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REGULATORY BOARD REVIEW

MEDICAL IMAGING AND RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

AUDIT OVERVIEW

Although Regulation of the Medical Imaging and Radiation Therapy Profession Is Needed, Consolidating the Regulatory Function Within the Board of Medicine Would Be More Economical

The Board Complies with Most of the General Provisions of Chapter 30, Article I, of West Virginia Code

Senate Bill 334 Reduced the Board's Fee Structure Which Should Prevent Revenues Exceeding the Board's Normal Expenses

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Website Needs Modest Improvement to Enhance User-Friendliness and Transparency

The Board's Contract for Treatment Services for Impaired Licensees Does Not Have Detailed Reporting Requirements that Are Needed to Ensure Public Safety



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August 25, 2024

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The Honorable Chris Phillips
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Dear Chairs:

Pursuant to the West Virginia Performance Review Act, we are transmitting a Regulatory Board Review of the *Medical Imaging and Radiation Therapy Technology Board of Examiners*. The issues covered herein are:

1. Although Regulation of the Medical Imaging and Radiation Therapy Professions Is Needed, Consolidating the Regulatory Function Within the Board of Medicine Would Be More Economical
2. The Board Complies with Most of the General Provisions of Chapter 30, Article 1, of West Virginia Code
3. Senate Bill 334 Reduced the Board's Fee Structure Which Should Prevent Revenues Exceeding the Board's Normal Expenses
4. The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Website Needs Modest Improvement to Enhance User-Friendliness and Transparency
5. The Board's Contract for Treatment Services for Impaired Licensees Does Not Have Detailed Reporting Requirements that Are Needed to Ensure Public Safety

We transmitted a draft copy of the report to the Board and held an exit conference on August 16, 2024. We received the Board's written response on August 21, 2024. If you have any inquiries on this report, please let me know.

Sincerely,

John Sylvia
John Sylvia

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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Board) pursuant to the Performance Review Act, Chapter 4, Article 10 of the West Virginia Code. Objectives of this review were to determine the continued need for the Board, to assess the Board's compliance with the general provisions of Chapter 30 and other applicable laws, to determine if the Board's fees generate excessive revenue when compared to its normal expenses, to evaluate the Board's website for user-friendliness and transparency, and to determine if the Board has adequate oversight of the recovery program for impaired professionals provided by the West Virginia Pharmacist Recovery Network (WVPRN). The issues of this report are highlighted below.

Frequently Used Acronyms in this Report:

PERD – Performance Evaluation and Research Division
OASIS – Our Advanced Solution with Integrated Systems
ARRT– American Registry of Radiology Technologists
NMTCB– Nuclear Medicine Technology Certification Board
WVPRN– West Virginia Pharmacist Recovery Network

Report Highlights:

Issue 1: Although Regulation of the Medical Imaging and Radiation Therapy Professions Is Needed, Consolidating the Regulatory Function Within the Board of Medicine Would Be More Economical

- Regulation of the radiologic professions is needed to protect the public.
- Most states (39) regulate radiologic professions within either a department of health, a department of environment, a department for licensing health and/or professional occupations, or a board of medicine.
- West Virginia is one of five states that regulates radiologic professionals through a stand-alone board.
- The Legislature should consider consolidating the Board of Medical Imaging with the Board of Medicine or another health-related state agency.

ISSUE 2: The Board Complies with Most of the General Provisions of Chapter 30, Article 1, of West Virginia Code

- The Board is financially self-sufficient and complies with all but two of the general provisions of *West Virginia Code*.
- The Board should adhere to *W. Va. Code §30-1-5(c)* and send status reports to complainants and licensees within six months of the complaint being filed.
- The Board should adhere to *W. Va. Code §30-1-12(a)* by including all required information for the Board's register.

Issue 3: Senate Bill 334 Reduced the Board's Fee Structure Which Should Prevent Revenues Exceeding the Board's Normal Expenses

- Two excess transfers were made from the Board's special fund to the State General Revenue Fund during FY 2022 and FY 2023 in the amounts of \$14,013 and \$50,394 respectively.
- During the 2022 legislative session, the Legislature reduced the Board's fees.
- After a review of the Board's fee structure, PERD determines that the fee reductions were sufficient to eliminate excess revenue from being generated.

Issue 4: The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Website Needs Modest Improvement to Enhance User-Friendliness and Transparency

- PERD conducted a website review of the Board that indicates the Board integrates 72 percent of the checklist items on its website.
- PERD recommends the Board consider modest improvements to its website to provide more transparency and user-friendliness for online public users.

Issue 5: The Board's Contract for Treatment Services for Impaired Licensees Does Not Have Detailed Reporting Requirements that Are Needed to Ensure Public Safety

- In 2022, the Board signed an agreement with the West Virginia Pharmacist Recovery Network (WVPRN) to provide services for chemical abuse, addiction, dependency and mental health issues.
- The contract is a one-page terms-of-agreement with a short paragraph containing a general description of the services that the WVPRN would provide and the associated costs.
- The Board should have a clear written understanding of the services to be provided, in-take and aftercare procedures, record-keeping and reporting requirements as well as costs.
- The Board should promulgate legislative rules for the recovery network services it receives from the WVPRN and revisit the contract between the Board and the WVPRN to include specific requirements and procedures as stated in the rule.

PERD Response to the Board's Written Response

The Board provided its response on August 20, 2024 (Appendix C). The Board agrees with six recommendations, however, disagrees with PERD's recommendation that the Legislature should consider consolidating the Board with the West Virginia Board of Medicine or another health-related agency and that if national certification is required for all radiographers, then consideration should be given to imposing registration by which the Board of Medicine would confirm and maintain a registry of the state's nationally certified radiographers. The Board reported that insufficient details have been provided of why a drastic change in the Board's structure is warranted, that the Board is self-sufficient and functions in an economic manner and thus the advantages of consolidation don't apply to the Medical Imaging Board, that there is no detail within the report how consolidation would be more economical and that the plan for consolidation

provides only skeletal information on how it would function in an advisory role or why the registry should be maintained under the Board of Medicine when the current set up is economical, that the Board does not simply duplicate the function of the national regulatory organizations, and that the recommendation contradicts a determination that the Board is in compliance with most of the provisions of Chapter 30, Article 1.

PERD is required by West Virginia Code §4-10-9 (a) to ascertain for each regulatory board if there is a need for the continuation, consolidation, or termination of the regulatory board. As stated within the report, PERD first reviewed the need for regulation of the profession. PERD determined that medical treatment administered irresponsibly or incompetently can cause significant harm to the public and given the research on the harm radiation can cause in the expertise needed in the proper use, PERD recommended regulation be continued. To determine if the current structure is warranted, PERD reviewed how regulation is provided across the country, who is responsible for the regulatory function of radiologic professionals across the country, and if the current structure could prove to be economically beneficial to consolidate with another board.

PERD reviewed how regulation is provided and determined that it varies but, 21 states regulate as West Virginia does, by requiring a national certification for initial state licensure but after the initial period, individuals must maintain the state credential and it is optional to renew the national certification when it expires. After a statistically significant sample, PERD estimates that around 90 percent of its licensees maintain their national certification. The Board requires 24 hours of continuing education biennially, as does the national organizations, but for those that maintain national certification, the proof that a licensee has continued the certification is all the Board needs. The small remainder must submit documentation of continuing education hours.

The current structure of the board as a stand-alone board is in the minority, as most states regulate radiologic professionals within one of three types of state agencies: 1) a department of health, 2) a department of the environment, or 3) a department for licensing health and/or occupational professions. Six states (MS, OK, PA, TN, TX, VA) have the regulatory function consolidated within the respective board of medicine. Texas, Oklahoma, and Virginia utilize a Board of Medical Imaging as an advisory board for licensing and adjudication purposes. In these states, complaints initially come into the Board of Medicine and ultimately are forwarded to the advisory boards for adjudication.

At the current structure, PERD determined that a stand-alone board is not economical and its regulatory function could be consolidated within the Board of Medicine or another health-related agency. The initial requirement for state licensure is the passage of a test administered by a national organization, after that the licensee doesn't have to maintain this to be state licensed however, a large majority of licensees have maintained national certification which minimizes the administrative task of verifying continuing education. If, as recommended, national certification becomes a requirement for all radiographers, the administrative task for verification of continuing education is eliminated. The Board during our scope averaged less than 11 complaints per year while paying operational expenses including rent, telecommunication services and other office expenses at its current location. It is PERD's opinion that ultimately, the regulation, complaint adjudication, and day to day operations can be more economical by consolidation within the Board of Medicine or other health related agency and consideration should be given to imposing registration by which the Board of Medicine would confirm and maintain a registry of the state's nationally certified radiographers.

Recommendations

1. *The Legislature should consider consolidating the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners with the West Virginia Board of Medicine or another health-related state agency.*
2. *The Legislature should consider requiring all radiologic professionals be certified by the appropriate national credentialing organization.*
3. *If national certification is required for all radiographers, then consideration should be given to imposing registration by which the Board of Medicine would confirm and maintain a registry of the state's nationally certified radiographers.*
4. *Status reports should be sent to complainants and licensees within six months of the complaint being filed in order to comply with W. Va. Code §30-1-5(c).*
5. *The Board should include all information about licensees and applicants for licensure in the Board's register as required by W. Va. Code §30-1-12(a).*
6. *No adjustments are needed to the Board's fee structure at the present time.*
7. *The Board should consider modest improvements to its website to provide more transparency and user-friendliness for online public users.*
8. *The Board should promulgate legislative rules for the recovery network services it receives from the WVPRN and revisit the contract between the Board and the WVPRN to include specific requirements and procedures as stated in the rule.*

ISSUE 1

Although Regulation of the Medical Imaging and Radiation Therapy Professions Is Needed, Consolidating the Regulatory Function Within the Board of Medicine Would Be More Economical

Issue Summary

This is a Regulatory Board Review of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Board) as required by West Virginia Code §4-10-10. An objective of this review is to determine if there is a need for the continuation, consolidation, or termination of the Board. The Performance Evaluation and Research Division (PERD) determines that there is a need to maintain some form of regulation over these professions; however, regulating through a stand-alone board is less economical. All states regulate medical imaging and radiation therapy professions, but the extent to which it is done varies significantly. West Virginia is one of only five states that use a stand-alone board. While many states use boards to regulate the radiologic professions, most are consolidated within another health-related state agency or their respective Board of Medicine. Therefore, PERD recommends the Legislature continue the Board, but consider consolidating it within the West Virginia Board of Medicine or another health-related state agency.

The Performance Evaluation and Research Division (PERD) determines that there is a need to maintain some form of regulation over these professions; however, regulating through a stand-alone board is less economical.

The Board Licenses Over 3,400 Individuals

As of April 2023, the Board had 3,407 licensees licensed in one or more of the following modalities:

- radiography,
- radiation therapy,
- nuclear medicine,
- nuclear medicine (apprentice),
- magnetic resonance imaging (MRI),
- magnetic resonance imaging (apprentice), or
- podiatric medical assistants.

The majority (2,618) of licensees are radiologic technologists. Fifty-one (51) are licensed as radiation therapists, 17 are licensed in magnetic resonance imaging (MRI), and 126 are licensed in nuclear medicine. Two hundred eighty-seven (287) are licensed in both radiography and MRI, 106 are licensed in radiography and radiation therapy, 103 are licensed in radiography and nuclear medicine, and 57 are licensed in computed tomography (CT) fusion. Included in the total number of licensees are those who are apprentices, those with

permits (such as podiatric medical assistant permits), and those with temporary licenses. The Board oversees its licensees through review of applications for the appropriate education prior to establishing licensure, reviewing continuing education credits to renew licensure, and through the investigation of complaints. The Board did not revoke any licenses during the scope of the audit, but the Board has revoked four licenses since FY 2000. Since PERD's 2013 review of the Board, the number of licensees has increased by 545.

Regulation of Medical Imaging and Radiation Is Needed to Protect the Public

As part of determining the need for regulation of a profession, PERD requested the Board explain the need for regulation. The Board explained that it was created in 1977 to promote, preserve, and protect the public health, safety, and welfare of West Virginians by licensing individuals who use ionizing radiation as medical imaging professionals. The Board further stated that,

Diagnostic radiation is an effective tool that can save lives if used correctly. A high dose of radiation can be damaging, but conversely, under exposure to radiation can lead to misdiagnosis. It is a dangerous and potentially deadly precedent to allow personnel who have not undergone rigorous training in radiation safety, radiation physics, radiation exposure technique, anatomy, and patient positioning to assume medical imaging responsibilities. A radiologic procedure is only as effective as the person performing it. To be clinically useful, radiologic procedures must meet a high standard of quality. Accurate diagnosis is virtually impossible without quality medical imaging information.

PERD acknowledges that medical radiation treatment administered irresponsibly or incompetently can cause significant harm to the public. It is widely accepted that radiation exposure has health hazards, and that the health consequences are determined by the radiation dose and individual sensitivity to radiation. The Centers for Disease Control and Prevention (CDC) indicates that people receive low doses of radiation from the natural environment, but radiation at high doses can be lethal. According to the CDC, radiation can cause cancer, be harmful to a developing fetus, and damage cells which could lead to cancer or organ failure.¹ In 2019, the American Society of Radiologic Technologists

PERD acknowledges that medical radiation treatment administered irresponsibly or incompetently can cause significant harm to the public.

¹ "Radiation and Your Health," Centers for Disease Control and Prevention, December 7, 2015, <https://www.cdc.gov/nceh/radiation/dose.html#how>.

published a white paper titled “Best Practices in Digital Radiography” in response to widely publicized incidents of excessive patient exposure to low levels of radiation during medical imaging examinations. The white paper indicates that radiographers have an extensive responsibility in radiation safety of patients and “radiographers must be particularly concerned about exposure techniques and the possibility of using more radiation than necessary.”² An emphasis of the white paper is for radiographers to recognize their responsibility to optimize image quality to avoid increasing a patient’s radiation dose through repeat imaging.³ “Accurate positioning is critical to radiographic image quality.”⁴ Poor positioning of radiation instruments may cause the rejection of images and result in the need for repeat images and additional radiation exposure.⁵ Given the research on the harm radiation can cause and the expertise needed in the proper use of medical radiation, PERD recommends that regulation be continued over the radiologic professionals.

Regulation of Radiologic Professions Varies Throughout the Country

PERD finds that all states require radiation-producing machines be registered by the owners of the machines; however, regulations on those who operate the machines vary by state. Appendix I of this report describes the regulatory provisions for each state and the District of Columbia. The data in Appendix I are summarized in Table 1 below. The table shows that 7 states do not require a state or national credential for operators of radiation machines, while 17 states require radiographers to have both a state and national credential, and 5 states require radiographers only to be nationally certified. Twenty-two (22) states, including West Virginia, require individuals to be nationally certified in the initial year to obtain a state’s credential, but after the initial period, individuals must maintain the state credential and it is optional to renew the national certification when it expires.

State credentials have various classifications such as licensure, certification, registration, accreditation, or permit; nevertheless, the credentials assign individuals the authority to practice their profession in their respective state. The national credentials are issued by the following agencies:

- the American Registry of Radiologic Technologists (ARRT),
- the Nuclear Medicine Technology Certification Board (NMTCB), and

² Daniel N. DeMaio, et al., “Best Practices in Digital Radiography” (White Paper, American Society of Radiologic Technologists, 2019), 1.

³ *Ibid.*, 6.

⁴ *Ibid.*, 14.

⁵ *Ibid.*, 14.

Given the research on the harm radiation can cause and the expertise needed in the proper use of medical radiation, PERD recommends that regulation be continued over the radiologic professionals.

- the American Society of Podiatric Medical Assistants (ASPMA).

These organizations are widely recognized by regulatory states because they verify appropriate education has been achieved, they administer an examination, confirm continuing education, and investigate complaints against certified professionals. Consequently, most states “piggyback” the national organizations’ certification processes by accepting their verification of appropriate education and using their exams and continuing education standards.

The five states that require only national certification to operate radiation machines simply verify that individuals have maintained their national credential. The 17 states that require both state and national credentials verify the national certification has been maintained in order to be issued the state credential. West Virginia and 21 other states require individuals to initially become nationally certified to receive their initial state credential. These states will accept the national organizations’ verification that individuals have obtained appropriate education and passed the respective national exam. However, for subsequent years after the initial state credential is issued, these states make it optional for radiographers to maintain their national credential to renew their state credential. In these cases, the states need to require radiographers who do not renew their national certification to submit their continuing education to the respective state agency, whereas those who renew their national certification need not submit continuing education because their national certification confirms to the state that continuing education has been achieved.

The Board estimates that around 90 percent of its licensees maintain their national certification. PERD confirmed through a statistically significant random sample of 134 licensees, with a 95 percent confidence interval and a 5 percent margin of error, that 94 percent of the Board’s licensees were nationally certified. For the six percent who do not renew their national credentials, the Board must confirm their continuing education and address complaints that may be made against them.

The Board estimates that around 90 percent of its licensees maintain their national certification.

PERD confirmed through a statistically significant random sample that 94 percent of the Board’s licensees were nationally certified.

Table 1
Credentialing of the Medical Imaging Professions by State

Credential Requirements**	Number of States	States*
No State or National Credential	7	AL, AK, GA, ID, MO, NC, SD
Only National Credential	5	CO, D.C., MI, OK, PA
State and National Credential	17	AZ, AR, DE, FL, IN, LA, MA, MS, NV, NH, NM, ND, OR, RI, TN, TX, VT
State and Initial National Credential; National Is Optional after Initial Licensure	22	CA, CT, HI, IL, IA, KS, KY, ME, MD, MN, MT, NE, NJ, NY, OH, SC, UT, VA, WA, WV, WI, WY

Sources: PERD's compilation and confirmation of data from the American Society of Radiologic Technologists, websites of state departments and boards, and state codes.
**Includes the District of Columbia.*
*** State-issued credentials include license, certification, registration, accreditation, or permit.*

The seven states in Table 1 above that do not require a state or national credential place the responsibility on hospitals and physicians to ensure that radiation machines are operated by trained personnel. For example, the state of Georgia requires that only licensed practitioners in the healing arts are authorized to apply radiation to a person. Licensed practitioners in the healing arts are defined as those who practice medicine, chiropractic, dentistry, osteopathy, podiatry, and veterinary. Georgia practitioners may allow others to operate radiation machines, but they must ensure individuals are instructed in safe operating procedures and have at least six hours of training. Alaska also permits only practitioners of the healing arts or persons working under their direct supervision to order the application of radiation to an individual. Similarly, the states of Alabama, Idaho, Missouri, North Carolina, and South Dakota require that owners of radiation machines ensure the machines are operated by properly trained personnel. In North Carolina, inspectors of radiation machines also evaluate the training requirements for persons who operate the machines. Missouri makes the following statement regarding its regulatory stance:

Many hospitals and clinics require that only physicians, ARRT Radiologic Technologists, or students in an ARRT-approved training program can operate x-ray equipment. Although ARRT registration is by far the most common standard, it should [be] noted this is NOT a statewide requirement, or equivalent to mandatory licensure. [emphasis included]

The seven states in Table 1 above that do not require a state or national credential place the responsibility on hospitals and physicians to ensure that radiation machines are operated by trained personnel.

Few States Use a Stand-alone Board to Regulate Radiologic Professions

Table 2 below also summarizes data contained in Appendix I concerning the types of state agencies that are responsible for the regulatory function of radiologic professions. As the table shows, five states, including West Virginia, regulate radiologic professions through a stand-alone board (KY, ND, OR, SC, WV). Six states have the regulatory function consolidated within their respective board of medicine (MS, OK, PA, TN, TX, VA). In these states, the boards of medicine oversee several medical professions, such as medical doctors, physician assistants, radiology technicians, respiratory therapists, nurse-midwives, and acupuncturists. These boards also have radiologic boards with advisory capacity.

However, most states (33) regulate radiologic professions within one of three types of state agencies: 1) a department of health, 2) a department of the environment, or 3) a department for licensing health and/or occupational professions. The latter agencies serve as an “umbrella” for numerous professions. For example, the state of Kansas established the Board of Healing Arts that regulates 16 health care professions, including radiologic technology, within one entity. A Radiologic Technology Council, consisting of five members, was established to assist the Board of Healing Arts. The state of Maine established the Department of Professional and Financial Regulation that oversees the regulations of 70 medical and occupational professions. Within the Department is the Radiologic Technology Board of Examiners that examines and licenses qualified applicants and investigates complaints against licensees.

Most states (33) regulate radiologic professions within one of three types of state agencies: 1) a department of health, 2) a department of the environment, or 3) a department for licensing health and/or occupational professions. The latter agencies serve as an “umbrella” for numerous professions.

Table 2
Types of Agencies in Other States
that Regulate Radiologic Professions

Type of Regulatory Agency	Number of States*
No State or National Credential	7
Stand-alone Board	5
Board of Medicine	6
Health/Environment Agency	17
Licensing of Health/Occupational Professions (Umbrella)	16

Sources: PERD compilation of individual state regulatory agency websites and legislation of the states.

**Includes the District of Columbia.*

The Legislature Has Expressed Interest in Consolidating Professional Licensing Boards within One Agency

It should be noted that in 1977, the Legislature passed Senate Bill 585 that amended and reenacted Section 15, Article 1, Chapter 30, of the West Virginia Code to create the Executive Secretary of the Health Profession Licensing Boards. The entity would combine and oversee 14 health profession licensing boards. These licensing boards include:

1. The Board of Dental Examiners,
2. The West Virginia Board of Pharmacy,
3. The Board of Funeral Service Examiners,
4. The Board of Examiners for Registered Professional Nurses,
5. The Board of Examiners for Practical Nurses,
6. The Board of Optometry,
7. The Board of Veterinary Medicine,
8. The Board of Osteopathic Medicine,
9. The West Virginia Board of Chiropractic,
10. The State Board of Sanitarians,
11. The West Virginia Board of Physical Therapy,
12. The Board of Examiners of Psychologists,
13. The West Virginia Nursing Home Administrators Licensing Board, and
14. The West Virginia Board of Hearing-Aid Dealers and Fitters.

These health licensing boards would have their office space, personnel, records, and business affairs be within the Executive Secretary of the Health Profession Licensing Boards. Each licensing board would coordinate its purchasing, record keeping, and personnel to achieve an efficient and economical administration. The executive director was to be appointed by the then Director of Health, and keep fiscal records and accounts of each licensing board. Although this statutory language remains in effect, the consolidation of these licensing boards was never carried out.

In 2009, the Legislature recognized the need to authorize regulatory boards to consolidate by passing House Bill 2539, which amended W. Va. Code by adding section 19 of chapter 30, article 1. The new section allowed any regulatory board of chapter 30 to combine administrative staff with other regulatory boards. The Boards of Acupuncture, Massage Therapy, and Funeral Service Examiners have combined administratively and have experienced cost-sharing arrangements beneficial to each

In 2009, the Legislature recognized the need to authorize regulatory boards to consolidate by passing House Bill 2539, which amended W. Va. Code by adding section 19 of chapter 30, article 1. The new section allowed any regulatory board of Chapter 30 to combine administrative staff with other regulatory boards.

board. During the 2010 legislative session, House Concurrent Resolution Number 92 passed with the directive to study the advisability and feasibility of developing a multi-profession board. The Performance Evaluation and Research Division conducted the analysis and determined that it would be more feasible to consolidate several (16) relatively small boards than the 32 regulatory boards that were considered. Although costs savings were identified in both cases, the availability of office space made consolidation of 32 boards less feasible than 16 boards.

The Legislature Should Consider Consolidating the Board of Medical Imaging with the Board of Medicine

The recommendation of this review is that the Legislature consider consolidating the Board of Medical Imaging and its regulatory function within the Board of Medicine or within an appropriate state health department. PERD determines that a stand-alone board is not necessary or economical to regulate radiologic professions. As shown previously, 39 states regulate radiologic professions within another state agency, 6 of which are boards of medicine.

It is further recommended that the Legislature consider requiring all radiologic professionals be certified by the appropriate national organization, which is done in 22 states. Since 94 percent of the Board's licensees maintain their national certification, requiring the national credential would not place an undue burden on many licensees. Moreover, this requirement would eliminate the administrative task of verifying and auditing continuing education, since the national organizations do this. The Board indicated that nationally certified licensees can comply with the Board's continuing education requirements by simply providing proof of their national credential. Several states follow this same process for continuing education. Furthermore, the Board reported that it does not conduct random audits of continuing education on licensees who are nationally certified.

The Board of Medical Imaging could function in an advisory capacity to the Board of Medicine. Complaints would be resolved as presently received and adjudicated. With all licensees being nationally certified, the ARRT would have jurisdiction over all the State's radiologic professionals. The ARRT has revoked 15 West Virginia medical imaging licenses since 1993, with the most recent revocations occurring in 2015 and 2023. The ARRT notifies state boards of radiologic professions three times a year after its Ethics Committee meets, and provides boards with a list of any state licensee that had disciplinary action imposed. Upon receiving notification, state boards can then conduct their own investigation if necessary.

The recommendation of this review is that the Legislature consider consolidating the Board of Medical Imaging and its regulatory function within the Board of Medicine or within an appropriate state health department.

It is further recommended that the Legislature consider requiring all radiologic professionals be certified by the appropriate national organization, which is done in 22 states. Since 94 percent of the Board's licensees maintain their national certification, requiring the national credential would not place an undue burden on many licensees.

PERD met with the executive director of the Board of Medicine to discuss the feasibility of consolidating the Board of Medical Imaging. The executive director stated that he would be willing to accommodate whatever is requested from the Legislature. If all radiologic professionals are required to be certified nationally, the Board of Medicine could continue to issue licenses or maintain a registry of radiologic technologists. Maintaining a registry could lead to a less costly administrative process, and sharing office space should financially benefit both boards. **Therefore, PERD recommends that the Legislature consider consolidating the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners with the West Virginia Board of Medicine.**

Conclusion

Pursuant to West Virginia Code §4-10-9(d)(7), PERD determined the need to review whether the Board should be continued, consolidated, or terminated. PERD finds that there is a continued need for the Board to regulate radiologic professionals. The misapplication of radiation by untrained or incompetent individuals risks the lives of the public. However, regulating these professions through a stand-alone board is not economical when there are national organizations that are widely accepted and provide a complete regulatory process. The Legislature could continue the State's radiologic licensing process or consider registration that confirms individuals are nationally certified. In either case, placing the Board and the regulatory process within the Board of Medicine would be more economical. The Legislature over the years has expressed interest in consolidation of regulatory functions. Thirty-nine (39) states have radiologic regulations within a board of medicine or another state agency, and 22 states require all radiographers be nationally certified. PERD makes the following recommendations:

Recommendations

1. *The Legislature should consider consolidating the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners with the West Virginia Board of Medicine or another health-related state agency.*
2. *The Legislature should consider requiring all radiologic professionals be certified by the appropriate national credentialing organization.*
3. *If national certification is required for all radiographers, then consideration should be given to imposing registration by which the Board of Medicine would confirm and maintain a registry of the state's nationally certified radiographers.*

PERD met with the executive director of the Board of Medicine to discuss the feasibility of consolidating the Board of Medical Imaging. The executive director stated that he would be willing to accommodate whatever is requested from the Legislature.

The Legislature could continue the State's radiologic licensing process or consider registration that confirms individuals are nationally certified. In either case, placing the Board and the regulatory process within the Board of Medicine would be more efficient.

ISSUE 2

The Board Complies with Most of the General Provisions of Chapter 30, Article 1, of West Virginia Code

Issue Summary

The Board complies with most of the general provisions of Chapter 30, Article 1 of *West Virginia (W.Va.) Code*, including investigating and resolving complaints with due process and in a timely manner as well as being financially self-sufficient. The Board's members also attend the annual State Auditor's Seminar on Regulatory Boards as required by law. After review, PERD found that the Board does not have required information on its register and roster, and the Board did not provide six-month status reports in 5 of the 39 complaints it resolved from 2020 to 2023. PERD's analysis of the Board's revenues and expenditures found a relatively low risk of fraud. In response to a 2013 PERD recommendation, the Board uses the State Treasurer's Lockbox system which helps mitigate the risk of fraud.

The Board Complies with the General Provisions of Chapter 30 with a Few Exceptions.

The general provisions of Chapter 30 of the *West Virginia Code* are important for the effective operation of regulatory boards. The Board complies with the following provisions:

- Each board member has attended at least one annual orientation session conducted by the State Auditor during each term of office (§30-1-2a(c)(3)).
- The Board meets at least once annually (§30-1-5(a)).
- The Board has adopted an official seal (§30-1-4).
- Public access on a website is provided for all completed disciplinary actions in which discipline was ordered (§30-1-5(d)).
- The Board is financially self-sufficient in carrying out its responsibilities (§30-1-6(c)).
- Continuing education requirements have been established (§30-1-7a).
- Complaints are investigated and resolved with due process (§30-1-8).
- The Board has promulgated rules specifying the investigation and resolution procedure of all complaints (§30-1-8(k)).
- The Board has submitted an annual report to the governor and the Legislature describing transactions for the preceding two years (§30-1-12(b)).
- The Board has complied with public access requirements as specified by (§30-1-12(c)).

The Board complies with most of the general provisions of Chapter 30, Article 1 of West Virginia (W.Va.) Code, including investigating and resolving complaints with due process and in a timely manner as well as being financially self-sufficient.

- A roster has been prepared and maintained of all licensees that includes names and office addresses (§30-1-13).
- The Board has procedures in place and the required forms available to waive initial licensure fees for military and low-income individuals (§30-1-23).
- Procedures are in place to consider the rational nexus of a licensure applicant's prior criminal record in determining authorization to be licensed (§30-1-24).
- The Board requires state and national criminal background checks for persons applying for licensure (§30-1D-1).

The Board is not in compliance with the following provisions:

- In 5 of the 39 complaints resolved from 2020 to 2023, status reports were not sent to complainants and respondents within six months of receiving the complaints as required by W. Va. Code §30-1-5(c). In these five cases, the average length of time to resolve the complaints was 8.5 months. It was only after the complaints were resolved that the complainants and respondents were provided the status of the complaints.
- The Board has a register of all applicants; however, it does not include all the appropriate information specified in code, such as the date of the application, place of residence, whether an examination was required for licensure, whether the license was granted or denied, and suspensions, etc. (§30-1-12(a)).
- The roster of all licensees has not been arranged alphabetically by name and by the cities or counties in which their offices are situated (§30-1-13).

It is PERD's opinion that when a board's cash reserves are at one to two times its annual expenditures, this is an acceptable level for a board's cash reserves. However, in FY 2022, the Board's cash reserves exceeded its annual expenditures over two and a half times, which prompted the West Virginia Legislature to reduce the Board's application and renewal fees through Senate Bill 334. The change in fee structure was effective March 2022.

The Board Is Financially Self-Sufficient

West Virginia Code §30-1-6(c) requires regulatory boards to be financially self-sufficient. Table 3 below shows that the Board's end-of-year balance exceeds the one-year average of expenditures. It is PERD's opinion that when a board's cash reserves are at one to two times its annual expenditures, this is an acceptable level for a board's cash reserves. However, in FY 2022, the Board's cash reserves exceeded its annual expenditures over two and a half times, which prompted the West Virginia Legislature to reduce the Board's application and renewal fees through Senate Bill 334. The change in fee structure was effective March 2022. Because of the fee reduction, the Board's cash reserves will steadily decline over the next few years and fall within the acceptable threshold. In fact, in large part due to a \$50,394 fund transfer by the State Treasurer, the Board's cash reserves at the end of FY 2023 are within two times of FY 2023 expenditures.

Table 3
Medical Imaging and Radiation Therapy
Technology Board of Examiners
Budget Information
FY 2020-2023

Fiscal Year	Beginning Cash Balance	Revenue	Disbursements	Ending Cash Balance
2020	\$365,867	\$220,070	\$177,532	\$408,539
2021	\$408,539	\$227,695	\$172,220	\$464,013
2022	\$464,013	\$231,981	\$195,599	\$500,394
2023	\$500,394	\$234,432	\$269,738	\$465,088
Average	\$434,703	\$228,545	\$203,772	\$459,508

Source: West Virginia Our Advanced Solution Integrated System (OASIS) report WV-FIN-GL-151.

The Board's annual revenues come from fees for applications, licensure, license renewals, and registrations. Employee benefits such as insurance and retirement, salaries for staff, utilities, postal services, office supplies, rent, and telecommunications expenses make up the Board's annual disbursements. As of April 2023, there was a total of 3,407 medical imaging professionals licensed by the Board.

Licensure requirements for all the professionals listed include a completion of a Board approved program and passing an examination approved by the Board. The Board accepts certification exams from the American Registry of Radiologic Technologists (ARRT), American Registry of Magnetic Resonance Imaging Technologists (ARMRIT), Nuclear Medicine Technology Certification Board (NMTCB) and the Podiatric Medicine Certification Test.

Table 4 shows the initial licensure and renewal fees for West Virginia and neighboring states. The initial licensure and annual renewal fees for all medical imaging professions in West Virginia are \$92 and \$60, respectively. These fees have decreased since PERD's 2013 review of the Board, as the West Virginia Legislature reduced the fees in 2022. The fees are lower than the fees in most surrounding states. In West Virginia and Kentucky, all licensees are required to renew their license annually whereas biennial licensure renewal is required for the other surrounding states.

The Board's annual revenues come from fees for applications, licensure, license renewals, and registrations.

Table 4
Medical Imaging and Radiation Therapy Technology
Licensure Fees for West Virginia and Surrounding States

State	Initial Licensure Fee	Renewal Fee	Renewal Cycle
Kentucky (Active Licenses)			
<i>Professionals of Radiography</i>	\$100	\$50	Annual
<i>All Other Modalities</i>	\$100	\$50	Annual
Maryland (Active Licenses)			
<i>Radiographers</i>	\$150	\$161	Biennial
<i>All Other Modalities</i>	\$150	\$161	Biennial
Ohio (Active Licenses)			
<i>Radiographer</i>	\$65	\$45	Biennial
<i>All Other Modalities</i>	\$65	\$45	Biennial
Pennsylvania (Active Licenses)			
<i>Radiology Technician</i>	\$25	\$30	Biennial
Virginia (Active Licenses)			
<i>Radiologic Technologist</i>	\$130	\$108	Biennial
<i>All Other Modalities</i>	\$90	\$70	Biennial
Surrounding States Average	\$102	\$78	Biennial
West Virginia (Active Licenses)			
<i>Radiography</i>	\$92	\$60	Annual
<i>All Other Modalities</i>	\$92	\$60	Annual

Sources: Individual state licensing boards websites and enabling statutes; ARRT website and W.Va. Code of State Rules §18-1-4.7.

Application and renewal fees for these professions have led to a sufficient cash balance. Therefore, PERD determines that the Board is financially self-sufficient as it is currently facing no financial or budgetary concerns.

The Board Has Established Continuing Education Requirements

Continuing education requirements have been established by the Board. In West Virginia, a licensee must have 24 hours of continuing education (CE) in a two-year period for license renewal. This is the same number of CE credits required by the ARRT. West Virginia's surrounding states also follow the ARRT continuing education standards.

Application and renewal fees for these professions have led to a sufficient cash balance. Therefore, PERD determines that the Board is financially self-sufficient as it is currently facing no financial or budgetary concerns.

Table 5 illustrates the CE requirements for medical imaging professionals for West Virginia and surrounding states. West Virginia’s CE requirements are like most surrounding states. Virginia, however, requires only half the amount of CE hours as West Virginia and other surrounding states.

Table 5 Neighboring States’ Continuing Education Requirements		
State	Hours	Renewal Period
Kentucky	24	1 Year
Maryland	24	2 Years
Ohio	24	2 Years
Pennsylvania	24	2 Years
Virginia	12	2 Years
West Virginia	24	2 Years

Sources: Individual state licensing boards and W.Va. Code of State Rules §18-2-3.4.

To ensure CE compliance, the Board requires licensees to submit legible copies of attendance certificates as proof of their attendance at continuing education offerings. For licensees who are certified by a national credentialing agency such as ARRT, the Board accepts a copy of the licensee’s active license as proof of CE compliance. During the scope of PERD’s review, the Board received no complaints associated with failure to comply with CE requirements from FY 2020 to FY 2023.

The Board resolved complaints between two to five months on average during fiscal years 2020-2023. This is well within the 18-month upper limit of when complaints are expected to be resolved by W. Va. Code §30-1-5(c).

The Board Resolved Complaints Timely and with Due Process

For FY 2020-2023, the Board resolved a total of 39 complaints (see Table 6), which is an average of approximately 10 resolved complaints each year. *West Virginia Code §30-1-5(c)* requires that regulatory boards send status reports to the party filing the complaint and the respondent within six months of the complaint being filed and issue a final ruling on the complaint within one year of the return receipt date of the status report. Table 6 shows that the Board resolved complaints between two to five months on average during fiscal years 2020-2023. This is well within the 18-month upper limit of when complaints are expected to be resolved by W. Va. Code §30-1-5(c). However, the Board did not send out six-month status updates in 5 of the 39 resolved complaints. In these five cases, they were resolved beyond six months with the average

length of time being 8.7 months. It was only after the complaints were resolved that the complainants and respondents were provided the status of the complaints. In one case, it was a year after the complaint was filed with the Board before the complainant and respondent learned of the complaint’s status. **Therefore, for the sake of timely informing the complainant and respondent of the complaint’s status, the Board should adhere to W. Va. §30-1-5(c) and send status reports to the party filing the complaint and the respondent by certified mail within six months of the complaint being filed.**

**Table 6
Complaint Resolution Statistics
FY 2020-2023**

Fiscal Year	Total Number of Complaints Received	Number of Resolved Complaints	Number of Disciplinary Actions	Average Resolution Time in Days
2020	10	10	9	173 Days
2021	5	5	5	93 Days
2022	15	15	10	74 Days
2023	11	9	9	52 Days

Source: PERD compilation of statistics from the WV Medical Imaging and Radiology Therapy Technicians Board.

In compliance with *W. Va. Code §30-23-25*, the Board performs investigations to determine whether there are any grounds for disciplinary action against a licensee. Upon receiving a written complaint, the Board will provide a copy of the complaint to the licensee. Through the course of its investigation, the Board or its executive director may issue subpoenas to obtain testimony and documents. If the Board’s investigation finds probable cause that the licensee or permittee has violated any of the Board’s article of provisions or rules, then the licensee will be served with a written statement of charges and notice specifying the date, time, and place of the administrative hearing. Either party may elect to have the hearing conducted by either an administrative law judge or hearing examiner and must notify the other party of the election. At the conclusion of the hearing, either the administrative law judge or hearing examiner shall prepare a proposed order with the findings of fact and conclusions of law. Disciplinary action may also be part of the proposed order, or the Board may reserve this obligation for its consideration. The decision of the administrative law judge or hearing examiner may be accepted, rejected, or modified by the Board. Any licensee or permittee adversely affected by any decision of the Board entered after a hearing may obtain judicial review of the decision and may appeal any ruling resulting from

For the sake of timely informing the complainant and respondent of the complaint’s status, the Board should adhere to W. Va. §30-1-5(c) and send status reports to the party filing the complaint and the respondent by certified mail within six months of the complaint being filed.

judicial review. The Board may require a licensee or permittee to pay the costs of the proceeding.

The types of complaints made against licensees within the scope of this audit included practicing with an expired license, unprofessional conduct, practicing without a West Virginia license, testing positive for drugs and/or alcohol, theft, performing procedures without orders, and code of ethics violations. Of the disciplinary actions issued by the Board, 24 consent agreements were issued, one complaint was dismissed without a consent order due to the death of the licensee, and four complaints were dismissed without disciplinary action.

The Board Does Not Maintain a Complete Register of Licensees as Required by Code

West Virginia Code §30-1-12(a) states that the secretary of every board shall keep a register of all applicants for license or registration including the date of application, the applicant's name, age, education, other qualifications, place of residence, whether an examination was required as well as the date of this action, whether the applicant was denied or if registration was granted, all licensure renewals of the applicant, the license number, and any suspension or revocation of the applicant's license. Based on the current register received by PERD, the roster includes some of this information. However, the register as of February 2023 did not include whether the application was granted or denied, the licensure renewals of the applicant, or any suspension or revocation of the applicant's license. **Therefore, the Board should adhere to *W. Va. Code §30-1-12(a)* and include the required information in the register of applicants.**

To have adequate segregation of duties, there should be controls in place that prevent one person from performing two or more control activities associated with purchasing and receiving revenue, such as authorizing transactions, receiving merchandise, receiving and depositing revenue, recording transactions, and maintaining custody of assets.

The Board Has One Full-Time Employee but Certain Control Activities and the Online Payment System Reduce the Risk of Fraud

The Board's executive director is the only full-time employee who is responsible for managing the Board's finances. The Board is unable to segregate duties due to an insufficient number of staff. Segregation of duties is an important control activity because it safeguards and reduces the risk against improper use or loss of the Board's resources. To have adequate segregation of duties, there should be controls in place that prevent one person from performing two or more control activities associated with purchasing and receiving revenue, such as authorizing transactions, receiving merchandise, receiving and depositing revenue, recording transactions, and maintaining custody of assets. As an example

of adequate segregation of duties for handling cash, the State Treasurer specifies in its Cash Receipts Handbook for West Virginia Spending Units, *“Unless otherwise authorized by the State Treasurer’s Office, an individual should not have the sole responsibility for more than one of the following cash handling components:”*

- collection,
- depositing,
- disbursement, and
- reconciling.

Although the Board only has one employee, it has controls in place that prevent the executive director from directly handling cash or checks. While the Board’s website is constructed to accept online payment, the Board utilizes the State Treasurer’s Lockbox System rather than directly accepting any cash or checks. This ensures that Board staff do not directly handle any revenue. The Board reported that in *“July 2020 we got a new license management system, Certemy, and went 100% online.”* The State Treasurer’s Lockbox system provides for the Board’s remittances to be picked up from a post office box, opened and sorted, imaged, deposited, and the information forwarded to the Board by the State Treasurer’s Office. The use of the lockbox started in 2019 for paper applications and payments. With the online resources, licensees can make payments online through the WV State Treasurer’s Office E-Gov System.

The executive director has authority to make purchases under \$500 but she must receive approval from the Board for purchases over that amount. According to the executive director, *“The Finance Committee will review all P-Card Expenditures and Monthly Financial Reports and report its findings to the full board. The full board also reviews the P-Card Expenditures and Monthly Financial Reports.”*

Although the Board has minimized the risk of fraud, PERD examined the Board’s revenues and expenditures to gain a reasonable assurance that fraud has not occurred (see Table 7 below). To evaluate the risk of fraud on the revenue side, PERD calculated the Board’s minimum expected revenue by multiplying the number of reported licensees by the annual fees. Actual revenue is expected to equal or exceed the expected revenue for a board. To calculate the Board’s minimum expected revenue, PERD multiplied annual fees by the number of active radiographers (including temporary licensees), MRI technicians, nuclear medicine (with and without CT Fusion), radiation therapists, and podiatric medical assistants, as well as annual renewals. The information used to do this was included within the Board’s annual reports.

Utilizing the formula of all licensees paying annual fees, actual revenues exceeded expected revenues. This formula uses only the total number of license renewals for each fiscal year within the audit’s scope and does not account for new licenses, temporary permits, name changes, late renewals and reinstatements, or consent agreement administrative

Although the Board only has one employee, it has controls in place that prevent the executive director from directly handling cash or checks.

The analysis indicates that there was a low likelihood of fraud occurring on the revenue side during the scope of this audit.

fees. The analysis indicates that there was a low likelihood of fraud occurring on the revenue side during the scope of this audit.

Table 7
WV Medical Imaging and Radiation Therapy
Technology Board of Examiners
Expected and Actual Revenues
FY 2020-2023

Fiscal Year	Licensed Modalities	Total Numbers of Active Licenses	Expected Revenue	Actual Revenue
2020	Radiography (including Temporary Licenses), MRI, Nuclear Medicine (with and without CT Fusion), Radiation Therapy, Podiatric Medical Assistant	3,161	\$189,865	\$220,205
2021	All Modalities*	3,298	\$189,735	\$227,695
2022	All Modalities*	3,396	\$186,485	\$231,981
2023	All Modalities*	3,407	\$176,280	\$234,432

Source: PERD compilation of statistics from WV Medical Imaging and Radiology Therapy Technicians Board.
** Radiography (including Temporary Licenses), MRI, Nuclear Medicine (with and without CT Fusion), Radiation Therapy, Podiatric Medical Assistant.*

To evaluate the risk of fraud on the expenditure side, PERD calculated the percentage of the total expected and required expenditures (see Table 8). For FY 2020-2023, on average each year, PERD determined the Board's expected and required expenditures made up over 90 percent of its expenses. When a board's expected and required expenditures are 90 percent or more of its total expenditures annually, it is PERD's opinion that the likelihood of fraud having occurred on the expenditure side is low. If expected and required expenditures are significantly less than 90 percent, this would suggest a higher risk of fraud, waste, or abuse, in which case PERD would conduct a further inquiry into the Board's expenditures. However, as the percentage of the expected and required expenditures were over 90 percent, PERD concluded that no further review of the Board's expenditures for FY 2020-2023 was necessary.

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Table 8 WV Medical Imaging and Radiation Therapy Technology Board of Examiners Percentage of Expected and Required Expenditures	
Fiscal Year	Percent of Expected and Required Expenditures
2020	92%
2021	92%
2022	95%
2023	93%

Source: PERD calculations based on data from OASIS, report WV-FIN-GL-151.

Conclusion

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners complies with most of the general provisions of Chapter 30. The Board is currently financially self-sufficient through the collection of application and renewal fees. These fees are comparable to the fees of surrounding states. Despite the Board having only one employee, the Board has control activities in place that minimize the risk of fraud. The Board has established and ensures compliance with continuing education requirements for all licensed medical imaging and radiation therapy technology professions. Status reports should be sent appropriately to complainants and licensees within six months of a complaint being filed as required by W. Va. Code. The Board should adhere to *West Virginia Code §30-1-12(a)* and include all the required information about licensees and applicants for licensure in the Board’s register.

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners complies with most of the general provisions of Chapter 30.

Recommendations

1. *Status reports should be sent to complainants and licensees within six months of the complaint being filed in order to comply with W. Va. Code §30-1-5(c).*
2. *The Board should include all information about licensees and applicants for licensure in the Board’s register as required by W. Va. Code §30-1-12(a).*

ISSUE 3

Senate Bill 334 Reduced the Board's Fee Structure Which Should Prevent Revenues Exceeding the Board's Normal Expenses

Issue Summary

West Virginia Code §30-1-10(b)(2) requires the State Treasurer to notify the Legislative Auditor of a transfer of an excess amount from a regulatory board's special fund to the State General Revenue Fund. After being notified, the Legislative Auditor is required to conduct a review of a board's fee structure to determine if the board's fees generate excessive revenue as compared to its normal expenses. The Office of the Legislative Auditor was notified by the State Treasurer's Office that two excess transfers were made from the Board's special fund to the State General Revenue Fund during FY 2022 and FY 2023. Accordingly, PERD reviewed the Board's fee structure and found that it generated excessive revenue when compared to its normal expenses. However, during the 2022 legislative session, the Legislature reduced several of the Board's fees. Consequently, PERD determines that the fee reductions were sufficient to eliminate excess revenue from being generated.

The Office of the Legislative Auditor was notified by the State Treasurer's Office that two excess transfers were made from the Board's special fund to the State General Revenue Fund during FY 2022 and FY 2023.

The Legislature Implemented a Mechanism to Address Excess Revenue Generated by Regulatory Boards

Table 9 below shows that the Board's fund balance exceeded twice its annual budget in FY 2021 by \$14,013 and in FY 2022 by \$50,394. This prompted the State Treasurer's Office to transfer these amounts from the Board's fund to the State General Revenue Fund in the subsequent years pursuant to W.Va. Code §30-1-10. This law also requires that when such excess fund transfers occur, the State Treasurer is required to inform the Legislative Auditor. The Legislative Auditor is then required to review the fee structure of a board to determine if the board's fees are generating excess revenue when compared to the board's normal expenses. For FY 2023, the Board increased its budgeted expenditures to \$300,000. Had the budgeted amount remained at \$225,000, another excess fund transfer would have occurred in the amount of \$15,088. The increase of the budget to \$300,000 avoided the excess fund transfer. This illustrates a drawback of using budgeted expenditures in determining excess balances. If budgeted expenditures are not representative of actual expenditures, then they circumvent the transfer mechanism, which in turn allows a board to accumulate relatively large cash balances.

For FY 2023, the Board increased its budgeted expenditures to \$300,000. Had the budgeted amount remained at \$225,000, another excess fund transfer would have occurred in the amount of \$15,088. The increase of the budget to \$300,000 avoided the excess fund transfer. This illustrates a drawback of using budgeted expenditures in determining excess balances.

**Table 9
Revenue, Expenditures, and Cash Balances
FY 2019 through FY 2023**

Fiscal Year	Budgeted Expenditures	Actual Expenditures	End-of-Year Cash Balance	Revenue	Excess Balance
2019	\$229,230	\$149,572	\$365,867	\$220,919	\$0
2020	\$225,000	\$172,532	\$408,539	\$220,070	\$0
2021	\$225,000	\$172,220	\$464,013	\$227,695	\$0
2022	\$225,000	\$195,599*	\$500,394	\$231,981	\$14,013
2023	\$300,000	\$269,738*	\$465,088	\$234,432	\$50,394
Average		\$191,932		\$227,019	

*Source: WV OASIS FIN-GL-151 reports, appropriation requests, and PERD calculations.
The excess cash transfers are recorded in OASIS as expenditures.

The Legislature Reduced the Board’s Fees in the 2022 Legislative Session in Response to the Board’s Excess Cash Transfers

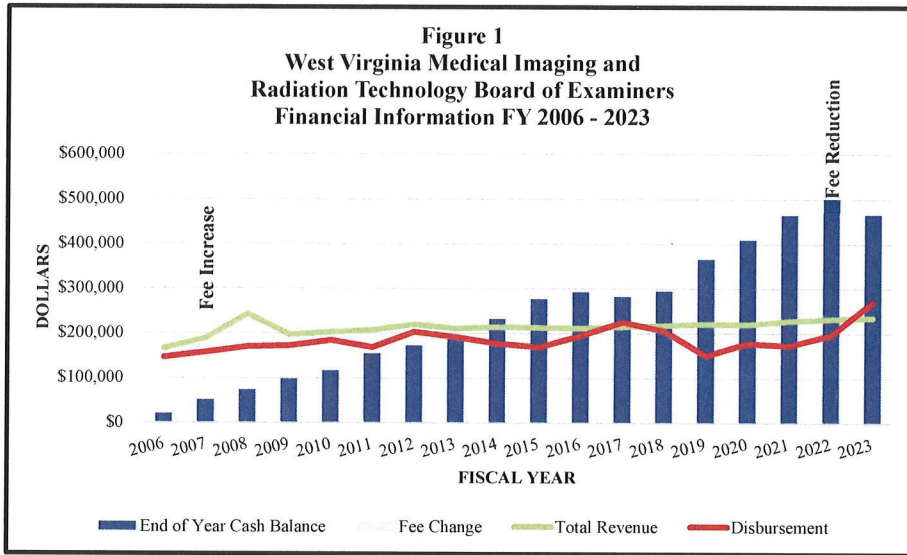
As indicated by Table 3 in Issue 2, from FY 2020 to FY 2022 the Board’s cash balance exceeded its expenditures, on average, by around three times what was spent in those years. This suggested that the Board’s fees were higher than what it needed to operate. The resulting transfer of funds from the Board’s balance prompted the Legislature to reduce the Board’s initial licensing fees, annual renewal fees, and other fees to remedy this issue. This was done through passage of Senate Bill 334, effective March 2022. As Table 10 below shows, the application fee was reduced from \$100 to \$92, and the annual renewal fee was reduced from \$65 to \$60, among similar reductions in other fees. The Legislature also reduced the cost of the Board’s presumptive penalties which are imposed on first-time disciplinary violators. Since Senate Bill 334 was effective late FY 2022, its impact for a full fiscal year would first be evident in FY 2023 and subsequent years.

From FY 2020 to FY 2022 the Board’s cash balance exceeded its expenditures, on average, by around three times what was spent in those years. This suggested that the Board’s fees were higher than what it needed to operate. The resulting transfer of funds from the Board’s balance prompted the Legislature to reduce the Board’s initial licensing fees, annual renewal fees, and other fees to remedy this issue. This was done through passage of Senate Bill 334, effective March 2022.

Board Fees	Fees for FY 2021	Fees for FY 2023
Initial Application Fee	\$100	\$92
Annual Renewal Fee	\$65	\$60
All Temporary Permit Fees	\$40	\$37
Reciprocity Fee	\$40	\$40
Board Administered Exam Fee	\$100	\$92
Petition for Initial License Eligibility	\$100	\$92
<i>Source: W. Va. Code of State Rules §18-1-4.7.</i>		

Prior to 2005, the Board's end-of-year cash balance was significantly lower than its total revenue and total expenditures, which prompted the Legislature to increase its annual renewal fee in 2006. The updated fee increase became effective July 1, 2006. The Legislature increased the annual renewal fee from \$50 to \$65. Figure 1 shows that after the fee increase in FY 2007, revenues remained consistently above expenditures, especially during the pandemic years of 2020 through 2022, when certain activities such as travel were curtailed. With revenue consistently above expenditures, the Board's cash reserve balances steadily increased and triggered transfers from the Board's account to the State General Revenue Fund. With the FY 2022 fee reductions and increases in expenditures compared to the pandemic years, PERD determines that the trend of revenues exceeding expenditures is reversed. The excess fund transfers in fiscal years 2022 and 2023, and expenditures exceeding revenues in FY 2023 have resulted in a \$35,000 drop in the Board's end-of-year cash balance.

With revenue consistently above expenditures, the Board's cash reserve balances steadily increased and triggered transfers from the Board's account to the State General Revenue Fund. With the FY 2022 fee reductions and increases in expenditures compared to the pandemic years, PERD determines that the trend of revenues exceeding expenditures is reversed.



Conclusion

The Board of Medical Imaging, over the years, built up a sizeable end-of-year cash balance. Due to a fee increase in 2007, revenues were consistently above expenditures. The reduction in expenditures during the COVID years caused cash reserves to grow even more. Expenditures have rebounded from the pandemic and with the fee reductions in FY 2022, cash balances declined in FY 2023. This should prevent further transfers to the State General Revenue Fund. Assuming disbursements stabilize to pre-pandemic levels, PERD determines that the Board’s fee structure will not generate excess revenue compared to its normal expenses. Therefore, PERD concludes that no further adjustments to the Board’s fees are currently needed.

Assuming disbursements stabilize to pre-pandemic levels, PERD determines that the Board’s fee structure will not generate excess revenue compared to its normal expenses. Therefore, PERD concludes that no further adjustments to the Board’s fees are currently needed.

Recommendation

3. *No adjustments are needed to the Board’s fee structure at the present time.*

ISSUE 4

The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners Website Needs Modest Improvement to Enhance User-Friendliness and Transparency

Issue Summary

The Performance Evaluation and Research Division conducted a literature review on assessments of governmental websites and developed an assessment tool to evaluate West Virginia’s state agency websites (see Appendix II). The assessment tool lists several website elements. Some elements should be included in every website, while other elements such as social media links, graphics and audio/video features may not be necessary or practical for some state agencies. This has been a standard part of PERD’s review of regulatory boards since 2012. Table 11 indicates that the Board integrates 72 percent of the checklist items in its website. This measure shows that the Board’s website needs modest improvement in both user-friendliness and transparency.

Table 11 indicates that the Board integrates 72 percent of the checklist items in its website. This measure shows that the Board’s website needs modest improvement in both user-friendliness and transparency.

Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
		72%	

Source: PERD’s review of the Board’s website as of February 8, 2023.

The Board’s Website Scores Well in Both User-Friendliness and Transparency

Government websites should be designed to be user-friendly. To engage with the agency online, citizens must be able to first access and comprehend the information on government websites. A user-friendly website is understandable as well as easy to navigate from page to page. Government websites should also promote accountability and trust through providing transparency of an agency’s operation.

PERD reviewed the Board’s website for both user-friendliness and transparency and found that the website could benefit from modest

enhancements in these areas (see Table 12). The Board may want to consider adding some elements that could be beneficial to the public.

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	12	66%
Transparent	32	24	75%
Total	50	36	72%

Source: Legislative Auditor's review of the Board's website as of February 8, 2023.

The Board's Website Is Navigable, But Additional User-Friendly Features Should Be Considered

The Board's website is easy to navigate as there is a search tool, a help link for users to access for any needed assistance, uses sans serif fonts, has an easily accessible site map which is available on every page, mobile functionality, a navigation bar linking to the homepage at the top of every page, a FAQ section, and social media links. According to the Flesch-Kincaid Reading Test, the average readability of the test is on a college graduate grade level, which is higher than the recommended 7th grade level for readability.

User-Friendly Considerations

Although some items may not be practical for this board, the following are some attributes that could improve user-friendliness:

- **Foreign language accessibility** - A link to translate all webpages into languages other than English.
- **Site Functionality** – Features to adjust the font size and resizing of text without distorting site graphics.
- **Feedback Options** - A page where users can voluntarily submit feedback about any aspect of the website.
- **Online survey/poll** - A short survey that pops up and requests users to evaluate the website.
- **RSS Feeds** - RSS feeds allow subscribers to receive any updated work (i.e., blog posts, news stories, audio/video, etc.) in a standardized format.

PERD reviewed the Board's website for both user-friendliness and transparency and found that the website could benefit from modest enhancements in these areas (see Table 12). The Board may want to consider adding some elements that could be beneficial to the public.

The Website Has Transparency Features but Modest Improvements Should Be Considered

A website that is transparent should encourage public participation, promote accountability, and provide citizens with information on how well the agency is performing. The Board's website has 75% of the core elements that are necessary for a general understanding of the Board's performance and mission. The Board's website contains important transparency features such as its email address, physical address, telephone number, location of agency headquarters, an administrator biography, privacy policy, complaint form, and budget information. The Board's website also has FOIA information, a calendar of events, mission statement, agency history, public records, downloadable agency publications, an agency organizational chart, graphic capabilities, audio/video features, and links to the Personnel Division website for job postings.

Transparency Considerations

The Board should consider providing additional elements to the website to improve transparency. The following are some attributes that could be beneficial:

- **Administrative Officials** – Names and contact information of administrative officials.
- **Budget** – Although budget data are available, providing the data at the checkbook level and in a searchable database would be an improvement.
- **Performance Measures/Outcomes** - A page linked to the homepage explaining agency's performance measures and outcomes.
- **Website Updates** – The website should provide dates of when information or data were last updated, ideally for every page.

Conclusion

PERD finds that the Board's website needs only modest improvements in the areas of user-friendliness and transparency. The website can benefit from incorporating several common features. The Board has pertinent public information on its website as well as contact information. However, providing website users with additional elements and capabilities, as suggested in the report, would improve user-friendliness and transparency.

A website that is transparent should encourage public participation, promote accountability, and provide citizens with information on how well the agency is performing. The Board's website has 75% of the core elements that are necessary for a general understanding of the Board's performance and mission.

Recommendation

4. *The Board should consider modest improvements to its website to provide more transparency and user-friendliness for online public users.*

ISSUE 5

The Board’s Contract for Treatment Services for Impaired Licensees Does Not Have Detailed Reporting Requirements that Are Needed to Ensure Public Safety

Issue Summary

In 2022, the Board signed an agreement with the West Virginia Pharmacist Recovery Network (WVPRN) to provide services to licensees with chemical abuse, addiction, dependency issues, and mental illness. These services include treatment referrals, evaluation support, and monitoring for a time determined by the Board for each individual licensee’s case. However, the contract that the Board provided to PERD is a one-page terms of agreement with a short paragraph containing a general description of the services that the WVPRN would provide and the associated cost per licensee that are enrolled. The Board began using the WVPRN in May 2022 and currently has had only one licensee enrolled. The sole licensee was referred by the Board as part of a disciplinary action. When asked if there are reporting requirements or written policies that indicate how often the WVPRN is to report on the status and progress of participants, the Board reported that the WVPRN sends it quarterly progress reports. PERD confirmed that the WVPRN provides quarterly progress reports; however, this stipulation is not in the service agreement, along with other important reporting requirements. These reports are important for the Board to ensure public safety by knowing that licensees are capable in returning to their practice. Nevertheless, reporting requirements should be stipulated in the contract to avoid liability issues if a client’s progress reports were not sent to the Board. The Board should have such language added to the service agreement that details reporting requirements for the WVPRN vendor.

To Ensure Public Safety, the Board’s Contract with the WVPRN Should Specify the Service Responsibilities and Reporting Requirements

Medical-related licensing boards have contracted with companies to provide treatment, if necessary, for referred licensees of a board who may be impaired by chemical abuse, addiction, dependency, or mental illness. The West Virginia Pharmacist Recovery Network (WVPRN) is such a company that provides these services to the Board, to the West Virginia Board of Pharmacy, and the Board of Dentistry. Currently, only one licensee of the Board is receiving services from the WVPRN resulting from disciplinary action. The Board’s service agreement with the WVPRN is only one page with a short general statement of services that are to be provided and a fee structure the Board must pay for each licensee enrolled in the treatment program. The statement below is from the one-page agreement:

In 2022, the Board signed an agreement with the West Virginia Pharmacist Recovery Network (WVPRN) to provide services to licensees with chemical abuse, addiction, dependency issues, and mental illness.

PERD confirmed that the WVPRN provides quarterly progress reports; however, this stipulation is not in the service agreement, along with other important reporting requirements. These reports are important for the Board to ensure public safety by knowing that licensees are capable in returning to their practice.

To Provide a monitoring program and facilitate treatment if necessary for referrals of any board licensees of WV Medical Imaging & Radiation Therapy Technology Board that may be impaired by chemical abuse, addiction, dependency, or mental illness. WVPRN will provide treatment referral and evaluation support, then ongoing monitoring for a time determined by the Board.

There are no other details stipulated other than the monthly costs per licensee for the Board to pay.

The Board's contract with the WVPRN is in sharp contrast with the WVPRN's contracts with the Board of Pharmacy and the Board of Dentistry for similar services. Moreover, the contractual arrangements for the Boards of Pharmacy and Dentistry are promulgated in legislative rules. However, the Board of Medical Imaging's WVPRN services are not in rule. The Board's contract does not specify the treatment responsibilities or reporting requirements in the amount of detail provided in the contracts for the Boards of Pharmacy and Dentistry. For example, the agreement between the WVPRN and the Board of Dentistry as stipulated in the Code of State Rules, Title 5, Series 15, and defined as WVDRN, provides the following reporting requirements:

The Board's contract does not specify the treatment responsibilities or reporting requirements in the amount of detail provided in the contracts for the Boards of Pharmacy and Dentistry.

- I. If the WVDRN receives a report or a request of the possible impairment of a licensee from a licensee or interested party, the WVDRN is required to encourage the licensee to present himself or herself to the WVDRN office within seven days of the initial contact for a complete substance abuse assessment. A second attempt of intervention will be made if the licensee resists coming to the office for an assessment. If two unsuccessful interventions occur within a period not to exceed 14 days, the WVDRN shall inform the licensee of its intention to close the file and disclose all evidence of impairment to the Board.
- II. If a licensee enters into a voluntary agreement with the WVDRN and then fails to comply with the terms of the agreement, the WVDRN shall report the noncompliance to the Board of Dentistry within 24 hours for the Board to determine if disciplinary proceedings should be initiated.
- III. The WVDRN shall submit quarterly reports to the Board of Dentistry on the status of licensees subject to monitoring by the WVDRN by Order of the Board.
- IV. The WVDRN shall compile and report annually to the Board of Dentistry a comprehensive statistical report concerning all instances of suspected impairments, impairments, self-referrals, post-treatment support and other significant demographics on the Board's licensees.

- V. The WVDRN shall conclude all involvement with the licensee upon expiration of the recovery contract between the licensee and the WVDRN.

The Board of Dentistry's rule also specifies other responsibilities such as establishing an agreement between the WVDRN and the licensee specifying the treatment or other appropriate programs that the licensee must enter into, collecting appropriate paperwork regarding treatment progress, group therapy participation, urine and blood analysis, and other treatment documentation including recommendations for licensees to return to practice when applicable. Similar specifications between the WVPRN and the Board of Pharmacy are present in legislative rule, Title 15, Series 10.

When PERD inquired whether the Board had mandatory reporting requirements for the WVPRN, the Board stated, "*They send us a quarterly progress report.*" No other reporting requirement was stated by the Board. PERD examined the progress reports of the sole licensee in the program. They included a short summary of the compliance of the licensee as well as the results of urine tests that were administered since the last quarterly report. Although this is an important procedure to ensure the public's safety, this reporting requirement along with other requirements should be specified contractually. The Board should also consider having these specifications in legislative rule as is the case with the Boards of Pharmacy and Dentistry. Having a fully specified agreement with the WVPRN provides for a clear understanding of what is expected, facilitates the Board's monitoring of the vendor's performance, and it reduces any potential liability on the part of the Board if the WVPRN does not comply with what the Board anticipated from the vendor. **Therefore, PERD recommends the Board promulgate legislative rules for the recovery network services it receives from the WVPRN similar to the Boards of Pharmacy and Dentistry. In addition, the contract between the Board and the WVPRN should reflect the requirements and procedures stated in the rule.**

The Board should have a clear written understanding of the services to be provided, in-take and aftercare procedures, record-keeping and reporting requirements, as well as costs. This is necessary for the Board's oversight responsibilities to ensure the protection of the public and to minimize any potential liability in case the vendor does not perform services or follow proper procedures as expected.

Conclusion

Although the Board has a signed service agreement with the WVPRN, it is only one page with a general description of services to be provided and details the amount of money to be paid by the Board per participating licensee per month. The Board should have a clear written understanding of the services to be provided, in-take and aftercare procedures, record-keeping and reporting requirements, as well as costs. This is necessary for the Board's oversight responsibilities to ensure the protection of the public and to minimize any potential liability in case the vendor does not perform services or follow proper procedures as expected.

Recommendation

5. *The Board should promulgate legislative rules for the recovery network services it receives from the WVPRN and revisit the contract between the Board and the WVPRN to include specific requirements and procedures as stated in the rule.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

1900 Kanawha Blvd. East
Building 1, Room W-314
Charleston, WV 25305-0610
(304) 347-4890



John Sylvia
Director

August 6, 2024

Jamie S. Browning, BSRT
Executive Director
Medical Imaging and Radiation Therapy Technology Board of Examiners
1124 Smith Street
Suite B300
Charleston, WV 25301-1312

Dear Ms. Browning:

This is to transmit a draft copy of the Regulatory Board Review of the Medical Imaging and Radiation Therapy Technology Board of Examiners. This report is tentatively scheduled to be presented during the August 25 –27, 2024, interim meeting of the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the draft report. We would like to have the meeting between Thursday, August 8 and Friday, August 16. Please notify us to schedule an exact time. In addition, we need your written response by noon on August 16, 2024, for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by August 22, 2024, to make arrangements.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, PERD advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

Appendix B

Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Board) as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code*, as amended. The purpose of the Board, as established in West Virginia Code §30-23-1 et seq., is to protect the public through its licensing process, and to be the regulatory and disciplinary body for radiologic professionals throughout the state.

Objectives

The objectives of this review are to determine if the Board should be continued, consolidated, or terminated, and if conditions warrant a change in the degree of regulations. In addition, the review is intended to assess the Board's compliance with the general provisions of Chapter 30, Article 1, of the *West Virginia Code*, the Board's enabling statute §30-23-1 et seq., and other applicable rules and laws such as the Open Governmental Proceedings (W. Va. Code §6-9A-1 et seq.) and purchasing requirements. The third objective is to determine if the Board's fees generate excessive revenue when compared to its normal expenses. A fourth objective is to assess the Board's website for user-friendliness and transparency, and the fifth objective is to assess the Board's oversight of its recovery network that provides services for chemical abuse, addiction, dependency, and mental health issues for impaired radiologic professionals.

Scope

The scope of this audit covers the period of fiscal years 2020 to 2023. Most of the Board's administrative functions were reviewed as they relate to the Board's internal controls, policies, and procedures that address the Board's finances, the complaint-resolution process, continuing education, the Board's agreement with the West Virginia Pharmacist Recovery Network for recovery services, key features of the website, other applicable laws, and other general provisions of Chapter 30, Article 1 of the West Virginia Code.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

PERD staff visited the Board's office in Charleston and met with its staff. Testimonial evidence was gathered through interviews with staff to gain a better understanding of internal controls, policies, and procedures. All testimonial evidence was confirmed in writing and in some cases by corroborating evidence.

To determine if the Board complies with the general provisions of W. Va. Code §30-1-1 et seq., its enabling statute (W. Va. Code §30-23-1 et seq.), the Board's rules, and other applicable laws, PERD collected and analyzed the Board's complaint files, meeting minutes, annual reports, budget information, procedures for investigating and resolving complaints, and continuing education verification procedures. PERD also

obtained information from the State Auditor's Office, Secretary of State's Office, the State Treasurer's Office, the Ethics Commission, and the Department of Administration's Purchasing Division. This information was assessed against statutory requirements in §30-1-1 et seq., and §6-9A-1 et seq., of the West Virginia Code as well as the Board's enabling statute, §30-23-1 et seq., to determine the Board's compliance with such laws. Some information was also used as supporting evidence to determine the sufficiency and appropriateness of the overall evidence.

To assess the potential harm to the public from the profession, PERD reviewed reports from the Centers for Disease Control and Prevention, and research publications from the American Registry of Radiologic Technologists (ARRT) addressing the risks to individuals from excessive exposure to radiation. PERD also used ARRT state data to examine the extent of regulations and where the regulatory function is physically located in other states to determine the restrictiveness of regulations and the need for a stand-alone board. ARRT state data were tested against PERD's review of state statutes, rules, and websites. ARRT's state data were determined to be sufficient and appropriate.

PERD compared the Board's actual revenues to expected revenues to assess the risk of fraud, and to obtain reasonable assurance that revenue figures were sufficient and appropriate. Expected revenues were approximated by applying license fees to the number of licensees for the period of FY 2020 through FY 2023. The number of licensees and actual revenues were relatively consistent during the scope of the review. Therefore, our evaluation of expected and actual revenues allowed us to conclude that the risk of fraud on the revenue side was relatively low and would not affect the conclusions of the audit, and actual revenues were sufficient and appropriate.

PERD also tested the Board's expenditures for FY 2020 through FY 2023 to assess the risk of fraud on the expenditure side. The test involved determining if required and expected expenditures were at least 90 percent of total expenditures. Required and expected expenditures include such items as salaries and benefits, per diem payments, travel reimbursement, board-member compensation, payments for Attorney General services, insurance, office rent, and utilities. PERD determined that during the scope of the review, required and expected expenses were between 92 and 95 percent of total expenditures. These percentages gave reasonable assurance that the risk of fraud on the expenditure side was relatively low and not significant enough to affect the conclusions of the audit objectives.

PERD reviewed the Board's fee structure including all amendments to its fees occurring since the last PERD review. This included examining the reason(s) that initiated the need for the fee amendments. PERD assessed the end-of-year cash balances compared to expenditures at the time of the fee changes, and examined all fees to determine when they were increased, decreased, stayed the same, were added, or deleted and by how much. Specific fees were examined by calculating the changes in revenue generated over the scope of the review, identifying the fees that were the major sources of revenue growth or decline and calculating if revenues have a trend that is flat, decreasing, or increasing including the average annual growth in revenues. PERD then examined the trends in total expenditures and end-of-year cash balances to determine if each had a flat, decreasing, or increasing trend. In this analysis of expenditures, we excluded the transfers made to the State General Revenue Fund since they are not considered normal expenditures. However, in the analysis of end-of-year cash balances, we included the transfers as they were part of generated revenue. PERD then compared the trends in revenue, expenditures and end-of-year cash balances.

In order to evaluate state agency websites, PERD conducted a literature review of government website studies, reviewed top-ranked government websites, and reviewed the work of groups that rate government websites in order to establish a master list of essential website elements. The Brookings Institute's "2008 State and Federal E-Government in the United States" and the Rutgers University's 2008 "U.S. States E-Governance Survey (2008): An Assessment of State Websites" helped identify the top ranked states in regard to e-government. PERD identified three states (Indiana, Maine, and Massachusetts) that were ranked in the top 10 in both studies and reviewed all 3 states' main portals for trends and common elements in transparency and open government. PERD also reviewed a 2010 report from the West Virginia Center on Budget and Policy that was useful in identifying a group of core elements from the master list that should be considered for state websites to increase their transparency and e-governance. It is understood that not every item listed in the master list is to be found in a department or agency website because some of the technology may not be practical or useful for some state agencies. Therefore, PERD compared the Board's website to the established criteria for user-friendliness and transparency so that the Board can determine if it is progressing in step with the e-government movement and if improvements to its website should be made.

To evaluate the Board's oversight of the contract related to the West Virginia Pharmacist Recovery Network (WVPRN), PERD reviewed the contract and the deliverables required by the contract. The audit team interviewed the Board to determine what documentation it maintained regarding the contract deliverables and what process staff uses to verify vendor compliance with the deliverables. The audit team requested supporting documentation for statements made by the Board regarding oversight of the contract and the Board's monitoring of vendor compliance. PERD used the statements and documentation to determine if the Board exercised adequate oversight of the contract.

The Office of the Legislative Auditor reviews the statewide single audit and the Division of Highways financial audit annually with regards to any issues related to the State's financial system known as the West Virginia Our Advanced Solution with Integrated Systems (OASIS). The legislative auditor's staff requests and reviews on a quarterly basis any external or internal audit of OASIS. In addition, through its numerous audits, the Office of the Legislative Auditor continuously tests the OASIS financial information. Also, at the start of each audit, PERD asks audited agencies if they have encountered any issues of accuracy with OASIS data. Based on these actions, along with the audit tests conducted on audited agencies, it is our professional judgement that the information in OASIS is reasonably accurate for auditing purposes under the 2018 Government Auditing Standards (Yellowbook). However, in no manner should this statement be construed as a statement that 100 percent of the information in OASIS is accurate.

We conducted this performance audit 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.

Appendix C Agency Response



WEST VIRGINIA MEDICAL IMAGING & RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

Tyson Judy
Board Chairman

Tuayna Layton
Board Secretary

August 20, 2024

John Sylvia, Director
West Virginia Legislative Performance Evaluation and Research Division
1900 Kanawha Blvd. East
Building 1, Room W 314
Charleston, West Virginia 25305-0610
john.sylvia@wvlegislature.gov

Re: Response of West Virginia Medical Imaging and Radiation Therapy Board of Examiners to 2024 Regulatory Board Review

Dear Director Sylvia,

The West Virginia Medical Imaging and Radiation Therapy Board of Examiners (“Medical Imaging Board”) submits this Response to the 2024 Regulatory Board Review (“Audit Report”). We would like to express our gratitude to the Performance Evaluation and Review Division for their hard work and dedication to public safety. The Board has reviewed the findings and recommendations and embraces the process of evaluation as an opportunity to improve our service to the citizens of this State. The Medical Imaging Board is mindful of its mission to be the driving force behind the highest quality medical imaging and radiation safety standards in West Virginia through the licensure of educationally prepared and clinically competent professionals.

The Medical Imaging Board disagrees with the following conclusions, as well as the foundational points leading to the conclusions that: 1) a stand-alone Medical Imaging Board is not necessary or economical to regulate radiologic professions¹ and 2) the Board of Medicine should maintain a registry of the state’s nationally certified radiographers.² If the Medical Imaging Board’s structure is currently working economically and effectively, there is no need to change it to a different structure.

The Medical Imaging Board believes it should continue to operate as a stand-alone Board. Apart from one statement in the Audit Report that “[m]aintaining a registry could lead to a less costly

¹ See PERD Audit Report at Issue 1, p. 7.

² *Id.* at 8.



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**Tyson Judy
Board Chairman**

**Tuayna Layton
Board Secretary**

administrative process, and sharing office space should financially benefit both boards”,³ insufficient details have been provided regarding why a drastic change in the Board’s structure is warranted. The Board has demonstrated its dedication to developing practices that make it function in a more efficient and economic manner as evidenced by its adoption of the recommendations contained in the 2013 PERD Audit Report. It is unclear how the current Audit Report’s recommendation regarding consolidation furthers the best interests of the public as the Board is functioning in a streamlined, efficient, and economical manner.

The Medical Imaging Board agrees with the following recommendations set forth in the Audit Report: 1) that the Legislature should consider requiring all radiologic professionals be certified by the appropriate national credentialing organization; 2) status reports should be sent in accordance with West Virginia Code § 30-1-5(c); 3) the Board’s register must comply with West Virginia Code § 30-1-12(a); 4) no adjustments are needed to the Board’s fee structure at the present time; 5) the Board should consider modest improvements to its website; and 6) the Board should promulgate a Legislative rule for the recovery network services to include specific requirements and procedures.

Accordingly, the Medical Imaging Board sets forth its position to each issue addressed in the Audit Report as more fully set forth below:

Issue 1: Although Regulation of the Medical Imaging and Radiation Therapy Professions is Needed, Consolidating the Regulatory Function Within the Board of Medicine Would be More Economical

The Medical Imaging Board should remain a stand-alone Board for the following reasons:

A. The Medical Imaging Board Functions in an Economical Manner Without Consolidation Because it is 100% Self Sufficient

The Medical Imaging Board functions in an economical manner as an autonomous board. The Board is 100% self-sufficient. As the Audit Report notes, the Board’s annual revenues come from fees for applications, licensure, license renewals, and registrations.⁴ Employee benefits such as insurance and retirement, salaries for staff, utilities, postal services, office supplies, rent, and telecommunications

³ *Id.*

⁴ *Id.*



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Tuayna Layton
Board Secretary

expenses make up the Board’s annual disbursements.⁵ Even though the West Virginia Legislature reduced the Board’s fees in 2022, the Board’s fees “are lower than the fees in most surrounding states.”⁶

The Board of Medical Imaging complied with the financial recommendations established in the 2013 PERD Audit to reduce its costs and maintain more efficient processes. Over the years, the Medical Imaging Board built a sizeable end-of-year cash balance, and revenues were consistently above expenditures.⁷ In fiscal year 2022, the Board’s cash reserves exceeded its annual expenditures over two and a half times, which prompted the West Virginia Legislature to reduce the Board’s application and renewal fees through Senate Bill 334.⁸ Because of the fee reduction, the Board’s cash reserves will steadily decline over the next few years and fall within the acceptable threshold.⁹

While consolidation may help smaller professional boards pool together their resources, it is unnecessary here as the Medical Imaging Board’s costs are already streamlined. In terms of administrative costs, the West Virginia Medical Imaging Board has one full-time administrative staff member, its Executive Director and efficient processes in place that help it work both economically and effectively. Although the audit report asserts that “few states use a stand-alone Board to regulate radiologic professions”, the structure established in other states does not mean that this Board’s structure needs to be changed. Thus, the advantages of consolidation don’t apply to the Medical Imaging Board.

B. The Audit Report Fails to Establish, in Any Detail, How Consolidation with the Board of Medicine or Another Health-Related Agency Would Be More Economical

The audit report suggests that “the Board of Medical Imaging could function in an advisory capacity to the Board of Medicine. Complaints would be resolved as presently received and adjudicated...[T]he ARRT would have jurisdiction over all the State’s radiologic professionals...The ARRT notifies state boards of radiologic professions three times a year after its Ethics Committee meets and provides boards with a list of any state licensee that had disciplinary action imposed. Upon receiving notification, state

⁵ *Id.*

⁶ *Id.*; See also Audit Report, Table 4.

⁷ *Id.* at Audit Report, Issue 3.

⁸ *Id.* at Audit Report, Issue 2.

⁹ *Id.*



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Board Secretary**

board can then conduct their own investigation if necessary.”¹⁰ The Board is unclear why a new structure is needed when the Board’s current structure as a stand-alone board is both efficient and economical.¹¹

Further, the Audit Report fails to include a justification regarding how the Board of Medicine would maintain the registry in a more “economical” manner than the manner that it is currently maintained by the Medical Imaging Board. Thus, the Medical Imaging Board does not support a plan for consolidation that provides only skeletal information regarding how it would function in an advisory capacity to the Board of Medicine and contains no details on how it would function under another health-related agency or why the registry should be maintained under the Board of Medicine when the current set up is economical.

C. The Medical Imaging Board’s Work Enhances Public Safety at the Local Level and Does Not Simply Duplicate the Function of National Regulatory Medical Imaging Organizations

The Medical Imaging Board asserts that its work enhances public safety at the local level and therefore does not duplicate the function of national regulatory medical imaging organizations. First, the Board serves as a direct point of contact for residents with concerns with medical imaging services and provides a local avenue for addressing complaints. In addition, the Medical Imaging Board collaborates with local educational institutions, hospitals, and imaging centers to address local needs and ensure the highest quality standards are met.

Second, the Audit Report acknowledges that medical radiation treatment “administered irresponsibly or incompetently can cause significant harm to the public.” The Medical Imaging Board plays a crucial role in providing an additional layer of oversight at the state level. The Medical Imaging Board has coordinated with the Board of Medicine to protect public health and safety. For instance, the Medical Imaging Board referred a matter to the Board of Medicine involving the delegation of nuclear medicine tasks to an unlicensed individual that resulted in bloodborne illnesses including HIV and hepatitis to patients

¹⁰ *Id.* at Audit Report, Issue 1.

¹¹ The Medical Imaging Board currently processes new applications within twenty-four hours of their receipt. Applicants from other states commend the Medical Imaging Board for its efficient response to licensure and registration inquiries and the Board’s prompt processing of applications. The Board meets monthly to ensure that issues regarding registrations, renewals, and/or disciplinary matters, are handled in an expeditious manner. The Audit Report acknowledges that the Board has complied with most of the provisions of Chapter 30 and resolves complaints in a timely manner within two to five months on average, which is well within the 18-month upper limit set forth in West Virginia Code § 30-1-5(c). Three members of the Medical Imaging Board are physicians that provide guidance and feedback on issues presented before the Board.



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Board Secretary

that received nuclear medicine cardiac stress tests. The action and involvement of the Medical Imaging Board assisted in preventing significant harm the public.

Third, the Medical Imaging Board enhances the overall quality of care by addressing substance abuse issues amongst its licensees. Substance abuse issues are of growing concern in our State. Substance abuse-related professional disciplinary complaints typically originate from hospital staff, not from the national boards. The Medical Imaging Board's actions in these cases ensure that licensees with substance abuse issues do not pose an ongoing threat to patients and provide licensees with the help that they need in an expeditious manner through referrals to the West Virginia Pharmacy Recovery Network Program. The Board is 100% funded from licensing fees and, in most cases, pays for a portion of the maintenance costs of enrollment in the West Virginia Pharmacy Recovery Network program. The Board's rapid response to these issues not only benefits hospitals in a field that is short-staffed but also provides an enhanced layer of protection to the public.

Fourth, the Board is open to implementing, through an amendment to the Medical Imaging Board's regulations, a provision that would change its continuing education requirements to require all medical imaging professionals to be certified by appropriate national credentialing organizations. The Board feels that such a rule would ensure that the continuing education requirements are not duplicated.

D. While the Parties in Interest Will Comply with the Legislature's Directive, Neither Party Advocates for Consolidation

While the Medical Imaging Board and the West Virginia Board of Medicine will fully comply with the Legislature's directive, the Medical Imaging Board is authorized to state that neither the Medical Imaging Board, nor the Board of Medicine, advocate for consolidation. If all health-related boards fell within a health-related umbrella agency, that structure would conceivably preserve the autonomy of each Board to pursue their specialized focus while providing them with additional administrative support. At this point, envisioning such a change is a purely academic exercise as no practical details have been provided.

It is even more difficult for the Medical Imaging Board to envision how the Medical Imaging Board would be organized within the Board of Medicine as very few details have been provided for the Board to properly make such a determination. Further, no examples of a comparable structure have been provided for a board similarly situated. Only six states have a Medical Imaging Board consolidated within the Board of Medicine.¹² Further, the Audit Report provides no substantive reasons to support such a drastic structural change. In fact, such a change contradicts its determination that the Board is in compliance with most of

¹² *Id.* at Audit Report, Issue 1; Appx. 1.



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the provisions of Chapter 30, Article 1, of West Virginia Code as set forth in Finding 2 below. If the Medical Imaging Board's structure is currently working economically and effectively, there is no need to change it to a different structure. Such a change could have a counterproductive effect: If it's not broke, don't fix it.

Finding 2: Medical Imaging Board Complies with Most of the General Provisions of Chapter 30, Article 1, of West Virginia Code

The Board agrees with the Audit Report's conclusion that the Board complies with most of the general provisions of Chapter 30, Article 1 of West Virginia Code. The Audit Report notes that in 5 of the 39 complaints resolved from 2020 to 2023, status reports were not sent to complainants and respondents within six months of receiving the complaints as required by statute. The Board notes that four of these complaints were Board-Initiated Complaints. The Board recognizes that it wasn't until three months ago that the Supreme Court of Appeals of West Virginia considered, as a matter of first impression, whether the provisions of West Virginia Code Section 30-1-5(c) applied to Board-Initiated Complaints. *See State ex rel. Ravelo v. West Virginia Board of Dentistry*, 902 S.E.2d 159 (W. Va. May 24, 2024) (Holding, syllabus point 5, that: "An agreement to extend the period of time for an applicable regulatory board to issue a final ruling on a complaint pursuant to West Virginia Code Section 30-1-5(c) is not barred by the fact that the applicable board is also the complainant"). Nevertheless, the Board will ensure that status updates are timely filed within six months in future matters.

Finding 3: Senate Bill 334 Reduced the Board's Fee Structure Which Should Prevent Revenues Exceeding the Board's Normal Expenses

The Board agrees that no adjustments are needed to the Board's fee structure at the present time.

Finding 4: The Medical Imaging Board's Website Needs Modest Improvement to Enhance User-Friendliness and Transparency

The Audit Report found that the website needs only modest improvements in the areas of user-friendliness and transparency. The Board finds that its website clearly provides a general understanding of its performance and mission and contains essential contact information, licensee information, board minutes, records of disciplinary complaints in an up-to-date and easily accessible manner. The Board will work on incorporating the suggestions provided to improve user-friendliness such as foreign language accessibility, site functionality features, feedback options, online survey/poll information, and RRS feeds. Contrary to the Audit Report's findings, the names and contact information for administrative officials as well as the budget information are located on the Board's website. The Board will work on adding elements to the website to improve transparency including performance measures/outcomes and website updates.

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**WEST VIRGINIA
MEDICAL IMAGING & RADIATION THERAPY
TECHNOLOGY BOARD OF EXAMINERS**

**Tyson Judy
Board Chairman**

**Tuayna Layton
Board Secretary**

The Board feels that such improvements are minor as all essential public information is readily available on the website.

Finding 5: The Board's Contract for Treatment Services for Impaired Licensees Does Not Have Detailed Reporting Requirements that Are Needed to Ensure Public Safety

The Audit Report recommends that the Board should have a clear written understanding of the services provided by the West Virginia Pharmacy Recovery Network, in-take and aftercare procedures, record-keeping and reporting requirements, as well as costs. The Board agrees that it can promulgate a legislative rule for the recovery network's services and revisit the contract between the Board and the WVPRN to include specific requirements and procedures as stated in the rule.

Conclusion

The Medical Imaging Board will continue to strive to ensure high standards of care in the medical imaging profession in West Virginia. The Board plans to have a representative at the interim meeting to address any questions or concerns that may arise from your presentation of the report. If I can be of further assistance, please contact me at your convenience.

Respectfully,

Jamie Browning
Executive Director

Appendix I

Medical Radiologic Technology Regulations by State

State	State-issued Credential for Operators	State-issued Credential for Radiation-producing Equipment	Operators Must Be Nationally Credentialed?	Type of State Regulatory Agency
Alabama	No	Yes	No	Health
Alaska	No	Yes	No	Health
Arizona	Certification	Yes	Yes	Health
Arkansas	License	Yes	Yes	Health
California	Certification	Yes	No	Health
Colorado	No	Yes	Yes	Health
Connecticut	License	Yes	No	Health-related Lic. (Umbrella)
District of Columbia	No	Yes	Yes	Health
Delaware	Certification	Yes	Yes	Health
Florida	Certification	Yes	Yes	Health-related Lic. (Umbrella)
Georgia	No	Yes	No	Health
Hawaii	License	Yes	No	Board within Health Agency
Idaho	No	Yes	No	Health
Illinois	Accreditation	Yes	No	Environment
Indiana	License	Yes	Yes	Health
Iowa	Permit	Yes	No	Health
Kansas	License	Yes	No	Health-related Lic. (Umbrella)
Kentucky	License	Yes	No	Stand-alone Bd.
Louisiana	Certification	Yes	Yes	Board within Health Agency
Maine	License	Yes	No	Board within a Professional Licensing Dept. (Umbrella)
Maryland	License	Yes	No	Umbrella Bd. of Medicine
Massachusetts	License	Yes	Yes	Health
Michigan	No	Yes	Yes	Labor
Minnesota	Registration	Yes	Computed Tomography	Health
Mississippi	Registration	Yes	Yes	Bd. of Medicine within Health-related Umbrella Div.
Missouri	No	Yes	Mammography	Health
Montana	License	Yes	No	Board within a Professional Licensing Dept. (Umbrella)
Nebraska	License	Yes	No	Board within a Professional Licensing Dept. (Umbrella)

State	State-issued Credential for Operators	State-issued Credential for Radiation-producing Equipment	Operators Must Be Nationally Credentialed?	Type of State Regulatory Agency
Nevada	License	Yes	Yes	Board within Health Agency
New Hampshire	License	Yes	Yes	Board within a Professional Licensing Dept. (Umbrella)
New Jersey	License	Yes	No	Board within Environment Agency
New Mexico	License	Yes	Yes	Program within Environment Agency
New York	License	Yes	No	Program within Environment Agency
North Carolina	No	Yes	Computed Tomography	Health
North Dakota	License	Yes	Yes	Stand-alone Bd.
Ohio	License	Yes	No	Health
Oklahoma	No	Yes	Yes	Umbrella Bd. of Medicine
Oregon	License	Yes	Yes	Stand-alone Bd.
Pennsylvania	No	Yes	Yes	Umbrella Bd. of Medicine
Rhode Island	License	Yes	Yes	Board within a Professional Licensing Dept. (Umbrella)
South Carolina	Certification	Yes	No	Stand-alone Bd.
South Dakota	No	Yes	Computed Tomography	Health
Tennessee	License	Yes	Yes	A Board within the Bd. of Medicine within Health-related Umbrella Div.
Texas	License	Yes	Yes	Board within Umbrella Bd. of Medicine
Utah	License	Yes	No	Board within a Professional Licensing Dept. (Umbrella)
Vermont	License	Yes	Yes	Advisory Board within a Professional Licensing Dept. (Umbrella)

State	State-issued Credential for Operators	State-issued Credential for Radiation-producing Equipment	Operators Must Be Nationally Credentialed?	Type of State Regulatory Agency
Virginia	License	Yes	No	Umbrella Bd. of Medicine
Washington	Certification	Yes	No	Health
West Virginia	License	Yes	No	Stand-alone Bd.
Wisconsin	License	Yes	No	Board within a Professional Licensing Dept. (Umbrella)
Wyoming	License	Yes	No	Board within Professional Health Lic. (Umbrella)

Sources: PERD's compilation and confirmation of data from the American Society of Radiologic Technologists, websites of state departments and boards, and state codes.

Appendix II

Website Criteria Checklist and Points System

Medical Imaging and Radiation Therapy Board of Examiners Website Criteria Checklist and Points System			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	12
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	2
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")	2 points	2
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0
Content Readability	The website should be written on a 6 th -7 th grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	
Site Functionality	The website should use sans serif fonts (1), the website should include buttons to adjust the font size (1), and resizing of text should not distort site graphics or text (1).	3 points	2
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	1
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	1
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	1
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	0
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0

Medical Imaging and Radiation Therapy Board of Examiners Website Criteria Checklist and Points System			
Social Media Links	The website should contain buttons that allow users to post an agency’s content to social media pages such as Facebook and Twitter.	1 point	1
RSS Feeds	RSS stands for “Really Simple Syndication” and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.	1 point	0
Transparency	Description	Total Points Possible	Total Agency Points
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	32	24
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1
Physical Address	General address of stage agency.	1 point	1
Telephone Number	Correct telephone number of state agency.	1 point	1
Location of Agency Headquarters	The agency’s contact page should include an embedded map that shows the agency’s location.	1 point	1
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	0
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	1
Privacy policy	A clear explanation of the agency/state’s online privacy policy.	1 point	1
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	2
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	1
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	2
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	1
Mission statement	The agency’s mission statement should be located on the homepage.	1 point	1

Medical Imaging and Radiation Therapy Board of Examiners Website Criteria Checklist and Points System

Agency history	The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	1
Public Records	The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points: <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licenses • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	2
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/organizational chart (1).	2 points	2
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	1
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	1
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the West Virginia Personnel Division's application page (1).	2 points	2



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