

**TESTIMONY OF ERIC E. McLAUHLIN, ESQUIRE
(OPPOSED)**

Tuesday, January 30, 2024

There exists an urgent, if not emergent, need for the Office of Program Evaluation and Government Accountability (OPEGA) to conduct an evaluation of the Maryland Board of Social Work Examiners. I am writing in opposition to Senate Bill 242

In March of 2023, I offered written testimony in opposition to Senate Bill 730. The purpose of that bill at that time was to continue the State Board of Social Work Examiners, without review, in accordance with the Maryland Program Evaluation Act by extending its termination provisions relating to its statutory and regulatory authority to July 1, 2027. Others offered similar testimony in opposition, and the bill did not leave Committee.

I am now offering testimony in opposition to Senate Bill 242 which has the same purpose as the 2023 legislation, i.e., to continue the Board, without review under Maryland's sunset laws, to July 1, 2028.

As an initial matter, the Fiscal and Policy Note incorrectly states that "Similar legislation has not been introduced within the last three years." That is false.

More importantly, the need for the State Board of Social Work Examiners to be reviewed is no less urgent than it was in 2023. In fact, the need is more urgent. For the purposes of Senate Bill 242 being presented to your Committee this year, I will not recite the multiple instances that I and others believe justify an immediate evaluation by OPEGA and immediate change. I will instead again provide the information I provided the last time the Board attempted to continue to avoid accountability. It is attached. I then note that, in the last year alone:

- The Board has been found guilty of violating the Maryland Open Meetings Act by the State's Open Meetings Compliance Board (November 13, 2023).
- The backlog of investigations into abuses by the Board's licensees has become larger than it was before.
- The Board has separated from employment those of its investigators who were committed to holding licensees accountable.
- The Board has hidden from public view a series of internal I.T. mistakes that rendered useless hundreds of hours of investigative effort and allowed violators to remain unpunished and in active practice.

Please oppose Senate Bill 242. Please require a review of the Board as soon as possible.

**TESTIMONY OF ERIC E. McLAUHLIN, ESQUIRE
(OPPOSED)**

FRIDAY, MARCH 3, 2023

This testimony is offered in opposition of Senate Bill 730 and the additional, unsafe and harmful delay it would allow before the State Board of Social Work Examiners (the “Board”) is again subjected to proper review under the Maryland Program Evaluation Act (§8-401 et seq.). I am opposed to the extension because it will perpetuate immediate, substantial and irreparable harm to patients, licensees and the community for another four (4) years.

The State Board of Social Work Examiners underwent a preliminary evaluation as part of sunset review in 2001, and again in 2011. The result of the 2011 review was a recommendation to extend the termination date by 10 years to July 1, 2024. SB 730 would extend the termination date to July 1, 2027, over four (4) years from now. The specific risk about which my testimony is concerned relates to the investigation of complaints and the disciplinary process.

In 2010, legislation was passed requiring the board to establish a disciplinary subcommittee to be responsible for the investigation of complaints and other aspects of the disciplinary process. During the 2011 review, it was noted, *inter alia*, that the Board had a pre-existing Disciplinary Complaint Review Committee and had already implemented regulations (COMAR 10.42.04.01-.12) in 2002 relating to board hearings and the disclosure of information discovered during investigations to the “appropriate authorities.” Notwithstanding the existence of the additional investigatory structure and regulations implemented over two decades ago, the investigation process and the regulation and administration of it are alarmingly broken and dangerously ineffective.

Since the time of the last review, the Board has been presented with multiple reports of criminal behavior inflicted upon patients by social workers. It has taken no definitive action in response. The current rules and regulations must be reexamined quickly and not be extended, because they allow the subject matter to be downplayed, and allow the investigatory process and its rules to be manipulated.

The type of behavior at issue extends well beyond mere “boundary” violations and on to physical assault and reports of rape. In the 2011 report, the Board labeled these incidents “Other Unprofessional Behavior” and lumped, on average, 27% of its annual complaints into this category. Rape and sexual assault are more than “other.”

In terms of the administration of the investigation of these complaints, the Board failed to communicate with victims, some of whom were minors. It failed to complete investigations for over two (2) years, even when its self-reported “targeted timeframe” for completing investigations is 190 days. It negligently managed its internal processes to the point of improperly accounting for digital evidence and attacking its own investigatory employees instead of accepting responsibility for its administrative mistakes. When investigations were, in fact, completed, the

Board in some cases failed to act on them or draw licensing conclusions and bring them to final action.

This testimony is offered to you based on more than anecdotal information. I have been representing victims of social worker abuse. I was therefore asked to participate with a group of professionals who are advocating for change. Change is more likely to come by maintaining the current sunset date of July 1, 2024 and requiring the Board to be accountable by that date than it is by allowing the public to suffer further harm until 2027.

In one circumstance with which I have dealt, there were eleven (11) individual complaints against a specific social worker. This male is alleged to have provided intoxicants to his patients and to have forced them in to sexual acts during sessions. At one point, the Board and its counsel advised me that the nature of the administrative outcome of the investigation in to this licensee's conduct was "immaterial." The Board allowed the licensee to surrender his license rather than make factual findings or work with the "appropriate authorities" to do more. By doing so, the Board retraumatized the victims at issue, and grossly devalued the importance of the process for those victims, their families and the community. The Board took what it perceived to be an easy way out and manipulated its way past the point of accountability.

Doing so was not a mere misunderstanding of the process. Once the Board published its Order accepting the licensee's surrender of his license, it was reminded that COMAR only allows the Board to vote to accept the surrender of a license after the Board has reviewed completed investigative information or reports for each complaint. The Board was asked to confirm that such completed information and reports were reviewed for all eleven (11) cases, and was asked for a copy of the letter of resignation. Rather than respond, the Board removed, revised, backdated and republished a new Order removing reference to the resignation letter being included. In further response to this Board action, the victims asked (through counsel) which date – the new one or old one – would be the proper trigger for their appeal rights. The Board and its counsel never responded. All the while, the victims sat in fear.

There are two, additional significant aspects of these systemic failures that are important to address sooner rather than in 2027. In the 2011 sunset review, the Board noted:

The 2002 sunset evaluation revealed that the number of complaints reported to the board was disproportionately low compared to the number of social workers licensed in the State. Much of this may be due to the delicate nature of the relationship between a social worker and his or her client. In response, the board has tried to educate the public on their right to bring complaints against a social worker and educate social workers to look for possible violations and self-report.

Stated otherwise, the Board represented over a decade ago that it wanted the community and the industry to bring forth more complaints and be more self-regulating. In the cases in which I have been involved, that happened. It was the industry, i.e., other social workers, therapists and medical professionals, who identified sexual abuse and sought to better the industry by definitively addressing it. The lesson for them is that nothing will be done in response. The appearance is that

the subject matter is unimportant to the Board. They have concluded that engaging the Board for help is dangerous and harmful. These are reasons for review sooner rather than later.

Second, during the time that the eleven (11) complaints were pending, the licensee at issue continued to practice. We are unable to quantify the additional damage done by him during that time.

My experience with this licensee and his victims is only one example. It is my understanding that as a result of an IT discrepancy that occurred during the last two (2) years, over 30 other complaints have been dismissed and/or not drawn to a conclusion. The 2011 review was replete with references to IT, training and systems that should have prevented a technology travesty of that nature if taken seriously. With an average annual complaint caseload of 125 complaints as reported in 2011, this means the Board negligently handled 24% of its caseload cause it could not handle its own IT properly. That is difficult to explain to victims of abuse and offers them little consolation.

There are immediate deficiencies and dangers that justify requiring the Board to remain accountable to the July 1, 2024 sunset deadline and substantial reasons for requiring the evaluation of the Board well prior to that date. I am therefore opposed to SB 730.

When the evaluation of the Board occurs, it should include specific requirements relating to, among other things:

- Prioritizing complaints based on the nature of the alleged conduct, i.e., administrative v. criminal;
- Assuring the safety of victims and complainants throughout the complaint and investigation process;
- Assuring the avoidance of revictimization and re-traumatization during the complaint and investigation process; and
- Making the Board accountable to coordinate its investigatory processes and authority with those of law enforcement.

Please vote against advancing SB 730.