



NORTH CAROLINA GENERAL ASSEMBLY
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John W. Turcotte
Director

January 21, 2015

Senator Fletcher L. Hartsell, Jr., Co-Chair, Joint Legislative Program Evaluation Oversight Committee
Representative Julia Howard, Co-Chair, Joint Legislative Program Evaluation Oversight Committee

North Carolina General Assembly
Legislative Building
16 West Jones Street
Raleigh, NC 27601

Honorable Co-Chairs:

Session Law 2013-413 Section 10.(a) directed the Joint Legislative Program Evaluation Oversight Committee to include in the Program Evaluation Division work plan for 2013–2015 an evaluation of the structure, organization, and operation of the various independent occupational licensing boards as defined by G.S. 93B-1. As authorized by the Joint Legislative Program Evaluation Oversight Committee, the PED report was released on December 17, 2014.

To assist the Committee, PED also provided the occupational licensing agencies identified in the report with the opportunity to submit written responses to the report's findings and recommendations. The enclosed document represents a compendium of the responses received from identified occupational licensing agencies that chose to respond.

I am pleased to report that the occupational licensing agencies cooperated with us fully and were at all times courteous to our evaluators during the evaluation.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Turcotte".

John W. Turcotte
Director

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The North Carolina Acupuncture Licensing Board (NCALB) wishes to acknowledge the time commitment and work the Joint Legislative Program Evaluation Oversight Committee has put into writing and establishing guidelines for assessing the operation of the North Carolina Occupational Licensing Boards (OLA).

We are cognizant of the concerns that the Legislative committee has for insuring that the OLAs are working efficiently and effectively to protect the citizens of North Carolina. In reviewing the findings of the committee, we have concerns regarding the findings related to the NCALB. In reviewing the list of OLA's that the Committee recommends for consolidation it is noted that the NCALB is the only Board of Professional Health Care providers on this list. We wish to offer some insight into an area, where we feel that the Oversight Committee may not have had all the resources and information available regarding this medical profession. There are two areas that we would like to address.

The NCALB regulates a medical profession. It is a health care system that has specific diagnostic parameters and treatments that are unique and offer safe, effective health care to the citizens of North Carolina. Effective regulation can only come from those within the profession who have specific in-depth knowledge of the profession.

The North Carolina Board of Governors licenses Acupuncture Colleges in the state of North Carolina which must meet the same educational standards as Duke, UNC, etc. The four year Master's degree program approved by the NC Board of Governors is an extensive training program in Asian Medicine Theory, Western Bio-Medicine, and includes a Supervised Clinical Internship of more than 800 hours. The assertion that the NCALB should be subsumed by another board that regulates occupations in the same industry does not acknowledge the specific and professional skills and training of the Licensed Acupuncturists. Although the North Carolina Board of Medical Examiners and the North Carolina Chiropractic Board both regulate medicine, each of these medical modalities has distinct diagnostic and treatment parameters. Just as it would be vastly

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inappropriate and possibly dangerous for MDs to regulate Chiropractors, it would be equally inappropriate and dangerous for MDs to regulate Acupuncturists, as each of these medical professions is trained in a distinct, yet effective medical system.

Secondly, while agreeing that the value of regulation must merit the cost, the Board would assert that the cost of regulation of this profession has been carefully considered and approved by the General Assembly and the NCALB has clearly demonstrated their ability to manage the board, both professionally and financially, since its creation in 1993.

There has been no past instance of the NCALB asking the state for funding and there is no reason to believe such an instance would occur in the future. The NC Legislature created this board in 1993 and stipulated that the board must be self-supporting. The NCALB has regulated the profession and has been self-supporting for 21 years. At no time has the NCALB needed financial assistance from the state.

There are various other reasons which demonstrate that effectiveness would be compromised by consolidating the Acupuncture Board with another Board. For the purpose of this response, the Board would like to reserve its right to supplement this response at a later time, if necessary.

IN SUMMARY:

As the NCALB regulates medical professionals who offer health care to our citizens, there are significantly more egregious consequences by a consolidated board. Consolidation of the NCALB would provide less protection for the North Carolina citizen. If the regulation of this medicine was conveyed to those persons who are not educated in Acupuncture and Asian Medicine, regulation of important medical practice issues would present an unacceptable risk to the North Carolina public sector. The NCALB respectfully asserts that there is not another entity regulating occupations in our industry that would have the skills necessary to regulate the practice of Acupuncture in North Carolina. As such, we respectfully request to continue in this proven manner, in which the public is well-protected, at no cost to that public or to the institutions of the State of North Carolina by the North Carolina Acupuncture Licensing Board.



Recommendation 6. The General Assembly should direct the Occupational licensing Commission, in consultation with the affected occupational licensing agencies, to develop a plan to consolidate each of the ten identified occupational licensing agencies with another regulatory entity.

Response: A centralized board cannot/does not have the expertise/ability to manage the specifics required of this specialized board for this specialized purpose. Also, the recommendation that consolidation is the better plan is based on the premise that centralization is naturally preferred over decentralization to promote a regulatory scheme to license occupations; a recommendation that is fatally flawed due to the absence of a description of a course of action that is fundamental to the recommendation.

The **North Carolina Board of Athletic Trainer Examiners** has been created by the North Carolina General Assembly to provide persons in need of its services with assurance that the professionals providing those services do so safely and competently.

A primary challenge for this profession is not only to address emergency medical care that extends to life threatening situations for all ages, but to school young participants in sports who need to learn how to care for their health on and off the field. Athletic trainers are on the front line of health care. They are promoting good diet, overseeing athletic activity to avoid and reduce injury, recognizing injuries such as concussions that lead to death if not diagnosed promptly and properly, and being available in situations, especially school athletic programs, that require emergency aid. It is very important to note that licensed athletic trainers bring their special health care skills to an arena where full time medical doctors are often unaffordable, to schools. By virtue of the protocol between doctor and licensed athletic trainer, access to the highest level

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of care is made almost immediately available for our most vulnerable population, our children.

The Program Evaluation Division recently reviewing the Board concluded that the services provided by these professionals meet the overarching objective of licensing: To protect the public from physical or economic harm. It is for this purpose that the Board was created.

Currently, there is an ever growing appreciation for the demands of higher performance imposed on non-professional as well as professional sport participants. The greater intensity of the sport creates an atmosphere of competitiveness, and some would argue it creates a greater risk of injuries such as concussions. Only in recent years have participants, as well as the public at large, become aware of some of the long term effects of concussions. The entire area of sports medicine is expanding and requiring greater knowledge on the part of the licensed athletic trainer, further reinforcing the need for a Board to insure a high level of education and clinical skill.

But attendant to this need for competent services, is the need to provide these services with the highest degree of ethical standards. The current relationship of the licensed trainer with the student, is one of educator, motivator, and counselor. Uniquely, it invokes a close physical and psychological connection and consequently, a vulnerability. From this relationship arises the need for special education and guidance to the licensed athletic trainer and protection to the student from the development of improper personal, even sexual relationships. With the public recognition of the need for athletic opportunities for both sexes and Title IX requiring equal access, the educational community requires accountability that follows the professional, independent of one specific employment context.

While agreeing that the value of the regulation must merit the cost, the Board would note that the cost of accountability to the Board has been carefully considered and approved by the General Assembly. Furthermore, it is self-supporting. The cost of regulation of the field is carried by the professionals themselves who believe it is of paramount importance to set out a level of education and skill that is enforced by a disciplinary process. The professional field has greater confidence in the basic premise that is fundamental to our judicial system: Judgment by one's peers. The best person to judge whether or not an athletic trainer has met the standard of care of the profession is another athletic trainer. The test is: What would a reasonable, prudent athletic trainer do? The Board takes the position that protection of the public is driven by the goal of justice for both parties: the responding professional and the complainant. To obtain this goal, the profession itself is willing to bear the cost to inform the public of these standards and take steps for its protection.

However, the Division has recommended that this Board be subsumed by another regulating entity. The Board respectfully disagrees with this recommendation, a recommendation based on the premise that centralization is superior to maintenance of the Board in its current, naturally forming, independent capacity. To support this recommendation, it fails to fully provide a plan of consolidation. Also, it cites only a “snapshot” of two factors: The Board’s annual revenue and its financial solvency as the bases for consolidation.

The Board would answer that these two indicators reflect a solvency of this Board for this year and years to come based on current expenses and rate of expenditures. Therefore, the Board can only guess at the basis for evaluating the Board’s solvency based on a “...cumulative score of five or less...” For this reason the Board would like to reserve the right to supplement this response for a later time, if necessary.

This Board has not reached its full potential. It is evolving and growing as is the fact that public awareness of the need for the services of the licensed athletic trainer is growing from scientific studies of the effects of sports injuries and demands on non-professional as well as professional participants are compiled. Those recommending that centralization of governance of the field of athletic training is better due primarily to greater effectiveness and efficiency are promoting an idea at the expense of a reality. The reality is that a change in a form of government is not evaluated or best obtained with only a time sheet and column of numbers. Government by the people is organic. It grows to meet the needs of the community. The community can be great or small. It can be the size of a State to be administered as a geographic unit and defined as a group of persons who provide a specific set of professional services. The community may be a growing community. It may be defined by a growing awareness of the need for professional standards and accountability. The North Carolina Board of Athletic Trainer Examiners would urge that the need for this Board to remain an independent board is greater than ever and requests that it not be consolidated with another entity that regulates occupations in the same industry.

Thank you for the opportunity to respond to the recommendation.



Kevin Allran, Chairperson
NCBATE



State of North Carolina

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W. Bain Jones, Jr.
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January 2, 2015

The Honorable Fletcher Hartsell
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The Honorable Julia Howard
NC House of Representatives
300 N. Salisbury Street
Room 302
Raleigh, NC 27603-5925

The Honorable Tim Moffit
NC House of Representatives
300 N. Salisbury Street
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Raleigh, NC 27603-5925

Dear Senator Hartsell, Representative Howard and Representative Moffit:

On behalf of the Board of Barber Examiners ("Board"), I wish to thank the Co-Chairs for the Joint Program Evaluation Oversight Committee and the Joint Administrative Process Oversight Committee for this opportunity to respond to the recent reports provided by the Program Evaluation Division ("PED") of the General Assembly. The Board greatly appreciates the time given by Mr. Hefren and his staff in preparing this report. We appreciate working with them to provide information and documentation to assist them in understanding the Board's strong commitment to serving the citizens of North Carolina by providing healthy, safe barber services

which protect the general welfare. With similar commitment, the Board also strives to be sure that there is a mean standard of barber service provided to all of North Carolina.

Regarding the Program Evaluation report, we respectfully suggest that creating an Occupational Licensing Commission will add an unnecessary, additional level of government that will make licensing in North Carolina more cumbersome, less responsive to the public interest, and more costly to the individual licensees. Although we appreciate that the legislature needs to determine which of the licensing agencies in the state are subject to regulation, we believe that attempting to establish model statutes or rules is as unmanageable as placing all of the licensing and regulatory board under one umbrella. We suggest that the legislature determine which one of the existing state agencies (who receive the regular reports from Boards as required by law) should be given the statutory authority to ensure that agencies are successfully meeting their statutory mandates through proper and effective execution. Selecting one existing agency for this task rather than creating a new commission would be much less costly while reducing the number of reports required and would save money by relying on existing oversight that could be empowered to take appropriate action with boards and commissions not in compliance with their legal directives.

Most of the Boards have complaint processes which are clearly identified, as does our Board, and use this process to evaluate whether a violation of law exists and take appropriate action. Boards incorporate the complainant in the investigative process as well as informing the licensees of the Board's determination.

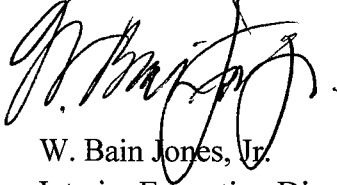
Additionally, the Board of Barber Examiners has been diligent in its attempts to work with the North Carolina Board of Cosmetic Arts when disputes have arisen. For example, the Board has requested meetings with them and attempted to execute a memorandum of agreement as to how to address and resolve disputes. When this Board's offer to enter into a memorandum of agreement was summarily rejected by the Board of Cosmetic Arts, this Board took proper action and looked to the North Carolina general courts of justice to resolve the concern. The North Carolina Court of Appeals has upheld this Board's position. We and other Boards will continue to work to avoid unnecessary involvement with the legislature or the courts. This Board has no agenda to take over or otherwise encumber any other agency from diligent and equitable enforcement of the law within respective jurisdictions. We strive to work with them to provide the best service to the citizens of this great state without causing unnecessary and costly appearances before the Legislature.

Further, most Boards have statutorily required comprehensive external audits. These audits take all aspects of the operation of the agency into consideration. Any newly created commission that requires a performance audit is redundant since existing agencies already monitor the activity of the Boards. Creating such a commission will create a cost that would have to be borne by the licensees because this Board, as well as most others, is self-receipted and receives no appropriations from the general fund to cover its operating expenses.

Again, the Board appreciates your allowing responses to this report. We respectfully request a careful evaluation of these recommendations. We believe you will find that an additional Occupational Licensing Board commission to provide oversight is not necessary or fiscally appropriate. We encourage the continued evaluation of all recommendations in the report and ask to be allowed to reserve full comments until the PED's final report is adopted and legislation drafted.

Thank you for this opportunity to respond. We look forward to working with you to best serve all of North Carolina.

Sincerely yours,

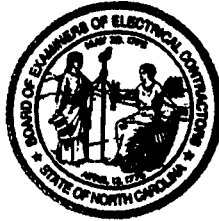


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cc: file
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STATE BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

December 30, 2014

Senator Fletcher Hartsell, Co-Chair
Joint Legislative Program Evaluation Oversight Committee
Joint Legislative Administrative Procedure Oversight Committee

Representative Julia Howard, Co-Chair
Joint Legislative Program Evaluation Oversight Committee

Representative Tim Moffitt, Co-Chair
Joint Legislative Administrative Procedure Oversight Committee

Re: Response to Program Evaluation Division Final Report
Occupational Licensing Boards

Dear Senator Hartsell and Representatives Howard and Moffitt:

As Chair of the State Board of Examiners of Electrical Contractors, I write to comment on the report of the Program Evaluation Division staff released December 16, 2014. As one who has served on the Board, presented complaints to the Board, and observed the Board closely over nearly forty years, I feel qualified to present the initial reaction of the Board.

First, we are pleased that after PED review of a survey of the Boards and a comparison to other states, the PED staff concluded that there is not a need for centralization of occupational licensing agencies and that a transfer of regulatory and or administrative functions should not be attempted. With respect to the questions whether additional oversight is necessary, we stand ready to assist with the development and implementation of useful and low cost techniques to improve the methods of presentation of information and enhancing existing oversight. The Board is proud of the large volume of work it is doing and has done in the past. Furthermore, the cost to the regulated community has been kept low.

We are providing a brief response as the PED staff indicated that lengthy responses to the report would not be appropriate and we are fully aware of the existing demands on the time of the members of the General Assembly. Below are our comments and respectful suggestions:

1. The creation of the proposed new entity called "The Occupational Licensing Commission" would require taking money from the 700,000 private citizens licensed by occupational licensing boards to create additional bureaucracy that is neither necessary nor efficient. It is inevitable those additional costs would be placed on the backs of small business. Other alternatives should be explored and attempted first.

2. Occupational Licensing Boards currently submit approximately 18 reports annually to various public bodies and there were indications in a recent audit that those public bodies were not clear as to their role in reviewing that information. It would be far more useful to the general public and the regulated occupations for the General Assembly to reduce that number of reports to a single report and for that report to incorporate additional information related to the performance of the investigative, adjudicatory, examination and application functions of the Boards. A single comprehensive report would aid all interested persons who are reviewing the information while actually reducing cost to the Boards and thereby the licensees. We would be pleased to work with staff or the appropriate subcommittee to produce this result.
3. Substantial oversight exists at the present time. The activities of each licensing Board are already carefully scrutinized by a cross-section of citizens of North Carolina, including members of the profession, those with a background in safety inspection and public members. These individuals are not on a payroll but volunteer their time for the protection of the public at minimal and inadequate per diem. This level of immediate oversight by sworn board members is enhanced by the supplemental review carried out by staff not only of the PED but of the APO, OSBM, OAH, DOL and other State agencies. It would be entirely appropriate for the General Assembly to enhance the efficiency of the supplemental reviews by consolidating those reports and outside reviews of the conduct of the Occupational Licensing Boards, while still allowing ready access to other bodies at any time. Each Board could post its report on its own website at no cost. Experience teaches that both supporters and opponents are good at tracking down such information.
4. With respects to audits it is important to note that at present the Board engages an annual financial audit by an independent audit firm. A three year financial audit and performance evaluation cycle appears to be an economical approach with part of the cost of any additional performance evaluation set off by eliminating excessive annual financial audits. It would appear appropriate for that performance review to become a routine part of the tasks of the legislative staff and perhaps the staff of the Rules Review Division at the Office of Administrative Hearings rather than creating a new agency.
5. The review of the activities of more than 50 Occupational Licensing Boards over a period of six months presented a virtually impossible challenge to the PED staff. Unfortunately, an overly broad survey became the primary basis for recommendations for significant change that would carry with them substantial economic burdens. The overly broad nature of the survey ignored enforcement activities related to non-licensees (they present the most serious risk to the public), ignored the need for varying levels of discipline tailored to a given problem (including the numerous probations and stayed suspension orders and increased education requirements imposed on licensees deserving of discipline) and also the efforts made to prevent problems through educating the industry through various presentations and publications.

In summary, the remedies suggested by the report are not founded on solid evidence. Simpler lower cost options should be put in place before starting down the road to costly bloated bureaucracy.

Thank you for your efforts on behalf of the citizens of North Carolina.

Sincerely yours,



James W. Carpenter, Chair

Cc: Senator Phil Berger
Representative Tim Moore
✓ John W. Turcotte, Dir. Of Program Evaluation Division
Chuck Hefren, Principal Program Evaluator, Program Evaluation Division
Tim Norman, Executive Director
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January 2, 2015

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Dear Mr. Turcotte:

On behalf of the North Carolina State Board of Environmental Health Specialist Examiners (EHS Board), I would like to extend appreciation for the opportunity to respond to the December 17, 2014 Final Report to the Joint Legislative Program Evaluation Oversight Committee regarding Occupational Licensing Boards. The EHS Board found the Program Evaluation Team to be professional and courteous during its evaluation.

The EHS Board is a long-standing professional licensing board that represents more than 1,040 active environmental health professionals employed by local, state and federal governments, schools and industries throughout North Carolina. Approximately thirty Registered Environmental Health Specialists no longer working in the public sector recognize the significance of licensure and continue to maintain their professional credentials through the Board.

Programs carried out by Registered Environmental Health Specialists protect public health. Examples of major services performed by Environmental Health personnel include ensuring proper placement, installation, maintenance and operation of wells and septic systems; identifying and correcting unsanitary conditions at establishments that prepare food for sale to the public; inspecting childcare centers, adult care facilities and lodging establishments; determining environmental causes of lead poisoning in children; and uncovering environmental sources of disease outbreaks that typically occur from food or in close living arrangements such as care facilities. Credentialed specialists within these programs work to improve the quality of life in local communities and prepare their communities to respond to and recover from disasters including terrorism events, acts of nature, and pandemics.

Assuring a healthy living environment requires a workforce of well-trained and technically competent credentialed environmental health specialists. The EHS Board ensures that there are consistent standards for Environmental Health professionals to follow as they carry out their duties. One of the most important functions of the EHS Board is to ensure that Registered Environmental Health professionals stay current with contemporary standards in the profession and that they use best practice models consistent with current research and science.

In specific response to the 2014 Final Report, the EHS Board respectfully offers the following response:

Organization Model

In accordance with NC General Statute 90A-50, the EHS Board is the licensing authority of environmental health specialists in the State of North Carolina, and it regulates the practice of the specialists that work in North Carolina.

Statute mandates that the EHS Board consist of twelve appointed members with seven of the members being practicing environmental health specialists and one member representing the public. Other representatives include one environmental sanitation educator from an accredited college or university, one local health director and representatives of the Division Public Health within Department of Health and Human Services (DHHS). Overall, the make-up of the Board includes a well-rounded core group of credentialed professionals who work in the field on a day-to-day basis and have a unique "boots on the ground" picture of how environmental health operations and regulations affects the public. With the exception of two EHS Board members who receive \$50 per diem compensation per North Carolina General Statute 93B-5(a), Board members do not receive compensation (other than travel reimbursements) for their work associated with the Board.

On the surface, it may appear that there are commonalities that would allow for a quick and easy combination of the EHS Board with another existing OLA; however, deeper analysis makes it clear that such a combination would lead to conflicts of interest due to regulatory lines of authority. As set out in NC General Statute 90A-50, the EHS Board registers individuals to work in the **public sector** of the environmental health field. The term "registration" for the NC EHS Board is comparable to terms such as "credential" and

“license.” The EHS Board is not compatible with private sector boards in similar fields, because environmental health professionals credentialed by this Board actually **regulate** individuals associated with private sector boards. Consolidation of a public sector regulating board with a private sector board is incompatible with the statutory purpose of “safeguarding the health, safety and general welfare of the public from adverse environmental factors.”

Due to potential conflicts of interest, the EHS Board feels strongly that while there are certainly many opportunities for collaboration between boards, there is not a clear consolidation “fit” for this Board.

High Professional Standards

The mission of the EHS Board is to regulate services performed by Registered Environmental Health Specialists across the State and ensure that the professionals remain ethical and legal while protecting public health. The EHS Board licenses Environmental Health Specialists once those professionals have demonstrated their professional competency through successfully completing very stringent requirements and assessments including:

- Two-year public sector environmental health internship in public health
- Specified continuing education and specialized training
- Multi-Part Examination including a national credentialing exam, an essay test and an oral exam.

It is also important to note that the EHS Board has seen an uptick in the number of out-of-state professionals seeking licensure through reciprocity. In addition, there has been interest from military service members seeking opportunities to apply their military experience towards professional environmental health licensing standards. The EHS Board is committed to assisting all applicants with bridging their out-of-state experience and credentials with North Carolina standards when appropriate.

Opportunity for Public to Register Complaints

The Report states that the EHS Board lacks a “complaint process.” While there is not a complaint form located on the Board’s website, North Carolina Administrative Code 21 NCAC 62.0404, Investigation of Complaints, provides that a complaint made to the Board shall be in writing. The Board Chair shall appoint two board members to investigate the complaint and to report findings at the next scheduled meeting. The Board shall take appropriate action(s) to abate the complaint. Disciplinary action taken by the Board may lead to suspension or revocation of a certificate. A hearing of the Board shall meet the provisions of Article 3A, GS 150B.

In addition, North Carolina General Statute 90A-64 states, “*The Board may conduct investigations for any complaints alleged or upon its own motion for any allegations or causes for disciplinary action. The Board may subpoena individuals and records to determine if action is necessary to enforce this Article.*” The Statute allows one or more of the following reasons for suspending and revoking certificates:

- Fraud, deceit, or perjury in obtaining registration under the provisions of this Article;
- Inability to practice with reasonable skill and safety due to drunkenness or excessive use of alcohol, drugs, or chemicals;
- Unprofessional conduct, including a material departure from or failure to conform to the standards of acceptable and prevailing practice or the ethics of the profession;
- Defrauding the public or attempting to do so;
- Failing to renew certificate as required;
- Dishonesty;
- Incompetency;
- Inexcusable neglect of duty;
- Conviction in any court of a crime involving moral turpitude or conviction of a felony;
- Failing to adhere to the Code of Ethics; or
- Failing to meet qualifications for renewal.

The Board also has two policies, *Complaints* and *Complaints against Board Members and/or Staff* that outline specific procedures for the Board to follow when it receives complaints.

The lack of a complaint form does not mean that the Board has not received or investigated complaints. In instances where the EHS Board receives complaints, it handles them in accordance with applicable Statutes, Rules and policies, and in consultation and collaboration with its legal counsel and with the Registered Environmental Health Specialist’s employer.

The EHS Board welcomes the opportunity to ensure that its complaint process is clear, transparent and streamlined. Noting that there are logistical details to work through including informing and collaborating with local, state and National Environmental Health Association (NEHA) partners, the EHS Board agrees that such a form would be a helpful tool and progressive enhancement for the EHS Board and is very doable.

With that said, the EHS Board is quite open to, and discussed at its December 12, 2014 meeting, the opportunity to create a page, on its website, for the public to register complaints and possibly conduct customer service satisfaction surveys. In summary, complaints likely would cover contractual, technical, safety, misrepresentation or fraud-related issues occurring during a Registered Environmental Health Specialist’s performance of environmental activities.

Fiscal Resources and Oversight

For a number of reasons, using revenue as a threshold to recommend consolidation seems an inconsistent and one-sided analysis.

- The EHS Board receives no monetary support from the State. Ninety-nine percent of the Board's annual revenues are fee-based and in accordance with North Carolina General Statutes Article 4, Chapter 90A and North Carolina Administrative Code 21 NCAC 62.0405, the Board's opportunity to increase the fees is capped.
- The EHS Board's revenue is cyclical, influenced by waxes and wanes in the economy and how those fluctuations impact local and state government budgets, and staffing. For example, over the last four years the number of interns registered by the EHS Board has increased significantly. The EHS Board believes the growth is fueled by local environmental health departments lifting their hiring freezes along with economic and population growth across the state creating the need for higher service levels. Specifically, there has been a 455% increase in the number of registered interns between 2011 and 2014 (nine registered in 2011 compared to fifty in 2014). Current projections anticipate this upward trend in new interns to continue.
- The Board's total annual revenues have increased by \$14,000 between 2010 and 2014. The cause of this increase is two-fold: fee increases from \$35 to \$50 effective in 2011 along with an annual uptick in the number of credentialed individuals.
- With regard to expenditures, the EHS Board has been very diligent in controlling annual costs, and is very dedicated to conducting its business in an efficient, smart and conservative manner. As a point of reference, the Board's expenditures have decreased by approximately \$14,000 over the last five years.
- The EHS Board has made great strides over the last five years in shoring up its financial portfolio. Through a combination of steadfast fiscal oversight and increased licensing activities, the EHS Board's fund balance or "rainy day fund" for the year ended December 31, 2013 is 91.9% of that year's expenditures – greatly exceeding the NC Local Government Commission's recommended 8% level for local governments. As a point of comparison, five years ago, the EHS Board's fund balance was 4.8% of that year's expenditures. The EHS Board is pleased at where it stands financially and believes that the fiscal model that it currently operates within is sustainable.
- The EHS Board is proud of its fiscal integrity – in addition to its own rigorous internal audit policy/process, it also contracts for an annual audit and financial statement through Smith Wike Anderson CPA firm. The EHS Board conducted its external auditor selection process in accordance with NC Local Government Commission recommendations including comprehensive Request for Proposal (RFP) process.

Support Services

Information Technology

The EHS Board is fortunate to have a collaborative partnership with its State "parent" department – Environmental Health Section of DHHS – for maintenance of its centralized training database portal. This legacy system (commonly referred to as RSTAS) serves a dual role as it houses training as well as authorization information for Registered Environmental Health Specialists and the information housed there is used by both entities. Technical assistance to update and maintain the System has historically been minimal, and the Board has found the current customer centric arrangement meets its current and foreseeable IT needs.

Prior to migration to this cooperative and collaborative IT effort, the EHS Board contracted with a third-party vendor. It was necessary to end that contractual arrangement about three years ago when it no longer benefitted both parties. The elimination of this contract has allowed the EHS Board to set aside those previously expended monies to use in the event of an IT emergency.

In addition to the RSTAS system, the Board has a very affordable contract for publishing and support of its webpage (www.ncrehs.com).

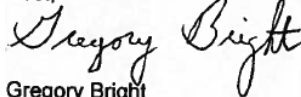
Administrative Support

In accordance with NC General Statute 90A-56, the EHS Board may employ necessary personnel for the performance of its functions. Over the course of many years, the EHS Board has employed part-time administrative support, and the current arrangement, which has served the Board quite well for a number of years, allows for a telecommuting employee to work 30 hours per week (40 hours per week during Board meeting weeks [approximately five times per year]) without benefits. The position is suited for someone with experience in the areas of administration, customer service and finances. Improvements in technology over time have helped alleviate the need to increase hours.

As the Committee can glean from this letter, the EHS Board is interested in the best organizational model for protecting the public from potential environmental health hazards. The EHS Board is a deeply devoted group of professionals and is passionate about ensuring that high professional standards for Environmental Health Specialists are not compromised. The goal of consolidation, we believe, should be that a new organization model would bring about improved reporting and oversight in addition to avoiding potential conflicts of interest. Instead of combining boards, the EHS Board prefers that the Committee would initially explore avenues of cooperation and collaboration between boards to gain a more thorough understanding of their purpose and operations.

Again, the EHS Board appreciates greatly the opportunity to respond to the Report. Feel free to contact our office should you have additional questions regarding the NC Board of Environmental Health Specialist Examiners.

Best,



Gregory Bright
Chair



Executive Director
Sara Koch

STATE BOARD OF REGISTRATION FOR FORESTERS

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January 7, 2015

Chuck Hefren, Principal Program Evaluator
Program Evaluation Division
North Carolina General Assembly
Legislative Office Building, Suite 100
300 North Salisbury Street
Raleigh, NC 27603-5923

(Sent Via email: chuck.hefren@ncleg.net)

Response to Proposed Elimination of NC Board of Registration for Foresters

Dear Mr. Hefren:

It is the stance of the North Carolina Board of Registration for Foresters (NCBRF) that the legislated tasks assigned to the Board are sound, reasonable, cost effective, and serve to protect the public and the natural resources of the State of North Carolina. Water quality, healthy forests, control of wildfires, and implementation of Best Management Practices rest to a large extent with educated Foresters. Landowners and the general public place a high value on the forests of North Carolina and the Board, as shown below; will demonstrate that the potential harm to the public and environment is significant without a registration process.

Board's Comments on "Background," page 3

To become a Forester, NCBRF requires the stringent requirements for *licensure* (education, experience, examination, good moral character, and residency). NCBRF currently functions as a "certification/title act" authority, not as a "registration" authority. The current requirements for registration are based on comprehensive education and experience in the regulated field. In addition, NCBRF requires annual Continuing Education of Foresters. NCBRF cannot regulate vendors of forestry services who are not registered, but the following operations represent the majority of forest management activities in the state and are supervised by Registered Foresters:

REQUIRED BY THE N.C. FOREST SERVICE

To ensure & maintain high professional standards, the North Carolina Forest Service (NCFS) requires every one of their foresters to become registered. College educated registered foresters supervise control of potentially devastating fires under emergency conditions. Wildfire training of staff is very often conducted by NCFS foresters. NCBRF contends that having educated, registered foresters managing such devastating wildfires greatly reduces the risk to North Carolina citizens, their property and our natural resources.

For example, North Carolina homes & structures protected from active wildfires during fiscal year 2012 had a value of more than \$704,000,000 (source: NCFS 2012). NCFS Registered Foresters provide sound forest management advice to forest landowners through the creation and/or approval of more than 6,000 management plans impacting 160,000 acres annually (NCFS accomplishments data base). Finally, Forest Development Program monies (example, for tree planting) are managed by Registered Foresters with the NCFS.

STANDING TIMBER APPRAISAL and SUPERVISED TIMBER HARVESTS

NCBRF contends that over 20% of the value of North Carolina sold timber, or over \$260 million annually, could be at risk to forest landowners without the work of NCBRF and a strict registration process. A N.C. State University Forestry Extension publication strongly advises landowners to seek assistance from foresters during harvests and other notable management activities. Research (Cubbage et al., 1996) demonstrates the value of professional advice and quantifies the potential costs to forest landowners who do not utilize forester assistance. Landowners who received **professional forestry assistance** before harvesting timber averaged 23 percent more income per acre, received a 64 percent higher price per board foot, and had a projected income stream from future sales of 120 percent more as a result of improved regeneration and stocking (see page 9, “A consumer’s guide to consulting foresters”). This “at-risk value” represents \$20.1 Million dollars of lost State of North Carolina income tax revenue using the 7.75% state tax rate.

WOOD MANUFACTURING INDUSTRY

North Carolina’s forestry sector is one of the leading manufacturing industries in the state, valued at over \$23.4 billion in 2012 (source: NCSU Extension Forestry, 2012). Responsible management by professional foresters is directly linked to the wood manufacturing industries so vital to our economy. Many of North Carolina’s larger industrial forest landowners abide by forest certification systems that require professional forester oversight.

THE FORESTRY PRESENT USE VALUE PROGRAM (PUV)

As mandated by North Carolina law, the Forestry PUV Program has a substantial impact on both county taxes and land use. In order for forestland to be enrolled in the program, the landowner must submit a forest management plan for the property that is sound and implemented. This program strongly encourages Registered Foresters to be the individuals who develop such forest management plans. Plans written by unregulated individuals will place the counties at a high fraud risk.

NCBRF RESPONSE TO PED REPORT FINDINGS

Finding #1 Centralized Authority of OLAs (page 10): NCBRF concurs.

Finding #2 State-level Oversight (page 15): NCBRF does not object and would gladly provide any additional information upon request.

Finding #3 Complaints and Enforcement (page 18): NCBRF has a clearly defined complaint process outlined on its public website. The NCBRF is currently limited by statutory authority in

its ability to respond to and enforce forestry complaints. Individuals that are prone to generating forestry complaints are typically not registered, and under existing law can practice forestry without NCBRF oversight. When the NCBRF does receive a complaint that is under its jurisdiction, such complaints are fully reviewed and addressed.

The NCBRF is open to any suggestions on ways to improve communications in relation to threats to the public.

Finding #4 Occupational Licensing Commission (page 22): The NCBRF does not recommend the creation of an Occupational Licensing Commission. The NCBRF, however, recognizes the value of having dispute resolution services.

Finding #5 Maintaining Licensing Authority (page 25): The NCBRF protects the public from financial harm, as noted our earlier submission below (July 28, 2014):

The Negative Economic Impact of Forest Practices in North Carolina Without Registered Foresters.

Using data from N.C. State University (NCSU) and current timber value trends, (NCSU), the following impacts can be calculated. NCSU is a leader in foresters' undergraduate and graduate education in North Carolina and nationally.

There are over 500,000 private forest landowners in NC. As 85% of the 18.6 million wooded acres (60% of the land) are privately owned, the average acreage per owner is about 32 wooded acres. When timber is mature, roughly at intervals of 35 years between harvests, the typical timber value today is \$88,000 on each 35 acre tract of land. Therefore, during the cumulative life of all landowners in the state, there is a staggering \$44 billion dollars of timber value available for trade across the state during a growth cycle, or ***\$1.3 billion dollars per year.***

The N.C. Board of Registration for Foresters (NCBRF) contends that, based on data, over 20% of the value, or over \$260 million annually could be at risk without the work of NCBRF and a stringent Registration process. A N.C. State University Forestry Extension Publication states the following: "Seek professional assistance." Research (Cubbage et al., 1996) indicates that professional advice can be valuable. Landowners who received professional forestry assistance before harvesting timber averaged 23 percent more income per acre, received a 64 percent higher price per board foot, and had a projected income stream from future sales of 120 percent more as a result of improved regeneration and stocking (see page 9, "A consumer's guide to consulting foresters").
This "at-risk value" represents \$20.1 Million dollars of lost State of North Carolina income tax revenue using the 7.75% state tax rate.

Registered Foresters are an integral part of North Carolina's economy:

- Including direct, indirect, and induced impacts, the forest sector had a total economic impact of \$23.47 billion in industry output and supported more than 122,000 jobs with a payroll of \$6.08 billion. It contributed \$9.21 billion dollars to the state's gross domestic product.

- Every job created in the forest sector resulted in another 2.85 jobs in the state.
- For every \$1 million generated in product there is an additional \$760,000 dollar contributed to the rest of the North Carolina economy.

link: <http://forestry.ces.ncsu.edu/economic-impact-data/>

There currently are non-foresters operating lawfully in forestry employment. No person is denied the right to pursue a job in the forestry sector nor prevented from working for the public. Registered Foresters and the NCBRF do not restrict public access to forestry services. Non-foresters are currently available for hire in most counties.

NCBRF currently maintains reciprocity between its forester registration program and all other southern states (AL, AR, GA, MS and SC) with similar programs. Forestry in all of these states has a major impact on both their economies and land use. The importance of forestry in the South has led to the establishment and success of these programs.

On page 29, the Program Evaluation Oversight Committee summary states that the potential cost of public harm should exceed the cost of regulation if a board is to continue to exist. NCBRF's July 2014 response, reproduced above, measures the economic risk of not having NCBRF, creating a benefit/cost ratio in favor of continuing the NCBRF. The economic risk to forest landowners of lower timber transaction values, increased stream sedimentation from poorly planned logging operations, and poorly managed wildfire events is in the millions or higher. The budget of the NCBRF currently is approximately \$40,000 annually, a much smaller cost than the potential for public harm.

Finding #6 Consolidation of OLAs (page 30): The NCBRF's budget is well managed and adequate, and higher fees are not needed. The concerns in pages 36 & 37 regarding adequate financial resources do not lead to meaningful conclusions about the NCBRF. The NCBRF has sufficient resources for the task given to this entity.

NCBRF collects \$40 per licensee, which is spent on annual administration, compared to an average cost of \$96 per licensee for all North Carolina occupational boards, and less than the \$60-69 per licensee within the comparative states. The operations of the NCBRF carry no direct cost to the general public or the state government.

NCBRF disagrees with the consolidation option as the metrics within the report do not justify the disruption. No cost will be lessened and no public benefit increased. The work of NCBRF can improve metrics if given full licensing authority because those practicing forestry without registration can be brought under review and required to follow a more stringent law.

CLOSING REMARKS

NCBRF respectfully requests a full hearing to review and justify our continued critical role in protecting the public and the environment. Through its education requirements, rigorous testing standards, Code of Ethics and requirement for continuing education, the NCBRF sets the minimum standards for professional forestry. If any changes are warranted, there is a need to

discuss increasing the authority for the NCBRF through licensing of Foresters and the practice of forestry. Certainly no justification exists for decreasing the NCBRF's authority. We welcome further discussions because the review to this point has not included the full scope of the NCBRF's benefits.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Edwards". The signature is fluid and cursive, with the first name "Daniel" and last name "Edwards" clearly distinguishable.

Daniel Edwards, NC Registered Forester #612
Chairman, NC State Board of Registration for Foresters

cc: Senator Fletcher Hartsell
Representative Julia Howard
Members of NC State Board of Registration for Foresters



North Carolina Interpreter & Transliterators Licensing Board

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December 30, 2014

John W. Turcotte, Director
Program Evaluation Division
NC General Assembly
300 N. Salisbury Street, Suite 100
Raleigh, NC 27603-5925

Dear Mr. Turcotte,

The North Carolina Interpreter and Transliterators Licensing Board (the Board) appreciates the opportunity to review and respond to the Program Evaluation Division report 2014-15, an evaluation of the structure, organization, and operation of the various independent occupational licensing boards as defined by G.S. 93B-1.

The Board concurs with the reports finding that regulatory authority and administrative responsibilities should not be transferred from OLAs to a single state agency.

The Board's comments on the report recommendations are as follows:

Recommendation 1. The General Assembly should establish an Occupational Licensing Commission to improve the effectiveness of occupational licensing boards and assist with resolving disputes between boards.

The Board concurs that a single entity could help improve the effectiveness of the OLAs if the new entity:

1. Is not given regulatory authority over the individual OLAs,
2. Functions only in an advisory capacity to the OLAs,
3. Is designated as the sole entity for the filing of the annual report, audit report and any other reports required from the OLAs,
4. Reviews current complaint processes by the individual OLAs and makes recommendations based on best practices.

Recommendation 2. The General Assembly should amend state law to list all occupational licensing agencies in N.C. Gen. Stat. § 93B and define the criteria that agencies must meet in order to be listed.

The Board concurs with this recommendation. The Interpreter and Transliterators Licensure Act (N.C. Gen Stat. § 90D) which established this Board already complies with this recommendation for inclusion in the amended law.

Recommendation 3. The General Assembly should enact state law establishing complaint processing requirements for occupational licensing boards.

The Board currently has an effective complaint procedure process that already complies with most of the suggestions made in this recommendation. The Board encourages any proposed legislation not make any adjustments to current OLA processes that provide for the effective and efficient intake and processing of complaints.

Recommendation 4. The General Assembly should require periodic audits of key regulatory activities and associated performance measurement data.

The Board has several concerns that should be addressed if legislation is proposed enacting additional reporting requirements. Among those concerns are:

1. The OLAs and other stakeholders should have considerable input in the development of performance standards. The inclusion of the OLAs, licensees and other stakeholders need to be considered in order to develop appropriate measurement standards.
2. The recommendation is not clear as to whether the performance audit will be conducted by the OLA's auditor or by the N.C. State Auditor. If the audit is to be performed by the OLA's current auditor, this will undoubtedly increase audit fees not only during the year of the performance audit but also during the years just a financial audit is performed.
3. While the Board believes responsible reporting and monitoring is required, increasing any costs OLAs must bear should be approached with caution. As the report correctly points out, the OLAs are funded by licensing fees paid by the professionals under its regulatory authority. This is the third recommendation that would require additional funds being expended by the OLAs, the others being the 1% of fees to be paid to the State to fund the proposed Occupational Licensing Commission and the second being the costs that will be incurred in order to allow for complaints to be submitted through the OLAs web sites. Over time these additional costs could require the OLAs to consider raising fees for licensure, especially for boards with a lower number of licensees. The Board cautions that any recommendations that would require additional financial commitments be weighed in a cost benefit analysis that takes into account the size of the OLAs and their ability to absorb any costs without increasing fees.

Recommendation 5. The General Assembly should direct the Joint Legislative Administrative Procedure Oversight Committee to establish a subcommittee to determine whether licensing authority for the 12 occupational licensing agencies should be maintained or limited to certification.

While the Board would fully cooperate in any study conducted by the Occupational Licensing Commission, we disagree with the finding that the Interpreter and Transliterators OLA should be part of an evaluation to determine whether the OLA should be maintained or limited to certification.

The board has reviewed Appendix C which details the criteria for the assessment of OLAs for elimination of licensing authority and briefly addresses each area in the following paragraphs.

Public Harm

It is stated that the OLAs that did not identify any risk to public harm other than risks associated with a business transaction received a score of zero. The Board would like to point out that many of the one million Deaf, Hard of Hearing and Deaf-Blind North Carolinians who receive services from our licensees are a vulnerable portion of society due to communication barriers. In addition to these consumers, the group that relies just as heavily on our licensees are the licensed professionals in other fields – such as physicians, attorneys, accountants, psychologists and social workers – when serving their Deaf, Hard of Hearing, and Deaf-Blind patients/clients. Both groups rely on third party interpreters and transliterators to effectively communicate with each other in the course of receiving or providing services – as is required in federal law (e.g. the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973). The consumers and professionals who rely on these interpreters and transliterators need to be assured they have the skills and knowledge to interpret complex and sensitive information (such as specialized medical or legal terminology or child protective investigative proceedings). The list of OLAs that received a public harm score of 10 such as Medical, Legal, Pharmacy, Certified Public Accountant, Nursing Home, General Contractors, etc. all rely on our licensees in order to effectively communicate with their clients. Our licensees protect not only their consumers but the other licensed professional who serve their Deaf, Hard of Hearing and Deaf-Blind patients and clients. Therefore, the public harm score should be equivalent to those given to these professions.

To perform interpreting and transliteration services on a consistent, competent basis, these professionals must be engaged in continuing education and professional development. Licensure by the OLA provides stringent guidelines for the type of professional development that must be performed annually. The licensing process began in North Carolina approximately 11 years ago and the Board believes that the licensure requirement has eliminated unqualified people from performing services that could have damaged the consumer and the licensed professionals serving these consumers.

Complaints

The report indicates that the complaint process for several OLAs was not readily accessible on the home page of the individual OLA web site. The Board's web site prominently displays at the top of the page the tab "File a Complaint" which, when selected, brings up the complaint process procedures. The Board believes this is indicative of the complaint process being accessible on the home page of the web site.

The scoring for this area was based on the number of complaints received during one fiscal year. If an OLA received less than 20 complaints it received a score of zero. The Board is of the opinion that using the number of complaints, regardless of the number of licensees, is completely arbitrary. The report states in Finding 5 that, "An effective licensing process can help reduce the number of complaints by verifying professional competency and reviewing the criminal history of applicants as a condition of licensure." The Board questions why, given that statement, the report provides any score for complaints considering the report did not evaluate why there could be a low number of complaints. The report takes the position that a low number of complaints translates to a low threat of public harm. The report contradicts itself in Finding 5 and the related recommendation.

As discussed above, the licensees of the Board serve other licensed professionals on a daily basis. The Board's licensees, therefore, also protect professionals that provide services to mutual consumers. These other professionals must be able to rely on our licensees to not only communicate what they are saying to the consumer, but also rely upon the licensee to communicate the consumer's message effectively. In many instances, an incorrect word or phrase is a matter of making the correct decision that will affect the consumer's health and financial well-being, often at a time of great stress. The professionalism and competency of our licensees is paramount to protecting the lives and well-being of not only the consumers but also the professionals they serve and ultimately the public at large.

Our licensees protect all members of society on a daily basis. This level of protection from harm cannot be assessed from just the number of complaints filed. As Finding 5 theorizes, a low number of complaints to the Board indicates an effective licensing process.

Disciplinary Actions

The Board believes the report's reliance on one fiscal year to score this area is not a valid sample size. Additionally, any disciplinary action is the result of a complaint process that has been completed and a decision rendered. During the fiscal year selected there were a low number of complaints and therefore the ability to render disciplinary action was limited.

Other States

Because the interpreting and transliterating professions were recognized less than 50 years ago, it would be considered at its infancy stage compared to other professions. The legislation creating the Board was enacted in 2002 and the Board commenced operations in 2003. The General Assembly should be applauded for being on the forefront of protecting some of the most vulnerable people in North Carolina, for without the Board's existence the Deaf, Hard of Hearing and Deaf-Blind community, and the professionals who serve them, would be left to rely upon individuals with no verified credentials, no criminal background checks, no continuing education requirement and no recourse for unethical behavior. North Carolina should continue to lead when it comes to licensing competent, professional interpreters and transliterators.

The Board appreciates the opportunity to comment on this report and look forward to working with the Program Evaluation Division and General Assembly as they consider the recommendations made in this report. We are available to provide additional information as the need arises.

Sincerely,



Jane Dolan
Board Chair



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January 2, 2014

Chuck Hefren, Principal Program Evaluator
Program Evaluation Division
North Carolina General Assembly
Legislative Office Building, Suite 100
300 North Salisbury Street
Raleigh, NC 27603-5925

RE: Response to Proposed Elimination of Board of Landscape Architects; Report Number 2014-15

Dear Mr. Hefren:

I am the current Chair of the North Carolina Board of Landscape Architects (“Board”) and am responding to the report on occupational licensing agencies (OLAs) prepared by the Program Evaluation Division (PED) and submitted to the Joint Administrative Procedures Oversight Committee on December 17, 2014.

On behalf of the Board, I wish to express our thanks for the time spent by the Division in conducting this study. Albeit, as a Board, and on behalf of our profession and its licensees, we are very concerned that the Board of Landscape Architects has been identified as one of twelve OLAs whose licensing authority may be eliminated. **In our opinion, the practice of landscape architecture by unlicensed individuals would pose a threat to public health, safety, and welfare and potentially result in physical, environmental, and/or economic harm.** For this reason, all 50 states, three Canadian provinces, and Puerto Rico recognize the need for—and require the licensing of—landscape architects. This is precisely why the Board is very concerned about the PED's recommendation that could lead to the elimination of our licensing authority. Therefore, we appreciate the opportunity to provide written comments in response to the PED's report and, in doing so, communicate our two major concerns, which are further detailed below.

CONCERN #1: SCORING

One major concern is the scores resulting from the PED's assessment, which placed our Board in the group of twelve OLAs that "should be subject to further legislative review in order to ensure there is continued need for licensure." As presented in the PED's report, four measures were used to assess the performance of North Carolina's OLAs and, based on the PED's evaluation, the Board of Landscape Architects was considered to be deficient in three of the four measures used. In consideration of the evaluation criteria used and upon further review of the information provided to the PED as well as our records, we offer the following opinions and supplemental information with respect to those three measures.

One of the three measures was "public harm." Given the scope of the practice of landscape architecture as defined by the enabling statutes found in Chapter 89A of the General Statutes (N.C.G.S. §89A), landscape architects provide services that, if performed "by someone lacking the requisite competencies," could result in physical, environmental, or economic harm (e.g., the contamination of public drinking water). Recognition of this was the basis for the Practice Act, which amended the General Statutes in 1997 (S.L. 1997-406, H.B. 1110). As evidenced by its actions, whether it be the review of a candidate for licensure, granting licensure by comity, or evaluating continuing education courses for approval, the Board is guided in all decisions by the standard: "Does this protect the public health, safety and welfare?" The Council of Landscape Architectural Licensing Boards (CLARB), the national and international organization responsible for establishment, formation and administration of the professional examination, has written extensively on this topic. There is pertinent information on the licensure of this profession in a scholarly publication, Regulation of Landscape Architecture and the Protection of Public Health, Safety, and Welfare by Alex P. Schatz, J.D. We will be glad to provide copies of these documents in support of our view.

The two other measures were "complaints" and "disciplinary actions." It is a fallacy to measure the effectiveness of an agency that regulates a person's professional qualifications by the number of disciplinary actions it takes or the number of complaints filed against its licensees. As stated in the report, "an effective licensing process can help reduce the number of complaints by verifying professional competency." As described above, because of the high standards that a person must meet to be licensed, complaints from "consumers" of a licensed landscape architect's services are almost unheard of. The lack of complaints should not be a measure of failure. Instead, it should be a measure of success. The Board is fulfilling its legislative mandate by protecting the public from unqualified persons.

Regarding disciplinary actions, discipline of a licensee through suspension or revocation is almost never warranted. The Board's grounds for discipline are almost exclusively limited to gross malpractice or incompetence and crimes indicating an unfitness to practice. (See, N.C.G.S. §89A-7.) By their very nature, landscape architects are detail-oriented rule followers. Rarely, if ever, therefore, does the Board have to discipline a

licensee. It does, however, frequently take action—usually by a mere letter, and not its statutory injunctive powers—to notify individuals or business entities that their conduct may require licensure. In fact, during the pendency of the PED’s survey, the Board was investigating a licensee who had failed to renew approximately eight (8) years ago but continued to practice and seal plans. When his actions were brought to the attention of the Board, the Board carefully reviewed the case and after determining there had been no harm to the public health, safety and welfare by his actions, allowed the (former) licensee to bring himself into compliance through retaking the written exam, verifying his continuing education during the period of the lapse and paying a fine. This was a very appropriate resolution. Had there been actual harm to the public, the Board would have taken disciplinary action by way of revocation.

The fourth measure for which the Board received 10 points, “other states,” appropriately acknowledges the determinations made by other state legislators of the need for a licensure requirement to protect the public from harm. It is important to note that all 50 states, three Canadian provinces, and the territory of Puerto Rico license their landscape architects. Additionally, landscape architects must be licensed to be eligible for US Department of Defense and other federal contracts. Also of note is the fact that between 20 and 26% of the students in North Carolina State University’s landscape architecture degree program are foreign exchange students from China. As that country is rapidly expanding its infrastructure, it has quickly realized that landscape architects are needed to help protect the public health, safety and welfare.

We believe the above supplemental information should be sufficient to increase one or more of the scores. Furthermore, with an adjustment to the scores, which would increase the total score to a number greater than 10, we respectfully request the removal the Board of Landscape Architects from the list of OLAs subject to further review.

CONCERN #2: EVALUATION WITH RESPECT TO GENERAL STATUTES

The second major concern is the methodology employed to arrive at Recommendation 5. It is our view that judging a “professional” licensing board (as opposed to an “occupational” or “trades” board) requires a different evaluation methodology to determine the Board’s effectiveness. With the methodology used, the PED is holding this Board to a standard not prescribed in our statute. The Board’s function is to ensure the public health, safety and welfare by licensing those persons who possess the requisite education and experience. A reading of the Board’s enabling statutes found in Chapter 89A of the General Statutes clearly reflects this as the legislature’s mandate. Very little of the Board’s law and administrative rules are devoted to discipline; they are devoted to describing the minimum qualifications for licensure, and then the continuing education requirements to maintain licensure.

Consistent with the statutes, the Board of Landscape Architects’ purpose—and actions—ensure that only qualified and experienced persons, who then receive relevant continuing education, engage in the profession. The purpose of the Board is not to discipline licensees. Therefore, evaluation of a “professional” licensing board cannot be based

Chuck Hefren, Principal Program Evaluator

January 2, 2014

Page 4

solely on its disciplinary actions and complaints. Unlike the boards that license or certify occupations or trades, this Board is not a whip holder enforcing law and rules.

Since its establishment 45 years ago, the North Carolina Board of Landscape Architects has taken its role very seriously. The Board feels strongly that, as a result of the rigorous requirements of education, experience and examination, its licensees are more than adequately prepared to perform their job responsibilities in a professional, quality manner, adhering to the high standards required to obtain a license to practice or offer to practice landscape architecture in North Carolina. The standards in the State of North Carolina are among the most rigorous in the country. Over the past ten years, other states have looked to North Carolina to boost their own standards and requirements, and they have commended North Carolina as a leader in setting the standards to regulate the practice of landscape architecture. We believe our strong record of effectively protecting public health, safety and welfare is additional proof that the licensing authority of the Board should be maintained.

Thank you for allowing us to express our concerns. We are looking forward to the change in our status.

Sincerely,



Margaret Nealon, RLA, AICP
Chair, North Carolina Board of Landscape Architects

cc: Senator Fletcher Hartsell
Representative Julia Howard
Members of the NC Board of Landscape Architects
Jeffrey Gray, Bailey & Dixon, LLP
Barbara Geiger, Upton Associates



The Board of Law Examiners
of The
State of North Carolina

December 23, 2014

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BILLIE L. POOLE, CLINTON
ISAAC N. NORTHUP, JR., ASHEVILLE

LLOYD F. BAUCOM, CHARLOTTE
JOE L. WEBSTER, PITTSBORO

GERALD R. COLLINS, JR., MURPHY
KARL ADKINS, CHARLOTTE

ROBIN TATUM CURRIN, RALEIGH
SUSAN FREYA OLIVE, DURHAM

CATHERINE E. THOMPSON, CHARLOTTE
GAIL C. ARNEKE, ROCKY MOUNT

EMIL F. KRATT, CHARLOTTE

Senator Fletcher L. Hartsell, Jr., Co-Chair
North Carolina General Assembly Joint Legislative Administrative
Procedure Oversight Committee
North Carolina General Assembly Joint Legislative Program Evaluation
Oversight Committee
North Carolina Senate
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603-5925

Representative Tim D. Moffitt, Co-Chair
North Carolina General Assembly Joint Legislative Administrative
Procedure Oversight Committee
North Carolina House of Representatives
16 W. Jones Street, Room 2119
Raleigh, NC 27601-1096

Representative Julia C. Howard, Co-Chair
North Carolina General Assembly Joint Legislative Program Evaluation
Oversight Committee
NC House of Representatives
300 N. Salisbury Street, Room 302
Raleigh, NC 27603-5925

Re: The North Carolina Board of Law Examiners' Response to
the Program Evaluation Division Report on Occupational
Licensing Agencies, Report Number 2014-15

Dear Senator Hartsell, Representative Moffitt and Representative
Howard:

On behalf of the Executive Committee of the North Carolina Board of
Law Examiners (Board), please consider the following as the Board's
response to the Program Evaluation Division (PED) Report on Occupational
Licensing Agencies, Report Number 2014-2015 (the Report), submitted to

the Joint Legislative Program Evaluation Oversight Committee on December 17, 2014.

The Board would like to thank the PED for recognizing that Occupational Licensing Agencies (OLAs) in North Carolina should not to be centralized and that while centralization of the OLAs may increase efficiency in some ways, it would not necessarily result in better performance.

The Board commends the PED for its diligent work; it respectfully disagrees, however, with the PED's findings that an Occupational Licensing Commission is needed to strengthen oversight and improve OLA performance.

The establishment of an Occupational Licensing Commission is an additional layer of bureaucracy that is unnecessary and will add cost to licensees.

The North Carolina Board of Law Examiners is currently subject to oversight by several entities. It is required to file annual reports and financial audits with the following: The North Carolina Department of the Secretary of State, the North Carolina Department of Justice and the North Carolina General Assembly's Joint Regulatory Reform Committee. In addition, the Board is subject to oversight by the North Carolina State Bar and the North Carolina Supreme Court, which must approve its Rules before enactment.

The Board has always complied and will continue to comply with all statutory reporting requirements. We recognize that the General Assembly may wish to expand the content of the information to be contained within the required reports and to require periodic performance audits. The Board believes an Occupational Licensing Commission is unnecessary to achieve these objectives, which can be accomplished by revising pertinent statutes.

The Board has been and continues to be willing to comply with any reporting and evaluation required. With its 11 Board members and 11 staff members, the Board has continuously excelled in performing its mandated duties and responsibilities and in protecting the citizens of North Carolina

from unfit and incompetent individuals seeking admission to the North Carolina State Bar. These duties and responsibilities include, but are not limited to the following:

1. Processing and investigating an average of 1890 applications per year for admission to the North Carolina State Bar by examination and by comity;
2. Conducting background investigations for all foreign legal consultant applicants in North Carolina and certifying said applicants' character and fitness;
3. Conducting character and fitness analysis and hearings;
4. Reviewing requests for special testing accommodations pursuant to the Americans with Disabilities Act;
5. Drafting and analyzing potential bar examination questions;
6. Administering the North Carolina bar examination twice a year to an average of 1621 applicants each year;
7. Grading the North Carolina bar examinations
8. Issuing licenses to practice law in North Carolina and certifying applicants to the North Carolina Supreme Court and to the North Carolina State Bar; and
9. Developing rules and regulations for admission to the North Carolina State Bar.

The paramount duty of the North Carolina Board of Law Examiners is to protect the citizens of North Carolina and the public at-large from unqualified and unfit individuals practicing law in our State. The Board has continued to carry out its duties effectively, while being mindful of the need to minimize the cost to applicants.

The Board has not been deficient in the performance of its mandated duties and responsibilities, nor in its reporting requirements.

Current oversight of the Board of Law Examiners provided by the North Carolina Department of the Secretary of State, the North Carolina Department of Justice, the General Assembly's Joint Regulatory Reform Committee, the North Carolina State Bar and the North Carolina Supreme Court is more than adequate for the protection of the public. Establishment of an Occupational Licensing Commission is an additional layer of bureaucracy which is unnecessary and would simply increase costs to licensees.

The Board would like to thank the PED staff for the courteous and professional manner in which the evaluation was performed. It was a pleasure working with their team.

Additionally, the Board thanks the PED for the opportunity to provide a response to the PED's Report on Occupational Licensing Agencies. We note, however, that our work was constrained by the short response period, which, with the intervening holidays, left a very limited window of time for response. The Board respectfully requests that it be allowed an opportunity to supplement its response to the PED Report at a later time in this process, if necessary.

Sincerely,



Randel E. Phillips, Chair

CC:

Representative Thom Tillis,
Speaker of the House
North Carolina House of Representatives

Senator Phil Berger,
President Pro Tempore
North Carolina Senate

Mr. Chuck Hefren,
Program Evaluation Division

**Response to the December 17, 2014 report of the Performance Evaluation Division entitled:
"Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed"**

The North Carolina Locksmith Licensing Board and its 1216 licensees appreciate the hard work of the Performance Evaluation Division to examine the structure, organization, and operation of the State's various independent occupational licensure boards. The Board however disagrees with FINDING 5 and FINDING 6 of the report, essentially stating that the NC Locksmith Licensing Board be eliminated or consolidated. Additionally, the NC Locksmith Licensing Board disagrees with the methods used to determine these Findings as well.

The North Carolina Locksmith Licensing Board was established in 2001 by the NC General Assembly to combat the growing threat of scam locksmiths who price gouge consumers and damage property, leaving the consumer with little recourse. Locksmiths are persons who have the knowledge, tools, and skill set to obtain entry onto other people's property. To protect the consumer's health and safety as well as the integrity of their property, Chapter 74F, the North Carolina Locksmith Licensing Act requires that applicants complete a state and federal background check through the State Bureau of Investigation and a competency examination designed to test minimal proficiency in the locksmith profession.

Locksmith scams have been covered in media outlets throughout North Carolina, including WSOC, WRAL and News 14 Carolina; and featured nationally on news programs, including the Today Show. To eliminate the NC Locksmith Licensing Board would be open season for locksmith scam schemes to operate in the state.

The NCLLB considers its mandate to balance safety of the public, maintain technical integrity, and foster a regulatory environment that encourages competition in the locksmith and security industry, a serious matter. It is for these reasons that the NCLLB disagrees that its current structure leads to:

- **"Increased cost to the consumer."** Initial license with the NCLLB requires a \$100 application fee, \$200 examination fee, and a \$38 background check fee. The license is good for three years. This results in a one-time \$338 fee at application (or approx. \$113/year). Renewal of license is \$100. This results in a \$33 per year fee to operate as a locksmith. The Board believes these fees do not place a significant burden on the licensee that would translate to higher costs to the consumer.
- **"Restricts the ability of individuals to work in the occupation."** Neither the NCLLB nor Chapter 74F of the NC General Statute requires formal training before applying to become a licensed locksmith. The NCLLB does offer an apprenticeship license, but it is not required. Many licensees use the apprenticeship license as a way to work in the locksmith profession while preparing for the examination. Again, current state law does not require formal training or an apprenticeship.

- **“Restricts public access to services.”** The definition of *locksmith services* found in Chapter 74F is inherently broad in scope. Furthermore the NCLLB accepts all continuing education credits with regard to electronic security devices, as well as access control systems.
- **“Limits mobility of licensed professionals.”** – The NCLLB finds a flaw in the logic that requiring a license in North Carolina would limit the licensee’s ability to practice in another state. For example, Virginia will still require locksmith licensure even if the North Carolina Locksmith Licensing Board is eliminated or consolidated.

The Board furthermore asserts that the threats to public health, safety and welfare justify the societal costs for the continued existence of the Board. The Board states that the “scores” used in determining FINDING 5 (Appendix A) of the study, illustrate a methodology that is arbitrary at best and misleading at worst.

- **Public harm.** As stated above, locksmiths are persons with the knowledge, tools, and skill set to obtain entry onto other people’s property.
- **Complaints.** The NCLLB handles complaints against *licensees* for poor workmanship or breeches of ethical conduct when providing locksmith services to the consumer.

Complaints of *unlicensed* locksmith activities are initiated with the NCLLB. If the accused party continues to resist obtaining a license, the NCLLB coordinates with local District Attorneys and law enforcement offices to charge the individual with a Class I Misdemeanor. The regulation and enforcement of this law is the responsibility of those agencies.

- **Disciplinary Actions.** As instructed in G.S. 150-22, the NCLLB seeks resolution of complaints outside of Formal Hearings. This method has saved the Board and the State of NC time and resources. Findings of disciplinary actions are issued in Consent Orders with licensees or applicants; examples of which may include additional CE hours, increased supervision, or weekly or monthly work logs to the Board. At no point in the PED’s evaluation of the NCLLB were the number and documentation of these actions requested.
- **Other States.** The NCLLB disagrees that the number of states with locksmith licensure should reflect the government of North Carolina’s determination to eliminate or consolidate the NCLLB. South Carolina, a state cited by the study, does not have locksmith licensing, whereas the commonwealth of Virginia, does have locksmith licensing. There are over fifteen states requiring licensure, with many more state legislatures with pending legislature.

Finally, the NCLLB disagrees with the methodology used in FINDING 6; the recommendation of consolidation with another regulatory entity. This methodology used a dual scoring system to evaluate the “Annual Revenue Score” and “Financial Solvency Score” of each OLA.

The NC Locksmith License is valid for a three year period. When the license was established, over 400 of the current 1216 licensees were granted licenses through a grandfathering provision. This has produced a three year “boom” cycle to the Board’s revenue. Due to this, an accurate assessment of the Board’s ability to generate revenue cannot be gained from examining one year. Recent changes to Chapter 74F have grandfathered another 275 licensees.

This 3-year cycle applies to the Financial Solvency score as well. An accurate assessment of the solvency of the Board cannot be determined by looking at the net position to the annual expenses of one year.

Sincerely,

T. Alan Boone
President, North Carolina Locksmith Licensing Board



NORTH CAROLINA BOARD OF
MASSAGE & BODYWORK THERAPY

December 23, 2014

Senator Fletcher L. Hartsell, Jr., Co-Chair
Joint Legislative Program Evaluation Oversight Committee
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603-5925

Representative Julia Howard, Co-Chair
Joint Legislative Program Evaluation Oversight Committee
300 N. Salisbury Street, Room 302
Raleigh, NC 27603-5925

Senator Fletcher L. Hartsell, Jr., Co-Chair
Joint Legislative Administrative Procedure Oversight Committee
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603-5925

Representative Tim D. Moffitt, Co-Chair
Joint Legislative Administrative Procedure Oversight Committee
16 W. Jones Street, Room 2119
Raleigh, NC 27601-1096

Dear Senator Hartsell, Representative Howard
and Representative Moffitt,

Thank you for the opportunity to comment on the Final Report to the Joint Legislative Program Evaluation Oversight Committee by the Program Evaluation Division regarding Occupational Licensing Agencies on behalf of the North Carolina Board of Massage and Bodywork Therapy.

The Board is in complete agreement with the conclusion reached by the PED that occupational licensing agencies, including the NCBMBT, should not be centralized and that the regulatory and administrative functions of the OLAs should not be transferred to a single State agency. The Board also recognizes that some additional oversight of occupational licensing agencies may be warranted and subject to consideration by the General Assembly.

After reviewing the Final Report, the Board does not believe the formation of an Occupational Licensing Commission is necessary. The formation of such a Commission would unnecessarily increase regulations of the OLAs resulting in expense to the OLAs and increase in fees to licensees.

Currently OLAs submit a multitude of reports to various State agencies, including the Secretary of State, Department of Commerce, Attorney General, Office of State Management and Budget,

and the Joint Legislative Administrative Procedure Oversight Committee. From the PED Final Report, it appears the reports may not be fully reviewed by those State agencies due to a lack of clarity as to what agency should make the review and what to do if the report is reviewed, thereby resulting in questionable oversight. A simple clarification of which State agency should review the current reports should resolve this issue.

Likewise, the content of the required reports may not provide a complete picture of the activities and effectiveness of the OLAs. This can be resolved by requiring additional information be included in the reports illustrating the effectiveness of the OLAs in their mission to protect the public.

Providing that a specific State agency be responsible for oversight of OLAs and including additional information in the required reports will resolve the concerns expressed by the PED regarding adequate oversight of OLAs. The reviewing State agency could also be given authority to require the OLAs reviewed to maintain an effective enforcement function.

It should be pointed out that the Board is not on the list of twelve OLAs identified by PED for review of the need to continue their licensing authority nor is the Board on the list of the ten OLAs the PED reports should be considered for consolidation. Therefore, the Board does not express an opinion on those recommendations.

It appears from the PED Final Report that the OLAs not on the list of twelve or ten have adequate resources and procedures to continue to effectively fulfill their missions to protect the public. Should the list of ten or twelve OLAs identified by the PED be in need of change or assistance to fulfill their missions to protect the public, that can be resolved through withdrawal of their licensing authority or through consolidation with an OLA that is able to fulfill that responsibility.

It has been my experience, as an attorney who has represented OLAs for more than thirty years, OLAs do communicate with one another on issues of operating efficiencies, information technology, information management, complaint processing and jurisdictional and scope of practice disputes. No one wants to reinvent the wheel nor do they want to purchase or utilize ineffective and costly hardware or software. I have personally visited other OLAs to find out what they use, how it works, its pros and cons, particularly in the information technology arena. This has saved the Board unnecessary expense.

It has also been my experience that OLAs strive to resolve their jurisdiction and scope of practice issues among themselves, informally or formally. I have personally met with other OLAs to discuss and resolve those issues. Unfortunately, not all jurisdictional or scope of practice issues can be resolved between the OLAs and it is sometimes necessary to seek assistance from the courts or the General Assembly. However, historically, that is something that seldom occurs. Considering there are 55 OLAs, the frequency of jurisdictional or scope of practice issues that are resolved by third parties is quite small.

While the Board was not directed nor expected to respond to the Final Report of the PED, the Board believed it was responsible to advise those addressing the issues raised by the Final Report

that it is the opinion of the Board that the recommendations of the PED can be more efficiently and effectively met through limited changes to existing laws, policies and procedures of current State agencies and OLAs without establishing another layer of regulation and expense.

Thank you for your consideration of these suggestions in response to the Final Report of the PED. I am available to respond to any questions you might have.

Sincerely,



Charles P. Wilkins, Legal Counsel/Legislative Liaison

Cc: Senator Phil Berger, President Pro Tempore of the Senate
Representative Tim Moore, Speaker of the House
John W. Turcotte, Director, Program Evaluation Division
Chuck Hefren, Principal Program Evaluator, Program Evaluation Division



North Carolina State Board of Examiners For Nursing Home Administrators

3733 National Drive, Suite 110
Raleigh NC 27612
919-571-4164 Fax: 919-571-4166
www.ncbenha.org email: ncbenha@mindspring.com

January 2, 2015

VIA EMAIL AND HAND-DELIVERY

Mr. John Turcotte, Director
Program Evaluation Division
300 North Salisbury Street, Suite 100
Raleigh, NC 27603

Re: Response by the North Carolina Board of Examiners for Nursing Home Administrators to PED Report on Occupational Licensing Agencies

Dear Mr. Turcotte:

Thank you for the opportunity to review and respond to the recent report by the Program Evaluation Division ("PED") on Occupational Licensing Agencies ("OLA"). On behalf of the North Carolina Board of Examiners for Nursing Home Administrators ("NCBENHA"), we appreciate your staff's dedicated work to review a complex and important regulatory body that protects the health, safety and welfare of North Carolinians across the state.

In this letter, we respond solely to PED's recommendation that the proposed Occupational Licensing Commission ("OLC") develop a plan to consolidate NCBENHA with another regulatory entity. For the reasons set forth below, we respectfully request PED to reconsider this recommendation.

I. Background

As an initial matter, a nursing home administrator is an individual who is charged with the general administration of a nursing home. 42 U.S.C. § 1396g(e)(2). In the late 1960's, an amendment to the federal Social Security Act required North Carolina to establish a state

program for the licensing of nursing home administrators, to be carried out by a State board or agency. 42 U.S.C. §§ 1396a(a)(29) and 1396g. As such, the North Carolina General Assembly enacted the “Nursing Home Administrators Act” in 1969, thereby charging NCBENHA with a myriad of duties to regulate the profession. N.C. Gen. Stat. § 90-285.

Like other OLAs, NCBENHA handles complaints and disciplinary matters involving licensees; however, such tasks make up only a small part of the work done to protect the public. NCBENHA works hard to preempt violations of the Nursing Home Administrators Act through its development of a robust continuing education program for administrators and its oversight of an Administrators-in-Training (“AITs”) program, which ensures that administrators have the proper training and experience prior to licensure. As administrators must have specialized knowledge on a wide variety of topics—such as personnel and business management, nursing, Medicare/Medicaid billing, housekeeping, and medical records—a well-maintained AIT program is crucial to giving administrators the tools needed to be successful in protecting vulnerable lives.

Moreover, NCBENHA makes a great effort to increase the public’s access to the profession by helping non-licensees find Board-certified preceptors with whom to train in the AIT program and by working with educators and students to increase awareness of nursing home administration as a profession. For instance, the Executive Director is a member of the Advisory Boards of both Appalachian State University Health Care Management Program and East Carolina University School of Public Health. In that role, she presents annually to their students about careers in long term care and offers assistance in finding a certified preceptor. Being an autonomous board and serving a smaller number of licensees, NCBENHA has the opportunity to know each licensee personally and to offer excellent customer service on issuing ranging from licensure renewal to helping find employment opportunities. Indeed, because of these relationships, staff are able to advise their licensees regarding availability of open positions in our state to further enhance the quality of long term care for North Carolinians.

II. NCBENHA’s Annual Revenue and Financial Solvency

We understand that PED recommended consolidation of NCBENHA, based on its assessment of NCBENHA’s annual revenue and financial solvency. With regard to this assessment, we wish to bring the following to your attention.

First, NCBENHA has received consistently positive assessments from its independent auditor regarding its financial solvency over the years. We encourage PED to contact Bernard Robinson & Company, LLP for any information necessary to alleviate concerns regarding NCBENHA’s financial well-being.

Second, in 2010, the State Auditor’s Office conducted a performance audit of NCBENHA, during which state auditors extensively reviewed NCBENHA operations over a period of weeks. Ultimately, the audit was terminated in part because state auditors did not identify any significant risks or compliance issues. A copy of that audit termination letter is enclosed as Exhibit A. If NCBENHA’s financial solvency were a concern, we are confident that such risks would have been identified during this performance audit.

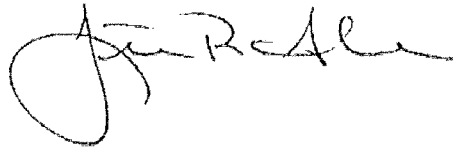
Third, PED relied upon NCBENHA's financial information from FY 2013-2014 in forming its recommendations. However, on July 1, 2014, NCBENHA increased its licensure fees for the first time since 2004 and, as result, projects an increase in annual revenue of over \$52,000.00. Enclosed as Exhibit B is a copy of the letter sent to the Joint Legislative Commission on Governmental Operations that projects the significant impact of the fee increase on NCBENHA's annual revenue.

We trust PED will find this information helpful to demonstrate NCBENHA's adequate financial solvency to protect the health, safety and welfare of the public. NCBENHA prides itself on its ability to maintain a lean and efficient operational budget, without having to sacrifice the quality of its good work to protect the public.

III. Conclusion

At a time when the aging population is increasing exponentially, we do not—and should not—take our responsibilities lightly, given the need for high quality nursing home administrators. NCBENHA takes this role very seriously and strives to help licensed administrators achieve their maximum potential while simultaneously protecting the health, safety and welfare of North Carolina citizens. As such, we respectfully ask that PED reconsider its recommendation that NCBENHA be consolidated with another regulatory entity.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan R. Thomas". The signature is fluid and cursive, with a large initial "J" and "T".

Jonathan R. Thomas
Chairman

EXHIBIT A

Jane Baker

From: Bill Styres [Bill_Styres@ncauditor.net]
Sent: Wednesday, January 26, 2011 8:31 AM
To: ncbenha@mindspring.com
Cc: Kenneth C. Barnette; Carla Jacobs
Subject: Audit Terminated

Ms. Baker,

As we discussed in October, our audit of the NC Board of Examiners of Nursing Home Administrators was terminated.

There are two primary reasons why this audit was terminated. Mr. John Price, the auditor assigned to this effort, is no longer employed by the Office of the State Auditor. Furthermore, audit steps performed by Mr. Price did not identify any significant risks or compliance issues. For these two reasons, we determined that additional audit effort was not cost effective.

If you or any of the board members have any questions regarding the termination of this audit, please feel free to call me at 807-7580.

William S. Styres, CPM
Audit Supervisor

Office of the State Auditor
2 South Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Phone: (919) 807-7580

North Carolina Office of the State Auditor <http://www.ncauditor.net> | Report Fraud! 800-730-TIPS (8477)

WARNING: E-mail correspondence to and from The Office of The State Auditor may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

EXHIBIT B

North Carolina State Board of Examiners For Nursing Home Administrators

**3733 National Drive, Suite 110
Raleigh NC 27612
919-571-4164 Fax: 919-571-4166
www.ncbenha.org email: ncbenha@mindspring.com**

March 17, 2014

Joint Legislative Commission on Governmental Operations
Legislative Building
16 West Jones Street
Raleigh NC 27601

RE: Fee Increases

Dear Committee Members:

The NC State Board of Examiners for Nursing Home Administrators is requesting a consultation with the Commission regarding proposed revised rules that include fee increases. The fee increases do not impact local or state government, and fees have not been increased since 2004. The Board is self-sustaining; therefore, fee increases are necessary to ensure that the Board maintains its fiscal integrity. The Board's office systems need to be updated in order to function efficiently, and the projected fee increases would help the Board avoid a shortfall in the next fiscal year. The Board had a deficit of \$21,962 in the FY 2012-13 due to an increase in operating expenses and projecting a deficit greater than that amount in the current fiscal year.

Increase in Initial License fee from \$425 to \$500 in accordance with GS 90-280 (b). The Board licenses approximately 60 to 65 new applicants per fiscal year which would increase revenue from \$4500 to \$4875 for that fee.

Increase in Administrator In Training Processing Fee from \$150 to \$250 in accordance with GS 90-280 (a). The Board had 49 applicants last year which would increase revenue to \$4900 for that fee.

Increase in State Examination fee from \$75 to \$150 in accordance with GS 90-280 (a). The Board had 94 applicants for the state exam last FY which would increase revenue to \$7050 for that fee.

Increase in Reciprocity/Endorsement fee from \$200 to \$250 in accordance with GS 90-280 (a). The Board had 28 applicants for the last FY which would increase revenue by \$1400 for that fee.

Increase in Temporary License Fee from \$200 to \$300 in accordance with GS 90-280 (f). The Board had 26 applicants in the last FY which would increase revenue by \$2600 for that fee.

Increase in Renewal Fee from \$425 to \$500 in accordance with GS 90-280 (b). The Board renews on a biennial renewal which splits the administrators into odd and even year renewals. In the last FY the Board renewed 347 which would increase revenues by \$26,025 for my odd year renewal and then in this FY the Board renewed 415 which would increase revenues by \$31,125 for a total of \$57,150 for the biennium.

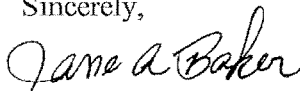
Increase in Inactive Fee from \$50 to \$100 in accordance with GS 90-280 (d). The Board had 106 inactive licensees in the last FY which would increase revenue by \$5300 in that fee.

Increase in Continuing Education Approval fees from \$75 up to \$100 for courses up to six hours and then an additional \$10 per hour for courses more than six hours in accordance with GS 90-280 (g). The Board reviewed approximately 74 courses in the last FY which would increase revenue by \$1850 for that fee.

Increase in Continuing Education providers may be certified for an annual fee up to \$4000. The increase in provider fee would be based on the number of courses provided in the prior year. At this time the Board has two approved continuing education providers offer approximately 25 courses each and the continuing education providers are currently at \$2000 annually. This fee would not increase to \$4000; it would be based on the courses they have offered in the prior year just as before. Judging the increase in revenue would be difficult.

Since the Board is self-sustaining and the number of applicants differs from year to year, the Board bases the budget on actual numbers from the prior year. The national board has evidence there is a reduction in applicants for nursing home administrators in many states at this time. Yet, our responsibility for public protection and investigation of complaints has continued undiminished. Therefore, the fee increases are necessary to maintain the Board's fiscal integrity.

Sincerely,



Jane A. Baker
Executive Director
JAB/mnb
14/21



NORTH CAROLINA BOARD OF OCCUPATIONAL THERAPY

Post Office Box 2280
Raleigh, North Carolina 27602
919/832-1380

December 23, 2014

Senator Fletcher L. Hartsell, Jr., Co-Chair
Joint Legislative Program Evaluation Oversight Committee
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603-5925

Representative Julia Howard, Co-Chair
Joint Legislative Program Evaluation Oversight Committee
300 N. Salisbury Street, Room 302
Raleigh, NC 27603-5925

Senator Fletcher L. Hartsell, Jr., Co-Chair
Joint Legislative Administrative Procedure Oversight Committee
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603-5925

Representative Tim D. Moffitt, Co-Chair
Joint Legislative Administrative Procedure Oversight Committee
16 W. Jones Street, Room 2119
Raleigh, NC 27601-1096

Dear Senator Hartsell, Representative Howard
and Representative Moffitt,

Thank you for the opportunity to comment on the Final Report to the Joint Legislative Program Evaluation Oversight Committee by the Program Evaluation Division regarding Occupational Licensing Agencies on behalf of the North Carolina Board of Occupational Therapy.

The Board is in complete agreement with the conclusion reached by the PED that occupational licensing agencies, including the NCBOT, should not be centralized and that the regulatory and administrative functions of the OLAs should not be transferred to a single State agency. The Board also recognizes that some additional oversight of occupational licensing agencies may be warranted and subject to consideration by the General Assembly.

After reviewing the Final Report, the Board does not believe the formation of an Occupational Licensing Commission is necessary. The formation of such a Commission would unnecessarily increase regulations of the OLAs resulting in expense to the OLAs and increase in fees to licensees.

Currently OLAs submit a multitude of reports to various State agencies, including the Secretary of State, Department of Commerce, Attorney General, Office of State Management and Budget, and the Joint Legislative Administrative Procedure Oversight Committee. From the PED Final Report, it appears the reports may not be fully reviewed by those State agencies due to a lack of clarity as to what agency should make the review and what to do if the report is reviewed, thereby resulting in questionable oversight. A simple clarification of which State agency should review the current reports should resolve this issue.

Likewise, the content of the required reports may not provide a complete picture of the activities and effectiveness of the OLAs. This can be resolved by requiring additional information be included in the reports illustrating the effectiveness of the OLAs in their mission to protect the public.

Providing that a specific State agency be responsible for oversight of OLAs and including additional information in the required reports will resolve the concerns expressed by the PED regarding adequate oversight of OLAs. The reviewing State agency could also be given authority to require the OLAs reviewed to maintain an effective enforcement function.

It should be pointed out that the Board is not on the list of twelve OLAs identified by PED for review of the need to continue their licensing authority nor is the Board on the list of the ten OLAs the PED reports should be considered for consolidation. Therefore, the Board does not express an opinion on those recommendations.

It appears from the PED Final Report that the OLAs not on the list of twelve or ten have adequate resources and procedures to continue to effectively fulfill their missions to protect the public. Should the list of ten or twelve OLAs identified by the PED be in need of change or assistance to fulfill their missions to protect the public, that can be resolved through withdrawal of their licensing authority or through consolidation with an OLA that is able to fulfill that responsibility.

It has been my experience, as an attorney who has represented OLAs for more than thirty years, OLAs do communicate with one another on issues of operating efficiencies, information technology, information management, complaint processing and jurisdictional and scope of practice disputes. No one wants to reinvent the wheel nor do they want to purchase or utilize ineffective and costly hardware or software. I have personally visited other OLAs to find out what they use, how it works, its pros and cons, particularly in the information technology arena. This has saved the Board unnecessary expense.

It has also been my experience that OLAs strive to resolve their jurisdiction and scope of practice issues among themselves, informally or formally. I have personally met with other OLAs to discuss and resolve those issues. Unfortunately, not all jurisdictional or scope of practice issues can be resolved between the OLAs and it is sometimes necessary to seek assistance from the courts or the General Assembly. However, historically, that is something that seldom occurs. Considering there are 55 OLAs, the frequency of jurisdictional or scope of practice issues that are resolved by third parties is quite small.

While the Board was not directed nor expected to respond to the Final Report of the PED, the Board believed it was responsible to advise those addressing the issues raised by the Final Report that it is the opinion of the Board that the recommendations of the PED can be more efficiently and effectively met through limited changes to existing laws, policies and procedures of current State agencies and OLAs without establishing another layer of regulation and expense.

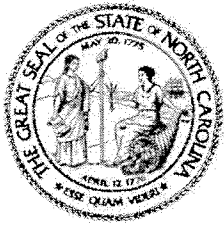
Thank you for your consideration of these suggestions in response to the Final Report of the PED. I am available to respond to any questions you might have.

Sincerely,



Charles P. Wilkins, Legal Counsel

Cc: Senator Phil Berger, President Pro Tempore of the Senate
Representative Tim Moore, Speaker of the House
John W. Turcotte, Director, Program Evaluation Division
Chuck Hefren, Principal Program Evaluator, Program Evaluation Division



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State Board of Opticians**
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January 7, 2015

VIA EMAIL

Mr. John Turcotte, Director
Program Evaluation Division
300 North Salisbury Street, Suite 100
Raleigh, NC 27603

Re: Response by the North Carolina State Board of Opticians ("Board") to PED
Report on Occupational Licensing Agencies

Dear Mr. Turcotte:

Thank you for the opportunity to review and respond to the recent report by the Program Evaluation Division ("PED") on Occupational Licensing Agencies ("OLA").

Of course, we were pleased that PED did not recommend an umbrella agency because we did not believe that was a workable solution for the OLA in North Carolina.

In this letter, the Board is responding to the PED's recommendation that the proposed Occupational Licensing Commission ("OLC") develop a plan to review the Board for possible consolidation. For the reasons set forth below, we respectfully request both the PED and the Commission to reconsider this recommendation.

I. Background

The State Board of Opticians was created during the 1951 session of the General Assembly. North Carolina was one of the first states in the nation to have such a licensing board.

Governor Kerr Scott appointed the original members of the Board; they were sworn in January, 1952.

In 1977, the Governmental Evaluation Commission reviewed the Board.

There is some degree of confusion about the scope of activities of the Board, which is in part due to misunderstanding about the role of ophthalmologists, optometrists, and opticians.

January 7, 2015

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- Ophthalmologists are medical doctors who have specialized in the care and treatment of the eye.
- Optometrists¹ are licensed professionals who can:
 - examine the human eye by any method, other than surgery, to diagnose, to treat, or to refer for consultation or treatment any abnormal condition of the human eye and its adnexa; or
 - Employ instruments, devices, pharmaceutical agents and procedures, other than surgery, intended for the purposes of investigating, examining, treating, diagnosing or correcting visual defects or abnormal conditions of the human eye or its adnexa; or
 - Prescribe the application of lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.
- Opticians² are licensed persons who can:
 - Interpret prescriptions issued by licensed physicians and/or optometrists;
 - Fit glasses on the face;
 - Service glasses or spectacles;
 - Measure a patient's face for fitting frames, compounding and fabricating lenses and frames, and any therapeutic device used or employed in the correction of vision, and alignment of frames to the face of the wearer;
 - Recommend all types of eyewear available for vision;
 - Measure and fit eyeglass frames and lenses to maximize the use for the patient;
 - Inspect all manufactured lenses to meet ANSI standards in order to provide good vision;
 - Educate the patient on all visual and safety options to maintain and protect the patient's vision.

II. Growing Trend in Other States & Expanded Need for Opticians

In 1951, North Carolina was one of only a few states that required the licensing of opticians. Today, 23 states require this occupation to be licensed or registered. Of that number, 20 states require opticians to have continuing education.

Initially, there was opposition to the licensure of opticians. In the 1950's, opticians in Oklahoma challenged a law that restricted the type of work that they could do by forbidding them from fitting lenses for eyeglasses unless they had a license, or from advertising eyeglasses frames. In *Williamson v. Lee Optical, Inc.*, 348 U.S. 483 (1955), the U.S. Supreme Court reversed the trial court which had held the law unconstitutional, and held that Due Process does

¹ G.S. 90-114.

² G.S. 90-235.

not prevent states from regulating conditions in the workplace even when these laws are unwise, flawed, or otherwise potentially questionable. Later, this opinion was overruled the federal courts, and a North Carolina Supreme Court decision upheld the 1951 statute³ creating the Board and prohibiting practice of optician without a license.

According to the US Department of Labor, the number of opticians is expected to grow by 29% between 2010 and 2020, due to the need created by an aging population. In addition, there are more visual needs for middle-age consumers. Therefore, the need for qualified eye care professionals is growing.

III. Importance of Board in Protecting Public

From its inception in 1951, the Board's primary purpose has been to protect the public's interests in quality vision care. To set a benchmark for this protection, training programs and a comprehensive licensing examination were established and are currently administered. The Board's training and exam processes are held in extremely high regard from other states: it is considered quite an accomplishment to have obtained an optician's license from North Carolina.

Opticians advise patients on their prescriptions and their needs, and oftentimes intervene and consult with the prescriber on the patient's behalf. Minimally trained/certified individuals would not have the in-depth knowledge to articulate concerns to a prescriber.

Moreover, an increasing number of drivers require corrective lenses for issuance of their driver's license. As the population ages, this number is expected to increase.

IV. Complaints

Consistent with its statutory charge to protect the public health and safety, the Board receives and handles two types of complaints received from the public: (1) those involving licensees and (2) those filed against unlicensed persons. The Board has made the process as straightforward for the public as possible; access to a Complaint form, which does not have to be notarized, is prominently displayed and easily obtainable on the Board website and may be filed electronically.

Over the past ten years, approximately 250 complaints and disciplinary actions have been filed with or by the Board; a majority of these complaints and actions have been filed against licensees for performing inadequate work, improper renewal or registration procedures, or other instances of unprofessional conduct. The Board's Disciplinary Committee investigates all of these cases and makes a determination on the merits and recommends to the Board either a dismissal or, if the allegations are credible, first attempts a resolution through a Consent Order, imposing a variety of disciplinary actions. Most often, the licensee will agree to a Consent

³ See *High v. Ridgeway Opticians*, 258 N.C. 626, 129 S.,E,2d 301 (1963).

January 7, 2015

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Order; the Board has not often had to initiate a hearing process, which lengthens the time to resolve the matter.

Despite the fact that the Board typically resolves these cases with a Consent Order, it has had 5 hearings within the last ten years, and another is scheduled for next month.

Complaints against unlicensed persons performing work included within the scope of the statutory definition are less frequent than complaints against licensed persons. If the unlicensed subject of the complaint fails to respond to the Board inquiry, then the Board must weigh the risk to the public and decide whether to seek an Injunction from the court.

Whether the complaint involves an unlicensed person or a licensee, the complainant is informed of the Board decision and, in most cases, provided a copy of the Final Agency Decision issued by the Board after the hearing.

V. Revenue.

There is no question that the Board is in need of revenue. It had not increased fees since 2004. In the last several audits, the Board auditor has recommended a fee increase. The Office of State Budget and Management has also recommended a fee increase. In both the 2013 and 2014 sessions of the General Assembly, the Board sought authorization for a fee increase. Given the inevitable delay in the creation of the Commission and its review of the Board and the other identified programs, the Board proposes that it be given an interim fee increase until such consolidation decision is made.

VI. Consolidation

PED has recommended the possible consolidation of the Board with another agency. The Board of Optometry has publically stated that they do not wish to be merged with the Board of Opticianry.

Moreover, what will consolidation accomplish? The agency will still need licensed opticians to administer the exam and to review complaints about opticianry. Presently, the Board obtains the expertise for both of these functions by using Board members at the nominal amount of \$100 per day in *per diem*. Even then, only one or two Board members are involved. Hiring a licensed optician as a staff person would clearly cost more. Consolidation will not provide a solution, and will probably cost more money.

Letter to Mr. John Turcotte re: N.C. Board of Optician's Response to PED Report on
Occupational Licensing

January 7, 2015

Page | **5 of 5**

The Board looks forward to the opportunity to present its arguments against consolidation.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Hawkins".

Jennifer Hawkins

Board Chair

WOMBLE
CARLYLE
SANDRIDGE
& RICE
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January 2, 2015

VIA HAND DELIVERY AND E-MAIL

<p>Senator Fletcher L. Hartsell, Jr. Joint Legislative Program Evaluation Oversight Committee Joint Legislative Administrative Procedure Oversight Committee NC Senate 300-C Legislative Office Building 300 N. Salisbury Street Raleigh, NC 27603-5925 Fletcher.Hartsell@ncleg.net</p>	<p>Senator Fletcher L. Hartsell, Jr. Joint Legislative Administrative Procedure Oversight Committee NC Senate 300-C Legislative Office Building 300 N. Salisbury Street Raleigh, NC 27603-5925 Fletcher.Hartsell@ncleg.net</p>
<p>Rep. Julia C. Howard Joint Legislative Program Evaluation Oversight Committee NC House of Representatives 302 Legislative Office Building, Room 302 300 N. Salisbury Street Raleigh, NC 27603-5925 Julia.Howard@ncleg.net</p>	

*RE: Response and comments of North Carolina State Board of Examiners in
Optometry to PED Report*

Dear Senator Hartsell and Representative Howard:

I represent the North Carolina State Board of Examiners in Optometry ("the Board"). I write to provide the Board's response to the Program Evaluation Division's December 17, 2014 Final Report to the Joint Legislative Program Evaluation Oversight Committee. We appreciate the opportunity to respond to the Report, although the two-week deadline has made such response a little more challenging when one considers that period also contained at least two holidays and other traditional "days off" for the members of our Board.

Initially, the Board appreciates the effort that Mr. Hefren as Evaluation Lead and Messrs. Grimes, Horne, and Yates put into their work. We likewise appreciate their willingness to listen

to and consider and evaluate the Board's experiences and the Board's point of view on many of the issues addressed by the Report.

What follows are some the Board's thoughts regarding the Report, in bullet-point format for sake of conciseness:

- The Board agrees with what we perceive to be an underlying theme of the Report: the evidence suggests that many/most of the state's independent occupational licensing agencies (OLA's) are carrying out their mandated functions in a proper manner.
- The Board can understand the Report's conclusion that additional limited oversight of and reporting by such boards would be of benefit to the citizens of the state.
- We likewise can understand the Report's finding that there is room for more clarity and specificity in terms of "output"—more objective measurements of what these boards do and how they serve the people of North Carolina.
- We agree that the transfer of regulatory authority and administrative responsibilities (or either of them) to a single state agency would ill-advised for many, many reasons—among them those reasons specifically cited by PED in its Report.
- Contrary to the Report, we believe there is no compelling reason—at least not currently—to create a new/additional state agency in order to accomplish those results the Report says are needed:
 - Many of the desired outcomes identified in the Report could be accomplished simply by providing the OLA's with additional statutory guidance and, thereby, rulemaking authority. For example:
 - G. S. 93B could be amended to identify the OLA's subject to the statutory reporting requirements.
 - G. S. 93B and/or G. S. 150B could be amended to require that:
 - each OLA publish on its website a form through which a complaint may be submitted against a licensee of that board.
 - certain standard information be contained in each board's online complaint form.

- no notary's signature and no personal verification of the complaining person's signature be required in order to file a complaint.
- each board's complaint form be in a format that will allow it to be completed on-line or be printed out, completed by hand, and submitted to the Board by mail or email. (More on this "complaint form" issue later....)
- each OLA identify on its website the types of professionals it does have jurisdiction and oversight over, and (if applicable) also identify other licensees over whom the public often mistakenly believes a board has jurisdiction and where to file a complaint against such licensees.
 - *The Board does not believe there is a serious "jurisdiction" issue that needs this Board's attention. Confusion by the public as to where to complain against an optometrist has been negligible, and when it has occurred, those complaints have been misdirected to only two other boards (the Medical Board and the Opticians Board). These three boards have cooperated extremely well in correctly re-directing such complaints as quickly as possible.*
 - *As an aside: this Board believes that the people of North Carolina would be best served by having the Opticians Board continue to regulate the practice of opticianry rather than having that board eliminated or consolidated as is contemplated in the PED Report.*
- within a specified period of time, the board provide each complaining person with a response indicating whether the board has jurisdiction over the person who is the subject of the complaint.
- the board timely provide the complaining party with notice regarding the results of any "probable cause" determination by the board and the results of any informal resolution or disciplinary action taken as a result of a formal hearing on the complaint.

- the board keep electronic records on the intake, processing, and resolution of all complaints in a format that allows “downloading” by the appropriate state authorities.
- additional financial or other information deemed important be included in the annual reports and financial statements currently submitted by the OLA’s. (Report, p. 21.)
- We question whether, if the foregoing changes and any other needed changes were made to the governing statutes, an Occupational Licensing Commission (“OLC”) would be necessary.
 - Would it not be more fiscally prudent to make the legislative changes described above and then determine whether such an oversight agency is actually necessary, or if necessary, whether its charge might need to be different, in light of the effects of those legislative changes?
 - Not creating a new OLC also would mean the cost for such agency would not be assessed against the OLA’s—and that such cost would not be passed on by the agencies to their licensees, and ultimately from those licensees to their patients and customers.
- However, even if such an oversight agency is needed, whether currently or in the future, we question whether the proposed makeup of the OLC (assuming that such OLC would “oversee” health-related occupations) is likely to be the most effective.
 - The Report cites with approval the Texas Health Professions Council (Report, p. 24) as a “model for improving the level of oversight of OLA’s”.
 - Yet the Report’s proposal for the makeup of the North Carolina OLC is very different from the makeup of the Texas Council:
 - The proposed North Carolina OLC would consist of nine members, only four of whom would be licensees in professions regulated by occupational licensing agencies—and none of those four necessarily would be a member of his or her profession’s licensing agency. The remaining five members would be public members who not licensed in an occupation regulated by an OLA.
 - Providing only four seats to a group of professions whose licensing boards (broadly defined, and absent any elimination or consolidation of boards) would

exceed that number of seats by a factor of at least three is a formulation inferior to the Texas system: such would be at best inimical to the objectives of operating efficiency and resolution of scope of practice disputes (Report, p. 22), and at worst an invitation for infighting, favoritism, and turf battles.

- The Texas Council has as its members one representative from each of the Council's twelve member occupational licensing agencies plus one member each from the Governor's office, the Office of the Attorney General, and the Texas Department of State's Professional Licensing and Certification Unit. (Texas Health Professions Council Annual Report, February 1, 2014.)
- We see no objective reason why the makeup of the OLC as proposed by the Report is inherently better than an OLC whose makeup more closely mirrors that of the Texas Council.
 - We think it likely that a board composed of licensees who actually serve on licensing boards is better equipped to improve the level of OLA oversight and help OLA's more cost-effectively achieve their objectives (Report, p. 22) than a Council with a makeup as proposed by the Report.
 - For example, one of the cited objectives of the proposed Council is to "provide mediation services between OLA's regarding scope of practice disputes." (Dec. 16, 2014 PED presentation, slide 25.) We think it is far more likely that an effective mediation process could be achieved through persons who actually deal with scope of practice disputes as a part of their jobs and who are versed in OLA practice issues (*i.e.*, the true Texas model) than the proposed North Carolina model—which would utilize lay persons and licensees who have little or no experience with licensing law or scope of practice issues and disputes.
 - A Texas-model OLC could consider whether some or much of the administrative work of that commission could be done by employees "loaned"

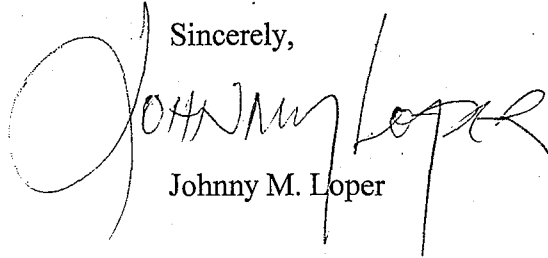
from the constituent boards, thereby avoiding the adding of new employees to the state's payroll. Such employees would also be more familiar with the issues than "green" state employees, and therefore more efficient.

- There is no reason that the other benefits of an OLC as touted by the PED—*e.g.*, facilitating the sharing of services among OLA's, collecting and disseminating OLA performance information, and acting as a clearinghouse for complaints—could not be done just as efficiently, if not more so, under the true Texas model.
- If there is to be a "one size fits all" complaint form used by the OLC (a proposal that we think is likely to prove problematic in its implementation), that form would be better designed by licensing professionals than licensing novices.
- Finally, with regard to the makeup of the forms by which complaints can be lodged with the appropriate board:
 - Accepting without agreeing with PED's position (as it relates to this Board) that the public has somehow been "hindered" in its ability to lodge complaints with OLA's (Report, p. 34), this Board agrees that many of the bullet points listed in Recommendation 3 of the Report (at pp. 34-35) would benefit the public.
 - However, if PED really wants to minimize "the time that unqualified and unscrupulous individuals...continue" to operate (Report, p. 21), and if PED really wants the complaint process to be as smooth and expeditious as possible, having complaint forms that contain only "the information necessary to determine jurisdictional authority" (Report, p. 35) will operate at cross-purposes to those goals.
 - Complaint forms certainly should contain the information necessary to determine whether the board to which the form is submitted is the proper board to pursue the complaint. However, the complaint resolution process will be unnecessarily extended if the board is not given on the complaint form substantially all the information it needs to undertake a meaningful start to the investigation. Why require the board to go back to the

complaining party for additional information when that information can be provided on the complaint form?

While there is more that could be said here, I'll close in the interest of [relative] brevity. I'm sure you will get similar and other comments from other occupational licensing boards. We appreciate your consideration of our viewpoints, which have the best interests of the citizens of North Carolina in general and our licensee's patients in particular in mind.

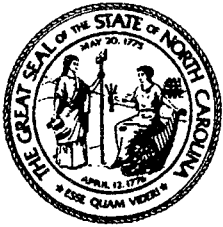
Sincerely,

A handwritten signature in black ink, appearing to read "Johnny M. Loper". The signature is written in a cursive, flowing style with a large initial "J".

Johnny M. Loper

JML:mwg

cc: John D. Robinson, O.D., Board Executive Director
Chuck Hefren, Principal Program Evaluator (*via hand delivery*)



NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS

Ben F. Massey, Jr., PT, MA
Executive Director

December 29, 2014

Senator Fletcher L. Hartsell, Jr., Chair
Representative Julia Howard, Chair
Joint Legislative Program Evaluation Oversight Committee
North Carolina General Assembly
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603-5925

Dear Senator Hartsell and Representative Howard:

I am writing to you in my capacity as Executive Director of the North Carolina Board of Physical Therapy Examiners to respond to the Final Report to the Joint Legislative Program Evaluation Oversight Committee, Report Number 2014-15, dated December 17, 2014. First, we would like to extend our thanks to the PED personnel who worked on the Report, particularly for their courtesies extended to us in considering our responses to their survey of occupational licensing agencies. While we continue to believe there are some assumptions that do not necessarily fit neatly within the categories utilized in the report, there is much to be learned from the Report, and several of its proposals will benefit the public.

We recognize that filing and tracking a complaint should be easier than it is now for many boards, and that reasonable oversight functions can provide more clarity for the public and for licensees. We look forward to working with you to support legislation that will improve the efficiency and service of licensing agencies while preserving their ability to continue to administer practice acts in a manner that provides outstanding public protection.

Very truly yours,

A handwritten signature in black ink that reads "Ben Massey Jr." in a cursive style.

Ben F. Massey, Jr., PT
Executive Director

CC: Senator Phil Berger
Representative Tim Moore
✓ Chuck Hefren, Principal Program Evaluator, PED, NC Gen Assembly
Leslie Kesler, PT, Chair, NCBPTE
John M. Silverstein, Attorney, NCBPTE

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D. L. DAWSON Executive Director

State Board of Examiners of Plumbing, Heating & Fire Sprinkler Contractors

January 5, 2015

Senator Fletcher Hartsell, Co-Chair
Joint Legislative Program Evaluation Oversight Committee

Representative Julia Howard, Co-Chair
Joint Legislative Program Evaluation Oversight Committee

Senator Fletcher Hartsell, Co-Chair
Joint Legislative Administrative Procedure Oversight Committee

Representative Tim Moffitt, Co-Chair
Joint Legislative Administrative Procedure Oversight Committee

Re: Response to Program Evaluation Division Final Report
Occupational Licensing Boards

Dear Senator Hartsell and Representatives Howard and Moffitt:

As Chair of the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, I write to comment on the report of the Program Evaluation Division staff released December 16, 2014. As one who has served on the Board, presented complaints to the Board, and been regulated by the Board nearly forty years, I feel qualified to present the initial reaction of the Board along with some recommendations for your consideration.

First, we are pleased that after PED review of a survey of the Boards and a comparison to other states, the PED staff concluded that there is not a need for centralization of occupational licensing agencies and that a transfer of regulatory and or administrative functions should not be attempted. The Board is proud of the large volume of work that it has handled efficiently at a low cost to the regulated community while also doing its utmost to protect the public. With respect to the question of whether additional oversight is necessary, we stand ready to assist in the implementation of useful and low cost techniques to improve upon the presentation of information to effectuate oversight in an efficient manner.

The PED staff has indicated that lengthy responses to the report would not be appropriate and we are fully aware of the demands on the time of the members of the General Assembly so our below response is brief.

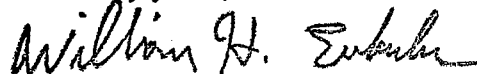
1. The creation of a new agency called The Occupational Licensing Commission to be funded by taking money from the 700,000 persons licensed by occupational licensing boards would create additional unnecessary bureaucracy and do so at a significant cost to numerous professionals and small business owners. Other alternatives should be explored and attempted before such costs are incurred.
2. The Boards currently make approximately 18 reports annually to a multitude of different public bodies. **RECOMMENDATION:** It would be far more useful and efficient for both the public and the regulated occupations for the General Assembly to establish a single report which would include the existing information and also incorporate additional information related to the performance of the investigative, adjudicatory, examination and application functions of the Boards. We would be pleased to work with staff or the appropriate subcommittee to produce this result.
3. Substantial oversight exists at the present time. The activities of this Board are scrutinized by a cross-section of citizens of North Carolina, including licensed professionals, those whose background is in code enforcement and public members. These individuals volunteer their time for the protection of the public and betterment of the industry at minimal per diem. This level of review by sworn board members is enhanced by the review carried out by staff not only of the PED but of the APO, OSBM, OAH, DOL and other State agencies. It would be entirely appropriate for the General Assembly to utilize a consolidated report to effectuate a more efficient review of the conduct of the Occupational Licensing Boards.
RECOMMENDATION: Each Board could also post the new consolidated report on its own website at no additional cost. Experience teaches that both supporters and opponents are adept at accessing such online documents.
4. A three year financial audit and performance evaluation cycle appears to be an approach with unnecessary costs as each board is already required to have an annual audit performed at a significant expense to the Boards and periodic performance audits by the office of the State Auditor.
5. The review of the activities of more than 50 Occupational Licensing Boards over a period of six months presented a virtually impossible challenge for the PED staff. Much of the PED study was forced to rely on a very broad survey and though the

survey was well intentioned it should not become the basis for recommendations for significant change. The survey fails to recognize the importance of enforcement activities related to non-licensees who often present most serious risk to the public and the survey also ignore the need for differentiated and graduated discipline for licenses which considers the specifics of the individual and circumstances at issue. Probation and stayed suspension orders, and increased education requirements imposed on licensees deserving of discipline are important and effective tools.

6. Simpler lower cost options should be put in place before starting down the road towards the creation of additional bureaucracy that would require perpetual funding at little benefit to the public. **RECOMMENDATION:** A less costly option would be the creation of a Council of State Boards. This Council would be comprised of representatives of existing Board Executive Directors, appointed by the President Pro Tem and Speaker of the House for defined terms. The Council could be established at no additional cost to the public or small business. This Council would be charged to recommend streamlining of reports created by Boards to one detailed annual report, to mediate disputes among boards, review annual reports and to provide recommendations to the different boards and the legislature on methods to enhance efficiencies. The Council of State Boards would be a repository for all boards to submit annual reports and a readily available point of contact for the member of the General Assembly. The Council could hold an annual working session for all Board Executive Directors to meet and discuss areas of streamlining functions, pooling resources, emerging issues and common concerns.

We appreciate the opportunity to provide input and thank you for your efforts on behalf of the citizens of North Carolina.

Sincerely yours,



William Eubanks, Chair

Cc: Senator Phil Berger
Representative Tim Moore
John W. Turcotte, Dir. Of Program Evaluation Division
Chuck Hefren, Principal Program Evaluator, Program Evaluation Division
Dale L. Dawson, Executive Director, State Board of Examiners P, H & FS Cont.
Nick Fountain, Young Moore & Henderson, PA



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Director of Regulatory Affairs
Charlene D. Moody
*Assistant Director of
Regulatory Affairs*

January 2, 2015

Sen. Fletcher L. Hartsell, Jr.
Co-Chair, Adm. Procedure Oversight Comm. and
Jt. Leg. PED Oversight Committee
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603

Rep. Julia C. Howard
Co-Chair, Jt. Leg. PED Oversight Committee
300 N. Salisbury Street, Room 302
Raleigh, NC 27603

John W. Turcotte, Director
Program Evaluation Division
300 N. Salisbury Street, Suite 100
Raleigh, NC 27603

Re: Response to PED Report Number 2014-15: Occupational Licensing Agencies should Not be Centralized, but Stronger Oversight is Needed

Sen. Hartsell, Rep. Howard and Mr. Turcotte:

Thank you for the opportunity to comment on the PED Report on occupational licensing agencies. The North Carolina Real Estate Commission appreciates that significant time and effort went into this report and we would like to assist everyone in better understanding some of the many complicated issues raised in this report.

We agree with the primary conclusion of the report that consolidation of licensing agencies is not advisable. As noted in the report, North Carolina licensing agencies are more effective as independent agencies than consolidated agencies in other states examined by the PED. Indeed, NC licensing agencies provide more targeted education, greater consumer protection, and better oversight of licensees than their counterparts in other states. Moreover, they do so at no cost to the State, while a consolidated agency must be funded by the taxpayers.

With respect to the six Recommendations in the report, we submit the following:

Sen. Fletcher L Hartsell, Jr.
Rep. Julia C. Howard
John W. Turcotte, Director
January 2, 2015
Page 2

Recommendation 1. It is not necessary for the General Assembly to establish an Occupational Licensing Commission to improve effectiveness of occupational licensing agencies and assist with resolving disputes between agencies.

Lack of efficiency/effectiveness. The report found that licensing agencies do not maintain sufficient information to monitor and evaluate the efficiency or effectiveness of administrative activities. In fact, the PED looked at the information licensing agencies are required to maintain and report under G.S. 93B to the Secretary of State, the Attorney General, and the Joint Regulatory Reform Committee. This includes significant financial, regulatory and operation data. There was no evidence cited in the report that licensing agencies are not efficiently or effectively operating right now, only that insufficient information was provided. If additional information is desired, the legislature can resolve that issue simply by changing the reporting requirements in the law and providing serious penalties to agencies that fail to comply.

Oversight. We appreciate the concerns raised about oversight of licensing agencies. It is important to note that licensing agencies already have substantial oversight from the General Assembly and Governor's office: agency (or board) members are appointed solely by the legislature or governor, and these members review their agencies' financials, regulatory data, and licensing decisions on a regular basis. Better oversight and consistency could be achieved by clarifying which licensing agencies are covered by G.S. 93B, and keeping all reporting requirements in that statute. Licensing agencies are already subject to being audited by the State Auditor's office, and every licensing agency is audited by an independent auditing firm annually. G.S. 93B-6 also requires the licensing agencies to provide annual reports with specific information to the Secretary of State, the Attorney General, and the Joint Regulatory Reform Committee and financial reports to those same entities plus the Office of State Budget and Management. Oversight could be limited to one existing State agency with additional requirements for review by that agency of the information submitted and authority to handle matters of concern and to notify the General Assembly. There is no need to create an additional level bureaucracy when the State already has a structure in place.

The PED report states that the Texas Health Professions Council provides a model for an oversight agency. However, a review of the Council indicates that it is not at all like what is suggested in the PED report. The Council members are in fact the health care boards it oversees. The boards themselves provide the oversight and pay for this "superboard" themselves. The PED recommends a commission made up of appointed members, most of whom know little or nothing about occupational licensing, staffed by state employees but paid for by the licensing

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agencies, and ultimately by the licensees. It is, in essence, a tax on the licensees to support an additional government bureaucracy, and it is simply not necessary, nor is it likely to be effective.

Recommendation 2. We agree the General Assembly should amend G.S. 93B to list all occupational licensing agencies it intends to be included and criteria that agencies must meet in order to be included.

Recommendation 3. We agree that the General Assembly consider establishing minimum complaint processing requirements.

Because the professions overseen by licensing agencies are varied, general standards would be most appropriate. We have concerns about some of the suggested requirements, and welcome any opportunity to assist in developing legislation that could be useful for all occupational licensing agencies and the public.

Recommendation 4. We have concerns about the PED recommendation that the General Assembly require periodic audits of key regulatory activities and associated performance measurement data.

The General Assembly and other state agencies already have authority to request and review occupational licensing agencies' regulatory data, as they should. The PED report provided no evidence that licensing agencies are not performing their duties or that they are inefficient. Licensing agencies are charged with licensing, education, and oversight. The diversity of professions, however, requires diversity in approaches. No two agencies perform the same functions in the same way, and they should not be compared as if they are the same. A strong regulatory presence is necessary for public protection in many professions, but there is also a public benefit to alternative dispute resolution, targeted education of licensees in lieu of, or in addition to, punishment, and similar approaches to complaint resolution. The PED report penalized agencies with successful education programs that happened to result in fewer revocations or suspensions, and it did not consider sanctions such as public reprimands or conditional dismissals as disciplinary actions. It is important that any measures of performance look at all relevant data. However, performance audits are expensive – a cost that would have to be passed on to the licensees and/or the public. If there is real statistical evidence that a particular board is not performing, a performance audit of that board should be undertaken. For other boards, the requirement should not be imposed until G.S. 93B reporting requirements have been rewritten and it has been determined there is a need for such audits.

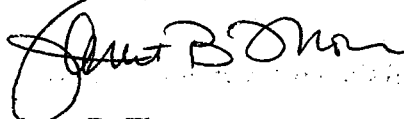
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Recommendation 5. We have no opinion on this recommendation.

Recommendation 6. As stated above, we disagree that the General Assembly should create an Occupational Licensing Commission. The General Assembly has the power to create licensing agencies and to consolidate licensing agencies should it deem consolidation appropriate.

Again, thank you for the opportunity to comment on this report. Unfortunately the report was released on December 17, 2014, and we only had until January 2, 2015, to respond. Given the two intervening holidays, our response is general. There are other issues with the PED report that should be considered before decisions are made based on the report as it is written. While we did not have adequate time to address all of those here, we hope to continue to work with the Committee as it studies this report and considers possible legislation, and we look forward to being part of any solution to the issues raised in the report.

Very truly yours,



Janet B. Thoren
Legal Counsel

JBT/sh



North Carolina Board of Recreational Therapy Licensure
PO Box 2655 Durham, NC (336) 212-1133 www.ncbrtl.org

December 19, 2014

Dear Mr. Hefren,

The North Carolina Board of Recreational Therapy Licensure (NCBRTL) appreciates all of your Committee's work concerning Occupational Licensing Boards (OLA) in NC. NCBRTL welcomes increased communications from the legislators through an OLA Commission as a means to ensure quality performance. While we also agree that our statute could use some changes that would improve the overall functioning and operation of the board, we do not think the report accurately reflects the effectiveness and value of the Chapter 90C and the NCBRTL to not only our profession but also the public. The following will provide some contextual information and will address each of the criteria utilized by the committee.

Contextual Information: In order to respond and to place things in context, please note the following events that impacted the 2013 snap shot assessment of the NCBRTL performance. In 2013, which is the only year examined by the Committee, the administrative office of NCBRTL was significantly impacted by a fire. The fire resulted in massive interruptions for Board functions as well as access to data. All NCBRTL records were engaged in a 9 month restoration process and unavailable to the Board. As a result, the NCBRTL made the replacement of our Board's computer system and the restoration of normal operating of the utmost priority. In addition, it was during 2012-2013 that the NCBRTL identified website updates and revisions a strategic priority. To accomplish this objective, NCBRTL entered a bid process for a new website design. The bid process was completed and our web site to facilitate electronic submission, including improved reporting features is being developed with an anticipated launch in early 2015.

Citations and Sanctions: One of the criteria the committee used to determine the validity of the licensure boards was based on the number of sanctions for suspension and revocation per 10,000. As a smaller professional licensing board, the Committee viewed numbers from the point of how many licensees there were at that point in time. In 2011-2012, there were 650 licensees. The NCBRTL conducted 52 investigations and issued 42 sanctions. So from the NCBRTL's point of view, it was felt that this was an unacceptably high percentage; hence, the NCBRTL made the decision to implement proactive steps (Corrective actions plans and Compliance and Ethic Training) to reduce the number of sanctions.

As a result of a larger number of investigation and sanctions occurring in 2011- 2012, the NCBRTL analyzed the incidents proactively implemented new strategies to reduce the dominant citations in the profession. In turn, NCBRTL implemented a process of “corrective action plans” so those LRTs and LRTAs with compliance issues could make corrections and learn from the real and anticipated violations. At this time, the NCBRTL does not have the authority to issue civil penalties. Therefore, the required NCBRTL sanctioning grid addresses non-compliance issues in the same manner as practice issues. It was also felt that one of the roles of NCBRTL was to improve licensees’ conduct and, in response, initiated an NCBRTL Compliance and Ethics Training requirement for all licensees during their first year of licensure. So, in 2013 there was a significant drop in both investigations and sanctions.

While NCBRTL agrees that accepting complaints should be more visible to the public, as a healthcare profession, it is important to note that most complaints/reports originate within hospitals or other healthcare facilities and, therefore, these reports come from within the hospitals rather than from the open public. NCBRTL Rules requires that all reports either by self-report or by the responsible supervisor must be made within 72 hours. If this does not occur, then the licensee and/or supervisor may subject to additional sanctioning. So the NCBRTL reports generally come from the licensees themselves and not the effected patient/client or the public.

Licensee Mobility Criteria: The Committee’s comparison of licensees’ mobility by comparing the licensure of recreational therapy to other state credentialing laws warrants comment. Currently, as reported in the audit, NC is one of 4 states that have implemented licensure for recreational therapy practice. NC is considered a “model” program within the United States with other states adopting our statute to increase state licensure. North Carolina is the third largest employer of RTs in the United States and the national professional organization has implemented a 50 state initiative to ensure licensure in all 50 states as a means to protect the public from harm and professional misrepresentation. . Since Chapter 90C does not require state residency, some out of state licensees, maintain their license in NC for acknowledgement as a “licensed healthcare professional”. This is an accepted criterion for many healthcare professions.

Level of Credentialing: The Committee also addressed the differing level of credentialing. From an historical perspective, the NCBRTL was originally a certification Board for 6 years prior to licensure. The designation of title legislation only was extremely problematic as agencies including DHHS merely changed job titles and engaged in the practice of hiring unqualified people (individuals that did not possess the educational background or competencies in client assessment, treatment planning, and treatment implementation and outcome evaluation in RT) in these positions. Since, the individual was not referred to as a recreational therapist; the board received complaints but had no authority to take action. The hiring of unqualified individuals to perform essential health care services was a large issue in the state hospitals and small nursing homes and a significant body of consumers were not protected and did not receive services by competent, qualified professionals.

Recreational therapy is often a misapplied term with numerous reports about individuals, (e.g., such as Activity Directors), who may be practicing or representing themselves as a recreational therapist and placing consumers at potential risk. These individuals are not required to possess any more than a 90

hour training course and there is no legal authority over their practice. NCBRTL believes that greater public protection would be possible with increased authority to do inspections. Onsite inspections could help identify those practicing RT without proper professional education and credentials. With the changing demographics of the state toward a more aging and fragile population, there will be increased demand for qualified and credentialed professionals to deliver quality treatment services across settings. These changing demographics will require a significantly stronger services provider with the credentials and competencies for practice delivery.

The NCBRTL would welcome the opportunity to further clarify any of our responses. We understand, your report has already been accepted by the Joint Legislative Program Evaluation Committee but we do hope you further communicate that NCBRTL does have an effect on protecting the public and is a valuable OLA in the state of NC.

Sincerely,

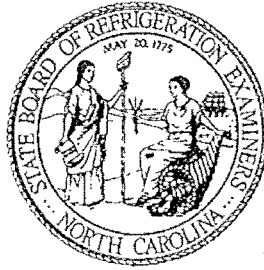
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January 2, 2015

VIA EMAIL AND HAND-DELIVERY

Mr. John Turcotte, Director
Program Evaluation Division
North Carolina General Assembly
300 North Salisbury Street, Suite 100
Raleigh, NC 27603

Re: Response by the North Carolina Board of Refrigeration Examiners to PED Report on Occupational Licensing Agencies

Dear Mr. Turcotte:

Thank you for the opportunity to review and respond to the recent report by the Program Evaluation Division ("PED") on Occupational Licensing Agencies ("OLA").

In this letter, the Board is responding to PED's recommendation that the proposed Occupational Licensing Commission ("OLC") develop a plan to review the Board for possible elimination. For the reasons set forth below, we respectfully request both PED and the Commission to reconsider this recommendation.

I. Background

The State Board of Refrigeration Examiners was created during the 1955 session of the General Assembly requiring a refrigeration license for work done in cities and towns with a population of 10,000 or more. Governor Luther Hodges appointed the original members of the Board; they were sworn in on January 6, 1956.

In 1977, the Governmental Evaluation Commission was formed by the legislature and this Commission recommended that the refrigeration licensing law be state-wide. As of July 1, 1979, all refrigeration contractors in the state were required to be licensed.

Now, the Board has over 1,800 licensees including “all persons, firms or corporations engaged in the installation, maintenance, servicing and repairing of refrigerating machinery, equipment, devices and components relating thereto” but does not include: the installation of self-contained commercial refrigeration units or domestic household self-contained refrigeration appliances equipped with an Original Equipment Manufacturer (OEM) molded plug; or any person, firm or corporation engaged in the business of selling, repairing and installing any comfort cooling devices or systems.

Throughout its existence, the Board has worked closely with the UNC School of Public Health and the engineering programs of the UNC system. Indeed, persons from those programs have designated seats on the Board.

In October of 1994, the Board created the SBRE Scholarship Program to benefit students who are enrolled in or plan to enroll in either an Associate in Applied Science Degree Program of Study in HVACR or an Associate in Applied Science Degree Program in Commercial Refrigeration Technology in the State Community College System. In the past ten years, 35 scholarships have been awarded totaling \$30,800.

II. Growing Trend in Other States.

Twenty years ago, North Carolina was one of only two states that required the licensing of contractors doing refrigeration work. Today, over twenty states require this occupation to be licensed. Clearly, many states have seen the need for this unique area of regulation.

III. Importance of Board in Protecting Against Public Harm

In keeping with its mandate to protect the public health and safety of North Carolinians, the Board sets forth criteria ensuring that refrigeration contractors meet specific qualifications when installing, maintaining, repairing and servicing of refrigeration equipment. These criteria are reviewed on a yearly basis to ensure they are up-to-date with current refrigeration contracting practices and fall within the parameters set by the NC Mechanical Code.

There is some degree of confusion about the scope of activities of the Board, which is in part due to the Board's name. The Board does not regulate comfort cooling or domestic equipment equipped with the original plug; rather, they regulate the installation, servicing, etc. of equipment designed for the cooling of product.

Refrigerants used to cool product can be more dangerous than those used for comfort cooling. For instance, the use of ammonia and some Freon such as R11, R404 and R507—all of which can be extremely hazardous to health and safety—has become more prevalent for product cooling in recent years. Ammonia is considered a high health hazard because it is corrosive to the skin, eyes, and lungs. Exposure to 300 parts per million (ppm) is immediately dangerous to life and health. Ammonia is also flammable at concentrations of approximately 15% to 28% by volume in air. When mixed with lubricating oils, its flammable concentration range is increased. It can explode if released in an enclosed space with a source of ignition present, or if a vessel containing anhydrous ammonia is exposed to fire.

Exposure to even small doses of ammonia causes a burning sensation and severe irritation to the respiratory tract and eyes. In higher concentrations, exposure can lead to internal injuries and even death. Moreover, Freon is a tasteless, mostly odorless gas, which, when deeply inhaled, may cut off vital oxygen to lungs and cells.

On a larger scale, overuse of refrigerants such as HFCs and HCFCs is widely recognized to cause irreversible damage to the Ozone layer. The degradation of the ozone layer leads to higher levels of ultraviolet radiation reaching Earth's surface. This, in turn, can lead to a greater incidence of skin cancer, cataracts, and impaired immune systems, and is known to have adverse environmental impacts.

The Board is one of the original agencies approved by the Environmental Protection Agency ("EPA") to provide the EPA Section 608 Certification Test and has certified thousands of applicants every year since 1994. The Board partnered with the Community College System to offer the EPA training and testing through both curriculum and continuing education classes. Under Section 608 of the Clean Air Act, EPA established the following regulations (40 CFR Part 82, Subpart F):

- Restrict the sale of refrigerant to certified technicians.
- Set certification requirements for refrigerant recycling and recovery equipment, technicians, and refrigerant reclaimers.
- Require service practices that maximize recovery and recycling of ozone-depleting substances (both chlorofluorocarbons [CFCs] and hydrochlorofluorocarbons [HCFCs] and their blends) during the servicing and disposal of air-conditioning and refrigeration equipment.
- Establish safe disposal requirements to ensure removal of refrigerants from goods that enter the waste stream with the charge intact (e.g., motor vehicle air conditioners, home refrigerators, and room air conditioners).

Despite the public health consequences stemming from the unregulated dispersal of toxic agents, the PED assigned the Board a Public Harm score of zero. Clearly, such scoring is inconsistent with the significant protection that the Board provides from environmental contamination.

III. Complaints

Consistent with its statutory charge to protect the public health and safety, the Board receives and handles two types of complaints received from the public: those involving licensees and those filed against unlicensed persons. The Board has made the process as straightforward for the public as possible; access to a Complaint form, which does not have to be notarized, is prominently displayed and easily obtainable on the Board website and may be filed electronically,

Over the past ten years, approximately 175 complaints have been filed with the Board; a majority of the complaints were filed against unlicensed persons performing work included within the scope of the statutory definition of refrigeration contracting. Often, this work is deficient and does not meet building code standards, since the contractor has not taken and passed the required examination, thus demonstrating professional competency in performing work undertaken. The Board typically resolves these cases with a Demand to Cease and Desist, signed by the unlicensed person. If the subject of the

Letter to Mr. John Turcotte re: N.C. State Board of Refrigeration Examiners' Response to PED Report on Occupational Licensing

January 2, 2015

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complaint fails to answer or sign the Demand, the Board has weighed the risk to the public and has sought and obtained injunctions for unauthorized practice in the court. It is in this area that the Board provides its best public protection because unlicensed activities can lead to dispersal of toxic agents.

Complaints against licensees for performing inadequate work, or other instances of unprofessional conduct, are not as frequent as those against unlicensed persons. The Board's Review Committee investigates all of these cases and makes a determination on the merits and recommends to the Board either a dismissal or, if the allegations are credible, first attempts a resolution through a Consent Order, imposing a variety of disciplinary actions. Most often, the licensee will agree to a Consent Order; the Board has not had to initiate a hearing process often, which lengthens the time to resolve the matter.

Whether the complaint involves an unlicensed person or a licensee, the complainant is informed of the Board decision and, in most cases, provided a copy of the closing document

IV. Conclusion

In conclusion, we respectfully disagree with PED's recommendation that the N.C. State Board of Refrigeration Examiners be considered for elimination. As set forth above, the Board provides an important protection to public health and safety by ensuring that only trained and competent licensees handle the toxic chemicals involved in the refrigeration process. Moreover, the Board is well-equipped to handle public complaints regarding licensees and non-licensees, as demonstrated by its successful resolution of over 175 complaints over the past ten years.

Sincerely,



Jerry M. King
Chairman

Occupational Licensing Agencies That Did Not Submit Written Responses to PED Report

Profession Regulated by OLA	
Appraisal	Irrigation Contractors
Architecture	Landscape Contractors
Auctioneers	Medical
Cape Fear River Navigation and Pilotage	Midwifery
Cemetery	Morehead City Navigation and Pilotage
Certified Public Accountants	Nursing
Chiropractic	Onsite Wastewater Contractor Inspectors
Cosmetic Art	Opticians
Dental	Pharmacy
Dietetics/Nutrition	Podiatry
Electrolysis	Professional Counselors
Engineers and Surveyors	Psychology
Fee-Based Practicing Pastoral Counselors	Respiratory Care
Funeral Service	Social Work
General Contractors	Soil Scientists
Geologists	Speech-Language Pathologists and Audiologists
Hearing Aid Dealers and Fitters	Substance Abuse Professionals
Interpreters and Transliterators	Veterinary Medical

Occupational Licensing Agencies That Did Not Submit Written Responses to PED Report

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General Contractors	Speech-Language Pathologists and Audiologists
Geologists	Substance Abuse Professionals
Hearing Aid Dealers and Fitters	Veterinary Medical
Irrigation Contractors	