



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

February 20, 2020

The Honorable Shane E. Pendergrass, Chair
House Health and Government Operations Committee
Room 241, House Office Building
Annapolis, Maryland 21401

Re: HB 1447 - Department of Information Technology - Study of a Common Information Technology Platform for Health Occupations Boards - Letter of Support

Dear Chair Pendergrass and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of support for House Bill (HB) 1447 - Department of Information Technology - Study of a Common Information Technology Platform for Health Occupations Boards.

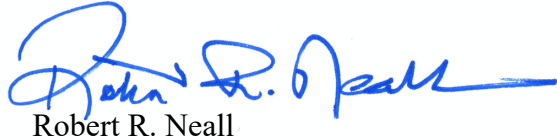
Over the past five years, the Department has supported a major information technology (IT) project to create a common platform that would assist in improving the licensing and investigation processes of the health occupation boards. The Department believes that the boards would benefit from the economies of scale inherent in a common platform. Technology is constantly changing and requires upgrades; one comprehensive statewide system would be easier to maintain. The Department of Information Technology (DoIT) has been working with both the Department and the boards to develop this system. A study on how a common platform would work for the boards and their licensees, as well as the costs involved with creating the system may help address the boards' concerns. The study would also ensure that vulnerabilities and common technology issues are identified, and lays the foundation for citizen-centric improvements that may allow for greater network adequacy.

The Maryland Board of Physicians and Board of Nursing (BON) are statutorily independent units from the Department and have expressed concerns about moving toward a comprehensive system. They have declined the assistance of the Department's Office of Enterprise Technology. Instead, the BON has been working directly with DoIT to develop a strategic plan and approach to take advantage of the OneStop Portal that DoIT developed. This portal provides one location where the citizens of Maryland can go for nursing information, as well as assisting in upgrading and modernizing the BON's licensing systems.

For more information, please see the attached Department of Legislative Services' budget analysis of the health occupation boards (please see pages 14 and 18) and the Department's response (page 4).

If you have additional questions, please contact Director of Governmental Affairs, Webster Ye, at (410) 260-3190 or webster.ye@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert R. Neall", with a long horizontal flourish extending to the right.

Robert R. Neall

M00B0104
Health Professional Boards and Commissions
Maryland Department of Health

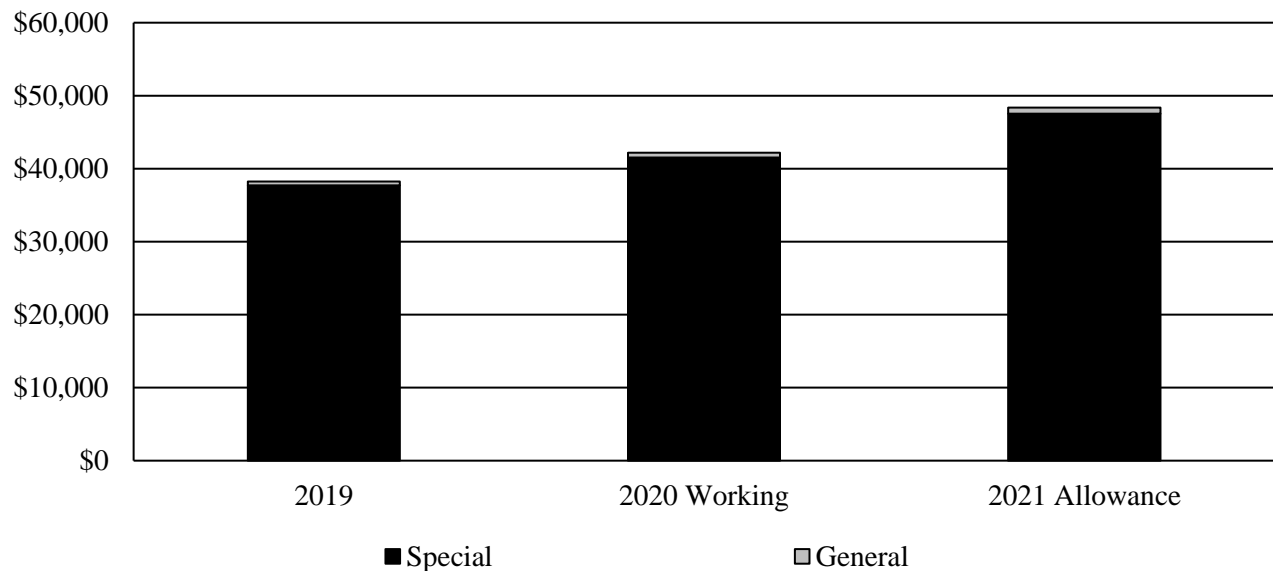
Program Description

The 20 health professional boards and two commissions within the Maryland Department of Health (MDH), certify, license, resolve consumer complaints, and assist in establishing parameters for various providers through regulations. Nearly all of the boards and commissions funding is generated through licensing fees.

Each board shares the same goals of (1) protecting the public by ensuring that practicing health professionals are properly credentialed and licensed to provide high-quality services to Marylanders and (2) receiving, investigating, and resolving complaints in a timely manner.

Operating Budget Summary

**The Fiscal 2021 Budget Increases by \$6.1 Million or 14.4% to \$48.3 Million
(\$ in Thousands)**



Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

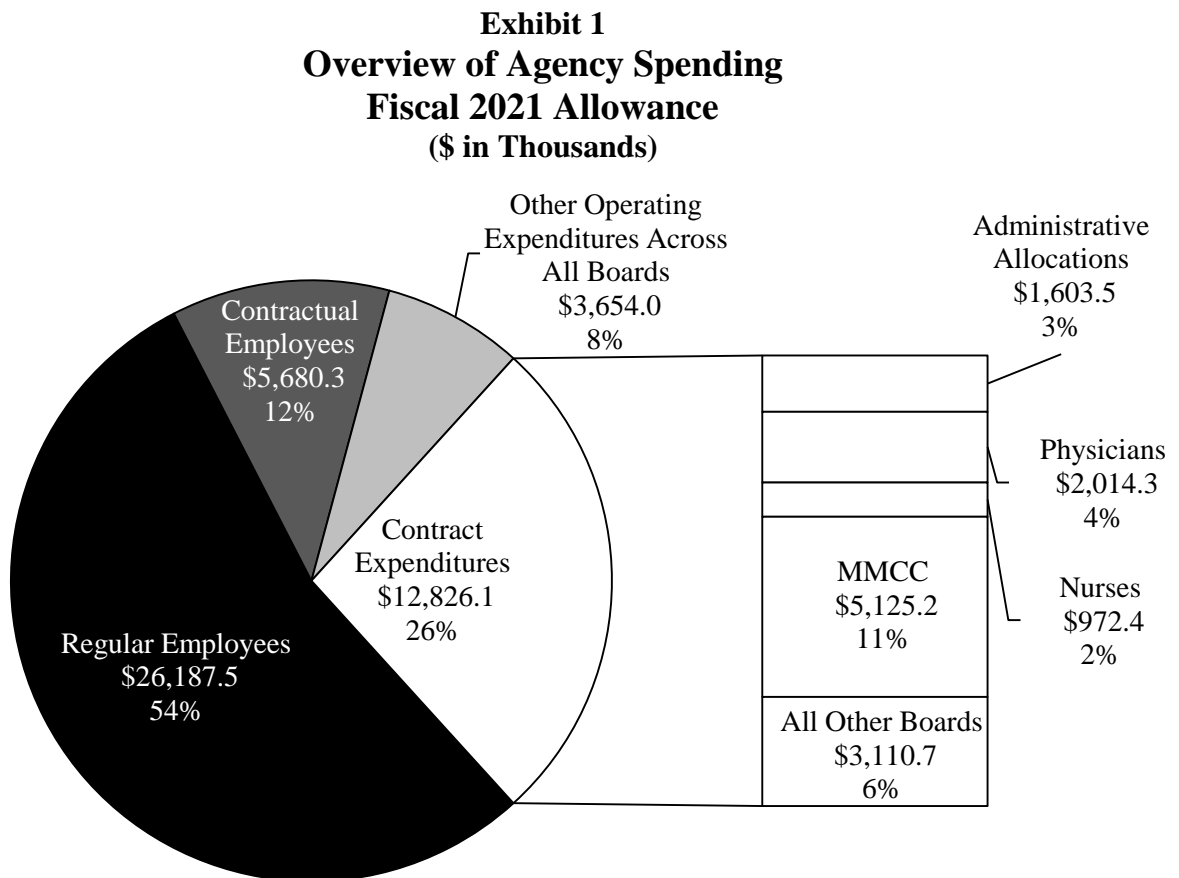
Fiscal 2020

Proposed Deficiency

The fiscal 2020 budget includes a \$100,000 general fund deficiency for improving the training platform used by the State Board of Residential Child Care Administrators.

Fiscal 2021 Overview of Agency Spending

The Health Professional Boards and Commissions have a proposed fiscal 2021 budget of \$48.3 million. The overwhelming majority of the funding for the boards is generated through the licensing fees with the exception of the State Board of Nursing Home Administrators and the State Board of Residential Child Care Administrators, which receive general funds. Collectively, with the largely administrative functions of the boards, over 50% is spent on personnel expenses, as shown in **Exhibit 1**.



MMCC: Maryland Medical Cannabis Commission

Source: Governor's Budget Books

The health occupation boards vary significantly in size and expenditures: the largest board, the Maryland Board of Physicians (MBP), is budgeted for \$10 million in fiscal 2021 expenditures; the smallest board, the Environmental Health Specialists, is budgeted for \$82,852.

Proposed Budget Change

The Health Professional Boards and Commissions total expenditures increase by \$6.1 million in fiscal 2021, as shown in **Exhibit 2**. Over half of this increase is due to a continuing growth of expenditures for the Maryland Medical Cannabis Commission (MMCC). For example, MMCC has \$2.85 million in new information technology (IT) needs as well as other planned expenditures for additional contractual employees and call center expenses. Increases in personnel expenditures make up another significant share of the total growth, including expenses for a net of 7.9 new positions, driven again by MMCC growth in personnel. The fiscal 2021 budget also includes an increase of \$288,185 for general salary increases.

Exhibit 2
Proposed Budget
Maryland Department of Health – Health Professional Boards and Commissions
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Reimb. Fund	Total
Fiscal 2019 Actual	\$542	\$37,175	\$524	\$38,240
Fiscal 2020 Working Appropriation	663	41,038	568	42,268
Fiscal 2021 Allowance	<u>820</u>	<u>46,963</u>	<u>565</u>	<u>48,348</u>
Fiscal 2020-2021 Amount Change	\$157	\$5,926	-\$3	\$6,080
Fiscal 2020-2021 Percent Change	23.6%	14.4%	-0.5%	14.4%

Where It Goes:	Changes
Personnel Expenses	
Employee and retiree health insurance	\$691
Increase in regular employee earnings for 8 new positions, slightly offset by a 0.1 FTE decrease at the Maryland Commission on Kidney Disease	530
Employee retirement system	298
Fiscal 2021 general salary increase, 2% effective January 1, 2021	197
January 1, 2020 general salary increase annualization	92
Other fringe benefit adjustments	-102
Turnover adjustments	-234
Maryland Medicaid Cannabis Commission	
Funding for IT Project Oversight and Application development to DoIT	2,277
Increased expenses for software updates, patient ID cards, and IT consulting	574

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Where It Goes:	<u>Changes</u>
Increase of 6.5 contractual employees: 2 for investigating licensees, 2 administrators, 1 assistant attorney general, 1 executive-level position, and increasing the education coordinator from part-time to full-time (0.5)	478
Increase in call center expenditures	396
Increase in outreach advertising purchases	88
Increase in other operating expenditures for MMCC	14
Reduction in medical cannabis research grant amounts	-25
Reduced expenditures for industry studies and evaluations.....	-350
Maryland Board of Physicians	
Increase expenditures for physician rehab services	413
Increase of 2 contractual FTEs: 1 IT supervisor and 1 additional administrative specialist.....	135
Increase in document conversion expenses.....	60
Decrease in other operating expenditures for MBP	-33
Decrease in expenditures budgeted for peer reviews	-83
Decrease in funding needed for FBI federal rap back system to alert MBP of when licensees are under investigation by a law enforcement agency that has been reported to the FBI	-162
State Board of Dental Examiners	
Increase in IT contracts, including a consultant for a new licensing system and increasing maintenance expenses for current system.....	190
Increase in other operating expenditures.....	12
State Board of Residential Child Care Administrators	
Expenditures for upgrades to training module and online platform, partially offset by \$100,000 fiscal 2020 deficiency	151
State Board of Pharmacy	
Net increase of 0.3 contractual FTEs: 1 administrator and 1 office secretary offset by a 1.7 FTE decrease in administrative specialist, plus increase in compensation for existing contractual employees.....	101
Increase in other operating expenditures, including \$24,196 increase for database expenditures	24
State Board of Examiners for Psychologists	
1.5 increase in contractual FTEs: 1 additional administrative assistant and a part-time 0.5 database specialist	66
State Board of Social Work Examiners	
1 additional administrative specialist, plus increasing compensation for existing contractual employees.....	63
State Board of Licensed Professional Counselors and Therapists	
1 new contractual office secretary, plus increasing compensation for existing contractual employees.....	42
State Board of Message Therapy Examiners	
Increase in administrative allocations	17
Increase in other operating expenditures.....	15
Increase in per diem payments.....	12

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Where It Goes:	<u>Changes</u>
State Board of Examiners for Audiologists	
Adding 1 contractual office secretary	37
State Board of Nursing Home Examiners	
Increasing part-time contractual licensee investigator to full-time	23
State Board of Chiropractic Examiners	
Adding one full-time contractual administrator	46
Decrease in other operating expenditures	-32
Maryland Board of Nursing	
6 additional contractual employees: 5 new administrative specialists and 1 health policy analyst	218
Increase in onsite security	25
Increase in legacy software maintenance expenditures	11
Decrease in other operating expenditures for BON	-60
Decrease in indirect costs assessed by MDH	-197
State Board of Optometrists	
Eliminating 0.5 FTE contractual office secretary	-16
Change in Expenditures for Assistant Attorney Generals	
State Board of Social Work Examiners	35
State Board of Massage Therapy Examiners	33
State Board of Examiners for Audiologists	-7
State Board of Optometrists	24
State Board of Chiropractic Examiners	-43
Other	38
Total	\$6,080

BON: Board of Nursing
 DoIT: Department of Information Technology
 FBI: Federal Bureau of Investigation
 FTE: Full-time equivalent
 ID: identification
 IT: information technology
 MBP: Maryland Board of Physicians
 MDH: Maryland Department of Health
 MMCC: Maryland Medical Cannabis Commission

Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

Fund Balances

As previously mentioned, 20 of the 22 boards are funded through special funds derived from user fees. Generally, MDH recommends that each board maintain a fund balance between 20% and 30% of annual expenditure. This level of fund balance allows the boards to account for unexpected expenditures, such as lawsuits or settlements. **Exhibit 3** details the individual boards' fiscal 2019 ending balance as a percent of their 2021 budgeted expenditures. By this measure, only 6 of the 20 boards that maintain a special fund balance are within this range, and only 1 board is below this target. Most of the boards, 13 in total, have a fund balance above 30% with several boards being well above that target.

Exhibit 3
Special Fund Balances
Fiscal 2021

<u>Special Fund Revenue by Board/Commission</u>	<u>Fiscal 2019 Closing Fund Balance</u>	<u>Fiscal 2021 Allowance</u>	<u>Balance as % of Allowance</u>
Acupuncture	\$167,881	\$295,528	57%
Audiologists	246,219	394,845	62%
Chiropractic	125,588	502,610	25%
Dental	651,979	2,725,294	24%
Dietetic	165,385	237,294	70%
Environmental Health	16,778	82,852	20%
Kidney Disease	206,573	214,250	96%
Massage Therapy	592,303	563,086	105%
Medical Cannabis	5,726,702	10,910,916	52%
Morticians	66,089	577,716	11%
Occupational Therapy	634,507	703,543	90%
Optometry	61,456	307,050	20%
Pharmacy	3,189,373	3,999,556	80%
Physical Therapy	1,170,837	1,090,501	107%
Podiatric	320,178	340,108	94%
Counselors/Therapists	2,288,130	1,324,765	173%
Psychologists	833,804	743,601	112%
Social Work	616,825	2,045,116	30%
Nurses	2,436,000	9,330,163	26%
Physicians	6,086,483	10,200,620	66%

Note: Board of Physicians fund balance reflects proposed Budget Reconciliation and Financing Act actions.

Source: Governor's Budget Books

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The Budget Reconciliation and Financing Act (BRFA) as introduced includes two fund transfers from MBP: \$400,000 to Maryland Higher Education Commission for current year payments to support the Maryland Physician's Loan Assistance Program (MLARP); and \$199,517 to repay the MDH Office of the Secretary for prior year support of MLARP when the program experienced a shortfall. These proposed transfers have been reflected in the fund balance above.

Notably, five boards have fund balances over \$1 million and above the recommended 30% of fiscal 2021 allowances: Maryland Board of Physicians; the Maryland Medical Cannabis Commission; the State Board of Pharmacy; the State Board of Physical Therapy Examiners; and the Board of Professional Counselors and Therapists.

The Governor's fiscal 2021 budget includes several healthcare initiatives supported by general funds: the Maryland Primary Care Program (MDPCP) is budgeted for \$1 million in general funds for the MDPCP's program management office; and \$3 million general funds to improve access to small pharmacies in rural areas of the State. **Considering the surplus fund balances in the health occupation boards and related health care initiatives in the fiscal 2021 budget supported by general funds, the Department of Legislative Services (DLS) is recommending a BRFA action to authorize fund balance transfers of \$1 million in fiscal 2021 and 2022 from MBP to support operating expenditures for the Maryland Primary Care Program. DLS is further recommending a BRFA action to authorize fund balance transfers of \$750,000 in fiscal 2021 and 2022 from the State Board of Pharmacy to the Medical Care Programs Administration for the expansion of access to small pharmacies.**

Personnel Data

	<u>FY 19</u>	<u>FY 20</u>	<u>FY 21</u>	<u>FY 20-21</u>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	283.6	272.60	280.50	7.90
Contractual FTEs	<u>41.98</u>	<u>64.89</u>	<u>85.19</u>	<u>20.30</u>
Total Personnel	325.58	337.49	365.69	28.20

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	17.59	6.27%
Positions and Percentage Vacant as of 12/31/19	37.50	13.76%
Vacancies Above Turnover	19.91	7.49%

- The largest gains in both regular (12 full-time equivalents (FTE)) and contractual (6.5 FTEs) employees occurred with MMCC, bringing the total employee compliment at MMCC at 62. MMCC is now the third largest board of all of the health occupation boards, only behind the Board of Physicians and Board of Nursing in terms of total number of employees, and no board

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employs more contractual employees than the MMCC 32 for fiscal 2021. They are the only board with over half of their workforce made up of contractual employees with all other boards together averaging 20% of their workforce being contractual.

- The 12 new positions at MMCC are to address the rapid growth of the Maryland medical cannabis industry and include 9 new administrative positions for enforcement and compliance as well as quality assurance. The remaining 3 new positions are health professional classifications to serve in a public health capacity.
- Increases at the MMCC were partially offset by several other boards losing positions: dental examiners (2 FTEs), nurses (2 FTEs), and occupational therapists (1 FTE) all lost staff. The only other board to gain a position in the fiscal 2021 budget was the Maryland Board of Pharmacy, adding a call center manager.

Key Observations

1. Maryland Medical Cannabis Commission

The Natalie M. LaPrade Maryland Medical Cannabis Commission is responsible for the implementation of programs to make medical cannabis available to qualifying patients in a safe and effective manner. The commission oversees licensing, registration, inspection, and testing related to the State's medical cannabis program and provides relevant program information to patients, providers, growers, dispensers, processors, testing laboratories, and caregivers. Medical cannabis may only be obtained from a grower or dispensary licensed by the commission.

Controversy over Geographic, Racial, and Ethnic Diversity

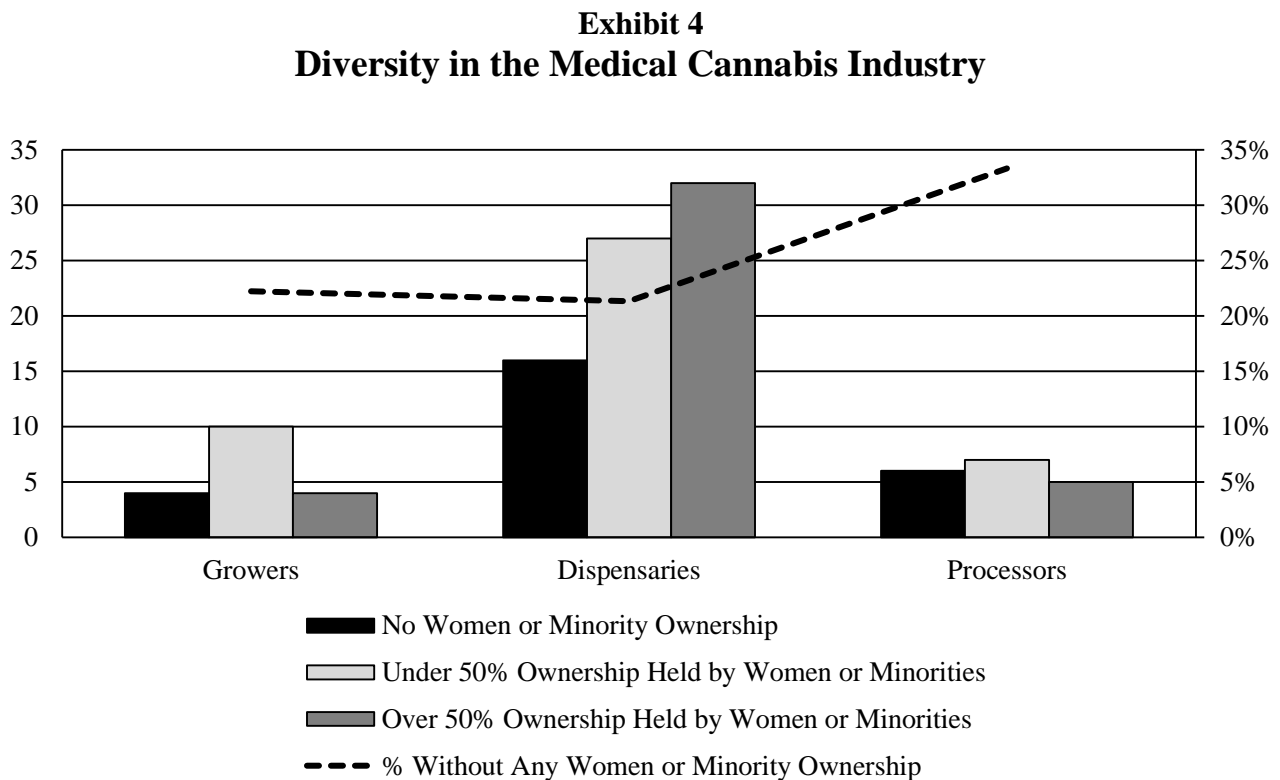
In 2016, the commission announced the award of 15 grower, 15 processor, and 102 dispensary Stage One license preapprovals. Following the award announcements, significant controversy arose surrounding two main issues: the commission's decision to include geographic diversity as a final factor in choosing the grower finalists; and the absence of any minority-led grower among the 15 Stage One approved grower finalists. A disparity study after this initial round of licenses found that the State has a compelling interest in implementing remedial measures to facilitate participation in the medical cannabis industry by minorities and women. Based on these findings, the commission adopted emergency regulations in November 2018 altering the application review process for medical cannabis grower, processor, and dispensary licenses to incorporate remedial measures to assist minorities and women in the medical cannabis industry.

In 2019, the commission undertook training and outreach efforts to promote diversity and minority participation in the medical cannabis industry. Following the conclusion of these efforts, the application period for the new grower and processor licenses was opened from March 25, 2019, until May 24, 2019. However, due to issues with the third-party-hosted online submission portal, the application period was reopened for two additional weeks in June 2019. All applicants were required to resubmit their application materials during this two-week period. The commission received a total of 213 applications.

The commission was scheduled to announce the final preapprovals for the new grower and processor licenses on September 26, 2019. However, the announcement was delayed because (1) the Legislative Black Caucus of Maryland sent an official request to the commission asking for a delay in the award of any Stage One preapprovals until the commission completed the verification process for all applicants; and (2) a temporary restraining order was issued by a judge delaying the issuance of any Stage One preapprovals until October 7, 2019, pursuant to litigation brought against the commission by a potential applicant.

After numerous media reports raised concerns about the application review process, the commission announced plans to engage an independent firm to complete an investigation into the accuracy of material aspects of the highest ranking applications and the impartiality of the application process. Recent reporting suggests that this investigation may not be complete until February 2020.

Exhibit 4 shows the current share of licenses held, at least in part, by a woman or racial/ethnic minority. As shown, throughout the industry in Maryland, roughly 25% of medical cannabis businesses have no ownership stakes held by women or racial/ethnic minorities.



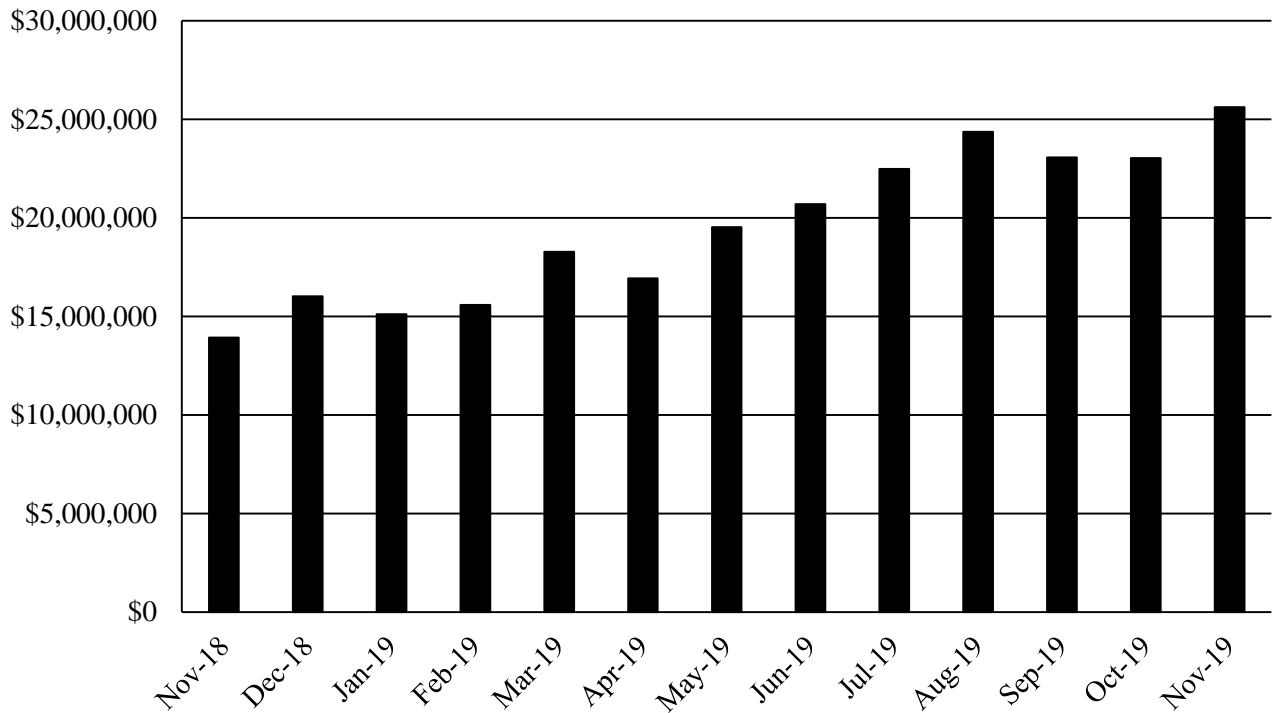
Source: Maryland Medical Cannabis Commission

The commission should comment on the progress of the investigations as they pertain to diversity in the industry and any on-going efforts to improve participation by women and/or minorities.

Status of Medical Cannabis Implementation in Maryland

MMCC currently reports 87,170 certified patients, and data from the second full year of sales suggest continued growth for the industry, as outlined in **Exhibit 5**.

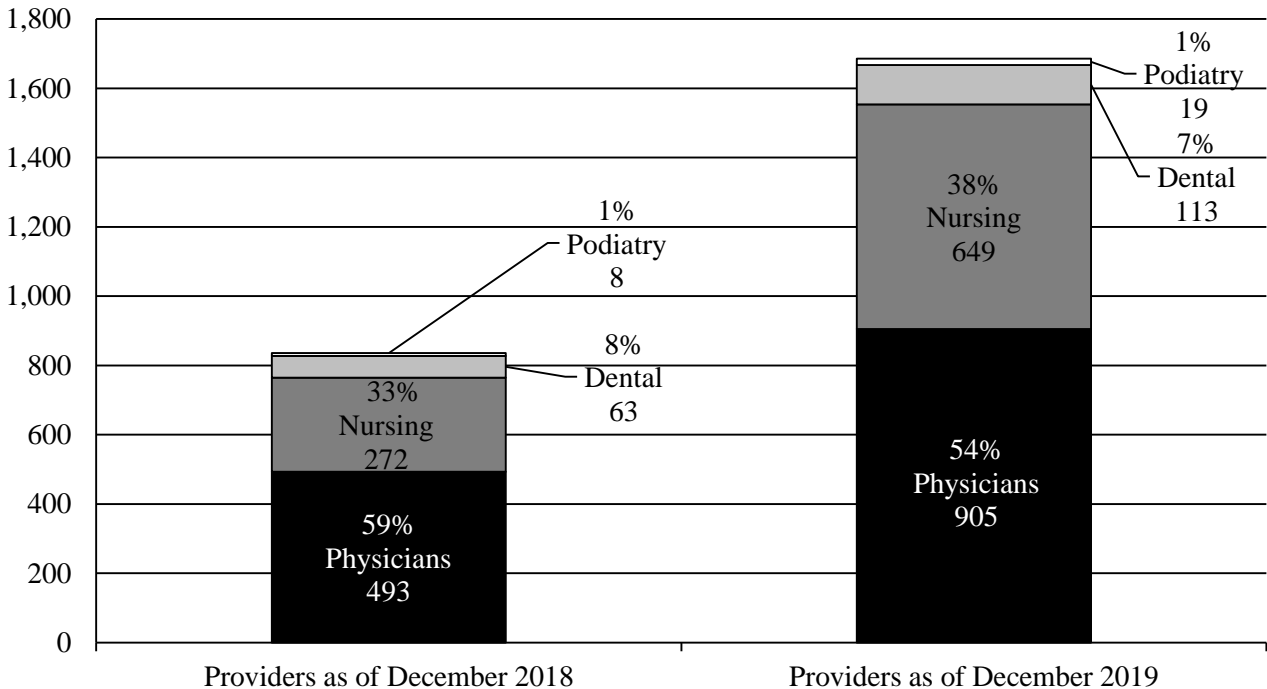
Exhibit 5
Medical Cannabis Sales
November 2018 to November 2019



Source: Maryland Medical Cannabis Commission

As the sale of medical cannabis has increased so has the number of providers who can prescribe medical cannabis. **Exhibit 6** compares the number of registered providers as of the fiscal 2020 budget analysis to the most recent numbers available.

Exhibit 6 Medical Cannabis Registered Prescribers



Source: Maryland Medical Cannabis Commission

As illustrated, since December 2018, the number of licensed providers has nearly doubled, with physicians still representing a majority of licensed prescribers. The exhibit shows the increase in the number of providers by licensing health occupation board as well as the change in the share of the total licensed providers represented. As shown, while physicians decreased their share of number of providers, they still make up over 50% of individuals in the State able to prescribe medical cannabis. Podiatrists and dentists have kept their share of the provider group consistent, while nurses have increased from 33% to nearly 40%.

2. Increased Struggles to Meet Key Objectives

One of the main goals of the boards is to protect the public and promote the delivery of quality health care by receiving, investigating, and resolving complaints leveled against licensees in a timely manner. In fiscal 2019, 15 boards failed to meet the established timeframe for investigating and resolving complaints. This is a substantial increase over the 6 boards who failed to meet this goal in fiscal 2017 and 2018. In addition to the 6 boards that have failed to meet this goal in each of the last

three years (nurses, dental examiners, counselors/therapists, morticians, social work, and audiologists), 8 other boards were unable to investigate their licensees in a timely manner.

The Board of Nursing has regularly struggled with timely investigations. However in fiscal 2019, the board only had 3.5% of their investigations completed within the mandated timeframe of 270 days. **The Board of Nursing should comment on their continued struggles in completing investigations in a timely manner and steps being made to improve investigative performance.**

The other main goal of the health occupation boards is processing the requisite credentials for their respective health providers. The boards aim to have at least 95% of the licenses processed within 10 days for initial licenses and within 5 days for a renewal. In fiscal 2019, only the Maryland Board of Nursing, the State Board of Dental Examiners, the Maryland Board of Pharmacy, and the State Board of Audiologist Examiners failed to meet this goal, an increase of two over last year's processing achievements. The State Board of Dental Examiners has consistently struggled to meet their licensure goal, and the low performance in fiscal 2019 is driven by only 5% of the renewals being processed within the goal. **Exhibit 7** identifies which boards have been unable to meet these respective goals in fiscal 2017 to 2019. **Appendices 4 and 5** shows the complete performance results for each of these measures in their entirety.

Exhibit 7
Boards Failing to Meet Goals
Fiscal 2017-2019

	Boards Unable to Meet Investigation Goals			Boards Unable to Meet Licensing Goals		
	<u>2017 Actuals</u>	<u>2018 Actuals</u>	<u>2019 Actuals</u>	<u>2017 Actuals</u>	<u>2018 Actuals</u>	<u>2019 Actuals</u>
Acupuncture			X			
Audiologists	X	X	X			X
Chiropractic			X			
Counselors/Therapists	X	X	X	X		
Dental Examiners	X	X	X	X	X	X
Dietetic			X			
Environmental Health			X			
Morticians	X	X	X			
Nursing	X	X	X	X	X	X
Optometry			X			
Pharmacy			X			X
Podiatric			X			
Residential Child Care			X			
Social Work	X	X	X			
Total	6	6	14	3	2	4

Source: Governor's Budget Books

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Recently, MDH had supported a major IT project that would assist in improving the licensing and investigation processes of the health occupation boards. However, after both the Board of Physicians and the Board of Nursing backed away from spearheading the Electronic Licensing and Regulatory Management System, there is no funding in the fiscal 2021 allowance for this project. So far, the project has received \$1.11 million in special funds with a projected need through fiscal 2021 of \$1.37 million, creating a \$260,000 shortfall. Further, several boards have budgeted nearly \$650,000 in fiscal 2021 to maintain their legacy licensing software, an increase of over \$200,000 over fiscal 2020. **MDH should comment on the status of this project, the future of the funding for the project, and any other ongoing efforts to improve the collective performances of the health occupations boards.**

Operating Budget Recommended Actions

1. Concur with Governor's allowance.

Budget Reconciliation and Financing Act Recommended Actions

1. Transfer \$1,000,000 in fund balance from the Maryland Board of Physicians in both fiscal 2021 and 2022 to replace general funds supporting the Maryland Primary Care Program.
2. Transfer \$750,000 in fund balance from the State Board of Pharmacy in both fiscal 2021 and 2022 to replace general funds supporting the access to small, rural pharmacies in Maryland.

Updates

- ***Board of Physicians Sunset Review:*** DLS conducted a sunset evaluation on MBP, largely focused on the recommendations included in the 2016 sunset evaluation. DLS found that MBP has implemented the recommendations included in the 2016 evaluation or otherwise addressed the issues raised at that time.

Further findings in the report highlight opportunities for the MBP statutory authority to be clarified or enhanced, particularly related to the ability to take disciplinary action. Likewise, board processes could be refined, and MBP’s responsiveness to licensees could be improved. Accordingly, recommendations made by DLS generally provide clarity to existing statute, increase uniformity in processes among the health occupations regulated by MBP, enhance board effectiveness, and remove outdated requirements and references. DLS recommendations were informed by discussions with board members, board staff, and stakeholder groups as well as the licensee survey.

Ultimately, DLS found that MBP plays a key role in protecting the public health and welfare, and there is no question that the board and its allied health advisory committees should continue to exist and that the termination dates of MBP and its allied health advisory committees be extended for 10 years and one month.

Further and more detailed discussion of the findings and recommendations made by DLS can be found in the sunset evaluation itself.

Appendix 1
2019 Joint Chairmen's Report Responses from Agency

The 2019 *Joint Chairmen's Report* (JCR) requested that the Health Professional Boards and Commission prepare one report. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Maryland Pharmacists Prescribing Contraceptives:*** The Maryland Board of Pharmacy detailed forms designed by the board to screen for need of contraception as well as forms to be completed in instances where contraception is or is not prescribed following the screening. Further, the board shared the training programs that have been certified, and noted that so far, over 100 pharmacists in the State have completed training.

Appendix 2
Major Information Technology Project
Health Professional Boards and Commissions
Enterprise Licensing and Regulatory Management Solution

Further Discussed in the Key Observation

New/Ongoing: Ongoing								
Start Date: Fiscal 2019				Est. Completion Date: Fiscal 2023				
Implementation Strategy: Agile								
(\$ in millions)	Prior year	2020	2021	2022	2023	2024	Remainder	Total
GF								
SF	\$0.735	\$0.379		\$0.816	\$0.378			\$2.310
FF								
Total	0.735	0.379		0.816	0.378			2.310

- **Project Summary:** An Enterprise Licensing and Regulatory Management Solution (LRMS) capable of the management of every aspect of licensing and discipline. These capabilities include software licenses and support, systems analysis, development, implementation, and support services for Health Occupation Boards.
- **Need:** The various Health Occupation Boards use different licensing systems to provide service to their customers. Most of these systems are either outdated, inefficient, or not sufficient to provide the level of service required. Some of these systems are no longer supported by the vendors. However, each board continues to pay their different service providers to maintain these systems.
- **Changes:** No funding budgeted in fiscal 2021, previously anticipated \$378,000 for fiscal 2021.
- **Concerns:** Future of project funding, particularly considering both large boards have elected to pursue their own solutions for licensing. The fiscal 2021 spending plan indicates that there is insufficient funding currently appropriate to cover costs. If that spending plan is adhered to, a budget amendment can be anticipated.

Appendix 3
Total New and Renewed Licenses and Percent Processed in Timely Manner
Fiscal 2017-2019

	<u>2017 Actuals</u>	<u>2018 Actuals</u>	<u>2019 Actuals</u>
Nursing*	51281	50644	49773
	82.1%	81.6%	85%
Physicians and Allied Health*	28030	19354	28479
	99.8%	99.9%	99.8%
Pharmacy*	11897	15386	13866
	99.8%	99.9%	80%
Social Work*	7281	7831	6673
	100%	100%	96%
Dental Examiners*	5212	6735	8256
	64.0%	15.9%	8%
Physical Therapy*	4483	4648	4084
	100%	100%	100%
Counselors/Therapists*	7413	3403	7141
	2.3%	100%	100%
Audiologists*	2461	2671	2655
	100%	100%	57%
Occupational Therapy	2263	2489	2399
	99.7%	98.5%	96%
Psychologists*	1554	1851	1773
	100%	100%	100%
Morticians*	1296	1170	1941
	100%	100%	100%
Chiropractic*	765	1148	759
	100%	100%	95%
Residential Child Care	333	957	1487
	100%	100%	100%
Dietetic Practice*	957	904	1024
	100%	100%	100%
Acupuncture*	562	600	636
	100%	100%	100%
Podiatric	478	559	555
	100%	100%	100%
Optometry*	435	496	457
	100%	100%	100%
Massage Therapy*	4110	427	4199
	100%	100%	95%

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	<u>2017 Actuals</u>	<u>2018 Actuals</u>	<u>2019 Actuals</u>
Nursing Home Administrators	245	246	258
	100%	100%	100%
Kidney Disease	156	150	145
	100%	100%	99%
Environmental Health Specialist*	495	57	488
	95.4%	100%	100%
Total Boards Missing Objectives	3	2	4

*Boards with biennial renewal cycle

Note: Processing goal is 5 days for renewals, 10 days for new licenses. Bold font indicates board failed to meet licensing objectives for fiscal 2019.

Appendix 4
Board Complaint Investigation Results
Fiscal 2017-2019

	Total Complaints <u>Investigated</u>	Established Goal for Resolution of <u>Complaint</u>	% Investigated within Goal		
			<u>2017</u>	<u>2018</u>	<u>2019</u>
Nursing	570	90% in 270 days	23.9%	48.6%	3.5%
Pharmacy	406	100% in 180 days	100.0%	100.0%	80.0%
Dental Examiners	299	100% in 180 days	74.2%	79.8%	62.9%
Counselors/Therapists	273	100% in 180 days	50.0%	49.0%	53.5%
Morticians	86	100% in 180 days	87.4%	82.4%	57.0%
Social Work	71	100% in 180 days	34.5%	39.3%	74.6%
Chiropractic	57	100% in 180 days	100.0%	100.0%	77.2%
Audiologists	39	100% in 180 days	96.4%	87.9%	84.6%
Podiatric	30	100% in 180 days	100.0%	100.0%	86.7%
Optometry	17	100% in 180 days	100.0%	100.0%	64.7%
Dietetic	16	100% in 180 days	100.0%	100.0%	81.3%
Acupuncture	12	100% in 180 days	100.0%	100.0%	50.0%
Environmental Health	3	100% in 180 days	100.0%	100.0%	33.3%
Residential Child Care	2	100% in 180 days	0.0%	100.0%	0.0%

Appendix 5
Object/Fund Difference Report
Maryland Department of Health – Health Professional Boards and Commissions

<u>Object/Fund</u>	<u>FY 19 Actual</u>	<u>FY 20 Working Appropriation</u>	<u>FY 21 Allowance</u>	<u>FY 20 - FY 21 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	0.00	272.60	280.50	7.90	2.9%
02 Contractual	0.00	64.89	85.19	20.30	31.3%
Total Positions	0.00	337.49	365.69	28.20	8.4%
Objects					
01 Salaries and Wages	\$ 23,172,240	\$ 24,624,614	\$ 25,807,789	\$ 1,183,175	4.8%
02 Technical and Spec. Fees	3,305,000	4,476,322	5,680,338	1,204,016	26.9%
03 Communication	513,344	700,353	542,550	-157,803	-22.5%
04 Travel	314,152	497,261	609,481	112,220	22.6%
07 Motor Vehicles	184,198	39,743	43,296	3,553	8.9%
08 Contractual Services	8,168,611	9,063,857	12,601,113	3,537,256	39.0%
09 Supplies and Materials	372,910	347,692	359,227	11,535	3.3%
10 Equipment – Replacement	137,291	158,392	133,353	-25,039	-15.8%
11 Equipment – Additional	160,140	117,031	147,122	30,091	25.7%
12 Grants, Subsidies, and Contributions	225,000	250,000	225,000	-25,000	-10.0%
13 Fixed Charges	1,687,401	1,801,516	1,818,972	17,456	1.0%
Total Objects	\$ 38,240,287	\$ 42,076,781	\$ 47,968,241	\$ 5,891,460	14.0%
Funds					
01 General Fund	\$ 541,836	\$ 561,847	\$ 813,787	\$ 251,940	44.8%
03 Special Fund	37,174,653	40,947,151	46,589,414	5,642,263	13.8%
09 Reimbursable Fund	523,798	567,783	565,040	-2,743	-0.5%
Total Funds	\$ 38,240,287	\$ 42,076,781	\$ 47,968,241	\$ 5,891,460	14.0%

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.

**The Maryland Department of Health's
Responses to the DLS FY 2021 MDH Boards & Commissions Budget Analysis
January 24, 2020 (Senate) and January 29, 2020 (House)**

Considering the surplus fund balances in the health occupation boards and related health care initiatives in the fiscal 2021 budget supported by general funds, the Department of Legislative Services (DLS) is recommending a BRFA action to authorize fund balance transfers of \$1 million in fiscal 2021 and 2022 from MBP to support operating expenditures for the Maryland Primary Care Program.

Response of the Maryland Board of Physicians:

The Board's fund balance is generated from the payment of licensure fees by 45,000 practitioner types including physicians, physician assistants, naturopathic doctors, athletic trainers, radiographers, polysomnographers, perfusionists and respiratory care practitioners. The Board is in the midst of implementing the first phase of a temporary fee reduction for all licensees who are renewing their license. The fee reduction will cost approximately \$1,347,242 for FY20 and FY21. Once completed, the Board will evaluate its financial position to determine if additional fee reductions can be made for the renewal fees of all licensees, and if they can be permanent. The planned second phase of fee reduction is for initial applicants, starting with physician licensure. The Board is considering reducing both the \$790 initial application fee for American Medical Schools Graduates and the \$890 initial application fee for Foreign Medical Graduates to \$650.

In accordance with Health Occ. §14-207(e)(1), the Board's "fund shall be used exclusively to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board." Licensure fees should not be transferred and used for other programmatic deficits, which occurs despite the dedicated nature of the Board's special funded budget.

The Board of Physicians respectfully disagrees with the DLS recommendation to:

"Transfer \$1,000,000 in fund balance from the Maryland Board of Physicians in both fiscal 2021 and 2022 to replace general funds supporting the Maryland Primary Care Program."

The Board's fund balance is unusually large at this time because of a more than \$4 million reserve for litigation that was recently resolved in the Board's favor. However, another tort lawsuit is still pending and requires a reserve.

Previously, when the Board had to maintain the \$4 million reserve for pending litigation, operational projects were placed on hold. Now that the funds are available, the Board is proceeding with several initiatives including new contracts for the practitioner rehabilitation program (approximately \$3,000,000 beginning FY21), the peer review process (approximately \$3,500,000 beginning in FY21) and a supervising physicians program service for licensees under probation (approximately \$3,000,000 beginning FY21). The Board is also facing unknown expenses such as an assessment by the Interstate Medical Licensure Compact, relocation costs

for the agency (estimated to be between \$500,000 and \$1,000,000) and pending legislation that seeks to transfer \$1,000,000 per year to the MLARP Program.

Special funded agencies are expected to retain a portion of the fund balance for economic uncertainties. The recommended reserve for economic uncertainties is 20% and 30% of the agency's expenditures from the previous fiscal year based upon the size of the agency. The Board's FY19 expenditures totaled \$9,260,994.96; therefore, the reserve should be approximately \$2,800,000 of the fund balance.

It is frustrating that despite all the Board's planning and hard work to be operationally nimble, fiscally responsible, retain reserves for uncertainties and utilize resources for upgrades for the benefit of Board licensees, that fund balances are appropriated to support programs unrelated to the Board's mission.

DLS is further recommending a BRFA action to authorize fund balance transfers of \$750,000 in fiscal 2021 and 2022 from the State Board of Pharmacy to the Medical Care Programs Administration for the expansion of access to small pharmacies.

Response of the Maryland Board of Pharmacy:

The Maryland Board of Pharmacy concurs with the recommendation and is in support of the budget transfer of \$750,000 to the Medical Care Programs Administration for the expansion of access to small pharmacies.

The [Cannabis Commission] should comment on the progress of investigations as they pertain to diversity in the industry and any on-going efforts to improve participation by women and/or minorities.

Response from the Natalie M. LaPrade Maryland Medical Cannabis Commission (Commission):

License Application Process

The Commission is aware of media reports that raise concerns about the application review process, including the impartiality of the application evaluation. The Legislative Black Caucus of Maryland also sent an official request to the Commission on September 25, 2019, asking for a delay in the award of any Stage One Pre-Approval until the Commission completes "the verification process for all applicants to ensure that all companies are truthful in their disclosures about minority ownership, and their financial status." While the Commission is confident that the application evaluation process and procedures developed by Morgan State University and Commission staff were comprehensive and fair, the Commission decided to engage an independent firm to complete an investigation into the (1) accuracy of certain material aspects of the highest ranking applications, and (2) impartiality of the application process.

The Commission issued two emergency requests for procurement (RFPs) for independent investigatory services to complete these fact-finding investigations. Several high-quality proposals were submitted to the Commission in response to each RFP. The Commission evaluated each proposal and made award recommendations to the Maryland Department of

Health. The Commission anticipates that each investigation will be completed in March 2020, at which time the Commission will report the findings of each investigation to the General Assembly and the public.

A Montgomery County Circuit Court Judge issued a temporary restraining order that expired on October 17, 2019. Subsequently, the Commission may issue Stage One Pre-Approvals for grower and/or processor licenses, pending the results of the independent investigations. On December 5, 2019, the court also denied the Plaintiff, Remileaf LLC's motion for a preliminary injunction, finding they were unlikely to succeed on the merits of the case. A hearing to consider the Commission's motion to dismiss is scheduled for February, 5, 2020.

On-going Efforts to Improve Participation by women and/or minorities

In 2019, the Commission hosted a series of educational outreach events to promote the medical cannabis program and licensing opportunities to small, minority, and women business owners and entrepreneurs. The Commission also awarded five grants – totaling \$225,000 – to business development and educational organizations to train small, minority, and women business owners and entrepreneurs on medical cannabis laws and regulations, as well as certain critical aspects involved in running a cannabis business. Combined, these events were attended by more than 700 small, minority, and women business owners and entrepreneurs. The Commission also adopted an “ancillary business registration,” pursuant to Health-General §13-3313, to authorize testing, security, transport, and waste disposal companies to possess cannabis and work with medical cannabis licensees. These business registrations have significantly lower fees than licensees (\$100 versus \$40,000) and require less capital. The Commission is currently working with small, minority, and women trade associations to promote ancillary business registrations and other job opportunities in the cannabis industry.

Currently, more than 60% of cannabis industry employees in Maryland are minorities and women, and more than 35% of all owners and investors in medical cannabis businesses in Maryland are minorities or women. These figures represent a significant increase from when the program first became operational in 2017.

The Board of Nursing should comment on their continued struggles in completing investigations in a timely manner and steps being made to improve investigative performance.

Response of the Maryland Board of Nursing:

Currently, the Board of Nursing (BON) has over 5,200 investigations in progress, and a total of 5 investigators (please note, full capacity is 10 investigators). On average, the BON receives 120 to 140 complaints per month and each investigator oversees 300 to 400 cases. Over the past six months, five investigators resigned and the Board lost two merit PINs during the last PIN review.

The following steps are being made to improve investigation performance:

1. BON is in the process of actively recruiting to fill open positions.
2. BON is restructuring the investigative department to improve the workflow.
3. BON is looking at more investigative and training resources based on the types of cases we are receiving.
4. BON is requesting to retrieve the two Merit PINs for the investigative team in order to achieve a better turn around time.

MDH should comment on the status of this [Major IT] project [to assist in improving the licensing and investigation processes of the health occupation boards], the future of the funding for the project, and any other ongoing efforts to improve the collective performances of the health occupations boards.

Response of the Maryland Board of Nursing (BON):

The BON has been working directly with the Department of Information Technology (DoIT) to develop a strategic plan and approach to take advantage of the OneStop Portal DoIT developed. This portal provides one location where the citizens of Maryland can go for nursing information, as well as assisting in upgrading and modernizing our licensing systems. To date, DoIT and the BON have had several discussions regarding this matter, and it is the Board's position that these funds and more will be necessary to move forward with this project.