

SUNSET REVIEW: EVALUATION OF THE STATE BOARD OF ENVIRONMENTAL SANITARIANS



DEPARTMENT OF LEGISLATIVE SERVICES NOVEMBER 2011

Sunset Review: Evaluation of the State Board of Environmental Sanitarians

**Department of Legislative Services
Office of Policy Analysis
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

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Director

November 7, 2011

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

Ladies and Gentlemen:

The Department of Legislative Services (DLS) has completed its evaluation of the State Board of Environmental Sanitarians (BES) as required by the Maryland Program Evaluation Act. This evaluation process is more commonly known as “sunset review” because the agencies subject to evaluation are usually subject to termination; typically, legislative action must be taken to reauthorize them. This report was prepared to assist the committees designated to review the board – the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee – in making their recommendations to the full General Assembly. The board is scheduled to terminate on July 1, 2013.

DLS finds that, while BES generally complies with its statutory mandate and credentialing of environmental sanitarians continues to be appropriate to protect public health, a State-administered licensing program is no longer necessary. Requiring instead that environmental sanitarians obtain, as a condition of employment, a nationally recognized credential based on comparable educational, experience, and examination prerequisites would ensure that practitioners meet minimum professional standards and sufficiently protect the public health.

The majority of environmental sanitarians in Maryland are employed by the Department of Health and Mental Hygiene (DHMH) and local health departments. Accordingly, as part of this evaluation, DLS sent a survey to each county health officer about the nature of employment of registered sanitarians; the role of employers in ensuring the professionalism of sanitarians; and the purpose, duties, and operation of BES. DLS received a response from every county, which significantly informed the analysis, conclusions, and recommendations in this evaluation.

DLS finds that the State should ensure that environmental sanitarians meet minimum professional standards by requiring either that practitioners obtain (but not maintain) the Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) credential offered by the National Environmental Health Association (NEHA) as a condition of employment or that they have held a Maryland license within the past two years. DLS further finds that the current requirement that practicing environmental sanitarians obtain 20 hours of continuing education biennially should be continued to preserve the high level of professionalism in the industry. The education, training, and examination requirements for the NEHA REHS/RS credential are comparable to the current

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prerequisites for State licensure. In addition, the REHS/RS credential is recognized in several states throughout the country and already held by many Maryland residents. Although the initial cost of obtaining the REHS/RS credential is higher than the current cost to an applicant of obtaining a State license, NEHA offers many benefits to its members. Regarding enforcement, both BES and NEHA have the authority to deny, revoke, or suspend a credential or license. In practice, however, this authority is rarely exercised by either entity, and employers bear primary responsibility for enforcement.

Although the environmental health community has not yet widely considered the option of substituting the REHS/RS credential in place of a State licensing program, the responses to the DLS survey of county health officers support DLS' conclusions. The survey did not specifically ask whether the NEHA REHS/RS credential would be an appropriate substitute for State licensure because DLS was seeking information about all potential options. Instead, the survey asked what, if any, alternatives to licensure exist or would be recommended to ensure the professionalism of environmental sanitarians and protect the public health. Four respondents mentioned NEHA credentialing as an alternative, while several other respondents suggested various combinations of education, experience, and testing, or other requirements that would be satisfied by a REHS/RS credential requirement.

At its current location at MDE the board is not able to provide the level of services sought by board members, licensees, and employers, including recordkeeping, exam preparation, continuing education resources, and enforcement support. Thus, retention of the board at MDE is not a viable option. Indeed, retention of a board at another location is questionable. Even so, if the General Assembly elects to maintain a State-run licensing program for environmental sanitarians, the General Assembly should transfer the board to DHMH. The public health mission of DHMH is germane to the work of the board, and most of the regulated community is employed by DHMH and local health departments. If the General Assembly decides to maintain a board, DLS has identified specific measures that should be taken to improve board operations, which are set out in the report recommendations. Draft legislation to implement the recommended statutory changes is included as an appendix to this report.

We would like to acknowledge the cooperation and assistance provided by the board, MDE, DHMH, and the county health departments throughout the review process. BES, MDE and DHMH were provided a draft copy of the report for factual review and comment prior to its publication; written comments from both BES and MDE are included as appendices to this report.

Sincerely,

Warren G. Deschenaux
Director

WGD/JBC/mlm

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Executive Summary

Pursuant to the Maryland Program Evaluation Act, the Department of Legislative Services (DLS) has evaluated the State Board of Environmental Sanitarians (BES), which is scheduled to terminate July 1, 2013. DLS finds that, while BES generally complies with its statutory mandate and credentialing of environmental sanitarians continues to be appropriate to protect public health, a State-administered licensing program is no longer necessary. Requiring instead that environmental sanitarians obtain but not maintain, as a condition of employment, a nationally recognized credential based on comparable educational, experience, and examination prerequisites would ensure that practitioners meet minimum professional standards and sufficiently protect the public health. Alternatively, practitioners could meet the requirement by having held a Maryland license in the past two years.

The majority of environmental sanitarians in Maryland are employed by the Department of Health and Mental Hygiene (DHMH) and local health departments. Accordingly, as part of this evaluation, DLS sent a survey to each county health officer about the nature of employment of registered sanitarians; the role of employers in ensuring the professionalism of sanitarians; and the purpose, duties, and operation of BES. DLS received a response from every county, which significantly informed the analysis, conclusions, and recommendations in this evaluation.

Since the last full evaluation of the board, BES has taken proactive steps to address several problems, including submitting its code of ethics for inclusion in the Code of Maryland Regulations, changing examination contractors, revising its policy

for handling continuing education approval requests, and improving its website. DLS recognizes the positive changes BES has implemented thus far; however, at its current location at the Maryland Department of the Environment (MDE), the board is not able to address many areas still in need of improvement, particularly those related to recordkeeping and tracking of licenses, development of a clear disciplinary review process, evaluation of the statutory exemptions to the licensure requirement, and continuing education services. As a result, DLS finds that retention of the board at MDE is not a viable option.

The Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) credential issued by the National Environmental Health Association (NEHA) is recognized throughout the country and already held by many Maryland sanitarians. The education and training standards required to obtain NEHA's REHS/RS credential are similar to the current stringent requirements for obtaining a State license. Moreover, the State and NEHA require applicants to pass the same rigorous qualifying examination. Although the initial cost of obtaining the REHS/RS credential is higher than the cost of obtaining a State license under current law, NEHA offers more online services and discounts for members on study and other resource materials. In addition, the State currently subsidizes the State licensing program, and the fees paid by environmental sanitarians would be significantly higher if sanitarians paid the full cost of licensure. Regarding enforcement, both BES and NEHA have the authority to deny, revoke, or suspend a credential or license. In practice, however, this authority is rarely exercised by either entity, and employers bear primary

responsibility for enforcement. Thus, DLS finds that requiring environmental sanitarians to obtain the REHS/RS credential would provide an appropriate alternative to State licensure.

Although the environmental health community has not yet widely considered the option of substituting the REHS/RS credential requirement in place of a State licensing program, the responses to the DLS survey of county health officers support DLS' conclusions. The survey did not specifically ask whether the NEHA REHS/RS credential would be an appropriate substitute for State licensure because DLS was seeking information about all potential options. Instead, the survey asked what, if any, alternatives to licensure exist or would be recommended to ensure the professionalism of environmental sanitarians and protect the public health. Four respondents mentioned NEHA credentialing as an alternative, while several other respondents suggested various combinations of education, experience, and testing, or other requirements that would be satisfied by a REHS/RS credential requirement.

If the General Assembly concurs with the DLS recommendation to substitute the REHS/RS credential for State licensure, current State licensees and individuals who have held State licenses within the two years prior to the effective date of the new requirement should be grandfathered. To assist employers in confirming the qualifications of potential employees, DHMH should be required to maintain a list of individuals who have held State licenses based on information provided by MDE.

DLS further finds that requiring environmental sanitarians to have obtained a

Maryland license or the REHS/RS credential would preserve the high standard of professionalism and no additional credential maintenance requirement would be necessary. Moreover, eliminating a renewal requirement would reduce the costs associated with biennial renewals and annual NEHA membership fees.

Under current law, employers use the statutory definition of "practice as an environmental sanitarian" and the statutory list of exemptions to determine which employees must be licensed. DLS finds that a requirement that environmental sanitarians obtain the REHS/RS credential as a condition of employment should be based initially on a similar definition. However, the definition should be revised to incorporate the recommendation of the Long Term Environmental Health Workforce Work Group of the Environmental Health Liaison Committee (EHLWC Work Group) to redefine the profession of environmental sanitarian as environmental health specialist.

Based on these findings, DLS makes the following recommendations for repealing the board and the State licensing program and substituting a requirement that environmental sanitarians obtain the REHS/RS credential issued by NEHA:

Recommendation 1: Statute should be amended to repeal the State Board of Environmental Sanitarians and the requirement for a State license. Instead, statute should require individuals practicing the duties of an environmental sanitarian in the State to obtain, but not maintain, a NEHA REHS/RS credential. Statute should incorporate the recommendation of the EHLWC Work Group and redefine the profession of environmental sanitarian as

environmental health specialist. Employers should be required to verify that employees carrying out the duties of environmental sanitarians have obtained the necessary credential. Any current State licensees who do not hold the NEHA REHS/RS credential and any sanitarian-in-training certificate (SITC) holders who are issued a State license before the enactment date should qualify for employment without having to obtain a NEHA REHS/RS credential. However, any SITC holders who have not yet obtained State licensure would need to obtain the NEHA REHS/RS credential.

Recommendation 2: Statute should be amended to require DHMH to maintain a list of individuals who have held State licenses, through which employers can confirm appropriate credentialing of staff who qualify to practice as an environmental sanitarian on that basis and thus would not need to obtain a NEHA credential. MDE should be required to provide DHMH with the board's files, both electronic and hard copy, so that DHMH can maintain this list.

Many of the current 25 statutory exemptions to the licensure requirement are based on job title or employer rather than on public health function. The environmental health community has expressed concern about the number and nature of the exemptions, and previous sunset evaluations have recommended that the board consider whether the exemptions should be revised. Although BES has reviewed and categorized the exemptions, no revisions have been made. Thus, DLS makes the following recommendation for reconsideration of the exemptions:

Recommendation 3: DHMH should be required, in consultation with MDE, the Department of Natural Resources, the Maryland Conference of Local Environmental Health Directors, and the Maryland Association of County Health Officers, to develop a new framework for the statutory exemptions, based on job duties rather than job titles, to ensure that individuals performing similar duties related to protecting public health are regulated uniformly. DHMH should report to the General Assembly by October 1, 2013, on its recommendations and submit departmental legislation at the 2014 session to revise statute accordingly.

Throughout the evaluation process, stakeholders consistently affirmed that continuing education is vital to maintaining the professionalism of environmental sanitarians and protecting public health. DLS finds it appropriate to maintain the current requirement that individuals practicing as environmental sanitarians obtain 20 hours of continuing education units (CEUs) biennially. NEHA provides a CEU review and tracking service for its members and, for a fee, offers a tracking service for individuals who do not hold a current NEHA credential. DLS finds that tracking by NEHA would ensure consistent application of the CEU requirement. Thus, DLS makes the following recommendation:

Recommendation 4: Statute should be amended to require individuals performing the duties of an environmental sanitarian to complete 20 hours of continuing education every two years, to submit these hours to NEHA for approval and tracking, and to submit confirmation of the approvals to their employers. In addition, statute should

require employers to confirm on a biennial basis that their employees are in ongoing compliance with the continuing education requirements.

Though not recommended, if the General Assembly elects to maintain a State-run licensing program for environmental sanitarians, the General Assembly should extend the termination date of the board and transfer the board to DHMH, given the board's public health mission, the employment of the majority of environmental sanitarians by DHMH and local health departments, and wide support within the environmental health community for such a transfer. DLS finds that general funding for the board would continue to be appropriate because the vast majority of environmental sanitarians are State and local employees who provide a critical public service at a relatively minimal cost to the general fund. If the board is transferred to DHMH, the board's termination date should be extended only four years (or two license renewal cycles) to allow DLS to review the activity of the board in its new location on an expedited basis to determine whether the transfer has been successful. If the transfer has not resulted in any benefits, the General Assembly should reconsider its decision to maintain a licensing board and replace State licensure with a NEHA REHS/RS credential requirement.

If the General Assembly decides to maintain a State board and licensing program for environmental sanitarians, DLS recommends the following measures to improve board operations:

- **Amend statute to transfer the board to DHMH, retain the general funding of the board, make the administrative changes necessary to align the statute**

with the statutes governing other health occupations boards, and incorporate the EHLC Work Group recommendation to rename the board the State Board of Environmental Health Specialists.

- **Maintain all licenses and certificates held before the transfer in effect for their full two- or three-year period.**
- **Extend the termination date of the board by only four years to expedite the scheduled review of the board.**
- **Amend statute to authorize the board to (1) with the support of an applicant's employer, allow all applicants to sit for the qualifying exam after only one year in a sanitarian-in-training program; and (2) make substitutions for equivalent coursework on a case-by-case basis.**
- **Require the board to adopt regulations that repeal the requirement for applicants to submit a study plan after three attempts to pass the qualifying exam. Encourage the board to focus instead on providing uniform exam preparation resources to applicants, including, if resources allow, an in-person course similar to "Principles of Environmental Health."**
- **Require the board to adopt regulations that lower the required exam pass rate to 68% for the NEHA exam to conform to the national standard for that exam (rather than retaining a single higher standard associated with an alternative qualifying exam).**

- **Require the board to adopt regulations incorporating its continuing education policies and update its regulations as necessary, so that licensees are given proper notice of board policies and processes. Encourage the board to follow through on its plan to appoint a subcommittee to address matters relating to continuing education.**
- **Encourage the board to complete an adequate disciplinary policy, which includes a plan for more uniform and complete recordkeeping. Require the board to keep, at a minimum, for each charge, a record of the date the charge was received, the specific allegations of the charge, any written evidence reviewed by the board in evaluating the charge, the action of the board, an explanation of the basis for the board's action, and the date the board took the action. Require the board to keep an electronic record of which licensees have faced disciplinary charges so that it is possible to determine which licensees have had charges brought without pulling the hard copy files of every licensee.**
- **Revisit a mandatory reporting requirement for employers that complements the new disciplinary policy as part of the next sunset evaluation of the board.**
- **Require the board, before the next sunset evaluation, to work with the Maryland Association of County Health Officers and the Maryland Conference of Local Environmental Health Directors to develop a new framework for the statutory exemptions, based on job duties rather than job titles, to ensure that individuals performing similar duties related to protecting public health are regulated uniformly.**
- **Encourage the board to reinstitute a work group structure or other method to divide the work of the board to ensure that board members are not underutilized and that more than one project of the board can be addressed at one time.**
- **Encourage the board to prioritize restoring its website and ensuring that the website is current and user friendly.**
- **Encourage the board to use resources available at DHMH to create an online submission option for continuing education credits and renewal applications.**
- **Encourage the board to work with the Maryland Higher Education Commission, educational institutions, and employers at local health departments to improve the academic preparation of candidates for licensure and assist with recruitment and retention efforts.**
- **Encourage the board to take advantage of training provided by DHMH for new board members and provide an orientation for new members that includes a discussion of the board's primary activities and printed copies of all of the board's policies and the statutes and regulations governing the board. Make a copy of these materials available at all board meetings for reference.**

- **Encourage the board to improve staff oversight to ensure that board policies are being implemented.**

Chapter 1. State Board of Environmental Sanitarians

The Sunset Review Process

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated approximately 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The State Board of Environmental Sanitarians (BES) last underwent full evaluation as part of sunset review in 2001. As a result, DLS concluded that the board serves an important function in licensing and overseeing individuals who enforce compliance with federal, State, and local environmental and health laws. DLS recommended that the board’s termination date be extended by 10 years and that the board report to certain standing committees of the General Assembly on the implementation of other recommendations in the report. Chapter 172 of 2002 extended the board’s termination date to July 1, 2013, and required the board, by October 1, 2002, to submit a follow-up report on issues raised in the evaluation.

In advance of the board’s 2013 termination date, a preliminary sunset evaluation was conducted by DLS in 2009 to assist LPC in determining whether to waive the board from further evaluation. The preliminary report found that BES and the Maryland Department of the Environment (MDE) should take actions regarding tracking of licensees, exemptions from licensure, continuing education, guidelines for processing disciplinary charges and recordkeeping, and accounting of board expenditures. DLS recommended that a full evaluation be conducted to evaluate any progress made by BES and MDE in these areas and to consider and expand on MDE’s initial review of exemptions to the licensure requirement; determine whether the board should be given the authority to waive education or training requirements for licensure; and examine the anticipated proposal that the board be moved from MDE to the Department of Health and Mental Hygiene (DHMH) and make a recommendation as to the best departmental location for BES. DLS specifically recommended that the full evaluation be delayed until the 2011 interim to allow the board time to implement certain changes. LPC concurred with the recommendation to delay the full evaluation.

This full evaluation was undertaken to provide the General Assembly with information to use in making the determination about whether to reauthorize the board and for what period of time. This is the fourth full evaluation of the board.

Research Activities

To complete this evaluation, DLS staff collected and analyzed data from a wide array of sources. This work included:

- reviewing statutes and regulations governing sanitarians in Maryland and in other states;
- reviewing the legislative history of the board and proposed legislation relating to the board;
- interviewing current and former board members;
- interviewing representatives from MDE and DHMH;
- surveying county health officers;
- attending and addressing the July 2011 meetings of the Maryland Conference of Local Environmental Health Directors and the Maryland Association of County Health Officers;
- attending four board meetings and reviewing minutes of past board meetings;
- analyzing the licensing, complaint, and financial data of the board;
- reviewing National Environmental Health Association (NEHA) requirements for national credentialing and discussing them with a NEHA representative; and
- reviewing and building on the work of the Long Term Environmental Health Workforce Work Group of the Environmental Health Liaison Committee.

As part of this evaluation, DLS sent an electronic survey to each of the county health officers in the State. The survey was also presented at the July meetings of the Maryland Conference of Local Environmental Health Directors and the Maryland Association of County Health Officers. The purpose of the survey was to ascertain the nature of employment of registered environmental sanitarians in the State; the role of employers in ensuring the professionalism of sanitarians; and the purpose, duties, and operation of the board. DLS received a response from every county. As the primary employers of registered environmental sanitarians, their responses significantly informed the analysis in this evaluation.

Throughout the evaluation process, board members, the board's administrative staff, and staff at MDE and DHMH were helpful and responsive to DLS requests for information.

Environmental Sanitarians

Environmental sanitarians enforce compliance with federal, State, and local environmental and health laws and regulations. In Maryland, “practice as an environmental sanitarian” means, as a major component of employment, to apply academic principles, methods, and procedures to the inspections and investigations necessary to collect and analyze data and make decisions necessary to comply with environmental and health laws and regulations, including those regarding:

- the manufacture, preparation, handling, distribution, or sale of food and milk;
- water supply and treatment;
- wastewater treatment and disposal;
- solid waste management and disposal;
- vector control;
- insect and rodent control;
- air quality;
- noise control;
- product safety;
- recreational sanitation; and
- institutional and residential sanitation.

In addition, environmental sanitarians are increasingly viewed as a local resource for disaster response.

There is no federal law requiring licensure for environmental sanitarians. Regulation of environmental sanitarians, or their equivalent, varies among states. According to the 2009 State Environmental Health Registration Survey conducted by NEHA, 33 states have licensing programs for environmental sanitarians or their equivalent, 20 of which are mandatory. The minimum levels of education and training required for licensure also vary by state, though there is a trend toward using NEHA’s qualifying examination as part of licensure. Among Maryland’s neighboring jurisdictions, only West Virginia requires licensure. Conversely, Delaware, Pennsylvania, Virginia, and the District of Columbia do not have licensing programs.

In Maryland, environmental sanitarians are governed by the Maryland Environmental Sanitarian Act, Title 11 of the Environment Article. Except if expressly exempt, to practice as an environmental sanitarian or use the title “registered environmental sanitarian” or the initials “R.S.,” a person must be licensed by BES.

Board Functions

The board was created in 1969 to ensure that individuals practicing as environmental sanitarians in Maryland meet minimum professional standards. The board is one of three licensing boards currently operating within MDE. The board licenses individuals as “registered environmental sanitarians,” regulates “sanitarians-in-training” (individuals who meet the educational requirements for licensure but are obtaining relevant supervised experience), approves continuing education courses for licensees, and occasionally imposes disciplinary sanctions. The board also keeps a current record of all registered environmental sanitarians and sanitarians-in-training in the State, sets and collects fees, and provides informational resources to practicing environmental sanitarians and the public through the board’s website.

Board Structure

The board is composed of nine members, of whom seven are registered environmental sanitarians and two are consumers. Members are appointed by the Governor, with the advice of the Secretary of the Environment and the advice and consent of the Senate, to staggered five-year terms and may not serve more than one consecutive term. At the end of a term, a member continues to serve until a successor is appointed and qualifies. By statute (§ 11-202 of the Environment Article) members are drawn as follows:

- one must be employed by private industry;
- one must be employed by MDE;
- one must be employed by DHMH;
- one must be employed by a local health department and be employed under the State Personnel Management System;
- one must be employed by a local government and not be employed under the State Personnel Management System;
- two must be appointed at large from a jurisdiction not already represented to balance geographical representation; and
- two must be consumers.

The board is staffed by a part-time administrator and a part-time administrative specialist, both of whom are shared with the State Board of Waterworks and Waste Systems Operators and the State Board of Well Drillers. The board also has access to an assistant Attorney General assigned to assist it as necessary.

Major Statutory and Regulatory Changes Since the 2001 Sunset Evaluation

Since the 2001 sunset evaluation, two laws made substantive changes to the Maryland Environmental Sanitarian Act. These changes are summarized in **Exhibit 1.1**.

Exhibit 1.1 Major Legislative Changes Since the 2001 Sunset Evaluation

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2002	172	Extends the board's termination date by 10 years to July 1, 2013. Requires DLS to conduct a sunset review of the board by July 1, 2012. Alters the membership of the board. Requires the board to report to certain committees of the General Assembly by October 1, 2002, on the board's progress in implementing the recommendations of the 2001 DLS sunset evaluation report.
2004	230	Exempts milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by DHMH from the State licensure requirement for environmental sanitarians.

Source: Laws of Maryland

Chapter 172 of 2002 altered the membership of the board by reducing the number of members employed by MDE from two to one; creating a member position for a DHMH employee; repealing a requirement that one member be employed by a local health department in certain jurisdictions; and creating a position for a person employed by a local government. Chapter 172 also required the board to report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee by October 1, 2002, on the implementation of the recommendations in the 2001 sunset report. As reported in the 2009 preliminary evaluation of BES, DLS notes that there is no record that the board completed this reporting requirement.

Chapter 230 of 2004 exempted State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by DHMH from the requirement to obtain an environmental sanitarian license in an effort to expand the pool of individuals eligible to apply for inspector positions.

House Bill 989 of 2011 would have renamed environmental sanitarians as environmental health specialists, changed the name of the board to the State Board of Environmental Health Specialists, and transferred the board from MDE to DHMH. Among other things, House Bill 989 also would have changed the funding source for the board by creating a special fund.

The sponsor withdrew the bill pending further study of fiscal issues and the logistics of the proposed transfer.

Report Objective and Structure

The objective of this report is to address three key issues: (1) whether Maryland should continue to license environmental sanitarians; (2) if State licensure continues to be appropriate, what, if any, changes are needed to increase the effectiveness and efficiency of the board; and (3) if State licensure is no longer necessary or appropriate, whether another structure is needed to protect the public.

This report consists of five chapters. **Chapter 1** offers an overview of the sunset process and background information on BES. **Chapter 2** reviews the board's core functions: licensing and enforcement. **Chapter 3** discusses board finances and administrative issues. **Chapter 4** compares the requirements for the independent credential for environmental sanitarians that is offered by NEHA with current licensing requirements in Maryland. **Chapter 5** presents DLS' conclusion and recommendations for continued regulation of environmental sanitarians.

As supplements to the report, seven appendices are included. **Appendix 1** contains a roster of current board members. **Appendix 2** contains a summary of select results from the DLS survey of county health officers. **Appendix 3** contains the list of statutory exemptions from the licensure requirement in Maryland. **Appendix 4** contains the board's policy to clarify the licensure exemptions. **Appendix 5** contains a chart of the statutory exemptions from licensure requirements in other states with mandatory licensing requirements. **Appendix 6** contains the draft legislation to implement the statutory recommendations contained in the report. **Appendix 7** discusses the fiscal impact of any transfer to DHMH. Finally, **Appendix 8** and **Appendix 9** contain the written comments related to this evaluation. BES, MDE, and DHMH received draft copies for comment; DHMH elected not to provide written comments. Appropriate factual corrections and clarifications have been made throughout the document; therefore, references in those comments may not reflect this published version of the report.

Chapter 2. Core Functions of the Board

The State Board of Environmental Sanitarians (BES) is charged by statute with two core functions: licensing and enforcement. The board focuses the bulk of its efforts on the first of these functions.

Licensing Activity Has Declined Since the 2001 Sunset Evaluation

As shown in **Exhibit 2.1**, as of August 2011, there were 590 registered environmental sanitarians and 56 sanitarians-in-training (SITs) in the State. According to the board, 575 of the 590 registered environmental sanitarians are actively employed. The vast majority of these individuals, 524, are employed in the public sector (including federal, State, and local government). Of the remainder, 32 are employed in the private sector, and 19 are self-employed. Of the SITs, 52 are employed in the public sector, 3 in the private sector, and 1 is self-employed. Notably, 441 (75%) of the registered sanitarians and 51 (91%) of the SITs are employed by the Department of Health and Mental Hygiene (DHMH) or local health departments. The board administrator advises that one-half of SITs in August 2011 were seasonal (summer) employees for DHMH and are unlikely to complete the licensure process.

Exhibit 2.1 Registered Environmental Sanitarians and Sanitarians-in-training as of August 2011

<u>Employer</u>	<u>Registered Environmental Sanitarians</u>	<u>Sanitarians-in-training</u>
Public Sector	524*	52**
Private Sector	32	3
Self-employed	19	1
Retired	14	0
Unemployed	1	0
Total	590	56

*Includes 413 employed in county health departments, 28 in DHMH, 50 in the Maryland Department of the Environment (MDE), 4 in other State agencies, 2 in local school districts, 1 in a municipal corporation, 20 in the federal government, and 6 out of state.

**Includes 28 DHMH summer employees, 23 county health department employees, and 1 MDE employee.

Source: State Board of Environmental Sanitarians, Department of Legislative Services

The board maintains a list of currently registered environmental sanitarians and SITs but does not keep a record of the total number of licensees on a monthly or yearly basis, although the board was asked in the 2009 preliminary evaluation to begin tracking these numbers. As a result, the board was not able to provide comprehensive historical licensing data. The board does retain a hard copy file for each individual issued a certificate or license, but the board's electronic database contains minimal information and the license tracking system is out of date and has limited sorting capability.

As a result, although **Exhibit 2.2** demonstrates that the total number of registered environmental sanitarians in the State has fluctuated over time, and declined to 590 in 2011, neither the Department of Legislative Services (DLS) nor the board can definitively explain the reported jump in the number of registered environmental sanitarians in December 2010. However, the board administrator advises that the number of registered environmental sanitarians and the total may double count SITs. The more consistent trend is the decreasing number of individuals entering the field. As shown in Exhibit 2.2, there has been a 40% drop in the total number of SITs, from 94 in 2008 to 56 in 2011. Moreover, the board administrator advises DLS that the number of individuals taking the qualifying examination has declined, which suggests that the number of registered environmental sanitarians will continue to decline.

Exhibit 2.2
Historic Number of Registered Environmental Sanitarians
and Sanitarians-in-training in Maryland

	<u>1991</u>	<u>October 2001</u>	<u>August 2008</u>	<u>August 2009</u>	<u>December 2010</u>	<u>August 2011</u>
Registered Environmental Sanitarians	666	610	653	599	649	590
Sanitarians-in-training	N/A	81	94	79	68	56
Total	666	691	747	678	717	646

Note: Information limited by lack of recordkeeping by the board. SITs may be double counted in several years.

Source: State Board of Environmental Sanitarians, Department of Legislative Services

The primary employers of environmental sanitarians in the State remain concerned about recruitment and retention, issues noted in the 2009 preliminary evaluation. Eleven respondents to the DLS survey reported that they anticipate attrition among their employees due to pending retirements, difficulty recruiting new sanitarians and retaining qualified professionals because of stringent educational and experience requirements, low entry-level wages, the lack of opportunities for advancement within small local health departments, and budget cuts. Four respondents noted that they currently have open positions for environmental sanitarians.

The Long Term Environmental Health Workforce Work Group of the Environmental Health Liaison Committee, an interagency committee consisting of representatives of the Maryland Department of the Environment (MDE), DHMH, county health officers, and county environmental health directors, also reported that a significant number of retirements and departures is expected among the ranks of experienced personnel and that there is considerable uncertainty about how the positions will be filled.

Process to Become an Environmental Sanitarian Is Lengthy

Licensure as an environmental sanitarian in Maryland requires applicants to meet minimum education and training requirements. There are currently four possible combinations of education and training that can lead to licensure. A fifth path was previously available to certain individuals who (1) applied for licensure before July 1, 1995; (2) possessed 10 years experience in the field of environmental health; and (3) passed the licensure examination within two years of application for licensure.

Under the four current paths to licensure, applicants generally must have at least a baccalaureate degree with specified science-related coursework and 12 months of specialized training. Applicants also must pass a qualifying examination and pay the required fees. The process for applicants to meet licensing requirements, described in more detail below, can be lengthy. Three to four years are generally needed beyond completing the educational requirements to obtain the required specialized training and pass the qualifying examination.

To obtain an initial license to practice as an environmental sanitarian, an individual must first file an application for licensure with the board, accompanied by (1) an official transcript of the applicant's baccalaureate and post-baccalaureate studies or other evidence certifying successful completion of coursework considered equivalent by the board; (2) verification of the applicant's relevant previous work experience, if any; and (3) the required application fee. The board's administrator reviews each application to determine if the minimum education requirements for licensure have been met and then makes a recommendation on the application to the board. The board then votes on approval or refers the application back to the administrator for more information.

If an applicant meets the education and experience requirements, the applicant is eligible to take the qualifying examination. If the applicant passes the exam and pays the requisite fees, the board issues the applicant a license.

Alternatively, the board may issue a license to an applicant who has not passed the qualifying exam if the applicant meets a condition for waiver of the examination. To qualify for waiver of the examination, an applicant must (1) be recognized by a credentialing body acceptable to the board; and (2) either be licensed to practice as a sanitarian in a state that has a reciprocal agreement with the board or have met the board's education and experience requirements and have passed an examination in another state that is substantially equivalent to

the examination given in Maryland. The board currently recognizes the licensing examinations offered by the Professional Examination Service (PES) and the National Environmental Health Association (NEHA), so long as the applicant demonstrates a passing score of 70%. In practice, however, waivers of examination are rare.

Sanitarian-in-training Program Allows Applicants for Licensure to Obtain Required Training While Working

If an applicant for licensure meets education requirements but does not demonstrate sufficient experience in the field of environmental health, the board administrator issues the applicant a certificate of eligibility (COE), which the applicant may present prospective employers as proof of the applicant's eligibility to be employed as an SIT. A COE is valid for 12 months but may be renewed by the board on submission by the applicant of a request for extension and payment of the appropriate fee.

Once the applicant has found employment as an environmental sanitarian, the applicant and the applicant's employer complete the application for a sanitarian-in-training certificate (SITC), on the back of the COE, and return the COE to the board. The SITC application must include a description of the applicant's new job title and duties and identify the applicant's environmental health sponsor who will provide mentorship through the training process and act as the point of contact with the board. The administrator reviews the job description to ensure that it falls within the experience requirements for an environmental sanitarian and makes a recommendation to the board. If BES approves the applicant's employment and sponsor, BES issues the applicant a SITC. This certificate allows the applicant to temporarily work in the State as an environmental sanitarian in order to accumulate enough experience to qualify to take the examination required for licensure.

Depending on the applicant's qualifications, the SITC is valid for up to three years. On request, the board may extend the SITC period by up to six months. In practice, the board has liberally extended the SITC period – in one instance for as long as six additional years. The board has recently begun to enforce the three-year time limit more stringently. There is general support among those interviewed as part of this evaluation for strict enforcement of the SITC time limit. Notably, some health officers have indicated that strict enforcement helps employers weed out poor performers. However, the problem with strict enforcement, as discussed in more detail below, has been that applicants often need additional time to pass the qualifying exam.

Qualifying Examination Is a Significant Barrier to Entry in the Field

Barriers to Sitting for the Exam

As discussed above, an applicant for licensure may not sit for the qualifying exam until the applicant has met minimum education and training requirements. The amount of training required depends on the amount of specific coursework the applicant has completed. Each SITC

specifies the date the applicant is eligible to sit for the qualifying examination based on the amount of education and experience that the applicant needs to meet these minimum requirements. For example, an applicant with a baccalaureate degree in environmental health or environmental science, or the physical, biological, or environmental sciences with at least 60 semester credits of specified science and mathematics courses, may sit for the exam after just one year in an SIT program. However, an applicant with any other baccalaureate degree that includes only 30 semester credits of specified science and mathematics courses may not sit for the exam until the applicant has completed two years in an SIT program regardless of the applicant's work experience or any other relevant educational experience. Per board policy, an applicant may request board approval to take the licensing examination before the specified eligibility date if the applicant will complete the training within 30 days of the examination date.

Throughout the course of this evaluation, numerous individuals indicated that the current process is flawed because it favors specific coursework over experience and job performance or other, possibly equivalent, coursework – particularly in earth sciences. By increasing the length of time it takes an individual to become licensed, and therefore qualify for a higher pay grade, this requirement creates a barrier to entry in the field.

Individuals interviewed as a part of this evaluation, including board members, have indicated that they would support legislation authorizing the board to allow applicants to take the qualifying exam after one year as an SIT, with the endorsement of the applicant's employer. The support of the employer is viewed as key because employers are uniquely situated to determine the readiness of an applicant to take the exam based on the applicant's actual work performance and effort in preparing for the exam.

A related concern is that few college or university programs in the State have been designed to train students as environmental sanitarians. Board members and one respondent to the DLS survey advised that Salisbury University recently discontinued an environmental health program that had been a reliable source of recruits. According to the university, continuing decline in enrollment, the retirement of one of the two full-time faculty in the program, and the difficult marketplace prompted the suspension of the program. Even so, it appears that Towson University and the University of Maryland, College Park (UMCP) offer programs that prepare students for entry in the field. UMCP established a B.S. in Environmental Science and Technology in 2008, created from other existing programs, and added a new concentration in Environmental Health. According to the university, 8 students enrolled in the Environmental Health track in fall 2009 and 20 in fall 2010. Towson University offers a degree in Environmental Science and Studies, with a concentration in Environmental Health, but one survey respondent noted that a graduate of the program did not have the science courses required for becoming an SIT.

With sufficient resources, the board could (and has indicated that it would like to) do more to improve the academic preparation of candidates for licensure and assist with recruitment and retention efforts. Board members have proposed working with colleges and universities in the State to develop curricula for an environmental health major or concentration that would

align courses with examination domains and provide the base of knowledge necessary to prepare students for the qualifying examination and a career in environmental sanitation. Any new health education program would have to be approved by the Maryland Higher Education Commission.

Insufficient Exam Preparation Resources and High Minimum Pass Score Present Barriers to Qualifying

Prior to 2009, the board used a qualifying exam that was created and administered by PES. However, the exam was criticized as out of date, PES did not offer any support services for test-takers, and the pass rate was low, as shown in **Exhibit 2.3**.

Exhibit 2.3
Environmental Sanitarian Examination Pass Rates
April 2007-August 2011

<u>Date</u>	<u>Total # of Examinees</u>	<u># Passed</u>	<u>Pass Rate</u>
August 1, 2011	5	3	60.0%
April 4, 2011	12	6	50.0%
December 1, 2010	13	2	15.4%
August 2, 2010	7	1	14.3%
April 5, 2010	12	2	16.7%
December 7, 2009	14	4	28.6%
August 3, 2009	15	1	6.7%
April 6, 2009	26	16	61.5%
December 1, 2008	23	3	13.0%
August 4, 2008	22	5	22.7%
April 7, 2008	19	4	21.1%
December 3, 2007	21	9	42.9%
August 6, 2007	19	11	57.9%
April 2, 2007	22	12	54.5%

Source: State Board of Environmental Sanitarians

Beginning in August 2009, the board switched to the NEHA Examination for Registered Sanitarians or Registered Environmental Health Specialists. This examination is currently

accepted by a majority of states, and the board has expressed hope that adopting this exam will promote out-of-state recruitment and provide licensees with more portable credentials. The board offers the exam three times per year. Test-takers have access to NEHA test preparation resources purchased by the board, as well as the option of taking the examination online at a testing center for an additional fee.

Although NEHA accepts a minimum score of 68% to pass the exam, the board requires a minimum score of 70%, reflecting the score that is required to pass the PES exam and is the national standard for the PES exam. The pass rate in Maryland under the NEHA exam has remained low, though the exam has not been administered long enough in the State to give a clear picture of whether the pass rate will improve once applicants become more familiar with the new exam and the necessary preparation.

The first time the NEHA exam was administered in the State in August 2009, only 1 of the 15 individuals who took the exam passed, resulting in a pass rate of 6.7%. In the most recent administration of the exam the pass rate was 60%, but the total number of test-takers was low, only 5, and of these 3 were not sitting for the first time. Since the adoption of the NEHA exam, 38 individuals have taken the exam, but only 19 have passed. Notably, 6 additional applicants would have passed the exam if Maryland used NEHA's pass score of 68%. Of those who would have passed, 4 retook the exam and passed the next time, one never retook the exam, and one has not yet had an opportunity to retake the exam.

Even with conforming the score with the NEHA standard, however, the overall pass rate would likely remain low. The training support applicants receive from employers varies widely. Some employers provide a specific course of study for employees, including dedicated time at work to study. Other applicants receive little assistance from their employers. Although the board has purchased NEHA's study aides, employers do not appear to be aware that this resource is available. Respondents to the DLS survey indicated that concern remains high about test preparation and the burden on employers of developing appropriate study materials.

In the past, when funding was available, the Maryland Conference of Local Environmental Health Directors, in conjunction with the Johns Hopkins School of Public Health, offered an exam preparation course called the "Principles of Environmental Health." The board administrator advises DLS that the board assisted with providing speakers and finding other qualified presenters for this course and that exam scores generally rose when the course was presented just prior to the examination. The board has shown interest in helping to facilitate offering a similar course on a more regular basis.

By regulation, if an applicant does not pass the qualifying examination by the third attempt, the applicant is prohibited from sitting for the examination again until the applicant has completed additional training in accordance with a written plan, which must be approved by the board. In practice, applicants do not develop study plans for board approval, nor does the board have any criteria in place to evaluate a plan if submitted. It is also not clear whether the board has sufficient resources to evaluate study plans.

Survey respondents and individuals interviewed generally support a limit on the number of times a candidate may retake the exam as a tool to weed out poorly performing employees. Notably, NEHA also limits the number of times that individuals with in-training status may retake the exam to three attempts without reapplying to NEHA.

Licensing Exemptions Not Clearly Linked to Public Health

There are currently 25 statutory exemptions to the State's licensure requirement, as shown in **Appendix 3**. Exemptions are generally based on job title (*i.e.*, chemists) or employer (*i.e.*, persons employed by industrial operations whose environmental services are performed solely for their employer), rather than on job duties.

The 2001 sunset evaluation of BES recommended that the board, in conjunction with MDE and the Department of Natural Resources (DNR), evaluate the exemptions to Maryland's licensure requirement for environmental sanitarians and report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on any exemptions that could be eliminated and the reasons for eliminating them. This recommendation was not implemented. Instead, Chapter 230 of 2004 added a new category of exemption. The board advises that it did not follow this recommendation because of insufficient resources.

The 2009 preliminary evaluation of the board also recommended that the exemptions be revisited to determine whether any should be added, eliminated, or clarified. In response, the board created a policy document, attached as **Appendix 4**, identifying broad categories of occupations that are currently exempt, including occupations:

- with highly specialized practice areas;
- with highly specialized academic areas;
- that are already credentialed by another state or national body;
- that are nonprofessional;
- with duties that are primarily managerial;
- that are within DNR or MDE and may have some overlapping duties with sanitarians but that primarily focus on other tasks; and
- where the environmental services performed are solely for the employer.

The board's policy does not make any recommendation with respect to additions, eliminations, or clarifications of any exemptions. According to a former board member actively involved with the creation of this policy, this omission did not indicate the board's support for exemptions as they currently exist, but instead reflected limited resources on the part of the board and a general sense that the board did not have the independence needed to make those recommendations.

As noted earlier, 20 states (including Maryland) require licensure for environmental sanitarians. Of these mandatory licensing states, 9 have statutory exemptions to their licensing requirement, as shown in **Appendix 5**. Maryland appears to have more exemptions than each of these states, although some individuals are exempted on a similar basis. The exemptions in other states vary, but exemptions common to more than one state include:

- students or individuals practicing under the supervision of a licensee;
- individuals with duties that overlap with sanitarians who are already licensed for the performance of these duties;
- individuals primarily engaged in lab work, teaching, lecturing, or research;
- individuals acting as health officers or directors;
- individuals performing certain agricultural inspections;
- individuals whose primary work is performed by and for the state's department of the environment or natural resources (sometimes limited to certain environmental concerns such as air or hazardous waste); and
- individuals engaged in certain professions such as industrial hygienists, professional engineers, veterinarians, etc.

Forty percent of the respondents to the DLS survey supported clarifying or revising the current statutory exemptions to licensure. Noting that some of the exempted job classifications may entail responsibilities that are the same as or similar to a sanitarian's, several respondents suggested clarifying that the licensure requirement applies to any individual performing sanitarian duties. Other respondents suggest revising the statute to list exemptions by function or service performed rather than by job title. The general consensus among other individuals contacted during the course of this evaluation is that the current exemptions are overly broad and should be redrawn. Many individuals interviewed voiced their concern that the list of exemptions is more reflective of political concerns than public health concerns and that listing the exemptions by job title and employer instead of by duties has created a loophole that should be closed to protect the integrity of licensure and the public health.

License Renewal Requires Continuing Education

Registered environmental sanitarians must renew their licenses every two years to continue to practice the profession. Under current practice, all licenses for registered environmental sanitarians must be renewed by July 1 of odd-numbered years. At least one month before a license expires, the board administrator sends a renewal notice and application form to the last known address of the licensee. Before the license expiration date, a licensee must submit to the board a renewal application, a renewal fee, and verification of the completion of at least 20 hours of board-approved continuing education during the two-year period. Approved continuing education hours cannot be carried over to a subsequent licensing renewal period.

The enforcement of the continuing education requirement is the most significant means the board currently uses to ensure that registered environmental sanitarians adhere to professional standards. Board members and survey respondents emphasized the importance of requiring individuals working as environmental sanitarians to keep informed about technological and scientific advancements, changes in laws and regulations, the development of new practices, and other emerging issues. Several board members also stressed the breadth and diversity of practice areas covered by the profession and the need for practitioners to keep current in areas outside their daily practice. It was also suggested that the board could provide guidance to licensees regarding appropriate training for particular career paths or for advancement and management responsibilities, which would aid in the recruitment and retention of environmental sanitarians.

Licensees self-report continuing education hours. Acceptable training formats, the method for calculating credit hours, and acceptable forms of proof of training are specified in board regulations. A licensee or a sponsor of a training course may request approval prior to the course date, but generally a licensee submits a request for approval after attending a training session. Because the scope of environmental sanitarian practice is broad and there is a strong interest in maintaining that breadth of knowledge, a licensee may receive credit for training that does not directly relate to the licensee's current work (*i.e.*, a licensee who tests pools may receive credit for a course on food safety). Proof of training may consist of an official transcript, a certificate or other documentation signed by the instructor or sponsor of the training, or other documentation deemed by the board to adequately establish the actual receipt of training by the applicant. Regulations also require the board to maintain a list of all training that has been approved by the board.

In practice, the board administrator conducts a preliminary review of all continuing education approval requests and sends a summary indicating the program titles, sponsors, dates, locations, and recommended credit hours to the board members for their review prior to each board meeting. During each meeting, the board discusses the requests, asks the administrator for additional information about specific requests if deemed necessary, and approves courses and hours that are sufficiently related to the practice of environmental sanitation. The approved courses are then added to the list maintained on the board's website of all training that has been approved during the current renewal cycle.

In November 2009, the board approved an updated continuing education policy to clarify the process, forms, and types of courses that would satisfy the statutory continuing education requirement. The updated policy suggests that, to maintain professional diversity, no more than 70% of the required credit hours be from a single domain area. The policy also requires SITC holders to complete a minimum of 20 hours of continuing education per year while in training to qualify for the licensing examination; requires licensees to submit approval requests within 60 days of course completion (presenters may seek prior approval up to 60 days before the scheduled training); and provides more detail about the calculation of hours and acceptable course formats, subject matter, and proof of attendance.

Board members have expressed concern that the continuing education policy was not applied during the latest license renewal period, despite approval by the board and publication of the policy on the board's website. In addition, at board meetings in July and August 2011, board members and the board administrator discussed problems that arose from the submission of several approval requests so late that the training could not be approved before the license expiration date. Concern was also expressed about licenses lapsing as a result of insufficient continuing education hours, particularly in cases where the board might not approve the full number of requested hours and the licensee would not have time to participate in another training session before the license expiration date. Another issue is that some approval requests lacked sufficient detail about the content of the training and the hours actually spent in training for the board to make an adequate determination.

Board members have discussed adopting a more specific policy on the timing and content of continuing education unit (CEU) approval requests. The board has also discussed encouraging the pre-approval of courses and relating training to specific exam domains and practice areas. As a result of these discussions, the board has considered appointing a subcommittee to work on further modification of the policy governing the continuing education approval process.

The efficiency of the licensure process could be improved by providing for online initial and renewal application. NEHA, and State boards regulating other health occupations, offer online initial and renewal application as well as CEU submission.

Board's Disciplinary Action Is Limited; Still No Formal Complaint Policy

Any person may make a written, specific complaint, referred to as a "charge," of a violation that is grounds for disciplinary action under the Maryland Environmental Sanitarian Act or the code of ethics for environmental sanitarians. A registered environmental sanitarian who knows of an action or condition that might be grounds for disciplinary action is required to report to the board. The person making the charge has immunity from liability.

The board does not have express investigatory authority; however, it does carry out a limited investigation on receipt of a charge. Due to constrained staff resources, the board relies heavily on information provided by employers with respect to a charge. The availability of information is further constrained, however, by privacy issues. Following investigation of a charge, if the board finds that a violation has occurred, the board may deny licensure, reprimand a licensee, place a licensee on probation, or suspend or revoke a license.

If the board votes to take disciplinary action, the charge is referred to the board counsel. A separate attorney from the Office of the Attorney General acts as prosecutor if the board takes formal action against a licensee. The board advises that it generally takes between six and eight months to resolve a charge. In practice, the board rarely exercises its disciplinary authority. Over the last nine years, only seven charges were filed with the board as shown in **Exhibit 2.4**,

only three resulted in formal discipline. There are currently no disciplinary matters pending before the board. It is difficult to analyze how the board has handled the charges it has received as the records related to these complaints are incomplete. The board keeps some hard copy records regarding each charge in the folders it maintains for each licensee and SIT, but the same charges are not searchable in the board's database. These records are extremely limited and do not describe the allegations in detail. DLS reviewed the limited information maintained on file but had to rely on the institutional memory of the board's administrator as to which licensees had charges in their folders as well as some of the pertinent facts and final resolution of the charges.

Exhibit 2.4
Charges Investigated by the State Board of Environmental Sanitarians
Fiscal 2001-2011

<u>Year</u>	<u>Source</u>	<u>Allegation</u>	<u>Board Action</u>
2001	Employer	Falsification of water table inspection reports	The licensee voluntarily resigned from employment and allowed the license to expire. The board flagged the licensee's file
2003	Employer	Conflict of interest/unethical conduct	Revoked the licensee's SIT certificate
2004	Employer	Practicing without a license	Reprimanded the individual. The employer also required the individual to forfeit 15 days of annual leave
2005	Colleague	Conflict of interest relating to retiring from public employment and becoming a private consultant	Dismissed
2007	Colleague	Ethical misconduct relating to food service facility inspections	Dismissed
2009	Employer	Improper citing or permit issue regarding irrigation wells and septic placement; incorrect calculation of the linear feet of an expanded septic system	No action recommended
2009	Employer	Violations of State and local regulations regarding food service facility inspections	Revoked license

Note: The year of the charge is approximate because the board was not able to provide a record of the date that each charge was received. The year listed reflects the earliest date the charge is referenced in the materials provided to the Department of Legislative Services.

Source: State Board of Environmental Sanitarians

The board is reliant upon employers and licensees to report violations; the board advises that it has never received a charge from the private sector. Survey respondents indicated that most disciplinary matters for public-sector employees at the county level are handled through internal channels as personnel matters that, because of their nature, would not fall within the board's purview. Thus, the few charges investigated in recent years were made by public-sector employers or colleagues. Several health officers advised DLS that employers do not see the added value of bringing a disciplinary matter before the board because the board has appeared reluctant to take disciplinary action based on its own investigatory limitations and does not handle complaints expeditiously. Most survey respondents, however, indicated that they would not have sought board intervention in many incidents in any case.

The State Board of Physicians requires employers to report disciplinary action taken against certain board licensees that may justify disciplinary action by that board. This requirement provides additional information on the conduct of licensees. The 2009 preliminary evaluation of BES recommended that the board consider whether a similar reporting requirement would be appropriate for environmental sanitarians. The board has not acted on this recommendation. The majority of survey respondents indicated that they would favor an employer reporting requirement that was targeted to serious disciplinary matters, matters relating specifically to the requirements for licensure, or matters relating specifically to public health.

In 2009, BES advised DLS that the board was developing a written disciplinary policy and intended to have the policy in place by June 30, 2010. The board submitted two documents relating to the board's disciplinary policy to MDE's counsel in the fall of 2010, but the policies have not been returned to the board. At the October 2011 board meeting the board's counsel promised to get a written response to the board by the November 2011 board meeting. However, due to upcoming personnel changes affecting the assistant Attorney General assigned to the board, the timing of this response is not clear. DLS was provided with a copy of the board's policy drafts, which DLS reviewed. The draft currently favored by the board does not address the board's internal procedures for processing and reviewing complaints, including the records the board should maintain.

Chapter 3. Fiscal and Administrative Issues

Board Revenues Do Not Cover Costs, but General Funding of the Board Has Been Appropriate

Currently, the State Board of Environmental Sanitarians (BES) is budgeted and managed through the Water Management Administration in the Maryland Department of the Environment (MDE). The board receives an annual general fund appropriation, and all fee revenue collected by the board is deposited into the general fund. Because environmental sanitarians renew their licenses on a biennial basis, fee revenues are high in odd-numbered fiscal years and low in even-numbered fiscal years.

As shown in **Exhibit 3.1**, personnel expenses comprise the largest portion of the board's budget, accounting for approximately 78% to 85% of overall expenses. MDE advises that personnel expenses are based on an allocation to the board of an average of 4 hours per week (10%) of the administrator's time and 20 hours per week (50%) of the administrative specialist's time. The remainder of the board's expenses consists primarily of the cost of administering the licensing exam, travel for board members, and other operating expenses.

Exhibit 3.1
Fiscal History of State Board of Environmental Sanitarians
Fiscal 2007-2012

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Estimated FY 2012</u>
General Fund Appropriation	\$55,615	\$60,798	\$72,085	\$73,430	\$75,531	\$78,147
Total Revenues	66,400	20,610	69,825	16,300	65,465	16,626
Total Costs	55,615	60,798	72,085	73,430	52,227	78,147
Personnel	45,936	50,193	56,156	62,265	42,629	66,928
Contractual Exam Services	4,337	5,321	6,434	5,230	4,346	5,225
Travel	2,623	1,828	3,404	3,211	1,962	3,200
Other Operating Expenses	2,719	3,456	6,091	2,724	3,290	2,794
Annual Surplus/(Gap)	10,785	(40,188)	(2,260)	(57,130)	13,538	(61,521)
Biennial Surplus/(Gap)		(\$29,403)		(\$59,390)		(\$48,283)

Notes: Total revenues include the examination service fee collected by the board as a pass-through. Indirect costs are not calculated for the board, but are incorporated in the budget for the Maryland Department of the Environment. Fiscal 2011 total costs and personnel expenses were low due to reassignment of the administrative specialist to cover a vacant position serving another board for part of the year.

Source: Department of Legislative Services, Maryland Department of the Environment

Since the last full evaluation of the board in 2001, the biennial gap between revenues and costs has persisted and increased. Over the full two-year licensure cycle, the board has been generating sufficient revenue to cover 59% to 75% of expenditures. As shown in **Exhibit 3.2**, board expenditures are expected to continue to increase while board revenues moderate due to very limited anticipated growth in the number of certificate-of-eligibility applicants and examinees, with new licensees replacing the environmental sanitarians who will retire in future years. As a result, the biennial gap is expected to increase to \$82,264 in fiscal 2013-2014 and \$94,328 in fiscal 2015-2016.

Exhibit 3.2
Estimated Board Revenues and Expenditures under Current Law
Fiscal 2013-2016

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
General Fund Revenues	\$68,475	\$14,250	\$69,500	\$14,250
General Fund Expenditures	80,927	84,062	87,333	90,745
Biennial Surplus/(Gap)		(\$82,264)		(\$94,328)

Note: General fund revenues are projections based on the current fee schedule and current licensing trends.

Source: Department of Legislative Services, Maryland Department of the Environment

Assuming the authority for the board is extended, the biennial gap between the board's revenues and costs could be closed by increasing license fees, which the board has authority to set by regulation. With the exception of the examination fee, board fees have not been increased since 1997. The examination fee, a pass-through fee that is set by the testing service, increased from \$95 to \$125 in 2009, when the National Environmental Health Association (NEHA) became the official testing service in Maryland. In addition to the examination fee, or a \$25 fee for verification of a previous examination score, an applicant for an initial license must pay \$50 with the application for a certificate of eligibility and \$50 for issuance of the license. The biennial charge for license renewal is \$100, with an additional \$50 late fee and \$100 for reinstatement as appropriate.

Without a large increase in the number of registered environmental sanitarians, however, the board would have to substantially increase fees to cover the growing gap between revenues and expenditures. For example, raising the biennial license renewal fee from \$100 to \$200, as was suggested during the 2011 session, would generate significantly less than is needed to fully fund the board at MDE. As shown in **Exhibit 3.3**, based on the most recently reported number of licensees, 590, a \$100 increase in the license renewal fee would generate only an additional \$59,000 of revenue. Even a 150% increase (to \$250) would not raise enough revenue to fully recoup costs associated with the board in future years.

Exhibit 3.3
Estimated Revenue Generated by Various License Renewal Fee Increase
Amounts at Current Environmental Sanitarian Registration Level

<u>Fee Increase</u>	<u>New Fee</u>	<u>Additional Revenue Generated</u>
\$25	\$125	\$14,750
50	150	29,500
75	175	44,250
100	200	59,000
150	250	88,500
200	300	118,000

Note: Estimates assume that 590 registered sanitarians will continue to renew licenses.

Source: Department of Legislative Services

Moreover, environmental sanitarians generally are highly trained public-sector employees who earn modest salaries. Sanitarians-in-training are employed in local health departments at Grade 12 or 13, with base starting salaries of \$32,091 or \$34,113, respectively. Registered environmental sanitarians generally start at Grade 14, with a base starting salary of \$36,280. A significant fee increase could result in even fewer individuals entering the profession.

Alternatively, because environmental sanitarians serve a critical role in protecting public health, and the vast majority are public-sector employees, it is appropriate for the board regulating the profession to be general funded. Both the 2001 full sunset review and the 2009 preliminary evaluation concluded that it is reasonable for the State to cover a portion of board costs. Based on the unique position of the majority of environmental sanitarians as State or local government employees, the 2001 sunset review recommended against raising license fees. The 2009 preliminary evaluation similarly concluded that increasing fees did not appear necessary, noting that at least 90% of registered environmental sanitarians and sanitarians-in-training are employed in the public sector, base salaries are low, and the impact on the general fund has been limited. The preliminary evaluation also cited the board's interest in maintaining the existing fee structure in order to keep financial barriers to entering the field low and to attract new licensees in a time of projected shortage. As all of these factors persist, it is appropriate to keep the licensing fees for environmental sanitarians at current levels, assuming continued authorization for the board.

Administrative Challenges to the Operation of the Board

The board has had a diverse and engaged membership, which has changed considerably over the past two years. Since the 2009 preliminary evaluation, seven new members have been appointed to the board, and the officers have changed. The board has diligently worked to carry out its duties, and members have often performed tasks that staff might otherwise handle. Staffing for the board has been limited, largely by resource constraints.

Continuity between Current and Former Board Members Is Inadequate

Continuity between new and former board members relating to the board's policies and procedures is an ongoing concern for the board. New members do not receive an orientation and have expressed frustration about the difficulty of trying to determine the board's existing policies and practices. At board meetings, the Department of Legislative Services (DLS) observed that new members frequently raise questions about the board's existing policies, in some instances even after the new member has been on the board for a year or longer.

Board Members Are Currently Underutilized

The 2009 preliminary evaluation noted that the board used work groups to accomplish some of the duties and projects of the board, particularly for developing policies and updating web content. The board no longer uses the work group structure. During the past year, the board chair has expended considerable time and energy working out the details of a potential transfer of the board to the Department of Health and Mental Hygiene (DHMH), discussed below; thus, board action on other matters has stalled. Many board members reported that their current duties require, on average, approximately an hour per month outside of board meetings. At its meetings the board has discussed using work groups to tackle some of the issues still facing the board, particularly concerning continuing education. Individual board members have also indicated an interest in using work groups to restart some of the board's policy work. As of the board's October 2011 meeting, the board had not reinstituted the use of work groups or any other means of delegation or division of labor. As a result, board members are underutilized, and many of the board's projects, including updating policies on discipline and continuing education and developing better qualifying exam preparation resources, have languished.

Board Has Not Taken an Active Role in Overseeing the Board's Staff

There is some inconsistency between the policies adopted by the board and the policies implemented by board staff. For instance, at a recent board meeting, the board's administrator stated that he was not aware of the board's policy on the required timing for submissions of approval requests for continuing education units (CEUs) although that policy had been in place for over a year. In another instance, in response to questions from DLS, the board administrator acknowledged that the board had adopted a policy requiring sanitarians-in-training to obtain a certain number of CEUs but advised DLS that he did not enforce the policy on the basis that the

board had not adopted it as a regulation. However, the administrator did not raise his concern with the board.

Board No Longer Has Control Over Its Website

The board's website is an important resource for potential applicants, licensees, employers, and the public. As noted in the 2009 preliminary evaluation, in recent years board members invested significant time and effort in making the board's website more user-friendly and informative. The board posted information about licensing requirements, forms, policy statements, meeting schedules and minutes, and links to other sites determined to be useful to environmental health professionals. However, as part of a department-wide redesign of its websites, MDE made substantial changes to the board's website without consulting with the board. A large amount of information remains accessible through the website, but a user must now navigate through several links to find it. In addition, some of the information has become dated. Several board members and staff have expressed concern about the way MDE made these changes and the results, describing the revised website as confusing and difficult to navigate.

Board Has Not Had Adequate Legal Support at MDE

MDE has assigned an assistant Attorney General (AAG) to assist the board as needed. Over the last year the AAG assigned to the board was out on extended leave, and it appears that no substitute AAG was assigned to support the board in the interim. Board members and staff repeatedly expressed concern to DLS that, even when the AAG is not on leave, the level of support is insufficient as it often takes months to obtain responses to questions, most recently almost a year for questions relating to a new disciplinary policy. This lack of support has made it difficult for the board to move forward on some of its policy initiatives.

Board Does Not Submit Annual Report as Required

The board is required to submit an annual report of its activities, including a financial statement, to the Governor and the Secretary of the Environment. This report has not been completed for the last two years although the board chair has indicated that he does intend to submit the reports.

Transfer of the Board from MDE to DHMH Has Been Proposed

Though previously located at DHMH, the board was moved to MDE when that department was created in 1987. The transfer of the board from DHMH to MDE was controversial at the time and remains so.

In 2007, the Environmental Health Liaison Committee (EHLC), an interagency committee consisting of representatives of MDE, DHMH, county health officers, and county environmental health directors, formed the Long Term Environmental Health Workforce Work

Group (EHLG Work Group) to develop strategies to meet the State's environmental health workforce needs over the next decade. The EHLG Work Group completed and submitted a report in June 2009 that contained three recommendations: (1) redefine the profession of environmental sanitarian as environmental health specialist; (2) revise environmental health position classifications to simplify and clarify job progression and responsibilities; and (3) reauthorize the board as the Board of Environmental Health Specialists and consider relocating the board to DHMH. According to the EHLG Work Group, its recommendations were based solely on the public health needs of the State and it "explicitly and intentionally did not evaluate the fiscal impacts of these proposals." House Bill 989 of 2011, which was withdrawn pending further study as discussed above, would have codified the EHLG Work Group's recommendations to redefine the profession, rename the board, and move the board from MDE to DHMH.

The majority of survey respondents, as shown in **Appendix 2**, as well as individuals interviewed by DLS, continue to favor DHMH as the appropriate location for the board. None of the survey respondents favors retaining the board at MDE. Advocates for moving the board back to DHMH have asserted that DHMH is the logical location for the board because the environmental sanitarians' focus on the protection of public health is more closely aligned with the mission of DHMH; most environmental sanitarians are employed by DHMH or local health departments; staff could be dedicated exclusively to the board; and the EHLG Work Group recommended the move.

Of the four survey respondents who did not cite DHMH as the best location for the board, two were neutral on the location of the board, one suggested dissolving the board and substituting a NEHA certification requirement, and another suggested an Executive Branch affiliation that would keep *both* MDE and DHMH involved with the board. DLS notes that the survey did not ask whether the board should be terminated and the State licensing requirement replaced with a NEHA credentialing requirement.

Chapter 4. Comparison of State License to NEHA REHS/RS Credential

As discussed in **Chapter 2**, 33 states regulate environmental sanitarians, of which 20 require licensure. In addition to state-issued licenses, individuals may apply to the National Environmental Health Association (NEHA) for a credential as a Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS). Of the states that require licensure, 11 use the qualifying exam offered by NEHA and 13 offer reciprocity for NEHA credential holders.

NEHA advises that, as of September 2011, 342 Maryland residents held the REHS/RS credential. Of these, 262 individuals also maintain Maryland registered environmental sanitarian licenses. The majority of these individuals chose to obtain the credential during a one-year “grace period” from July 1, 2009, to June 30, 2010, that NEHA offered Maryland license holders as a result of the board’s decision to make NEHA the new exam contractor for the State. During this grace period, NEHA offered reciprocity to individuals who were already licensed in Maryland. It remains to be seen how many individuals who hold a State license and a NEHA credential will choose to maintain both during future renewal periods.

NEHA Requirements

As in Maryland, applicants for the NEHA credential must satisfy minimum education and training requirements, pass a qualifying exam created and administered by NEHA, and pay the required fees. An applicant with a bachelor’s, master’s, or doctorate in environmental health is eligible to obtain the REHS/RS credential immediately upon passing the qualifying exam, with no further experience necessary. An applicant with a bachelor’s degree in a subject other than environmental health may sit for the exam if their coursework includes (1) at least 30 semester/45 quarter hours in basic sciences; and (2) an algebra or higher level math course. Upon passing the exam, an individual who demonstrates two years of experience working in environmental health qualifies for the REHS/RS credential. An individual who does not yet have the necessary experience may apply for “in-training” status and the REHS/RS-IT credential and must obtain two years of experience to transfer the registration to full credential status. NEHA allows an applicant three years to obtain the necessary experience under the in-training status.

NEHA advises that its review of applications for credentialing takes from four to six weeks, which is similar to the time required in Maryland. If NEHA determines that the applicant meets the minimum requirements, NEHA issues the applicant an admission ticket or voucher to allow the applicant to sit for the exam, either by paper or at a computer testing center. NEHA accepts a score of 68% on its qualifying exam as passing.

To maintain NEHA’s REHS/RS credential, an individual must renew the credential every two years by paying a fee and demonstrating completion of a minimum of 24 credit hours of NEHA-approved continuing education. Continuing education units (CEUs) may be submitted to NEHA for approval via mail or through its website.

NEHA also offers a tracking service to individuals who do not hold a current NEHA credential for a fee of \$7.50 per continuing education activity submitted. NEHA automatically provides a CEU approval and tracking service to credential holders free of charge.

NEHA has adopted a uniform code of ethics for individuals holding any of its credentials. An individual who violates this code may have their credential revoked by NEHA's board. NEHA advises that disciplinary complaints are very rare and, in the last five to six years, the board revoked only one credential.

NEHA offers credentialing reciprocity to individuals with a bachelor's degree with 30 semester/45 quarter hours in basic sciences; a valid, current state registration; and a score of 68% or better on the NEHA exam or a score of 70% or better on the PES exam, if the PES exam was taken before December 31, 1997.

NEHA's REHS/RS Credential Is Generally Comparable to Maryland's License

As shown in **Exhibit 4.1**, NEHA's minimum education and training requirements for the REHS/RS credential are similar to Maryland's requirements for licensure. Both require at least a bachelor's degree and certain minimum basic science and math courses. Both also generally require one to two years of additional training in an environmental health work setting. However, NEHA's course requirements are less specific, and training requirements are less stringent in certain circumstances. For example, NEHA does not require a person with a bachelor's, master's, or doctorate in environmental health to have any work experience before sitting for the qualifying exam, whereas Maryland requires at least one year of work experience for all applicants with only bachelor degrees and at least a three-month internship for individuals with a master's in public health and specified course work for their bachelor's degree.

Other differences between the programs include the amount of continuing education required and the licensing fees charged. NEHA's continuing education policy is more stringent, requiring 24 credit hours as opposed to the 20 hours required in Maryland. NEHA's fees are also higher than Maryland's fees over the life of the credential and license as shown in **Exhibit 4.2**, although the initial cost of obtaining the NEHA credential is greater than the initial cost of obtaining a State license. Currently, an individual would pay \$225 to obtain an environmental sanitarian license in Maryland (\$50 application fee + \$50 license fee + \$125 exam fee). Conversely, to obtain the initial NEHA credential, an individual would pay either \$285 (\$95 membership fee + \$55 application fee + \$135 exam fee) if the individual opted to become a member of NEHA or \$320 (\$85 application fee + \$235 exam fee) if the individual elected not to become a member of NEHA. To renew a license, a Maryland licensee would pay \$100 biennially. For the same biennial period, a NEHA credential holder would pay either \$315 (\$125 renewal fee + \$190 in membership fees) or \$325 if not a member of NEHA.

Exhibit 4.1
Comparison of Maryland Environmental Sanitarian License and
National Environmental Health Association REHS/RS Credential

Education/ Training	Maryland	NEHA
	<p>Option 1: Training: 12 months as a sanitarian-in-training (SIT); and Education: a bachelor's degree in environmental health or environmental science.</p> <p>Option 2: Training: 12 months as an SIT; and Education: a bachelor's degree in the physical, biological, or environmental sciences that includes (1) 60 semester credits of physical, biological, or environmental sciences, including one lab course in two of the following: chemistry, physics, or biology; and (2) a course in mathematics.</p> <p>Option 3: Training: 2 years as an SIT; and Education: a bachelor's degree that includes (1) 30 semester credits of physical, biological, or environmental sciences, including one lab course in two of the following: chemistry, physics, or biology; and (2) a course in mathematics.</p> <p>Option 4: Training: a 3-month internship; and Education: a master's degree in public or environmental health science that includes (1) 30 semester/45 quarter units of physics, biological, or environmental sciences, including one lab course in two of the following: biology, chemistry, or physics; and (2) a course in mathematics.</p>	<p>Option 1: Training: none. Education: a bachelor's, master's, or PhD in environmental health from a degree program accredited by the National Environmental Health Science and Protection Accreditation Council.</p> <p>Option 2: Training: two years of work experience in environmental health; and Education: a bachelor's degree from an institution accredited by the Department of Education or the Council for Higher Education that includes (1) at least 30 semester/45 quarter hours in basic sciences; and (2) an algebra or higher level math course.</p>

	Maryland	NEHA
Exam	NEHA or PES exam is accepted. Minimum pass score of 70% is required for either exam.	NEHA exam. Minimum score of 68% is required to pass.
CEUs	20 hours every 2 years.	24 hours every 2 years.
Reciprocity	N/A, though exam may be waived under limited circumstances.	A bachelor's degree with 30 semester/45 quarter hours in basic sciences, a valid, current state registration; and a score of 68% or better on the NEHA exam or a score of 70% or better on the Professional Examination Service (PES) exam provided it was taken before December 31, 1997.

Source: Department of Legislative Services, National Environmental Health Association

Exhibit 4.2
Comparison of Fees for Maryland Licensure as an
Environmental Sanitarian to NEHA REHS/RS Credential

	<u>Maryland</u>	<u>NEHA</u> <u>(Member/Nonmember)</u>	<u>Difference in</u> <u>Cost of</u> <u>NEHA Credential</u>
Membership Fee	N/A	\$95/year	\$95/year or \$190 for biennial cycle
Initial Application Fee	\$50	\$55/\$85	\$5/\$35
Initial License	\$50	N/A	(\$50)
Renewal Fee	\$100	\$125/\$325	\$25/\$225
Exam	\$125	\$135/\$235	\$10/\$110
License by Reciprocity	\$50	\$95/\$155	\$45/\$105

Note: An individual may obtain an optional annual NEHA membership, which affords the individual lower fees for licensure and examination, as well as access to a job bank, continuing education courses, and other professional resources. The exam fee paid by applicants for a Maryland license is a pass-through fee that is set by NEHA by contract with the board.

Source: Department of Legislative Services, National Environmental Health Association

The NEHA REHS/RS credential has some notable advantages over the Maryland license for environmental sanitarians. The REHS/RS is a more portable credential as it is recognized in 13 mandatory licensing states and 7 voluntary licensing states. In addition, NEHA carries out most of its work online, making the administrative process easier for credential holders with respect to renewals and submission of continuing education. NEHA credential holders who are also NEHA members have access to additional resources, including an online job bank, CEUs, professional resources and articles, and reduced admission prices and workshops.

The Department of Legislative Services' survey of county health officers included a general request for recommendations of alternatives to a State licensing program that would also ensure professionalism and protect public health. Four respondents specifically mentioned NEHA credentialing as an alternative. Several other respondents suggested alternatives to the State licensing regimen that would be satisfied by requiring individuals practicing in the field to hold the NEHA REHS/RS credential.

Individuals interviewed as part of this report generally indicated that the services offered by NEHA are comparable to those provided by the board at its current location at the Maryland

Department of the Environment, though several hoped changes in the location of the board might enable the board to offer more services.

Chapter 5. Conclusions and Recommendations

As stated at the outset, the objective of this report was to address three key issues: (1) whether Maryland should continue to license environmental sanitarians; (2) if State licensure continues to be appropriate, what, if any, changes are needed to increase the effectiveness and efficiency of the State Board of Environmental Sanitarians (BES); and (3) if State licensure is no longer necessary or appropriate, whether another structure is needed to protect the public. The Department of Legislative Services (DLS) concludes that, while credentialing of environmental sanitarians continues to be appropriate to protect public health, a State-administered licensing program is no longer necessary. Instead, the State should require environmental sanitarians to obtain the Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) credential issued by the National Environmental Health Association (NEHA) as a condition of employment.

Environmental sanitarians serve an important function in enforcing compliance with federal, State, and local health and environmental laws. The prevailing view among those contacted in the course of this evaluation is that licensure is a key part of preserving the high standard of professionalism among environmental sanitarians necessary to protect public health. However, the option of replacing BES and the State licensing program with a requirement that individuals working in the State as environmental sanitarians obtain the REHS/RS credential issued by NEHA has not been widely considered. DLS' evaluation of the board has shown that, despite the dedication of members of the board, the State-controlled licensure program provides little added value to protect public health beyond that offered by the NEHA REHS/RS credential. In addition, using NEHA's credential would reduce the administrative burden on the State and offer other advantages, described further below.

This chapter presents DLS' recommendation to repeal the State-administered licensing program and substitute a requirement that environmental sanitarians obtain the NEHA REHS/RS credential as a condition of employment. This chapter also describes an alternative, but not recommended, option of extending the termination date of the board and transferring the board to the Department of Health and Mental Hygiene (DHMH). DLS advises that the board should not be retained at its current location at the Maryland Department of the Environment (MDE).

Repeal the Board and Require a NEHA REHS/RS Credential as a Condition of Employment

DLS recommends that the General Assembly repeal the board and require individuals practicing as environmental sanitarians, as a condition of employment in the State, to obtain the REHS/RS credential issued by NEHA. Although individuals could be required to maintain the credential, which would entail paying the biennial renewal fee and completing 24 hours of NEHA-approved continuing education units (CEUs) during each renewal period, DLS recommends requiring individuals to obtain the credential, but not to maintain it. The benefit of

the latter approach is that individuals would have to demonstrate that they meet standard, stringent, basic qualifications to practice but would not be subject to NEHA's renewal or membership fees over time.

Credentialing by NEHA is appropriate for several reasons. The education, training, and examination standards required to obtain NEHA's REHS/RS credential are comparable to requirements to obtain a State license and thus consistent with stakeholders' concerns about maintaining minimum standards for practice. In addition, NEHA's administrative process is currently easier for credential holders than the board's process is for State licensees, as many services are available online, including CEU tracking. NEHA also has clear policies in place for its activities, including approving CEUs and responding to complaints on disciplinary matters. Additionally, NEHA's credential is accepted in at least 20 states, making the credential more portable than a State license.

The initial cost of obtaining the NEHA REHS/RS credential is greater than the current cost of obtaining a State license. However, the State currently subsidizes the licensing program, and the fees paid by environmental sanitarians would be significantly greater if sanitarians paid the full cost of licensure. In addition, requiring environmental sanitarians to obtain, but not maintain, the NEHA REHS/RS credential to practice in the State would limit additional costs and the exposure of practitioners to possible fee hikes.

Credential holders also have the option of becoming NEHA members by paying an additional fee. Members have access to professional resources at no cost or at a lower cost than the general public, including continuing education courses, conferences, a job bank, and professional literature.

Though NEHA is arguably not as well positioned as a State board to respond to State enforcement issues, the reality is that the board rarely exercises its enforcement authority and enforcement in the State is already carried out almost exclusively by employers, the majority of which are State and local government entities. Among Maryland's neighboring jurisdictions, only West Virginia maintains its own regulatory program for environmental sanitarians. Conversely, Delaware, Pennsylvania, Virginia, and the District of Columbia do not have licensing programs.

Additionally, although the DLS recommendations are based on the analysis of the board's functions and performance rather than costs savings, DLS notes that eliminating the board could result in, at best, minimal net savings to the general fund compared to continued maintenance of BES at MDE. As shown earlier in Exhibit 3.1, the board generates approximately \$82,000 biennially in fee revenues that will no longer be deposited into the general fund. That loss of fee revenue would ordinarily be offset by the benefit of eliminating the general fund subsidy that has been necessary to cover the biennial gap between the board's revenues and costs, and which is expected to equate to approximately \$41,000 annually by fiscal 2013 and 2014. However, the personnel costs that have been attributed to BES have

constituted the major portion of the board's expenses and, because the board shares staff with two other boards (State Board of Waterworks and Waste Systems Operators and State Board of Well Drillers), general fund expenditures associated with those staff would likely continue. Savings could be realized if MDE were to redirect the personnel time associated with the two affected positions to alternatively funded (special or federal fund) purposes or convert those positions to part-time status consistent with their current time allocation to the other boards. If those positions are maintained on a full-time basis for the benefit of the other MDE boards without any new funding source, then the annual subsidy from the general fund increases to approximately \$72,000 in fiscal 2013 and 2014 due to loss of BES fee revenue. Thus, any savings is negligible at best and is contingent on how the positions are used and funded in the future.

DLS further notes that employers use the statutory definition of "practice as an environmental sanitarian" and the list of exemptions to determine which employees must be licensed under the current statutory structure. If environmental sanitarians are required to obtain the NEHA REHS/RS credential as a condition of employment instead of a State license, employers will continue to need a means of determining to whom the statutory requirement applies. In the interest of clarity, DLS recommends initially basing the new statute on a similar definition, revised to incorporate the recommendation of the Long Term Environmental Health Workforce Work Group of the Environmental Health Liaison Committee (EHLC Work Group) to redefine the profession of environmental sanitarian as environmental health specialist, and the current list of exemptions. Because of ongoing concerns about the number and appropriateness of the statutory exemptions, however, DLS also recommends requiring DHMH, in consultation with MDE, the Department of Natural Resources, the Maryland Conference of Local Environmental Health Directors, and the Maryland Association of County Health Officers, to develop recommendations for revising the exemptions.

Moreover, although individuals entering the profession would have to obtain the NEHA REHS/RS credential, individuals who are currently licensed in the State but who do not already have the NEHA REHS/RS credential should be grandfathered. Sanitarians-in-training who qualify for State licensure prior to the repeal of the board should be licensed so that they qualify for employment with no need to obtain additional credentialing. The State would have to maintain a list of individuals who have been licensed by the board in order to provide a means for employers to confirm the license history of potential employees.

Recommendation 1: Statute should be amended to repeal the State Board of Environmental Sanitarians and the requirement for a State license. Instead, statute should require individuals practicing the duties of an environmental sanitarian in the State to obtain, but not maintain, a NEHA REHS/RS credential. Statute should incorporate the recommendation of the EHLC Work Group to redefine the profession of environmental sanitarian as environmental health specialist. Employers should be required to verify that employees carrying out the duties of environmental sanitarians have obtained the necessary credential. Any current State licensees who do not hold the NEHA REHS/RS

credential and any sanitarian-in-training certificate (SITC) holders who are issued a State license before the enactment date should qualify for employment without having to obtain a NEHA REHS/RS credential. However, any SITC holders who have not yet obtained State licensure would need to obtain the NEHA REHS/RS credential instead.

Recommendation 2: Statute should be amended to require DHMH to maintain a list of individuals who have held State licenses, through which employers can confirm appropriate credentialing of staff who qualify to practice as an environmental sanitarian on that basis and thus would not need to obtain a NEHA credential. MDE should be required to provide DHMH with the board's files, both electronic and hard copy, so that DHMH can maintain this list.

Recommendation 3: DHMH should be required, in consultation with MDE, the Department of Natural Resources, the Maryland Conference of Local Environmental Health Directors, and the Maryland Association of County Health Officers, to develop a new framework for the statutory exemptions, based on job duties rather than job titles, to ensure that individuals performing similar duties related to protecting public health are regulated uniformly. DHMH should report to the General Assembly by October 1, 2013, on its recommendations and submit departmental legislation at the 2014 session to revise statute accordingly.

Statute Should Require Ongoing Continuing Education as an Additional Condition of Employment

As noted above, NEHA requires REHS/RS credential holders to take 24 hours of NEHA-approved CEUs biennially to maintain the credential. In Maryland, licensees are required to take 20 hours of board-approved CEUs biennially to maintain licensure. Survey respondents and other individuals contacted as a part of this evaluation have indicated that CEUs are an important part of maintaining the professionalism of practitioners and protecting public health, particularly as the field changes rapidly. Further confirmation of the importance of CEUs is the near-universal CEU requirement among other mandatory licensing states. Maryland is in the middle in terms of the total CEU hours required.

Statute should maintain the current 20-hour CEU requirement for individuals practicing as environmental sanitarians in the State. However, CEUs should be tracked by NEHA rather than left to the discretion of the employer to ensure consistent application of the CEU requirement. NEHA's current charge of \$7.50 to review each CEU submitted for approval by individuals who do not hold a current credential could result in a biennial fee of \$150 at most – a sum that is significantly less than NEHA's renewal fee of \$315 for members and \$325 for nonmembers, though more than Maryland's current \$100 renewal fee. As noted above, however, the State currently subsidizes the licensing program, and sanitarians do not pay fees reflecting the full cost of licensure.

In addition, statute should require employers to confirm that their environmental sanitation employees have completed the required CEUs on a timely basis. Although this verification requirement may impose a greater responsibility on employers to track their employees' compliance than exists under the current statutory structure, the greater onus will continue to rest on the individuals who must submit proof of CEU completion to their employers. As discussed above, under the current State regulatory framework, all environmental sanitation licenses expire on June 30 of odd-numbered years; the board renews licenses only if sufficient CEUs are submitted and approved; and employers need only confirm the renewal of their employees' licenses. Under NEHA's provisions the credential period and the corresponding biennial period for CEU submission begin on the first day of the month following the date an individual took the examination. As a result, employers may have to check on employees' compliance with CEU requirements at multiple times throughout the year rather than once biennially as under the current State license renewal process.

Recommendation 4: Statute should be amended to require individuals performing the duties of an environmental sanitation to complete 20 hours of continuing education every two years, to submit these hours to NEHA for approval and tracking, and to submit confirmation of the approvals to their employers. In addition, statute should require employers to confirm on a biennial basis that their employees are in ongoing compliance with the continuing education requirements.

Though Not Recommended, Board Could Be Transferred to DHMH

At its current location at MDE the board is not able to provide the level of services sought by board members, licensees, and employers, including exam preparation, recordkeeping, continuing education resources, and enforcement support. Thus, retention of the board at MDE is not a viable option. Indeed, retention of the board at another location is questionable. Even so, if the General Assembly elects to maintain a State-run licensing program for environmental sanitarians, the General Assembly should transfer the board to DHMH. This alternative would be more appropriate than maintaining the status quo for several reasons. The public health mission of DHMH is germane to the work of the board, and most of the regulated community is employed by DHMH and local health departments. Nationwide, boards with similar functions are most commonly located in state health departments. There has been wide support within the environmental health community for transferring the board to DHMH, as indicated by almost all survey respondents and individuals interviewed as part of this evaluation, as well as the recommendation of the EHLC Work Group, an interagency committee consisting of representatives of MDE, DHMH, county health officers, and county environmental health directors that studied the appropriate placement of the board. It is notable though that the option of replacing the board and State licensing program with a NEHA credentialing requirement was not on the table when the EHLC Work Group made its recommendation or specifically considered in the DLS survey questions. More generally, by transferring the board to DHMH, Maryland would maintain control over the basic licensing requirements, fees, and enforcement.

If the board is transferred to DHMH, the board could have a dedicated half-time administrator and shared information technology, legislative/regulatory, and fiscal staff. The board would also have greater control over its web content and be able to offer online services.

Individuals contributing to this evaluation have suggested changing the board from being general funded to special funded as a means to provide more independence for the board and to garner support for the move between the relevant agencies during this challenging fiscal economic climate. Although most health occupations boards are special funded, in this instance special funding poses challenges primarily due to the low number of licensees and the current fee structure. If the current level of licensees remains steady, the board would need to raise the renewal fee significantly to cover the anticipated gap between revenues and expenditures. If the number of licensees continues to fall as it has over the last decade, this gap will grow, requiring even higher fee increases. Moreover, higher fees would place a heavy burden on licensees who generally work for modest wages as public employees and who have already surmounted high barriers to entry into the profession, including stringent educational and experience requirements that take several years to achieve. General funding for the board would continue to be appropriate if the board were moved to DHMH because the vast majority of environmental sanitarians are State and local employees who provide a critical public service at a relatively minimal cost to the general fund. Moreover, absent the board as a “credentialing” body, the State and local governments as the primary employers of environmental sanitarians would have to take a more active role in ensuring the qualifications of environmental sanitarians. Thus, transferring the board to DHMH and retaining it as a general-funded board could be an effective means of protecting the public health through credentialing environmental sanitarians.

If the General Assembly elects to transfer the board to DHMH, the transfer should be made effective July 1, 2012, in order to facilitate the improvement of services as soon as possible. In addition, because the biennial collection of renewal fees, the board’s major source of funding, will not recur until the end of fiscal 2013, MDE and DHMH should cooperate in achieving the associated transfer of funds for the operating budget for fiscal 2013, including a supplemental budget request if necessary. However, the termination date of the board should be extended only four years (or two license renewal cycles). This would allow DLS to review the activity of the board in its new location on an expedited basis to determine whether the transfer has brought the anticipated benefits. If the transfer has not resulted in any benefits, the General Assembly should reconsider its decision to maintain a licensing board by replacing the licensure requirement with the NEHA credential for employment in Maryland.

DLS advises that transferring the board to DHMH under this scenario would continue to have an impact on the general fund as discussed in **Appendix 7**. In addition to the impact associated with eliminating the board at MDE (described above), the amount of the general fund subsidy at DHMH would be approximately \$35,000 biennially in the first few years of operation.

If the General Assembly decides to maintain a board, DLS advises that the following measures should be taken:

- **Amend statute to transfer the board to DHMH, retain the general funding of the board, make the administrative changes necessary to align the statute with the statutes governing other health occupations boards and incorporate the EHLC Work Group recommendation to rename the board the State Board of Environmental Health Specialists.**
- **Maintain all licenses and certificates held before the transfer in effect for their full two- or three-year period.**
- **Extend the termination date of the board by only four years to expedite the scheduled review of the board.**
- **Amend statute to authorize the board to (1) with the support of an applicant's employer, allow all applicants to sit for the qualifying exam after only one year in a sanitarian-in-training program; and (2) make substitutions for equivalent coursework on a case-by-case basis.**
- **Require the board to adopt regulations that repeal the requirement for applicants to submit a study plan after three attempts to pass the qualifying exam. Encourage the board to focus instead on providing uniform exam preparation resources to applicants, including, if resources allow, an in-person course similar to "Principles of Environmental Health."**
- **Require the board to adopt regulations that lower the required exam pass rate to 68% for the NEHA exam to conform to the national standard for that exam (rather than retaining a single higher standard associated with an alternative qualifying exam).**
- **Require the board to adopt regulations incorporating its continuing education policies and update its regulations as necessary, so that licensees are given proper notice of board policies and processes. Encourage the board to follow through on its plan to appoint a subcommittee to address matters relating to continuing education.**
- **Encourage the board to complete an adequate disciplinary policy, which includes a plan for more uniform and complete recordkeeping. Require the board to keep, at a minimum, for each charge, a record of the date the charge was received, the specific allegations of the charge, any written evidence reviewed by the board in evaluating the charge, the action of the board, an explanation of the basis for the board's action, and the date the board took the action. Require the board to keep an electronic record of which licensees have faced disciplinary charges so that it is possible to determine which licensees have had charges brought without pulling the hard copy files of every licensee.**

- **Revisit a mandatory reporting requirement for employers that complements the new disciplinary policy as part of the next sunset evaluation of the board.**
- **Require the board, before the next sunset evaluation, to work with the Maryland Association of County Health Officers and the Maryland Conference of Local Environmental Health Directors to develop a new framework for the statutory exemptions, based on job duties rather than job titles, to ensure that individuals performing similar duties related to protecting public health are regulated uniformly.**
- **Encourage the board to reinstitute a work group structure or other method to divide the work of the board to ensure that board members are not underutilized and that more than one project of the board can be addressed at one time.**
- **Encourage the board to prioritize restoring its website and ensuring that the website is current and user friendly.**
- **Encourage the board to use resources available at DHMH to create an online submission option for continuing education credits and renewal applications.**
- **Encourage the board to work with the Maryland Higher Education Commission, educational institutions, and employers at local health departments to improve the academic preparation of candidates for licensure and assist with recruitment and retention efforts.**
- **Encourage the board to take advantage of training provided by DHMH for new board members and provide an orientation for new members that includes a discussion of the board's primary activities and printed copies of all of the board's policies and the statutes and regulations governing the board. Make a copy of these materials available at all board meetings for reference.**
- **Encourage the board to improve staff oversight to ensure that board policies are being implemented.**

Appendix 1. Maryland State Board of Environmental Sanitarians Membership and Staff

<u>Name</u>	<u>Title</u>	<u>Interest Represented</u>	<u>Term</u>
Robert Sheesley	Chair	Private industry	7/1/2009 through 7/1/2014
Veronica Moore	Vice Chair	At large	7/1/2010 through 7/1/2015
Gail Lynn Kelley	Member	At large	7/1/2009 through 7/1/2014
Mary Veal	Member	Consumer	7/1/2011 through 7/1/2016
Karen Brandt	Member	Consumer	7/1/2010 through 7/1/2015
Gwendolyn John	Member	Department of Health and Mental Hygiene	7/1/2010 through 7/1/2015
William Peterson	Member	Maryland Department of the Environment	7/1/2003 through 7/1/2008; 7/1/2008 through 7/1/2013
Bert Nixon	Member	Local health department (employed under the State Personnel System)	7/1/2011 through 7/1/2016
Juan Gutierrez* <i>Resigned</i>	Member	Local government	7/1/2007 through 7/1/2012

Staff: E. Lee Haskins, Environmental Sanitarian Board Administrator (part-time); Patricia Kratochvil, Administrative Officer (part-time); and Jacqueline Russell, J.D., AAG, Board Counsel

*The local government member has resigned; he had been appointed to complete the term of a previous member.

Source: State Board of Environmental Sanitarians

Appendix 2. Summary of Responses to the DLS Survey of County Health Officers on the State Board of Environmental Sanitarians

**State of Maryland
Department of Legislative Services
Maryland General Assembly**

**Survey of County Health Officers on the
State Board of Environmental Sanitarians**

The Department of Legislative Services (DLS) is undertaking a program evaluation of the State Board of Environmental Sanitarians (board) on behalf of the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee of the Maryland General Assembly. As part of this review, DLS is conducting a survey of County Health Officers in the State.

The following questions primarily concern the nature of employment of registered environmental sanitarians in the State; the role of employers in ensuring the professionalism of sanitarians; and the purpose, duties, and operation of the board. Please take a few moments to fill out this survey or direct this survey to the appropriate person within your department with knowledge in this area. Your responses are important to us as they will provide critical context and perspective on the board and the environmental sanitation profession in the State. Although the survey appears to be lengthy, most of the questions simply require a “yes” or “no” answer and/or short explanation.

Your responses will not be attributed to you by name, and the completed survey forms will *not* be shared with the board or any other State agency. Generally, all data will be aggregated for presentation.

If you have any questions, please contact Elisa Ford or Kathy Selle at (410) 946-5350 or (301) 970-5350.

We would appreciate receiving your completed survey by August 1, 2011. If you need additional time, please contact us. Please email, fax, or mail your responses to:

Elisa Ford and Kathy Selle, Policy Analysts
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401
Fax: (410) 946-5395/ (301) 970-5395
elisa.ford@mlis.state.md.us
kathryn.selle@mlis.state.md.us

I. Contact Information

Please provide the following information for the person you would like us to contact in the event that we have any follow-up questions:

Name and Title	
Phone Number	
Email Address	

II. Background

Please fill in the blanks below with the requested information.

1. Your name and job title (if different than above): *(Please specify)*

Name	Job Title/ Number of Responses
All 24 jurisdictions responded, with 2 responses from Baltimore County departments that employ sanitarians; thus, the number of responses generally sums to 25	5 – Health Officer 15 – Environmental Health Director/Chief/Division Manager 1 – Environmental Sanitarian Director 1 – Division Administrative Director 1 – Groundwater Management Supervisor 1 – Sanitarian 1 – Licensure & Regulatory Services Manager, County DHHS

2. Name of the health department that you represent and number of years there: *(Please specify)*

Name of Health Department	Number of Years
	Varies from 4 to 37 years: 5 – Fewer than 10 years 7 – 10 to 20 years 8 – 20 to 30 years 5 – More than 30 years

3. How many sanitarians-in-training and/or registered environmental sanitarians are employed by your department? *(Please specify a number for each category of employee.)*

Type of Employee	Number
Sanitarians-in-training (SIT)	15 – 0 SITs 4 – 1 SIT 1 – 2 SITs 3 – 3 SITs 2 – 4 SITs

Registered Environmental Sanitarians	11 – Fewer than 10 8 – 10 to 20 4 – 20 to 30 1 – 30 to 40 1 – Over 40 Note: 4 respondents noted that 2 to 3 positions are currently vacant
--------------------------------------	---

4. Do you anticipate any attrition in the number of registered environmental sanitarians employed by your department? *(Please mark one and provide additional details as appropriate.)*

Yes <i>(please describe why; e.g., retirement, budget cuts, etc.)</i>	11 respondents expect attrition, 10 due to retirement; other reasons include budget cuts, change of profession, and lateral moves
No	12 responses
Other	2 responses noting that attrition will depend on budget situation

5. What is the typical profile of the sanitarians-in-training and registered environmental sanitarians employed by your department? *(Please complete the table below. For each job title, please specify the range of grades, total number employed in that capacity, approximate split between county and State employees, and approximate split between regular and contractual employees. Please also specify the total number of employees in your department in the last row.)*

Job Title ¹	Range of Grades ²	Number Employed	Employee Split		Employee Split	
			County	State	Regular	Contractual
Sanitarian-in-Training/Sanitarian I	12, 13	19	4	15	17	2
Environmental Sanitarian I, II, III	14, 15, 16	131.4	43	88.4	130	1.4
Env. San. Supervisor/ Program Supervisor/ Public Health Nurse	16, 17	59	12	47	59	
Env. San. Manager/ San. Program Supervisor/ Assistant Director	18, 19	11	2	9	11	
Env. Health Director/ Dep. Director/ Env. San. Director	20, 21	13	3	10	13	
Deputy Health Officer	22	1		1	1	

¹Some respondents specifically included director and deputy director, some specified that they were not included, and others gave no indication.

²Baltimore City and Baltimore, Montgomery, and Prince George's counties use different classification systems and together employ approximately 120 environmental sanitarians.

Other classification system		120	120		120	
Total Number of Individuals		354.4	184	170.4	351	3.4
Total Number of Jurisdictions			7 jurisdictions exclusively and 2 split ³	16 jurisdictions exclusively and 2 split ³	25 ⁴	

6. Which of the following are the main focuses of the work of the sanitarians-in-training and registered environmental sanitarians employed by your department? (*Please mark all that apply for each type of employee and specify others as appropriate.*)

Purpose/Duty	Regular⁵ Employees	Contractual⁵ Employees
a. Manufacture, preparation, handling, distribution, or sale of food and milk	23	
b. Water supply and treatment	20	2
c. Wastewater treatment and disposal	22	1
d. Solid waste management and disposal	16	
e. Vector control	24	
f. Insect and rodent control	21	
g. Air quality	17	
h. Noise control	3	
i. Product safety	6	
j. Recreational sanitation	22	2
k. Institutional and residential sanitation	16	
l. Other (<i>please specify</i>): duties include nuisance complaints, Geographic Information Systems, lead paint, plan review, emergency response, sludge application inspections, Calvert Cliffs drill procedures, underage tanning complaints, psittacine bird permits, mobile home park licenses, transient non community program, rabies	15	

³In Allegany County, the sanitarians working in food and water/sewer are 50% State/50% county employees; the sanitarians working in community hygiene are 100% county employees. In Anne Arundel County, 46 of the registered sanitarians and sanitarians-in-training are county employees and 7 are State employees.

⁴All sanitarian employees are regular with the exception of one contractual SIT in Charles and Anne Arundel counties; one full-time contractual registered sanitarian in Harford County; and one part-time contractual registered sanitarian in Garrett County. Two counties indicated that they also employ contractual environmental health aides.

⁵Numbers indicate total respondents with environmental sanitarian employees carrying out specified functions.

III. Licensure

A. Licensure Requirement

7. In your opinion, should individuals be required to be licensed by the State to practice as registered environmental sanitarians? *(Please mark one and specify why or why not as appropriate.)*

Yes <i>(please specify why)</i>	22 responses indicated support for various reasons, including to maintain the required level of education, skills, ethical standards, and professionalism to perform the job duties (20); to ensure that individuals keep current on changes in the profession, including new laws, regulations, and practices, and with scientific and technical advances (8); accountability (2); professional credibility (3); consistency (1); to mitigate organizational fragmentation (1); and because codes and regulations and their enforcement vary from state to state (1)
No <i>(please specify why not)</i>	1 response noted that only NEHA REHS/RS should be required
Other	1 respondent did not answer 1 respondent stated both yes and no, explaining that while more technical inspections and investigations require a higher level of education, knowledge and a license, some jobs can be taught and do not require college or a license

8. If registered environmental sanitarians were not required to be licensed what, if any, alternatives exist or would you recommend to ensure the professionalism of practitioners and to protect public health? *(Please specify below.)*

<p>22 responses encompassing the following comments and recommendations:</p> <ul style="list-style-type: none"> 2 – There is no alternative 1 – Difficult to ensure professionalism without licensure 1 – Would result in lower standards and less consistent training opportunities 2 – Expressed concern about private sector 2 – Don't know 4 – National registration/certification such as NEHA REHS/RS (1 respondent stated "Not my recommendation - just a potential alternative") 2 – Combination of education, experience, examination qualifications similar to current requirements 4 – Minimal educational requirements, including college degree and science courses 2 – Mandatory qualifying exam/testing 1 – Public health and code enforcement experience 2 – State/HR could establish job qualifications (1 added that ethical violations would need to be covered under State discipline procedures which may not be as effective as loss of license) 3 – Require continuing education credits, possibly increase requirement 1 – Development, coordination, and dedicated funding of mandatory training programs for orientation and continuing education 1 – Only viable alternative would be to require professional engineers to do the work, but would place enormous financial hardship on homeowners 1 – Reclassify sanitarians as regulatory and compliance engineers (3 respondents did not answer)

9. What, if any, documentation does your department require employees to provide of appropriate certification (for sanitarians-in-training) or licensure (for registered environmental sanitarians)? *(Please specify below.)*

All require board-issued SIT certificate, registered sanitarian licensure, proof of continuing education units

B. Exemptions to the Licensure Requirement

State law exempts many individuals from the requirement to obtain a license to practice as an environmental sanitarian. *(See Appendix A, attached to the end of the survey, for the list of exemptions.)*

10. In recent years, has your department had difficulty determining whether a specific position requires licensure or is exempt under the law? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe the position and the outcome)</i>	1 response
No	24 responses, including: Several – stating that they require licensure for all employees 1 – noting that State job classifications contain adequate information, but it would be more advisable to list exemptions by function or service performed rather than by arbitrary job titles
Unknown	0

11. In your opinion, should any of the statutory exemptions be repealed or clarified? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	9 responses, including: Several – noting that some exempted job classifications may have similar job responsibilities and it should be clarified that anyone performing duties similar to a sanitarian should be licensed/registered (specifically noted: paraprofessional personnel; persons employed by MDE who perform duties for oil pollution control; MDE compliance specialists who work in areas of water, wastewater, solid waste, hazardous waste, or air quality) 1 – supporting exempting related professionals that have other licensure requirements 1 – supporting listing exemptions by function/service performed rather than job title 1 – noting that the board is appointed to make that decision
No	13 responses including 1 that noted an individual performing sanitarian job duties should not be exempt
Other	1 response indicated no opinion, but noted more advisable to list exemptions by function rather than title 2 respondents did not answer

12. In your opinion, should any new exemptions be added? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	4 responses encompassing recommendations to accept NEHS REHS/RS as a substitute; list exemptions by function or service rather than by job title; accept multiyear experience outside the State with documented high level expertise in a specialized field
No	19 responses
Other	1 respondent noted that it would be easier to more closely define when a license is required rather than list exemptions 1 respondent did not answer

C. Education/Training

The statute governing licensure of environmental sanitarians sets out specific, stringent educational and training requirements for candidates. The board has limited discretion to license candidates with alternative experience/training.

13. In recent years, has your department had difficulty **recruiting** qualified candidates for environmental sanitarian positions? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	11 responses, with several indicating compensation/salary issues; candidates' lack of required education/credentials; lack of promotional opportunities; out-of-state transfers with NEHA certification do not want to work as sanitarians-in-training; limited number of candidates on eligible list (prior to past year economic situation)
No	13 responses (1 noted that answer could change because in past recruited graduates of Salisbury University program that has been discontinued)
Unknown	1 response (but noted some difficulty due to salary)

14. In recent years, has your department had difficulty **retaining** qualified candidates for environmental sanitarian positions? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	15 responses encompassing compensation/salary issues; travel expenses; lack of promotional opportunities; heavy workload; leave to work in federal, state, or other local governments, or private sector; leave environmental health field; spouse transfer; SITs fail to pass exam
No	10 responses
Unknown	0

15. Would you or your department support altering the statutory educational and/or training requirements for licensure to create more pathways to licensure, including modifying the current sanitarian-in-training structure? *(Please mark all that apply and provide additional detail as appropriate.)*

Yes, by giving the board broader authority to waive existing education and training requirements. <i>(Please describe)</i>	10 responses encompassing support for allowing the board to accept experience and licensure from other jurisdictions and NEHA; substitute other courses, training or relevant work experience for some course requirements; allow shorter SIT time with demonstrated proficiency; put more emphasis on computer and communications skills; approve applicants with experience in a specific field to work in only that field
Yes, by changing the statute to make the requirements more general. <i>(Please describe)</i>	6 responses encompassing support for changing the statute to allow other physical sciences; credit for other work-related experiences; more emphasis on computer and communications skills (1 respondent also suggested creating a training program for SITs)
Yes, by some other means. <i>(Please describe)</i>	1 response (allow board to shorten SIT time based on performance)
No	11 responses (1 respondent did not answer)

D. Continuing Education

In order to maintain a valid license to practice as a registered environmental sanitarian, State law requires sanitarians to obtain 20 hours of board-approved continuing education during each two-year license renewal cycle.

16. Does your department require employees to keep the department apprised of the status of the employees' completion of these credits? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	20 responses
No	5 responses

17. Has your department ever suspended or taken other action against an employee for failing to obtain the continuing education hours required to maintain licensure? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	3 responses, including 1 that noted the action was taken due to employee's inability to pass the exam
No	22 responses

- 18.** Based on your experience, how, if at all, can the board improve communication with employers relating to continuing education? *(Please specify below.)*

22 responses including 2 stating that the board is doing a satisfactory job now; 2 indicating there is no need to improve communication; and others suggesting that the board:

- 6 – Report CEU status to employers (LHDs) periodically/annually/semi-annually
- 3 – Provide more information about upcoming pre-approved training to all sanitarians and employers and via website and email
- 2 – Provide information about low- and no-cost training opportunities
- 2 – Provide more training opportunities
- 3 – Keep the website list of approved courses up-to-date (although 1 noted that the board does a good job of posting approved training and another noted the board's efforts to improve communication via its website)
- 1 – Keep a separate list of regularly occurring approved courses
- 2 – Establish an online database for CEUs accessible to registered sanitarians and/or employers
- 1 – List CEUs on website
- 1 – Report CEUs directly to all registered sanitarians by email
- 1 – Offer online training
- 1 – Design a core curriculum by establishing an affiliation with a professional education provider to sponsor training
- 1 – Send resource and referral information to LHDs on a defined timeline
- 1 – Create website for businesses, education, and training facilities to post information about training opportunities
- 1 – Increase accuracy

(3 respondents did not answer)

IV. Discipline

The board handles relatively few disciplinary matters. It is unclear whether there are few instances of issues, underreporting of charges, or if such matters are handled in other ways.

- 19.** Are you aware of any serious disciplinary matters (worthy of probation, suspension, termination, etc.) that have arisen in your department concerning registered environmental sanitarians? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	<p>8 responses, including:</p> <ul style="list-style-type: none"> 1 – advocating board review of cases such as one they had when an individual charged with fraudulent reporting resigned before paperwork was filed 1 – stating not sure would ever make another disciplinary referral to the board because the board took no action on a case the county reported, the process was demanding and lengthy, and the sanitarian went to another LHD to perform similar duties 1 – board did not investigate when county referred termination to board for consideration of action on license 2 – noting cases were not license related
No	17 responses

- 20.** When serious disciplinary matters arise with the registered environmental sanitarians employed by your department, how are they handled? *(Please mark all that apply and provide additional detail as appropriate.)*

Internally as personnel matters	23 responses, including several indicating that there have not been any serious disciplinary matters
Report to board/seek board advice	11 responses, including: 3 – indicating would report only in specified instances (when the issue involves a violation of the employee’s license, if the employee is terminated, and if case involves ethical violations) 1 – noting that sharing of information with the board is not easy and the board has had difficulty seeing its role 1 – noting that past disciplinary issues have not been investigated by the board
Other <i>(please describe)</i>	2 responses indicated that type of action would depend on seriousness of matter

- 21.** Would you or your department support a law requiring employers to report disciplinary matters relating to environmental sanitarians to the board? *(Please mark all that apply and provide additional detail as appropriate.)*

Yes, for all serious disciplinary matters. <i>(Those worthy of probation, suspension, termination, etc.)</i>	14 responses, including 2 supporting a reporting requirement particularly when an action results in termination and 1 stating that the board should be aware of all disciplinary matters regardless of subject
Yes, for disciplinary matters relating specifically to the requirements for licensure.	18 responses
Yes, for disciplinary matters relating specifically to public health. <i>(Falsified test results, failure to follow proscribed procedures, etc.)</i>	13 responses
Yes, for other matters. <i>(Please specify)</i>	4 responses, including 1 specifying criminal charges and ethics violations and 1 indicating “not sure”
No	2 responses

V. Board Operations

In 2009, the Environmental Health Workforce Work Group of the Maryland Environmental Health Liaison Committee recommended moving the board from the Maryland Department of the Environment (MDE) back to its original location in the Department of Health and Mental Hygiene (DHMH). In 2011, the board supported legislation that would have implemented that recommendation. Similar legislation is expected to be proposed in 2012.

22. In your opinion, what is the best location for the board? (*Please mark one and explain the reason for your choice.*)

MDE	0
DHMH	20 responses stating various reasons encompassing logical location; mission of DHMH and sanitarians is protection of public health; majority of sanitarians are employed by DHMH/LHDs; practicality; workforce workgroup recommendation; Conference of Local Environmental Health Directors support; public health focus aligned with DHMH boards; staff support; shared resources; more likely to get necessary legal and administrative support
Other (<i>please specify</i>)	1 response – not clear on benefits of one vs. the other; not sure that it really matters 1 response – a private board housed within DHMH for administrative and budgetary purposes 1 response – dissolve the board and substitute registration overseen by NEHA 1 response – an executive branch affiliation keeping MDE and DHMH involved with the board 1 response – location is not important, support for the board is what matters

23. The board is currently considering raising the renewal fee for registered environmental sanitarians. Under which circumstances, if any, do you believe there would be support among registered environmental sanitarians in your department for an increased renewal fee? (*Please mark all that apply and provide additional detail as appropriate.*)

To enable the board to move to DHMH.	10 responses encompassing to maintain budget neutrality and allow for more independent management of resources; to provide additional support/services for web-based services, training, CEUs
For increased staff support.	11 responses encompassing improved efficiency; additional training provided free or at minimal cost; legal action against practitioners lacking proper qualifications/registration; to create a specialist classification
For other purposes. (<i>Please describe; e.g., to support software upgrades, web-based services, or other, etc.</i>)	8 responses encompassing software upgrades; website upgrade and more web-based services; additional test preparation resources; professional ethics course; marketing profession to college students; making board budget neutral/making fees reflect budget needs
I do not have any knowledge of support for increased fees for any reason at this time.	11 responses encompassing lack of services provided or proposed; employees also registered through NEHA; unnecessary hardship; current economic situation; not for move

- 24.** What, if any, additional assistance do you think would be helpful for the board to provide to registered environmental sanitarians or to employers? *(For example, study materials for the National Environmental Health Association examination, guidance relating to continuing education, etc. Please specify below.)*

22 responses, including 3 stating none at this time and others suggesting:

- 6 – Provide more information online, including study materials for exam, guidance for continuing education, training opportunities
 - 13 – Develop/provide training/study materials for NEHA exam
 - 5 – Provide more training opportunities; provide board/DHMH-sponsored training; partner with JHU or others to develop standardized training
 - 4 – Provide guidance on CEUs
 - 2 – Provide web-based training
 - 1 – Need more colleges/universities offering degree programs in environmental health
 - 1 – Board assistance with salary and advancement opportunity issues at LHDs
 - 1 – Remove cap on online CEUs
 - 1 – Compile list of completed CEUs with approved hours for each registered sanitarian
 - 1 – Provide/require professional ethics course prior to licensure
- (3 respondents did not answer)

- 25.** Do you have any additional suggestions for improving board structure or operations? *(Please mark one and provide additional detail as appropriate.)*

Yes <i>(please describe)</i>	10 responses, including 1 stating “The Board has always done an excellent job;” 1 advocating legislative support for enabling quicker regulatory and statutory submittals; and others suggesting that the board: <ul style="list-style-type: none"> – Provide for online submission of training and links to training (website similar to NEHA’s); more information online; web-based training – Phase in fee increase along with increase in services/support – Investigate all referred potential disciplinary actions – Include more practicing sanitarians – Ensure all key positions are filled – Copy SIT sponsor with all correspondence sent to SIT – Provide better accounting of training credits when turned in to board – Not cap online CEUs – Provide peer review
No	13 responses (2 respondents did not answer)

VI. General

26. Is there anything else you or the department would like us to know? (*Please mark one and provide additional detail as appropriate.*)

Yes (<i>please describe</i>)	4 responses, encompassing the following information and suggestions: the board and licensure were part of a strategy to upgrade and standardize the profession and increase compensation levels (see the EHLC Workforce Workgroup report and the JHU Profile of Maryland Public Health Practice); system that ranks RNs at higher pay grades than registered sanitarians is inequitable and should be studied and adjustments made to the sanitarian pay scale; the board should provide a receipt when CEUs are received and approved; and the respondent's staff feels that an increase in license fees is not palatable based on the current economic atmosphere and the level of service they receive
No	17 responses, including 1 stating, "No, the board has always done an excellent job." (4 respondents did not answer)

27. Is there anyone else that you would recommend that we contact as part of our evaluation? (*Please mark one and provide additional detail as appropriate.*)

Yes (<i>please specify</i>)	1 response recommended the Maryland Conference of Local Environmental Health Directors, CASA, and the Maryland Association of Sanitarians
No	18 responses (6 respondents did not answer)

Please attach any additional information you would like us to consider.

Thank you for your time and assistance.

Appendix 3. Statutory Exemptions from the Licensure Requirement in Maryland

The following individuals are exempt under the Maryland Environmental Sanitarian Act from the licensure requirement:

- a sanitarian-in-training;
- a student participating in a field experience as part of an educational program;
- an applicant for licensure in accordance with § 11-304(b)(5) of the Environment Article; and
- a qualified individual in any of the following job classifications:
 1. industrial hygienists as defined by the American Industrial Hygiene Association;
 2. certified industrial hygienists and industrial hygienists-in-training as defined by the American Board of Industrial Hygiene;
 3. health planners or natural resource planners;
 4. building and housing inspectors;
 5. geologists;
 6. chemists;
 7. meteorologists;
 8. laboratory scientists;
 9. professional engineers who are licensed in this State under Title 14 of the Business Occupations and Professions Article and whose professional activities are normally included in § 11-101(e) of this the Environment Article;
 10. public health engineers and water resources engineers employed by the State or a local subdivision;
 11. hydrographers and hydrographic engineers;
 12. natural resources managers;

13. natural resources biologists;
14. program administrators, administration directors, administrators, administrative officers, and administrative specialists;
15. paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data;
16. persons employed by the Department of Natural Resources or related county departments who perform duties and responsibilities under the Natural Resources Article;
17. persons employed by the Maryland Department of the Environment or related county departments who perform duties and responsibilities for erosion and sediment control, stormwater management, or oil pollution control under Title 4 of the Environment Article;
18. persons employed by the Maryland Department of the Environment or related county departments who perform duties and responsibilities for ambient air monitoring under Title 2 of the Environment Article or for motor vehicle pollution control under Title 2 of the Environment Article or Title 23 of the Transportation Article;
19. persons employed by the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation who perform duties and responsibilities under the Maryland Occupational Safety and Health Act;
20. occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals;
21. safety professionals as defined by the American Society of Safety Engineers;
22. certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals;
23. persons employed by industrial operations whose environmental services are performed solely for their employer; and
24. State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department of Health and Mental Hygiene.

Source: Environment Article § 11-301(b), Maryland Annotated Code

Appendix 4. The State Board of Environmental Sanitarians Policy to Clarify Licensure Exemptions



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Shari T. Wilson
Secretary

Anthony G. Brown
Lt. Governor

Robert M. Summers, Ph.D.
Deputy Secretary

BOARD OF ENVIRONMENTAL SANITARIANS

MARYLAND ANNOTATED CODE Title 11 ENVIRONMENTAL SANITARIANS Subtitle 03 Licensing

Policy to Clarify Licensure Exemptions

Authority: Environment Article, §§ 11-101, 11-201, 11-301, 11-303, 11-308, 11-314 and 11-315, Annotated Code of Maryland, and Code of Maryland Regulations

Background:

In January and February 2010, the Board performed an analysis of license exceptions in response to a review by the Division of Legislative Services (DLS). This policy is to clarify the board's interpretation and application of the current legislation regarding Sanitarian licensure and the exempted categories specified at Environmental Article §11-301(b).

Preamble:

In the Environmental Article, §11-101(e), Annotated Code of Maryland, "*Practice as an Environmental Sanitarian*" means, as a major component of employment, to apply academic principles, methods and procedures of the environmental, physical, biological, and health sciences to the inspections and investigations necessary to collect and analyze data and to make decisions necessary to secure compliance with federal, State, and local health and environmental laws and regulations specifically relating to control of the public health aspects of the environment including:

- (1) The manufacture, preparation, handling, distribution, or sale of food and milk;
- (2) Water supply and treatment;
- (3) Wastewater treatment and disposal;
- (4) Solid waste management and disposal;
- (5) Vector control;
- (6) Insect and rodent control;
- (7) Air quality;
- (8) Noise control;
- (9) Product safety;
- (10) Recreational sanitation; and
- (11) Institutional and residential sanitation."

Policy:

Under the Maryland Annotated Code, Environmental Article, §11-301(b)(4), the following position titles were reviewed by the Board applying the term to "practice as an environmental sanitarian." The Board confirmed that the listed degrees, professions, or occupations specified as exempt for

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licensure as a Registered Sanitarian (RS) are appropriately classified. Each exempt classification is an occupation:

1. Within a highly specialized practice area;
2. Within a highly specialized academic area;
3. That is certified by another state occupation or professional licensing board;
4. That is credentialed by a national organization;
5. That is a non-professional;
6. That is primarily management duties and responsibilities; or
7. Within the Maryland Department of the Environment (MDE) or Department of Health and Mental Hygiene (DHMH) that performs less than 50 percent of environmental sanitarian duties and responsibilities as confirmed by the agency's position description;
8. Whose environmental services are performed solely for their employer

The exempt classifications are:

Professions with advanced credentials, distinctly differentiated from the Registered Sanitarian (RS) including:

- Industrial hygienists as defined by the American Industrial Hygiene Association
- Occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals
- Safety professionals as defined by the American Society of Safety Engineers
- Certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals
- Certified industrial hygienists and industrial hygienists in training as defined by the American Board of Industrial Hygiene

Maryland licensed professional engineers:

- Professional engineers who are licensed in this State under Title 14 of the Business Occupations and Professions Article and whose professional activities are normally included in § 11-101(e) of this title

MDE or County Sediment Control, Stormwater Management, Oil Pollution Control and Ambient Air Monitoring employees including:

- Persons employed by the MDE or related county departments who perform duties and responsibilities for erosion and sediment control, stormwater management, or oil pollution control under Title 4 of this article
- Persons employed by the MDE or related county departments who perform duties and responsibilities for ambient air monitoring under Title 2 of this article or for motor vehicle pollution control under Title 2 of this article or Title 23 of the Transportation Article

Maryland Department of Natural Resources (DNR) employees including:

- Natural resources managers
- Natural resources biologists
- Persons employed by the DNR or related county departments who perform duties and responsibilities under the Natural Resources Article

Employees within highly specialized employment areas including:

- Persons employed by the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation who perform duties and responsibilities under the Maryland Occupational Safety and Health Act

- State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department of Health and Mental Hygiene

Employees in distinct professional occupations that are not otherwise credentialed and do not practice as an environmental sanitarian including:

- Geologists
- Chemists
- Meteorologists
- Laboratory scientists
- Hydrographers and hydrographic engineers
- Health planners or natural resource planners
- Building and housing inspectors
- Public health engineers and water resources engineers employed by the State or a local subdivision

Non-professional employees including:

- Administrative officers
- Administrative specialists
- Paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data

Management:

- Program administrators, administration directors, administrators

Other:

- Persons employed by industrial operations whose environmental services are performed solely for their employer

The exemptions from RS licensure will be reviewed by the MDE and DHMH and amend the legislation as needed. RS applicants who seek voluntary licensure will be evaluated according to the published qualifications in COMAR.

History:

Team review: 19 DEC 2009

First Board meeting review:

Second Board meeting review and edits: 18 MAR 2010

Board approval of draft policy: March 2010 EMail Vote

Board approval of final policy: 7 April 2010

Counsel Review: Board Vote Requiring Counsel Review - 7 April 2010

OR Board Vote for Counsel Review Not Required - 7 April 2010

Chair: Elizabeth A. Scott 7 April 2010
Elizabeth Ann Scott, MPH, RS, REHS, Term expires 6/30/2010 DATE

Vice Chair: William E. Peterson 4/7/2010
William Peterson, RS, REHS, Term expires 6/30/2013 DATE

Secretary: Ann Caldwell 04/07/2010
Ann Caldwell, RD, LDN, Term expires 6/30/2011 DATE

Appendix 5 . Statutory Exemptions from the Licensure Requirement in Other States with Mandatory Licensing Requirements

State	Exemptions
CA	<p>Cal. Health and Safety Code § 106605.</p> <p>“This article does not require registration of individuals, such as industrial hygienists, health physicists, safety engineers, civil engineers, land surveyors, other registered professional engineers, or others with overlapping functions.”</p>
CT	<p>Conn. Gen. Stat. § 20-365.</p> <p>“(b) Nothing in section 19a-200, subsection (a) of section 19a-206, or sections 19a-207, 19a-242, 20-358 or 20-360 to 20-365, inclusive, shall prevent any of the following persons from engaging in the performance of their duties: (1) Any person certified by the Department of Public Health as a food or sewage inspector in accordance with regulations adopted pursuant to section 19a-36, (2) any person employed by a local health department performing the duties of a lead inspector who complies with training standards established pursuant to section 20-479, (3) a director of health acting pursuant to subsection (a) of section 19a-200 or section 19a-244, (4) any employee of a water utility or federal or state agency performing his duties in accordance with applicable statutes and regulations, (5) any person employed by a local health department working under the direct supervision of a licensed sanitarian, (6) any person licensed or certified by the Department of Public Health in a specific program performing certain duties that are included within the duties of a sanitarian, or (7) a student enrolled in an accredited academic program leading to a degree in environmental health or completing a special training course in environmental health approved by the commissioner, provided such student is clearly identified by a title which indicates his status as a student.”</p>
IL	<p>225 ILCS 37/16.</p> <p>“Sec. 16. Exemptions. This Act does not prohibit or restrict any of the following:</p> <p>(1) A person performing the functions and duties of an environmental health practitioner under the general supervision of a licensed environmental health practitioner or licensed professional engineer if that person (i) is not responsible for the administration or supervision of one or more employees engaged in an environmental health program, (ii) establishes a method of verbal communication with the licensed environmental health practitioner or licensed professional engineer to whom they can refer and report questions, problems, and emergency situations encountered in environmental health practice, and (iii) has his or her written reports reviewed monthly by a licensed environmental health practitioner or licensed professional engineer.</p> <p>(2) A person licensed in this State under any other Act from engaging in the practice for which he or she is licensed.</p> <p>(3) A person working in laboratories licensed by, registered with, or operated by the State of Illinois.</p>

State	Exemptions
IL cont'd.	<p>(4) A person employed by a State-licensed health care facility who engages in the practice of environmental health or whose job responsibilities include ensuring that the environment in the health care facility is healthy and safe for employees, patients, and visitors.</p> <p>(5) A person employed with the Illinois Department of Agriculture who engages in meat and poultry inspections or environmental inspections under the authority of the Department of Agriculture.</p> <p>(6) A person holding a degree of Doctor of Veterinary Medicine and Surgery and licensed under the Veterinary Medicine and Surgery Practice Act of 2004.”</p>
NV	<p>Nev. Rev. Stat § 625A.028.</p> <p>“1. “Practice of environmental health” means the use of public health principles in the application of the sanitary sciences, the biological sciences or the physical sciences to investigate, prevent or reduce environmentally acquired disease or illness.</p> <p>2. The term does not include practice in the field of:</p> <p>(a) Environmental health by a person whose primary work is performed by and for the Division of Environmental Protection of the State Department of Conservation and Natural Resources or for an entity whose activities are limited solely to issues relating to air quality;</p> <p>(b) Industrial hygiene, public education, indoor air quality, health physics, mold assessment or mold remediation;</p> <p>(c) Cleaning up and disposing of hazardous waste and substances performed by a person who is certified by the State Department of Conservation and Natural Resources pursuant to NRS 459.400 to 459.600, inclusive, and the regulations adopted pursuant thereto, unless the clean up and disposal of the hazardous waste and substances is performed directly by and for a public health agency;</p> <p>(d) Zoonotic disease ecology or vector-borne disease ecology, or both, when the practice in that field is performed as a specialty;</p> <p>(e) Mining performed by an employee or contractor of a mining company engaged in mining operations in this State;</p> <p>(f) Building inspections performed by a person whose primary purpose is to determine compliance with building and safety codes; or</p> <p>(g) Epidemiological investigations performed by a person whose primary profession or employment is as an epidemiologist or disease investigator.”</p>

State	Exemptions
NC	<p>N.C. Gen. Stat. § 90A-51(4).</p> <p>“‘Registered environmental health specialist’ means an environmental health specialist registered in accordance with the provisions of this Article.</p> <p>For purposes of this Article the following are not included within the definition of “registered environmental health specialist” unless the person is working as an environmental health specialist:</p> <ul style="list-style-type: none"> a. A person teaching, lecturing, or engaging in research. b. A person who is a sanitary engineer, public health engineer, public health engineering assistant, registered professional engineer, industrial hygienist, health physicist, chemist, epidemiologist, toxicologist, geologist, hydrogeologist, waste management specialist, or soil scientist. c. A public health officer or public health department director. d. A person who holds a North Carolina license to practice medicine, veterinary medicine, or nursing. e. Laboratory personnel when performing or supervising the performance of sanitation related laboratory functions.”
ND	<p>N.D. Admin.Code § 33-30-01-02.</p> <p>“.... It is the intent of the advisory board that these rules apply to all persons engaged in the practice of environmental health and the supervisors of those persons. Exempt are those supervisors employed on May 1, 2004.”</p>
OR	<p>Or. Rev. Stat. § 700.025.</p> <p>“The provisions of ORS 700.020 (2) do not apply to:</p> <ul style="list-style-type: none"> (1) Any person teaching, lecturing or engaging in research in environmental sanitation but only in so far as such activities are performed as part of an academic position in a college or university. (2) Any person who is a sanitary engineer, public health engineer or registered professional engineer. (3) Any public health officer employed pursuant to ORS 431.035 to 431.530 and 431.705 to 431.990. (4) Any person employed by a federal governmental agency but only at such times as the person is carrying out the functions of employment. (5) Any person who holds a doctorate in veterinary medicine. (6) The performances of such duties as meat inspection, produce inspection, bee inspection, grain warehouse inspection, landscaping, gardening, plumbing, septic tank or cesspool installation or insect and rodent poison application. (7) Any employee of the Department of Environmental Quality other than an on-site waste water disposal employee. (8) Any person employed by a local government, or its agents, while employed in a job that did not require registration under ORS 700.020 as of October 4, 1997.”

State	Exemptions
UT	<p>Utah Code Ann. § 58-20a-305.</p> <p>“In addition to the exemptions from licensure in Section 58-1-307[note: this does not seem to exist anymore], a person is exempt from the licensure requirements of this chapter if:</p> <p>(1) the person's practice of environmental health science is limited to inspecting in order to enforce compliance with an inspection and maintenance program established pursuant to Section 41-6a-1642 or to issuing permits under that program;</p> <p>(2) the person is a laboratory staff person employed by the Department of Agriculture and Food or the Department of Health, and in his employment inspects, permits, certifies, or otherwise enforces laboratory standards in laboratories regulated by state or local public health laws; or</p> <p>(3) the person is the local health officer of a local public health department which employs a director of environmental health services licensed under this chapter.”</p>
WV	<p>W.VA. Code R. § 30-17-11.</p> <p>“The activities and services of qualified members of other recognized professions practicing environmental health science consistent with the laws of this state, their training and any code of ethics of their professions so long as such person does not represent themselves as a registered sanitarian, sanitarian or sanitarian-in-training as defined by this article.”</p>

Appendix 6. Draft Legislation

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: E. Ford

Typed by: Gail

Stored – 10/31/11

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

A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Health Specialists – Regulation**

3 FOR the purpose of repealing the State Board of Environmental Sanitarians;
 4 requiring an individual to obtain a certain credential, complete certain hours of
 5 certain training, and submit certain documentation to the individual's employer
 6 to practice as an environmental health specialist in the State; requiring the
 7 employer of an individual practicing as an environmental health specialist to
 8 verify the individual's compliance with this Act on a certain basis; providing an
 9 exemption from the requirement to obtain a certain credential; requiring,
 10 beginning on a certain date, the Department of Health and Mental Hygiene to
 11 maintain a certain list on the public portion of the Department's Web site;
 12 providing exemptions from the application of this Act; requiring, on or before a
 13 certain date, the Department of the Environment to compile a certain list and to
 14 transfer certain records to the Department of Health and Mental Hygiene;
 15 requiring the Department of Health and Mental Hygiene, in consultation with
 16 the Department of the Environment, the Department of Natural Resources, the
 17 Maryland Conference of Local Environmental Health Directors, and the
 18 Maryland Association of County Health Officers, to develop a certain framework
 19 for revising the exemptions from this Act; requiring, on or before a certain date,
 20 the Department of Health and Mental Hygiene to report certain
 21 recommendations to the General Assembly; requiring the Department of Health
 22 and Mental Hygiene to submit certain legislation on or before a certain date;

 EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



providing that a person licensed by the State Board of Environmental Sanitarians is considered licensed for the duration of the term of the license; providing for the repeal of laws inconsistent with this Act; requiring the publishers of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, to make certain corrections in a certain manner; defining certain terms; providing for the application of certain provisions of this Act; and generally relating to the regulation of the practice of environmental health specialists.

BY repealing

Article – Environment

Section 11–101 through 11–502 and the title “Title 11. Environmental Sanitarians”

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section 21–101 through 21–104 to be under the new title “Title 21. Environmental Health Specialists”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11–101 through 11–502 and the title “Title 11. Environmental Sanitarians” of Article – Environment of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health Occupations

TITLE 21. ENVIRONMENTAL HEALTH SPECIALISTS.

21–101.

1 **(10) RECREATIONAL SANITATION; AND**

2 **(11) INSTITUTIONAL AND RESIDENTIAL SANITATION.**

3 **(E) “REHS/RS CREDENTIAL” MEANS THE REGISTERED**
4 **ENVIRONMENTAL HEALTH SPECIALIST/REGISTERED SANITARIAN CREDENTIAL**
5 **ISSUED BY NEHA.**

6 **(F) “REHS/RS-IT” MEANS AN INDIVIDUAL WHO HAS OBTAINED AN**
7 **“IN-TRAINING” STATUS REGISTRATION FROM NEHA TO ACQUIRE THE**
8 **EXPERIENCE NECESSARY FOR AN REHS/RS CREDENTIAL.**

9 **21-102.**

10 **(A) THIS SECTION DOES NOT REQUIRE AN INDIVIDUAL TO MAINTAIN**
11 **THROUGH RENEWAL AN REHS/RS CREDENTIAL TO PRACTICE AS AN**
12 **ENVIRONMENTAL HEALTH SPECIALIST IN THE STATE.**

13 **(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, TO PRACTICE AS**
14 **AN ENVIRONMENTAL HEALTH SPECIALIST IN THE STATE AN INDIVIDUAL SHALL:**

15 **(1) OBTAIN THE REHS/RS CREDENTIAL ISSUED BY NEHA**
16 **BEFORE BEGINNING PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST;**

17 **(2) COMPLETE AT LEAST 20 HOURS OF TRAINING**
18 **BIENNIALLY WHILE ACTIVELY IN PRACTICE AS AN ENVIRONMENTAL HEALTH**
19 **SPECIALIST IN THE STATE; AND**

20 **(3) SUBMIT DOCUMENTATION BIENNIALLY TO THE INDIVIDUAL’S**
21 **EMPLOYER VERIFYING THAT THE INDIVIDUAL IS IN COMPLIANCE WITH THE**
22 **REQUIREMENTS OF THIS TITLE.**

23 **(C) THE EMPLOYER OF AN INDIVIDUAL WHOSE PRIMARY DUTIES**
24 **REQUIRE PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST SHALL**
25 **VERIFY:**

1 (1) INITIALLY THAT THE INDIVIDUAL HAS OBTAINED THE
2 CREDENTIAL REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

3 (2) BIENNIALY THEREAFTER THAT THE INDIVIDUAL IS IN
4 ONGOING COMPLIANCE WITH THE REQUIREMENTS OF THIS TITLE.

5 **21-103.**

6 (A) THIS SECTION DOES NOT ALTER THE OBLIGATION OF AN
7 INDIVIDUAL IN PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST IN THE
8 STATE TO OBTAIN THE MINIMUM HOURS OF TRAINING REQUIRED BY
9 THIS TITLE.

10 (B) AN INDIVIDUAL IS NOT REQUIRED TO OBTAIN AN REHS/RS
11 CREDENTIAL TO PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST IN THE
12 STATE IF, ON OR AFTER JULY 1, 2010, THE INDIVIDUAL HELD A VALID LICENSE
13 AS A REGISTERED ENVIRONMENTAL SANITARIAN ISSUED BY THE STATE BOARD
14 OF ENVIRONMENTAL SANITARIANS THAT WAS IN EXISTENCE BEFORE JULY 1,
15 2012.

16 (C) BEGINNING AUGUST 15, 2012, THE DEPARTMENT SHALL MAINTAIN
17 A LIST ON THE PUBLIC PORTION OF THE DEPARTMENT'S WEB SITE OF THE
18 INDIVIDUALS WHO HELD VALID LICENSES AS REGISTERED ENVIRONMENTAL
19 SANITARIANS ISSUED BY THE STATE BOARD OF ENVIRONMENTAL SANITARIANS
20 ON OR AFTER JULY 1, 2010.

21 **21-104.**

22 THIS TITLE DOES NOT APPLY TO:

23 (1) AN REHS/RS-IT;

24 (2) A STUDENT PARTICIPATING IN A FIELD EXPERIENCE AS PART
25 OF AN EDUCATIONAL PROGRAM;

26 (3) A QUALIFIED INDIVIDUAL IN ANY OF THE FOLLOWING JOB
27 CLASSIFICATIONS:

1 (I) INDUSTRIAL HYGIENISTS AS DEFINED BY THE
2 AMERICAN INDUSTRIAL HYGIENE ASSOCIATION;

3 (II) CERTIFIED INDUSTRIAL HYGIENISTS AND INDUSTRIAL
4 HYGIENISTS IN TRAINING AS DEFINED BY THE AMERICAN BOARD OF
5 INDUSTRIAL HYGIENE;

6 (III) HEALTH PLANNERS OR NATURAL RESOURCE
7 PLANNERS;

8 (IV) BUILDING AND HOUSING INSPECTORS;

9 (V) GEOLOGISTS;

10 (VI) CHEMISTS;

11 (VII) METEOROLOGISTS;

12 (VIII) LABORATORY SCIENTISTS;

13 (IX) PROFESSIONAL ENGINEERS WHO ARE LICENSED IN THE
14 STATE UNDER TITLE 14 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS
15 ARTICLE AND WHOSE PROFESSIONAL ACTIVITIES ARE NORMALLY INCLUDED IN
16 PRACTICE AS ENVIRONMENTAL HEALTH SPECIALISTS;

17 (X) PUBLIC HEALTH ENGINEERS AND WATER RESOURCES
18 ENGINEERS EMPLOYED BY THE STATE OR A LOCAL SUBDIVISION;

19 (XI) HYDROGRAPHERS AND HYDROGRAPHIC ENGINEERS;

20 (XII) NATURAL RESOURCES MANAGERS;

21 (XIII) NATURAL RESOURCES BIOLOGISTS;

22 (XIV) PROGRAM ADMINISTRATORS, ADMINISTRATION
23 DIRECTORS, ADMINISTRATORS, ADMINISTRATIVE OFFICERS, AND
24 ADMINISTRATIVE SPECIALISTS;

1 (XV) PARAPROFESSIONAL PERSONNEL, AIDES, AND
2 TECHNICIANS WHOSE ROUTINE DUTIES INCLUDE MONITORING, SAMPLING, AND
3 RECORDING OF DATA;

4 (XVI) PERSONS EMPLOYED BY THE DEPARTMENT OF
5 NATURAL RESOURCES OR RELATED COUNTY DEPARTMENTS WHO PERFORM
6 DUTIES AND RESPONSIBILITIES UNDER THE NATURAL RESOURCES ARTICLE;

7 (XVII) PERSONS EMPLOYED BY THE DEPARTMENT OF THE
8 ENVIRONMENT OR RELATED COUNTY DEPARTMENTS WHO PERFORM DUTIES
9 AND RESPONSIBILITIES FOR EROSION AND SEDIMENT CONTROL, STORMWATER
10 MANAGEMENT, OR OIL POLLUTION CONTROL UNDER TITLE 4 OF THE
11 ENVIRONMENT ARTICLE;

12 (XVIII) PERSONS EMPLOYED BY THE DEPARTMENT OF
13 THE ENVIRONMENT OR RELATED COUNTY DEPARTMENTS WHO PERFORM
14 DUTIES AND RESPONSIBILITIES FOR AMBIENT AIR MONITORING OR MOTOR
15 VEHICLE POLLUTION CONTROL UNDER TITLE 2 OF THE ENVIRONMENT
16 ARTICLE OR TITLE 23 OF THE TRANSPORTATION ARTICLE;

17 (XIX) PERSONS EMPLOYED BY THE DIVISION OF LABOR AND
18 INDUSTRY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION
19 WHO PERFORM DUTIES AND RESPONSIBILITIES UNDER THE MARYLAND
20 OCCUPATIONAL SAFETY AND HEALTH ACT;

21 (XX) OCCUPATIONAL SAFETY AND HEALTH TECHNOLOGISTS
22 AS DEFINED BY THE AMERICAN BOARD OF INDUSTRIAL HYGIENE AND THE
23 BOARD OF CERTIFIED SAFETY PROFESSIONALS;

24 (XXI) SAFETY PROFESSIONALS AS DEFINED BY THE
25 AMERICAN SOCIETY OF SAFETY ENGINEERS;

26 (XXII) CERTIFIED SAFETY PROFESSIONALS AND ASSOCIATE
27 SAFETY PROFESSIONALS AS DEFINED BY THE BOARD OF CERTIFIED SAFETY
28 PROFESSIONALS;

(XXIII) PERSONS EMPLOYED BY INDUSTRIAL
OPERATIONS WHOSE ENVIRONMENTAL SERVICES ARE PERFORMED SOLELY FOR
THEIR EMPLOYER; AND

(XXIV) STATE MILK SAFETY INSPECTORS PERFORMING
DUTIES UNDER THE NATIONAL CONFERENCE ON INTERSTATE MILK
SHIPMENTS AND EMPLOYED BY THE DEPARTMENT.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before August 1,
2012, the Department of the Environment shall:

(1) compile an electronic list of all individuals who have held valid
licenses as registered environmental sanitarians issued by the State Board of
Environmental Sanitarians on or after July 1, 2010; and

(2) transfer the electronic and hard copy records maintained by the
State Board of Environmental Sanitarians, including the list required under item (1)
of this section, to the Department of Health and Mental Hygiene.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene, in consultation with the
Department of the Environment, the Department of Natural Resources, the Maryland
Conference of Local Environmental Health Directors, and the Maryland Association of
County Health Officers, shall develop a new framework for revising the exemptions
from this Act that is based on job duties rather than job titles to ensure that
individuals performing similar duties to protect public health are regulated uniformly.

(b) On or before October 1, 2013, the Department of Health and Mental
Hygiene shall report to the General Assembly, in accordance with § 2-1246 of the
State Government Article, on the recommendations developed under subsection (a) of
this section and submit departmental legislation at the 2014 session of the General
Assembly to revise State statutes accordingly.

SECTION 5. AND BE IT FURTHER ENACTED, That any person licensed by
the State Board of Environmental Sanitarians, which is repealed by this Act, is
considered for all purposes to be licensed for the duration of the term for which the
license was issued.

1 SECTION 6. AND BE IT FURTHER ENACTED, That all laws or parts of laws,
2 public general or public local, inconsistent with this Act, are repealed to the extent of
3 the inconsistency.

4 SECTION 7. AND BE IT FURTHER ENACTED, That the publishers of the
5 Annotated Code of Maryland, in consultation with and subject to the approval of the
6 Department of Legislative Services, shall correct, with no further action required by
7 the General Assembly, cross-references and terminology rendered incorrect by this
8 Act or any other Act of the General Assembly of 2012 that affects provisions enacted
9 by this Act. The publishers shall adequately describe any such correction in an editor's
10 note following the section affected.

11 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2012.

Appendix 7. Fiscal Impact of Transferring Board to the Department of Health and Mental Hygiene

If the General Assembly decides to retain a licensing board for environmental sanitarians in the State, the State Board of Environmental Sanitarians (BES) should be transferred to the Department of Health and Mental Hygiene (DHMH). In anticipation of the consideration of this as an option, the Department of Legislative Services (DLS) provides the following fiscal analysis of the impact of such a move.

DLS anticipates that the board's expenses at DHMH would be slightly lower than at the Maryland Department of the Environment (MDE), but a biennial gap between the board's revenues and costs would persist even at DHMH. Moreover, because the MDE personnel who are currently staffing the board would continue staffing duties at MDE, the associated personnel costs would continue, and there would be no net savings to the general fund. As shown below, DLS estimates that costs for board operations at DHMH in fiscal 2013 would total \$60,395, based on the cost of hiring one contractual part-time (50%) program manager, ongoing operating costs, the board's portion of the costs associated with the shared services, and one-time start-up costs. DHMH advises DLS that the cost of the shared services is allocated to the individual boards on the basis of the time spent on each board's activities. This analysis assumes a contractual position for start-up purposes and because the board would be reevaluated after operating at DHMH for only a few years under the expedited review schedule associated with the transfer. If the board is maintained for an additional period, the contractual position could then be converted to a regular position.

Estimated Board Revenues and Expenditures If General Funded at the Department of Health and Mental Hygiene Fiscal 2013-2016

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
General Fund Revenues	\$68,475	\$14,250	\$69,500	\$14,250
Contractual Salary	\$24,819	\$26,286	\$27,443	\$28,651
Shared Support Staff	14,388	14,532	14,677	14,824
Contractual Exam Services	5,000	5,000	5,000	5,000
Other Operating Expenses	11,853	11,972	12,092	12,213
One-time Start-up Costs	4,335	0	0	0
Total Board Expenditures	\$60,395	\$57,790	\$59,212	\$60,688
Biennial Surplus/(Gap)		(\$35,460)		(\$36,150)

Notes: General fund revenues are projections based on the current fee schedule and current licensing trends and include the examination service fee collected by the board as a pass-through. Personnel costs assume a contractual part-time (50%) position.

Source: Department of Legislative Services, Department of Health and Mental Hygiene, Maryland Department of the Environment

During the 2011 session, it was suggested that raising the biennial license renewal fee from \$100 to \$200 would enable the board to be special funded and budget neutral if transferred to DHMH. The board currently renews approximately 590 licenses every two years. A \$100 increase in the license renewal fee would therefore generate an additional \$59,000 over a two-year period. Such an increase in fees would ensure that board revenues more closely match its appropriation, but over the long term, if the board is retained and the program manager is converted to a regular position, personnel costs would increase significantly and a biennial gap between board expenses and revenues would likely continue. Full funding of the board, including a 30% special fund balance to help the board cover expenses in low revenue years, would require a larger fee increase. Moreover, if the board were to be special funded at DHMH, the board would be responsible annually for an additional \$5,000 in indirect costs and approximately \$2,100 in rent that are not charged to general-funded boards.

Several respondents to the DLS survey indicated support for a renewal fee increase for various purposes, including enabling the board to move to DHMH, allowing more independent management of board resources, increasing staff support, and providing additional training and web-based services. However, several other survey respondents indicated that they had no knowledge of support among their employees for a fee increase for any purpose, and they expressed concerns about the current level of service provided by the board, the current economic situation, and the cost of maintaining a National Environmental Health Association certification in addition to a Maryland license.

Although most of the health occupations boards located at DHMH are special funded, BES faces challenges that most other boards do not. Most environmental sanitarians in the State work in the public sector for modest salaries. Environmental sanitarians also must meet stringent education and experience requirements in order to *qualify* to take an extremely difficult licensing examination. In addition, because the board regulates a relatively small number of individuals, each must bear a larger portion of the costs of regulating the profession. Moreover, two of the boards currently located at DHMH, the State Board of Examiners of Nursing Home Administrators and the State Board for Certification of Residential Child Care Program Professionals, are general funded. Accordingly, if the board is transferred to DHMH and retained, it would be appropriate to continue to support a portion of the board's costs with general funds that are not recouped through fee revenue.

Appendix 8. Written Comments of the State Board of Environmental Sanitarians



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

410-537-3000 • 1-800-633-6101

Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lt. Governor

BOARD OF ENVIRONMENTAL SANITARIANS

November 3, 2011

Department of Legislative Services
Office of Policy Analysis
Attention: Ms. Jennifer B. Chasse
Senior Policy Analyst
Legislative Services Building
90 State Circle
Annapolis, Maryland 21501-1991

Dear Ms. Chasse:

The Maryland Board of Environmental Sanitarians has received and reviewed the Department of Legislative Services (DLS) Exposure Draft Sunset Review Evaluation report of the Board. The Maryland Board of Environmental Sanitarians respectfully provides the following comments to this report:

1. Repeal the Board and Require a NEHA Credential as a Condition of Employment

The Board's position on this issue is that the work of the Environmental Sanitarian as a Public Health Investigator is much too important to transfer licensing and vetting responsibilities to a privately operated association that is located in another state. The Board agrees with DLS regarding transferring the Board to the Department of Health and Mental Hygiene (DHMH) because the Board performs many worthwhile functions and it is directly accountable to the State of Maryland. In doing so, the attention to public health needs of the population is properly addressed.

The Board of Environmental Sanitarians does not want to stand in the way of what would be considered the best option for the professional sanitarians in the State. If repealing the Board is the best option, then we would support the option. However, that option is not the direction that a significant majority of the sanitarians and other public health officials in Maryland preferred.

This recommendation, by DLS, ignores the results of their survey of sanitarians in the State as part of this review who responded overwhelmingly that they believed that the best option regarding the status of

the Board of Sanitarians should be that it is re-located in the Department of Health and Mental Hygiene. What purpose does a survey of participants serve if a significant majority of the respondents' choices is ignored by the sampler and designer of the survey?

A result of three such surveys of the sanitarians in Maryland, during the past year and a half, including the DLS survey, was that the sanitarians have supported the continuation of the Board and a move to DHMH. During that period, the additional cost to sanitarians for moving to DHMH was not a compelling issue. In fact, the Local Environmental Health Directors, Local Health Officers, and the staff that were queried about the effect of the change on them were extremely supportive of the move to DHMH.

Recommendation 1: Statute should be amended to repeal the State Board of Environmental Sanitarians and the requirement for a State license. Instead, statute should require individuals practicing the duties of an Environmental Health Specialist in the State to obtain, but not maintain, a NEHA REHS/RS credential. Employers should be required to maintain proof that employees carrying out the duties of environmental sanitarians have obtained the necessary credential. Any current State licensees who do not hold the NEHA REHS/RS credential and any sanitarian-in-training certificate (SITC) holders who are issued a State license before the enactment date should qualify for employment without having to obtain a NEHA REHS/RS credential. However, any SITC holders who have not yet obtained State licensure would need to obtain the NEHA REHS/RS credential instead.

The Board strongly disagrees with this DLS recommendation. The State of Maryland needs to continue its efforts to maintain a well-trained Public Health Work Force. Acting under the authority of Title 11 of the Environment Article, the Board sets the standards for licensure, regulates the professionals who perform the inspections and investigations related to enforcing Maryland's health and environmental laws, adopts continuing educational requirements, and enforces a code of ethics applicable to all sanitarians. The Board is uniquely qualified to ensure that Maryland sanitarians meet and maintain the highest degree of professionalism, as this has been its mission for the past 27 years.

Repealing the Board and transferring its functions to NEHA will deprive sanitarians and the citizens of Maryland the crucial enforcement and oversight provided by the Board to ensure the highest degree of professionalism among Maryland's sanitarians. NEHA does have a similar interest in certifying and promoting uniform standards for sanitarians nationwide. However, it lacks authority to enforce these very standards in Maryland and any other jurisdiction. NEHA has many goals, only one of which is the promotion of standards. Moreover, NEHA is a private association that lacks the transparency and accountability that the Board is subject to under Title 11.

In addition, if the Board is abolished, local health departments in Maryland Home Rule Counties and Baltimore City will continue inspection, enforcement, and oversight under their local provisions. This will include regulations that require employees conducting such functions to be Registered Sanitarians as part of their employment in local public health programs, which is now the case. Unfortunately, county by county regulation of sanitarians would likely result in varying and conflicting requirements and deprive sanitarians and the citizens of Maryland the uniformity and certainty now provided by the Board.

Recommendation 2: Statute should require DHMH to maintain a list of individuals who have held State licenses, through which employers can confirm appropriate credentialing of staff that qualify to practice as an environmental sanitarian on that basis and thus would not need to obtain a NEHA credential. Maryland Department of Environment should be required to provide DHMH with the Board's files, both electronic and hard copy, so that DHMH can maintain this list.

This recommendation is noted. However, the Board already maintains a list of all valid Sanitarian License Holders on the Board's web-site.

Statute Should Require Ongoing Continuing Education as an Additional Condition of Employment

The Board agrees with this provision of the report. However, current COMAR 26.07.02.06 A. already requires a Sanitarian to maintain 20 hours of Continuing Education as requirement.

Recommendation 3: Statute should require individuals performing the duties of an environmental sanitarian to complete 20 hours of continuing education every two years, to submit these hours to NEHA for approval and tracking, and to submit confirmation of the approvals to their employers.

The Board already requires an individual to maintain at least 20 hours of continuing education. After passing the test and gaining membership in NEHA, the Board does not believe NEHA would have any interest in maintaining a CEU balance if the certificate holder chooses not to renew their membership. It is unclear who would be required to conduct course evaluations and recording of ongoing-education.

Though Not Recommended, Board Could Be Transferred to DHMH

The Board strongly believes that the duties of the Board would be more effectively carried out by being located in the Department that employs the great majority of Environmental Sanitarians. The Board agrees with the DLS report as quoted below: (The public health mission of DHMH is germane to the work of the Board, and most of the regulated community is employed by DHMH and local health departments. Nationwide, boards with similar functions are most commonly located in state health departments.)

The Board agrees to the recommended measures proposed by DLS if the General Assembly agrees to maintain the Board of Environmental Health Specialist in DHMH.

Conclusion

Finally, the Board greatly appreciates the diligent work of the DLS staff, and their tireless efforts toward striking a balance between protecting the Public Health and finding a cost savings to the State of Maryland, and its citizens. However, in summary, the work of this Board cannot be reduced to a simple set of numbers. The Board has a mission. The Board's Mission Statement below and it is our final summation:

THE MISSION OF THE MARYLAND BOARD OF ENVIRONMENTAL SANITARIANS

THE MISSION OF THE MARYLAND BOARD OF ENVIRONMENTAL SANITARIANS IS TO ENSURE AND MAINTAIN THE HIGH PROFESSIONAL STANDARDS OF MARYLAND'S ENVIRONMENTAL SANITARIANS, WHO ARE IN THE FOREFRONT OF PROTECTING PUBLIC HEALTH AND THE ENVIRONMENT. ACTING UNDER THE AUTHORITY OF TITLE 11 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE BOARD SETS STANDARDS FOR LICENSURE, REGULATES THE PROFESSIONALS WHO PERFORM THE INSPECTIONS AND INVESTIGATIONS RELATED TO ENFORCING MARYLAND'S HEALTH AND ENVIRONMENTAL LAWS, ADOPTS CONTINUING EDUCATIONAL REQUIREMENTS, AND ENFORCES A CODE OF ETHICS APPLICABLE TO ALL SANITARIANS.

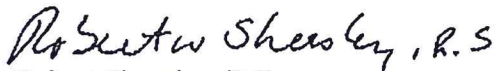
In the DLS report, it is acknowledged that significant limitations in the past, such as the lack of resources and support prevailed. This occurred during two previous Sunset Review evaluation periods. However, DLS also identifies progress over the last several years under more recent Board leadership.

Also, DSL acknowledges that a move of the Board to DHMH will present a better opportunity for success due to DHMH experience and support services with public health operations.

The Board continues to believe that maintaining the licensing and continued education responsibilities in Maryland, and moving the Board to DHMH will benefit the profession.

If you have further questions, please contact me at 410-750-9925.

Sincerely,

A handwritten signature in cursive script that reads "Robert Sheesley, R.S.".

Robert Sheesley, R.S.

Chairman

Maryland Board Environmental Sanitarians

cc: Members, Board of Environmental Sanitarians

Appendix 9. Written Comments of the Maryland Department of the Environment



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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410-537-3000 • 1-800-633-6101 • www.mde.state.md.us

Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

November 4, 2011

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

Dear Mr. Deschenaux:

In response to the Department of Legislative Services' (DLS) draft exposure report for the Board of Environmental Sanitarians, the Maryland Department of the Environment (MDE) would like to offer the following comments:

First, MDE would like to acknowledge several important accomplishments that the Board of Environmental Sanitarians has recently achieved in an effort to provide improved service to the sanitarians and their employers in the State of Maryland. These actions support their mission "... to ensure and maintain the high professional standards of Maryland's environmental sanitarians, who are in the forefront of protecting public health and the environment..."

The first major accomplishment involved a revised and updated web page at MDE which included a clear presentation of the licensing process and included the application criteria for quick reference. It also included links to: News, FAQs (Frequently Asked Questions) and Fees, application and CEU (Continuing Education Unit) forms, list of approved CEU, Registered Sanitarian (RS) exam information, meeting summaries, Board policies, a list of residential sanitarians in alphabetical order, "Useful Links" a section devoted to career development and educational opportunities (on-line and in-person courses), professional organizations, and links to counties for job opportunities. There are also links for the Code of Maryland Regulations (COMAR) Title 26, section 7 for Board operations, and the Maryland Annotated Code. The web page is located at:

http://www.mde.maryland.gov/programs/workwithmde/MDEBoardsandCommissions/Pages/workwithmde/public_service/envsan/index.aspx

A second accomplishment occurred in September 2008 when the Board voted to change their examination provider and accepted the National Environmental Health Association (NEHA) residential sanitarian exam. This move allowed Sponsors and Sanitarian In Training (SIT) holders to use the NEHA online study materials matched to the examination which has helped to improve the examination passing rate. These two accomplishments were tangible improvements toward meeting the Board's mission and protecting public health.



In response to the DLS exposure report, MDE would like to respond to the primary recommendation, that is "... to repeal the State Board of Environmental Sanitarians and the requirement for a State license. Instead, statute should require individuals practicing the duties of an environmental sanitarian in the State, to obtain, but not maintain, a NEHA/REHS/RS credential..." We have no objection to the Board moving out of MDE or the use of NEHA except we are concerned about any increased cost to State and local government employees whose jobs require the sanitarian registration. Comparing the costs for services on the NEHA website with the current and proposed costs, we believe NEHA will be more costly to sanitarians. While government salaries are virtually frozen, these same employees are paying more for health insurance coverage, union dues, etc. It may place an undue hardship on the environmental sanitarians to have to pay much greater fees to this national organization than they would have to pay to a State Board for the same license and continuing education verification.

Lastly, MDE would like to make one specific comment on DLS' Recommendation 3: "DHMH should be required, in consultation with MDE, the Department of Natural Resources, the Maryland Conference of Local Environmental Health Directors, and the Maryland Association of County Health Officers, to develop a new framework for the statutory exemptions, based on job duties rather than job titles, to ensure that individuals performing similar duties related to protecting public health are regulated uniformly..." We concur with this recommendation and believe the clarification of exemptions for certain State job functions from the licensure requirement would be better addressed through the statutory process. MDE currently has a Memorandum of Understanding with DHMH to document these exemptions. We can work with the Board and DHMH to make these statutory changes.

Thank you for the opportunity to comment on the exposure draft. If you should have any questions about our response, please contact me on (410)537-3084 or Jay G. Sakai on (410)537-3567.

Sincerely,



Robert M. Summers, Ph.D.
Secretary

cc: Heather Barthel, Director, MDE, Legislation and Intergovernmental Affairs
Jay G. Sakai, Director, Water Management Administration
Robert Sheesley, Chairman, Board of Environmental Sanitarians