

# Preliminary Evaluation of the State Board of Nursing

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**Recommendation: Full Evaluation**

## 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 about 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 Nursing last underwent a preliminary evaluation as part of sunset review in 2000. The preliminary evaluation determined that the advancing age of the nursing population, the introduction of the certification of nursing assistants, and the need for expanded nursing education had been so significant that a more detailed evaluation was appropriate. As a result, DLS conducted a full sunset evaluation of the board in 2001. Based on those findings and recommendations, Chapter 165 of 2002 extended the board’s termination date to July 1, 2013, and required the board to provide a report to certain committees of the General Assembly by October 1, 2002, on the implementation of report recommendations including an action plan to reduce the backlog in complaints and a description of the efforts of the board to reduce operating costs through enhanced efficiency in the use of technology and personnel.

In conducting this preliminary evaluation, DLS staff reviewed minutes for both open and executive session board meetings; the Maryland Nurse Practice Act (Title 8 of the Health Occupations Article) and related regulations; prior full and preliminary sunset reviews of the board; board reports; and board licensing, complaint, and financial information. In addition, DLS staff interviewed the board’s executive director and president, as well as the lobbyist for the Maryland Nurses Association. DLS staff also attended an open and executive session board meeting, as well as an informal disciplinary meeting.

The board reviewed a draft of this preliminary evaluation and provided the written comments attached at the end of this document as **Appendix 2**. Appropriate factual corrections and clarifications have been made throughout the document; therefore, references in board comments may not reflect the final version of the report.

## **The State Board of Nursing**

In Maryland, as in all other states, the District of Columbia, and five U.S. territories, a regulatory board oversees the practice of nursing. The State Board of Nursing was created by the General Assembly in 1904. The mission of the board is to advance safe, quality care in Maryland through licensure, certification, education, and accountability for public protection. Along with 17 other health occupations boards, the board operates under the Office of the Secretary in the Department of Health and Mental Hygiene (DHMH). Although DHMH provides administrative and policy support, board operations are managed directly by a staff that includes 72 authorized regular full-time and 1.7 contractual positions.

### **Board Composition**

The board has 13 members: 8 registered nurses, 3 licensed practical nurses, and 2 consumers. As outlined in statute, the registered nurse members represent different segments of the profession, including a nurse administrator, nursing educators, nurse clinicians, and an advance practice nurse. Members serve four-year terms. There are currently no vacancies on the board, but three members whose terms expired in June 2010 are awaiting replacement.

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

### **Board Responsibilities Much Greater than Other Health Occupations Boards**

The board is by far the largest of the health occupations boards in terms of the number of individuals that fall under its regulatory purview. The board oversees approximately 70% of all health occupations professionals in the State, more than six times the number of individuals regulated by the second largest board, the State Board of Physicians. In fiscal 2010, the board licensed or certified a total of 270,227 registered nurses, licensed practical nurses, advanced practice nurses, nursing assistants, medication technicians, and electrologists.

## Statutory Changes Affecting the Board Since the 2001 Sunset Review

Since the full evaluation in 2001, several statutory changes have affected board operations. As shown in **Exhibit 1**, legislation has focused on certification activities and scope of practice issues. The certification of medication technicians has expanded the board's regulatory authority. In addition, the requirement to add criminal history records checks as a condition of licensure or certification has increased the duties of the board significantly and will be discussed in more detail later in this report.

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### Exhibit 1 Major Legislative Changes Since the 2001 Sunset Review

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

- 2007      598      Requires an individual applying for reinstatement of a lapsed nursing license or other certificate to submit to a criminal history records check.
- Requires certificated individuals to present evidence of completion of 100 practice hours as a certified medicine aide or certified medication technician within the two-year period prior to renewal.
- Requires certified medicine aides to complete continuing education.
- 544/545      Add a registered nurse certified in an advanced practice nursing specialty as a member of the board.
- 2008      232/233      Authorize a registered nurse certified as a nurse practitioner to make certain determinations regarding examination of a pregnant minor and “do not resuscitate” orders under specified circumstances and to provide vital data on birth, death, and other medical certificates.
- 301      Authorizes the board to grant extensions of temporary licenses or temporary practice letters every 90 days for up to 12 months if the applicant does not meet specified practice requirements.
- 653      Extends the date by which the board must check the criminal history records of existing certificate and license holders to July 2009.
- Authorizes the board to accept an alternative method other than fingerprints for a criminal history records check if two attempts to obtain legible fingerprints have failed.
- Authorizes the board to grant extensions of temporary licenses or temporary practice letters for 90 days pending receipt of criminal history records information.
- 2010      53/54      Alter the membership of the board and the process for board member nominations.
- 77/78      Alter the scope of practice for nurse practitioners by requiring an approved attestation of a collaboration agreement with a licensed physician.
- Repeal the requirement that the board and the State Board of Physicians jointly adopt regulations concerning the prescriptive authority of nurse practitioners.
- Require the board, in consultation with the State Board of Physicians, to develop a plan to implement the Maryland Nurse Practice Act.

585/586 Require applicants for licensure or certification to submit to an examination by a board-designated health care provider if the board has objective evidence that an applicant may cause harm to a patient.

Establish biennial, staggered license renewal beginning in January 2013.

Require the board to send renewal notices to licensees and certificate holders three months before a license expires.

Require an additional criminal history records check of specified licensees and certificate holders every 12 years, rather than every 10 years.

Source: Laws of Maryland

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## **Licensure and Certification Are Central Functions of the Board**

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

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

Applicants for licensure as an RN or LPN and applicants for certification as a nursing assistant must either submit to a criminal history records check or have completed a criminal history records check through another state board of nursing within the five years preceding the date of application.

### **Annual Renewal of Licensure Will Change to Biennial in 2013**

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

even-numbered years, and those born in odd-numbered years will be required to renew in odd-numbered years.

### **Board Certifies Seven Types of Advance Practice Nurses**

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

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

In addition to licensing RNs and LPNs and certifying advance practice status, the board began certifying nursing assistants in 1998 and medication technicians in 2004. As a result, the number of certificate holders has increased substantially. The number of nursing assistants has increased by 146% since fiscal 2005, while the number of medication technicians has increased by 92%. As shown in **Exhibit 2**, the number of certificate holders now surpasses the number of licensees under the board's authority.

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**Exhibit 2**  
**Number of Licenses/Certifications Issued by the**  
**State Board of Nursing**  
**Fiscal 2005-2010**

| <u>Type</u>               | <u>FY 2005</u> | <u>FY 2006</u> | <u>FY 2007</u> | <u>FY 2008</u> | <u>FY 2009</u> | <u>FY 2010</u> |
|---------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Registered Nurses         | 61,148         | 58,216         | 55,860         | 73,818         | 74,683         | 74,104         |
| Licensed Practical Nurses | 12,150         | 10,607         | 11,063         | 15,283         | 14,820         | 15,283         |
| Advanced Practice Nurses  | 4,252          | 3,127          | 3,831          | 4,003          | 5,912          | 4,932          |
| Licensure by Endorsement  | 1,741          | 2,704          | 2,091          | 2,456          | 2,599          | 2,812          |
| New Licensee/Exams        | 2,516          | 2,942          | 3,095          | 3,095          | 2,881          | 3,240          |
| Nursing Assistants        | 43,500         | 48,623         | 47,598         | 81,391         | 98,869         | 107,112        |
| Medication Technicians    | 32,618         | 40,721         | 15,643         | 20,384         | 57,354         | 62,744         |

Source: State Board of Nursing

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The number of RN licensees has increased from 61,148 licensees in fiscal 2005 to 74,104 licensees in fiscal 2010 (a 21% increase). Since fiscal 2008, the number of RN licensees has stabilized around 74,000. Likewise, the number of LPN licensees has increased from 12,150 in fiscal 2005 to 15,283 in fiscal 2010 (a 26% increase), and has stabilized at around 15,000 licensees since fiscal 2008. The number of advanced practice nurses certified by the board has varied somewhat on an annual basis since fiscal 2005, but increased overall by 16% from fiscal 2005 to 2010. The steady increase in licensed nurses provides good evidence that the shortage of nurses noted in the 2001 sunset evaluation is reversing. Also, as noted above, the number of nursing assistants and medication technicians certified by the board since 2005 has increased significantly.

### **Board Approves Educational Programs for Nurses**

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

### **Commission on Crisis in Nursing and Nursing Workforce Commission Conclude Work**

In 2000, the average age of a nurse in Maryland was 46, demand for RNs and LPNs was increasing, and the number of licensees was stabilizing. As a result, Chapters 257 and 258 of 2000 established the Commission on the Crisis in Nursing to evaluate the long-term implications of the nursing personnel shortage in the State. In 2005, the Commission on the Crisis in Nursing concluded its work, but reorganized as the Maryland Nursing Workforce Commission with the purpose of creating and implementing a comprehensive strategically driven statewide nursing workforce plan that balances the demand for nurses with the supply. As seen in Exhibit 2, since fiscal 2005, the numbers of nurses and nursing assistants in the State has increased. Thus, on July 9, 2008, the Maryland Nursing Workforce Commission terminated.

## **Number of Authorized and Contractual Staff Has Not Kept Pace with Increase in Licensing and Certification Responsibilities**

In fiscal 2006, the board licensed or certified 166,940 individuals. By fiscal 2010, the board's licensure and certification workload had increased by 62%, with the board licensing or certifying 270,227 individuals. However, as shown in **Exhibit 3**, between fiscal 2006 and 2011 the number of authorized positions for the board increased by only 18%, from 60.91 authorized positions to 73.70 authorized positions. Although the State Board of Nursing licenses 232,734 more individuals than the State Board of Physicians, the State Board of Physicians has 73.90 authorized positions in fiscal 2011.

In fiscal 2011, the board received four additional positions to help account for the increase in workload. The positions include an administrative specialist to coordinate criminal background checks, an additional health facility surveyor to investigate complaints, a paralegal to provide administrative support to the board's legal department, and an additional investigator to handle complaints. Although the board received more additional staff for fiscal 2011 than any other health occupations board, the increase in staff still does not appear to fully address the considerable increase in licensees and certificate holders since fiscal 2006.

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### **Exhibit 3 Number of Authorized Staff State Board of Nursing Fiscal 2006-2011**

| <b><u>Fiscal Year</u></b> | <b><u>Total Licensees/<br/>Certificate Holders</u></b> | <b>Positions</b>      |                           |       | <b><u>Total</u></b> |
|---------------------------|--|-----------------------|---------------------------|-------|---------------------|
|                           |  | <b><u>Regular</u></b> | <b><u>Contractual</u></b> |       |                     |
| 2006                      | 166,940  | 49                    | 11.91                     | 60.91 |                     |
| 2007                      | 139,181  | 57                    | 11.55                     | 68.55 |                     |
| 2008                      | 200,430  | 53                    | 9.56                      | 62.56 |                     |
| 2009                      | 257,118  | 64                    | 2.76                      | 66.76 |                     |
| 2010                      | 270,227  | 68                    | 1.70                      | 69.70 |                     |
| 2011                      | -  | 72                    | 1.70                      | 73.70 |                     |

Source: State Board of Nursing

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## **Criminal Background Check Requirement Increased Duties of Board**

Chapter 390 of 2006 requires RNs, LPNs, nursing assistants, and electrologists (who are regulated by the Electrology Practice Committee under the board and subject to a separate sunset

evaluation) to submit to a criminal history records check as part of the initial license and certification application. In fiscal 2009, the board conducted background checks on 16,284 individuals. Of those individuals, 1,325 (8%) had positive records that required investigation.

The board has established separate complaint and investigation units for nurses and certified nursing assistants. Criminal history records checks are conducted by the Federal Bureau of Investigation (FBI) and by the Criminal Justice Information System (CJIS). If either report comes back with a positive check, the board sends the report to the appropriate unit. The unit then contacts the prospective licensee or certificate holder for further documentation.

The board has implemented policies in an attempt to streamline the review process in the event of a positive background check. For example, if a records check shows a minor misdemeanor that is at least five years old, the executive director has the authority to grant the certification or license without the approval of the board. On the other hand, felonies or misdemeanors that the executive director is not comfortable with making a licensing determination on are sent to the board for a decision.

Prospective licensees and certificate holders are required to disclose on their application whether they have been convicted of a felony or misdemeanor. An individual who lies about this information on the application can be charged with failure to disclose or unlawfully attempting to obtain a license.

Reviewing criminal history records checks for initial licensure and certification applications has proved to create a significant workload for the board. Yet the board's responsibilities were further expanded by the legislature to include review of criminal history records checks for selected licensees and certificate holders as a condition of license or certificate renewal. Though required to begin in January 2008, the date was deferred until July 2009 under Chapter 653 of 2008. In June 2010, the board began reviewing criminal history records check information for individuals seeking license or certificate renewals. This new requirement will add review of approximately 12,000 additional criminal history records checks to the board's annual workload. In response to this requirement, the board has dedicated one director and three additional staff to criminal history records checks.

### **Receiving Criminal Background Check Information from Other States for Renewals Proving Problematic for Board**

Under Maryland law, applicants for licensure as an RN or LPN and applicants for certification as a nursing assistant may be waived from a criminal history records check if they have completed such a check through another state board of nursing within the five years preceding the date of their application. However, according to the board, other states cannot share the results of these checks due to confidentiality concerns. As a result, the board is

requiring a new criminal history records check even if the applicant had submitted to a check in another state within the previous five years. Legal and procedural issues regarding criminal history records checks, including sharing of information between states should be explored, including the policies and procedures of other health occupations boards in Maryland with similar requirements. Based on the findings of this review, current statutory and regulatory requirements relative to criminal history records checks may need to be revised.

### **Ability to Respond to Consumers Remains Problematic**

The 2001 sunset evaluation of the board identified that licensees had difficulty contacting the board. Since that time, the number of individuals licensed or certified by the board has increased significantly. The board uses an automatic call distribution (ACD) system to answer calls from the public. The ACD system serves two workgroups: nursing and nursing assistants. According to board staff, the board has conducted traffic studies on the phone system and implemented two upgrades. Although the phone system can handle the number of calls received, only one staff is assigned to answering the phones.

The most recent traffic study of the board's ACD system was conducted in April 2009 by Verizon. Verizon staff observed a nursing agent handle calls and reviewed ACD reports for March 2009. According to Verizon, the March ACD reports reflected a high number of abandoned calls, especially for the nursing assistants workgroup. Among other recommendations, Verizon suggested adding two additional agents to each workgroup, especially during peak traffic days, to reduce the long wait times and abandonment rates. The executive director has requested additional contractual staff to answer calls. However, currently only one individual is dedicated to answering phones in the nursing division.

### **Board Meeting Managing for Results Performance Measures for Processing Licenses**

In its annual *Managing for Results* (MFR) report on the State budget, the board set a goal that in fiscal 2011, 90% of responding licensed RN/LPN applicants using online renewal will rate service as satisfactory or better on a scale of 1 to 5 as 3 or above. The board met this goal in fiscal 2008 but did not administer a similar survey in fiscal 2009 or 2010. The executive director intends to administer the survey again in fiscal 2011. The board also set a goal in the MFR report to process 95% of routine renewal applications received by mail within five business days. The board met this goal in fiscal 2008 and 2009.

## Number of Complaints and Resulting Backlog in Complaints is Growing

As shown in **Exhibit 4**, between fiscal 2006 and 2010, the total number of complaints handled by the board for RNs, LPNs, nursing assistants, and medication technicians increased by 138%. This significant increase can be attributed to the criminal history records check requirement and the requirement to certify medication technicians, as well as the overall increase in the total number of individuals licensed or certified by the board.

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### Exhibit 4 Complaints Received by the State Board of Nursing Fiscal 2006-2010

|   | <u>FY 2006</u> | <u>FY 2007</u> | <u>FY 2008</u> | <u>FY 2009</u> | <u>FY 2010</u> |
|---|----------------|----------------|----------------|----------------|----------------|
| <b><u>RNs and LPNs</u></b>                |                |                |                |                |                |
| Complaints Pending from<br>Previous Years | 566            | 585            | 1,584          | 1,496          | 1,748          |
| New Complaints                            | 590            | 404            | 689            | 849            | 1,645          |
| Subtotal                                  | 1,156          | 989            | 2,273          | 2,345          | 3,393          |
| <b><u>Nursing Assistants</u></b>          |                |                |                |                |                |
| Complaints Pending from<br>Previous Years | 476            | 511            | 679            | 1,132          | 1,105          |
| New Complaints                            | 631            | 643            | 1,026          | 988            | 1,854          |
| Subtotal                                  | 1,107          | 1,154          | 1,705          | 2,120          | 2,959          |
| <b><u>Medication Technicians</u></b>      |                |                |                |                |                |
| Complaints Pending from<br>Previous Years | 0              | 358            | 394            | 467            | 201            |
| New Complaints                            | 486            | 347            | 423            | 301            | 646            |
| Subtotal                                  | 486            | 705            | 817            | 768            | 847            |
| <b>Total</b>                              | <b>2,749</b>   | <b>2,848</b>   | <b>5,282</b>   | <b>5,233</b>   | <b>7,199</b>   |

Source: State Board of Nursing

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The impact of the criminal history records check requirement can be seen beginning in fiscal 2008 when the board began reviewing records for all new licensees and nursing assistants. New complaints increased by 71% for RNs/LPNs, 60% for nursing assistants between fiscal 2007 and 2008. This growth is most evident in the jump in the number of new complaints from fiscal 2009 to 2010, where there is a 151% increase for RN/LPNs, 153% increase for nursing assistants.

The significant increase in fiscal 2008 in the number of complaints pending from previous years regarding RNs/LPNs resulted from new cases identified in 2007. At that time, the board found RN and LPN complaint files that were not entered into the board's database, accounting for an additional carryover of 595 cases from fiscal 2007 to 2008. Despite the increase in complaint volume, in fiscal 2009, the board was able to meet its MFR goal of resolving 80% of all disciplinary cases within 270 days.

According to the board, many cases that are five years old or older are carryovers from previous investigators for whom cases were not reassigned. The board is in the process of reviewing any old cases that were not reassigned. At the time of the transition to the current executive director, there were a total of eight investigators. The board currently employs 10 investigators. Criminal history records check requirements have increased the average caseload of an investigator to between 150 and 200 cases. The board has implemented several policies to reduce the backlog in complaints. For example, the executive director and a committee can review complaints that are five years old or older and chose not to refer them to the board. In addition, the board has established a complaint review committee that filters out serious and nonserious cases and prioritizes the serious cases. The board also conducts three, rather than one, settlement conferences per month and has authorized the executive director and staff to conduct settlement conferences for noncontested cases and make recommendations for resolution to the board.

## **Board of Nursing in Good Financial Standing Despite Increase in Responsibilities**

In 1991, the General Assembly gave the board special fund status. This means that the board does not receive funding from the State's general fund and instead is funded through fees paid by licensees and certificate holders, as shown in **Appendix 1**. This special fund status allows the board to rollover revenue one year in order to better handle additional costs that may arise in subsequent years. This rollover is called a fund balance and consists of surplus revenues from prior years. Legislation enacted in 1996 allows the board to retain all of the revenue it generates. Prior to this, the board, along with many other health occupations boards, returned 20% of its revenues to the general fund. In recent years, health occupations boards have been required to transfer funds to the general fund through the Budget Reconciliation and Financing

Act (BRFA). In fiscal 2009, the BRFA required the board to transfer \$500,000 to the general fund and in fiscal 2010, the board was required to transfer \$305,549.

As shown in **Exhibit 5**, a review of the board's budgets for fiscal 2007 through 2011 indicates that revenue exceeds expenditures. On average, board revenues have ranged from about \$780,000 to \$2.4 million annually. Revenues have increased rapidly since fiscal 2008 consistent with the growing number of individuals licensed and certified by the board. Board expenditures ranged from \$5.2 to \$5.9 million from fiscal 2007 to 2010, and increased by 18% in fiscal 2011. This increase is at least partially attributable to four new positions.

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**Exhibit 5**  
**Fiscal History of the State Board of Nursing**  
**Fiscal 2007-2011**

|  | <u>FY 2007</u>   | <u>FY 2008</u>   | <u>FY 2009</u>   | <u>FY 2010</u>   | <u>Estimated<br/>FY 2011</u> |
|--|------------------|------------------|------------------|------------------|------------------------------|
| Beginning Fund Balance                       | \$778,084        | \$986,817        | \$1,633,578      | \$1,884,048      | \$2,405,680                  |
| Revenues Collected                           | 5,444,330        | 5,851,923        | 5,964,037        | 6,773,441        | 6,582,800                    |
| <b>Total Funds Available</b>                 | <b>6,222,414</b> | <b>6,838,740</b> | <b>7,597,615</b> | <b>8,657,489</b> | <b>8,988,480</b>             |
| <b>Total Expenditures</b>                    | <b>5,186,925</b> | <b>5,205,162</b> | <b>5,213,611</b> | <b>5,946,260</b> | <b>7,000,395</b>             |
| Direct Costs                                 | 4,933,165        | 4,985,320        | 5,960,177        | 5,682,358        | 6,772,714                    |
| Indirect Costs                               | 253,760          | 219,842          | 253,434          | 263,902          | 227,681                      |
| <b>Ending Fund Balance</b>                   | <b>1,035,489</b> | <b>1,633,578</b> | <b>2,384,004</b> | <b>2,711,229</b> | <b>1,988,085</b>             |
| <b>Transfer to General Fund</b>              |                  |                  | <b>500,000</b>   | <b>305,549</b>   |                              |
| Balance as % of Expenditures                 | 20%              | 31%              | 33%              | 40%              | 28%                          |
| Target Fund Balance<br>(20% of Expenditures) | \$1,037,385      | \$1,041,032      | \$1,142,722      | \$1,189,252      | \$1,400,079                  |

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

Source: Department of Health and Mental Hygiene

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DHMH sets target levels for the fund balances of all health occupations boards. Based on its size, the board should not have a balance that exceeds 20% of its expenditures. Given the increase in the board's licensure and certification responsibilities, the board has handled its

special fund status relatively well, although the ending fund balance for fiscal 2010 was 40%. However, as shown in Exhibit 5, the projected ending fund balance for fiscal 2011 is 28%.

## **Recommendations**

The State Board of Nursing has responded well to the challenges of licensing, certifying, and regulating the largest number of health occupations practitioners in the State. In particular, the board has implemented policies to streamline the complaint resolution process and improve responsiveness to licensees. The board has also remained actively involved in policy issues affecting nurses through the establishment of workgroups. The board has also met its Managing for Results goals for processing renewal applications. Conversely, the increased certification duties related to nursing assistants and medication technicians coupled with the requirement to conduct criminal history records checks on all licensees and certified nursing assistants has significantly increased the workload of the board since the prior sunset evaluation. Given these significant changes, a more detailed evaluation of the board is appropriate. **Therefore, the Department of Legislative Services recommends a full evaluation of the State Board of Nursing to address the following issues:**

- **Criminal History Records Checks:** A full evaluation should examine the impact of requiring criminal history records checks on the resources of the board. The evaluation should assess whether the board is maximizing staff resources in administering and investigating complaints related to the checks. The evaluation should examine the board's compliance with the Nurse Practice Act in accessing out-of-state background check information and should update related regulations and statutes, if appropriate.
- **Complaint Resolution Process:** A full evaluation should examine the complaint resolution process to assess whether board efforts to expedite the process are effective and equitable. This should include an assessment of the complaint resolution streamlining policies implemented by the executive director and how these policies, updates, activities, and staffing levels are either improving or hindering the complaint resolution process.
- **Personnel:** A full evaluation should look at how the board is allocating staff given the board's additional responsibilities since the prior sunset evaluation. The evaluation should assess whether the board is using automation where appropriate and whether the board has restructured effectively in light of the board's additional licensing and criminal history records check responsibilities. A full evaluation should determine if the board has sufficient financial, administrative, and technical support to fulfill its obligations, particularly in relation to disciplinary investigations and in light of the planned change to biennial license and certification renewal in 2013.
- **Customer Service:** A full evaluation should look at customer service issues given the 108% increase in licensees and certificate holders since 2005. The evaluation should

determine whether the board has implemented the recommendations of the traffic studies conducted by Verizon and determine whether the recommendations have led to increased responsiveness to licensees and certificate holders. If appropriate, DLS should make recommendations on ways to increase access to the board.



# Appendix 1.

## Schedule of Fees for the State Board of Nursing

### Fiscal 2011

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#### **Initial Licensure and Certification**

##### **Examination Fees (New Graduates):**

|                                 |       |
|---------------------------------|-------|
| Registered nurse (RN) licensure | \$100 |
| Practical nurse (LPN) licensure | 100   |

##### **Endorsement Fees (Licensees from Other States or Countries):**

|  |     |
|--|-----|
| Endorsement for registered nurse licensure | 100 |
| Endorsement for practical nurse licensure  | 100 |
| Temporary licensure fee                    | 40  |

##### **Certification Fees:**

|  |    |
|--|----|
| Initial certification for nursing assistants     | 20 |
| Initial certification for medication technicians | 20 |

#### **Renewal of Licensure and Certification**

|  |    |
|--|----|
| Annual renewal for RNs and LPNs  | 55 |
| Annual renewal for advanced practice   | 73 |
| Volunteer licensure  | 20 |
| Renewal of additional certification for RN in advanced practice categories<br>and RNs certified in distinct areas of practice regulated by the board | 5  |
| Annual inactive renewal for RNs and LPNs   | 20 |
| Annual renewal for nursing assistant certification   | 40 |
| Annual renewal for medication technician certification   | 30 |

#### **Other Fees**

|   |      |
|---|------|
| Copies of transcripts or duplicate test scores                    | 25   |
| Duplicate licensure fee   | 15   |
| Returned check fee  | 25   |
| Initial certification for RNs in advanced practice categories     | 50   |
| Additional certifications for RNs in advanced practice categories | 25   |
| Transcript evaluation fee   | \$25 |

Source: *Code of Maryland Regulations* 10.27.01.02, 10.39.01.02, and 10.39.04.03 and Department of Health and Mental Hygiene



## **Appendix 2. Written Comments of the State Board of Nursing**

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STATE OF MARYLAND



MARYLAND BOARD OF NURSING

4140 PATTERSON AVENUE

BALTIMORE, MARYLAND 21215 -2254

December 3, 2010

Ms. Jennifer B. Chasse  
Senior Policy Analyst  
Department of Legislative Services  
Office of Policy analysis  
90 State Circle  
Annapolis, Maryland 21401

Dear Ms. Chasse:

The Maryland Board of Nursing, the Board, is in receipt of the Exposure Draft of Sunset Evaluation Nursing and appreciates the opportunity to review this report. Further, the Board appreciates the thorough analysis and thoughtful recommendations. It has been a pleasure working with Ms. Hopwood.

The Board will continue to work to improve issues raised in the Exposure Draft and looks forward to working with you and your staff during the full evaluation.

Sincerely,

Nancy D. Adams, MBA, RN  
President

Patricia Ann Noble, MSN, RN  
Executive Director