Minnesota Board of Behavioral Health and Therapy

Report to the Legislature in Compliance with Minnesota Statutes Section 3D.06 (Sunset Review)

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Executive Summary

The Minnesota Board of Behavioral Health and Therapy is an independent state agency that regulates the practices of professional counseling and alcohol and drug counseling in the State of Minnesota.

The Board's mission is to protect the public through effective licensure and enforcement of the statutes and rules governing the practices of professional counseling and alcohol and drug counseling in the State of Minnesota to ensure a standard of competent and ethical practice.

Pursuant to Minnesota Statutes section 148B.51, the Board is required to have thirteen members who are appointed by the Governor for four-year terms. Five of the members shall be professional counselors licensed or eligible for licensure under sections 148B.50 to 148B.593. Five of the members shall be alcohol and drug counselors licensed under chapter 148C. Three of the members shall be public members as defined in section 214.02. The Board has three full time staff members to perform the administrative duties necessary to regulate these professions. The current staff to licensee ratio is 1 staff to 1,129 licensees.

The Board of Behavioral Health and Therapy is a regulatory agency and accomplishes its public protection mission by: setting and administering educational, supervision, and examination requirements for initial licensure as a licensed professional counselor, licensed professional clinical counselor, or alcohol and drug counselor; setting and administering requirements for renewal of licensure; setting standards of ethical practice; responding to inquiries, complaints and reports regarding applicants and licensees; investigating complaints of alleged violations of statutes and rules, holding educational and disciplinary conferences with licensees, and taking disciplinary or corrective action when appropriate against practitioners who fail to meet minimum standards of practice; approving continuing education activities; and providing information about licensure requirements and standards of practice to applicants, licensees, and other interested members of the public.

Since its creation in 2003, the Board of Behavioral Health and Therapy has built two licensing programs from the ground up and reorganized a third program. The licensed professional counselor and licensed professional clinical counselor (LPC and LPCC) licenses were created in statute (Minnesota Statutes sections 148B.50 to 148B.593). Through the rulemaking process the Board adopted 4 sets of rules for Licensed Professional Counselors related to license renewal, continuing education, supervision, and professional conduct. The rules were adopted in 2005 and expedited rules clarifying continuing education requirements were adopted in 2006 (Minnesota Rules chapter 2150). The licensed alcohol and drug counselor (LADC) program (Minnesota Statutes chapter 148C and Minnesota Rules chapter 4747) was transferred to the Board in 2005, and the program now operates in a manner similar to other autonomous boards. With Legislative approval, statutory changes were made in 2004, 2005, 2007, and 2009 to set fees, streamline licensing requirements, create a clinical level of professional counselor licensure, and define LPCCs as mental health professionals. The Board plans to pursue legislation in 2012 that will further improve the regulation and licensure processes for alcohol and drug counselors and professional counselors.

The brief histories of the LADC and LPC/LPCC programs in Section II of this report best summarize the Board's accomplishments in achieving regulatory goals. Section III describes the specific efficiency measures the Board has adopted, most notably investment in a database that replaced the information in four obsolete databases, consolidated the information in those databases, and resulted in a single Board database capable of performing all of the licensure, complaint resolution, and reporting functions necessary to efficiently carry out the regulatory responsibilities of the Board. The new database enables the Board to offer online renewals and other online services.

The Board also achieves efficiency from services provided by Administrative Services Unit (ASU) serving 15 health-related licensing boards and 3 general licensing boards Collaboration greatly increases the efficiency of all the boards and results in significant cost savings to all boards by centralizing business functions in the ASU. ASU provides shared services to the Boards in the areas of finance, budgeting, accounting, purchasing, reporting, banking, human resources, professional and technical contracts, information technology, policy development and payroll. The ASU staff members assist the Board with issues related to compliance with state and federal laws including equality of employment opportunity, purchasing guidelines, conflicts of interest, and compliance with chapter 13 with respect to records management and requests for public information.

The BBHT has sole regulatory authority over licensed alcohol and drug counselors and licensed professional counselors. No other agencies have regulatory authority over these licensees, and no other agency duplicates or overlaps the duties performed by the BBHT. In the creation of the Board of Behavioral Health and Therapy (BBHT) in 2003, the Legislature included a requirement that the BBHT, in conjunction with the Board of Marriage and Family Therapy (BMFT), provide a report to the Legislature and address a recommendation for the merger of the two boards (Recommendations on Merging the Minnesota Boards of Behavioral Health and Therapy and Marriage and Family Therapy, A Report to the Minnesota Legislature, June 15, 2004). Based on a thorough discussion of the issues and a review of literature, including three studies on the subject specific to Minnesota, it was the consensus and recommendation of the merger report committee that a merger of the BMFT and the BBHT will not result in greater efficiency or appreciable cost savings and should not occur. That recommendation still stands.

The Board has managed its small budget carefully and invested in a licensure database that allows for online services and greater efficiency in program administration. The Board looks forward to continuing its work as an autonomous board in a shared services model. The goals of the Board in the next five years include retiring program debt, utilizing its website and online services to continue to improve the efficiency of regulation and licensing processes, and maintaining an adequate staffing level of skilled personnel to provide high quality services to applicants, licensees, and the public. These measures will ensure that the Board can continue to fulfill its public protection mission by licensing qualified applicants in an expeditious manner and taking timely corrective or disciplinary action against practitioners who violate the practice acts.

Introduction

As Executive Director of the Minnesota Board of Behavioral Health and Therapy (Board or BBHT), I am submitting this report to the Legislature in compliance with Minnesota Statutes §3D.06. That section requires the chief administrative officer of a state agency that is subject to sunset review to report to the Sunset Commission:

(1) information regarding the application to the agency of the criteria in section 3D.10;
(2) a priority-based budget for the agency;
(3) an inventory of all boards, commissions, committees, and other entities related to the agency; and
(4) any other information that the agency commissioner considers appropriate or that is requested by the commission.

This report contains all of the required information, but not in the exact order listed above. Background information concerning the mission, history, composition, activities, organization, staff and budget of the Board will be provided first. The report will conclude with a priority-based budget narrative and appendices of additional information requested by the Commission related to staffing, budget, statutes, and rules. Information sources for this report include documents maintained by the Board, data from the Administrative Services Unit (ASU) that provides administrative services to all of the health-related licensing boards, and data shared by other health licensing boards.

Section I. Agency Mission, Goals, and Objectives (Key Functions, Powers, Duties)

The mission, goals, and objectives intended for the Board and of the problem or need that the Board was intended to address and the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed

Agency Purpose and Mission

The Minnesota Board of Behavioral Health and Therapy is an independent state agency that regulates the practice of professional counseling and alcohol and drug counseling in the State of Minnesota.

The Board's mission is to protect the public through effective licensure and enforcement of the statutes and rules governing the practices of professional counseling and alcohol and drug counseling in the State of Minnesota to ensure a standard of competent and ethical practice.

Minnesota Statutes sections 148B.50-148B.593 require the Minnesota Board of Behavioral Health and Therapy to license professional counselors (LPCs) and Licensed Professional Clinical Counselors (LPCCs) and regulate the practice of professional counseling in the State of Minnesota. Minnesota Statutes chapter 148C requires the Board of Behavioral Health and Therapy to license alcohol and drug counselors (LADCs), issue temporary permits to practice alcohol and drug counseling, and regulate the practice of alcohol and drug counseling in Minnesota. The Board was established in May 2003. On July 1, 2005, the Board began licensing and regulating licensed alcohol and drug counselors (LADCs) when the program transferred to the Board from the Department of Health.

Duties and Strategies

The Board of Behavioral Health and Therapy is a regulatory agency and accomplishes its public protection mission by:

- setting and administering educational, supervision, and examination requirements for initial licensure as a licensed professional counselor, licensed professional clinical counselor, or alcohol and drug counselor;
- setting and administering requirements for renewal of licensure;
- setting standards of ethical practice;
- responding to inquiries, complaints and reports regarding applicants and licensees;
- investigating complaints of alleged violations of statutes and rules, holding educational and disciplinary conferences with licensees, and taking disciplinary or corrective action when appropriate against practitioners who fail to meet minimum standards of practice.
- approving continuing education activities; and
- providing information about licensure requirements and standards of practice to applicants, licensees, the public, and other interested parties.

Operations

Pursuant to Minnesota Statutes section 148B.51, the Board is required to have thirteen members who are appointed by the Governor for four-year terms. Five of the members shall be professional counselors licensed or eligible for licensure under sections 148B.50 to 148B.593. Five of the members shall be alcohol and drug counselors licensed under chapter 148C. Three of the members shall be public members as defined in section 214.02. The Board has three full time staff members to perform the administrative duties necessary to regulate these professions.

The Board holds quarterly board meetings, and subcommittees of the Board meet regularly to review license applications and licensure issues (Application and Licensure Committee), draft rules (Policy and Rules Committee), draft legislation (Legislative Committee), review examinations to determine if they are acceptable to meet licensure requirements (Examination Evaluation Committee) review complaints and hold educational and disciplinary conferences with applicants and licensees (Complaint Resolution Committee), and perform other duties required for the operation of the Board.

Board Members:

The Board—comprised of governor-appointed members —oversees the regulation of alcohol and drug counseling and professional counseling in Minnesota. These Board members, who work in the Minnesota community outside of state government in addition to their role on the Board, provide many hours of public service in order to offer expertise to Minnesota state government. Board members receive a $55 per diem for attending board and committee meetings.

In collaboration with the Board's staff, these individuals are entrusted with the protection of public health and safety through licensing of qualified applicants for the counseling professions, and through resolving complaints regarding professional practitioners.

The Board has been hampered by not having a full complement of board members for most of the last 6 years. It affects the quorum required to hold board and committee meetings and it places additional responsibilities on board members to fulfill committee functions. As of November 1, 2011, the Board members are:

Board Member Name	Residence	Occupation	Professional Member / Public Member	Date of Appointment	Date of Reappointment
Barbara Carlson	New Ulm, MN	LADC	Professional	6.28.2006	6.22.2010
Marlae Cox-Kolek	Mankato, MN	LADC	Professional	3.16.2009	

Freddie Davis-English	Plymouth, MN		Public	4.28.2005	3.16.2009
Douglas Frisk	New Brighton, MN		Public	6.14.2004	7.28.2008
Judi Gordon, 2012 Board Chair	St. Paul, MN	LADC	Professional	4.28.2005	3.16.2009
Yvonne Hundshamer	St. Paul, MN		Public	6.22.2010	
Kristen Piper, 2012 Vice Chair	St. Louis Park, MN	LPCC	Professional	6.28.2006	6.22.2010
Duane Reynolds	New Hope, MN	LADC	Professional	6.14.2004	7.28.2008
Walter Roberts, Jr.	North Mankato, MN	LPC	Professional	6.14.2004	7.28.2008
Marjorie (DeDe) Van Slyke	Minneapolis, MN	LPCC	Professional	6.30.2011	
Robert Schmillen	Granite Falls, MN	LADC	Professional	3.16.2009	6.30.2011
Vacancy		LPC	Professional		
Nona Wilson	St. Cloud, MN	LPC	Professional	1.31.2006	3.16.2009

Staff Members

The Board has 3.0 full-time equivalent positions. The staff to licensee ratio is 1 staff to 1,129 licensees. In the past biennium (2008-2010) the Board has on two occasions utilized temporary workers during staff member leaves of absence. The full time staff members include an executive director (Kari Rechtzigel), a licensing coordinator for the LPC/LPCC program (Carly

Lykes), and a licensing coordinator for the LADC program (Samantha Strehlo). Every staff member of the Board must have a broad base of knowledge and skills. While each staff member has specialized expertise in particular board programs, all employees have a basic knowledge of all Board operations in order to answer questions and provide information to applicants, licensees, and members of the public. Because of its small staff, the Board relies heavily on the detailed information on its website to assist applicants, licensees, and the public.

The staffing level and base budget have not changed in the last four years, but the number of regulatory duties has increased along with the number of applicants and licensees. The base budget that was reduced by approximately 42% in 2007 will need to be increased in the very near future to allow the Board to have an adequate number of staff members to regulate the LADC and LPC/LPCC professions. In 2011, the Board received a small agency budget increase of $7,000 for the LPC program and $13,000 for the LADC program.

Despite the budgetary and staffing challenges, the Board members and staff members have fulfilled the Board's mission to protect the public by licensing qualified applicants in as efficient a manner as possible, processing license renewals in accordance with the law, monitoring continuing education requirements, holding regular Complaint Resolution Committee meetings, and taking corrective and disciplinary action when appropriate.

Licensees (as of November 1, 2011)

Licensed Alcohol and Drug Counselors (LADCs): 2324 (including 3 conditional licenses and 70 inactive licenses)
ADC Temporary Permit Holders: 117
Licensed Professional Counselors (LPCs)*: 528 (including 51 inactive licenses)
Licensed Professional Clinical Counselors (LPCCs): 418 (including 6 inactive licenses)
Total Regulated Persons: **3387**

[*Between June 1, 2004 and November 1, 2011, 1107 LPC licenses were issued but only 528 licenses are active. The LPC licensees have been hampered with difficulty in obtaining employment and receiving insurance reimbursement for services. This observation is anecdotal in that the BBHT does not regulate reimbursement. Many have converted their LPC license to the LPCC license, voluntarily terminated their license, moved to other states, or obtained another license (LP, LMFT)]

Licensing Services:

- Initial Licensure: Board staff members and members of the Application and Licensure Committee review, approve and process initial license applications. Application review is ongoing and licenses are issued monthly.
- License Renewals: In August 2010, online renewal services became available for LADCs for the first time. A significant number of licensees opted to renew online, but final data is not yet available on the total percentage of licensees who renewed online and online renewal trends in future renewal cycles. On December 31, 2010, online renewal services became available for LPCs and LPCCs. Online renewals streamline the renewal process for both licensees and Board staff.
- Other online services currently include license verification, approved supervisor look-up, and name and address changes. In the future, the Board will offer online data services (mailing lists, statistical data, etc.).

- The BBHT website includes information about Board members, Board staff, public meeting notices, and current issues affecting the Board. Initial licensure application forms, continuing education sponsor application forms and instructions, supervisor application forms, and LADC and LPC/LPCC statutes and rules are printable from the website.
- Board staff members provide licensure information and public information by answering telephone calls, responding to email inquiries, and meeting with walk-in customers.
- Board staff members review and approve applications for continuing education course approval.
- Board staff members make annual presentations to counselor education programs and professional associations.

As previously noted, the Board licenses professional counselors, professional clinical counselors, and alcohol and drug counselors. It also issues temporary permits to practice alcohol and drug counseling. Licensing tasks are largely performed by the LADC and LPC/LPCC Licensing Coordinators with assistance from members of the Board's Application and Licensure Committee (professional members of the Board appointed by the Governor). The licensing coordinators are program specialists who process applications and issue licenses in as timely a manner as possible. When issuing initial licenses and permits, staff must verify certain information by reviewing documents such as college and university transcripts, course descriptions or syllabi, national examination scores, and verification of post-degree supervised practice documents. An analysis of the licensure supervisor's credentials and qualifications is also required. When all information has been verified and when the appropriate fees have been paid, staff prints and mails out license cards. For renewals, staff members mail renewal notices, process returned paper applications, and issue the renewed licenses. The option of on-line renewals has enhanced the efficiency of the renewal process and reduced staff time devoted to license renewals.

Complaint Resolution Services:

- Public protection is provided through investigating complaints, holding educational and disciplinary conferences with licensees who are the subjects of complaints, taking disciplinary or corrective action against licensees who violate the practice acts, and monitoring licensees under disciplinary orders and agreements for corrective action.
- The Board's website provides information to the public about complaints and discipline, including information on the complaint process, complaint registration forms, and a list of disciplinary and corrective actions taken by the Board. The Board reports all disciplinary actions to national data banks.

Key Activity Goals & Measures

Create and maintain cost-effective and efficient licensure processes.

- Continue work that began in the 2010 legislative session to repeal existing LADC statutes and rules and rewrite the Practice Act for licensed alcohol and drug counselors. The rewrite will clarify and simplify existing statutory and rule language, with the goal of making Board operations more efficient, resulting in cost savings. It removes confusing, obsolete, repetitive, and unnecessary language and creates licensure processes and regulatory language for

LADCs that are consistent with those of other health licensing boards. Continue to work with representatives from the Minnesota Association of Resources for Recovery and Chemical Health (MARRCH) (the professional association for LADCs), Minnesota Coalition of Addiction Studies Educators (MNCASE), Minnesota Certification Board (MCB) (the exam entity), Minnesota Association of Treatment Providers (MATP), and the Department of Human Services to get this legislation passed in the 2012 session.

- Continue work that began in the 2011 legislative session to correct and improve LPC and LPCC licensure processes. The purpose of the legislation is to eliminate reference to an obsolete exam; revise continuing education requirements in the first four years of licensure; revise continuing education requirements for license reinstatement; and rewrite the LPC to LPCC license conversion method so the requirements do not unreasonably restrict entry into practice.
- Continue to work with database consultant to maintain a comprehensive database for all of the Board's licenses and processes.
- Fill a clerical position that has been vacant for more than five years to improve customer service and application processing time.

External Factors Impacting Agency Operations

- The number of licensees regulated by the Board continues to rise, as do the number of complaints and the complexity of the cases. Section VII of this report includes more detail about the Board's Complaint Resolution activity.
- The Board's budget has remained the same since 2007 which has prevented the board from hiring additional staff members. Understaffing results in slower application processing time and responses to customer inquiries.

A Brief History of LADC Licensure – 1992 to the present

- In 1992, legislation was passed establishing licensure for alcohol and drug counselors. Initially, licensure was to be regulated through the Department of Human Services, but in 1993 legislation passed changing the regulatory duties from the Department of Human Services to the Department of Health.

- In 1993, the Department of Health began the rule writing process.

- In January 1998, after about 4 years of rule writing, the proposed rules related to alcohol and drug counselor licensure were adopted. During this rule writing period, there was no licensure activity, meaning no licensure fees were being collected to pay for the rule writing cost. It is estimated that the cost for rulemaking was approximately $450,000.

- In May 1998, the first LADC licenses were issued.

- In May 2000, legislation passed creating an alcohol and drug counseling temporary practice permit. This version of the permit was only issued when a person applied for licensure and

was only effective for 12 months. In May 2003, new legislation was passed changing the temporary permit requirements. The new version of the temporary permit was not dependent on the applicant applying for licensure and a permit could be renewed.

- In May 2003, the Board of Behavioral Health and Therapy (BBHT) was established as an independent Board to license and regulate professional counselors (LPCs), the culmination of many years of efforts to establish appropriate regulation of the counseling professions. The same legislation that created licensure for professional counselors also transferred regulation of the LADC program from the Department of Health to BBHT effective July 1, 2005.

- On July 1, 2005, BBHT began licensing and regulating licensed alcohol and drug counselors (LADCs) when the program transferred to the board from the Department of Health. The inherited LADC program debt was approximately $1 million.

- In 2005, the Board proposed legislation to streamline the licensure process for LADCs. The legislation passed and, among other provisions, 1) removed the Board from overseeing the licensure examinations for LADC licensure; 2) permitted LADC applicants to opt for supervision in lieu of the oral examination required for licensure; and 3) set standards for supervised practice and standards for LADC licensure supervisors.

- On January 1, 2007, exemption from licensure for counselors working in county, state, city, and hospitals ended. Alcohol and drug counselors working in these settings are now required to be licensed.

- In 2007 legislation related to fees passed and established fees for continuing education sponsors and approved supervisors.

- In 2007 legislation passed reducing the annual base budget for the Board by approximately 42%. The LPC program annual base budget was reduced from $350,000 to $144,000, and the annual base budget for the LADC program was reduced from $323,000 to $250,000. While the base budget decreases have helped with the programs' debts, it has been crippling with respect to staff workloads and adequate customer service. The reduction in the base budget has prevented BBHT from hiring additional staff.

- In March 2008, the Legislative Committee of the Board started working on rewriting the LADC regulations. The purpose of the rewrite is to clarify and simplify existing statutory and rule language with the goal of making Board operations more efficient. The Board established a Public Advisory Committee to assist the Board's Legislative Committee in rewriting regulations for LADCs in order to remove confusing, obsolete, repetitive, and unnecessary language.

- On July 1, 2008, the degree requirement for licensure changed from an associate's degree or the equivalent to a bachelor's degree.

- On October 23, 2008 the Office of the Legislative Auditor issued a report related to the Board's Internal Control and Compliance Audit for July 1, 2004 through June 30, 2008. The

Board has followed the recommendation of the Legislative Auditor related to timeliness of deposits, review of payroll reports, inventory control for fixed assets, and reconciling receipts to licenses issued.

- On June 30, 2009, the Board entered into a contract with a database consultant to create a new database that would replace the information in four obsolete databases, consolidate the information in those databases, and result in a single Board database capable of performing all of the licensure, complaint resolution, and reporting functions necessary to efficiently carry out the regulatory responsibilities of the Board.

- During the 2011 Legislative Session, the Legislative Committee of the Board worked with House and Senate authors to pass a bill to create a new chapter of law regulating alcohol and drug counselors. The bill resulted in the creation of licensure processes and regulatory language for LADCs that are consistent with those of other health licensing boards. The Senate passed their version of the bill, but the bill stalled in the House, so the legislation did not pass. The Board plans to pursue this matter again during the 2012 legislative session.

- By June 2011, BBHT addressed a budget revenue shortfall by maintaining the program staffing level at 2.0 FTEs and developing more efficient licensure processes. In the 2006-2008 biennium, the LADC program collected $372,466 in excess of its expenditures. In the 2008-2010 biennium, the LADC program collected $320,834 in excess of its expenditures. Both of these amounts were applied to the program debt. The Board is on target to retire the LADC program debt by 2013 (although we estimate it may happen sooner). The $99 surcharge that is paid at the time of initial application for or renewal of an alcohol and drug counselor license expires June 30, 2013.

A Brief History of LPC and LPCC Licensure – 2003 to the present

- In May 2003, the board was established to license and regulate professional counselors (LPCs) and spending authority (but no actual start-up funding) was authorized in the amount of $350,000 per year. The first board meeting was held in December 2003. The first LPC licenses were issued in June 2004.

- In 2004 application fees, renewal fees and other fees were established.

- On June 15, 2004, the Board, in conjunction with the Board of Marriage and Family Therapy, submitted a report to the Legislature addressing the issue of whether the two boards should merge. The consensus and recommendation of the merger committee was that a merger of the BBHT and the BMFT would not result in greater efficiency or appreciable cost savings. The two boards remain as autonomous boards.

- In 2005 the board adopted rules related to license renewals and termination of licenses, continuing education, supervision, and professional conduct.

- In 2005, the board proposed legislation to streamline the licensure process for both LPCs and LADCs. The legislation passed and, among other provisions: 1) allowed for a grandparenting period until July 1, 2007, for LPC licensure of experienced counselors; 2) permitted LPC applicants to complete licensure requirements post-degree in order to qualify for LPC licensure; 3) extended the first LPC CE reporting period to 4 years to allow licensees to complete graduate coursework required for continuing education; 4) permitted the Board to temporarily suspend an LPC license; 5) permitted the Board, with probable cause, to order a mental, physical or chemical dependency examination or evaluation and gain access to medical data on an LPC or applicant; 6) removed the Board from overseeing the licensure examinations for LADC licensure; 7) permitted LADC applicants to opt for supervision in lieu of the oral examination required for licensure; and 8) set standards for supervised practice and standards for LADC licensure supervisors.

- On July 1, 2005, the board began licensing and regulating licensed alcohol and drug counselors (LADCs) when the program transferred to the board from the Department of Health. The inherited LADC program debt was approximately $1 million.

- Between 2005 and 2007, board designees met several times with representatives of the other mental health boards, professional associations, client advocacy groups, counselor educators, and staff from the Department of Human Services to explore credentials required to treat mental illness and receive medical assistance reimbursement. BBHT, the other mental health licensing boards (Psychology, Social Work, Marriage and Family Therapy), and the Department of Human Services were directed by the legislature to complete a study by January 15, 2007, to evaluate requirements for licensed mental health practitioners to receive medical assistance reimbursement. The report was submitted as required and is entitled "Baseline of Competency: Common Licensing Standards for Mental Health Professionals."

- In 2007, the Board proposed legislation based on the findings in the task force report to create the Licensed Professional Clinical Counselor (LPCC) license. The legislation passed and, among other provisions: 1) created education and supervision requirements for LPCCs and 2) allowed for a transition period until August 1, 2011, for LPC licensees to convert to the LPCC license without completing a second national examination. Due to costs related to adding LPCCs to the definition of mental health professional in the adult and children's mental health acts, legislation that would have given full recognition to LPCCs as mental health professionals failed. The result was that although LPCCs met the educational and experience requirements that qualified them to perform services, LPCCs could not obtain MA provider status nor could they receive reimbursement from public funds.

- In 2007 legislation related to fees also passed and created new application and licensure fees and established fees for continuing education sponsors and approved supervisors.

- In 2007 legislation passed reducing the annual base budget for the Board by approximately 42%. The LPC program annual base budget was reduced from $350,000 to $144,000, and the annual base budget for the LADC program was reduced from $323,000 to $250,000. While the base budget decreases helped reduce the programs' debts, it has had severe

negative impacts on staff workloads and customer service. The reduction in the base budget has prevented BBHT from hiring additional staff.

- In May 2008, BBHT commemorated five years as an independent regulatory board. Minnesota Statutes section 214.055 requires the following: "A health-related licensing board that is created on or after September 1, 1995, must establish a fee structure which fully recovers its expenditures during a five-year period." At the end of fiscal year 2008 (June 30, 2008), BBHT's LPC receipts totaled $170,329.50 and expenditures totaled $105,843.32. The year's surplus was $64,486.08 which was applied against the accumulated LPC program debt. At the end of FY 2008 the program debt totaled $496,517.91.

- By June 30, 2008, BBHT addressed a budget revenue shortfall by increasing LPC licensure fees, creating new fees for LPCs, LPCCs, and LADCs, and maintaining the staffing level at 3.0 FTEs. In the 2006-2008 biennium, the Board collected $440,748 in excess of its expenditures and applied it to program debt. The Board is on target to retire the LADC program debt before 2013. If current revenue forecasts are realized, the LPC program will be out of debt before 2014.

- On October 23, 2008 the Office of the Legislative Auditor issued a report related to the Board's Internal Control and Compliance Audit for July 1, 2004 through June 30, 2008. The Board has followed the recommendation of the Legislative Auditor related to timeliness of deposits, review of payroll reports, inventory control for fixed assets, and reconciling receipts to licenses issued.

- On May 15, 2009, Governor Pawlenty signed into law a bill making LPCCs mental health professionals.

- On June 30, 2009, the Board entered into a contract with a database consultant to create a new database that would replace the information in four obsolete databases, consolidate the information in those databases, and result in a single Board database capable of performing all of the licensure, complaint resolution, and reporting functions necessary to efficiently carry out the regulatory responsibilities of the Board.

- On October 30, 2009, the Minnesota Department of Human Services received federal approval for the Medicaid State Plan Amendment regarding LPCCs--effective January 1, 2010. LPCCs are now eligible for reimbursement for services provided to Medical Assistance and MinnesotaCare clients.

- On August 1, 2011, the current LPCC Conversion Method route to licensure expired (Minn. Stat. section 148B.5301, subdivision 3). There is still a conversion method to LPCC licensure for persons who hold the Minnesota LPC license (subdivision 4), but the requirements are virtually the same as those for the general application method. Experienced counselors in Minnesota and from other jurisdictions are unreasonably restricted from entering LPCC practice. For example, very specific graduate coursework subject matter and required numbers of graduate credits along with restrictive supervision requirements bar experienced counselors from obtaining licensure unless they return to graduate school and/or

repeat supervised practice, even though they have been competently providing clinical mental health services for many years. Only 3 states have regulations substantially similar to those in Minnesota allowing for LPCC licensure by reciprocity. The Board plans to address this issue in future legislation.

Section II. Operations – Effectiveness and Collaboration

The efficiency and effectiveness of the Board

Accomplishments and Efforts to Achieve Goals

The brief histories of the LADC and LPC/LPCC programs in the previous section best summarize the Board's accomplishments in achieving regulatory goals. Some of the specific efficiency measures the Board has adopted include the following:

- Moved from monthly to quarterly board meetings in 2006
- Used board delegations of authority to committees and staff members for certain functions to cut down on required full board meetings to approve license applications, legislative proposals, etc.
- Installed Voice-Over-Internet phones (VOIP) which has allowed for the use of more sophisticated voice messaging. Voice messages are converted to audio computer files and attached to e-mails that are sent to the appropriate staff member. The VOIP system has also allowed for the use of an interactive voice response system that more efficiently routes calls to the appropriate staff member.
- Invested in a database that replaced the information in four obsolete databases, consolidated the information in those databases, and resulted in a single Board database capable of performing all of the licensure, complaint resolution, and reporting functions necessary to efficiently carry out the regulatory responsibilities of the Board. The BBHT supports electronic technology to meet the efficient licensing processes for Minnesota Licensees. Currently the Board offers electronic renewal of licensees, online license verifications, online search for approved licensure supervisors, and the ability for licensees and applicants to submit name and address changes electronically. The Board initiated online Electronic Government Services within the past two years with approximately 50% of licensees using online renewal.
- no overtime
- no out of state travel
- no funds expended to join national organizations
- use email as opposed to U.S. mail whenever possible
- organized all in-person appointments to Tuesday and Thursday afternoons
- worked with counselor education programs to establish coursework grids to streamline license application approvals with respect to educational and coursework requirements for licensure
- Built and maintained strong working relationships with professional associations to streamline legislative initiatives

As noted above, the BBHT was created in 2003 and it regulates professional counselors and alcohol and drug counselors in Minnesota. Professional counselors are master's level mental health counselors employed in a variety of settings who provide mental health counseling services to adults, families, and children in Minnesota. Alcohol and drug counselors provide counseling services to persons relative to the abuse of or the dependency on alcohol or other drugs.

Since its creation, the Board has struggled with complex statutory and rule requirements, inadequate budget, and a resultant staffing level that is only minimally adequate to provide good customer service and quality protection to the public. Despite these challenges, the Board has successfully moved forward with legislation to improve licensure processes, has instituted office policies and procedures to keep administrative expenses at a minimum, and has developed regulatory processes that are efficient and cost effective. If revenue estimates are realized, both programs will be out of debt before 2014.

With the help of the Legislature, changes were made in 2004, 2005, 2007, and 2009 to set fees, streamline licensing requirements, create a clinical level of professional counselor licensure, and define LPCCs as mental health professionals. The first LPC licenses were issued in June 2004. Through the rulemaking process the board adopted 4 sets of rules related to license renewal, continuing education, supervision, and professional conduct. The rules were adopted in 2005 and expedited rules clarifying continuing education requirements were adopted in 2006. The Board plans to pursue legislation in 2012 that will improve the regulation and licensure process for alcohol and drug counselors and professional counselors.

As of July 1, 2005, the Board began regulating Licensed Alcohol and Drug Counselors when the program was transferred to the Board from the Department of Health (MDH). In addition to BBHT inheriting a program debt from MDH of $1,044,000, MDH also transferred 263 open complaint files. Over the past five years, BBHT has reduced the number of open complaint files to only 62 as of June 30, 2010 (52 of which have been open for less than one year). BBHT has accomplished this with only 2 full time equivalent employees for the LADC program while MDH had 3.33 full time equivalent employees assigned to the LADC program.

In 2006 the Board participated in a task force created by the legislature to make recommendations on common licensing standards for mental health professionals. The task force report was issued on January 15, 2007, and the LPCC license was created that same year based on recommendations in that report. The first LPCC licenses were issued in March 2008. Since licensure was created LPCs and LPCCs have struggled for recognition, employment, and private and public insurance reimbursement despite the rigorous education and supervision standards they have to meet to obtain licensure. Unfortunately, legislation to make LPCCs mental health professionals failed in 2007 and 2008, preventing LPCCs from being Medical Assistance program providers. On May 15, 2009, Governor Pawlenty signed into law a bill making LPCCs mental health professionals. Effective January 1, 2010, the Minnesota Department of Human Services received federal approval for the Medicaid State Plan Amendment making LPCCs eligible for reimbursement for services provided to Medical Assistance and MinnesotaCare clients.

Similar to the other health licensing boards, the BBHT is funded through fees paid by applicants and licensees which are deposited in the Special Revenue Fund. The BBHT base budgets are small: a $151,000 annual budget for the LPC program; and a $263,000 annual budget for the LADC program. The majority of the budgets are used for staff salaries, office rent, equipment and supplies. In 2008, legislation was passed [Session Laws chapter 363, Art 18, section 5, subd. 1] requiring that $3.219 million be transferred from the Special Revenue Fund to the General Fund to fund other programs. The BBHT share was $90,000 even though the BBHT does not have a positive balance in the Special Revenue Fund. This loss of funds is crippling to a small board like BBHT which has worked so diligently to be fiscally responsible and to retire its debts. Legislation passed in 2010 resulted in several million more dollars being transferred from the Special Revenue Fund to the General Fund to fund other programs. The seizing of Special Revenue Fund resources to fund other programs reduces the ability of health licensing boards to protect the public, does not serve the licensees who pay the fees to regulate their professions, and may increase costs for consumers who receive services from licensed health professionals.

The goals of the Board in the next five years include retiring program debt, utilizing its website and online services to improve the efficiency of regulation and licensing processes, and maintaining an adequate staffing level of skilled personnel to provide high quality services to applicants, licensees, and the public.

Collaboration, Cooperation, Shared Services

This Board acts in a collaborative manner with the other health-related licensing boards. Collaboration greatly increases the efficiency of all the boards and results in significant cost savings to all boards.

Administrative Services Unit

Minnesota was a pioneer in the trend toward collaboration and shared administrative expenses and services among autonomous boards. In 1990, all health licensing boards were co-located at a single site and began sharing equipment, conference rooms, utility rooms, and other physical space. In 1993, all of the Minnesota health boards joined together to form the "Administrative Services Unit" (ASU), and ASU began providing services to all the health boards in May 1995.

The board offices are all located in the same building at 2829 University Ave SE in Minneapolis. With the assistance of the Department of Administration, we recently negotiated a new seven-year lease with the building owner that actually reduced our lease payments. We also jointly lease and share three conference rooms and two rooms that house shared printers. (One of those rooms also serves as a centralized mail room). We jointly purchase and share certain IT equipment such as network servers, printers and copiers, a folding and envelope stuffing machine, audiovisual equipment, recording systems and an electronic public notice board that is located in the lobby of the building.

The boards' collaborative operational model is based on centralizing business functions in the ASU. ASU provides shared service to the Boards in the areas of finance, budgeting, accounting,

purchasing, reporting, banking, human resources, professional and technical contracts, information technology, policy development and payroll. ASU also facilitates the Boards' cooperative policy and planning efforts, and coordinates the Voluntary Health Care Provider Program (which provides malpractice coverage for physicians, physician assistants, dentists, dental hygienists, and nurses serving in a voluntary capacity at a charitable organization). In essence, ASU performs common administrative functions for all the boards, leaving individual boards free to concentrate on the technical and unique aspects of licensure and discipline in order to better serve and protect the public.

The Administrative Services Unit (ASU) is funded by all the independent boards and is staffed by individuals with expertise in accounting and financial management, human resources, contracts, purchasing and information technology. ASU employs six full-time staff members, one 0.7 FTE temporary staff member and one 0.6 FTE staff member to provide services to the 18 Health-Related Licensing Boards and their 170 employees. (Please note that two of the full-time staff members and the temporary 0.7 FTE staff member are IT specialists and, consequently, are technically now employees of the Office of Enterprise Technology – although they continue to do work for the Boards and their salaries are still jointly paid by the Boards). Jointly funding the ASU means that each Board does not have to hire staff with expertise in these areas. Some of the larger Boards have IT specialists that focus exclusively on Board-specific projects. The IT specialists assigned to ASU provide programming and desktop support to smaller boards and administer the IT equipment, servers and networks used by all of the Boards. The Boards' have been told that the Small Agency Resource Team (SmART) that is run by the Department of Administration was modeled after our ASU.

Health Professionals Services Program

We jointly fund the Health Professionals Services Program (HPSP), which provides the Boards with an alternative method for monitoring health care professionals whose ability to safely practice is impaired by chemical dependency or by physical or mental illness. The case workers at HPSP work with impaired health professionals to ensure that they have appropriate evaluation, treatment and monitoring. Those case workers have special training and expertise in performing these duties. Please note that the HPSP is authorized by Minnesota Statutes §214.31.

Council of Health Boards

Minnesota Statutes §214.025 reads: "The health-related licensing boards may establish a Council of Health Boards consisting of representatives of the health-related licensing boards and the Emergency Medical Services Regulatory Board. When reviewing legislation or legislative proposals relating to the regulation of health occupations, the council shall include the commissioner of health or a designee". The Boards have, in fact, established the Council of Health Boards (CHB), which consists of the Executive Director and one member of each of the health licensing boards and the EMSRB. Minnesota Statutes §214.001 permits the chair of a standing committee in either house of the legislature to request information from the CHB on proposals relating to the regulation of health occupations. The CHB has provided the Legislature

with many reports concerning proposals to regulate health occupations. The CHB also acts as an additional forum at which the Boards can discuss issues of mutual concern.

Section III. Authority for Additional Activities Not Specified in Statute

Identification of any activities of the Board in addition to those granted by statute and of the authority for those activities and the extent to which those activities are needed;

Executive Directors Forum

[Text for this section was provided by Administrative Services Unit staff and the other executive directors.]

The Executive Directors (ED) Forum consists of the Executive Directors of each independent board. The Forum meets at least once a month to discuss issues and concerns affecting all boards, and is governed by a standard set of Bylaws. The Forum was created with a goal of working together on matters of common concern, including policy development, legislation, and technological improvements, thus increasing the efficiency and effectiveness of each individual board. The Forum establishes committees to develop recommendations for consideration by the Forum. These committees include the Policy Committee and the Management Committee. The primary objective of public safety is achieved most effectively if primary staff is assigned to focus on a specific health profession. To assure fiscal efficiency, boards review general objectives and promote cooperation among the boards through the Executive Director Forum in an effort to eliminate duplication of similar effort. The Forum reviews general objectives, reviews policy, promotes intra-board cooperation, assures fiscal efficiency, and eliminates duplication of similar effort.

Some of the tasks accomplished through the action of the Executive Directors Forum include:

- Virtualization of servers, resulting in substantial savings and greater storage capacity. On behalf of the Executive Directors Forum, a submission was made to the National Association of State Chief Information Officers (NASCIO) for Disaster Recovery Planning, regarding the Health Licensing Boards' project of virtualizing its servers arising from its development and application of its Continuation of Operations Plan (COOP).
- Further technological advances include addition of a Shared Storage Area Network, tripling storage capacity of the Boards, and advances toward using technology at Board meetings to reduce reliance on paper documents.
- Participation in cooperative efforts with the Department of Health and among the Boards to share information regarding licensee / registrant investigations in full compliance with Data Practices Act requirements, including ad hoc Just Culture / Health meetings regarding coordinating Department of Health investigations and Health Board investigations, and exchange of information under § 214.10, subd. 8 (c). This has included development with the Attorney General Office of a data sharing memo that

permits joint investigations to be conducted among health licensing boards, and provides for sharing of investigative data.

- Reviewed requirements and limitations pertaining to criminal background checks of applicants, and received updates on proposed legislation from law enforcement entities.
- Standardization of online complaint form throughout health licensing boards. Review was undertaken, with cooperation and guidance from Attorney General's Office, of methods to provide standard information to complainants at the time of opening a complaint file, as well as standardization of appeal information in closing letters under the auspices of a temporary Chapter 214 Work Group.
- Response to surveys regarding IT capacity, security and functionality.
- Enactment and approval of the Boards' first AWAIR plan, in compliance with federal and state requirements.
- Policy committee regularly met to provide coordinated response for Boards regarding legislative initiatives.
- A joint workforce planning report was completed, to prepare for ensuring qualified, competent workforce.
- The ED Forum worked collaboratively in providing information to MN Responds! to ensure that credentials of licensed health professionals are quickly available in case of a major emergency, as well as arranging for regular transfer of data between Department of Health and health licensing databases.
- Electronic governmental services were increased and improved, and include expanded information available online and greater interactivity, as well as heavy use by licensees of online renewal services.

Individual board staff and Executive Directors participated in numerous organizations regarding health and safety, including:

- Minnesota Alliance for Patient Safety
- National Board of Medical Examiners Committee on Irregular Behavior and Score Validity for the United States Medical Licensing Examination.
- National Association of Boards (NAB) Executive Committee
- State Executive Forum and State Governance Committees of the National Association of Boards
- Future Workforce Analysis Cabinet in Washington, D.C.
- Association of Chiropractic Board Administrators
- National Council of State Boards of Nursing Commitment to Ongoing Excellence (CORE) project
- Minnesota Center for Nursing
- Minnesota Alliance for Patient Safety
- Home Care Advisory Group
- Department of Human Services' Dental Access Advisory Committee
- Department of Human Services task force on common licensing standards for mental health professionals
- State Information Security Council
- HPSP Program Committee
- Drive to Excellence Licensing Steering Committee

- Drive To Excellence Procurement
- Drive to Excellence Sourcing Communication
- Drive To Excellence MAPS Project
- Continuation of Operations Planning (COOP)

Management Committee

The Management Committee makes recommendations to the Executive Directors Forum on issues relating to the internal management of the boards' cooperative activities. The responsibilities of the committee include the following:

- Management of the Administrative Services Unit budget and review of ASU performance
- Through the Administrative Services Unit, administers shared conference rooms and shared equipment, such as copiers
- Coordinating the boards' computer collaboration efforts
- Developing recommended policies and procedures for all boards, and reviewing best practices
- Oversight of the Administrative Services Unit

Policy Committee

The functions of the policy committee have been to make recommendations to the Executive Directors Forum on issues relating to public policy. The responsibilities of the committee have included the following:

- Reviewing legislative proposals
- Making recommendations on legislative initiatives affecting all the boards
- Undertaking efforts to make investigative data more readily available to share among health boards

Information Technology Workgroup

Under the auspices of the Executive Director Forum, an Information Technology Work group has been in operation for several years, and this group is responsible for coordination of HLB technological projects and implementation of technological improvements.

Section IV. Authority related to Fees, Inspections, Enforcement

An assessment of authority of the Board relating to fees, inspections, enforcement, and penalties;

Licensure Fees

Fees related to professional counselor licensure are set forth in Minnesota Statutes section 148B.53, subdivision 3. Fees related to alcohol and drug counselor licensure are set forth in Minnesota Statutes section 148C.12. Fees were last adjusted in 2007. Board legislation in 2007 related to fees passed and created new application and licensure fees and established fees for continuing education sponsors and licensure supervisors.

LPC and LPCC Fees	**Amount**
LPC and LPCC Application Fee	150
LPC and LPCC Initial License Fee	250
LPC/LPCC Renewal Fee (Active)	250
LPC/LPCC Renewal Fee (Inactive)	125
LPC and LPCC Late Renewal Fee	100
Board Order Copy	10
License Verification	25
Duplicate Certificate Fee	25
Supervisor Application Fee	30
CE Course Sponsor Fee	60
Professional Firm Renewal Fee	25
Initial Registration Fee	50
Annual Registration Renewal Fee	25

LADC Fees	**Amount**
Application for licensure	295
Biennial Renewal Fee (Active)	295
Biennial Renewal Fee (Inactive)	150
Temp. Permit Application Fee	100
Temp. Permit Renewal Fee	150
Late Renewal Fee	25% of renewal fee
License Verification	25
Surcharge Fee (Lic. App. & Renewal)	99
Approved Supervisor App. Fee	30
Continuing Education Sponsor Fee	60
Duplicate Certificate Fee	25
Board Order Copy Fee	10
Renewal Fee After Expiration	Renewal fee, late fee, and $100 for CE review
Penalty Fee (Practice w/o license after	Renewal fee

expiration or before renewal)	for any part of first month, plus renewal fee for any part of any subsequent month up to 36 months
Penalty Fee (applicant practice w/o license)	Lic. app. fee for any part of first month, plus lic. app fee for any part of any subsequent month up to 36 months
Penalty Fee Related to Late CE Reporting or Insufficient CE	$100 for late report; $20 for each missing clock hour

Enforcement Authority

The BBHT also has statutory authority to take a variety of disciplinary and corrective actions, issue cease and desist orders, and impose civil penalties. Minnesota Statutes chapter 148C contains the authority for the Board to take disciplinary or other actions with respect to alcohol and drug counselors. Minnesota Statutes chapter 148B contains the authority for the Board to take disciplinary or other actions with respect to professional counselor and professional clinical counselors.

Minnesota Statutes chapter 148C (Alcohol and Drug Counselors)

Minnesota Statutes section 148C.091 gives the Board the authority to refuse to grant a license or to take various forms of disciplinary actions against a license, including revocation, suspension, limitations and conditions, civil penalties, censure or reprimand, temporary suspension, or automatic suspension.

Minnesota Statutes section 148C.093 gives the Board the authority to issue cease and desist orders and to obtain injunctive relief to stop a person from violating or threatening to violate a statute, rule, or order which the board issued or has authority to enforce.

Minnesota Statutes Chapter 148B (Professional Counselors)

Minnesota Statutes section 148B.59 gives the Board the authority to refuse to grant a license or to take various forms of disciplinary action against a license, including revocation, suspension, limitations and conditions, civil penalties, censure or reprimand, requirement to complete educational courses, and referral to the health professionals services program.

Minnesota Statutes section 148B.5901 gives the Board the authority to temporarily suspend a license.

Minnesota Statutes section 148B.5905 gives the Board the authority to direct a person to submit to a mental, physical, or chemical dependency examination or evaluation.

Section V. Regulation and Public Protection

Whether less restrictive or alternative methods of performing any function that the agency performs could adequately protect or provide service to the public.

Regulatory Authority

The Board, like regulatory entities in almost all other states, licenses professional counselors and alcohol and drug counselors. All fifty states require full licensure for professional counselors. While not all states require full licensure for alcohol and drug counselors (*e.g.* some only require certification or registration), the trend is moving toward licensure for this profession. Indeed, the national trend is also moving in the direction of increased education requirements for licensure of alcohol and drug counselors. It is the Board's position that licensure is the appropriate level of regulation for professional counselors and alcohol and drug counselors. Counselors work directly with vulnerable client populations (those in need of mental health and chemical health services), and incompetent or unethical practitioners pose a significant risk of harm to the clients receiving services and to the general public.

Fiduciary Obligation

Minnesota Statutes sections 214.055 and 214.06 require the Board to collect fees sufficient to cover expenditures. Fees collected are deposited in the State Government Special Revenue Fund and appropriated by the legislature. An alternative and less burdensome method would be for the Board to have fiscal authority without this legislative appropriation. The Board collects fees in excess of its expenditures and has adequate funding without the mechanism of having the Legislature appropriate the funding back to the Board. Fees established by the Legislature and oversight by the Minnesota Office of Management and Budget would provide external and internal audit control mechanisms and assurance to the public of compliance with Minnesota law and best accounting practices while deleting a layer of bureaucracy.

Legal Services

[Information for this item was provided, in part, by the Board of Nursing] Minnesota statutes sections 8.06, 214.10, and 214.103 (and possibly others) require that legal and investigative services be provided by the Attorney General's Office (AGO). However, the Boards of Dentistry, Medical Practice, and Nursing have implemented a system in which board employees draft legal documents (notices of conference, stipulations and orders, agreements for corrective action, orders for unconditional license, etc.) rather than the AGO staff. The AGO staff attorneys review the documents for accuracy and compliance with the law. This practice has resulted in a 50% decrease in the time from receipt of a complaint to a review before the Board

of Nursing. A logical expansion of this practice would be for all the health-licensing boards to retain their own legal counsel and investigative staff; thereby eliminating a layer of involvement from another agency and reducing legal services costs. At present, the health-related licensing boards pay the AGO $123 per hour for attorney services and $68 per hour for investigator services. If all the boards changed to the Dentistry/Medical Practice/Nursing model, legal and investigative services would be shared among the health-related licensing boards on a fee for use basis. The AGO staff would be utilized for document review as needed and for all litigation. Based on the Board of Nursing experience with drafting of notices, complaint resolution time would be reduced and public safety enhanced.

E-Licensing System

One of the emerging issues of great concern to the Board relates to legislation passed in 2009, which called for creation of a statewide electronic licensing system (Minnesota Statutes section 16E.22). The statute requires that the Board collect a ten percent surcharge of initial license and renewal fees for six years beginning July 1, 2009, and continuing through June 30, 2015. In FY 10, BBHT collected surcharge fees from its licensees in the amount of $55,428 and transferred those funds to an electronic licensing account for use by the Office of Enterprise Technology (OET). The six-year total of funds collected by the BBHT for OET's use will exceed $330,000. It is unknown to the Board how OET is using the funds, and it is uncertain how this initiative will improve the critical functionality of the regulation database that the Board already has in place. If the OET cannot demonstrate that connecting to their licensing system will be cost effective and increase online functionality, it is the BBHT's position that the BBHT (and perhaps other health licensing boards, although the BBHT cannot speak on their behalf) should be exempt from the statewide electronic licensing system. If the OET does not dedicate any of the funds it has collected from BBHT licensees, and if the BBHT is required to pay for the costs to connect to a statewide electronic licensing system without an increase in its base budget, it will have a significant impact on the Board's ability to regulate the professions it is charged with regulating. The Board cannot afford to pay any costs out of its operating budget to connect to the OET statewide system, and any fee increases to fund the connection could make LADC and LPC/LPCC licensure fees some of the highest in the country. The BBHT has already recently invested in a licensing and regulatory database that meets its unique needs.

Section VI Agency Structure and Program Administration

<u>The extent to which the jurisdiction of the Board and the programs administered by the Board overlap or duplicate those of other agencies, the extent to which the Board coordinates with those agencies, and the extent to which the programs administered by the Board can be consolidated with the programs of other state agencies;</u>

The BBHT has sole regulatory authority over licensed alcohol and drug counselors and licensed professional counselors. No other agencies have regulatory authority over these licensees, and no other agency duplicates or overlaps the duties performed by the BBHT. BBHT exchanges information on a regular basis with the Department of Human Services Licensing Division (which licenses the facilities in which many BBHT licensees work), and BBHT exchanges

information with other health licensing boards if a BBHT licensee or applicant is also licensed with another health licensing board.

In the creation of the Board of Behavioral Health and Therapy (BBHT) in 2003, the Legislature included a requirement that the BBHT, in conjunction with the Board of Marriage and Family Therapy (BMFT), provide a report to the Legislature and address a recommendation for the merger of the two boards (Recommendations on Merging the Minnesota Boards of Behavioral Health and Therapy and Marriage and Family Therapy, A Report to the Minnesota Legislature, June 15, 2004).

This legislation also included a provision that the regulation of alcohol and drug counselors would be transferred from the Department of Health to the BBHT on July 1, 2005. The consolidation of professional counselor licensure and alcohol and drug counselor licensure under a single board has been successful. Removing LADC regulation from a large agency model resulted in the LADC program being administered in a fashion similar to that used by other autonomous licensing boards. The BBHT reduced staffing costs for the LADC program, streamlined application and licensure forms and processes, cleared a backlog of complaints, and stayed on target to recover the program debt by 2013.

Careful analysis of a proposed merger with the Board of Marriage and Family Therapy in 2004, however, resulted in a conclusion that consolidating the two boards would not benefit licensees or members of the public or result in cost savings. Most of the following information in this section is drawn from the merger report.

There are several structural models for regulation of LPCs just as there are for MFTs throughout the country. In some cases, MFTs and LPCs are under the jurisdiction of a composite board and members are appointed from each of the respective professions as well as from the public. Independent boards for marriage and family therapy and professional counseling also operate in many jurisdictions.

In 1987, the Minnesota Legislature provided for the licensure of marriage and family therapists, social workers, and the oversight of unlicensed mental health practice under the "Office of Social Work and Mental Health." After three years of operation the Legislature created a task force under the Commissioner of Health to investigate the viability of this structure. Based on the resulting report, the Legislature made social work and marriage and family therapy autonomous boards in 1991.

Review of the literature suggests that the issue of board structure is understudied. One of the major reasons for this is that there is considerable state-by-state variation in regulatory models creating difficulty when comparing between and among states. Furthermore, states have failed to conduct controlled studies of the models of board structure they employ at any given time, so there is little historical record of what has worked well over time. In a study prepared for the Minnesota Health Licensing Boards in 2003 to examine governance structure and board effectiveness, Research Analyst Anna Bonelli concluded that:

- ✓ No consensus exists on the most effective board governance structure. There are no universally recognized "best practices" for evaluating board performance.
- ✓ Cost savings from consolidation of boards is inconclusive.
- ✓ The effectiveness of various governance models regarding disciplinary matters remains speculative.
- ✓ Scope of practice disputes can result in a reduction of access to care for consumers. Although there is speculation that consolidation or an oversight board can mitigate these disputes, evidence is sparse.
- ✓ Board structure should attempt to minimize political bias by having clear lines of accountability and efficacious public representation.[1]

Governance structure for regulating health professionals varies among states with a general trend towards consolidating board functions, staff, and resources from previously autonomous boards. In 2003, sixteen states maintained independent occupational licensing boards with four additional states allowing for shared administrative resources among boards. Thirty states had consolidated occupational licensing boards that are part of a centralized agency, and the boards have varying degrees of decision-making authority in these organizational models. While Minnesota health-related licensing boards are set up to operate as autonomous boards, they all are located in the same building and share certain administrative functions.[2]

The primary appeal of board consolidation is potential administrative cost savings. Such savings arguably may be derived from reduced staff and elimination of redundant overhead expenses. Proponents of consolidation also maintain that it provides boards with the opportunity to "promote overlapping scopes of practice and share expertise for like occupations" and "encourage standardization of policies among boards."[3] Opponents of consolidation suggest that it results in the loss of clear lines of authority and decreased control over the allocation of funds, resulting in the licensure fees of one professional license being used to regulate another.

The disciplinary function of boards is at the heart of a board's mission of providing public protection from those practitioners providing sub-standard care. Consolidated boards are often viewed as providing objective standardized disciplinary procedures where the bias of professional board members will have less impact. However, some studies indicate that consolidated boards take fewer disciplinary actions than independent boards.[4] Proponents of autonomous boards argue that not only do the investigative procedures across several occupations dilute the staff's expertise but also makes them less effective than if they served one occupation.[5] More importantly, because board consolidation results in fewer board members holding a particular professional license, it may result in the *de facto* vesting of decision-making authority in disciplinary matters in these limited few.

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[1] Anna Bonelli, *Health Licensing Boards and Governance Structure—Prepared for the Minnesota Health Licensing Boards*, December 1, 2003, p. 5 (on file with BMFT and BBHT)
[2] Bonelli, pp. 10-11
[3] Bonelli, p. 4
[4] Bonelli, p. 22; *Occupational Regulation –A Program Evaluation Report*, Office of the Legislative Auditor, State of Minnesota, February 1999, p. 9
[5] Bonelli, p. 25

Bonelli's findings generally support aspects of the February 1999 Program Evaluation Report on Occupational Regulation prepared by the State of Minnesota Office of the Legislative Auditor. The report contains the following conclusion: "we found no convincing evidence that any particular organizational arrangement or process provides an assured solution to any given problem associated with occupational regulation."[6]

As mentioned above in section II of this Sunset Report, Minnesota was a pioneer in the trend toward collaboration and shared administrative expenses and services among autonomous boards with the creation of the ASU. The health licensing boards also cooperate in other ways to operate with more cost-effectiveness and consistency. The boards address common issues through the Executive Directors Forum, receive consistent legal advice and representation from the AGO in the licensure, complaint investigation, and disciplinary processes, respond to legislative proposals relating to health occupation regulation through the Council of Health Boards, and manage the Health Professionals Services Program (a diversion program to assist and monitor health professionals with substance, psychiatric, or physical disorder which could impair their ability to practice safely). The health boards also share disciplinary investigative costs when a person is licensed by more than one board.

The Boards of Social Work and Psychology regulate professionals engaged in occupations which include provision of some services similar to those provided by LPCs and LMFTs. It was the merger report committee's view that these boards have been successfully operating as autonomous boards for many years and should remain autonomous. It is noteworthy that the Office of Social Work and Mental Health, which provided for the licensure of marriage and family therapists and social workers, and the oversight of unlicensed mental health practice, only lasted 3 years. The agency experienced a multitude of problems in its 3 years of operation, and the Legislature created a task force under the Commissioner of Health to investigate the viability of this structure. Based on the resulting report recommendations,[7] the Legislature made social work and marriage and family therapy autonomous boards in 1991. In its first year of independent operation, the BMFT cut its operational expenses by 25 percent. Between 1987 and 2004, the BMFT raised its licensure fees only once from $115.00 to $125.00. This lends support to the findings of other studies that board structure (*e.g.*, consolidation) does not necessarily result in greater efficiency or significant savings. A 1992 publication by the Council of State Governments "cautions policy makers who assume that efforts to reorganize executive branch agencies will result in costs savings" and "the political influences of budget making often result in a negation of savings."[8]

The merger report committee concluded that many states have moved to consolidate their boards or board functions in the last several decades motivated by a) the expectation of cost savings as a result of economies of scale, b) the prospect for small occupations to share otherwise redundant administrative inputs, c) the opportunity to promote overlapping scopes of practice and share expertise for like occupations, and d) to encourage standardization of policies among boards.

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[6] *Occupational Regulation –A Program Evaluation Report*, p. 86

[7] *Interagency Task Force on Mental Health Regulation: Recommendations for Changes in Minnesota's Mental Health Regulatory System*, Report to the Commissioner of Health and to the Minnesota Legislature, Minnesota Department of Health, Health Systems Development Division; March 1991, pp. 4, 21

[8] Bonelli, pp. 22-23

Through location in the same building, development of the Administrative Services Unit for sharing services and costs, development of the Executive Directors Forum and the Council of Health Boards, and other interagency activities between boards, Minnesota's health-related licensing boards have demonstrated a spirit of consolidation and shared administrative resources while maintaining the benefits of autonomous board structure and functioning. Specifically, the boards benefit by having the ability to concentrate on the policy expertise in the areas regulated by the board they administer. Because the board members and executive directors of each board have subject matter expertise, they are in the best position to supervise and evaluate the performance of staff members conducting the licensing and regulatory activities of the board. Consolidation of boards might very well introduce a new and unnecessary layer of bureaucracy – the upper-level management and staff necessary to supervise an umbrella organization as a whole.

Furthermore, although the idea of consolidating smaller boards is theoretically appealing, there is little convincing evidence that one board governance structure is qualitatively more effective than another. As stated in the Minnesota Office of the Legislative Auditor's 1999 study of occupational regulation:

"In sum, despite the flexibility that our federal system allows, no state we studied appears to have solved the subtle yet chronic problems that accompany occupational regulation…We found no convincing evidence that any particular organizational arrangement or process provides an assured solution to any given problem associated with occupational regulation."[9]

Based on a thorough discussion of the issues and a review of literature, including three studies on the subject specific to Minnesota, it was the consensus and recommendation of the merger report committee that a merger of the BMFT and the BBHT will not result in greater efficiency or appreciable cost savings and should not occur. That recommendation still stands.

Section VII. Complaint Resolution Process

The promptness and effectiveness with which the agency addresses complaints concerning entities or other persons affected by the agency, including an assessment of the agency's administrative hearings process;

Minnesota Statutes sections 214.10 and 214.103 contain the requirements for processing complaints and conducting investigations and hearings for all of the health-related licensing boards [see complaint process flowchart]. Therefore, the BBHT's processes are the same as those for other boards. Each individual board practice act specifies the types of actions a board can take against a licensed professional, applicant, or unlicensed practitioner. Minnesota Statutes sections 148C.09, 148C.091, and 148C.093 set forth the Board's authority to take action against the license of an alcohol and drug counselor. Minnesota Statutes section 148B.59, 148B.5901, 148B.5905, and 148B.591 set forth the Board's authority to take action against the license of a professional counselor or professional clinical counselor.

[9] *Occupational Regulation –A Program Evaluation Report*, p. 86

The basic complaint resolution process begins with the receipt of a complaint at the board office and ends with either closure of the complaint, referral of a licensee to the Health Professional Services Program, corrective action, or disciplinary action. If the Board and the licensee are unable to reach an agreement to resolve a complaint, the matter may proceed to a contested case hearing at the Office of Administrative Hearings. Complaints related to impairment or conduct that may create a serious risk of harm to self or others may result in a temporary suspension.

After a complaint is received, the board sends the complainant a letter acknowledging receipt of the complaint. Depending on the complexity or subject matter of the complaint, board staff may elect to investigate the complaint or they may refer the matter to the Attorney General's Office. During complaint investigations, every person who is the subject of a complaint is given the Tennessen Warning. The Tennessen notifies the subject that the Board is seeking data from the person which may be considered private or confidential under the Minnesota Government Data Practices Act. The Tennessen further explains the requirements for notification in Minnesota Statutes section 13.04(2) that the Board is required to provide before asking a person to supply any private or confidential information about him or herself.

The Complaint Resolution Committee of the Board meets every month. The committee reviews complaint files, conducts educational conferences, and conducts formal disciplinary conferences at monthly meetings. Every member of the CRC receives training before serving on the committee. The training includes instruction on jurisdiction, evidence, resolution, and data practices. The committee may dismiss or close a case in which a violation may have or did occur because it determined that the violation doesn't warrant formal corrective or disciplinary action. In many cases, the committee may determine, based on the information provided in the complaint, the results of a field investigation, or the results of an educational meeting or investigatory conference, that the practitioner understands the problem reported in the complaint and acted on it such that formal corrective or disciplinary action is not needed. If the results of a Board investigation substantiate misconduct, the Board may take corrective or disciplinary action. Disciplinary action must be imposed if sexual misconduct with a client is substantiated (*see* Minn. Stat. section 214.103, subd. 6(b)). A professional license is a property right and may not be taken away without due process of law. Licensees who are the subject of a complaint investigation have the right to legal counsel and to a hearing (*see* complaint resolution process flow chart).

The BBHT follows all data practices regulations related to complaint and investigative data, and complaint files are maintained in a secure area of the BBHT office. When a complaint is resolved, the complainant and the subject of the complaint receive closure letters. All public corrective and disciplinary actions are posted on the BBHT website and are reported to the National Practitioner Data Bank (NPDB) and the Health Integrity and Protection Data Bank (HIPDB).

When regulation of the LADC program was transferred from MDH to the BBHT on July 1, 2005, MDH transferred 263 open complaint files. Over the past five years, BBHT has reduced the number of open complaint files to only 62 as of June 30, 2010 (52 of which have been open for less than one year). BBHT has accomplished this with only 2 full time equivalent employees

for the LADC program while MDH had 3.33 full time equivalent employees assigned to the LADC program.

Complaint Data

	July 1, 2010-November 1, 2011		Biennium ending June 30, 2010		Biennium ending June 30, 2008		Biennium ending June 30, 2006	
	LADC	**LPC**	**LADC**	**LPC**	**LADC**	**LPC**	**LADC**	**LPC**
Complaints received	87	20	138	29	170	25	48	7
Complaints by Type								
Competence	3	6	6	1	17	1	4	0
Sexual Conduct	12	6	12	2	23	1	6	0
Breach of Confidentiality	5	2	8	2	8	2	6	0
Boundaries	13	0	12	1	7	4	9	0
Practice Without a License	7	0	9	0	15	0	5	1
Criminal Conviction	2	0	9	0	10	0	3	0
Unprofessional Conduct	31	7	50	15	58	13	9	2
Recordkeeping	4	2	5	0	5	0	1	0
Failure to Report	0	0	0	1	4	1	1	0
Chemical Dependency	14	3	23	4	13	1	7	0
Failure to Cooperate	0	0	1	0	0	0	0	0
Misrepresentation of Facts on App	1	0	1	1	1	0	0	0
Fraud/Billing	0	0	2	1	5	0	0	0
Mental/Physical Illness	2	0	0	1	1	0	0	1
Non-compliance with ACA/S&O	0	0	0	0	0	0	0	0
Misrepresentation of Credential	3	0	2	0	3	0	4	2
Discipline in Other Jurisdiction	2	0	3	1	1	1	1	1
Failure to Report Charges/Convictions	3	0	n/a	n/a	n/a	n/a	n/a	n/a
Advertising/False Misleading	1	0	n/a	n/a	n/a	n/a	n/a	n/a
Total Disciplinary Actions	3	1	4	0	5	1	5	1
Type								
Reprimand	1	1	1	0	1	0	0	0
Conditional License	0	0	0	0	1	0	2	1
Unconditional License	0	0	1	0	1	1	3	0
Suspension	1	0	0	0	2	0	0	0
Stayed Suspension	0	0	1	0	0	0	0	0
Revocation	0	0	1	0	0	0	0	0
Voluntary Surrender	1	0	1	0	0	0	0	0
Total Disciplinary Conferences	11	1	13	0	4	1	2	0
Total Educational Conferences	9	1	7	0	10	1	2	0

Number of complaints open at the end of the period:

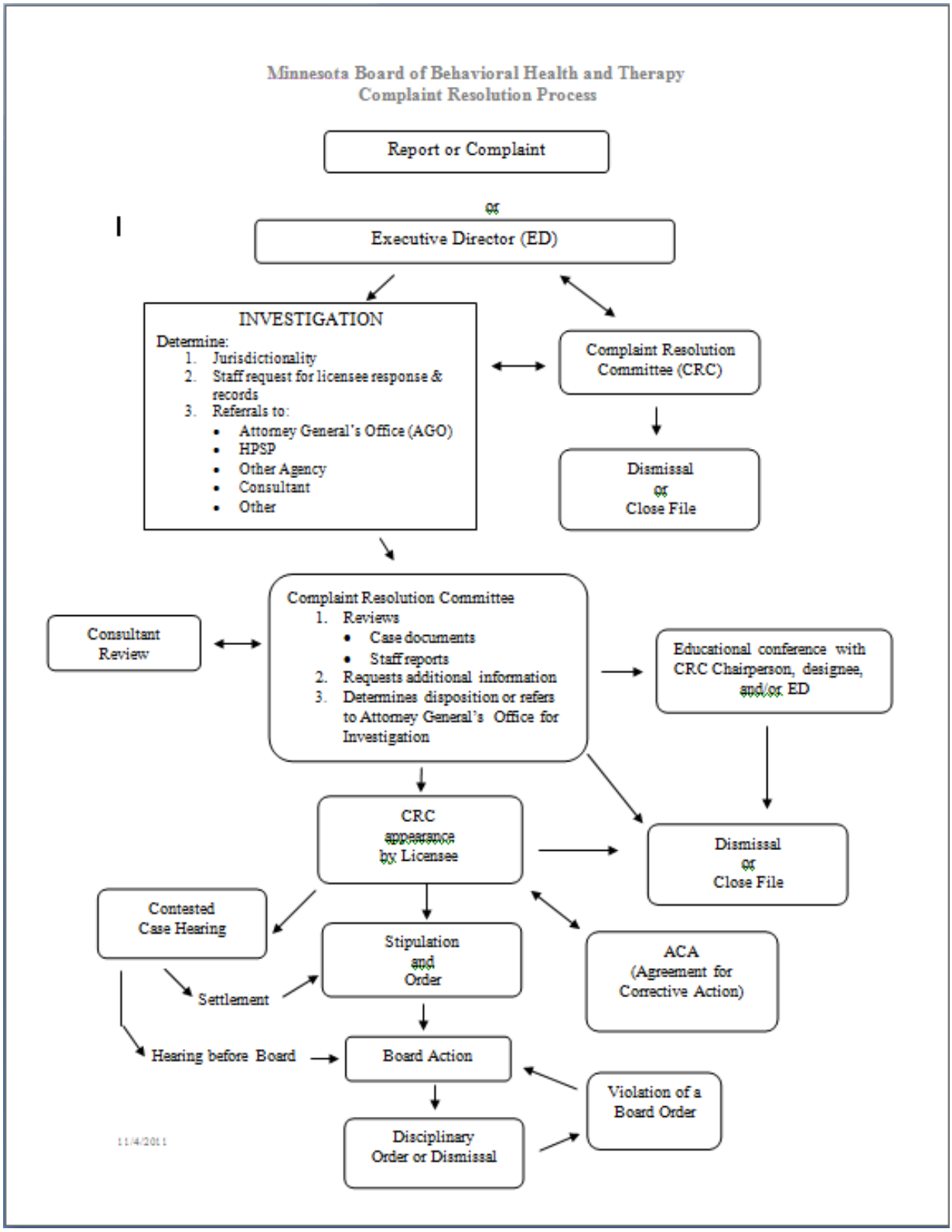
Number of Complaints Closed Between July 1, 2010 and November 1, 2011	Number of Complaints Open as of November 1, 2011
61 – LADC 17 - LPC	107-LADC 18-LPC

Number of Complaints Closed in biennium ending June 30, 2010	Number of Complaints Open as of June 30, 2010
184 – LADC 23 – LPC	62 – LADC 16 – LPC

Number of Complaints Closed in biennium ending June 30, 2008	Number of Complaints Open as of June 30, 2008
248 – LADC 8 - LPC	Data not available*

Number of Complaints Closed in biennium ending June 30, 2006	Number of Complaints Open as of June 30, 2006
99 – LADC 7 – LPC	Data not available*

*Complaint age data is not available for all years because the old BBHT databases did not track this information electronically. The new database (completed in June 2011) is equipped to produce more sophisticated reports that include complaint age data.


Minnesota Board of Behavioral Health and Therapy
Complaint Resolution Process
Report or Complaint
or
Executive Director (ED)
INVESTIGATION
Determine:
1. Jurisdictionality
2. Staff request for licensee response & records
3. Referrals to:
• Attorney General's Office (AGO)
• HPSP
• Other Agency
• Consultant
• Other
Complaint Resolution Committee (CRC)
Dismissal
or
Close File
Consultant Review
Complaint Resolution Committee
1. Reviews
• Case documents
• Staff reports
2. Requests additional information
3. Determines disposition or refers to Attorney General's Office for Investigation
Educational conference with CRC Chairperson, designee, and/or ED
CRC
appearance
by Licensee
Dismissal
or
Close File
Contested Case Hearing
Stipulation
and
Order
ACA
(Agreement for Corrective Action)
Settlement
Hearing before Board
Board Action
Violation of a Board Order
Disciplinary Order or Dismissal
11/4/2011

Section VIII. Rules, Policy, Legislation Enactment/Development and Stakeholder Participation

An assessment of the Board's rulemaking process and the extent to which the Board has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;

The Board utilized the Minnesota Rulemaking Manual and followed all state regulations when adopting rules for professional counselors in 2005 and 2006. Through the rulemaking process the Board adopted 4 sets of rules for Licensed Professional Counselors related to license renewal, continuing education, supervision, and professional conduct. The rules were adopted in 2005 and expedited rules clarifying continuing education requirements were adopted in 2006. Only the supervision rules required a hearing. When the Licensed Professional Clinical Counselor (LPCC) license was created in 2007, the resulting statute made LPCCs subject to the rules as well. The Board reviewed draft rules for licensed psychologists in developing its rules. This enabled the Board to adopt four sets of rules in a very short time and minimize costs. The licensed marriage and family therapists (LMFTs) expressed concerns about the original licensure supervision rules (ratio of supervision to work hours), and the Board made the changes suggested by the LMFTs. The resulting rules for professional counselors closely resemble those for other licensed mental health professionals. Common standards are in the public interest.

When the LADC program was transferred to BBHT in 2005, the rules were already adopted. It took the Department of Health several years to adopt rules, and the costs of rulemaking contributed significantly to the $1 million debt the BBHT inherited in 2005 when the LADC program was transferred from MDH. Rather than repeat a costly rulemaking process, the Board instead has worked with stakeholders for the past three years to rewrite the practice act for LADCs. The Board plans to pursue legislation again in 2012 (the 2011 bill failed to get a floor vote in the House but passed unanimously in a Senate floor vote) to recodify the regulations for LADCs in a new statutory chapter. The Board is optimistic that the legislation will pass in 2012 and that it will result in licensure processes and regulatory language for LADCs that are consistent with those of other health licensing boards.

Section IX. Compliance with Federal and State Laws Related to Employment, Data Privacy, Purchasing

The extent to which the Board has complied with federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals, and state law and applicable rules of any state agency regarding purchasing guidelines and programs for historically underutilized businesses;

[Information for this section was provided by the Administrative Services Unit staff]

Employment

The Board complies fully with federal and state laws regarding equality of employment opportunity, and the rights and privacy of individuals.

The Executive Director is entrusted with responsibility for ensuring that federal and state equal employment opportunity laws are fully complied with. This is achieved with the assistance of the Board's designated affirmative action officer, located in the Administrative Services Unit, which provides shared services to each Board.

The Board maintains and updates an affirmative action plan on a biannual basis. Criteria for affirmative action plans are established by state law, MS. 43A.19 and 43A.191, and MMB Administrative Procedure 19.1. The Executive Director prepares and implements the Plan, and signs the Plan's Statement of Commitment. The current Affirmative Action Plan is on the Board's website.

Likewise, the Board fully complies with the Minnesota Human Rights Act and applicable federal equal opportunity laws. The Board works cooperatively with the Administrative Services Unit, which provides expertise on equal opportunity issues.

This Board has received no complaints of violation of equal employment opportunity laws.

All new employees are informed of equal employment opportunity policies and laws upon orientation, and a copy of the Board's affirmative action plan is reviewed with them, including equal opportunity provisions and the Board's complaint process. This Affirmative Action Plan is provided to all new employees, and is posted on the employee bulletin board. Training on equal opportunity / affirmative action requirements is periodically provided to staff through in-person training sessions and online training. Equal opportunity / affirmative action matters are regularly reviewed at Executive Director meetings and Office Manager meetings.

The Board conducts its hiring processes in accordance with all applicable collective bargaining agreements, and state and federal law. This is accomplished through consultation with the Board's affirmative action designee. The Board uses the State's resume-based, skill-matching process. Resumes are evaluated against established minimum qualifications. Hiring processes are closely reviewed to ensure compliance with equal employment opportunity. Interview questions are established based on knowledge, skills, and abilities required to perform the responsibilities of each position.

The Board's home webpage has an affirmative action / equal opportunity statement, lists the phone number for hearing/speech relay, and provides an e-mail address for comments on the web page.

The Board responds to all applicable State surveys regarding equal opportunity / affirmative action, including an Annual ADA Survey.

Applicants and the general population are becoming increasingly diverse, including cultural and language diversity. The licensing boards continue to examine matters pertaining to possible

barriers in licensure, as well as issues surrounding working with clients and patients from diverse populations.

Purchasing and Contracting

The Board complies with all purchasing requirements, including the State's Targeted Group / Economically Disadvantaged small business program. Contractual guidance is provided by the Administrative Services Unit. The Administrative Services Unit also provides the services of a Buyer who has been trained in all State purchasing requirements, including Targeted Group / Economically Disadvantaged preferences in purchasing. The Board is also strongly supportive of Minncor purchasing, and follows applicable rules regarding purchasing guidelines and programs for historically underutilized businesses.

The Board is aware of State contracting requirements regarding accessibility for IT services over $25,000; assistance in these matters is provided by Administrative Services Unit IT and Contract staff. Training on these matters has been provided by the Department of Administration, Materials Management Division.

All departments and agencies making direct purchases in accordance with this authority must follow the policies and procedures and instructions contained in this manual and all applicable laws and rules, including but not limited to:

- Minnesota Statutes Chapters 13, 16A, 16B, and 16C,
- Minn. Stat. §§ 10A.07, 15.43, 43A.38, 609.43, and 609.456,
- Minnesota Rules Chapter 1230, and
- Uniform Commercial Code (UCC) as adopted by Minnesota (see Minnesota Statutes Chapter 336).

Security Profiles – related to MAPS, SEMA4, SWIFT, Fiscal Notes, Budget, Payroll, HR, Warehouse Data

Certified profile reports are reviewed and are due to the Minnesota Department of Management and Budget every year. When profiles are added or changed, individual staff profiles are reviewed. Individual profiles are maintained and reviewed frequently to ensure compliance with statutes, rules, policies and procedures.

Financial Policies – The health-related licensing boards follow statutes, rules, policies and procedures related to financial operations. The Minnesota Department of Management and Budget and the Minnesota Department of Administration provide policies, procedures and training related to financial activities that staff members are required to maintain. The Administrative Services Unit provides policies and procedures for the health-related licensing board staff members to follow. This ensures compliance with financial operations.

Section X. Potential Conflict of Interest

The extent to which the Board issues and enforces rules relating to potential conflicts of interest of its employees;

Employees

The Executive Director of the Board is responsible for enforcing rules relating to potential conflicts of interest of its employees.

The Executive Directors of all the Health-Related Licensing Boards agreed to have each incumbent employee review State Code of Conduct provisions and for each employee to be annually recertified in the employee's understanding of the code. All new Board employees are also informed of the Code at employment orientation, and are instructed to certify understanding of their responsibilities under the code. The State Code of Conduct (MMB Operating Policy & Procedure 01003-01) outlines the standards and expectations regarding employee honesty, integrity, and ethical behavior.

The Code of Ethics for State Employees [Executive Branch] with the State of Minnesota (Minnesota Statutes 43A.38) is reviewed at orientation with all new employees, and is also discussed regularly at Office Managers meetings and Executive Directors meetings.

Questions regarding conflict of interest are directed to Administrative Services Unit staff, which seeks additional guidance as required from Minnesota Management and Budget.

Provisions regarding potential conflict of interest in regard to contracting are heavily regulated by Minnesota statutes. Provisions regarding institutional conflict of interest have been reviewed at meetings of Office Managers and of Executive Directors.

Board and ASU staff members have received training from the Department of Administration, Materials Management Division, regarding appropriate contracting procedures, including conflict of interest. Adherence to state contracting statutes and regulations minimize the risk of conflict of interest.

Board Members

All new board members are given the Board Members' Handbook of Legal Issues, prepared by the Office of the Attorney General. The handbook is extensive and contains a section on ethics in government and conflicts of interest. In addition, all new board members attend an in-person training session with board staff members and an assistant attorney general. Training topics include a definition of the board, the scope of board authority, the board's relationship with the Office of the Attorney General, the Open Meeting Law, the Minnesota Government Data Practices Act, and conflicts of interest.

Section XI. Compliance with Chapter 13-Data Practices and Requests for Information

The extent to which the Board complies with chapter 13 and follows records management practices that enable the agency to respond efficiently to requests for public information

The Board complies with all laws related to data practices and requests for information. The Board depends on the expertise of legal counsel and ASU staff for guidance. The Board maintains employee, applicant, licensee, complaint, investigative, and other data in accordance with legal requirements. When the Board receives a request for data, staff members consult legal counsel and release data in the correct format and in the time specified in law.

As noted above, all board staff members and board members receive training on the definition of the board, the scope of board authority, the board's relationship with the Office of the Attorney General, the Open Meeting Law, the Minnesota Government Data Practices Act, and conflicts of interest.

Section XII. Effect of Federal Intervention and Funding

The effect of federal intervention or loss of federal funds if the Board is abolished.

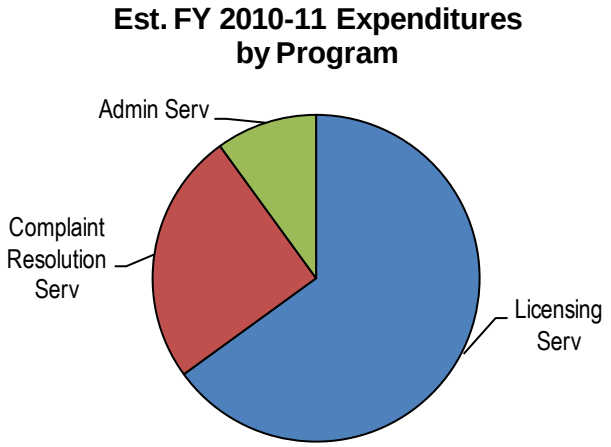
The Board does not receive any federal funding. In the unlikely event that the Board and the licenses for the professions they regulate are abolished, such an act could have serious adverse effects on professionals providing mental and chemical health counseling services, the clients they serve, and the facilities or clinics in which the services are provided. The Board is aware that there are requirements in federal and state law related to funding for mental health and chemical health services as well as requirements for facility licensure. Because the Board does not regulate private or public insurance reimbursement for services; it is difficult to estimate the result of loss of funding for services in both the public and private sectors if reimbursement for services depends on the provider being licensed.

Section XIII. Priority Based Budget

The Board is funded through licensure and other fees; no tax dollars from the General Fund are appropriated to the Board. Instead, revenue the Board collects is deposited in the State Government Special Revenue Fund. From this fund, the Board receives a direct appropriation to pay for agency activities such as salaries, rent, costs for disciplinary/contested cases and operating expenditures.

The Board also pays statewide indirect costs through an open appropriation. Board fees are responsible for covering its prorated share of support functions provided outside of the Board itself. These include legal support (Attorney General), statewide e-licensing system development and operations (Office of Enterprise Technology), centralized administrative support (Health Boards Administrative Services Unit**)** and funding for services to health

professionals (Health Professionals Services Program). The Board is responsible for collecting sufficient revenue to cover both direct and indirect expenditures and has done so since fiscal year 2007 (see Appendix D).



The Board is a small agency and it does not have numerous programs, some of which might be deemed to be of higher priority than others. As the chart depicts, the Board expends funds in just three areas: Licensure, Complaint Resolution, and Administrative Services. All are either required by law or necessary for the Board to conduct the business of regulation and licensing.

Licensure services include reviewing applications, conducting Application and Licensure Committee meetings, issuing initial licenses, renewing licenses, monitoring continuing education compliance, and responding to inquiries from applicants, licensees, and other interested members of the public.

Complaint resolution includes processing complaints, coordinating with Attorney General's Office legal counsel and investigators, holding monthly Complaint Resolution Committee meetings, conducting educational and disciplinary conferences, and initiating contested cases if necessary. Quarterly board meetings are held to address budget, licensure, disciplinary action, legislative issues, etc. that require full board participation. Other board committees meet as needed.

Most of the expenditures spent on administration are for renting the Board's office and purchasing equipment and supplies. The health-related licensing boards recently negotiated a new lease that lowered rents. Equipment only lasts so long before it needs to be replaced and supplies are consumed. Without having an office to work in and adequate equipment and supplies, the Board cannot function. Therefore, this area of the budget is also a priority.

The Board's budget was reduced by 42% in 2007. The Board has already reduced expenditures in staffing to the bare minimum and has found ways to work more efficiently in other areas. There is nothing left to cut.

APPENDIX A

Organizational Relationships

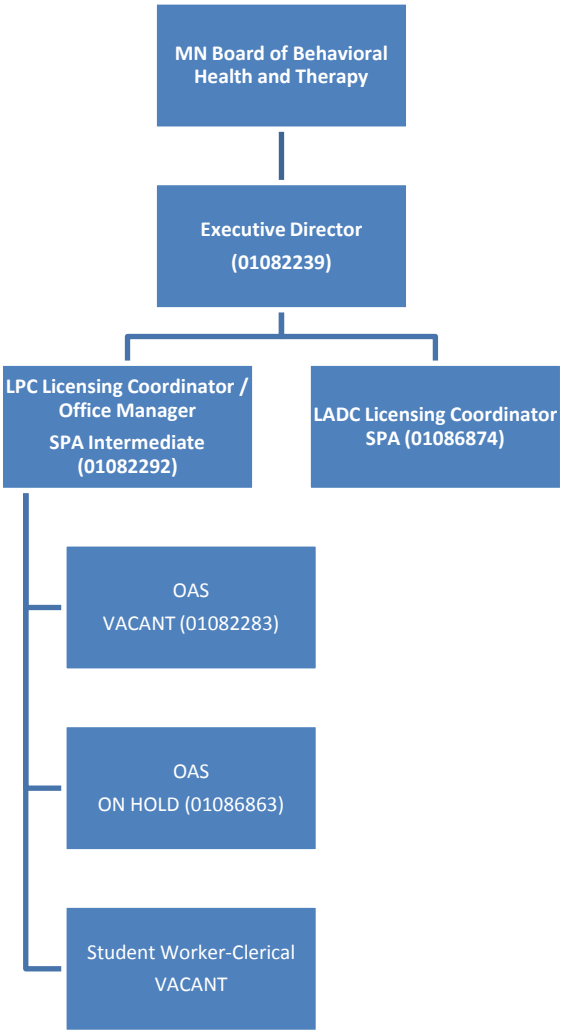
Current as of November 11, 2011

Organization Chart

Minnesota Board of Behavioral Health and Therapy

The Citizens of the State of Minnesota

Governor Mark Dayton



APPENDIX B

Link to the Board's Web site

www.bbht.state.mn.us

APPENDIX C

A Six Year History of FTE Staffing Levels

The Board of Behavioral Health and Therapy has had the same staffing level of **3.0** FTEs from 2006 to the present. The Board has, on limited occasions, utilized a student worker and temporary workers during staff member leaves of absence.

During the 2007 Session, the Legislature cut the BBHT budget by approximately 42%. This prevented the Board from hiring additional staff.

During the 2011 Special Session, the Legislature approved a small state agency budget increase of $7000 for the LPC program and $13,000 for the LADC program. Together with the strong debt reduction performance of the Board and consistent revenue collection in excess of expenditures, this increase should enable the Board to hire a staff member to fill a clerical position that has been vacant for five years.

APPENDIX D

A Six Year History of All Funding

From 2007 to 2011, the LPC program had an annual base budget of $144,000 and the LADC program had an annual base budget of $250,000. In the 2011 Legislative Session the base budget for the LPC program was increased to $151,000 and the LADC base budget was increased to $264,000.

Item	**FY 2011**
LPC Receipts	$329,753
LADC Receipts	$514,936
LPC Disbursements	$124,648
LADC Disbursements	$289,011
Total Bd. Receipts	$844,689
Total Bd. Disb.	$413,659

Item	**FY 2009 and FY 2010**
LPC Receipts	$460,042
LADC Receipts	$947,156
LPC Disbursements	$313,156
LADC Disbursements	$626,322
Total Bd. Receipts	$1,407,208
Total Bd. Disb.	$939,478

Legislation passed in 2007 reduced the annual base budget for the Board by approximately 42%. The LPC program annual base budget was reduced from $350,000 to $144,000, and the annual base budget for the LADC program was reduced from $323,000 to $250,000.

Item	**FY 2007 and FY 2008**
LPC Receipts	$270,715
LADC Receipts	$901,679
LPC Disbursements	$202,433
LADC Disbursements	$529,213
Total Bd. Receipts	$1,172,394
Total Bd. Disb.	$731,646

In FY 2005 and FY 206, the LPC program had an annual base budget of $350,000 and the LADC program had an annual base budget of $323,000.

Item	**FY 2005 and FY 2006**
LPC Receipts	$149,966
LADC Receipts	$719,030
LPC Disbursements	$528,060
LADC Disbursements	$600,883
Total Bd. Receipts	$868,996
Total Bd. Disb.	$1,128,943

APPENDIX E

A List of All Advisory Councils Whose Primary Function is to Advise the Organization

The Board of Behavioral Health and Therapy has no Advisory Councils. The Board has created and utilized, on occasion, ad hoc advisory committees in the legislative process.

APPENDIX F

Citation to the Statute Creating the Organization and to other Statutes Governing or Administered by the Organization; Citation to the Administrative Rules Adopted by the Organization

Certain sections of statutes apply to all state agencies and are not listed here. The following chapters and sections of **statutes** create the duties and powers of the Board of Behavioral Health and Therapy and/or are administered by the Board.

1. Minnesota Statutes chapter 148B is the chapter that establishes the Board of Behavioral Health and Therapy and that relates to the regulation of professional counseling in Minnesota. The Board's Practice Act is set forth in Minnesota Statutes section 148B.50 to 148B.593 https://www.revisor.leg.state.mn.us/statutes/?id=148B
2. Minnesota Statutes chapter 148C is the chapter related to regulation of alcohol and drug counseling in Minnesota. https://www.revisor.leg.state.mn.us/statutes/?id=148C
3. Minnesota Statutes Chapter 214 contains provisions that apply to all health licensing boards, including the Board of Behavioral Health and Therapy.
4. Minnesota Statutes Chapter 319B contains provisions relating to professional firms of which the Board must be cognizant.

The **rules** promulgated by the Board of Behavioral Health and Therapy are found in Minnesota Rules Chapter 4747 (alcohol and drug counselors) and Minnesota Rules chapter 2150 (professional counselors).

Minnesota Rules chapter 2150: https://www.revisor.leg.state.mn.us/rules/?id=2150

Minnesota Rules chapter 4747: https://www.revisor.leg.state.mn.us/rules/?id=4747

APPENDIX G

A Copy or Link to any other Governance Documents Adopted by the Agency

The Board has not adopted any such documents.

APPENDIX H

Structural Relationships: Council of Health Boards, Executive Director's Forum, Management Committee and Administrative Services Unit