

APPENDIX

2017-19 Governor's Budget Mental Health Regulatory Agency

Board of Psychologist Examiners
Board of Licensed Professional Counselors and Therapists

AUDITS RESPONSE REPORT

There has been one performance audit by the Secretary of State finished in the 2013-15 or 2015-17 biennia to date.

Health Professional Regulatory Boards: General Review (March 2014)

Summary

The objective of this audit was to determine if the governance and delivery of services provided by Oregon's health professional regulatory boards can be improved to better promote the quality of health services, and protect the public health, safety and welfare. The Secretary of State performed broad scale audit work to examine the management efforts of the 17 autonomous boards in the areas of professional licensing, complaint-handling and investigation, and governance. The Board of Licensed Professional Counselors and Therapists and the Board of Psychologist Examiners were included in this audit.

Audit Findings

The survey found that in general, boards have policies and procedures in place to address their core functions and appear to be actively engaged in promoting quality health services through their efforts. It verified that activities were performed and processes were in place at the 17 autonomous boards, but because of the broad scale of the audit, it did not evaluate how well each process was carried out. The survey found that most boards perform initial criminal background checks of applicants, except for the Veterinary, Occupational Therapy, and Speech Pathology and Audiology Boards. Of the boards that do initial background checks, most perform a national fingerprint-based FBI check. However, most boards do not conduct subsequent checks upon renewal, and some professionals have never been checked.

The survey examined the complaint-handling, investigative and disciplinary processes of the boards. It found that most boards documented and informed board members of complaints received, and followed procedures for investigating them. Most boards had investigators on staff or under contract to investigate complaints, some of whom had expertise in the health profession. Boards generally separate the investigative process from the disciplinary decision making process. Boards receive assistance from the Attorney General's Office, and a process for licensees to contest board decisions is available through the Office of Administrative Hearings. Disciplinary decisions are reported as required by state and federal law.

The survey also examined the governance structures and processes of health professional regulatory boards. Studies indicate there is no single most effective governance model to achieve a board's objectives. A third of states have governance structures where boards operate as autonomous agencies. Other states have structures with varying degrees of board collaboration with a central agency and several states have centralized licensing agencies that limit boards to an advisory capacity. Health professional regulatory boards are responsible for developing policy and enforcing regulations. The survey found that board members were actively engaged on key matters such as licensing, complaint investigations and discipline, and practice-related issues. In addition, boards delegate many functions to the executive director and staff to carry out, and provide feedback on their efforts. For example, 16 chairpersons reported that they conduct annual evaluations of the executive director. The survey found that the boards made reasonable efforts to demonstrate transparency through website content, newsletters, and outreach efforts. This content informs licensing applicants, practitioners, and the public.

To assess board efforts, the 2009 Legislature required boards undergo a periodic peer review. The five board reviews completed to date identified board strengths and made recommendations for improvement. The Legislature provides some board oversight, as it establishes priorities and sets public policy through the state's budget process. However, boards reported they have experienced difficulty in receiving legislative approval to increase staff and the associated fees to handle increases in workload. The boards use various methods to obtain specialized services and support. For example, boards rely upon the Attorney General's Office for legal services, and many use the Department of Administrative Services for payroll and purchasing. In addition, 12 of the boards share a location with at least one other board, which allows them to share space and facilitates collaboration. Nonetheless, some benefits could result from more state sponsored training for board members and a stronger operational connection to the Governor's Office.

Recommendation

The survey recommended that boards give further consideration to background check policies for professionals who handle drugs or interact with vulnerable populations. In addition, it recommended the Governor consider more operational support and board member training on roles and responsibilities.

Agency Response

The Secretary of State's Office reached out the OBPE and OBLPCT in October of 2016 requesting a report from each board regarding implementation of the recommendation from the 2014 audit. OBPE reported as follows:

November 2, 2016. Since the time of the Audit, the Board of Psychologist Examiners has given further consideration to background check policies for professionals who interact with vulnerable populations (our licensees and residents). Therefore, we have indicated above that we have fully implemented this recommendation.

The Board has taken the following actions:

- On July 24, 2015 the Board adopted an “Applicant Character and Fitness Review Policy.” This provides staff and Board members with thorough, clear, and consistent procedure for processing and reviewing applicant issues such as disclosed and undisclosed arrests and convictions revealed in the criminal background check report, and other character and fitness issues such as investigations and disciplinary proceedings.
- On September 27, 2016 the Board filed a Notice of Proposed Rulemaking Hearing. The proposed amendment modifies the Board's rule regarding criminal records checks and fitness determinations. It updates criminal records check procedures and implements the statewide uniform fitness determination process and criminal records administrative rules, per HB 3168 (2013) and HB 2250 (2015). This includes factors the Board considers as part of fitness determination, how a subject individual may appeal an adverse determination, confidentiality of criminal offender information, and consequence for failure to comply per law. This rulemaking is pending Board approval once the public comment period has ended, expected January 20, 2017.

OBLPCT reported as follows:

November 2, 2016. Since the time of the Audit, the Board of Licensed Professional Counselors and Therapists has given further consideration to background check policies for professionals who interact with vulnerable populations (our licensees and interns). Therefore, we have indicated above that we have fully implemented this recommendation.

The Board has taken the following actions:

- On October 2, 2015 the Board adopted an “Applicant Character and Fitness Review Policy.” This provides staff and Board members with thorough, clear, and consistent procedure for processing and reviewing applicant issues such as disclosed and undisclosed arrests and convictions revealed in the criminal background check report, and other character and fitness issues such as investigations and disciplinary proceedings.
- On April 1, 2016 the Board filed a permanent administrative rule amendment that removed the requirement that licensed professional counselors, licensed marriage and family therapists, and registered interns complete a fingerprint-based criminal records check at least once every five years. Now, fingerprinting is required of all applicants for licensure and/or internship, and of those under investigation when the Board determines it is needed.

On August 8, 2016 the Board filed a permanent administrative rule amendment that modified the Board's rule regarding criminal records checks and fitness determinations. It updated criminal records check procedures and implemented the statewide uniform fitness determination process and criminal records administrative rules, per HB 3168 (2013) and HB 2250 (2015). This includes factors the Board considers as part of fitness determination, how a subject individual may appeal an adverse determination, confidentiality of criminal offender information, and consequence for failure to comply per law.

**POSITION RECLASSIFICATIONS COMPLETED
2013-15 BIENNIUM**

Board of Psychologist Examiners

None.

Board of Licensed Professional Counselors and Therapists

The Board re-established its 0.5 FTE Investigator 2 limited duration position as 1.0 FTE Investigator 2 permanent position. The 2013-15 legislatively approved budget adjustment for the new 1.0 FTE position was \$150,192.

OTHER FUNDS ENDING BALANCE FORM: BLPCT

UPDATED OTHER FUNDS ENDING BALANCES FOR THE 2015-17 & 2017-19 BIENNIA

Agency: 10800 Oregon Board of Licensed Counselors & Therapists
 Contact Person (Name & Phone #): Charles Hill, Executive Director, 503-373-1155

| (a) Other Fund Type | (b) Program Area (SCR) | (c) Treasury Fund #/Name | (d) Category/Description | (e) Constitutional and/or Statutory reference | (f) 2015-17 Ending Balance In LAB | (g) Revised | (h) 2017-19 Ending Balance In CSL | (i) Revised | (j) Comments |
|------------------------|---------------------------|--|-----------------------------|---|--------------------------------------|----------------|--------------------------------------|----------------|--|
| Limited | 10800-001-00-00-00000 | 4250 - Operating Other Funds (part of Treasury Fund 0401, Cash Account 108-00-00401) | Operations | 1998 Chpt 721, Sec 14 & 17, ORS 675.785 & 675.805 | 250,067 | 685,629 | 692,598 | 755,174 | Fund 4250 is the accounting D23 Fund that is used to record the cash for Agency 108. Column (g) amount is from the latest projections that include actual transactions through Oct 2016 plus estimated revenues and expenditures for the remainder of AY 2015-17. Column (i) is the balance in Column (g) plus AY 2017-19 CSL at ARB estimated revenues less AY 2017-19 estimated expenditures (PS + 5% SalPot +S&S). Estimated reserve months is 10.74, based on AY 2017-19 CSL at ARB total Expenditures divided by 24 then divided into 2015-17 Revised Ending Balance. This exceeds the minimum needed for cash flow purposes. Policy Package 100 was recommended by CFO analyst at GRB to move agency 122 into agency 108. Companion Policy Package 101 rebalanced costs related to positions coming in from agency 122, including 2 limited duration positions made permanent. Factoring in Policy Package 100 and 101 to move agency 122 into agency 108 and Policy Package 102 for new Database limitation, the estimate reserve months ends up being only 4.60, meeting a minimum need for cash flow. |

| | |
|--|----------------|
| Projected AY17 end cash | 685,629 |
| AY19 ARB Rev | 1,601,471 |
| AY19 ARB PS | 698,646 |
| x5% | 34,932 |
| AY19 ARB S&S | 798,348 |
| | 755,174 |
| | |
| Average AY19 Exp | 63,830 |
| | |
| # months of ca reserve | 10.74 |
| | |
| 5% of (f) | 12,503.35 |
| Var btwn (f) & (g) | 435,562 |
| Need Supporting Memo or Spreadsheet to Detail Revised Forecast | |
| | |
| 5% of (h) | 34,630 |
| Var btwn (h) & (i) | 62,576 |
| Need Supporting Memo or Spreadsheet to Detail Revised Forecast | |

Objective: Provide updated Other Funds ending balance information for potential use in the development of the 2017-19 legislatively adopted budget.

Instructions:

Column (a): Select one of the following: Limited, Nonlimited, Capital Improvement, Capital Construction, Debt Service, or Debt Service Nonlimited.

Column (b): Select the appropriate Summary Cross Reference number and name from those included in the 2015-17 Legislatively Approved Budget. If this changed from previous structures, please note the change in Comments (Column (j)).

Column (c): Select the appropriate, statutorily established Treasury Fund name and account number where fund balance resides. If the official fund or account name is different than the commonly used reference, please include the working title of the fund or account in Column (j).

Column (d): Select one of the following: Operations, Trust Fund, Grant Fund, Investment Pool, Loan Program, or Other. If "Other", please specify. If "Operations", in Comments (Column (j)), specify the number of months the reserve covers, the methodology used to determine the reserve amount, and the minimum need for cash flow purposes.

Column (e): List the Constitutional, Federal, or Statutory references that establishes or limits the use of the funds.

Columns (f) and (g): (f) Use the appropriate, audited amount from the 2015-17 Legislatively Approved Budget and the 2017-19 Current Service Level as of the Agency Request Budget.

Columns (g) and (h): Provide updated ending balances based on revised expenditure patterns or revenue trends. Do not include adjustments for reduction options that have been submitted unless the options have already been implemented.

Column (i): as part of the 2015-17 General Fund approved budget or otherwise incorporated in the 2015-17 LAB. The revised column (i) can be used for the balances included in the Governor's budget if available at the time of submittal. Provide a description of revisions in Comments (Column (j)).

Column (j): Please note any reasons for significant changes in balances previously reported during the 2015 session.

Additional Materials: If the revised ending balances (Columns (g) or (i)) reflect a variance greater than 5% or \$50,000 from the amounts included in the LAB (Columns (f) or (h)), attach supporting memo or spreadsheet to detail the revised forecast.

OTHER FUNDS ENDING BALANCE FORM: BLPCT

UPDATED OTHER FUNDS ENDING BALANCES FOR THE 2015-17 & 2017-19 BIENNA

Agency: 12200 Oregon Board of Psychologist Examiners
 Contact Person (Name & Phone #): Charles Hill, Executive Director, 503-373-1155

| (a) Other Fund Type | (b) Program Area (SCR) | (c) Treasury Fund #/Name | (d) Category/Description | (e) Constitutional and/or Statutory reference | (f) 2015-17 Ending Balance | | (g) 2017-19 Ending Balance | | (h) 2017-19 Ending Balance | (i) 2017-19 Ending Balance | (j) Comments |
|------------------------|---------------------------|--|-----------------------------|--|----------------------------|---------|----------------------------|---------|----------------------------|----------------------------|---|
| | | | | | In LAB | Revised | In CSL | Revised | | | |
| Limited | 12200-001-00-00-00000 | 4150 - Other Funds Operating Expenditures (part of Treasury Fund 0401, Cash Accty# 122-00-00401) | Operations | 1963 Chpt 396, Sec 12, ORS 675.110(7) | 21,540 | 271,190 | 433,736 | 455,393 | | | Fund 4150 is the accounting D23 Fund used to record the cash for Agency 122. Column (g) is from the latest projections with actual transactions through November 2016, plus estimated revenues and expenditures for the remainder of AY 2015-17. Column (h) is the balance in column (g) plus AY 2017-19 CSL at ARB estimated revenues less AY 2017-19 estimated expenditures. Estimated number months of reserve is 5.09 at CSL, based on AY 2017-19 CSL at ARB total Expenditures divided by 24. Policy Package 100 was recommended by CFO analyst at GRB to move agency 122 into agency 108 so as long as approved by legislature Agency 122 ending balance will be added to agency 108 and help fund the restructure. |
| | | | | | | | | | | | Projected AY17 ending cash 271,190 AY19 ARB Rev 1,463,166 AY19 ARB PS 691,988 x5% 34,699 AY19 ARB S&S 552,376 <hr/> 455,393 |
| | | | | | | | | | | | Average AY19 Exp 53,290 # months of ca reserve 5.09 |
| | | | | | | | | | | | 5% of (f) 1,077.00 Var btwn (f) & (g) 249,650.00 Need Supporting Memo or Spreadsheet to Detail R |
| | | | | | | | | | | | 5% of (h) 21,686.80 Var btwn (h) & (i) 21,656.60 No Memo Needed |

Objective: Provide updated Other Funds ending balance information for potential use in the development of the 2017-19 legislatively adopted budget.

Instructions:

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- Column (b): Select the appropriate Summary Cross Reference number and name from those included in the 2015-17 Legislatively Approved Budget. If this changed from previous structures, please note the change in Comments (Column (j)).
- Column (c): Select the appropriate, statutorily established Treasury Fund name and account number where fund balance resides. If the official fund or account name is different than the commonly used reference, please include the working title of the fund or account in Column (j).
- Column (d): Select one of the following: Operations, Trust Fund, Grant Fund, Investment Pool, Loan Program, or Other. If "Other", please specify. If "Operations", in Comments (Column (j)), specify the number of months the reserve covers, the methodology used to determine the reserve amount, and the minimum need for cash flow purposes.
- Column (e): List the Constitutional, Federal, or Statutory references that establishes or limits the use of the funds.
- Columns (f) and (g): Use the appropriate, audited amount from the 2015-17 Legislatively Approved Budget and the 2017-19 Current Service Level as of the Agency Request Budget.
- Columns (h) and (i): Provide updated ending balances based on revised expenditure patterns or revenue trends. Do not include adjustments for reduction options that have been submitted unless the options have already been implemented as part of the 2015-17 General Fund approved budget or otherwise incorporated in the 2015-17 LAB. The revised column (i) can be used for the balances included in the Governor's budget if available at the time of submittal. Provide a description of revisions in Comments (Column (j)).
- Column (j): Please note any reasons for significant changes in balance previously reported during the 2015 session.

Additional

Materials: If the revised ending balances (Columns (g) or (i)) reflect a variance greater than 5% or \$50,000 from the amounts included in the LAB (Columns (f) or (h)), attach supporting memo or spreadsheet to detail the revised forecast.