

M00A0104
Health Occupation Boards
 Department of Health and Mental Hygiene

Operating Budget Data

(\$ in Thousands)

	<u>FY 06</u> <u>Actual</u>	<u>FY 07</u> <u>Working</u>	<u>FY 08</u> <u>Allowance</u>	<u>FY 07-08</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$198	\$241	\$205	-\$36	-14.8%
Special Fund	19,107	22,843	23,602	759	3.3%
Reimbursable Fund	<u>297</u>	<u>344</u>	<u>334</u>	<u>-10</u>	<u>-2.8%</u>
Total Funds	\$19,602	\$23,427	\$24,141	\$713	3.0%

- The fiscal 2008 allowance increases the budget for the Health Occupation Boards by \$713,000, but the actual growth in costs is masked by one-time health insurance savings being used to fund a portion of health insurance premiums. Excluding spending on retiree health insurance in fiscal 2007 and 2008, costs increase \$1.3 million, or 5.7%.
- Special funds increase by \$759,000. Also, general fund support for the boards is decreasing by 15% because the Board of Residential Child Care Administrators is suppose to begin issuing licenses in fiscal 2008, and the revenue from the licenses should fund the boards operations for the year.

Personnel Data

	<u>FY 06</u> <u>Actual</u>	<u>FY 07</u> <u>Working</u>	<u>FY 08</u> <u>Allowance</u>	<u>FY 07-08</u> <u>Change</u>
Regular Positions	200.00	216.00	229.00	13.00
Contractual FTEs	<u>29.05</u>	<u>30.10</u>	<u>20.35</u>	<u>-9.75</u>
Total Personnel	229.05	246.10	249.35	3.25

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	8.66	3.78%
Positions Vacant as of 12/31/06	25.00	11.57%

- The Health Occupation Boards received 13 new positions in the allowance, and 10 of the new positions are contractual conversions for the Board of Nursing. The three other new positions are allocated to the Board of Pharmacy (two new positions) and the Board of Social Work (one new position).

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

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- The allowance decreases the budgeted turnover for the boards to 3.8% after the General Assembly increased the budgeted turnover to 6.0% for fiscal 2007. At 11.6%, the actual turnover is significantly higher than the budgeted turnover. Twelve of the 25 vacant positions are from the Board of Physicians, and 5.5 of the vacant positions have been vacant for longer than one year.

Analysis in Brief

Major Trends

Number of Licenses Processed Varies: The number of new and renewal licenses processed by each board varies significantly.

Most Boards Able to Meet Processing Goals: Seventy percent of the boards were able to process licenses within target time frames established by each board, but six boards were not. With respect to complaints, seven boards were not able to investigate complaints within the target time frames in fiscal 2006.

Issues

Complaints and Investigations: Recently, there has been concern that the health occupation boards have not been able to attract or retain skilled investigators. However, the boards do not have trouble recruiting or retaining investigators, and the salaries for the investigators are commensurate with other investigator positions statewide. Still, complaints are not investigated within the targeted time frames, suggesting additional investigator positions are needed.

Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Delete funding for the two new positions for the Board of Pharmacy.	\$ 56,927	2.0
2. Add budget language restricting funds for contractual employment in the Board of Physicians.		
Total Reductions	\$ 56,927	2.0

Updates

Board of Physicians' Updated Sunset Review: A sunset review of the Board of Physicians completed in October 2005 made 23 recommendations related to board resources and further streamlining the process. During the 2006 legislative session, no legislative action was taken to implement the sunset reviews recommendations or extend the termination date of the board. As a result, an updated sunset review was released January 2007 with 31 recommendations.

M00A0104 – DHMH – Health Occupation Boards

M00A0104
Health Occupation Boards
Department of Health and Mental Hygiene

Operating Budget Analysis

Program Description

Under the Office of the Secretary of the Department of Health and Mental Hygiene (DHMH), there are 18 boards and one commission that regulate health professionals. These boards license and certify health professionals, resolve consumer complaints, and assist in establishing parameters for each profession through regulation.

In general, each board has the following goals:

- protect the public by insuring that practicing health professionals are properly credentialed and licensed; and
- investigate complaints.

Performance Analysis: Managing for Results

Number of Licenses Processed Varies

Exhibit 1 shows the number of licenses and renewals licenses each board and commission processed in fiscal 2006. The Board of Nursing processed the most licenses at 104,776, and the Board of Optometry processed the fewest licenses at 95.

Exhibit 1
Managing for Results
Licenses Processed by Boards
Fiscal 2006

<u>Board/Commission</u>	<u>Licenses Issued</u>	<u>Renewal Licenses Issued</u>	<u>Total Licenses Issued</u>
Nurses	11,253	93,523	104,776
Physicians	1,386	10,471	11,857
Social Work	1,332	4,461	5,793
Dental	350	3,819	4,169
Pharmacy	430	3,405	3,835
Physical Therapy Examiners	445	2,417	2,862
AUD/HAD/SLP	328	2,367	2,695
Occupational Therapy	230	2,278	2,508
Counselors and Therapists	402	1,198	1,600
Chiropractic	605	731	1,336
Psychologists	117	1,148	1,265
Morticians	81	877	958
Dietetic Practice	337	601	938
Acupuncture	78	388	466
Podiatric	15	412	427
Nursing Home Administrators	32	253	285
Kidney Disease	1	109	110
Optometry	56	39	95

AUD/HAD/SLP: Audiology, Hearing Aid Dispensers, Speech-Language Pathologists

Source: Department of Health and Mental Hygiene

Most Boards Able to Meet Processing Goals

Each board establishes their own time frame for processing licenses, and the targets range from 2 to 60 days for licenses and 2 to 30 days for renewal licenses. Most boards process 100% of licenses and renewal licenses within the established time frames, but a few boards were not able to achieve the set target in fiscal 2006 as shown in **Exhibit 2**.

Exhibit 2 Managing for Results Boards Not Meeting Licensing Processing Goals Fiscal 2006

<u>Board/Commission</u>	<u>Number Issued</u>	<u>Processing Goal</u>	<u>Percent Processed within Specified Time</u>
Licenses			
Dental	350	80% in 30 days	75%
Physicians	1,386	95% in 10 days	81%
Nurses	11,253	n/a	n/a
Renewal Licenses			
Nurses	93,523	90% in 5 days	85%
AUD/HAD/SLP	2,367	100% in 15 days	90%
Pharmacy	3,405	90% in 6 days	90%
Dental	3,819	100% in 30 days	91%

AUD/HAD/SLP: Audiology, Hearing Aid Dispensers, Speech-Language Pathologists

Source: Department of Health and Mental Hygiene

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Twelve out of the 18 boards are able to process complaints within the time frames established by each board. As **Exhibit 3** shows six boards were not able to achieve this goal in fiscal 2006 and five boards are not expecting to achieve their goals for fiscal 2007.

Exhibit 3
Managing for Results
Boards Not Able to Process Complaints within the Target Time Frames
Fiscal 2005-2008

<u>Board/ Commission</u>	<u>Investigations (2006)</u>	<u>Target to Complete Investigations</u>	<u>Actual 2005</u>	<u>Actual 2006</u>	<u>Est. 2007</u>	<u>Est. 2008</u>
Chiropractic	106	40% in 75 days	22%	22%	30%	40%
AUD/HAD/SLP	34	83% in 180 days	90%	50%	100%	100%
Nurses	1,046	80% in 270 days	n/a	57%	82%	90%
Dental	312	85% in 180 days	59%	59%	75%	85%
Physicians	1,459	95% in 18 months	64%	61%	83%	87%
Social Work	100	95% in 190 days	75%	92%	95%	95%
Podiatric	111	98% in 180 days	100%	100%	90%	98%
Counselors and Therapists	26	100% in 180 days	100%	100%	90%	100%

AUD/HAD/SLP: Audiology, Hearing Aid Dispensers, Speech-Language Pathologists

Source: Department of Health and Mental Hygiene

Governor's Proposed Budget

As shown in **Exhibit 4**, the allowance for the Health Occupation Boards increases by \$713,000 or 3% with an increase in special funds of \$759,000 and a decrease in general funds of \$36,000. However, the actual cost of the allowance is masked by the use of one-time health insurance savings to fund retiree health insurance premiums. The Health Occupation Boards' underlying costs are increasing by \$1.3 million or 5.7%.

Exhibit 4
Governor's Proposed Budget
DHMH – Health Occupation Boards
(\$ in Thousands)

How Much It Grows:	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
2007 Working Appropriation	\$241	\$22,843	\$344	\$23,427
2008 Governor's Allowance	<u>205</u>	<u>23,602</u>	<u>334</u>	<u>24,141</u>
Amount Change	-\$36	\$759	-\$10	\$713
Percent Change	-14.8%	3.3%	-2.8%	3.0%

Where It Goes:

Personnel Expenses

Thirteen new positions net of contractual savings from 10 conversions.....	\$279
Turnover adjustments	255
Retirement	188
Salary increments	130
Health insurance costs decline due to one-time savings.....	-466
Other fringe benefit adjustments	20

Other Changes

Physicians new contract to process license renewals	162
Physician per diems.....	95
Legal services contracts.....	80
Increased travel expenses	63
Cost of rent	53
Other boards per diems.....	47
Physician legal and medical support services.....	41
Pharmacy security software.....	22
Social Work records imaging	46
Occupational Therapy equipment for on-line licensure	12
Decrease in cost of contract.....	-59
Pharmacy printing costs	-75
Nursing computer contract	-204
Other	24

Total **\$713**

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

Personnel

Personnel costs are shown as increasing \$663,000 in Exhibit 4, but the actual increase to the cost of personnel is \$1.2 million. The Health Occupation Boards’ retiree health insurance premiums are projected to cost \$586,000 in fiscal 2008, but a portion of the health insurance premiums are going to be funded with health insurance savings from previous fiscal years. Therefore, the funds are not included in the Health Occupation Boards’ allowance.

The boards received 13 new regular positions in the allowance, and **Exhibit 5** shows how the new positions will be distributed. The one new position for the Board of Social Work is an administrator position that will assist the investigation unit for the board. The Board of Pharmacy received two office secretary positions in the allowance. **Since the Board of Pharmacy has a vacancy rate of more than 30% (including one long-term vacancy) and the need for the new positions has not been expressed, the Department of Legislative Services (DLS) recommends deleting the two new positions for the Board of Pharmacy.**

Exhibit 5 Distribution of New Regular Positions

	<u>Fiscal 2005 Authorized Positions</u>	<u>Fiscal 2006 Authorized Positions</u>	<u>Fiscal 2007 Authorized Positions</u>	<u>Fiscal 2008 Proposed New Positions</u>	<u>% Change from Fiscal 2007</u>
Social Work	5	9	11	1	9.1%
Pharmacy	12	13	16	2	12.5%
Nursing	48	48	56	10	17.9%

Source: Department of Health and Mental Hygiene

The remaining 10 new positions are contractual conversions for the Board of Nursing, which causes contractual positions to decrease from 30.1 to 20.4 with 84% of the remaining contractual positions in the Board of Physicians. In theory, contractual employment should be used for assignments that are short in duration and address a specific need. However, most of the contractual employees at the Board of Physicians perform ongoing duties, and contractual employees comprise 21% of the Board of Physicians staff. The “Sunset Review: Update to the 2005 Evaluation of the State Board of Physicians” recommended the Board of Physicians limit its use of contractual employment for positions that perform ongoing functions and request contractual conversions for such employees. **DLS recommends restricting the funding for the Board of Physicians’ contractual employees that perform ongoing functions, to fund conversions to regular positions. The positions may be created by reclassifying vacant regular positions or receiving new positions through the Board of Public Works.**

Board of Physicians Database

The allowance for the DHMH Administration includes \$600,000 for the Board of Physicians database development. The Maryland Board of Physicians has consistently argued that the current information system it employs does not adequately support its operating processes. However, DHMH is currently investigating using a different database to consolidate many of the front-end licensing functions for all of the health occupation boards, and that database has other modules that could better serve all the boards. For this reason, DLS recommends deleting the funds from the DHMH Administration budget. If DHMH makes a subsequent determination that the Board of Physicians should proceed with a separate database, it may process a budget amendment to allow the project to proceed. **The department should update the committees on any decision regarding the development of a database to be used by all the boards and commission.**

Board of Residential Child Care Administrators

The allowance funds the Board of Residential Child Care Administrators with \$74,000 in special funds. However, the board is pursuing legislation to permanently be supported with general funds. Currently, the Board of Nursing Home Administrators is the only board with general fund support. The other boards are self-funded through revenues accumulated from fees and penalties, which are brought into the budget process as special funds.

The Board of Residential Child Care Administrators was established in October 2004. For fiscal 2005 through 2007, the board was supported with general funds, which is the practice with any new board. The idea is that a board needs seed funding for start-up costs.

Since the Board of Residential Child Care Administrators is supposed to begin licensing in November 2007, the plan was for the board to be funded with special funds in fiscal 2008 as reflected in the allowance. However, the board has only identified 212 residential child care administrators in the State, which means the board would be forced to charge a significant licensing fee to become self-sufficient. Specifically, to fund the board at the level set out in the fiscal 2008 allowance, the license fee would need to be about \$350.

Since the board feels this amount is prohibitive for residential child care administrators to pursue licensure, the Board of Residential Child Care Administrators is pursuing legislation to remain funded with general funds. This would permit the board to charge a lower fee. **The department should update the committees on the Board of Residential Child Care Administrators progress towards becoming a general funded board.**

Issues

1. Complaints and Investigations

The 2006 *Joint Chairmen’s Report* directed DHMH in coordination with the Department of Budget and Management to “undertake a comprehensive review of the current level of personnel available to each of the health occupation boards, including the adequacy of the current job classifications for investigative positions, compared to the investigative caseload.” The committee narrative explained that the request for the report was spurred by concern that the health occupation boards are unable to attract and retain skilled investigators. The report was submitted October 10, 2006, without any information about the Board of Physicians.

There are 34.5 investigator positions for the boards with almost half of those positions at the Board of Physicians. The distribution of investigator positions is shown in **Exhibit 6**. The smaller boards without investigator positions use an investigator from another board, and this system of sharing investigators is also shown in Exhibit 6.

Exhibit 6
Number of Investigators Per Board
Fiscal 2006

	<u>Investigator Positions</u>
Physicians	16.5
Nurses	7
Chiropractic	2
Dental	2
Physical Therapy Examiners	2
Nursing Home Administrators	Share with Physical Therapy Examiners
Occupational Therapy	Share with Physical Therapy Examiners
Acupuncture	1
AUD/HAD/SLP	Share with Acupuncture
Kidney Disease	Share with Acupuncture
Optometry	Share with Acupuncture
Podiatry	Share with Acupuncture
Morticians	1
Pharmacy	1
Psychologists	1
Social Work	1
Professional Counselors	Share with Social Work
Dietetic Practice	0

Source: Department of Health and Mental Hygiene

The workload for each investigator varies because the number of complaints to each health occupation board ranges from 1 complaint at the Board of Dietetic Practice to 1,459 at the Board of Physicians as shown in **Exhibit 7**.

Exhibit 7
Number of Complaints Per Board
Fiscal 2006

	<u>Number of Complaints</u>
Physicians	1,459
Nurses	1,085
Dental	312
Podiatry	126
Social Work	100
Pharmacy	96
Optometry	91
Morticians	81
Nursing Home Administrators	59
Chiropractic	55
Psychologists	48
Physical Therapy Examiners	35
Professional Counselors	26
AUD/HAD/SLP	23
Kidney Disease	23
Acupuncture	11
Occupational Therapy	4
Dietetic Practice	1

Source: Department of Health and Mental Hygiene

The boards have different processes for dealing with complaints. Some boards investigate each complaint, while others perform a preliminary analysis of the complaint to determine whether the complaint should be investigated. **Exhibit 8** shows the method each board employs.

Exhibit 8
Boards' Procedure for Investigating Complaints

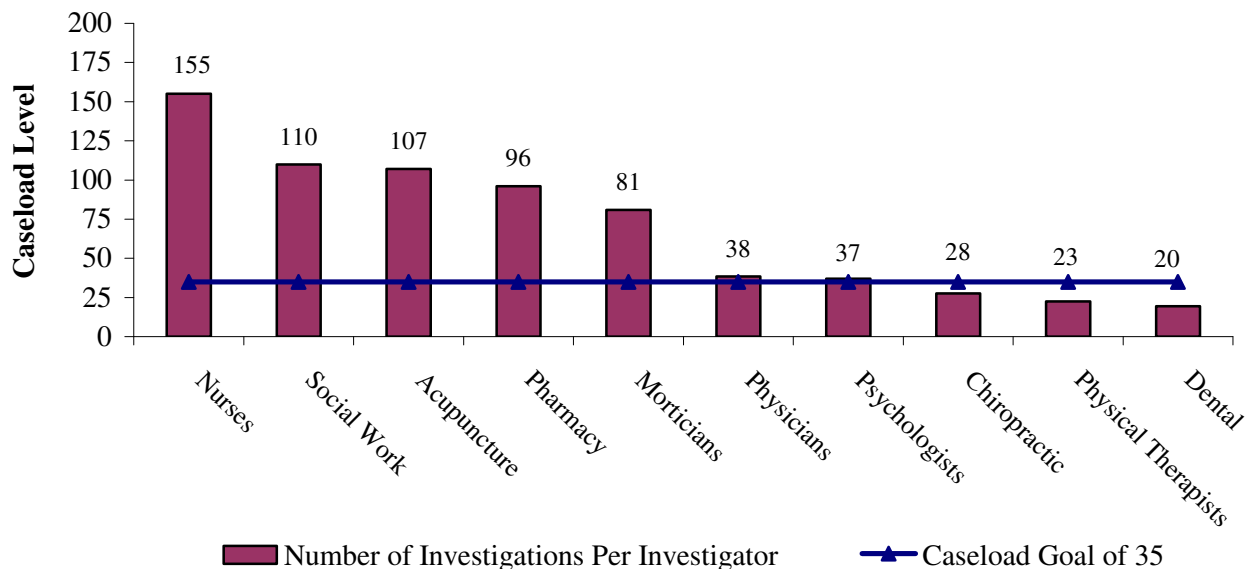
<u>Investigates All Complaints</u>	<u>Investigates Some Complaints After Preliminary Analysis</u>
Acupuncture	AUD/HAD/SLP
Chiropractic	Dental
Kidney Disease	Dietetic Practice
Morticians	Nursing Home Administrators
Nurses	Optometry
Occupational Therapy	Physicians
Pharmacy	Podiatry
Physical Therapy Examiners	Professional Counselors
	Psychologists
	Social Work

Source: Department of Health and Mental Hygiene

Boards that have their own investigators tend to be the boards that investigate all complaints, while most of the boards that share investigators are the boards that conduct a preliminary analysis of the complaints before passing complaints onto the investigator. Four boards (Dental, Nursing Home Administrators, Optometry, and Podiatry) do not investigate roughly 90% of the cumulative complaints.

According to the boards, the work involved with each investigation varies depending on the nature of the complaint. Therefore, on average the work per case should be comparable among the separate boards, and the caseload goal should be comparable. During the 2001 Board of Physician's sunset review, the board indicated that the optimal caseload level was 25, but more recently, the Board of Physicians amended that to a goal of 35 cases per investigator. Since the work of an investigation depends on the nature of the complaint and all boards receive the same types of complaints, this caseload goal can translate to the other boards. **Exhibit 9** illustrates the variation in the caseloads per investigator and compares the actual caseloads to the optimal caseload level of 35.

**Exhibit 9
Complaints and Investigator Caseloads*
Fiscal 2006**



*The caseload value is calculated using the current number of complaints investigated rather than the total number of complaints received.

Source: Department of Health and Mental Hygiene

In order to achieve the optimal caseload, together the boards would need 29.8 additional investigator positions. For the Board of Physicians to achieve the optimal caseload level, the board would need at additional 1.6 investigator positions. The smaller boards have already implemented a form of consolidating the investigative functions. If the smaller boards fully consolidated the investigative functions, then the caseload per investigator would become 52. This would be an increase for some investigators, but an overall decrease. To bring the smaller boards down to the 35 caseload goal, they would need 4.2 more investigator positions. The real problem is the Board of Nursing. Currently, the Board of Nursing has 23% of the investigator positions needed to reach the optimal caseload level, which are 24 additional positions.

The information in Exhibit 9 is based on the number of complaints that each board currently investigates. If each board changed its procedures to investigating all complaints, then the boards would need 67.2 additional investigator positions. On the other hand, if boards currently investigating all complaints adopted a system of performing preliminary analysis of complaints, then the boards would require less than the 29.8 investigators indicated above.

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The intent of the report was to find out whether the boards are having an issue recruiting and retaining skilled investigators. According to the report, current recruitment and retention data for positions classified as Health Occupations Investigators do not show above normal recruitment difficulty, particularly when compared to nurses or sanitarians. Also, the report compared the compensation levels of the Health Occupation Investigators to other investigator positions statewide and found the compensation levels to be comparable. Also, as of December 31, 2006, only two investigator positions are vacant, and both of the vacant positions have been vacant for less than a year.

Whereas the skill level of the investigators does not appear to be the problem, the number of investigator positions does seem to be the reason complaints are not getting investigated in a timely manner. **At least for the next year, additional investigators will not be available for boards, but the boards should include investigator positions in the budget request for fiscal 2009. Also, DHMH should explore the option of consolidating the investigative functions of the smaller boards.**

Recommended Actions

- | | <u>Amount
Reduction</u> | <u>Position
Reduction</u> |
|--|------------------------------------|--------------------------------------|
| 1. Delete funding for the two new office secretary positions included in the allowance for the Board of Pharmacy. As of December 31, 2006, the Board of Pharmacy had five vacant positions, one of which is a long-term vacancy, making a turnover rate of 31.2%. Also, the need for these positions has not been established. | \$ 56,927 SF | 2.0 |
| 2. Add the following language to the special fund appropriation: | | |

. provided that \$508,000 in special funds for contractual employment in the Board of Physicians may not be expended for that purpose and may only be used to fund new regular positions that can be created through reclassifications of vacant positions or contractual conversions authorized by the Board of Public Works.

Explanation: In the updated sunset review, the Department of Legislative Services’ recommended the Board of Physicians limit the use of contractual employment and request contractual conversions. In theory, contractual employment should be used for assignments that are short in duration and address a specific need. However, most of the contractual employees at the Board of Physicians perform ongoing duties, and contractual employees comprise 20.5% of the Board of Physicians staff.

The language restricts \$508,000 in funding for contractual employment in the Board of Physicians to fund the new regular positions that may be created through reclassifications of vacant positions or contractual conversions authorized by the Board of Public Works. The \$508,000 is enough to cover the salaries and benefits for the 14.5 contractual positions that currently perform ongoing functions.

Total Special Fund Reductions	\$ 56,927	2.0
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Updates

1. Board of Physicians' Updated Sunset Review

A sunset review of the Board of Physicians was completed in October 2005. This sunset review was undertaken only four years after the last full evaluation of the State Board of Physicians and two years after the legislation continuing the boards was enacted. During the 2006 legislative session, no action was taken with respect to the Board of Physicians Sunset. As a result, an update to the 2005 evaluation was completed.

The State Board of Physicians underwent significant changes with the implementation of Chapter 252 of 2003 (Senate Bill 500), which seemed to have brought about qualitative improvements in the board's operations. However, the updated sunset review released in January 2007 included 31 additional recommendations for the Board of Physicians. These recommendations are listed below with the recommendations that could have a potential budgetary effect bolded.

1. Statute should be amended to extend the termination date for the Board of Physicians to July 1, 2013.
2. **Statute should be amended to provide for a physicians rehabilitation program that is either operated by the State Board of Physicians or through a contract.**
3. Statute should be amended to include more specific language requiring the State Board of Physicians and the courts to develop a procedure to facilitate court reporting to the board of information regarding conviction of or entry of a plea of guilty or *nolo contendere* by a physician for any crime of moral turpitude.
4. **The State Board of Physicians should request authorization for a regular full-time consumer assistant position.**
5. Uncodified language should be added requiring the State Board of Physicians to amend current regulations to both reflect current practice and to implement the recommendations made in the *Report on the Maryland Board of Physicians' Investigative Processes and Optimal Caseloads*.
6. **In order to increase the level of public protection, statute should be amended to require the State Board of Physicians to include national and State criminal background checks in its initial application and license renewal process.**
7. Statute should be amended to allow the State Board of Physicians to disclose certain identifying information about licensees to the National Practitioner Data Bank in order to monitor licensing and disciplinary activities.

8. **Statute should be amended to require the State Board of Physicians to develop a pilot program incorporating a clinical assessment center or other entity to perform competence reviews of licensees.**
9. Regulations should be adopted detailing the procedures for exceptions from licensure for purposes of “consultation.”
10. Statute should be amended to change the minimum qualifications for licensure to exclude any applicant with an active disciplinary order in another state for probation, suspension, revocation, or special conditions.
11. **Statute should be amended to authorize the State Board of Physicians to refer any cases for a formal hearing to a subcommittee of the board rather than solely to the Office of Administrative Hearings. Alternatively, consideration should be given to authorizing the board to refer only standard of care cases for a formal hearing to a subcommittee of the board.**
12. Statute should be amended to broaden eligibility for the provision of peer review service to include both for-profit and nonprofit entities.
13. **The State Board of Physicians should limit its use of contractual employment for positions that are performing ongoing functions. The State Board of Physicians and DHMH should request contractual conversion for such employees.**
14. **Uncodified language should be added directing the Secretary of DHMH to standardize investigator job classifications within the State Board of Physicians in order to raise the base salary grade of investigators to a Grade 16.**
15. Statute should be amended to require the Maryland Insurance Administration to investigate whether any claim, bill, or other demand or request for payment for health care services was provided as a result of a prohibited referral.
16. Statute should be amended so that criteria for the reporting of medical malpractice claims and settlement information on the individual licensee profiles are consistent with the approach recommended by the Federation of State Medical Boards.
17. The State Board of Physicians’ web site should include an additional statement explaining the potential inconsistency in the medical malpractice claims and settlement information on the individual licensee profiles and provide a clear directive for the user on how to access the disclaimer.
18. Statute should be amended to require disciplinary proceedings following formal charging by the State Board of Physicians to be open to the public, providing that the licensee or the complainant may, for good cause shown, request the proceeding be closed.

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19. The State Board of Physicians, in conjunction with the Office of the Attorney General, should adopt sanctioning guidelines that are voluntary, with the intent to be used as a resource which would allow the State Board of Physicians to retain the ability to use its discretion on a case-by-case basis.
20. Statute should be amended to authorize the State Board of Physicians to enter premises where the board suspects that medicine is being practiced by an unlicensed individual, based on a formal complaint.
21. Chapter law should be amended to repeal the provisions requiring the State Board of Physicians to adopt regulations regarding the specific experience or training qualifications required to demonstrate the ability of a physician to treat and manage opiate-dependent patients in an office-based setting and qualify a physician for MBP certification to apply for a federal Substance Abuse and Mental Health Services Administration waiver to practice office-based, medication-assisted opioid addiction therapy.
22. **Statute should be amended to include hospitals, related institutions, alternative health systems, or employers in the prohibition against employing uncertified radiation oncology/therapy technologists, medical radiation technologists, or nuclear medicine technologists. In addition, statute should be amended to authorize the State Board of Physicians to impose a civil penalty of up to \$1,000 against a hospital, related institution, alternative health system, or employer for employing uncertified radiation oncology/therapy technologists, medical radiation technologists, or nuclear medicine technologists.**
23. **Statute should be amended to authorize the State Board of Physicians to impose a civil penalty of up to \$1,000 against a hospital, related institution, alternative health system, or employer for failing to report a disciplinary action against a certified radiation oncology/therapy technologist, certified nuclear medicine technologist, licensed respiratory care practitioner, or licensed polysomnographic technologist.**
24. Statute should be amended to authorize the State Board of Physicians' Rehabilitation Committee to evaluate the allied health professionals under the board's regulatory authority if they request participation in the program or require monitoring by the board.
25. Statute should be amended to extend the termination date for the Polysomnography Professional Standards Committee to July, 1, 2013, requiring a full evaluation by July 1, 2012, under the Program Evaluation Act.
26. Statute should be amended to delete the requirement that the State Board of Physicians elect a Secretary-Treasurer.
27. Statute should be amended to cross reference the requirement for a physician to register before performing acupuncture in this State.

28. **Statute should be amended to eliminate the distribution of fees to the general fund under the Maryland Physician Assistants Act.**
29. **Statute should be amended to eliminate the \$50 fee that funds physician rehabilitation and peer review activities because licensing fee levels are supposed to approximate the cost of maintaining the State Board of Physicians.**
30. Statute should be amended to replace the reference to MedChi regarding certain confidential records or transactions with a reference to the entity or entities that have contracted with the State Board of Physicians to provide further investigation and physician peer review.
31. **Statute should be amended to authorize the State Board of Physicians to impose a civil penalty of up to \$100 for a first offense, per continuing medical education (CME) credit, for failure to obtain the CME credits required by the board.**

The review noted a number of times that whether it be the timely promulgation of regulations, licensing activities, or complaint resolution, the board's efforts to improve the quality of its operations and thus fulfill its mission seem to have been hamstrung by the inability to staff its operations at desired levels. While there are some preliminary indications that the changes made by the board in recent years are beginning to take hold, without sufficient qualified staff, it is all too easy to see that these early grounds for optimism could wither.

Current and Prior Year Budgets

Current and Prior Year Budgets DHMH – Health Occupational Boards (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2006					
Legislative Appropriation	\$221	\$20,747	\$0	\$266	\$21,233
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-15		0	44	29
Reversions and Cancellations	-8	-1,639	0	-13	-1,660
Actual Expenditures	\$198	\$19,107	\$0	\$297	\$19,602
Fiscal 2007					
Legislative Appropriation	\$238	\$22,608	\$0	\$344	\$23,190
Budget Amendments	2	235	0	0	237
Working Appropriation	\$241	\$22,843	\$0	\$344	\$23,427

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

Fiscal 2006

The fiscal 2006 budget for the Health Occupations Boards closed out at \$19.6 million, which is a \$1.6 million decrease from the legislative appropriation. General funds decreased \$15,129, which was mainly caused by the delayed start of the Board of Residential Child Care Administrators (\$23,483). General funds did increase \$8,354 due to the realignment of health insurance appropriations (\$6,643) and cost-of-living adjustments (COLA) (\$1,711).

Reimbursable funds increased \$44,211 to cover the increased cost of program director positions (\$42,511) and the overtime pay incurred at the Board of Nursing related to Hurricane Katrina (\$1,700).

The Health Occupation Boards cancelled \$1.7 million in fiscal 2006 in the areas of contracts and special fees. The Board of Physicians was responsible for \$800,000 of the cancelled funds, while the Board of Nursing had \$430,000 in cancelled funds and the Board of Pharmacy had \$250,000 in cancelled funds.

Fiscal 2007

The working appropriation for fiscal 2007 is \$23.4 million, which is \$236,999 more than the legislative appropriation due to the addition of funds to cover the employee COLA (\$2,461 in general funds and \$234,538 in special funds).

Audit Findings

Audit Period for Last Audit:	January 16, 2002 – May 31, 2005
Issue Date:	August 2006
Number of Findings:	12
Number of Repeat Findings:	4
% of Repeat Findings:	33.3%
Rating: (if applicable)	n/a

- Finding 1:*** Adequate DHMH oversight was not provided over the fiscal and license record keeping functions of the various units.
- Finding 2:*** Most boards had not established sufficient accountability and control over collections and licenses. Independent verifications were not performed in many cases to ensure that all receipts were deposited and that critical changes to the license records were proper.
- Finding 3:*** The Board of Physicians had not established deposit verification procedures and, therefore, had no assurance that it received approximately \$1 million for license renewals processed on-line during fiscal 2003 to 2005.
- Finding 4:*** Complaints against physicians were not always resolved in a timely manner.
- Finding 5:*** Peer reviews initiated by the State Board of Physicians were usually not completed within 90 days as required by law.
- Finding 6:*** Security was not adequate over user privileges, access, and monitoring activities related to the physicians' licensing database.
- Finding 7:*** The Board of Physicians has not adopted regulations to establish requirements for physicians to treat opiate dependent patients in their offices as required by State law.
- Finding 8:*** The Board of Nursing controls over procurements were inadequate.
- Finding 9:*** The Board of Nursing had not verified that it received payment for all license renewals processed on-line and that the on-line license data were properly safeguarded.
- Finding 10:*** The Board of Morticians was not performing annual funeral home inspections as required.

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Finding 11: The Board of Social Work Examiners did not perform required audits to ensure that licensees met continuing education requirements.

Finding 12: The Board of Pharmacy did not have a complete and current disaster recovery plan for its computer system and data.

*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report
DHMH Health Occupation Boards**

<u>Object/Fund</u>	<u>FY06 Actual</u>	<u>FY07 Working Appropriation</u>	<u>FY08 Allowance</u>	<u>FY07-FY08 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	200.00	216.00	229.00	13.00	6.0%
02 Contractual	29.05	30.10	20.35	-9.75	-32.4%
Total Positions	229.05	246.10	249.35	3.25	1.3%
Objects					
01 Salaries and Wages	\$ 11,766,627	\$ 13,840,888	\$ 14,503,787	\$ 662,899	4.8%
02 Technical and Spec. Fees	1,814,473	1,758,645	1,691,223	-67,422	-3.8%
03 Communication	548,959	667,679	662,864	-4,815	-0.7%
04 Travel	285,074	474,930	537,524	62,594	13.2%
07 Motor Vehicles	2,995	2,399	2,484	85	3.5%
08 Contractual Services	3,945,304	5,325,118	5,286,085	-39,033	-0.7%
09 Supplies and Materials	183,003	192,903	199,062	6,159	3.2%
10 Equip – Replacement	67,893	11,933	15,790	3,857	32.3%
11 Equip – Additional	131,368	170,656	206,811	36,155	21.2%
12 Grants, Subsidies, and Contributions	0	25,000	25,000	0	0%
13 Fixed Charges	856,476	956,933	1,009,936	53,003	5.5%
Total Objects	\$ 19,602,172	\$ 23,427,084	\$ 24,140,566	\$ 713,482	3.0%
Funds					
01 General Fund	\$ 197,621	\$ 240,503	\$ 204,798	-\$ 35,705	-14.8%
03 Special Fund	19,107,269	22,842,683	23,601,559	758,876	3.3%
09 Reimbursable Fund	297,282	343,898	334,209	-9,689	-2.8%
Total Funds	\$ 19,602,172	\$ 23,427,084	\$ 24,140,566	\$ 713,482	3.0%

Note: The fiscal 2007 appropriation does not include deficiencies, and the fiscal 2008 allowance does not reflect contingent reductions.

**Fiscal Summary
DHMH Health Occupation Boards**

<u>Program/Unit</u>	<u>FY06 Actual</u>	<u>FY07 Wrk Approp</u>	<u>FY08 Allowance</u>	<u>Change</u>	<u>FY07-FY08 % Change</u>
04 Health Professionals Boards and Commissions	\$ 8,390,845	\$ 9,557,276	\$ 9,988,471	\$ 431,195	4.5%
05 Board of Nursing	5,124,573	6,030,438	5,949,143	-81,295	-1.3%
06 Board of Physician Quality Assurance	6,086,754	7,839,370	8,202,952	363,582	4.6%
Total Expenditures	\$ 19,602,172	\$ 23,427,084	\$ 24,140,566	\$ 713,482	3.0%
General Fund	\$ 197,621	\$ 240,503	\$ 204,798	-\$ 35,705	-14.8%
Special Fund	19,107,269	22,842,683	23,601,559	758,876	3.3%
Total Appropriations	\$ 19,304,890	\$ 23,083,186	\$ 23,806,357	\$ 723,171	3.1%
Reimbursable Fund	\$ 297,282	\$ 343,898	\$ 334,209	-\$ 9,689	-2.8%
Total Funds	\$ 19,602,172	\$ 23,427,084	\$ 24,140,566	\$ 713,482	3.0%

Note: The fiscal 2007 appropriation does not include deficiencies, and the fiscal 2008 allowance does not reflect contingent reductions.