

Preliminary Evaluation of the State Board of Examiners of Psychologists

Recommendations: Waive from Full Evaluation

Extend Termination Date by 10 Years to July 1, 2023

Require Follow-up Report by October 1, 2012

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 Examiners of Psychologists last underwent a preliminary evaluation as part of sunset review in 2000. In that preliminary evaluation, DLS recommended that the board undergo a full evaluation to assess complaint activity and outcomes, as well as the fiscal solvency of the board and its financial planning. A full evaluation of the board was conducted in 2001. Ensuing legislation, Chapter 164 of 2002, extended the board’s termination date to July 1, 2013. Due to concerns regarding the board’s finances, Chapter 164 also required the board to submit two financial reports to committees of the General Assembly.

In conducting this preliminary evaluation, DLS staff reviewed (1) minutes for open, administrative, and closed session board meetings; (2) the Maryland Psychologists Act (Title 18 of the Health Occupations Article) and related regulations; (3) prior preliminary and full sunset evaluations of the board; (4) the board’s complaint database for the past five years; and (5) board licensing and financial information. Interviews were conducted with the board’s executive director, the board president, the chair of the board’s Operations Committee, and the executive director of the Maryland Psychological Association. DLS staff also attended open and administrative session board meetings and 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 Practice of Psychology in Maryland

Psychology involves the study and treatment of mental health. Psychologists are highly trained behavioral health care professionals who have doctoral degrees. The American Psychology Association recognizes more than 50 fields within the profession, including research, education, counseling, industrial/organizational practice, and clinical psychology. Clinical psychologists who assess and treat mental, emotional, and behavioral disorders are most prevalent nationally and in Maryland. In total, there are about 4,500 licensed psychologists in Maryland.

The practice of psychology is regulated in Maryland by the State Board of Examiners of Psychologists. From 1957 to 1981, the board only certified psychologists, which protected only use of the title of “psychologist.” However, with the enactment of the Maryland Psychologists Act in 1981, the board began to license all applicants for the profession. In contrast to certification, licensure prohibits the practice of psychology without a license. The board also approves psychology associates. These individuals may perform the same functions as a psychologist, but they must be under the direct supervision of a licensed psychologist. There are currently about 650 approved psychology associates in Maryland.

The State Board of Examiners of Psychologists

The State Board of Examiners of Psychologists is housed in the Department of Health and Mental Hygiene. The central purpose of the board is to protect and promote public safety through licensure and regulation of Maryland psychologists and approval of psychology associates. The board is composed of nine members. Seven members are licensed psychologists and two members are consumers. Of the seven licensed psychologists, at least two must be engaged primarily in providing psychological services and at least two must be engaged primarily in teaching, training, or research in psychology. The psychologist members must have practiced, taught, or engaged in research for at least five years, be a U.S. citizen, and be a resident of Maryland. Consumer members are prohibited, among other things, from having ever been a psychologist or having a household member who participates in a commercial or professional field related to psychology.

Board members are appointed by the Governor with the advice and consent of the Senate. A list of nominations, compiled via a balloting process in which every licensed psychologist is eligible to vote, is submitted to the Secretary of Health and Mental Hygiene by the Maryland Psychological Association.

The term of a member is four years, and the member may not serve more than two consecutive full terms. The Governor is required, to the extent possible, to fill any vacancy on the board within 60 days. Currently, the board has no vacancies. All board members receive a per diem of \$150 for each board-related meeting, as well as mileage reimbursement.

The full board generally meets every month except August. Most of the work of the board, however, is done through four committees: Licensing Issues, Disciplinary, Operations, and Public Affairs. Each member of the board, with the exception of the board chair, serves on at least one committee and is either chair or vice-chair of a committee. Each committee meets at least once a month and updates the full board on its activities.

The board has four permanent employees and one contractual employee to support its activities: an executive director, two administrative assistants, an investigator, and a licensing coordinator. All of the positions are full-time. The second administrative assistant position began as a contractual position in October 2009 to provide additional support for the board, licensees, and the public especially when the other administrative assistant is out on leave. The position also addressed concerns raised by legislative auditors that at least two individuals be involved with the receipt and processing of checks. The position became vacant when the contractual period ended on June 10, 2010. The board, however, received approval from the Secretary of Health and Mental Hygiene to reestablish the contractual position despite a hiring freeze, and the position was filled at the end of September.

Other personnel who support the board also work for other boards. The assistant Attorney General who serves as board counsel devotes about one-third of her time to the board. A second assistant Attorney General devotes approximately 15% of her time to the board. The board also shares a half-time programmer analyst, as well as a regulations coordinator and fiscal and information technology personnel.

Statutory Changes Affecting the Board Since the 2001 Full Sunset Evaluation

Several legislative changes have affected the practice of psychology and the board since the last full sunset evaluation. The major legislative changes are noted in **Exhibit 1**. Among those changes were (1) expanding what the board recognizes as a doctoral program that qualifies an applicant to practice psychology in the State; (2) specifying that a decision by the board to enforce a suspension of a license for more than one year may not be stayed pending judicial review; and (3) requiring an applicant for a license to submit to a criminal history records check.

Exhibit 1
Major Legislative Changes Since the 2001 Full Sunset Review

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2002	148	<p>Extends the amount of time, from 60 to 120 days, that the board has for notifying a licensed psychologist of a complaint and forwarding the complaint to the licensee.</p> <p>Specifies that a decision by the board to enforce a suspension of a license for more than one year may not be stayed pending judicial review.</p>
	164	<p>Extends the termination date of the board by 10 years to July 1, 2013.</p> <p>Requires the board to report on implementing recommendations in the 2001 sunset evaluation report, including two financial plans.</p>
2009	329/330	<p>Expand what the board recognizes as a doctoral program that qualifies an applicant to practice psychology in Maryland.</p> <p>Specify that the board's approval of an applicant's professional supervised experience in psychology is to be made in accordance with regulations adopted by the board.</p>
2010	533/534	<p>Set standardized guidelines for all health occupations boards regarding disciplinary processes, board membership, and other administrative matters.</p> <p>Require each board, to the extent permitted by administrative and fiscal resources, to establish a disciplinary subcommittee to be responsible for the investigation of complaints and other aspects of the disciplinary process.</p> <p>Establish a six-year statute of limitations on the bringing of charges by a board against a licensee.</p> <p>Require boards to adopt sanctioning guidelines and post final public orders on the boards' websites.</p> <p>Require board membership to reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.</p> <p>Require boards to notify licensees of board vacancies.</p> <p>Require boards to develop a training process and materials for new board members.</p>

Require boards to collect racial and ethnic information about applicants.

Authorize boards to establish a program that provides training, mentoring, or other forms of remediation to licensees who commit a single standard of care violation.

Require the Secretary of Health and Mental Hygiene to confirm the appointment of an administrator or executive director to each board and establish goals for the timeliness of complaint resolution.

647/648 Require applicants for licensure as a psychologist to submit to a criminal history records check.

Outline what the board is required to consider when deciding whether to grant a license or certificate to an individual who has a criminal history.

Authorize the board to deny a license to an applicant or take disciplinary action against a licensee who has failed to submit to a criminal history records check.

Source: Laws of Maryland

In addition to these changes, Chapters 533 and 534 of 2010 set standardized guidelines for all health occupations boards regarding disciplinary processes, board membership, and other administrative matters. Among other requirements, the Act requires the board to:

- adopt sanctioning guidelines;
- notify licensees when there is a vacancy on the board;
- establish a disciplinary subcommittee if permitted by administrative and fiscal resources;
- develop a training process and materials for new board members;
- post final public orders of the board's website; and
- collect racial and ethnic information about applicants.

The board was in compliance with many of these requirements prior to the enactment of Chapters 533 and 534. The Maryland Psychological Association notifies all licensees when there is a vacancy for a psychologist member on the board. The board has a discipline committee and is evaluating whether it is feasible for the committee to undertake responsibility

for the investigation of complaints and other aspects of the disciplinary process. The board also has a training process and materials for new board members and posts final public orders on its website. To further comply with Chapters 533 and 534, the board is adding questions regarding the race and ethnicity of applicants to the licensure application form. The board is aware of the other requirements of the legislation and is moving toward compliance.

Regulatory Changes Since the 2001 Sunset Evaluation

In addition to statutory changes, there have been several changes to board regulations since the last full sunset evaluation. Among these changes were allowing the board to waive the Examination for Professional Practice in Psychology (a national licensing examination) for an applicant under certain circumstances and establishing a new Code of Ethics and Professional Conduct. Most recently, the board promulgated regulations that specify the supervised professional experience requirements for licensure in accordance with Chapters 329 and 330 of 2009. These and other regulatory changes are outlined in **Exhibit 2**. The board is also in the process of approving and promulgating regulations that govern child custody evaluations.

Exhibit 2
Major Regulatory Changes Since the 2001 Full Sunset Review

<u>Year</u>	<u>COMAR Provision</u>	<u>Change</u>
2001	10.36.01.06	Allows the board to waive the Examination for Professional Practice in Psychology for an applicant under certain circumstances.
	10.36.06.02	Increases the fees charged by the board.
	10.36.07.05	Allows a supervisor of a psychology associate to delegate some supervisory responsibility to another licensed psychologist to provide temporary supervision when the supervisor is unavailable.
		Sets the number of hours required for the supervision to be considered adequate and appropriate based on the educational experience of a psychology associate.
2002	10.36.07.06	Increases the number of psychology associates that may be supervised by one supervisor.
		Alters various requirements regarding psychology associates.
	10.36.01.02	Alters the circumstances under which an application for licensure is terminated.
2003	10.36.01.04	Alters the requirements for supervised postdoctoral experience.
	10.36.01.06	Alters the passing scores for the Examination for Professional Practice in Psychology and the Maryland examination.
2009	10.36.05	Institutes a new Code of Ethics and Professional Conduct.
2009	10.36.02	Institutes new requirements and procedures for the continuing education of licensees.
2010	10.36.01	Specifies the supervised professional experience requirements for licensure.

Source: Code of Maryland Regulations, *Maryland Register*

Board Meets Its Mandated Duties but Annual Reports Have Contained Errors

In addition to other specified duties, statute requires the board to submit an annual report of its activities to the Secretary of Health and Mental Hygiene as soon as practicable after the end of each fiscal year. The annual reports are completed and submitted by the executive director. The board does not review the report before it is submitted. Of the five annual reports reviewed as part of this evaluation process, errors regarding complaint data were contained in all five reports and errors regarding the finances of the board were contained in three of the reports. Due to DLS' findings, the board has since corrected the errors and resubmitted the annual reports to the Secretary of Health and Mental Hygiene. **The board should work to eliminate discrepancies in the annual reports that are submitted to the Secretary of Health and Mental Hygiene. The board should consider reviewing and approving the annual reports before they are submitted.**

Licensing Activity

Statutory and Regulatory Requirements for Initial Licensure

Except under limited circumstances, an individual is required to have a license from the board to practice psychology in the State. To qualify for a license, the individual must be of good moral character and at least 18 years old; and

- have a doctoral degree in psychology;
- pass an examination given by the board;
- have at least two years of professional supervised experience in psychology that is approved by the board; and
- reside or practice, or intend to reside or practice, in the State.

An individual who qualifies for licensure must submit a verified application and pay applicable fees to the board.

The examination prepared and given by the board covers State law and regulations pertaining to the practice of psychology. In fiscal 2003, the board began using a computerized examination. Though web-based, the examination is still proctored by the board. Computerization of the examination has allowed for faster scoring and increased board efficiency in the issuance of licenses.

In addition to statutory requirements, the board, through regulation, also requires each applicant for licensure to pass the national Examination for Professional Practice in Psychology and submit references. An applicant is not required to take the Examination for Professional Practice in Psychology if the applicant is licensed in another state and has the national Certificate of Professional Qualification in Psychology (CPQ). CPQ is a national credential awarded by the Association of State and Provincial Psychology Boards designed to ease professional mobility of psychologists. These requirements, although specified in regulation, are not required by the board's governing statute. **The board should consider modifying its governing statute so that all major licensing requirements are included in statute.**

License Renewal Includes Continuing Education Requirements

Licenses are renewed every two years. Licensees who receive an initial license in odd-numbered years are assigned odd-numbered licenses and renew in odd-numbered years, while licensees who receive an initial license in an even-numbered year are assigned even-numbered licenses and renew in even-numbered years. The full renewal fee is due at the time the license is renewed. The licensee can complete and file the renewal form online. To renew the license, the licensee must pay the renewal fee, submit the renewal application, and provide satisfactory evidence that the licensee has complied with continuing education requirements.

Board regulations require psychologists to complete 40 hours of continuing education each renewal cycle. Of the 40 hours, no more than 16 may be done by independent study. Also, a minimum of three credits must be in courses pertaining to the practice of psychology, ethics and professional conduct, or risk management. Beginning in December 2010, the limit on independent study will increase to 20 hours, and psychologists will be required to complete a minimum of 3 hours in cultural competency each renewal cycle. Each psychologist must maintain a complete record of the continuing education credits completed along with documentation to support the record. The board randomly audits about 10% of renewal applications to ensure compliance with the continuing education requirement.

Number of Psychologist Licenses Issued Per Year Is Stable

The licensing trends of the board from fiscal 2006 through 2011 are shown in **Exhibit 3**. When compared year to year, the number of initial psychologist licenses issued each year has remained relatively stable except for fiscal 2007 and 2009. The number of initial licenses appears to be sufficient to cover any licenses that are not renewed due to attrition. The board will regulate approximately 2,700 licensed psychologists in fiscal 2011. Compared with 2,356 in 2001, the number of psychologists has increased by 13%.

Exhibit 3
Licensing Activity
Fiscal 2006-2011

<u>License</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>Projected FY 2011</u>
Initial	119	149	135	98	119	125
Renewal	1,109	1,118	1,218	1,156	1,232	1,297
Inactive	38	39	51	30	21	36
Psychology Associates ¹	14	36	144	133	153	143
Total	1,280	1,342	1,548	1,417	1,525	1,601

¹ The number of psychology associates increased dramatically between fiscal 2007 and 2008 due to the board requiring licensed psychologists to submit applications for the psychology associates that they supervise. Psychology associates are not granted a license, but they must be approved by the board. The number indicated reflects new psychology associates approved in that fiscal year.

Source: State Board of Examiners of Psychologists

Psychology Associates Are an Exception to Licensing Requirement

In addition to licensing psychologists, the board also approves psychology associates. Psychology associates are unlicensed individuals who apply for an exemption to the licensing requirement and work under the direct supervision of a licensed psychologist who has been permitted by the board to supervise psychology associates. Once psychology associates have received an exemption from the licensing requirements, they are not required to renew the approval for the exemption. To be approved as a psychology associate, the applicant must:

- provide psychological services under the direct supervision of a licensed psychologist who takes full responsibility for the activities and services performed;
- have graduated with at least a master's degree in psychology or in a subject area whose content is primarily psychological in nature;
- be of good moral character;
- pay an application fee;
- complete an application form approved by the board; and
- present all required documentation of the applicant's education, training, and experience.

The approval for an exemption does not entitle the individual to practice psychology independent of the supervisor. Some psychology associates hold associate status during the professional supervised experience required for licensure as a psychologist. However, the majority of psychology associates maintain their associate status throughout their careers.

Although psychology associates perform the same duties as a licensed psychologist, they are not required to renew their exemption status or take continuing education credits. However, in April 2010, the board voted to require psychology associates to renew their status every two years. The board is planning to implement this requirement by March 2011.

Under current law, the board does not have the power to discipline psychology associates. Any discipline stemming from the actions of a psychology associate is taken on the supervising licensed psychologist. Some other health care practitioners who practice under the supervision of other licensees, such as physical therapy assistants, are licensed. The respective boards have statutory authority to discipline them as well. **The board should continue its plans to require psychology associates to renew their status every two years and determine whether psychology associates should be required to take continuing education credits. Furthermore, the board should report on the role of psychology associates in the State and whether it would be appropriate to certify or license psychology associates, as well as whether additional disciplinary authority is needed.**

Approval of Psychology Associates Increases Under Board Directive

As seen in Exhibit 3, the board experienced a significant increase in the number of psychology associates approved by the board between fiscal 2007 and 2008. This was due to the board reviewing its licensing files and requiring that licensed psychologists submit applications for the approval of any psychology associates that they supervise. As of fiscal 2010, the board had a record of approximately 650 active psychology associates. The board estimates that there will be approximately 675 psychology associates in fiscal 2011. Despite the increase, the board has not felt a significant impact on its resources and notes that complaint activity related to psychology associates is minimal.

Complaint Resolution

Board Has an Established Complaint Resolution Process

The board may deny a license application or reprimand, suspend, revoke, or place on probation any licensee for a violation of any of the 21 provisions listed in the Maryland Psychologists Act. Board disciplinary action may range from an educational meeting to initiating formal charges against a psychologist. A monetary penalty of up to \$10,000 may also be levied by the board after a hearing. Board regulations outline the amount of monetary penalty that can be assessed for certain violations. Fines are paid into the general fund. When assessing the severity of monetary penalties, the board considers willfulness, extent or potential extent of

harm, investigative and prosecution costs, the licensee's history of previous violations, any mitigating factors as presented by the licensee, and whether the licensee received any financial gain from the violation.

Once a complaint is received by the board, the chair and vice-chair evaluate the complaint and determine whether there is any evidence of a violation. If there is no evidence of a violation, the chair and vice-chair present the complaint to the full board for a vote to dismiss. If there is evidence of a violation, then an investigation is commenced and the executive director assigns a board member liaison to each complaint pursued. If a consumer member is appointed as liaison, a psychologist board member is also assigned. The board investigator works with the liaison(s) during an investigation. Once the investigative report is completed, the report is presented to the full board by the liaison(s). Based on the evidence, the liaison(s) makes a recommendation on the disposition of the complaint and the board votes on it. The board is reviewing its complaint procedures to determine what, if anything, needs to be done to achieve full compliance with Chapters 533 and 534 of 2010.

Complaint Resolution Can Be Lengthy

The board appears to resolve complaints in a relatively timely fashion, in light of the types of complaints the board receives and the investigations that have to be undertaken to determine whether violations have occurred. **Exhibit 4** details the board's complaint resolution for the past five years. The number of complaints received in a year has ranged from 30 to 44, with an average of 35 complaints each year. The time period in which complaints are typically resolved has steadily dropped from a high of 11 to 12 months in fiscal 2007 down to 4 to 5 months in fiscal 2009 for those resolved to date (two complaints remain outstanding). Factors that can increase the time it takes to resolve a complaint include scheduling conflicts, the length of time that the prosecutor or Office of Administrative Hearings takes to resolve cases, and the prioritizing of cases by the board.

The average number of months taken to resolve complaints in fiscal 2006 and 2007 is significantly higher than subsequent years mainly due to 10 complaints that took from two to more than four years to resolve. Nine of the cases involved the board sending the complaint to the Office of Attorney General (OAG) for prosecution. Of the cases referred to OAG, five resulted in an agreement through a case resolution conference. The other four cases were returned for lack of evidence, and the board pursued informal action against the licensees. In the remaining case that was not referred to OAG, resolution of the complaint was delayed due to a domestic assault case that was being prosecuted. If these 10 cases are removed, the average time for resolution is five to six months for fiscal 2006 and seven to eight months for fiscal 2007. The board noted that it can take up to six months for OAG to return a case for lack of evidence and up to several years for OAG to prosecute a case. The length of time it takes OAG to either return a case to the board for lack of evidence or to prosecute the licensee is not unique. Other boards experience similar delays.

Exhibit 4
Resolution of Complaints Received
Fiscal 2006-2010

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
New Complaints	44	32	39	30	30
<i>Complaints Resolved</i>					
Within Six Months	21	9	17	19	13
Require More than Six Months	23	23	22	9	2
Average Months for Resolution ¹	9-10 ²	11-12 ²	7-8	-	-
Average Months for Resolution of Complaints that Resulted in Informal or No Action	7-8	11-12	7-8	4-5	2-3
Average Months for Resolution of Complaints that Resulted in Formal Action	37-38	12-13	-	4-5	-
<i>Complaints Unresolved as of July 2010</i>	0	0	0	2	15
<i>Disposition of Resolved Complaints</i>					
Finding of No Evidence of a Violation ³	8	6	11	11	6
Closed/Dismissed Without Action ⁴	15	13	16	8	7
Referred to Other Jurisdiction	5	2	1	0	2
Letter of Education	3	6	7	6	0
Letter of Admonishment	3	1	1	0	0
Administrative Closure ⁵	6	2	1	2	0
Formal Action ⁶	4	1	0	1	0
Cease and Desist Letter	0	1	2	0	0

¹ The length of time to resolve a complaint was calculated from the time the complaint was received until the date of final disposition.

² Ten cases opened in fiscal 2006 and 2007 took several years to resolve. If those cases are removed, the average months for resolution were five to six months and seven to eight months, respectively.

³ A finding of no evidence of a violation means that no investigation was conducted.

⁴ A finding of closed/dismissed without action means that the board voted to dismiss the case after an investigation was conducted.

⁵ An administrative closure occurs in circumstances such as the death of a licensee, inability to reach the complainant, or when the board is awaiting action from another jurisdiction.

⁶ Formal action includes reprimands, suspensions, and monetary penalties.

Source: Department of Legislative Services, State Board of Examiners of Psychologists.

For fiscal 2010, complaints were generally resolved within six months of the board receiving the complaint; however, half of the complaints received that year had not been resolved as of the end of July 2010. The outstanding complaints were received from as far back as August 2009 to as recently as June 1, 2010. **Though the board has made great strides in reducing the time it takes to dispose of complaints, it should continue to track the factors that delay disposition and, to the extent possible, take action to limit the length of time cases remain open.**

Most Complaints Dismissed or Closed; Informal Action Most Common When Issues Found

Formal, public sanctions of licensed psychologists are used rarely but appropriately. The most common public sanction is a reprimand. In some cases, the board votes to formally charge a psychologist, but the prosecutor finds there is not enough evidence to sustain a case; in those instances, the complaint may be resolved by dismissing it without action or by informal discipline. The board has recently completed a “bench book,” a log of cases that were resolved through formal action that describes the case and the outcome, to track formal disciplinary actions to ensure consistency in the disposition of cases.

As shown in Exhibit 4, the vast majority of complaints are dismissed or closed without action. When board action is taken, cases are typically resolved through informal action, such as letters of education or admonishment. When informal action is taken, it can be accompanied by a requirement that the psychologist complete continuing education credits in certain areas or be supervised by a board-approved licensed psychologist for a certain amount of time. These methods are confidential and are used to inform, educate, and/or rehabilitate psychologists.

Complaint Database Is Missing Information

The board has developed a comprehensive, computerized complaint database which includes complaints from fiscal 1995 to the present. The database is used to track information ranging from the date the complaint was received to the disposition of the case. The board has also developed a coding system so that the disposition of a complaint and the violations that were found can be easily identified and tracked. Under the coding system, a three character code is assigned to each complaint. A separate coding system is used to designate the type of violations involved in a complaint.

Overall, the database is useful to track various information regarding complaints that the board investigates. In some cases, however, complaints were closed, but no disposition date was included in the database. Missing information can hamper the board’s ability to track timeframes for complaint resolution and the final disposition of complaints. **The board should take steps to ensure that information regarding complaints is fully and accurately entered into the complaint database so that the board can maximize the usefulness of the database.**

Board Finances

Board Fees Increased in 2002

The board charges fees for a variety of services it provides to its licensees and to the public. The fees range from application fees to a fee for a duplicate license. **Appendix 1** shows the current fees, as well as the fees that were in effect immediately prior to the current fees. The current fees went into effect in March 2002. The fee increase was in response to concerns raised during the 2001 full sunset evaluation and was done to close an operating deficit. It should be noted that the fees assessed for the national examination are passed through to the national organization that administers the Examination for Professional Practice in Psychology.

Board Draws Down Fund Balance to Cover Expenses that Now Exceed Revenues

The fiscal history of the board is shown in **Exhibit 5**. The board is special funded and therefore required to generate self-supporting revenues. Board expenditures consist of indirect costs (departmental costs such as information technology and human resources expenses and the Attorney General cost allocation) and direct costs (all other budget items). Both direct and indirect costs have increased over the past five years. Estimated direct costs for the board in fiscal 2011 are approximately 25% higher than fiscal 2007. This increase is partially due to the board hiring a programmer analyst in fiscal 2008 and an additional administrative assistant in fiscal 2010. Other factors driving expenses include an increase in the per diem amount board members are paid and greater frequency of payment of per diems as the board's four committees hold frequent meetings. Also, the estimated indirect costs for fiscal 2011 are approximately 18% higher than in fiscal 2007. Increased indirect costs can be partially accounted for due to the board sharing an assistant board counsel (added in fiscal 2009).

Board revenues consist solely of the fees the board collects, which are deposited into a special fund. Historically, most revenues are collected from renewal fees, with the second highest amount coming from application fees. Revenues in odd-numbered years are lower than even-numbered years because there are fewer licensees required to renew in those years. Revenues for fiscal 2010 increased approximately 3% over revenues from fiscal 2008 and revenues for fiscal 2009 similarly increased from fiscal 2007. Despite the modest increase in revenues, expenditures have increased significantly more over the same time period.

The board's fund balance gives the board the ability to save money for large planned expenditures, address unanticipated expenditures, and keep fees at the same level for several years. The board's target fund balance is 25% of expenditures. In recent years, the board has maintained a robust fund balance that well exceeded its 25% target.

Exhibit 5
Fiscal History of the State Board of Examiners of Psychologists
Fiscal 2007-2011

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>Projected FY 2011</u>
Beginning Fund Balance	\$358,964	\$383,402	\$376,041	\$334,432	\$285,668
Revenues Collected	502,259	566,243	518,308	533,820	587,999
Total Funds Available	\$861,223	\$949,645	\$894,349	\$868,252	\$873,667
Total Expenditures	\$477,821	\$573,604	\$559,917	\$582,584	\$626,343
Direct Costs	399,794	479,949	463,862	492,776	534,053
Indirect Costs	78,027	93,655	96,055	89,808	92,290
Ending Fund Balance	\$383,402	\$376,041	\$334,432	\$285,668	\$247,324
Balance as % of Expenditures	80%	66%	60%	49%	39%
Target Fund Balance	\$143,346	\$172,081	\$167,975	\$174,775	\$187,903

Note: Numbers may not sum to total due to rounding.

Source: Department of Health and Mental Hygiene

As shown in Exhibit 5, the board ended fiscal 2010 with a fund balance of \$285,668 (49% of expenditures) and is projected to end fiscal 2011 with a fund balance of \$247,324 (39% of expenditures). While the board has spent down excess fund balance toward the target goal, if expenditures continue to outpace revenues, the board's fund balance will soon fall below the target fund balance.

To combat this trend, the board recently adopted the recommendations of its Operations Committee to (1) increase the State law exam fee by \$50, (2) require psychology associates to reapply for their exemption status every two years and pay a \$100 renewal fee, and (3) require psychologists on inactive status to reapply for their exemption status every five years and pay a \$200 renewal fee. The new renewal fees would be in addition to the fees currently charged by the board. The impact of these changes on the board is projected to be minimal. The board is planning to implement these changes by March 2011. These changes should provide additional revenues to the board of approximately \$20,000 per year.

Board Lacks a Long-term Financial Plan

As a result of fiscal concerns expressed in the 2001 full sunset evaluation of the board, Chapter 164 of 2002 required that the board submit two reports to committees of the General Assembly. The interim report was to include a preliminary long-term financial plan. The report was submitted on time and did discuss the steps the board had taken toward a long-term financial plan. The final report was required to include a financial plan that assessed options for bringing expenditures in line with revenues, including reducing expenditures; identified the need for any future fee increases, including determining what appropriate increases would be relative to the fees charged by other boards; discussed how the board could maintain an appropriate fund balance; and instituted a systematic, ongoing process for long-term financial planning. The final report was submitted; however, it did not include a comprehensive long-term financial plan, nor has such a plan been prepared or submitted since that time.

The board has successfully drawn down its fund balance toward its target of 25% of expenditures; however, expenditures continue to outpace revenues. While the board plans to implement regulatory changes that will generate new revenues later in fiscal 2011, the board still lacks a long-term financial plan. Although the minutes of the board indicate that there has been some discussion by the Operations Committee regarding the need for a long-term financial plan, there has been no formal action to create one. Also, the full board does not receive regular updates on the board's finances. **The full board should take a more active role in reviewing and planning for the finances of the board. The board should adopt a specific, long-term financial plan.**

Recommendations

The State has an interest in licensing psychologists and overseeing psychology associates. DLS finds that the board is sufficiently meeting its mandated duties, including efficiently issuing licenses and taking disciplinary actions against licensees where warranted. Since the last sunset evaluation, the board has computerized its examination and completed, on its own initiative, a review of its files so that psychology associates are better accounted for in its records. The board is largely in compliance with the new disciplinary and administrative requirements of Chapters 533 and 534 of 2010 and is actively evaluating how to reach full compliance. Furthermore, the board was professional and responsive throughout the evaluation process. **Therefore, DLS recommends that LPC waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2023.**

To address issues raised in this evaluation, DLS recommends that the board submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee by October 1, 2012, that includes:

- an update on the board's plans to require psychology associates to renew their status every two years and whether psychology associates should be required to take continuing education credits;
- an analysis of the role of psychology associates in the State and whether it would be appropriate to certify or license psychology associates, as well as whether additional disciplinary authority is needed; and
- a long-term financial plan like that envisioned in the 2001 evaluation that (1) assesses options for bringing expenditures in line with revenues, including reducing expenditures, (2) identifies the need for any future fee increases, including determining what appropriate increase would be relative to the fees charged by other boards, (3) discusses how the board can maintain an appropriate fund balance, and (4) institutes a systematic, ongoing process for long-term financial planning.

Appendix 1. Schedule of Fees: State Board of Examiners of Psychologists

	<u>Fee Prior to 2002</u>	<u>Current Fee*</u>
License fees		
Psychologist application fee	\$100	\$200
Psychology associate application fee	50	100
National examination fee	500	500
State examination fee	150	200
Inactive status fee	100	200
Reinstatement fee	200	300
License renewal fees		
Biennial licensure renewal fee	\$250	\$350
Late renewal fee	50	50
Other fees		
Verification of license fee	\$20	\$20
Continuing education sponsor application fee	50	50
Duplicate license fee		
Wall certificate	50	50
Wallet card	10	10
Penalty for returned check	25	25

* Current fees were effective March 18, 2002.

Source: Code of Maryland Regulations 10.36.06.02, *Maryland Register*

Appendix 2. Written Comments of the State Board of Examiners of Psychologists



STATE OF MARYLAND

DHMH

Board of Examiners of Psychologists

Maryland Department of Health and Mental Hygiene

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

November 30, 2010

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

Ms. Jodie L. Chilson, J.D., Policy Analyst
Department of Legislative Services
Office of Policy Analysis
90 State Circle
Annapolis, MD 21401

Dear Ms. Chasse and Ms. Chilson:

Lorraine Smith and I, of the Maryland Board of Examiners of Psychologists (the Board) received your Preliminary Evaluation Report of the Board's Sunset Review. The report was thorough and well done. We appreciated Ms. Chilson's professionalism, courtesy and openness while performing the evaluation. Thank you very much for your recommendation to waive a full evaluation and to extend the Maryland Board of Examiners of Psychologists for an additional 10 years. The Board will submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, and address the areas indicated by October 1, 2012.

The majority of the information that was captured is accurate. There are only a few areas that need clarifying.

1. Page 4, under 2010 year, chapter 533/543 of the report, the second sentence reads "*Require each board to establish a disciplinary subcommittee to be responsible for the investigation of complaints and other aspects of the disciplinary process.*" The Board's counsel interpretation of the 2010 bill requires the boards to determine whether to establish a disciplinary committee given the administrative and fiscal resources of the board. Based on this interpretation and the Board's assessment of the administrative and fiscal impact a disciplinary subcommittee would have, the Board determined that establishing a subcommittee to handle complaints in the manner suggested in the bill is not feasible for the psychology board.

November 30, 2010

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2. Page 12, second paragraph reads, *“Once a complaint is received by the board, the chair and vice-chair evaluate the complaint and determine whether there is any evidence of a violation. If there is no evidence of a violation, the complaint is dismissed.”* The first part of this statement is correct. However, if there is no evidence of a violation, the chair and vice-chair must present the complaint to the full board for a vote to dismiss. The chair and vice-chair cannot dismiss a case.
3. Page 14 second paragraph, last sentence reads, *“...to track formal disciplinary actions in an effort to become more consistent in the disposition of cases.”* The purpose of the bench book is to “ensure” consistency in disciplinary decisions made by the board.

Thank you for your review and your findings. The Board will use the report to assist with continuing to improve work processes and services rendered. Please do not hesitate to contact us if you have any questions. I can be reached at 410- 992-4271 and Ms. Lorraine Smith can be reached at 764-4786.

Sincerely,
Robert A. Brown, Ph.D., ABPP
Chair, Maryland Board of Examiners of
Psychologists

cc: Secretary John M. Colmers
Ms. Wendy Kronmiller