

Sunset Review: Board of Behavioral Health Examiners

Summary of proposed statutory changes

Through a stakeholder process sponsored by the Board and through a separate process of meetings of organization representatives, educators and other interested individuals, recommendations have been developed to address concerns about the Board of Behavioral Health Examiners. Many of these statutory changes will mandate the adoption of new rules or the amendment of existing rules. The effective date of some statutes should be timed to allow for enactment of these rules and there should be authorization of financial resources for the Board's performance of the reforms.

Licensing

As the expansion of behavioral health services through public programs and private insurance approaches, the BBHE plays an important role as the gatekeeper of some of the professions necessary to provide those services. The present statutes and rules create numerous problems in the licensing of professionals including ambiguous standards, inconsistent decisions, delays in granting applications and other inappropriate barriers to licensing. The Coalition proposes the following statutory changes to address these issues:

Reciprocity

The existing statute should be amended to reflect the endorsement process, allow endorsement after three years of practice in one or more states and remove the requirement of supervised practice after receipt of an independent license through endorsement.

Work Supervision

Independent practitioners in Social Work, Counseling, Marriage and Family Therapy and Substance Abuse Counseling must, in addition to meeting educational and testing requirements, demonstrate a period of supervised work experience both in the direct treatment of clients and the provision of other services and preparation. The proposed statutory provisions would clarify the number of hours required and the types of activities which would be acceptable and provide for the maintenance of information for determining the qualification of individuals to be used as supervisors. It would also require the Board to set out all requirements in rule.

Curriculum and Education

The educational requirements for applicants for counseling licenses who have attended programs without national certification have been particularly problematic. The statutory changes would provide an opportunity for educational institutions to seek prior approval for their curriculum, clarify core content courses, allow credit for programs operating on quarters rather than semesters and allow for consideration of subjects embedded in coursework.

Restructuring Licensing Consideration

The current use of Governor appointed Credentialing Committees has often resulted in delays. The membership of the Committees, including a public member, is not always qualified to review curriculum. The proposed statutory amendments would create and utilize Academic Review Committees appointed by the Board and include academic specialists to provide recommendations to the Board and the applicants about meeting educational requirements. These Review Committees would be utilized only when there are questions concerning an application.

Other Licensing Provisions

The Board has refused to allow applicants to withdraw applications for licensure even in cases of medical or family emergencies, thus resulting in a license denial on the applicant's record. This has been addressed. Continuing education requirements would continue but the standards for such education must be established in rule.

Discipline

The proposed statutory amendments are designed to improve the delays in processing complaints identified by the Auditor General's Office, generate more consistent disciplinary findings and address concerns about fairness.

Restructure

The present disciplinary structure requires consideration by Credentialing Committees for each profession. This results in delays and potentially inconsistent findings and penalties for similar actions. The proposed statutory changes would adopt the model utilized by a number of other healthcare licensing boards. The Board membership would be expanded to include more professional members and complaints involving professional issues such as scope of practice and standard of care would be reviewed by a professional who would offer recommendations to the Board.

Impairment Program

In spite of commitments made several years ago the Board has never adopted a program for impaired professionals as utilized by other healthcare professional boards. The proposed statutory changes would require the establishment of such a program and its expansion to include behavioral health issues as well as substance abuse. The Coalition also supports necessary appropriations to allow the Board to implement this program.

Addressing Issues of Fairness

The proposed statutory changes would specifically address issues related to fairness several of which have been adopted by other healthcare professional boards: no anonymous complaints, clarification of the burden of proof, no complaints older than 7 years, a reasonable basis for ordering tests and access to investigatory files. In addition, training would be required of investigators and a board member would within 3 months of appointment be required to be trained in judicial processes and temperament and responsibilities for administrative management.

Public Membership

The present statutory criteria for public members are significantly more onerous than that for other healthcare professional boards. The statutory proposals would reflect those found for other boards.

Board Continuation and Rule Making

The Board should be continued until July, 2017 to provide for Legislative review after completion of the restructuring and rule adoption with the Auditor General including in its continuing audit a review of the compliance of adopted rules with statutory authority and a report to the Joint Legislative Audit Committee.

Rules required under the new statutes should be the subject of a modified rule making process to include stakeholder notification, preliminary stakeholder meetings, at least two public meetings and a the publication of an impact study.