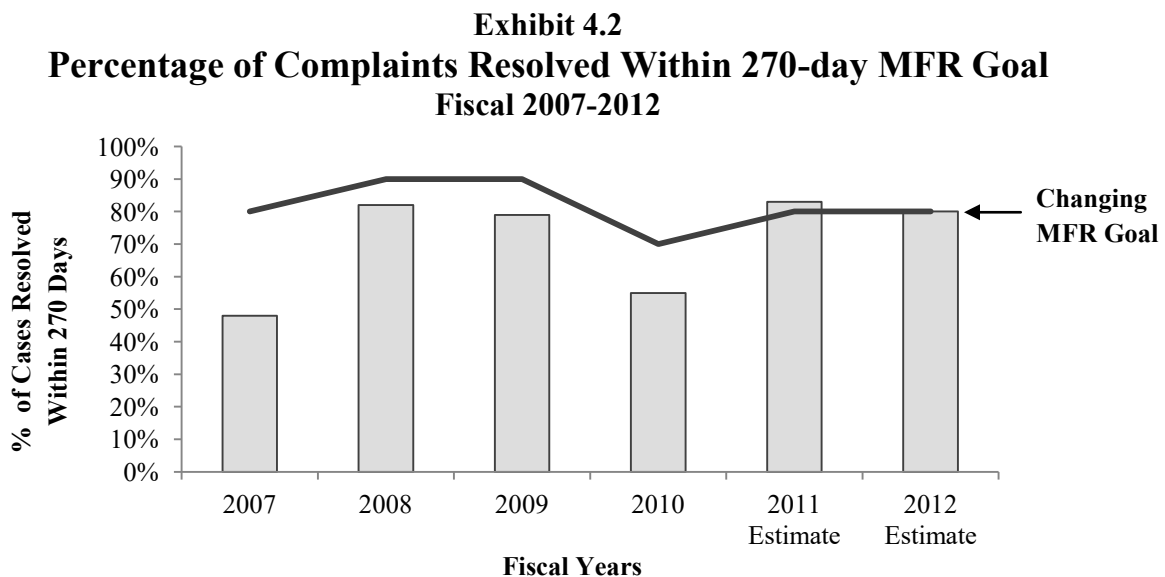
The board conducts three, rather than one, settlement conferences per month. During a settlement conference, a complaint respondent meets with representatives of the board. If appropriate, a consent order is drafted, and the consent order is reviewed and signed by the respondent. The order is reviewed by the board at the next board meeting and, if approved, is signed as a final order of the board. According to the board, the increased use of settlement conferences has decreased the processing time for an order by several months. In addition, the board has increased the use of public advisory letters as an alternative to formal disciplinary actions. In fiscal 2011, the board issued 119 public advisory letters. The board issues advisory letters if an investigation reveals that a statute or standard of care has been breached to the extent that it requires recognition by the board but is not serious enough to warrant formal charges.

Board Has Had Difficulty Meeting Goals Regarding Timeliness of Complaint Resolution

As part of Managing for Results (MFR), the board seeks to process a certain percentage of complaints within a specific number of days. In fiscal 2006, the board's MFR goal was to resolve 90% of complaints within *180 days*, though the board was able to resolve only 57% of cases in that timeframe. Beginning in fiscal 2007, the board lowered its MFR goal to 80% of cases within *270 days* and resolved only 48% of cases in that timeframe. Since fiscal 2007, the

board's MFR goals regarding the timeliness of complaint resolution have shifted from a low of 70% to a high of 90% of cases within 270 days. Although the board optimistically estimates each fiscal year that it will meet or even exceed its MFR measure, in reality, the board has yet to achieve these goals in recent years (though actual fiscal 2011 performance has not yet been reported).

Exhibit 4.2 shows the percentage of complaints resolved by the board within 270 days from fiscal 2007 to 2012 compared with the board's changing MFR goals over those same years. BON's performance improved significantly in fiscal 2008 and 2009 despite the significant increase in the number of new complaints and complaints pending from prior years. However, in fiscal 2010, the board's MFR goal declined to only 70% of cases within 270 days, and its performance similarly declined to only 55%. The board attributes this delay to the transition to the new executive director who, upon her appointment, reviewed and made recommendations on all open cases, many of which were several years old. According to the board, the executive director and three other staff reviewed approximately 700 open cases and made a determination on each case, which had an impact on the meeting the resolution timeframe goals.



Note: Although it appears that BON has met or will meet its goal in fiscal 2011 and 2012, figures for those years represent the board's estimates for timeliness of resolution and not actual performance.

Source: State Board of Nursing

The board estimates that it exceeded its current MFR goal of resolving 80% of cases within 270 days in fiscal 2011 and will meet the goal in fiscal 2012. The board has been working to address its complaint backlog, which appears to have declined in fiscal 2011 as shown in Exhibit 4.1, and received additional personnel in the complaint resolution area.

However, based on past performance and the continued growth in the volume of new complaints, it remains unclear whether BON will be able to meet the current 80% goal on an ongoing basis.

Further Changes to Complaint Resolution Process Could Make It More Efficient

The board has worked to streamline its complaint resolution process, which appears to have contributed to a reduced backlog of cases, particularly for CNAs and CMTs, and has enabled it to hear cases in a more timely manner. Although board members are pleased with the streamlined process, DLS is concerned by the lack of written guidelines, particularly related to the procedures used by complaint review committees and in settlement conferences. Moreover, even though the board's complaint backlog has been reduced, a significant number of cases continue to be carried over, and the volume of new cases is still rising. Currently, the board hears cases on only one day each month. Holding additional hearings could assist the board in further reducing the complaint backlog.

Recommendation 7: The board, in consultation with the Office of the Attorney General, should develop a policy and procedure manual related to the complaint resolution process, including guidelines to be used by complaint review committees and in settlement conferences.

Recommendation 8: BON should continue to assess its complaint backlog and, as necessary, hold additional hearings.

The inconsistent quality of investigative reports has resulted in delays in adjudicating complaints. The board employs 11 investigators who carry an average caseload of 50 to 60 cases. (According to the director of the Complaints and Investigations Division, this average caseload is manageable and is a significant improvement from the average caseload of 250 cases that investigators were handling in fiscal 2009.) Of the 11 investigators, 6 are nurse investigators and 5 are non-nurse investigators. In DLS interviews, board members stated that the non-nurse investigators often did not seek the type of information that would be sought from a nurse investigator because they lacked a nursing or medical perspective. Several board members cited incidents during hearings where they had to postpone the hearing until the next board meeting in order to get additional information from the investigator.

Recommendation 9: Board members should meet with all investigative staff to discuss their expectations for investigations and should work with the nurse investigators to develop training for non-nurse investigators in order to prevent future delays.

Board Workgroup Has Developed Draft Sanctioning Guidelines

Chapters 533 and 534 of 2010 require all health occupations boards to adopt sanctioning guidelines. The adoption of sanctioning guidelines will inform licensees and the public more specifically about action the board can take when a licensee violates a specific ground for discipline. Second, the guidelines will help ensure that the board is imposing consistent sanctions. The board established a workgroup to develop the guidelines. The workgroup presented its recommendations to the board at its October 2011 meeting. If adopted by the board, the sanctioning guidelines will be submitted to the Joint Committee on Administrative, Executive, and Legislative Review (AELR) in November 2011. It is, therefore, likely that the board will not have had sufficient experience in the use of the guidelines by the December 2011 reporting date (as specified by Chapters 533 and 534).

Recommendation 10: The board should report again to the Senate Education, Health, and Environmental Affairs and House Health and Government Operations committees on its implementation and use of sanctioning guidelines by December 1, 2012 (by which time the board is expected to have been using the guidelines for about one year).

Complaint Tracking Database Has Not Been Used Effectively

As described in **Chapter 2**, the board moved from License 2000 to My License Office in 2010. My License Office has enhanced complaint tracking capabilities including the ability to run reports. Examples of complaint data that can be tracked by My License Office include current complaint activities by assignee, complaint status, respondents by complaint status, and a complaint detail and activity report. Unfortunately, the board rarely runs reports of the data. Instead, reports on complaint data are run only as requested. This caused many problems for DLS staff throughout the sunset review process. On several occasions, DLS requested complaint data that, instead of being readily available, had to be extracted by the board and resulted in delayed receipt of information. To fulfill requests, the board often had to develop the data query, and staff needed several days to process them.

Tracking complaint data would enable the board to measure the impact of its streamlined complaint resolution policies, such as the increased use of settlement conferences and public advisory letters. The board should be monitoring cases that are attributable to CHRCs as well as the license and certificate denials that result from a positive CHRC result, the amount of time a complaint is in each stage of the complaint process, which complaints are settled in a settlement conference, and which complaints are settled through a public advisory letter.

Recommendation 11: The board should utilize its complaint tracking capabilities to develop, run, and maintain a catalog of complaint data reports on a regular basis and use the results to make staffing and automation changes to improve the overall complaint resolution process.

Chapter 5. Customer Service

The 2001 sunset evaluation of the State Board of Nursing (BON) identified that licensees had difficulty contacting the board. Since that time, the number of individuals licensed or certified by the board has increased significantly, and with it, so have the number of complaints concerning customer service. This chapter explores additional training that could be offered to employees who answer the phones, alterations the board can make to its website, and changes to BON's existing customer service survey that should improve customer service.

Additional Training for Telephone Operators May Improve Customer Service

The board uses an automatic call distribution (ACD) system to answer calls from the public. The ACD system serves nurses and nursing assistants. According to board staff, the board has contracted for traffic studies on the phone system and implemented two upgrades.

The most recent traffic study of the board's ACD system was conducted in April 2009 by Verizon. Verizon staff observed a nursing agent handle calls and reviewed ACD reports for March 2009. According to Verizon, the March ACD reports reflected a high number of abandoned calls, especially for the CNA Division. Among other recommendations, Verizon suggested adding two agents to each division, especially during peak traffic days, to reduce the long wait times and abandonment rates.

In February 2011, the board hired three ACD operators to answer phones on a full-time basis and assigned an information technology support staff to assist in answering phones. The board has trained the new ACD operators in use of the licensure database and imaging system, and the board secretary has assisted the new operators by training them in proper phone etiquette, answering day-to-day questions, and providing general instructions. However, despite the training, several staff members voiced concern that the operators only answer and transfer calls or take messages. To improve customer service further, the board should require ACD operators to keep track of the questions they receive so that consistent responses can be developed for the subjects that generate multiple questions. Additionally, several staff members noted that the public is frequently agitated by long wait times prior to speaking to board staff, which leads to confrontational conversations. Staff may benefit from further training in phone etiquette that emphasizes diffusing tense situations.

Recommendation 12: BON should ensure that ACD operators have the appropriate training to handle frequently asked questions and that all staff who interact with the public are trained on phone etiquette for diffusing tense situations.

Board Could Improve the Organization of Its Website

In carrying out its mission of protecting the public and advancing the profession of nursing in Maryland, the board provides a considerable amount of information to the public and to the licensees and certificate holders it regulates. Most such information is available on the board's website, but the current organizational structure of the website can be difficult to navigate. For example, the Department of Legislative Services (DLS) had difficulty accessing certain information concerning board meetings and the licensure and certification processes. Though information on criminal history records checks is relatively easy to find, access to some information is not intuitive, specifically, notice for monthly board meetings cannot be found under the "Public Meetings" link at the top of the home page but instead is found under the "Check Board News for important events and alerts" link found at the bottom of the home page. In other instances, information is spread among multiple links such as "On-Line Initial Certification Application," "On-Line Licensure and Certification Renewal," and "Nursing Assistant Certification." An applicant for certification as a nursing assistant must click on each of the links to get complete information on the application process. If the website were easier to navigate or some of the links consolidated, for example, it could reduce phone call volume and improve customer service.

Recommendation 13: The board should include all public board meetings under the "Public Meetings" link and should make the entire website easier to follow by placing everything needed for RNs under one link, LPNs under another link, and so on.

Posting of Disciplinary Information Does Not Provide the Public with Accurate and Complete Information

Chapters 533 and 534 of 2010 address the mission of the health occupations boards to protect the public by requiring the boards to post final disciplinary orders online. The board has satisfied this requirement, but DLS found that the disciplinary information posted on the board's website is inconsistent and misleading. The board has provided the information on its website as follows:

- under the "MBN Alert" link, the names of individuals who have been issued final orders appear listed in alphabetical order according to the type of final order issued; however, the listing does not include dates;
- under the "Public Orders" link, public orders may be accessed by clicking on the names of individuals who have been issued final orders as listed in alphabetical order according to whether the individual is licensed or certified; and

- under the “Look-up a Licensee” link, an individual can enter a licensee’s or certificate holder’s first and last name or license or certification number and find general information that includes a list of disciplinary actions and dates.

DLS reviewed the public orders posted under the “Public Orders” link and compared the information to the names posted under the “MBN Alert” link and the information under the “Look-up a Licensee” link. In many instances, a licensee or certificate holder named on a final order posted under the “Public Orders” link was not listed under the “MBN Alert” link, although the information did seem consistent with the information under the “Look-up a Licensee” link. Further, all of the links lack descriptions and qualifiers for what information can be found under the link and directions as to where to find additional disciplinary information. For example, BON has routinely posted final orders since October 2010 and is now in the process of posting older orders but does not provide an explanation of what final orders are posted under the “Public Orders” link. Likewise, an individual who uses the “Look-up a Licensee” link may see that a license was revoked but not know that the public order can be viewed under another link.

Recommendation 14: The board should ensure that posted disciplinary information is accurate, consistent, and up to date. In addition, the board should include descriptions of what information is available and directions as to how to access the information. The board should consider eliminating the “MBN Alert” and “Public Order” links and post disciplinary action by date with direct links to the public orders and include direct links to public orders under the “Look-up a Licensee” link.

Customer Service Survey Should Be Enhanced to Increase Its Effectiveness

In its 2001 sunset evaluation of the board, DLS recommended that the board implement an action plan with customer service indicators. The board responded to the recommendation by establishing a Managing for Results (MFR) goal to provide high quality customer service to the nursing community as measured through a customer service survey. The board administered the original customer service survey through voluntary responses to its newsletter. The survey was not administered in fiscal 2008 through 2011.

In July 2011, the board reinstituted use of a customer service survey. The new survey is administered through the homepage on the board’s website under the link “Please Take Our Customer Satisfaction Survey.” The link allows a user to electronically submit a survey from the homepage. The survey includes eight questions, four of which concern the respondent’s relationship with the board and four of which concern the respondent’s customer service experience with board staff.

DLS continues to believe that customer service indicators are an important tool in improving the service provided by board staff and that an online customer service survey has the

potential to gauge the level of service provided. However, the survey is only as effective as the questions it contains and the responses it generates. The board could improve the effectiveness of the survey by adding more specific questions regarding the interaction between the respondent and board staff and providing greater access to the survey.

Half of the survey questions concern whether and how the respondent is licensed or certified. Although the majority of responses may come from licensees or certificate holders, members of the public, including individuals lodging complaints and employers of licensees or certificate holders, may have interactions with the board that warrant consideration. The questions on the survey should focus more on the interaction between the respondent and the board and less on whether and how the respondent is licensed or certified by the board. For example, the survey could include questions such as:

- What was your reason for interacting with the board? (Initial licensure or certification, renewal of license or certificate, delay of licensure or certification, or making a complaint?)
- Was the interaction online, by phone, or in person?
- How long did it take to reach a staff member (amount of time on hold or amount of time to receive a returned call or email, or, if at the office, amount of time to physically speak to a staff member)?
- Did the staff member help resolve the issue in a clear manner? Please explain.
- Did the staff member treat you courteously? Please explain.
- Did you use the online application or renewal process? If so, did you find the process to be user friendly? Do you have any suggestions on how the process could be improved?

Additionally, the more responses to the survey the board receives, the more information the board will have to improve the service it provides. The board has indicated that it has received only a few responses since posting the survey on its website in July. Currently, the survey is only available through the homepage on the board's website. The board should take actions to increase responses.

Recommendation 15: The board should add questions to the “Customer Satisfaction Survey” that are specific to the respondent’s interaction with BON staff. Further, the board should encourage more responses to the customer service survey by including prompts to complete the survey after the submission of an application or complaint and

requiring ACD operators and staff to inform licensees, certificate holders, or the public about the online survey.

Board Could Improve Availability of Information to Licensees, Certificate Holders, and the Public

The board informed DLS that it published its last online newsletter in September 2008, although its website still has a link for its newsletter “The Communicator.” Instead of a newsletter, the board now regularly posts updated board information on its website. Unfortunately, as discussed above, the website is difficult to navigate. Newsletters are well established and inexpensive public relations tools. The board should reestablish its newsletter by publishing critical and timely information on a biannual basis. The board can continue its practice of posting the newsletter online but should consider emailing all licensees and certificate holders a link to each newly posted newsletter.

Recommendation 16: The board should reestablish an online newsletter as an opportunity to enhance communications between the board, its licensees and certificate holders, and the public.

Chapter 6. Board Resources and Administrative Issues

To adequately perform its licensing, certification, and disciplinary functions, the State Board of Nursing (BON) needs resources, particularly solid finances and sufficient personnel. This chapter provides an overview of resources available to the board and makes recommendations for improvement. In addition, resolution of several administrative issues could help improve board operations.

Board Is Special Funded and Has Carried a Robust Fund Balance

In 1991, the General Assembly gave BON special-fund status. Thus, the board does not receive funding from the State's general fund and instead is directly funded through the fees paid by licensees and certificate holders, which have to be set to cover the costs of the board. This special-fund status allows the board to carry over revenue from one year to another to better handle additional costs that may arise in subsequent years. This carryover is called a fund balance and consists of surplus revenues from prior years. Based on its size, the board's target fund balance should be approximately 20% of expenditures.

Given the increase in the board's licensure and certification responsibilities and the associated increase in fee revenues, it is not surprising that the board's fund balance has continued to grow – so much so that in recent years, BON's robust fund balance has made it a target for transfers to the general fund through several Budget Reconciliation and Financing Acts. Specifically, the board has been required to transfer \$500,000 to the general fund in fiscal 2009, \$305,549 in fiscal 2010, and \$295,104 in fiscal 2011. The ending fund balance for fiscal 2011 was 35%, and the projected ending fund balance for fiscal 2012 is 27%, as shown in **Exhibit 6.1**. Although the estimate for fiscal 2012 indicates that board expenditures will exceed estimated revenues, the board had a similar estimate in fiscal 2011 that was not realized. If realized, however, the board will begin to spend down its fund balance due to utilization of carryover revenues for ongoing costs rather than due to transfers to the general fund.

Review of the board's budgets for fiscal 2007 through 2012 indicates that revenues generally exceed expenditures. Board revenues have ranged from about \$5.4 million to \$6.9 million annually and are projected to be \$7.1 million in fiscal 2012. Board expenditures have ranged from \$5.2 to \$6.7 million from fiscal 2007 to 2011 and are estimated to increase to \$7.4 million in fiscal 2012. Recent expenditure increases are at least partially attributable to new positions, including four in fiscal 2011 and an additional three in fiscal 2012. Regardless, the board has a healthy fund balance that should provide it with sufficient money to implement the recommendations made throughout this report.

Exhibit 6.1
Fiscal History of the State Board of Nursing
Fiscal 2007-2012

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Estimated FY 2012</u>
Beginning Fund Balance	\$778,084	\$986,817	\$1,633,578	\$1,884,048	\$2,405,680	\$2,302,855
Revenues Collected	5,444,330	5,851,923	5,964,037	6,773,441	6,854,822	7,100,000
Total Funds Available	6,222,414	6,838,740	7,597,615	8,657,489	9,260,502	9,402,855
Total Expenditures	5,186,925	5,205,162	5,213,611	5,946,260	6,662,549	7,408,777
Direct Costs	4,933,165	4,985,320	4,960,177	5,682,358	6,436,868	7,187,134
Indirect Costs	253,760	219,842	253,434	263,902	227,681	221,643
Ending Fund Balance	1,035,489	1,633,578	2,384,004	2,711,229	2,597,953	1,994,078
Transfer to General Fund			500,000	305,549	295,104	
Balance after Transfer as % of Expenditures	20%	31%	36%	40%	35%	27%
Target Fund Balance (20% of Expenditures)	\$1,037,385	\$1,041,032	\$1,142,722	\$1,189,252	\$1,332,510	\$1,481,755

Note: The board indicates that the discrepancies between the ending and beginning fund balance figures from fiscal 2007 to 2008 and fiscal 2009 to 2010 are due to accounting adjustments made by DHMH.

Source: Department of Health and Mental Hygiene

Board Staff Has Increased Along with Licensure and Certification Workload

In fiscal 2006, BON licensed or certified 158,277 individuals. By fiscal 2011, the board's licensure and certification workload had increased by 73%, with the board licensing or certifying 273,336 individuals. However, as shown in **Exhibit 6.2**, between fiscal 2006 and 2012, the total number of authorized positions for the board increased by only 24%, from 60.91 to 75.51.

Exhibit 6.2
Number of Authorized Staff
State Board of Nursing
Fiscal 2006-2012

<u>Fiscal Year</u>	<u>Total Individuals Licensed or Holding Certificates</u>	<u>Positions</u>		
		<u>Regular</u>	<u>Contractual</u>	<u>Total</u>
2006	158,277	49	11.91	60.91
2007	130,272	57	11.55	68.55
2008	190,987	53	9.56	62.56
2009	245,824	64	2.76	66.76
2010	259,328	68	1.70	69.70
2011	273,336	72	1.70	73.70
2012	274,560 (estimated)	75	0.51	75.51

Note: The number of individuals licensed or certified by BON does not include advanced practice certifications held by registered nurses (RNs) as they are already counted as licensed RNs. Likewise, the process by which nurses achieve licensure (exam or endorsement) is not reflected. The total does, however, include electrologists.

Source: State Board of Nursing

In fiscal 2011 and 2012, the board received six additional regular positions to help account for the increase in workload. The positions include an administrative specialist to coordinate criminal history records checks (CHRCs), an additional health facility surveyor to investigate complaints, a paralegal to provide administrative support to the board's legal department, an additional investigator to handle complaints, and two administrative specialists to aid in the certification of nursing assistants (CNAs) and medication technicians (CMTs). Also, a contractual position was converted to a full-time position for an administrative specialist responsible for assisting with verifications and endorsements. Although the board received more staff for fiscal 2011 and 2012 than any other health occupations board, the additional staff does not appear to have fully addressed the impact of the considerable increase in licensees and certificate holders since fiscal 2006 especially given the backlog associated with processing

CMT applications. The additional personnel is also intended to facilitate the complaint resolution process, which, by BON's own measure, has not been timely.

Board Is Filling Vacant Positions

Currently, BON has four vacant positions in varying stages of the hiring process as follows:

- one administrative officer III vacant since January 2011;
- two administrative specialist II positions new for fiscal 2012; and
- one nursing program consultant/administrator II, which is filled on a trial basis until it is determined whether to retain the services of the acting employee.

BON also had a vacant position for an administrative officer I that had been vacant since February 2010, but that position was taken from the board because it had been vacant for over a year. BON indicated that it was delayed in filling the position because it reclassified the position and could not find a qualified applicant. Additionally, filling vacant positions has been delayed by BON having to request and wait for the approval of hiring freeze exemptions. BON should continue to work with the Department of Health and Mental Hygiene and the Department of Budget and Management to fill the remaining vacant positions in a timely fashion, particularly given the pressing need in processing CMT applications.

Board Should Consider Hiring Contractual Employees or Contracting Out Information Technology Projects

BON is transitioning its application function to a paperless process as discussed in **Chapter 3** of this report. To help with the transition, the board has indicated that additional staff is needed, including a programmer to assist with writing code and reports for the licensure database, two high level information technology employees to assist with technology for online applications, one employee to assist with answering online support emails, and one employee to assist with web development and design. However, some of the information technology projects likely are one-time assignments, and after the application process becomes paperless in July 2012, the information technology needs of BON may change. BON should consider hiring contractual employees to support the transition to a paperless system and make the positions regular on an as-needed basis.

Recommendation 17: Rather than request additional regular positions, the board should consider hiring contractual employees to complete the transition to a paperless application process.

More Data on Workflow and Workloads Is Necessary to Determine Whether Board's Staffing Sufficiently Meets Workload Needs

The board presented the Department of Legislative Services (DLS) with anecdotal evidence of a need for additional positions. Although the issues associated with processing CMT applications seem to support that contention, the two vacant positions intended to assist the CNA Division in processing applications for both CNAs and CMTs might be sufficient, in the long run, to handle the additional workload – particularly if other changes are made. Thus, DLS determined that it may be too soon to make a recommendation about the sufficiency of regular staffing because of a lack of data and pending certification and administrative changes.

Paucity of Data

During this evaluation, DLS requested that the board provide information concerning procedural manuals and workflow in order to determine workloads and evaluate the need for any personnel changes. In many instances, BON provided general information or procedures for one specific division of the board, but it could not produce sufficient detail for DLS to assess the overall staffing needs of the board. For example, BON could not provide DLS with the average time it takes to resolve a positive CHRC result. Such information is necessary to gauge the potential necessity of additional staff to assist in the CHRC process and should be collected.

Currently, the board collects data on the total number of applications and complaints and tracks complaints through Crystal Reports Viewer but does not track applications through each step of the application function. Additionally, DLS found that the board does not regularly run reports on the data it does collect to assess and manage ongoing workloads. The extent to which limited availability and use of data to routinely assess resource allocation contributed to the backlog of CMT applications is not clear. The board should begin to track applications in order to identify any problematic stages in the application process and regularly run reports that will help determine where additional staff might be most useful.

Upcoming Administrative and Certification Changes

The board continues to undergo significant changes that will impact its staffing needs. However, at this time, it is difficult to determine exactly what that impact will be. The following are examples of changes to the certification process and administrative changes to the board that will affect board staff:

- **The transition to a paperless application process** – The board is expected to complete its transition to a paperless application process by July 2012. The transition may impact the Information System Division's workload. BON could hire contractual employees to manage this transition, but the need for additional regular support in this area is not yet clear.

- **Transition to biennial licensure renewal** – The board has a healthy financial outlook as is discussed in **Chapter 5**, and has a sufficient fund balance to support some additional positions. However, the board will begin licensing on a biennial renewal schedule in 2013, which will cause a temporary bump in its fund balance. Additionally, biennial renewal will likely positively impact employee workloads.
- **The anticipated requirement for certified medication technicians (CMTs) to undergo CHRCs** – As discussed in **Chapter 3**, during the 2012 legislative session, BON anticipates seeking legislation to require CHRCs for CMTs. BON maintains that positive CHRC results are time consuming for staff and that the number of positive results for CMTs will be high. Though DLS has recommended that BON delay further consideration of this proposal, BON anticipates it will need two programming positions and one administrative specialist position to assist with the increase in positive results.

Until the board has filled its vacant positions, implemented measures to maintain and utilize more data to target its resources, and implemented the anticipated certification and administrative changes, the staffing needs of the board cannot be adequately assessed. Thus, further study is needed to determine appropriate distribution and levels of staff.

Recommendation 18: BON should contract with an independent entity to perform a personnel study to determine if and where additional staffing is needed. The study should be completed by October 1, 2013, and include an analysis of the board’s workload in its major functions of licensure, certification, and complaint resolution and should consider at a minimum (1) the number of applications and complaints the board receives; (2) the number of employees assigned to each step of each function; and (3) the amount of time an application or complaint remains at each step of each function. The personnel study should include an analysis of the impact of the online processing of licenses and certificates and the movement to biennial renewal on staffing needs. Finally, the study should make recommendations relating to the most effective use of current staff including cross-training and reassignment.

Administrative Issues

Delay in Appointing Board Members Affecting Representation of Licensees and Certificate Holders

Chapters 53 and 54 of 2010 changed the membership and qualifications for membership on the board. Specifically, the Acts add one registered nurse (RN) member to the board (this new RN member must have practiced acute care for at least five years, practice currently, and hold a bachelor of science degree in nursing); specify that one RN member must rotate among four advanced practice specialties; remove one nurse clinician member and instead add a

currently practicing RN who has practiced as a delegating nurse in a supervised group setting for at least five years; expand the educational requirements that qualify an individual for the nurse administrator member of the board; and require that at least one of the three licensed practical nurse (LPN) members on the board practice in a long-term care nursing facility.

Currently, the board has four members with expired terms. These members have not been reappointed, nor have replacement appointments been made. One of the purposes of Chapters 53 and 54 was to improve the representation on the board of the long-term care industry and, indirectly, nursing assistants and medication technicians. The long-term care industry has expressed concern that the purpose of the Acts is being undermined by the delay of the appointments. Also, the new RN member added by the Acts has not been appointed.

Recommendation 19: The board should work with the Department of Health and Mental Hygiene and the Governor's Appointments Office to reappoint or replace board members as required by Chapters 53 and 54 of 2010.

Role of Certified Nursing Assistant Advisory Committee Needs Clarification and Should Include Certified Medication Technician Representation

In 1998, the General Assembly established the Nursing Assistant Advisory Committee within the board to enable certified nursing assistants (CNAs) to have direct input into the certification and disciplinary processes. The 14-member advisory committee includes 6 CNAs, 3 RNs, and 1 LPN and is responsible for evaluating training programs, developing and recommending regulations, evaluating certification candidates, and reviewing complaints against CNAs or CMTs and making recommendations to the board for disciplinary action.

According to the board, the advisory committee meets every other month to review training programs and complaints. However, interviews with board members and staff revealed that several members need to be appointed to the advisory committee and that the role of the advisory committee is unclear. Considering the large number of CNAs and CMTs regulated by the board, there should be enough issues for consideration by the advisory committee to necessitate meeting at least once a month. The advisory committee is also required to submit an annual report to the board but has not done so since 2001. The advisory committee has broad statutory authority, but regulations do not currently specify the advisory committee's duties.

Although the advisory committee evaluates all certification applicants and complaints against CNAs and CMTs, and CMTs will soon comprise 25% of the total number of individuals regulated by the board, the membership of the advisory committee does not include a CMT.

Recommendation 20: Statute should be amended to alter the membership of the Nursing Assistant Advisory Committee to include at least one certified medication technician and to require the advisory committee to meet at least once a month. In addition, the board should fill vacancies on the advisory committee and adopt regulations clarifying the advisory committee's role.

Board Should Improve Communication with and among Staff

The board is authorized for 75 regular positions in fiscal 2012 that are organized into nine divisions. The board's office space is highly compartmentalized with separate offices for most employees. DLS observed little interaction among staff and subsequent interviews of staff verified this observation. When interviewed, board staff expressed that they generally enjoy their jobs and work well within their individual divisions. However, staff members expressed concern over a lack of cohesion between the divisions and feeling uninformed regarding board activities and decisions. DLS observed both a physical and collegial disconnect between the nursing staff and the nursing assistant staff that works on different floors. DLS finds that the lack of unity has reduced morale, which the board could improve by fostering a team atmosphere. The board discontinued its policy of holding monthly staff meetings and instead holds staff meetings on an as-needed basis.

Recommendation 21: The board should reinstate its policy of holding monthly staff meetings either with the entire staff or with division directors in order to enhance communication with and among board personnel.

Board Should Conduct Cross-training of Employees and Provide Better Documentation of Board Functions

On several occasions during the sunset review process, DLS had difficulty obtaining information from BON. In many instances, it was unclear from whom information could be obtained or if it even was available.

With a few exceptions, staff members are not cross-trained to perform another staff member's job or function. For example, when certain information was only available from one individual, the review team had to wait for that individual to return from vacation. If a staff member were to leave quickly or have an unexpected absence from work, the remaining staff would have a difficult time completing certain tasks that had previously been handled by only one person.

There are no comprehensive policy and procedure manuals that describe the responsibility of each function and the assignment of tasks within that function. The main functions of the board are licensure and certification, including initial and renewal applications, and complaint resolution. These functions generally cross over several divisions of the board.

The lack of manuals made it difficult for DLS to determine the step-by-step processes the board uses to fulfill its functions. The board should have a clearly written set of guidelines for each function. For example, a policy and procedure manual for the licensure function would provide each step of the application process from when the board receives an application to when a license is issued and would include the paper and online processes, the initial and renewal steps, and the differences between endorsement and exam application processes.

Recommendation 22: The board should conduct cross-training for employees, prepare more comprehensive documentation of board functions through the development of policy and procedure manuals, and update its organizational chart and job descriptions.

Board Has No Automated System to Track Applications

The board does not have sufficient technology to track the status of applications. Applicants often voice frustration about not being able to easily determine the status of their application. For example, BON cannot run a report to determine how many and which applications have been pending for a certain amount of time. Thus, board staff must respond to complaints from applicants concerning a delay in getting their license or certificate rather than work proactively to move applications through the licensure or certification process. As noted earlier, long delays have occurred in the application process for CMTs, which does not currently require CHRC matches. BON's manual process of matching CHRC results to other applications can also result in unnecessary delays. The board reports that it receives at least two calls a week from legislators voicing constituent concerns regarding delays in licensure or certification in addition to the numerous direct calls the board receives from applicants regarding the status of their application.

Additionally, the board does not track how long an application has remained at each step in the application process. Tracking these data would allow the board to determine whether applications tend to stall at one stage more often than another. Such determinations are necessary for the board to make its application process more efficient and in order to support the board's assertions that it needs additional staff.

Recommendation 23: The board should develop an automated system for tracking applications that can generate reports on how long applications have been in the licensing system and how long the applications remain at each step of the licensing process.

Board Annual Report Should Be Expanded and Submitted to the General Assembly

Section 8-205(a)(8) of the Health Occupations Article requires the board to submit an annual report to the Secretary of Health and Mental Hygiene and the Governor. The report is not currently distributed to the General Assembly. In recent years, rather than submit a specific

annual report, the board has instead submitted its budget hearing testimony. The board's fiscal 2011 budget hearing testimony included data on the number of licensees and certificate holders governed by the board, online processing of renewals, and CHRC results. The testimony also included an overview of issues related to staffing, initial applications, final orders, legislative and regulatory activities, major regulatory changes, and technology upgrades.

While the board has regularly submitted this information, the content of the annual report could be improved, particularly by including additional data beyond the basic MFR goals currently used by the board. In particular, the board should include specific data, calculated on a fiscal-year basis, on the number of new and renewal licenses and certificates issued, the number of positive and negative CHRC results received, the number of individuals denied initial and renewal certification or licensure due to positive CHRC results, the number of individuals denied certification or licensure due to other reasons, the number of new complaints received, the number of complaints carried over from one year to another, the most common grounds for complaints, and the number and types of disciplinary actions taken. Given that the board regulates the vast majority of health occupations professionals in the State, distribution of the annual report should be expanded to include the General Assembly.

Recommendation 24: Statute should be amended to require the board to submit its annual report to the General Assembly, in addition to the Secretary of Health and Mental Hygiene and the Governor. The report should include specific data calculated on a fiscal-year basis in order to provide a clearer picture of the workload of the board.

Chapter 7. Conclusion

The members and staff of the State Board of Nursing (BON) work to fulfill the board's statutory duties. The full board meets on a monthly basis, and both board members and staff attend additional meetings throughout each month including weekly meetings on new complaints, settlement conferences, rehabilitation proceedings, and various workgroups. All concerned appear to be dedicated to carrying out the mission of the board to protect the public.

The board has faced several challenges as the number of licensees and certificate holders it regulates has rapidly increased while its staffing resources have increased at a much slower rate. Additionally, the requirement for criminal history records checks (CHRCs) as a condition of licensure or certification has had a significant impact on the board's responsibilities. While the board has responded to these challenges to the best of its ability, additional improvements need to be made to the board's overall organization with emphasis on the collection of data.

A recurring theme throughout the sunset evaluation process was a lack of organization and cohesiveness at the board. The Department of Legislative Services (DLS) observed an atmosphere of disarray from the format of the board's website to its process for resolving positive CHRC results. The board generally satisfies its statutory mandates but in a disjointed manner. Nowhere is the organizational deficiency more evident than in the board's data collection and maintenance. When DLS requested information, it was often unclear among board staff as to which staff member had access to the information and could provide it to DLS. In addition, the board's lack of uniform data collection and its policy of running data only on request led to lengthy delays in providing information throughout the evaluation. Data provided were often inconsistent with other information collected, resulting in significant revisions as this report was being drafted. The board clearly regulates an impressive number of individuals; however, the scale of the board's responsibilities only underscores the need for better organization.

As discussed in **Chapter 6**, DLS recommends that the board contract with an independent entity to perform a personnel study. This study will help the board to identify issues within the major functions of the board and determine the appropriate use of existing staff and if and how additional staff would be most beneficial.

DLS has observed through interviews and board meetings that the board is capable and motivated to improve board operations. Throughout this report, DLS has recommended several administrative changes. DLS finds that these changes will make the board run more efficiently and improve the board's relationship with the individuals it regulates and the general public.

Recommendation 25: Legislation should be enacted to extend the termination date for the board by 10 years to July 1, 2023. Additionally, uncodified language should be adopted to require the board to report, by October 1, 2013, to the Senate Education, Health, and Environmental Affairs and House Health and Government Operations committees on the implementation status of nonstatutory recommendations made in this report. In

particular, the board should report on how it has improved its use of data collection and tracking for the licensure, certification, and complaint resolution processes.

Appendix 1. Draft Legislation

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Hopwood

Typed by: Carol

Stored – 10/28/11

Proofread by ☒ _____Checked by ☒ _____By: **Leave Blank**

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing – Sunset Extension and Revisions**

3 FOR the purpose of continuing the State Board of Nursing in accordance with the
 4 provisions of the Maryland Program Evaluation Act (sunset law) by extending
 5 to a certain date the termination provisions relating to the statutory and
 6 regulatory authority of the Board; requiring that an evaluation of the Board
 7 and the statutes and regulations that relate to the Board be performed on or
 8 before a certain date; requiring the Board to submit a certain annual report to
 9 the General Assembly; specifying the data that must be included in a certain
 10 annual report; altering a certain requirement related to the application for a
 11 license to practice registered nursing or licensed practical nursing; altering a
 12 certain requirement related to the application for certification as a certified
 13 nursing assistant; altering the membership of a certain advisory committee;
 14 requiring a certain advisory committee to meet at least once during a certain
 15 time period; requiring the Board to contract with an independent entity to
 16 perform a certain personnel study to be completed on or before a certain date;
 17 requiring the Board to report to certain committees of the General Assembly on
 18 the implementation and use of certain sanctioning guidelines on or before a
 19 certain date; requiring the Board to report to certain committees of the General
 20 Assembly on the implementation of certain recommendations; requiring the
 21 report to include certain information and a certain plan; making a stylistic
 22 change; and generally relating to the State Board of Nursing.

 EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–205(a)(8), 8–304, 8–6A–05(c)(2), 8–6A–13, and 8–802
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(40)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

8–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the
Board has the following powers and duties:

(8) To submit [an annual report] to the Governor, [and] THE
Secretary, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
ARTICLE, THE GENERAL ASSEMBLY, AN ANNUAL REPORT THAT INCLUDES THE
FOLLOWING DATA CALCULATED ON A FISCAL YEAR BASIS:

(I) THE NUMBER OF INITIAL AND RENEWAL LICENSES AND
CERTIFICATES ISSUED;

(II) THE NUMBER OF POSITIVE AND NEGATIVE CRIMINAL HISTORY RECORDS CHECKS RESULTS RECEIVED;

(III) THE NUMBER OF INDIVIDUALS DENIED INITIAL OR RENEWAL LICENSURE OR CERTIFICATION DUE TO POSITIVE CRIMINAL HISTORY RECORDS CHECKS RESULTS;

(IV) THE NUMBER OF INDIVIDUALS DENIED LICENSURE OR CERTIFICATION DUE TO REASONS OTHER THAN A POSITIVE CRIMINAL HISTORY RECORDS CHECK;

(V) THE NUMBER OF NEW COMPLAINTS RECEIVED;

(VI) THE NUMBER OF COMPLAINTS CARRIED OVER FROM YEAR TO YEAR;

(VII) THE MOST COMMON GROUNDS FOR COMPLAINTS; AND

(VIII) THE NUMBER AND TYPES OF DISCIPLINARY ACTIONS TAKEN BY THE BOARD;

8-304.

To apply for a license to practice registered nursing or licensed practical nursing, an applicant shall:

(1) [(i)] Submit to a criminal history records check in accordance with § 8-303 of this subtitle; [or

(ii) Have completed a criminal history records check in accordance with § 8-303 of this subtitle through another state board of nursing within the 5 years preceding the date of application;]

(2) Submit to the Board:

(i) An application on the form that the Board requires;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met or has been met; and

(iii) Written, verified evidence of completion of the appropriate education requirements of § 8–302 of this subtitle; and

(3) Pay to the Board the application fee set by the Board.

8–6A–05.

(c) (2) Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant shall submit to the Board:

(i) [1.] A criminal history records check in accordance with § 8–303 of this title; [or

2. Evidence of completion of a criminal history records check in accordance with § 8–303 of this title through another state board of nursing within the 5 years preceding the date of application;] and

(ii) On the form required by the Board, written, verified evidence that the requirement of item (i) of this paragraph is being met or has been met.

8–6A–13.

(a) The Board shall appoint an advisory committee consisting of at least [14] 15 members appointed by the Board.

(b) Of the [14] 15 committee members:

(1) Six shall be nursing assistants:

(i) One shall be an acute care nursing assistant;

(ii) One shall be a home care nursing assistant;

(iii) One shall be a long-term care nursing assistant;

(iv) One shall be an adult medical day care nursing assistant;

(v) At least one of the nursing assistant members shall be a member of a union; and

(vi) One shall be an independent contractor;

(2) Three shall be registered nurses:

(i) One shall be an acute care registered nurse;

(ii) One shall be a home care registered nurse; and

(iii) One shall be a long-term care registered nurse;

(3) One shall be an administrator from a licensed health care facility;

(4) One shall be a licensed practical nurse;

(5) One shall be an individual who teaches a nursing assistant course;

(6) One shall be a consumer member who has received care, or has a family member who has received care from a nursing assistant; [and]

(7) One shall be a representative of the Department; AND

(8) ONE SHALL BE A CERTIFIED MEDICATION TECHNICIAN.

(c) The Board shall appoint an alternate for each of the three nursing assistant members in the event that the nursing assistant member is unable to discharge the duties of the committee.

(d) An advisory committee member shall serve a term of 4 years.

(E) THE ADVISORY COMMITTEE SHALL MEET AT LEAST ONCE A MONTH.

[(e)] (F) The advisory committee shall:

1 (1) Evaluate training programs and make recommendations for
2 approval by the Board;

3 (2) Develop and recommend regulations to enforce the provisions of
4 this subtitle;

5 (3) Evaluate candidates as required and recommend action to the
6 Board;

7 (4) Review investigations of complaints against nursing assistants or
8 medication technicians and make recommendations to the Board for disciplinary
9 action;

10 (5) Keep a record of its proceedings; and

11 (6) Submit an annual report to the Board.

12 8–802.

13 Subject to the evaluation and reestablishment provisions of the Program
14 Evaluation Act, the provisions of this title and of any rule or regulation adopted under
15 this title shall terminate and be of no effect after July 1, [2013] **2023**.

16 Article – State Government

17 8–403.

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

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

(40) Nursing, State Board of (§ 8–201 of the Health Occupations Article: July 1, [2012] **2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The State Board of Nursing shall contract with an independent entity to perform a personnel study to determine the necessity and allocation of additional staff.

(b) The study required under subsection (a) of this section shall:

(i) 1. include an analysis of the workload of the Board related to its licensure, certification, and complaint resolution functions; and

2. consider at a minimum the number of applications and complaints received by the Board, the number of employees assigned to each step of each function, and the amount of time an application or complaint remains at each step of each function;

(ii) include an analysis of the impact on staffing needs of:

1. the online processing of licenses and certificates; and

2. the movement to biennial renewal of licenses; and

(iii) make recommendations on the most effective use of existing staff, including cross training and reassignment.

(c) The study required under subsection (a) of this section shall be completed on or before October 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2012, the State Board of Nursing shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the implementation and use of the sanctioning guidelines required by Chapters 533 and 534 of the Acts of the General Assembly of 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That:

1 (a) On or before October 1, 2013, the State Board of Nursing shall report to
2 the Senate Education, Health, and Environmental Affairs Committee and the House
3 Health and Government Operations Committee, in accordance with § 2-1246 of the
4 State Government Article, on the implementation of nonstatutory recommendations
5 contained in the sunset evaluation report dated October 2011.

6 (b) The report required under subsection (a) of this section shall include:

7 (1) information on how the Board has improved its use of data
8 collection and tracking for the application and complaint resolution processes; and

9 (2) the Board's plan to implement the findings of the personnel study
10 required under Section 2 of this Act.

11 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 June 1, 2012.

Appendix 2. Written Comments of the State Board of Nursing



Warren G. Deschenaux, Director
Department of Legislative Services
90 State Circle
Annapolis, MD 21401-1991

October 31, 2011

RE: Sunset Review: Evaluation of the Maryland Board of Nursing, October, 2011

Dear Mr. Deschenaux:

The Maryland Board of Nursing offers the following responses to the recommendations in the 2011 Sunset Review and Evaluation of the Board.

Recommendation 1:

The board should continue to prioritize certification of medication technicians; any statutory or regulatory changes related to the certification of medication technicians should be based on the findings of the report required by Chapter 123 of 2011, particularly the required staffing analysis. The board should also include the provider community when developing policy related to the certification process and training requirements for medication technicians.

The Board concurs with Recommendation 1.

Recommendation 2:

The board should monitor any staff efficiencies related to the online licensure process and the movement to biennial licensure and reallocate staff accordingly. The board should also use its customer service survey to monitor customer satisfaction with both processes.

The Board concurs with Recommendation 2.

Recommendation 3:

The board should maintain annual data on the number of applicants for licensure as an RN or LPN and certification as a CNA that are denied licensure or certification based on positive criminal

history records check results. Information should also be maintained on the number of applicants for certification as a CMT that are denied certification based on self-disclosure of criminal history.

The Board concurs with Recommendation 3.

Recommendation 4:

The board should develop policy manuals on how the board handles positive criminal history records check results. These policies should be shared with board members and staff and published on the board's website.

The Board is reluctant to "develop policy manuals on how the board handles positive criminal history records check results" because these matters are addressed in the Nurse Practice Act and the actions taken by the Board regarding any positive criminal histories are discretionary.

The Board only has authority to take disciplinary action against those applicants, initial or renewal, whose criminal histories involve a conviction, guilty plea, or nolo contendere plea to a felony or a crime of moral turpitude. See Md. Health Occ. Code Ann., § 8-316(a)(4); Md. Health Occ. Code Ann. § 8-6A-10(a)(4). Thus, an applicant with a criminal history not involving a felony or a crime of moral turpitude will not be subject to investigation because the Board does not have the authority take any adverse action regarding their respective application, license, or certificate.

If the criminal history records check indicates a conviction, guilty plea, or nolo contendere plea to a felony crime or a crime of moral turpitude, the Nurse Practice Act requires that the Board consider several factors in determining whether or not to proceed with disciplinary action. For all initial and renewal license and certificate applicants the Nurse Practice Act requires that:

On receipt of an applicant's positive criminal history record information forwarded to the Board, in accordance with § 8-303 of the Nurse Practice Act, the Board is required to consider the following in making a determination to license, certify or deny an applicant:

- (i) The age at which the crime was committed;
- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

Because the consideration of a criminal history of an applicant is statutorily left to the discretion of the Board, the Board believes that the implementation of a "policy manual" would be unnecessary. However, an algorithm will be developed defining the process that will be consistently applied.

Recommendation 5:

The board should delay seeking legislation to require certified medication technicians to submit to criminal history records checks until the board has (1) implemented its online certification process for medication technicians in a manner that results in the timely processing of certificates; (2) analyzed the effectiveness in protecting the public of the current criminal history self-disclosure policy for medication technicians; (3) determined whether criminal history records checks are necessary in light of the self-disclosure policy; and (4) made any personnel changes relating to the certification of medication technicians as a result of the personnel study recommended by this report. If and when legislation is introduced to require medication technicians to submit to criminal history records checks, the board should consult with the provider and advocacy communities that employ and represent medication technicians and take into consideration current statutory requirements related to criminal history records checks for adult dependent care programs.

The Board concurs with Recommendation 5.

Recommendation 6:

Statute should be amended to remove the authorization for applicants for licensure as an RN or LPN and applicants for certification as a nursing assistant to be waived from a criminal history records check if they have completed such a check through another state board of nursing within the five years preceding the date of their application. Such waivers cannot be granted because obtaining the criminal history records information from other states violates federal law.

The Board concurs with Recommendation 6.

Recommendation 7:

The board, in consultation with the Office of the Attorney General, should develop a policy manual related to the complaint resolution process, including guidelines to be used by complaint review committees and in settlement conferences.

The Board concurs with Recommendation 7.

Recommendation 8:

BON should continue to assess its backlog and, as necessary, hold additional hearings.

The Board concurs with Recommendation 8.

Recommendation 9:

Board members should meet with all investigative staff to discuss their expectations from investigations, and work with the nurse investigators to developing training for non-nurse investigators in order to prevent future delays.

The Board concurs with Recommendation 9.

Recommendation 10:

The board should report again to the Senate Education, Health, and Environmental Affairs and House Health and Government Operations committees on its implementation and use of

sanctioning guidelines by December 1, 2012 (by which time the board is expected to have been using the guidelines for about one year).

The Board concurs with Recommendation 10.

Recommendation 11:

The board should utilize its complaint tracking capabilities to develop, run, and maintain a catalog of complaint data reports on a regular basis and use the results to make staffing and automation changes to improve the overall complaint resolution process.

The Board concurs with Recommendation 11.

Recommendation 12:

BON should ensure that ACD operators have the appropriate training to handle frequently asked questions and that all staff who interact with the public are trained on phone etiquette for diffusing tense situations.

The Board concurs with Recommendation 12.

Recommendation 13:

The board should include all public board meetings under the "Public Meetings" link and should make the entire website easier to follow by placing everything needed for RNs under one link, LPNs under another link, and so on.

The Board concurs with Recommendation 13.

Recommendation 14:

The board should ensure that posted disciplinary information is accurate, consistent, and up to date. In addition, the board should include descriptions of what information is available and directions as to how to access the information. The board should consider eliminating the "MBN Alert" and "Public Order" links and post disciplinary action by date with direct links to the public orders and include direct links to public orders in under the "Look-up a Licensee" link.

The Board concurs with Recommendation 14.

Recommendation 15:

The board should add questions to the "Customer Satisfaction Survey" that are specific to the interaction with BON staff. Further, the board should encourage more responses to the customer service survey by including prompts to complete the survey after the submission of an application or complaint and requiring ACD operators and staff to inform licensees, certificate holders, or the public about the online survey.

The Board concurs with Recommendation 15.

Recommendation 16:

The board should reestablish an online newsletter as an opportunity to enhance communications between the board, its licensees and certificate holders, and the public.

The Board concurs with Recommendation 16.

Recommendation 17:

Rather than request additional regular positions, the board should consider hiring contractual employees to complete the transition to a paperless application process.

The Board concurs with Recommendation 17.

Recommendation 18:

BON should contract with an independent entity to perform a personnel study to determine if and where additional staffing is needed. The study should be completed by October 1, 2013, and include an analysis of the board's workload in its major functions of licensure, certification, and complaint resolution and should consider at a minimum (1) the number of applications and complaints the board receives; (2) the number of employees at each step of each function; and (3) the amount of time an application or complaint remains at each step of each function. The personnel study should include an analysis of the impact of the online processing of licenses and certificates and the movement to biennial renewal on staffing needs. Finally, the study should make recommendations relating to the most effective use of current staff including cross-training and reassignment.

The Board concurs with Recommendation 18.

Recommendation 19:

The board should work with the Department of Health and Mental Hygiene and the Governor's Appointments Office to reappoint or replace board members as required by Chapters 53 and 54 of 2010.

The Board concurs with Recommendation 19.

Recommendation 20:

Statute should be amended to alter the membership of the Nursing Assistant Advisory Committee to include at least one certified medication technician and to require the advisory committee to meet at least once a month. In addition, the board should fill vacancies on the advisory committee and adopt regulations clarifying the advisory committee's role.

The Board concurs with Recommendation 20.

Recommendation 21:

The board should reinstate its policy of holding monthly staff meetings either with the entire staff or with division directors in order to enhance communication with and among board personnel.

The Board concurs with Recommendation 21.

Recommendation 22:

The board should conduct cross-training for employees, prepare more comprehensive documentation of board functions through the development of policy and procedural manuals, and update its organizational chart and job descriptions.

The Board concurs with Recommendation 22, to the extent possible, within the restraints required for security of the data base.

Recommendation 23:

The board should develop an automated system for tracking applications that can generate reports on how long applications have been in the licensing system and how long the applications remain at each step of the licensing process.

The Board concurs with Recommendation 23, but believes it will be moot after all applications are on line.

Recommendation 24:


Statute should be amended to require the board to submit its annual report to General Assembly, in addition to the Secretary of Health and Mental Hygiene and the Governor. The report should include specific data calculated on a fiscal-year basis in order to provide a clearer picture of the workload of the board.

The Board concurs with Recommendation 24.

Recommendation 25:

Legislation should be enacted to extend the termination date for the board by 10 years to July 1, 2023. Additionally, uncodified language should be adopted to require the board to report, by October 1, 2013, to the Senate Education, Health, and Environmental Affairs and House Health and Government Operations committees on the implementation status of nonstatutory recommendations made in this report. In particular, the board should report on how it has improved its use of data collection and tracking for the application and complaint resolution processes.

The Board concurs with Recommendation 25.


Nancy Adams, MBA, RN
President

Sincerely,


Patricia A. Noble, MSN, RN
Executive Director

cc: Secretary Sharfstein
Patrick Dooley
Marie Grant
Sara Albert
Karen Hopwood
Lisa Simpson

Audit Report

**Maryland Department of Health
Regulatory Services**

January 2021



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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

January 19, 2021

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of Regulatory Services, a budgetary unit within the Maryland Department of Health (MDH), for the period beginning September 28, 2015 and ending September 24, 2019. Regulatory Services consists of 22 Health Professional Boards and Commissions (HPBCs) and the Office of Health Care Quality (OHCQ). The various HPBCs and OHCQ are responsible for licensing and regulating health professionals (such as physicians, nurses, and pharmacists) and health care facilities in the State.

Our audit disclosed issues with the monitoring of certain licensees. Specifically, the Board of Nursing and Board of Professional Counselors and Therapists did not provide sufficient oversight of complaint investigations against licensees. As a result, numerous complaints received by the Boards were not investigated in a timely manner. For example, the Board of Nursing received 8,238 complaints during our audit period. We noted that 3,272 of these complaints were still under investigation as of March 2020, including 2,790 complaints for which there had been an open investigation for more than one year. The timely investigation and resolution of complaints is critical since licensees continue to practice until investigations are completed and any actions deemed necessary are taken. Additionally, as noted in MDH audit reports dating back to 2004, OHCQ had not performed annual inspections for a number of licensed assisted living facilities and developmental disabilities service providers.

Certain HPBCs had not established adequate controls over cash receipts. For example, for 7 HPBCs, employees who were responsible for handling collections

also had access to the licensing systems, which gave them the capability to issue or renew the related licenses. These functions should be separated to ensure collections are properly controlled. Our audit also disclosed that 21 HPBCs did not ensure user access capabilities in their respective licensing systems were properly restricted. For example, 63 employees at 12 HPBCs could unilaterally issue or renew a license. Our audit also disclosed that certain controls over the licensing systems used by two HPBCs were not sufficient to protect critical licensee data.

Furthermore, we noted that the Board of Dental Examiners did not prepare written justifications to support the sole source procurement of two contracts or obtain Department of Information Technology (DoIT) and BPW approval for the contracts, as required.

Finally, we believe that certain of our findings could be the result of insufficient individual board resources. Consequently, although this may be an area for further study, we noted opportunities for consolidating licensing, procurement, and other fiscal functions of the HPBCs. Although this course of action is not required by any statute or regulation, we believe that consolidating these processes would allow the HPBCs to resolve certain internal control deficiencies commented upon in this report. In addition, consolidation could increase efficiencies and achieve unspecified cost savings. For example, consolidating procurements to leverage the HPBCs collective purchasing power could result in enhanced competition and potential volume discounts.

Our audit included a review to determine the status of the eight findings contained in our preceding Regulatory Services audit report. We determined that Regulatory Services satisfactorily addressed three of these findings. The remaining five findings are repeated in this report, two of which are combined and presented as one finding.

MDH's response to this audit, on behalf of Regulatory Services, is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by Regulatory Services. We also wish to acknowledge MDH's and Regulatory

Services' willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a large, stylized 'G' and 'H'.

Gregory A. Hook, CPA
Legislative Auditor

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Procurements

- Finding 6 – The Board of Dental Examiners did not comply with State procurement regulations when awarding two sole source contracts totaling \$302,000 to a vendor for a new licensing system. 20

Consolidation of Operations

- Finding 7 (Policy Issue) – Consolidation of licensing, procurement, and other fiscal operations to enhance internal controls and maximize efficiencies had not been pursued by the HPBCs. 21

Audit Scope, Objectives, and Methodology 23**Agency Response** Appendix

Background Information

Agency Responsibilities

Regulatory Services is a separate budgetary unit within the Maryland Department of Health (MDH) which consists of 22 Health Professional Boards and Commissions (HPBCs) and the Office of Health Care Quality (OHCQ). The various HPBCs are responsible for licensing and regulating health professionals, and OHCQ is responsible for regulating health care facilities in the State. According to the State's records, OHCQ and the 22 HPBCs total fiscal year 2019 revenues were approximately \$56.9 million and fiscal year 2019 expenditures totaled approximately \$59.0 million, with the majority coming from special funds (\$37.5 million).

Organizational Change

Chapter 739, Laws of Maryland 2016, effective October 1, 2016, separated the Board of Chiropractic and Massage Therapy Examiners into the Board of Chiropractic Examiners and the Board of Massage Therapy Examiners. This law also eliminated the special, non-lapsing fund previously shared by the two boards by establishing the State Board of Chiropractic Examiners Fund and the State Board of Massage Therapy Examiners Fund.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the eight findings contained in our preceding audit report dated April 26, 2017. As disclosed in Table 1 below, we determined that Regulatory Services satisfactorily addressed three of these findings. The remaining five findings are repeated in this report, two of which were combined and presented as one finding in this report.

Table 1
Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	The Board of Professional Counselors and Therapists did not properly track complaints against licensees, resulting in complaints not being investigated and submitted to the Office of the Attorney General in a timely manner.	Repeated (Current Finding 1)
Finding 2	The Board of Nursing did not always take timely action to suspend the licenses of delinquent noncustodial parents referred by the Child Support Administration as required by State law.	Not repeated
Finding 3	The Office of Health Care Quality did not conduct annual inspections of certain health care facilities as required.	Repeated (Current Finding 2)
Finding 4	The Maryland Medical Cannabis Commission improperly used interagency agreements with a State university to procure license application evaluation services.	Not repeated
Finding 5	Certain boards did not adequately control and account for collections.	Repeated (Current Finding 3)
Finding 6	Seventeen boards and commissions did not ensure that employees handling collections were denied the capability to issue or renew licenses.	Repeated (Current Finding 3)
Finding 7	The Board of Physicians did not adequately monitor a rehabilitation services vendor and did not always obtain documentation to support amounts invoiced.	Not repeated
Finding 8	Password and account controls for the Boards of Nursing, Physicians, and Pharmacy were not sufficient to properly protect critical data.	Repeated (Current Finding 5)

Findings and Recommendations

Complaint Tracking

Finding 1

The Board of Nursing and the Board of Professional Counselors and Therapists did not provide sufficient oversight to ensure that complaints against licensees were investigated timely. Our review disclosed that numerous complaints were not investigated within one year.

Analysis

Our review of the complaint tracking procedures for 2 of the 22 Health Professional Boards and Commissions (HPBCs), the Board of Nursing and the Board of Professional Counselors and Therapists, disclosed that neither Board provided sufficient oversight to ensure that complaints against licensees were investigated timely. Our audit disclosed a significant number of complaints received by these Boards that were still under investigation more than one year after the complaints were received.

The Board of Nursing did not periodically review logs to ensure that investigations were conducted timely. In addition, while cases were tracked in separate logs maintained by three Board investigative staff, we noted that each log did not include all critical information. For example, the logs for two of the investigators lacked the date that the Board received the complaint and therefore, the Board could not readily determine the timeliness of the investigation. According to its licensing system, which contained certain information regarding complaints but was not used to track the status of the related investigations, the Board of Nursing received 8,238 complaints during the period from September 2015 to September 2019. As of March 2020, 3,272 of these complaints were still under investigation or not yet investigated. Our review of these 3,272 complaints disclosed that 2,790 had been open for more than one year, including 151 complaints received during calendar year 2015.

For the Board of Professional Counselors and Therapists, while we were advised that the Board periodically reviewed its complaint log, this review was not effective since the log was not completed for certain investigations. Specifically, our review of the 225 complaints recorded in the log during the period from April 2017 to June 2019 disclosed 44 complaints that had been open for more than one year and for which the log was not updated to reflect the current status of the investigations. For example, the date the case was assigned to an investigator had not been recorded for 30 of these 44 complaints. A similar condition regarding the Board of Professional Counselors and Therapists not properly monitoring

complaints and maintaining a tracking log that did not include all critical information was commented upon in our preceding audit report.

In accordance with State law, the Secretary of MDH had developed guidelines with timeliness goals for complaint resolution by the HPBCs. The guidelines established a goal of 3 to 12 months for the completion of a complaint investigation and a determination to bring charges with the Office of the Attorney General (OAG), with the specific goal for the Board Nursing being 270 days. Adequate tracking and timely resolution of complaints is critical since licensed individuals continue to practice until the OAG takes action.

Recommendation 1

We recommend that the Board of Nursing and Board of Professional Counselors and Therapists

- a. properly monitor complaints (such as by periodically reviewing the tracking logs) and develop a strategy to ensure the timely disposition of complaints (repeat); and**
- b. properly maintain the tracking logs and ensure the logs reflect all critical information, including key dates such as initial receipt (repeat).**

Inspections

Finding 2

The Office of Health Care Quality did not conduct required annual inspections of all assisted living facilities and developmental disabilities service providers.

Analysis

The Office of Health Care Quality (OHCQ) did not inspect each of the assisted living facilities and developmental disabilities service providers annually as required by State law. Specifically, as noted in Table 2, OHCQ did not complete all of the required annual inspections during fiscal years 2016 through 2019. Similar conditions have been commented upon in MDH audit reports dating back to 2004.

Table 2**OHCQ Annual Inspections Between Fiscal Years 2016 and 2019**

Fiscal Year	Assisted Living Facilities			Developmental Disabilities Providers		
	Facilities	Inspections Conducted	Percentage Conducted	Providers	Inspections Conducted	Percentage Conducted
2016	1,531	1,188	78%	218	53	24%
2017	1,580	755	48%	230	91	40%
2018	1,546	788	51%	241	47	20%
2019	1,563	1,108	71%	253	99	39%

State law requires OHCQ to conduct inspections at least annually to ensure compliance with State and federal regulations regarding patient care and safety. If deficiencies noted during the inspections are not corrected (for example, failure to maintain client records in accordance with State regulations), OHCQ may impose sanctions such as license revocation, fines, or other restrictions on the operating license. Based on OHCQ records, inspections that are conducted frequently disclose deficiencies requiring corrective action.

According to OHCQ's fiscal year 2019 *Annual Report and Staffing Analysis* submitted to the General Assembly, insufficient staff has impacted its ability to meet the annual inspection requirements. In fiscal year 2018, MDH implemented a seven-year staffing plan to increase the number of OHCQ inspectors. While the *Annual Report* indicated that the plan remained on target through fiscal year 2021, OHCQ advised that it still needed an additional 40 staff to perform the required number of inspections. In addition, uncertainty regarding the State's budgetary outlook due to the ongoing COVID-19 pandemic may further impact the feasibility of this staffing plan.

Recommendation 2

We recommend that OHCQ, in conjunction with MDH, ensure inspections of the assisted living facilities and developmental disabilities service providers are completed as required by law (repeat).

Cash Receipts**Background**

According to the State's records, during fiscal year 2019, collections received by the 22 HPBCs totaled approximately \$49.0 million (see Table 3 on the following page). These collections, which primarily related to licensing fees, were received

by direct mail, in person, by credit card (processed either by HPBC staff or by third-party vendors), or by a lockbox.

Table 3
Summary of Fiscal Year 2019 Collections

Board or Commission	Collection Method			Total
	Credit Card	Mail and Walk-in	Lockbox	
Physicians	\$9,895,499	\$0	\$2,929,946	\$12,825,445
Medical Cannabis	4,291,854	6,069,450	0	10,361,304
Nursing	7,736,954	619,807	0	8,356,761
Pharmacy	1,956,964	0	2,525,494	4,482,458
Dental Examiners	1,716,023	619,464	0	2,335,487
Social Work Examiners	1,771,325	246,540	0	2,017,865
Professional Counselors and Therapists	894,294	804,311	0	1,698,605
Chiropractic Examiners*	1,150,625	102,908	0	1,253,533
Physical Therapy Examiners	979,285	89,346	0	1,068,631
Examiners of Psychologists	593,988	271,823	0	865,811
Morticians	183,000	524,555	0	707,555
Occupational Therapy Practice	590,575	22,635	0	613,210
Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists	410,054	97,758	0	507,812
Acupuncture	270,148	87,506	0	357,654
Podiatric Examiners	215,350	116,185	0	331,535
Dietetic Practice	283,354	32,255	0	315,609
Examiners in Optometry	256,864	33,561	0	290,425
Massage Therapy Examiners	0	212,955	0	212,955
Kidney Disease	0	185,370	0	185,370
Environmental Health Specialists	0	113,425	0	113,425
Examiners of Nursing Home Administrators	41,800	17,900	0	59,700
Residential Child Care Administrators	3,350	32,945	0	36,295
Total	\$33,241,306	\$10,300,699	\$5,455,440	\$48,997,445

Source: State Accounting Records

* Credit card collections listed for Chiropractic Examiners also includes collections for Massage Therapy Examiners which could not be broken out.

Collections received through the direct mail and walk-in were deposited using remote deposit, a process that scans the images of checks and electronically transmits those images to the bank for deposit. Collections received at 18 HPBCs were scanned into the remote deposit system by an employee and electronically transmitted to the bank for deposit by MDH's Division of General Accounting (DGA), and collections for the remaining 2 HPBCs that received mail or walk in collections were processed by their own remote deposits systems.

Finding 3

Controls over collections directly received at and the deposits made by the majority of the HPBCs were not adequate, and duties related to cash receipts and licensing were not properly segregated.

Analysis

Controls over collections and deposits received at the HPBCs were not adequate, and duties related to cash receipts and licensing were not properly segregated. As summarized in Table 4, our review of the 22 HPBCs' procedures and controls disclosed deficiencies in the following areas among 19 of the HPBCs:

Credit Card Collections

Fourteen HPBCs lacked procedures to verify that all credit card collections processed by third-party vendors were deposited into the State's bank account, including seven HPBCs that also did not verify that credit card collections were recorded in the State's accounting records. In addition, the Board of Nursing did not completely resolve a discrepancy it identified between the collections processed by its credit card vendor and the amounts recorded in the State's accounting records. Specifically, the fiscal year 2019 collections reported by the vendor (\$8.1 million) exceeded the total amount deposited in the State's bank account by \$386,000. Although the Board had investigated and resolved other discrepancies totaling approximately \$2.5 million, as of February 2020, it had not resolved the remaining discrepancy.

Segregation of Duties

Seven HPBCs had not properly segregated cash handling duties from the licensing duties. Specifically, nine employees with access to collections received at the seven HPBCs had been assigned system user functions that allowed them the capability to issue or renew licenses, certificates, or permits, or adjust the related billing records. As a result, collections could be misappropriated and the related licenses issued without detection. We were advised by HPBC personnel that the problem was due to limited resources and it had considered processing these HPBCs' collections through lockboxes to eliminate the cash handling duties of the employees with the capability to issue

licenses, but determined that it would be cost prohibitive given the amount of collections received by the individual HPBCs. However, no documentation was provided to support this assertion. As noted in Finding 7, if the HPBCs consolidated certain functions, cost efficiencies may be achievable.

Reconciliations of Licenses to Related Collections

Twelve HPBCs did not periodically reconcile the value of licenses issued with the related collections to ensure that all collections were accounted for and deposited. Nevertheless, our test of licenses issued by the Board of Nursing and the Board of Pharmacy did not disclose any licenses that were issued without a related collection.

Table 4
Finding 3 Summary

Board or Commission	Credit Card Collections		Cash Handling and Licensing Duties Segregated	Licenses Reconciled to Collections
	Verified to Deposit	Verified to State Accounting Records		
Physicians	Yes	Yes	Yes	Yes
Medical Cannabis	Yes	Yes	No	Yes
Nursing	No	No	Yes	No
Pharmacy	No	Yes	Yes	No
Dental Examiners	No	No	No	No
Social Work Examiners	No	Yes	Yes	Yes
Professional Counselors and Therapists	No	Yes	Yes	No
Chiropractic Examiners	No	No	Yes	No
Physical Therapy Examiners	No	Yes	Yes	Yes
Examiners of Psychologists	No	No	Yes	No
Morticians	Yes	Yes	Yes	No
Occupational Therapy Practice	No	Yes	Yes	Yes
Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists	No	No	Yes	No
Acupuncture	Yes	Yes	No	Yes
Podiatric Examiners	Yes	Yes	No	Yes
Dietetic Practice	Yes	Yes	Yes	Yes
Examiners in Optometry	No	Yes	Yes	Yes
Massage Therapy Examiners	No	No	Yes	No
Kidney Disease*	N/A	N/A	Yes	Yes
Environmental Health Specialists*	N/A	N/A	No	No
Examiners of Nursing Home Administrators	No	No	No	No
Residential Child Care Administrators	No	No	No	No
Total Exceptions	14	8	7	12

*As noted in Table 3, the Board of Environmental Health Specialists and Commission on Kidney Disease did not process collections via credit card. Therefore, these attributes are not applicable.

The failure to verify that credit card collections were deposited and recorded in the State's accounting records, and the lack of segregation of cash handling and licensing duties for a number of HPBCs were commented upon in our preceding audit report. Furthermore, the lack of reconciliations of licenses issued to the related collections by certain HPBCs has been commented upon in our audit reports dating back to 2006.

The Comptroller of Maryland's *Accounting Procedures Manual* requires collections to be independently verified to deposit and recorded in the State's

accounting records. In addition, the *Manual* requires the separation of cash handling duties and licensing duties and reconciling the value of licenses to the related collections.

Recommendation 3

We recommend that the applicable HPBCs

- a. perform documented verifications that credit card collections were deposited and properly recorded in the State's accounting records (repeat);**
- b. continue investigative action to determine whether the aforementioned \$386,000 in unrecorded collections were deposited and properly recorded in the State's accounting records;**
- c. ensure that employees processing collections are denied the system capability to issue or renew licenses, certificates, or permits, (repeat) or to update the related billing records;**
- d. in conjunction with MDH, perform a documented consideration of the feasibility of using a bank lockbox account to receive collections (repeat); and**
- e. periodically reconcile licensing activity with the related collections (repeat).**

Licensing Systems Access

Finding 4

Twenty-one HPBCs did not perform documented system access reviews of their licensing system to ensure that user access capabilities were adequately restricted. As a result, numerous users could unilaterally issue or renew licenses, and current or former employees had unnecessary system access.

Analysis

Twenty-one HPBCs did not perform documented system access reviews of their licensing systems. We obtained system-generated reports from the 7 licensing systems used by the 22 HPBCs which identified 147 users with active access. Our review disclosed that during the audit period 21 of the 22 HPBCs had not conducted a review of user access to determine whether the access was properly restricted and necessary for the employee to complete their job. As a result, we noted the following conditions:

- Sixty-four users at 12 HPBCs (see Table 5) had the ability to unilaterally issue or renew licenses without independent review and approval. The licensing system shared and used by 9 HPBCs did not have the ability to establish

online approvals, and no manual approvals of the licenses were performed. The system used by the remaining 3 HPBCs had the capability to create online approvals, but the HPBCs did not consistently use this capability or establish procedures to manually review the related licenses.

- Forty-eight users at 4 HPBCs (see Table 5) could issue or renew licenses even though this capability was not required to perform their job duties. In addition, 3 former employees at 3 HPBCs (see Table 5), including one that could unilaterally issue licenses, had system access even though the employees had terminated their employment 1 to 12 months earlier. As a result, these former employees still had access to Personally Identifiable Information (PII).

Table 5
Finding 4 Summary

Board or Commission	Periodic System Access Review	Employees Able to Unilaterally Issue Licenses	Employees with Unnecessary Capabilities	Former Employees with Access
Physicians	No	-	-	-
Medical Cannabis	No	-	-	-
Nursing	No	38	22	-
Pharmacy	No	6	16	-
Dental Examiners	No	6	9	1
Social Work Examiners	No	-	1	-
Professional Counselors and Therapists	No	6	-	-
Chiropractic Examiners*	No	2	-	-
Physical Therapy Examiners	No	-	-	-
Examiners of Psychologists	No	1	-	-
Morticians	No	1	-	-
Occupational Therapy Practice	No	-	-	-
Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists	No	1	-	-
Acupuncture	No	-	-	-
Podiatric Examiners	No	-	-	-
Dietetic Practice	No	-	-	-
Examiners in Optometry	No	-	-	-
Massage Therapy Examiners*	No	2	-	-
Kidney Disease	Yes	-	-	-
Environmental Health Specialists	No	1	-	1
Examiners of Nursing Home Administrators	No	1	-	-
Residential Child Care Administrators	No	1	-	1
Total Exceptions	21	64	48	3

Source: Regulatory Services Records

*The Board of Massage Therapy Examiners and the Board of Chiropractic Examiners used the same staff to issue licenses. The 2 employees who could unilaterally issue licenses for these boards are only included once in the total (therefore, the total in the Employees Able to Unilaterally Issue Licenses column does not add up).

The State of Maryland *Information Technology Security Manual* requires agencies to perform system access reviews at least annually. The *Manual* also requires agencies to strictly control and audit the access to confidential information to support the concept of “least privilege.”

Recommendation 4

We recommend that the HPBCs

- a. perform documented periodic access reviews of the licensing systems;**
- b. establish online or manual controls to prevent users from unilaterally issuing or renewing licenses, including those noted above; and**

- c. ensure that users are assigned only those capabilities needed to perform job duties and to eliminate unnecessary access, including those noted above.

Information Systems Security and Control

Background

Fifteen boards and one commission (Kidney Disease) have licensing systems maintained by the HPBCs information technology staff on a consolidated licensing application database system. The remaining five boards (including the Boards of Physicians, Nursing, and Pharmacy) maintain licensing systems residing on servers located at each board's office and principally use application security to provide system security. Several boards also provide an online license verification service to the general public and numerous boards offer online license renewals. Additionally, the Maryland Medical Cannabis Commission uses an outside service provider system for licensing and registration processing functions. The Office of Health Care Quality uses a Federal Centers for Medicare and Medicaid Services' system for its information system processing requirements.

Our audit of these systems was primarily limited to the review of select database system controls of the Board of Physicians and the Board of Nursing. Our audit also reviewed critical application account and password controls for the Boards of Pharmacy and Nursing.

Finding 5

Password and account controls for the Board of Nursing and the Board of Pharmacy were not sufficient to properly protect critical data.

Analysis

Password and account controls for the Board of Nursing and the Board of Pharmacy were not sufficient to properly protect critical data (such as personally identifiable information). Specifically, we noted that password and account controls over critical applications used by the Boards of Nursing and Pharmacy did not comply with required settings prescribed by either the current State of Maryland *Information Technology Security Manual*, or the preceding *Information Security Policy* with respect to password age, history, and account lockout. A similar condition, for the Boards of Nursing and Pharmacy, was commented upon in our preceding audit report.

Given these results from our review of selected systems and the fact that many of the other boards and commissions maintain sensitive licensee information, we believe MDH should ensure that all boards and commissions have established appropriate password and account controls.

Recommendation 5

We recommend that

- a. the two Boards implement strong controls over passwords and accounts for critical applications in accordance with the settings prescribed by the *Information Technology Security Manual* (repeat), and**
- b. MDH determine the extent to which additional application password and account controls are needed to protect licensee data for the remaining boards and commissions (repeat).**

Procurements

Finding 6

The Board of Dental Examiners did not comply with State procurement regulations when awarding two sole source contracts totaling \$302,000 to a vendor for a new licensing system.

Analysis

The Board of Dental Examiners did not comply with State procurement regulations when awarding two sole source contracts totaling \$302,000 to a vendor for a new licensing system. Specifically, our review of the procurement of licensing systems by four boards from a single vendor which totaled \$1.1 million, disclosed that the Board of Dental Examiners did not prepare written justifications to support the use of the sole source procurement method for its two contracts with the vendor. Additionally, the Board did not obtain Department of Information Technology (DoIT) and Board of Public Works (BPW) approval, when required. We concluded that the propriety of the sole source method used was questionable because MDH's Office of Procurement and Support Services had previously advised the Board of Dental Examiners that the services could potentially be provided by other vendors.

State procurement regulations provide that sole source procurements should only be used when goods or services are available from only a single vendor, and require that written justifications be prepared and approved prior to the contract award. In addition, State procurement regulations provide that procurements of information technology exceeding \$100,000 require DoIT approval and contracts

over \$200,000 require BPW approval. One of the two Board contracts with this vendor exceeded \$200,000.

Recommendation 6

We recommend that the Board of Dental Examiners

- a. ensure sole source procurements are adequately justified and use the sole source procurement method when only a single vendor can meet the requirements; and**
- b. submit contracts to DoIT and BPW for review and approval, as required.**

Consolidation of Operations

Finding 7 (Policy Issue)

Consolidation of licensing, procurement, and other fiscal operations to enhance internal controls and maximize efficiencies had not been pursued by the HPBCs.

Analysis

The HPBCs had not pursued the consolidation of licensing, procurement, and other fiscal operations such as collection of cash receipts to enhance internal controls and maximize efficiencies. State law establishes each HPBC as an independent unit and does not require them to consolidate these functions. However, in our opinion, consolidating certain functions could help resolve longstanding internal control deficiencies, including four of the five findings repeated from our preceding audit report. For example, as noted in Finding 3, seven HPBCs had not properly segregated cash handling and licensing duties, which according to the HPBCs was due to limited personnel. We determined that had their collection functions been consolidated, the current personnel assigned to those functions for each HPBC could be used to help ensure the appropriate segregation of duties. Furthermore, we noted that 16 of the HPBCs already have consolidated their information technology support staff into one shared unit, so there appears to be precedent for such actions.

Although an area for further study, we believe that consolidating certain operations could result in efficiencies and cost savings. For example, consolidating procurements could result in potential volume discounts. According to State accounting records, during fiscal years 2016 to 2019 all HPBCs procured services from 62 vendors totaling \$10.6 million. Of those procurements, seven vendors were used by two or more (of five) HPBCs to procure similar services totaling \$1.3 million. Since each of the five HPBCs procured these contracts independently, they would not have taken advantage of

increased competition and potential volume discounts. Additionally, had certain of the procurements been consolidated, based on increased value, they may have been subject to enhanced oversight via control agency and/or Board of Public Works review and approval, which presently is not the case.

A model for such a consolidated organization does exist elsewhere in State government. For example, the Maryland Department of Labor – Division of Occupational and Professional Licensing (DOPL) has consolidated the licensing, collections, and procurement functions of its 25 boards and commissions. In contrast, the HPBCs have individually procured seven separate licensing systems in total while DOPL procured a single licensing system that was used by all of its boards and commissions.

Recommendation 7

We recommend that the HPBCs collectively identify opportunities for consolidating certain operations to enhance internal controls and maximize efficiencies and, if deemed practical, develop a formal plan to accomplish such enhancements.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of Regulatory Services, a unit of the Maryland Department of Health (MDH), for the period beginning September 28, 2015 and ending September 24, 2019. Regulatory Services consists of 22 Health Professional Boards and Commissions and the Office of Health Care Quality (OHCQ). The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine Regulatory Services' financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included health professional and facilities licensing, cash receipts, contracts, and information systems. We also determined the status of the findings contained in our preceding audit report.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of September 28, 2015 to September 24, 2019, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

Our audit did not include certain support services provided to Regulatory Services by MDH – Office of the Secretary. These support services (such as payroll, purchasing, maintenance of accounting records, and related fiscal functions) are included within the scope of our audit of the Office of the Secretary.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions and to the extent practicable, observations of Regulatory Services' operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions

tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data) and the State's Central Payroll Bureau (payroll data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these sources were sufficiently reliable for the purposes the data were used during this audit.

We also extracted data from various agency systems, including the licensing systems at various HPBCs and the inspection system at OHCQ, for the purpose of testing whether licenses were properly issued and inspections were performed as required. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

Regulatory Services' management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved. As provided in Government Auditing Standards, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to Regulatory Services, were considered by us during the course of this audit.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect Regulatory Services' ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to Regulatory Services' that did not warrant inclusion in this report.

The response from MDH, on behalf of Regulatory Services, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MDH regarding the results of our review of its response.



APPENDIX

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

January 9, 2021

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Hook:

Enclosed, please find the responses to the draft audit report on the Maryland Department of Health – Regulatory Services for the period beginning September 28, 2015 and ending September 24, 2019.

If you have any questions, please contact Frederick D. Doggett at 410-767-0885 or email at frederick.doggett@maryland.gov.

Sincerely,

Dennis R. Schrader
Acting Secretary

Enclosure

cc: Frederick D. Doggett, Inspector General, MDH
Webster Ye, Assistant Secretary, Health Policy, MDH
Kimberly Link, J.D., Associate Director, Health Workforce, Health Occupations Board and Commissions
Deneen Toney Acting Assistant Inspector General, MDH
Patricia T. Nay, M.D., Executive Director, Office of Health Care Quality, MDH
Karen E. B. Evans, R.N., Executive Director, State Board of Nursing, MDH
Penny K. Heisler, Executive Director, State Acupuncture Board, MDH
Candace G. Robinson, Executive Director, State Board of Examiners for Audiologists, Hearing Aid Dispensers, & Speech-Language Pathologists, MDH

Darlene V. Ham, Executive Director, State Board for Certification of Residential Child-Care Program Professionals, MDH
Christy Collins, Executive Director, State Board of Morticians & Funeral Directors, MDH
Danielle M. Vallone, Acting Executive Director, State Board of Professional Counselors & Therapists, MDH
Francis X. McLaughlin, Jr., Executive Director, State Board of Dental Examiners, MDH
Marie M. Savage, Administrator, State Board of Dietetic Practice, MDH
James T. Merrow, Executive Director, State Board of Environmental Health Specialists, MDH
Eva H. Schwartz, Executive Director, State Commission on Kidney Disease and State Board of Podiatric Medical Examiners, MDH
Sharon J. Oliver, Executive Director, State Board of Massage Therapy Examiners and State Board of Chiropractic Examiners, MDH
Ronda Butler Bell, Executive Director, State Board of Examiners of Nursing Home Administrators, MDH
Lauren C. Murray Honeycutt, Executive Director, State Board of Occupational Therapy Practice, MDH
Patricia G. Bennett, Executive Director, State Board of Examiners in Optometry, MDH
Deena N. Speights-Napata, Executive Director, State Board of Pharmacy, MDH
Laurie Kendall-Ellis, Executive Director, State Board of Physical Therapy Examiners, MDH
Christine A. Farrelly, Executive Director, State Board of Physicians, MDH
Lorraine W. Smith, Executive Director, State Board of Examiners of Psychologists, MDH
Stanley E. Weinstein, Ph.D., Executive Director, State Board of Social Work Examiners, MDH
William C. Tilburg, J.D., M.P.H., Executive Director, Maryland Medical Cannabis Commission, MDH

**Maryland Department of Health
Regulatory Services**

Agency Response Form

Complaint Tracking

Finding 1

The Board of Nursing and the Board of Professional Counselors and Therapists did not provide sufficient oversight to ensure that complaints against licensees were investigated timely. Our review disclosed that numerous complaints were not investigated within one year.

We recommend that the Board of Nursing and Board of Professional Counselors and Therapists

- a. properly monitor complaints (such as by periodically reviewing the tracking logs) and develop a strategy to ensure the timely disposition of complaints (repeat); and**
- b. properly maintain the tracking logs and ensure the logs reflect all critical information, including key dates such as initial receipt (repeat).**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 1a	Agree	Estimated Completion Date:	12/20/2020
Please provide details of corrective action or explain disagreement.	<p>Maryland Board of Nursing:</p> <p>The MBON -properly monitors complaints and has developed a strategy to ensure the timely disposition of complaints. The incoming complaints tracking log was piloted in September 2019 to ensure that initial review of complaints were forwarded to the triage committee in a timely manner. The Complaints Manager tracks the complaints tracking log monthly and addresses any concerns at that time. The Complaints Manager monitors the complaints and ensures the timely disposition of complaints. The triage log is dated from the day the Board receives the complaint to the date of disposition. This will be documented on the Compliance Audit tool and documents in policy and procedures.</p>		
	<p>Maryland Board of Counselors:</p>		

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	<p>Agree: Board of Professional Counselors: Estimated Completion Date: 4/1/2021</p> <p>Board of Professional Counselors concurs and will properly monitor complaints (such as by periodically reviewing the tracking logs) and has developed a strategy to ensure the timely disposition of complaints. In 2017, the Board created a tracking log for all complaints and continues to update this log daily. The tracking log will soon be replaced with a new automated tracking system. The Board anticipates to have the new tracking system fully operational by spring of 2021. The Compliance Manager monitors the complaints.</p>		
Recommendation 1b	Agree	Estimated Completion Date:	12/31/2020
<p>Please provide details of corrective action or explain disagreement.</p>	<p>Maryland Board of Nursing:</p> <p>MBON has properly maintained the tracking logs and ensured the logs reflect all critical information, including key dates such as initial receipts. A triage tracking tool was developed in March of 2019. The Investigators assignment tracking tool and the triage tracking tool were revised July 23, 2020 to include critical information. The Assistant Director of Enforcement will monitor the Investigators tracking tool monthly. The Assistant Director of Enforcement monitors for key dates and other critical information is not left blank monthly. Each Investigator is responsible for completing the tracking tool as needed (will be updated daily). The Assistant Director of Enforcement will address any concerns noted at the time of the audit and documented on the Investigation compliant audit log as explained in policy and procedure.</p> <p>Maryland Board of Professional Counselors:</p> <p>Agree: Board of Professional Counselors: Estimated Completion Date: 4/1/2021</p> <p>The Board of Professional Counselors concurs. In 2017, the Board created a tracking log for all complaints and continues to update this log daily. The tracking log will soon be replaced with automated tracking system. The Board anticipates that the new tracking system will be fully operational by Spring 2021. The Compliance Manager will properly maintain the tracking logs and ensure the logs reflect all critical information, including key dates such as initial receipts.</p>		

**Maryland Department of Health
Regulatory Services**

Agency Response Form

Inspections

Finding 2

The Office of Health Care Quality did not conduct required annual inspections of all assisted living facilities and developmental disabilities service providers.

We recommend that OHCQ, in conjunction with MDH, ensure inspections of the assisted living facilities and developmental disabilities service providers are completed as required by law (repeat).

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 2	Agree	Estimated Completion Date:	June 30, 2025
Please provide details of corrective action or explain disagreement.	The Office of Health Care Quality concurs with the OLA recommendation. On July 1, 2018, SB386 was approved. We are in the 4 th year of the 7-year staffing plan to adequately staff OHCQ. The additional staff will allow us to complete more of the mandated survey activities. The 7-year staffing plan ends with FY24. A completion date of June 30, 2025, was given to account for the hiring and training of new staff which can take up to a year.		

**Maryland Department of Health
Regulatory Services**

Agency Response Form

Cash Receipts

Finding 3

Controls over collections directly received at and the deposits made by the majority of the HPBCs were not adequate, and duties related to cash receipts and licensing were not properly segregated.

We recommend that the applicable HPBCs

- a. perform documented verifications that credit card collections were deposited and properly recorded in the State's accounting records (repeat);**
- b. continue investigative action to determine whether the aforementioned \$386,000 in unrecorded collections were deposited and properly recorded in the State's accounting records;**
- c. ensure that employees processing collections are denied the system capability to issue or renew licenses, certificates, or permits, (repeat) or to update the related billing records;**
- d. in conjunction with MDH, perform a documented consideration of the feasibility of using a bank lockbox account to receive collections (repeat); and**
- e. periodically reconcile licensing activity with the related collections (repeat).**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 3a	Agree	Estimated Completion Date:	02/28/2021
Please provide details of corrective action or explain disagreement.	<p>Maryland Board of Nursing:</p> <p>MBON concurs with this finding and recommendation and will perform documented verifications that ensures credit card collections are deposited and properly recorded in the State's accounting records. The Board has created policy and procedures to comply with this finding.</p>		
	<p>Maryland Board of Physical Therapy Examiners:</p> <p>Agree: Maryland Board of Physical Therapy Examiners: Estimated Completion Date: 7/1/2020</p>		

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Regulatory Services**

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	<p>MDBPTE has implemented a procedure to reconcile the credit card merchant daily transactional statement with the State Treasurer's daily deposit report, the monthly bank statement and the State monthly statement of account.</p> <p>Reconciliation of above-mentioned accounts will ensure that all credit card payment collections have been accurately accounted for and documentation of this procedure maintained.</p>
	<hr/> <p>Board of Dental Examiners:</p> <p>Agree: Board of Dental Examiners: Estimated Completion Date: 12/31/2020</p> <p>The Dental Board agrees and has made sure that adequate controls are in place for depositing and that all receipts are properly accounted for. The Dental board now uses a state approved vendor as the credit card merchant and routinely reconciles all deposit activities.</p>
	<hr/> <p>Maryland Board of Occupational Therapy Practice:</p> <p>Agree: Maryland Board of Occupational Therapy Practice: Estimate Completion Date: 1/30/2021</p> <p>The Maryland Board of Occupational Therapy will perform documented verifications to ensure credit card collections are deposited and properly recorded in the State's accounting records. In addition, the Maryland Board of OT will continue to download transaction reports from vendor (and soon the new payment processing gateway). The Board will keep these reports in a binder in the office and will reconcile them against the deposit fax and the Revenue Report.</p>
	<hr/> <p>Board of Pharmacy:</p> <p>Agree: Maryland Pharmacy: Estimate Completion Date: 2/28/21</p> <p>Maryland Board of Pharmacy will perform documented verifications that credit card collections were deposited and properly recorded in the State's accounting records.</p> <p>Boards and Commissions:</p>

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	<p>Agree: Boards and Commissions: Estimated Completion Date: 08/24/2020</p> <p>Each Board has established adequate control procedures to ensure that all credit card transactions are deposited into the State Treasury and credited to the respective Board.</p>		
Recommendation 3b	Agree	Estimated Completion Date:	3/31/2021
Please provide details of corrective action or explain disagreement.	<p>Maryland Board of Nursing:</p> <p>MBON concurs with this finding and recommendation. This issue arose from a change in merchant id numbers (MID) between the Board and the state Treasurer's office. Although the MIDs were mixed-up, the funds were still deposited into the state's merchant account. As per your recommendation, the Board will communicate with the treasurer's office to investigate further. The Director of Operations will monitor this concern on a quarterly basis.</p>		
Recommendation 3c	Agree	Estimated Completion Date:	2/15/2020
Please provide details of corrective action or explain disagreement.	<p>Maryland Medical Cannabis Commission:</p> <p>MMCC - While this is identified as a "repeat" audit failure, the MMCC only began receiving and processing payments, and licensing entities during the audit period in question. The MMCC did not receive a previous audit failure on this issue.</p> <p>The MMCC clarified its fee collection duties must be segregated from licensing duties. Beginning February 15, 2020, no employee who receives or processes checks or money orders has access to licensing software. In addition, the MMCC will perform quarterly audits to confirm (1) which employees have access to the licensing software, (2) whether this access is necessary for their job, and (3) that they do not receive or process payments.</p> <p>The employee(s) who accept/process mail, including checks, do not have access to the licensing software. Likewise, the employees who may print licenses, which require a physical signature by the Executive Director, do not accept/process mail, including checks.</p>		

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	<p>The MMCC has also requested and received a check scanner, which will reduce the number of employees required to accept/process payments.</p>		
	<p>Board of Dental Examiners:</p> <p>Agree: Board of Dental Examiners: Estimated Completion Date: 10/30/2020</p> <p>MSBDE agrees with the findings and has put best practices in place to assure that no staff members who accept/process mail, including checks, do not have access to the licensing software and vice versa. Staff who may print licenses, which require a physical signature by the Board President, do not accept/process mail, including checks.</p>		
	<p>Boards and Commissions:</p> <p>Agree: Boards and Commissions: Estimated Completion Date: 8/24/2020</p> <p>The Boards will regularly monitor staff access accessibility to ensure that only authorized staff has access to information that is pertinent to their duties.</p>		
Recommendation 3d	Agree	Estimated Completion Date:	9/15/2020
Please provide details of corrective action or explain disagreement.	<p>Maryland Medical Cannabis Commission:</p> <p>In conjunction with MDH, the MMCC will consider the feasibility of using a bank lockbox account to receive collections. One issue which must be assessed is whether this would jeopardize federal funds received by other boards and commissions or units at MDH. The MMCC regulates medical cannabis, which remains a Schedule I drug under federal law. This means it is illegal to manufacture, distribute, or possess the drug under federal law. The federal government has stripped state agencies of grant funding and other sources of federal funds due to connection with the State's lawful medical cannabis program. Therefore, the MMCC is cautious not to coordinate services with other agencies and units.</p>		
	<p>Maryland Board of Nursing:</p> <p>Agree: Maryland Board of Nursing: Estimated Completion Date:</p>		

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	3/31/2021
	<p>MBON concurs with this finding and recommendation. The Board has considered the feasibility of procuring lockbox services on several occasions – most recently October 2019. It was determined that lockbox service was not feasible at that time. However, the Board will re-evaluate the feasibility of lockbox service, per this recommendation. The Board has emails concerning this matter with our fiscal manager. Fiscally the lockbox will cause a financial burden to the Board.</p>
	<p>Board of Dental Examiners:</p> <p>Agree: Board of Dental Examiners: Estimated Completion Date: 10/30/2020</p> <p>MSBDE is currently utilizing the lock box.</p>
	<p>Maryland Board of Physical Therapy Examiners:</p> <p>Agree: Maryland Board of Physical Therapy Examiners: Estimate Completion Date: 8/1/2020</p> <p>MBPTE has looked into lockbox services and finds it is not fiscally responsible to pursue with over 92% of MDBPTE revenue transaction payments are made with a credit card. Inquiries into the cost of a bank lockbox found that the setup fee will be over \$10,000.00 plus yearly bank charges which will increase current expenses by over 300%. Plus, there would be courier service costs to pick up checks mistakenly mailed to MDBPTE. Fiscally a bank lockbox will cause a financial burden. Additionally, a bank lockbox will delay the timely processing of licensing payments which would adversely impact our efficiency and customer service satisfaction.</p> <p>In consideration of the fact that MDBPTE is self-funded, the majority of transactions are through credit cards, and customer service would be adversely impacted, it is not feasible for MDBPTE to have a bank lockbox.</p>
	<p>Boards and Commissions:</p> <p>Agree: Boards and Commissions: Estimate Completion Date: 8/24/2020</p>

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	<p>The Board & Commissions has investigated into looking into using a lockbox and the results are as follow. It is not cost effective for these Boards to use a lockbox for the following reasons.</p> <ul style="list-style-type: none"> • An analysis of lockboxes revealed that lockboxes are extremely costly (setup fees, monthly fees for each lockbox, and service/transaction for initial applications, and those that do for each payment processed). I.e. in FY 19 the Pharmacy Board's cost was \$70,474 and \$61,271 in FY 20. The cost to install and maintain a lockbox can be more than some boards collect. • Many Boards currently have an online credit card payment system for initial applications, and those that do not are scheduled to implement this system. Currently, all Boards have online renewal payment systems. • Lockboxes don't account for other forms of payment received. Therefore, multiple financial systems would need to be maintained. 		
Recommendation 3e	Agree	Estimated Completion Date:	12/31/2021
Please provide details of corrective action or explain disagreement.	<p>Maryland Board of Nursing:</p> <p>MBON concurs with this finding and recommendation. However, the limitations of the Board's licensing system prevent the establishment of a relationship between licensing activity and revenue. Additionally, the receipt of payment does not necessarily result in any licensing activity (i.e. a person who pays for a license does not necessarily receive one). The Board planned to begin utilizing its licensing system to account for collections – which would hopefully assist with reconciliations – however, to date, that plan hasn't bore any fruit. In the interim, Board staff began performing quarterly audits, to ensure that payments were received for every license that was issued or renewed. The Board plans to automate this process in the future once a determination is made/settled with our current licensing system.</p> <hr/> <p>Board of Dental Examiners:</p> <p>Agree: Board of Dental Examiners: Estimated Completion Date: 10/30/2020</p> <p>MSBDE concurs with recommendation therefore has implemented a process to ensure periodically licensing activity is reconciled to related collections. The licensing manager reconciles and ensures all fees collected are accounted for before authorizing the printing of a license.</p>		

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	Board of Morticians and Funeral: Agree: Board of Morticians and Funeral: Estimated Completion Date: 7/1/2020 The Board has established a process to ensure periodically the Board is reconciling licensing activity with the related collections. Licensing Coordinator reconciles money received before printing a license. The Executive Director will ensure an audit is conducted regularly to validate monthly deposits and refunds are properly reflected in monthly DAFR Reports from Fiscal Officer.
	Board of Pharmacy: Agree: Board of Pharmacy: Estimate Completion Date: 2/28/21 Maryland Board of Pharmacy will periodically reconcile licensing activity with the related collections.
	Boards and Commissions: Agree: Boards and Commissions: Estimated Completion Date: 8/24/2020 Effective immediately, routine reconciliations are performed between licensing activities and monetary collections. Also, the Boards regularly monitor these procedures to ensure they continue to provide the oversight that is needed, and only authorized staff have access to information that is pertinent to their duties.

Licensing Systems Access

Finding 4

Twenty-one HPBCs did not perform documented system access reviews of their licensing system to ensure that user access capabilities were adequately restricted. As a result, numerous users could unilaterally issue or renew licenses, and current or former employees had unnecessary system access.

We recommend that the HPBCs

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- a. perform documented periodic access reviews of the licensing systems;
- b. establish online or manual controls to prevent users from unilaterally issuing or renewing licenses, including those noted above; and
- c. ensure that users are assigned only those capabilities needed to perform job duties and to eliminate unnecessary access, including those noted above.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 4a	Agree	Estimated Completion Date:	12/31/2020
Please provide details of corrective action or explain disagreement.	<p>Maryland Board of Nursing:</p> <p>MBON periodically conducts an access review with the information technology staff to ensure that access and restrictions are applied to the appropriate person. The Director of IT performs an audit on IT access and restrictions on a quarterly basis per policy and procedure.</p>		
	<p>Maryland Medical Cannabis Commission:</p> <p>Agree: MMCC - Estimated Completion Date: 7/1/2020</p> <p>The MMCC has adopted an organizational policy requiring the Department of Laboratories and Compliance, which oversees licensing and registration of medical cannabis businesses, to conduct a quarterly review of the licensing systems to determine whether (1) access to the licensing system was properly restricted and (2) licensing access was necessary for the employee to complete their job.</p> <p>The MMCC has integrated its licensing system with One Stop, the central hub for Maryland licenses, forms, certificates, permits, applications, and registrations. The buildout of the MMCC platform on One Stop will be completed by October 2020. The One Stop portal allows system managers to review user access. At the MMCC, the Executive Director, Deputy Director, and IT Director have appropriate access to changer user permissions. These permissions will be reviewed by the Department of Laboratories and Compliance every quarter in</p>		

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	order for the Department to make recommendations to the Executive Director and Deputy Director.
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	Board of Dental Examiners:
	Agree: Board of Dental Examiners: Estimated Completion Date: 12/31/2020
	MSBDE has acquired a new licensing system and prior to it coming online, licensing staff revisited the protocols of accessibility and who performed what function. The new licensing system came online in the fall and we performed the first periodic review at the end of CY2020. Policy and procedures will be established to ensure this process is performed routinely going forward.
	Board of Physicians
	Agree: Board of Physicians: Estimated Completion Date: 2019
	The Board of Physicians performs documented access reviews of its licensing system.
	<hr/>
	Maryland Board of Physical Therapy Examiners:
	Agree: Maryland Board of Physical Therapy Examiners: Estimated Completion Date: 7/30/2020
	MBPTE conducts documented periodic access reviews of the licensing system.
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	Maryland Board of Occupational Therapy Practice:
	Agree: Maryland Board of Occupational Therapy Practice: Estimated Completion Date: 12/31/2020
	The Maryland Board of OT continues to restrict issuance and renewal of licensees and conducts periodic review of the system access as recommended. The Board of OT has created policy and procedures.

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	<p>Boards and Commissions:</p> <p>Agree: Boards and Commissions: Estimated Completion Date: 8/24/2020</p> <p>The Boards conducts access reviews with the information technology staff to ensure that access and restrictions are applied to the appropriate person. Policy and procedures will be established to ensure compliance at all times.</p>		
Recommendation 4b	Agree	Estimated Completion Date:	12/31/2020
<p>Please provide details of corrective action or explain disagreement.</p>	<p>Maryland Board of Nursing:</p> <p>MBON has established controls to prevent users from unilaterally issuing or renewing licenses, including those noted above. MBON conducts routine access reviews to ensure that access and restrictions are appropriately applied. The Director of IT performs an audit on IT access and restrictions on a quarterly basis per policy and procedures.</p> <hr/> <p>Board of Dental Examiners:</p> <p>Agree: Board of Dental Examiners: Estimated Completion Date: 10/30/2020</p> <p>The Board of Dental Examiners has established controls to prevent users from unilaterally issuing or renewing licenses, including those noted above. Each member of the licensing unit has a specific duty in the licensing process and never independently issues licenses without all members doing their respective portion of the transaction. This is monitored closely by the IT department to assure that no improprieties take place.</p> <hr/> <p>Maryland Board of Physical Therapy Examiners:</p> <p>Agree: Maryland Board of Physical Therapy Examiners: Estimated Completion Date: 7/30/2020</p> <p>MBPTE has established controls to prevent users from unilaterally issuing or renewing licenses, including those noted above. Only MBPTE staff with the correct licensing system permissions can edit licensee information or issue/renew a license. There are designated</p>		

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	<p>levels of access (read-only, full access, no access) which enables independent review of the system (i.e. read-only). IT will be providing a quarterly system permission review report.</p> <p>Pre-audit MDBPTE and IT communicated via email on changes related to staff access and restrictions. These changes were routinely checked by MDBPTE and IT but not verified through an IT quarterly system permission review report.</p>		
	<p>Boards and Commissions:</p> <p>Agree: Boards and Commissions: Estimated Completion Date: 8/24/2020</p> <p>Boards and Commissions has established controls to prevent users from unilaterally issuing or renewing licenses, including those noted above. Policy and procedures will be established to ensure compliance at all times.</p>		
Recommendation 4c	Agree	Estimated Completion Date:	12/31/2020
<p>Please provide details of corrective action or explain disagreement.</p>	<p>Maryland Board of Nursing:</p> <p>MBON ensures that users are assigned only those capabilities needed to perform job duties and has eliminated all unnecessary access. MBON has developed procedures and delineating requirements that must exist to be granted access.</p> <hr/> <p>Board of Dental Examiners:</p> <p>Agree: Board of Dental Examiners: Estimated Completion Date: 12/31/2020</p> <p>MSBDE ensures that users are assigned only those capabilities needed to perform job duties and has eliminated all unnecessary access. The SOP was finalized CY20 identifying who has what accesses and capabilities in the licensing process.</p> <hr/> <p>Maryland Board of Physical Therapy Examiners:</p> <p>Agree: Maryland Board of Physical Therapy Examiners: Estimated Completion Date: 7/30/2020</p>		

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	<p>MDBPTE ensures that users are assigned only those capabilities needed to perform job duties and has eliminated all unnecessary access. MDBPTE Deputy Directors reviews the IT quarterly system permission review report and informs the IT department in writing of any changes required to users' permissions.</p> <p>MDBPTE maintains a record of communications with IT when requesting a change in user's access and acknowledge receipt of IT quarterly system permission review reports.</p>
	<p>Boards and Commissions:</p> <p>Agree: Boards and Commissions: Estimated Completion Date: 8/24/2020</p> <p>Boards and Commissions ensures that users are assigned only those capabilities needed to perform job duties and has eliminated all unnecessary access. Written procedures have been developed delineating requirements that must be met to be granted access.</p>

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Information Systems Security and Control

Finding 5

Password and account controls for the Board of Nursing and the Board of Pharmacy were not sufficient to properly protect critical data.

We recommend that

- a. the two Boards implement strong controls over passwords and accounts for critical applications in accordance with the settings prescribed by the *Information Technology Security Manual* (repeat), and**
- b. MDH determine the extent to which additional application password and account controls are needed to protect licensee data for the remaining boards and commissions (repeat).**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 5a	Agree	Estimated Completion Date:	12/31/2021
Please provide details of corrective action or explain disagreement.	<p>Board of Nursing:</p> <p>MBON has implemented enhanced password requirements to its licensing application as outlined by the June 2019 release of DoIT's Information Technology Security Manual, effective 12-March-2020. However further updates will be completed by year end to ensure full compliance.</p> <p>Compliance will require additional software upgrade and extensive testing to ensure the proper operation of the licensing application.</p> <p>While Governor Hogan's Executive Order is in effect we will <u>NOT</u> make any changes to the licensing system to avoid any significant down time during COVID-19 pandemic.</p>		

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	Board of Pharmacy: Estimated Completion Date: 12/8/2019		
	The Maryland Board of Pharmacy has implemented the password requirements outlined by the current IT manual.		
Recommendation 5b	Agree	Estimated Completion Date:	07/01/2022
Please provide details of corrective action or explain disagreement.	MDH will determine the extent to which additional application password and account controls are needed to protect licensee data for the remaining boards and commissions		

Procurements

Finding 6

The Board of Dental Examiners did not comply with State procurement regulations when awarding two sole source contracts totaling \$302,000 to a vendor for a new licensing system.

We recommend that the Board of Dental Examiners

- a. ensure sole source procurements are adequately justified and use the sole source procurement method when only a single vendor can meet the requirements; and**
- b. submit contracts to DoIT and BPW for review and approval, as required.**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 6a	Agree	Estimated Completion Date:	6/30/2021
Please provide details of corrective action or explain disagreement.	The Board Dental agrees and will ensure sole source procurements are adequately justified and use the sole source procurement method when only a single vendor can meet the requirements. Will put together a policy and procedure to provide guidance for use in the future.		
Recommendation 6b	Agree	Estimated Completion Date:	6/30/2021

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Please provide details of corrective action or explain disagreement.	The Board of Dental Examiners will submit contracts to DoIT and BPW for review and approval, as required. The Board will develop a policy and procedure and look into training the Board and staff.
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Consolidation of Operations

Finding 7 (Policy Issue)
Consolidation of licensing, procurement, and other fiscal operations to enhance internal controls and maximize efficiencies had not been pursued by the HPBCs.

We recommend that the HPBCs collectively identify opportunities for consolidating certain operations to enhance internal controls and maximize efficiencies and, if deemed practical, develop a formal plan to accomplish such enhancements.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 7	Agree	Estimated Completion Date:	10/1/2020

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Please provide details of corrective action or explain disagreement.	<p>Maryland Medical Cannabis Commission:</p> <p>The MMCC is consolidating licensing operations by migrating its licensing and registration operations to Maryland OneStop, which houses licensing services for more than one dozen state agencies and commissions.</p> <hr/> <p>Board of Physicians:</p> <p>Agree: Board of Physicians: Estimated Completion Date: 1/31/2022</p> <p>During the audit period, the Boards collaborated on an enterprise licensing system and met monthly to discuss common issues. Additionally, the Boards share numerous services and consolidate whenever possible. The Board of Physicians continuously works toward enhancing internal controls and maximizing efficiencies. The Board uses State-approved vendors when possible, but it does have unique needs such as physician peer review. The Board of Physicians has concerns about a “consolidated” approach because it already pays a larger, disproportionate, and inequitable amount of shared costs and costs related to other Boards. This in turn results in higher licensure fees for its licensees.</p> <p>The Board of Physicians has its own IT and Fiscal Units. The Board owns its IT system outright. The Board’s IT system was created to meet the needs of the Board and continues to be modified in response to operational changes. Further, the Board of Physicians already pays a larger, inequitable amount of shared costs and costs related to other Boards which results in higher fees for our licensees.</p> <hr/> <p>Boards and Commissions:</p> <p>Agree: Boards and Commissions: Estimated Completion Date: 1/31/2022</p> <p>The Boards (Board of Nursing, Dental Board, Board of Pharmacy and Board of Occupational Therapy) will continue to investigate the practicality and cost-effectiveness of centralizing certain fiscal functions. Additionally, the Boards will reexamine their already uniform fiscal guidelines and policies and look at feasible ways to refine them. As it relates to licensing functions since the last audit, eight of the</p>
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	<p>boards have merged onto the same automatic licensing system, and the remaining boards are scheduled to join. The Boards follow the state's policies relating to procurement procedures and will continue to do so.</p>
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