

REPORT DIGEST

ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION

FINANCIAL AND COMPLIANCE AUDIT

For the Two Years Ended:
June 30, 1997

Summary of Findings:

Total this audit	20
Total last audit	17
Repeated from last audit	13

Release Date:



State of Illinois
Office of the Auditor General

WILLIAM G. HOLLAND
AUDITOR GENERAL

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SYNOPSIS

- ◆ There are deficiencies in the Department's enforcement process including untimely activity in the investigation and prosecution functions. This finding is repeated from our 1995 audit.
- ◆ Current procedures do not ensure that statute of limitations dates are accurately entered into the Enforcement Case Tracking System or Regulatory Administration and Enforcement System. This finding is repeated from our 1995 audit.
- ◆ The Division of Enforcement has not maintained adequate documentation of case activity in the Enforcement System. This finding has been repeated since 1991.
- ◆ The Department has not promulgated rules for the administration of professions on a timely basis.
- ◆ There was a lack of accountability over Professional Evidence Fund expenditures used for covert investigative purposes.
- ◆ The Department does not have adequate contract administration procedures. Thirteen of thirty-two contracts were negotiated or signed after the beginning of the contract term. In addition, we noted four contracts for which services were performed prior to the contract being reduced to writing.
- ◆ Policies have not been enforced related to the assignment of State-owned vehicles to determine if vehicles are assigned to employees possessing the greater need or whether the operating costs are excessive. This finding is repeated from our 1995 audit.

{Expenditures and Activity Measures are summarized on the reverse page.}

DEPARTMENT OF PROFESSIONAL REGULATION
FINANCIAL AND COMPLIANCE AUDIT
For The Two Years Ended June 30, 1997

EXPENDITURE STATISTICS	FY 1997	FY 1996	FY 1995
! Total Expenditures (All Funds).....	\$19,927,756	\$18,864,429	\$19,784,442
Personal Services.....	\$12,092,454	\$11,372,818	\$11,941,860
% of Total Expenditures.....	60.7%	60.3%	60.4%
Average No. of Employees.....	315	307	332
Other Payroll Costs (FICA, Retirement).....	\$3,114,240	\$2,832,168	\$3,013,153
% of Total Expenditures.....	15.6%	15.0%	15.2%
Other Personal Services (Board Member Per Diems).....	\$420,442	\$437,891	\$302,600
% of Total Expenditures.....	2.1%	2.3%	1.5%
Contractual Services.....	\$2,205,105	\$2,132,608	\$1,978,270
% of Total Expenditures.....	11.1%	11.3%	10.0%
Electronic Data Processing.....	\$810,062	\$697,257	\$674,082
% of Total Expenditures.....	4.1%	3.7%	3.4%
Travel.....	\$367,756	\$398,936	\$382,474
% of Total Expenditures.....	1.8%	2.1%	1.9%
Refunds.....	\$52,231	\$25,676	\$53,759
% of Total Expenditures.....	.3%	.2%	.3%
All Other Items.....	\$865,466	\$967,075	\$1,438,244
% of Total Expenditures.....	4.3%	5.1%	7.3%
! Cost of Property and Equipment.....	\$3,087,591	\$2,939,016	\$3,028,734
SELECTED ACTIVITY MEASURES	FY 1997	FY 1996	FY 1995
! Number of Licenses Granted.....	52,853	58,821	71,588
! Number of Licenses Renewed.....	196,017	296,474	200,635
! Total Active Licensees.....	579,459	553,725	572,342
! Number of Complaints Accepted.....	13,222	14,226	8,965
! Number of Investigations Opened.....	8,177	8,732	N/A
! Number of Investigations Closed.....	15,445	12,083	7,846
! Total Receipts Collected.....	\$24,144,962	\$27,891,805	\$16,685,077
AGENCY DIRECTOR(S)			
During Audit Period: Ms. Nikki Zollar Currently: Ms. Nikki Zollar			

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

ENFORCEMENT PROCESS DEFICIENCIES

There were deficiencies in the enforcement process including untimely activity in the investigation and prosecution functions.

In testing the investigation of pharmacy and dental cases, we found:

Time delays of up to 102 days were noted in the investigation of pharmacy and dental cases sampled

- ◆ 4 of 25 cases reflected time delays, ranging from 51 to 102 days, between receipt of the complaint and the date of the first follow-up or investigative activity.
- ◆ 6 of 25 cases referred for investigation reflected time delays, ranging from 37 to 80 days, between the date of the last recorded investigative activity and the date the case was either closed or referred to prosecutions.
- ◆ 7 of 25 cases referred for investigation reflected periods, ranging from 61 to 89 days, during which no substantive investigative activities were performed.

In testing the prosecution of pharmacy and dental cases, we found:

Time delays of up to 291 days were noted in prosecutorial activities of pharmacy and dental cases sampled

- ◆ 12 of 25 cases reflected time delays, ranging from 32 to 291 days, between the date referred to the Legal Unit and the date of the first prosecutorial activity.
- ◆ 2 of 25 cases referred for prosecution reflected periods, ranging from 91 to 211 days, during which no substantive prosecutorial activities were performed.
- ◆ 2 of 25 cases referred for prosecution reflected time delays for a period of 47 days between the date of the last recorded prosecutorial activity and the date the case was signed by the director. (Finding 1, pages 11-12)
This finding is repeated from our 1995 audit.

We recommended the Department establish adequate procedures over investigative and prosecutorial

duties.

The Department concurred with our recommendation, stating that management changes have been implemented to improve timeliness in both dental and pharmacy cases. (For previous Department response, see Digest footnote #1.)

STATUTE OF LIMITATIONS PROCEDURES ARE INADEQUATE

The Division of Enforcement's procedures do not ensure that statute of limitations (SOL) dates are accurately entered into the Enforcement Case Tracking System (ECTS) or Regulatory Administration and Enforcement System (RAES).

Four professions regulated by the Department, (medical, nursing, nursing home administrator, and dental) have established statute of limitations periods. These periods are generally set at 3 to 5 years from the date of incident or 3 years from receipt by the Department of a charge that a violation has occurred.

One of 10 statute of limitations dates sampled was inaccurate

During audit testing, we reviewed 10 files to determine the reliability of entered SOL dates, of which 1 was incorrect. Reports are generated monthly showing cases with SOL dates about to expire, but incorrect dates entered into the system can result in SOL dates expiring before appropriate action is taken by the Enforcement Division. (Finding 2, page 13) **This finding is repeated from our 1995 audit.**

We recommended the Department implement procedures to ensure SOL dates are accurately determined and entered into the ECTS/RAES.

The Department concurred with the recommendation, stating a policy will be implemented requiring supervisors to review and approve statute of limitations dates entered by investigators. (For the previous Department response, see Digest footnote #2.)

INADEQUATE DOCUMENTATION OF CASE ACTIVITY

In 8 of 10 instances, no documentation of case activity was recorded on the ECTS/RAES

The Division of Enforcement has not maintained adequate documentation for case activity. Each time a case is worked on, the activity is to be documented either on the Enforcement Case Tracking System (ECTS) or the Regulatory Administration and Enforcement System (RAES), which is a replacement for ECTS.

During audit testing of 50 cases, we noted 10 separate instances in which the ECTS/RAES was not properly used. In 8 of the 10 instances, activity was not recorded on the ECTS/RAES. In 2 of the 10 instances, activity was recorded on the ECTS/RAES, but there was no documentation of any activity in the official investigation file. (Finding 4, pages 16-17) **This finding has been repeated since 1991.**

We recommended the Department establish and enforce procedures for appropriate use of the ECTS/RAES and ensure appropriate documentation is maintained in the central investigation file.

The Department concurred with our recommendation, stating the Department currently has procedures setting forth the appropriate use of the ECTS/RAES and will enforce those procedures more rigidly. (For the previous Department responses, see Digest footnote #3.)

RULES NOT PROMULGATED ON A TIMELY BASIS

Rules for the administration of professions are not promulgated timely

The Department has not promulgated rules for the administration of professions on a timely basis. Enactment of legislation regarding professions previously unregulated by the Department or substantive changes in laws governing a currently regulated profession requires the Department to develop and implement rules necessary for the administration of the profession.

We noted the following deficiencies:

- ◆ The Collection Agency Act (225 ILCS 425) was amended by legislation signed into law on August 18, 1995. During our testing, we noted the rules still had not been revised to incorporate changes necessitated by the amended Act.
- ◆ The Professional Geologist Licensing Act (225 ILCS 745) was signed into law August 18, 1995 with an effective date of January 1, 1996. Emergency rules for the regulation of this profession were adopted April 22, 1997 and the Department had to seek legislation extending the effective date of the legislation to enable certain grandfather provisions of the law to be available for geologists currently practicing.
- ◆ The Respiratory Care Practice Act (225 ILCS 106) was signed into law June 23, 1995 with an effective date of January 1, 1997. Rules for the regulation of this profession were approved and effective August 11, 1997. (Finding 9, pages 23-24)

We recommended the Department establish adequate procedures to ensure rules are promulgated on a timely basis.

The Department partially concurred with our recommendation and agrees that rules need to be adopted as quickly as possible. However, Department officials stated there are other functions/processes that have to occur before rule writing and adoption can happen. The Department stated they will, however, review the functions and processes and attempt to revise the process in order to shorten the time frame for rule implementation.

LACK OF ACCOUNTABILITY OVER PROFESSIONAL EVIDENCE FUND EXPENDITURES

No reports were filed during a period of approximately 16 months documenting the use of a \$3,000 covert checking account

A Department investigator obtained \$3,000 from the Evidence Official Advance Fund in March, 1996 to establish a covert checking account to investigate alleged fraudulent activity of a physician. As of August 12, 1997, the covert checking account had a balance of \$1,515.13, but the investigator had not filed any reports documenting the

use of funds in the covert checking account.

Department guidelines stipulate a report must be completed for the use of any money obtained for investigative operations. Generally, the funds must be used within thirty days of receipt or be returned unless a written extension is obtained. (Finding 13, page 30)

We recommended the Department establish adequate procedures to ensure investigative advance practices are monitored and there is adequate accountability over the use of advance funds.

The Department concurred stating the Department's Internal Audit Unit has audited the expenditures from the covert checking account and any future covert checking accounts will require the investigator to follow established approval and recordkeeping procedures.

INADEQUATE CONTRACT ADMINISTRATION PROCEDURES

Thirteen of 32 contracts were negotiated and/or signed after the beginning of the contract term

During our audit testing, we noted instances where contracts were not in place prior to the start of the contract term. In 32 contracts reviewed, 13 were negotiated and/or signed after the beginning of the contract term. We also noted four contracts for which services were performed prior to the contract being reduced to writing. In one of the instances, the Department submitted a late filing affidavit stating there was a dispute between the contractor and the Director over the amount of compensation. (Finding 15, page 33)

We recommended the Department enter into written contracts prior to the term of the contract.

The Department concurred with our recommendation and stated they will not pay for services provided prior to the execution of their contract.

LACK OF ENFORCEMENT OF POLICIES REGARDING ASSIGNMENT OF STATE VEHICLES

The Department has not enforced policies relating to the assignment of the approximately 90 State-owned

vehicles to determine if vehicles are assigned to employees possessing the greater need or whether the vehicle operating costs are excessive. An internal Department policy requires a review of vehicle assignments and recommendations regarding new vehicle assignments, reallocation of vehicles and the pooling of vehicles at least once every 6 months.

Thirty-seven of 90 State-owned vehicles were not driven the minimum required 1,000 business miles per month

The following information was based on Department estimates as of December 31, 1996.

- ◆ 37 of 90 State-owned vehicles did not meet the 1,000 business miles per month average required as a factor in the assignment of vehicles.
- ◆ 4 of 37 were estimated to be accumulating more commuting mileage than business mileage on the State-owned vehicle.
- ◆ 21 of 37 State-owned vehicles were driven less than 1,000 miles per month on average for combined business and commuting purposes.

We recommended vehicle assignments be performed at least once every six months and vehicle cost reports be prepared monthly as required by Department policy and that vehicle assignment be terminated for those individuals who do not meet assignment criteria. (Finding 16, page 34) **This finding is repeated from our 1995 audit.**

The Department partially concurred with our recommendations, stating they will perform vehicle assignment reviews at least once every six months, and vehicle cost reports monthly. Department officials also stated they will continue to address the minimum monthly business mile requirement in the context of labor negotiations. (For the previous Department response, see Digest footnote #4.)

OTHER FINDINGS

The remaining findings are less significant and are being given appropriate attention by the Department. We will review progress toward implementing the

recommendations during the Department's next audit.

AUDITORS' OPINION

The auditors state the Department's financial statements for the two years ending June 30, 1997 are fairly presented.

WILLIAM G. HOLLAND, Auditor General

WGH:BAR:pp

SPECIAL ASSISTANT AUDITORS

Sikich Gardner & Co, LLP were our special assistant auditors for this audit.

DIGEST FOOTNOTES

#1 ENFORCEMENT PROCESS DEFICIENCIES - Previous Department Response

1995: Concur. The Enforcement Division has initiated a case file review procedure. Case files should be done at least once every 60 days. Monthly schedules for Prosecutions/Investigations are to be submitted to the Director and the Director of Statewide enforcement to assure that required file reviews are performed. These reviews should eliminate the issues raised within this finding.

#2 STATUTE OF LIMITATIONS PROCEDURES ARE INADEQUATE - Previous Department Response

1995: Concur. The Chief/Supervisor of each Unit will be responsible for entering the SOL date. In addition, the prosecution attorney will be responsible for reviewing the SOL date upon receipt of an investigative file and ensure the SOL date is correct.

#3 INADEQUATE DOCUMENTATION OF CASE ACTIVITY - Previous Department Responses

1995: Concur. The Enforcement Division has issued memoranda to investigative and prosecutorial staff outlining their need to enter activities in a correct and timely manner. In addition, case file reviews should point out activities not entered or reported.

1993: Concur. The Deputy Director of Statewide Enforcement will review current policies and revise to incorporate the use of the Enforcement Case Tracking System (ECTS).

The Deputy Director of Statewide Enforcement will issue a directive to all Enforcement personnel indicating that activities are to be completed

in a timely manner. The directive will also require Enforcement supervisors to monitor investigative and prosecutorial activities regarding ECTS. This will include entry activities as well as updates and closures. Case loads will be reviewed by supervisors at least once every 30 days.

The ECTS program will be redesigned to include supervisor participation on data entry for any case where no activity has been recorded for 120 days or more.

The Deputy Director of Statewide Enforcement will meet with the Chief of Prosecutions to discuss the development of procedures regarding prosecutorial activities. These procedures may include the establishment of a "double-file" system for attorneys. This system would include creating two files; one central file and one personal file per attorney.

Projected Date of Completion: December 31, 1994

1991: Concur. The Division concurs Policy Manual revisions should be completed and reissued. All Enforcement Division Policy Manual revisions were completed in early 1991 and forwarded to the agency's management support Bureau for approval in March, 1991. When approved policies are received by the Division, proper orientation to familiarize Enforcement Division employees with the extended time frame outlined in the Revised Policy will be completed.

**#4 LACK OF ENFORCEMENT OF POLICIES REGARDING
ASSIGNMENT OF STATE VEHICLES - Previous Department
Response**

1995: Concur. Formal reviews of vehicle assignments are currently being performed and will continue to be performed every six (6) months. These reviews will encompass vehicle costs and other assignment criteria.

Corrective Action Plan:

Reviews are currently being done. Cost reports required on a monthly basis will be removed from policy and cost information will be a required part of the six (6) month review of assignments. Implementation deadline: 1/31/96.

