

DEPARTMENT OF HEALTH
REGULATION OF HEALTH CARE PROFESSIONS

Operational Audit



STATE SURGEON GENERAL AND STATE HEALTH OFFICER

The Department of Health is created by Section 20.43, Florida Statutes. The head of the Department is the State Surgeon General and State Health Officer who is appointed by the Governor subject to confirmation by the Senate. Dr. John H. Armstrong served as the State Surgeon General and State Health Officer during the period of our audit.

The audit team leader was Nick Pappas, CPA, and the audit was supervised by Karen Van Amburg, CPA. Please address inquiries regarding this report to Lisa Norman, CPA, Audit Manager, by e-mail at lisanorman@aud.state.fl.us or by telephone at (850) 412-2831.

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DEPARTMENT OF HEALTH

Regulation of Health Care Professions

SUMMARY

This operational audit of the Department of Health (Department) focused on the regulation of health care professions by the Division of Medical Quality Assurance (Division). Our audit disclosed the following:

TRUST FUND MANAGEMENT

Finding No. 1: The Division did not always take sufficient actions to maintain the financial integrity of each profession's Medical Quality Assurance Trust Fund account.

Finding No. 2: The rate used to allocate Department indirect costs to the Division was not adequately supported and did not appear to provide for a proportionate allocation of costs to the account of each profession.

REGULATORY OVERSIGHT

Finding No. 3: Division management could not always demonstrate that employees had received required training or that training records were complete.

Finding No. 4: Contrary to State law, Division staff did not inspect the facilities of dispensing practitioners prior to initial licensure or upon a change of ownership, name, or location. In addition, Division staff did not inspect certain other medical facilities prior to initial licensure or registration or upon a change of a facility's ownership, name, or location as, according to Division management, the Department lacked the necessary statutory authority to inspect.

SERVICE ORGANIZATION MANAGEMENT

Finding No. 5: The Division's contract with a service organization for licensing support and payment processing services needs amending to require an independent service auditor's report that provides appropriate assurances related to the effectiveness of the controls designed and established by the service organization relevant to the contracted services.

Finding No. 6: The Department did not ensure that service organization employees with access to information that was confidential and exempt from public inspection received required level 2 background screenings.

INFORMATION TECHNOLOGY CONTROLS

Finding No. 7: Department controls over access to the Customer Oriented Medical Practitioner Administration System (COMPAS) need improvement.

BACKGROUND

State law¹ established the Division of Medical Quality Assurance (Division) within the Department of Health (Department). As of June 30, 2014, the Division, in conjunction with 22 boards² and 6 councils, was responsible for regulating 36 health care professions³ and 8 types of facilities. The Division's three core business processes included licensing, enforcing laws and rules governing the State's health care practitioners and certain health care

¹ Section 20.43(3)(g), Florida Statutes.

² A board is a statutorily created entity authorized to exercise regulatory or rulemaking functions within the Department. Board members are appointed by the Governor and subject to confirmation by the Senate.

³ Each health care profession may have one or more profession types. For example, the nursing profession included the advanced registered nurse practitioner, registered nurse, licensed practical nurse, and clinical nurse specialist profession types.

establishments and facilities, and providing information and data to the public. Specifically, the Division was responsible for:

- Licensing activities including preparing and administering licensure examinations; issuing and renewing licenses; tracking licensure conditions and restrictions; monitoring compliance with continuing education and financial responsibility requirements; and evaluating and approving training programs and continuing education providers.
- Enforcement activities including receiving, analyzing, and investigating complaints and statutorily required reports; tracking licensee compliance with disciplinary sanctions; inspecting health care facilities; issuing citations and emergency suspension and restriction orders; conducting disciplinary proceedings; and combating unlicensed activity.
- Information and data activities including providing easy access to licensing and disciplinary information; ensuring that data was accurate, timely, consistent, and reliable; and collecting and reporting workforce data.

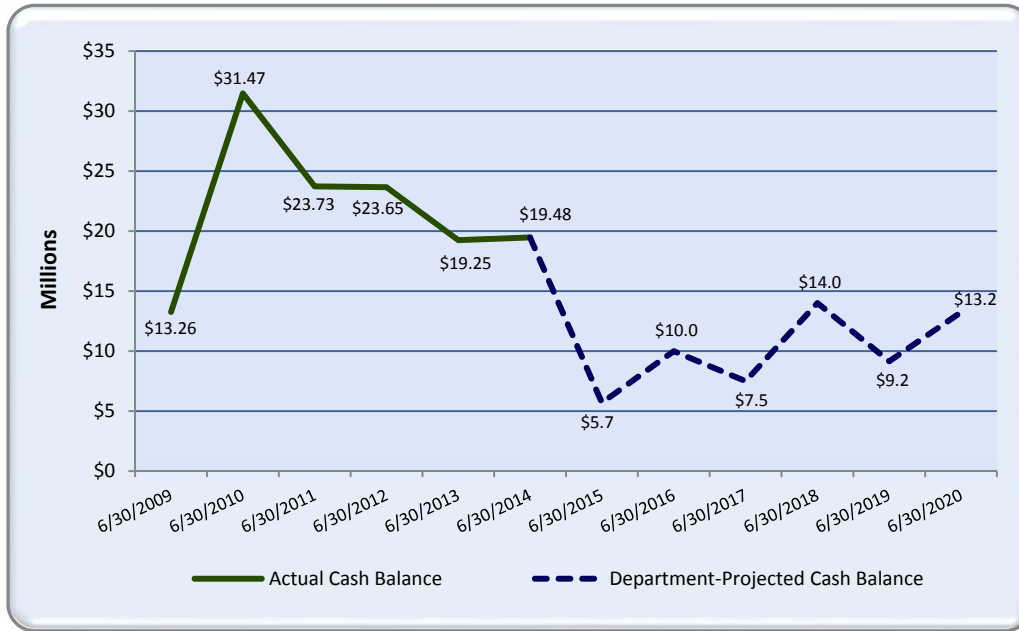
FINDINGS AND RECOMMENDATIONS

Trust Fund Management

State law⁴ specifies that the Department’s regulation of health care professions is to be financed solely from revenue collected by the Department from fees and other charges deposited in the Medical Quality Assurance Trust Fund (MQATF). Pursuant to State law, the Department maintains individual accounts within the MQATF to track the revenues, expenditures, and cash balances associated with each regulated health care profession. Fees charged for the initial issuance and renewal of health care practitioner licenses are the primary source of MQATF revenue. For the 2013-14 fiscal year, the Department reported in the MQATF operating revenues totaling approximately \$77.9 million and expenditures totaling approximately \$79.7 million. At June 30, 2014, the cash balances of all professions accounted for in the MQATF totaled \$19.5 million. Chart 1 depicts, for all professions accounted for in the MQATF, the total actual or Department-projected cash balances at fiscal year-end for the 2008-09 through 2019-20 fiscal years.

⁴ Section 456.025(8), Florida Statutes.

Chart 1
MQATF Actual and Department-Projected Cash Balances
at Fiscal Year End



Source: Department records.

Finding No. 1: MQATF Fiscal Management

The Legislature has declared its intent that all costs of regulating health care professions be borne solely by licensees and licensure applicants; licensure fees be reasonable and not serve as a barrier to licensure; and the Department operate as efficiently as possible and regularly report to the Legislature additional measures to streamline operational costs.⁵ The Legislature has also stated its intent that no regulated profession operate with a negative cash balance.⁶ Pursuant to State law,⁷ the Department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest.

State law,⁸ requires the Department to submit an annual report to the President of the Senate and Speaker of the House by November 1st each year detailing, by profession, the revenues, expenditures, and cash balances for the prior fiscal year, and a review of the adequacy of existing fees. According to the Department, the adequacy of existing fees is reviewed based on the cost to regulate, statutory renewal fee caps, and the current renewal fee for professions.

Regarding fees for health care professions, State law also provides that:

- Before the issuance of any license, the Department is to charge an initial license fee as determined by the applicable board or, if there is no board, by Department rule.⁹
- Each board, or the Department if there is no board, is to ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by Department rule, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the

⁵ Section 456.025(1), Florida Statutes.
⁶ Section 456.025(3), Florida Statutes.
⁷ Section 456.025(3), Florida Statutes.
⁸ Section 456.026, Florida Statutes.
⁹ Section 456.013(2), Florida Statutes.

Department that license fees are projected to be inadequate, the Department is to set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance.¹⁰

- License renewal fees are to be set by the boards, in consultation with the Department, or by the Department if there are no boards.¹¹ However, State law¹² prohibits license renewal fees that exceed the fee caps authorized by law.
- The Department is to include recommended changes to the statutory fee caps in the Department's annual report.¹³
- Renewal fees are not to be more than 10 percent greater than the actual cost to regulate the profession for the previous biennium.¹⁴
- Each board, or the Department if there is no board, may, by rule, assess and collect from each active status licensee and each inactive status licensee a one-time fee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the professions. Not more than one such assessment may be made in any 4-year period without specific legislative authorization.¹⁵

As depicted in **EXHIBIT A** of this report, some professions had deficit cash balances in the MQATF. As of June 30, 2013, the accounts for 11 of the 37 professions in the MQATF had deficit cash balances ranging from \$127,006 to \$3,308,846, and totaling \$11,379,302. As of June 30, 2014, the accounts for 10 of the 36 professions in the MQATF had deficit cash balances ranging from \$59,636 to \$4,442,867, and totaling \$9,979,741.

As part of our audit, we evaluated the actions taken by the boards and the Division¹⁶ to manage the MQATF cash balances and license fees for each profession. Our audit procedures disclosed that the actions of the boards and the Division were not sufficient to ensure the establishment of reasonable MQATF cash balances, adequate and reasonable license fees, and rules for the advancement of funds to professions with negative cash balances. Specifically, we found that:

- Although required by State law, the Department had not established in rule a reasonable MQATF cash balance for each profession. Although reasonable cash balances had not been established in rule, in response to our audit inquiry, Division management indicated that the Division seeks to keep the projected biennial revenues to no more than 10 percent greater than the projected biennial expenditures and that a positive cash balance must exist at the end of each fiscal year.
- The license fee renewal amounts established for some professions were inadequate to cover the costs to regulate the professions, while the fee amounts for other professions were more than sufficient to cover the applicable regulation costs. Specifically:
 - For those professions for which the Department projected inadequate license renewal fees, the Division had not taken appropriate actions to set fees sufficient to cover all anticipated costs and maintain a reasonable cash balance. Specifically, for the 2012-13 fiscal year, the Division identified¹⁷ seven professions for which license renewal fees were inadequate. According to Division records, the license renewal fees for each of these seven professions had not been adequate to cover costs for 1 or more years. The license renewal fees for four of the seven professions were set at the applicable statutory fee caps; however, the Department had not recommended associated fee cap increases to the Legislature. The fees for the other three professions were set below the applicable statutory fee caps. There were no

¹⁰ Section 456.025(3), Florida Statutes.

¹¹ Section 456.025(1), Florida Statutes.

¹² Section 456.004(1), Florida Statutes.

¹³ Section 456.025(2), Florida Statutes.

¹⁴ Section 456.025(1)(f), Florida Statutes.

¹⁵ Section 456.025(5), Florida Statutes.

¹⁶ Section 20.43(3)(g), Florida Statutes, specifies that the Division of Medical Quality Assurance is responsible for the boards and professions established within the Division.

¹⁷ Division 2012-2013 *Annual Report and Long Range Plan*, Table 17, Review of the Adequacy of Renewal Fees.

active licenses for one of these three professions and the license renewal fees for the other two professions covered only approximately 13 percent and 41 percent, respectively, of the applicable regulation costs. In response to our audit inquiry, Division management indicated that a one-time fee had not been assessed to assist in the maintenance of reasonable cash balances for any profession since the 2008-09 fiscal year.

- State law provides that renewal fees for each profession type should be no more than 10 percent greater than the cost to regulate for the previous biennium. However, the Division evaluated renewal fees using the projected costs to regulate each profession for the upcoming two fiscal years. Although the Division's renewal fee evaluation methodology was not fully consistent with State law, it appeared to be a reasonable way to calculate the regulation costs. Our review, using the Division's methodology, showed that the Division did not ensure that renewal fees for each profession type were no more than 10 percent greater than the projected biennium costs to regulate the profession. Our analysis of the Division's reported license renewal fees and projected regulation costs for the 2012-13 fiscal year¹⁸ disclosed that the license renewal fees for 12 profession types associated with nine professions exceeded the Division's projected regulation costs by more than 10 percent. Specifically, for the 12 profession types, license renewal fees ranged from 11.1 percent to 93.1 percent more than the projected cost to regulate each profession. In addition, although the projected costs to regulate 9 of the 12 profession types had decreased from the 2011-12 fiscal year, the Division did not lower the license renewal fees during the 2012-13 fiscal year. During the 2013-14 fiscal year, the Division reduced the license renewal fee for 1 of the 9 profession types.
- The Department had not established rules providing for the advancement of funds to professions with negative MQATF cash balances. In response to our audit inquiry, Division management indicated that rules were unnecessary as cash advances had not occurred. However, while there were no accounting transactions moving cash to accounts with negative cash balances, as all the professions' expenses are paid from the MQATF moneys, those professions with positive cash balances are, in effect, subsidizing the professions with continual negative cash balances. Our analysis of the year-end cash balances for the 2009-10 through 2013-14 fiscal years disclosed that 10 professions had maintained a negative cash balance for more than 2 consecutive years. Our audit procedures also disclosed that, although the expenses of those professions with negative cash balances continued to be paid from MQATF moneys, the Division had not charged interest to those professions. In response to our audit inquiry, Division management indicated that the Division had not charged interest to professions with negative cash balances because to do so would further increase the professions' deficit balances.

Due to the manner in which the boards and the Division managed the license fees and MQATF cash balances, some professions accumulated significant cash balances and, as shown in Chart 1, the MQATF, as a whole, accumulated and maintained a large cash balance during the 2008-09 through 2013-14 fiscal years. During those years, the Legislature directed that a total of \$82.3 million be transferred from the MQATF to the General Revenue Fund. We reviewed the Division's allocation of the amounts transferred from the MQATF and noted that the Division allocated the amounts transferred only to the professions with positive current and 6-year projected cash balances. Consequently, the cash balances for 3 professions (nursing, pharmacy, and massage therapy) were reduced in total by \$45.7 million, or 55.5 percent of the \$82.3 million total transfer amount, while the cash balances of 13 professions were not affected. In addition, based on this allocation methodology, the Division only allocated \$4.45 million (5.4 percent) of the transferred amount to the profession with the largest cash balance (medicine).

In response to our audit inquiry, Division management indicated that certain professions had negative cash balances primarily due to statutory license renewal fee caps and the small number of licensees. Notwithstanding this explanation, it is the Legislature's stated intent that licensees and licensure applicants bear the costs of regulating their

¹⁸ In the *2012-2013 Annual Report and Long Range Plan*, Table 17, Review of the Adequacy of Renewal Fees, the Division noted that the 2012-13 fiscal year cost to regulate each profession was computed by adding the projected expenditures for the 2013-14 and 2014-15 fiscal years and then dividing the sum by the total number of non-delinquent active and inactive licensees eligible to renew as of June 30, 2013.

professions. License fees that are not aligned with the actual cost to regulate each profession can result in cash balances that are not reasonable as some professions may accumulate large cash balances, while other professions continually have negative cash balances. Absent board and Division actions to effectively manage the license fees and cash balances for each profession in accordance with State law, Department assurances related to the financial integrity of the regulated health care professions and the overall sustained viability of the MQATF are reduced.

Recommendation: To ensure that license fees and cash balances for the regulated health care professions are managed in accordance with State law, we recommend that Division management work in concert with the boards to:

- Establish a reasonable cash balance for each profession's MQATF account.
- Recommend to the Legislature that a renewal license fee cap be increased when the cost to regulate a profession consistently exceeds the statutory fee cap.
- Adopt rules regarding the advancement of funds, and related interest charges, to professions with negative cash balances.

Additionally, Division management should consider proposing that State law be revised to require that renewal fees be based on projected costs rather than actual prior biennium costs.

Finding No. 2: Reimbursement of Indirect Administrative Costs

State law¹⁹ specifies that, to the maximum extent possible, the Department is to directly charge all expenses to the account of each regulated profession. State law also provides that, for expenses that cannot be charged directly, the Department is to provide for the proportionate allocation among the accounts of expenses incurred by the Department in the performance of its duties with respect to each regulated profession. Such expenses included accounting, legal, internal audit and investigation, and communication services costs.

As part of our audit, we examined documentation related to the allocation of indirect costs among the health care professions regulated by the Division for the 2012-13 and 2013-14 fiscal years and evaluated the allocation process. Our audit procedures disclosed that the rate used to allocate Department indirect costs to the Division was not adequately supported and did not appear to provide for a proportionate allocation of Department expenses that could not be directly charged to the account of each profession. Specifically, we noted that:

- The Department's 2012-13 and 2013-14 fiscal year indirect cost allocation plans identified the Division's share of the Department's indirect costs as 20.4 percent and 26.1 percent, respectively, to be applied to the Division's total salaries and fringe benefits. However, the Department used an indirect cost rate of 8 percent for both the 2012-13 and 2013-14 fiscal years.
- We also noted that, for the 2012-13 fiscal year, the amount of Department indirect costs allocated to the Division, and subsequently allocated by the Division to the professions, was understated due to an error in the amount of salaries and fringe benefits expenditures used to calculate the Division's share of the indirect costs. Using the 8 percent allocation rate and the correct amount of salaries and fringe benefits expenditures, we determined that the costs were underallocated to the Division by \$33,326.

In response to our audit inquiries, Department management indicated that the 8 percent allocation rate had been used for many years and that Department management had been discussing increasing the Division's indirect rate "to be more in line with the percentage within the cost plan." However, Department personnel also indicated that the Division's rates in the indirect cost allocation plans were overstated and, for the 2013-14 fiscal year, the Division's rate

¹⁹ Section 456.025(8), Florida Statutes.

should have been 16.5 percent. Notwithstanding these responses, the Department cannot demonstrate that the 8 percent allocation rate used by the Department provided for a proportionate allocation of the Department's indirect costs to the Division. As a result, the Division cannot demonstrate that the actual costs incurred by the Department in the performance of its duties with respect to each regulated profession were proportionately allocated to each profession and that all costs of regulating health care professions were borne solely by licensees and licensure applicants as required by State law.

Recommendation: We recommend that Department management ensure that the account of each profession is allocated a proportionate share of the indirect costs incurred by the Department in the performance of its duties with respect to each regulated profession. Additionally, we recommend that Department management ensure that appropriate documentation is maintained to demonstrate the accuracy of the indirect rates and the calculations used to allocate the indirect costs to each profession's account.

Regulatory Oversight

As mentioned in the **BACKGROUND** section of this report, the Division, in conjunction with the boards and councils, was responsible for regulating health care professions and types of facilities. During the period July 2012 through December 2013, 160 Division employees performed inspections of certain health care facilities and establishments as part of the Division's regulatory oversight activities.

Finding No. 3: Staff Training

Division policy²⁰ specified the Department-required and Division-level training required for all Division employees. For example, all Division employees were to annually attend customer service and open government training, Division employees who investigated complaints about licensees were to attend annual investigator training, and all new employees who investigated complaints were to receive Basic Investigator Training. The Department used the Florida Public Health Training Network (TrakIT), an online course management system, to gather and track employee education and training, and to assist managers and supervisors in assessing future training needs. Division policy specified that Division management was responsible for ensuring all required employee training was entered into TrakIT and for annually reviewing TrakIT to ensure that employees had attended all required training. On July 1, 2013, the Department transitioned from TrakIT to the TrainingFinder Real-Time Affiliate Integrated Network (TRAIN Florida) system for the management of employee education and training. According to Division management, supervisors were also to separately track any hours of training not included in TrakIT or TRAIN.

As part of our audit, we examined class rosters and records from the TrakIT and TRAIN Florida systems and other training records maintained by supervisors for the period July 2012 through December 2013 for 17 (15 investigators and 2 supervisors) of the Division's 160 investigative employees. Our examination disclosed that Division management could not always demonstrate that employees had received the required training and training records were not always complete. Specifically:

- The Division was unable to provide documentation demonstrating that the 17 selected employees had attended customer service or open government training during the period July 2012 through December 2013.
- For 13 (11 investigators and 2 supervisors) of the 14 applicable employees (12 investigators and 2 supervisors),²¹ the Division could not provide documentation demonstrating that the employees attended

²⁰ Division Policy 385-OD11-13, *Staff Development and Training*.

²¹ Three investigators terminated employment prior to the start date of the training.

all parts of the annual investigator training held in May 2013. The training spanned 4 days and consisted of multiple courses each day. Although Division management indicated in response to our audit inquiry that the attendees were required to sign a roster for each course attended, the Division was unable to provide signed rosters demonstrating that each of the 13 employees attended all of the courses.

- The Division's TrakIT records did not document whether the 12 investigators and 2 supervisors had attended the required annual investigator training held in May 2013. Also, for 7 investigators, the Division was unable to provide evidence that the investigators' supervisors had ensured that the investigators had completed all required training. For the other 5 investigators, although the TrakIT records did not indicate the investigators had attended the annual investigator training, the supervisors had recorded the investigators' attendance at the training on a separate, manual spreadsheet.

Without records of all staff training and evidence of supervisory review of staff training requirements and attendance, Division supervisors cannot accurately assess employee training needs and ensure that all employees have attended required training.

Recommendation: We recommend that Division management enhance established procedures to ensure that training activities are appropriately recorded in the TRAIN system and to ensure and demonstrate that all Division employees have received appropriate training.

Finding No. 4: Inspections

State law²² requires the Division to inspect certain health care facilities and establishments such as office surgery centers, pain management clinics, and dental laboratories, to protect patient safety and ensure that practitioners comply with applicable laws, rules, and regulations. The timely inspection of health care facilities is essential to protecting the safety and well-being of the public.

Pursuant to the applicable State laws and Department rules governing the frequency of health care facility inspections, Division staff are to perform routine inspections of health care facilities and establishments on an annual or biennial basis. Additionally, for most health care facilities and establishments, State law and Department rules specify that the Division is to perform inspections prior to initial licensure or registration and upon changes in ownership, name, or location.

Our examination of the Division's inspection records did not disclose any exceptions with respect to the frequency of Division inspections for most facility types. However, our audit tests disclosed that, contrary to State law,²³ Division staff did not inspect the facilities of dispensing practitioners prior to initial licensure and upon change of ownership, name, or location. In addition, we noted that Division staff did not inspect office surgery centers, pain management clinics, and optical establishments prior to initial licensure or registration. We also noted that Division staff did not inspect office surgery centers and optical establishments upon a change of facilities' ownership,²⁴ name, or location.

In response to our audit inquiry, Division management indicated that the Department had implemented a new software system for inspections starting in November 2014, and would begin inspecting dispensing practitioners prior to initial licensure and upon change of ownership, name, or location as required by State law. However, according to Division management, the Department lacked the necessary statutory authority to inspect pain management clinics

²² Sections 458.309(3), 458.3265(3), 459.005(2), 459.0137(3)(a), and 466.036, Florida Statutes.

²³ Section 465.0276(3), Florida Statutes, provides that, for the purpose of determining whether the dispensing practitioner is in compliance with all statutes and rules applicable to her or his dispensing practice, any facility where a practitioner dispenses medicinal drugs must be inspected in the same manner and with the same frequency as pharmacies.

²⁴ Pursuant to Department Rule 64B29-1.002, Florida Administrative Code, optical establishments were to be inspected upon a change in ownership.

and office surgery centers prior to registration and to inspect office surgery centers upon a change in ownership, name, or location. Also, according to management, there had not been any requests by Department staff or any consumer complaints that would warrant inspections of optical establishments other than those required by Department rules.

Subjecting all health care facilities and establishments to inspections prior to opening and whenever there is a change in ownership, name, or location, would provide greater assurance that each facility or establishment is complying with the health and safety requirements designed to protect the public.

Recommendation: We recommend that Department management ensure that all inspections are conducted as required by State law. We also recommend that the Department seek appropriate statutory authority for the inspection of all health care facilities and establishments prior to licensure and upon a change in ownership, name, or location.

Service Organization Monitoring

The Division entered into a contract with a service organization for medical professional licensing support services for the period July 2011 through June 2014 and in an amount not to exceed \$5,885,991. The contracted services included, but were not limited to: processing licensing transactions and payments; designing, maintaining, and mailing licensing forms; converting and indexing licensing documents; providing professional project management; and programming and technical support. During the period July 2012 through December 2013, the service organization processed licensing payments totaling \$22,627,419, or 21 percent of the Division's \$107,376,983 in total reported revenue for the period.

Finding No. 5: Report on Service Organization Controls

As part of our audit, we evaluated the Division's actions to obtain assurance about the service organization's internal controls relative to the contracted medical professional licensing support services. Our audit procedures disclosed that the Division had included a contract provision requiring the service organization to annually obtain and provide to the Division an independent audit or monitoring engagement report with objectives and requirements similar to those specified in the American Institute of Certified Public Accountants, Statement on Standards for Attestation Engagements No. 16 (SSAE 16), *Reporting on Controls at a Service Organization*.²⁵ We examined the report submitted by the service organization on June 24, 2013, and noted that the results of agreed-upon procedures designed and performed by the service auditor to determine compliance with the Department's contract terms were included. Those agreed-upon procedures included inspecting processing documents to determine the timeliness of deposits; observing procedures for endorsing and processing checks and sorting and reviewing of applications and renewals; and inquiring with relevant personnel regarding the review of applications, renewals, and checks for accuracy and completeness. However, the report did not provide the auditor's opinion as to suitability of the design and operating effectiveness of the relevant service organization's controls, including those related to financial reporting.

The Department entered into a new contract with the service organization, effective July 1, 2014, that included a requirement for an "annual assessment for a Statement on Standards for Attestation Engagements (SSAE) No. 16, or similar, audit." However, the contract did not explicitly require an SSAE 16 service organization control

²⁵ The Division's contract cited Statement on Auditing Standards No. 70 (SAS 70), *Reports on the Processing of Transactions by Service Organizations*. SAS 70 was replaced by SSAE 16, effective for service auditor's reports for periods ending on or after June 15, 2011.

(SOC) 1 - Type 2 report which contains the service auditor's opinion as to the fairness of the presentation of the service organization management's description of the service organization's system and the suitability of the design and operating effectiveness of the controls to achieve the related control objectives included in the description throughout a specified period.

An independent evaluation of the effectiveness of the service organization's internal controls over the licensing support services performed for the Division provides Division management assurances regarding the quality and reliability of the services. An SSAE 16 SOC 1 - Type 2 report could alert Division management of deficiencies in the service organization's controls related to the services provided to the Division or, alternatively, provide management with additional assurance that the service organization's controls have been suitably designed and are operating effectively to, among other things, ensure the proper collection and accurate reporting of license payments.

Recommendation: We recommend that Division management revise the contract with the service organization to explicitly require the service organization to annually obtain and timely submit to the Division an SSAE 16 SOC 1 - Type 2 report. Upon receipt of the report, Division management should review the report findings and ensure that the report contains all the required information and auditor conclusions.

Finding No. 6: Background Screenings of Service Organization Employees

State law²⁶ requires that all persons and employees in positions of special trust, responsibility, or sensitive location undergo a level 2 background screening.²⁷ Accordingly, the Department's policies and procedures²⁸ specified that Department contractors who performed information resource system functions were to undergo a level 2 background screening.

The Division's licensing system, the Customer Oriented Medical Practitioner Administration System (COMPAS), contained licensure applicant and licensee information, such as, social security numbers, school transcripts, and financial information, that is confidential and exempt from public inspection. According to data provided by Division staff, as of April 3, 2014, 50 service organization employees had access to the confidential and exempt information included in COMPAS.

Our review of the Division's contract with the service organization disclosed that, although the contract specified that the provider was to "ensure the protection and confidentiality of all confidential matters," the contract did not specifically require level 2 background screenings for all service organization employees with access to COMPAS information. Our examination of the data provided and inquiries of Division staff disclosed that none of the 50 applicable service organization employees had received a level 2 background screening and a level 1 background screening²⁹ was conducted as part of the service organization's hiring process for only 42 of the 50 applicable service organization employees. The 8 employees who did not receive any background screening had been hired before the organization required background screenings upon hire. Level 1 background screenings do not require fingerprinting

²⁶ Section 110.1127(2)(a), Florida Statutes.

²⁷ As defined in Section 435.04, Florida Statutes, level 2 background screenings include, but need not be limited to, fingerprinting for Statewide criminal history records checks through the Department of Law Enforcement, national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

²⁸ Department Policy and Procedure DOHP 60-5-13, Personnel and Human Resource Management, *Background Screening*.

²⁹ As defined in Section 435.03(1), Florida Statutes, level 1 background screening include, but need not be limited to, employment history checks and Statewide criminal correspondence checks through the Department of Law Enforcement, a check of the Dru Sjodin National Sex Offender Public Web site, and may include local criminal records checks through local law enforcement agencies.

for criminal history records checks and, therefore, are less extensive than the level 2 background checks required by State law for persons in positions of special trust and responsibility. In response to our audit inquiry, Division management stated that the service organization indicated that they would begin conducting level 2 background screenings for all employees with access to Department data.

Level 2 background screenings conducted for all persons with access to information that is confidential and exempt from public inspection provides management assurance that only those individuals with appropriate backgrounds are granted access to such information.

Recommendation: We recommend that Division management amend the service organization's contract to require level 2 background screenings for all service organization employees with access to the Division's licensing system. Additionally, we recommend that Division management review the results of the level 2 background screenings prior to authorizing licensing system user access privileges.

Information Technology Controls

The Division used COMPAS in connection with the licensing and regulation of health care practitioners (e.g., medical doctors, nurses, and pharmacists) and health care facilities. COMPAS included receipt and deposit information for fees paid by health care practitioners and facilities, along with licensing and enforcement information. Effective information technology (IT) controls, including user access controls, help ensure the confidentiality, integrity, and availability of data and IT resources. Controls over employee access to COMPAS are necessary to help prevent and detect any improper or unauthorized use of COMPAS and promote an appropriate separation of job duties. Accordingly, COMPAS access should be: (1) limited to properly authorized employees, (2) appropriate for the employee's assigned duties and responsibilities, (3) promptly deactivated when employees separate from the Department or are reassigned to positions no longer requiring COMPAS access, and (4) periodically reviewed for appropriateness. Effective access controls also include a process for ensuring the unique identification and authentication of users.

Finding No. 7: Access Controls

To ensure security over State agency information technology systems and data, minimum security standards were established in Agency for Enterprise Information Technology (AEIT) rules.³⁰ Those rules require that each user of a multiple-user information resource be assigned a unique user identification to allow management to affix responsibility for system activity to an individual person. The rules also require that user access be removed when a user terminates employment or transfers to a position where access is no longer required.

Department policies and procedures³¹ required supervisors to periodically review employee IT access privileges for appropriateness. Department policies and procedures also required each division to establish written information security and privacy procedures to ensure the security of information and protect confidentiality, data integrity, and access to information. Additionally, Division policies and procedures³² for assigning COMPAS user access privileges specified that a COMPAS Security Form was to be completed and signed by the user's supervisor, indicating the

³⁰ AEIT Rules 71A-1.007, 71A-1.013, and 71A-2.004, Florida Administrative Code. Effective July 1, 2014, Chapter 2014-221, Laws of Florida, created the Agency for State Technology (AST) within the Department of Management Services and authorized a type two transfer of all records; property; administrative authority; administrative rules in Chapters 71A-1 and 71A-2, Florida Administrative Code; and existing contracts of the AEIT to the AST.

³¹ Division of Information Technology Policy 50-10-10, *Information Security and Privacy*.

³² Division Policy 385-SSS02-10, *User Access to MQA Licensing Database*.

appropriate level of access required by the user. The COMPAS Security Form was to be submitted to Systems Support Services at least 5 business days prior to the access effective date. The policies and the procedures also required supervisors to submit COMPAS Security Forms to Systems Support Services within 5 business days of a user's employment termination date.

As part of our audit, we evaluated Department controls related to COMPAS, including procedures for granting COMPAS user access privileges, periodically reviewing COMPAS user access privileges to ensure the continued appropriateness of the access, and deactivating COMPAS user account access privileges upon a user's termination of employment. Our audit procedures disclosed that the Department's controls were not always effective to ensure that COMPAS user access privileges were periodically evaluated, appropriately granted, or timely removed. Specifically:

- Division staff did not perform periodic reviews of the appropriateness of COMPAS user access privileges during the period July 2012 through December 2014. Additionally, the Division had not developed a written policy regarding periodic reviews of user access privileges as required by Department policies and procedures.
- From a list of the 940 active COMPAS user accounts as of March 17, 2014, we identified 47 user accounts, with varied levels of access that had not been assigned to a specific individual. In response to our audit inquiry, Department management indicated that 41 of the user accounts were for the Division's service organization's employees and that these user accounts would be modified and assigned to a specific user. Division management deactivated access for the remaining 6 user accounts.
- Our review of the access privileges, as of March 17, 2014, of 24 COMPAS system administrator accounts and 15 COMPAS user accounts disclosed instances of inappropriate or unnecessary user access privileges and accounts. Specifically:
 - For 13 of the 24 system administrator accounts, COMPAS access privileges exceeded those necessary for the users' job duties. Subsequent to our audit inquiry, the Department deactivated the access privileges for 7 of the 13 user accounts and reduced the access privileges for the other 6 user accounts.
 - For 6 of the 15 COMPAS user accounts, the Department was unable to provide COMPAS Security Forms demonstrating that the users' level of access was appropriate and had been approved by the user's supervisor.
 - The employees associated with 3 COMPAS user accounts had transferred to other areas within the Department and no longer required COMPAS access; however their user accounts had remained active as of March 17, 2014, for periods ranging from 4 months to 2 years after the employees' transfer dates. Subsequent to our audit inquiry, the Division deactivated COMPAS access privileges for these 3 employees.
- The Department did not always timely deactivate COMPAS user account access privileges when users separated from Department employment. Specifically:
 - Our comparison of the dates of COMPAS user account deactivation to the employment termination dates for ten individuals who terminated employment with the Department during the period July 1, 2012, through March 10, 2014, disclosed that, as of March 17, 2014, the user accounts had remained active from 26 to 515 days (an average of 201 days) after the users' employment termination dates. Additionally, since COMPAS does not maintain a record of when a user account was last used, the Department was unable to determine whether these ten user accounts had been used after the users' employment termination dates.
 - We also reviewed, for 25 former employees who had separated from Department employment prior to July 1, 2012,³³ the status of the associated COMPAS user accounts and found that, as of March 17, 2014, 20 of the user accounts still remained active although 766 to 1,218 days had elapsed since the dates the employees separated from Department employment.

³³ The active user accounts of these 25 former employees were previously noted in our report No. 2014-014.

Our audit procedures disclosed that supervisors did not always submit COMPAS Security Forms to Systems Support Services upon an employee's termination of employment. Also, while Department Human Resources staff sent notifications of employment terminations via e-mail to Department IT Technology staff, similar e-mails were not sent to the Division staff who managed COMPAS access privileges.

Absent effective access controls, including the use of unique user IDs, management's documented authorization of user access privileges, periodic reviews of employee access privileges, and the prompt deactivation of employee access privileges upon employment transfer or termination, the Department is exposed to a greater risk of unauthorized disclosure, modification, or destruction of Department data and IT resources.

Recommendation: We recommend that Division management ensure that each COMPAS user account is assigned to a specific individual. We also recommend that Division management amend procedures to require periodic reviews of the appropriateness of user access privileges and that notice be provided to Division staff managing COMPAS access privileges either prior to or the day of a user's employment termination. In addition, we recommend that the Division maintain documentation demonstrating that user access privileges were approved by the users' supervisors and that Division management ensure that access to COMPAS is timely deactivated when users terminate employment or transfer to a position where access is no longer required. The Division should also modify COMPAS to provide for a record of when an account was last used.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from January 2014 through August 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit focused on the regulation of health care professions by the Division of Medical Quality Assurance (Division). The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability

and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit we:

- Reviewed applicable laws, rules, and Department policies and procedures, and interviewed Department personnel to gain an understanding of the Department's licensing, enforcement, and trust fund operations and processes.
- Evaluated Division actions to obtain assurance about the service organization's internal controls related to its contractual license processing and revenue collection responsibilities. Specifically, reviewed the results of the most recent agreed-upon procedures report submitted by the Division's service organization to determine whether the report provided adequate assurances regarding the design suitability and operating effectiveness of the service organization's controls relative to its contractual responsibilities.
- Reviewed Department policies and procedures and interviewed Department management to determine whether the Department had established adequate policies and procedures to identify potential conflicts of interest with regard to health care facility inspections.
- Examined Division records for 60 licenses issued by the Division to health care practitioners during the period July 2012 through December 2013 to determine whether the practitioners met the professions' requirements for initial licensure prior to issuance of the license.
- Examined Division records for 25 licenses and registrations issued by the Division to health care facilities during the period July 2012 through December 2013 to determine whether the facility met the requirements for initial licensure or registration prior to issuance of the license or registration. Additionally, we examined Division records for five Office Surgery centers to determine whether the Department verified that the centers had Advanced Cardiac Life Support cards as part of the registration process.
- Analyzed data from COMPAS for the period July 2012 through December 2013 to evaluate whether the Division processed applications and approved or denied license or registration applications within prescribed time frames.
- Evaluated the adequacy of Division procedures for verifying licensee compliance with continuing education requirements.
- Reviewed the Division's staffing level analysis to determine whether the Division had adequately designed and implemented controls to ensure staffing levels were sufficient to provide for timely investigations.

- Examined Division records for 17 employees who investigated complaints during the period July 2012 through December 2013 to determine whether the employees had received the initial and annual training required by Division policy.
- Examined Division records for 60 complaints closed during the period July 2012 through December 2013 to determine whether the Division timely investigated and resolved complaints against health care practitioners.
- Examined Division records for 16 complaints, resulting in disciplinary action, that were closed during the period July 2012 through December 2013 to determine whether the Division timely investigated and resolved the complaints against the health care practitioners, accurately reported the disciplinary action taken on the practitioner's online profile, and tracked corrective actions through completion.
- Analyzed complaint data from COMPAS for the period July 2012 through April 2014 to determine whether the use of citations and other non-disciplinary methods reduced the time to close complaint cases.
- Examined Division records for 60 health care facility inspections completed during the period July 2012 through December 2013 to determine whether required inspections were timely performed and adequately documented.
- Analyzed inspection data from COMPAS for the period July 2012 through December 2013 to determine whether inspections were conducted within required time frames.
- Reviewed documents and records to determine whether the Division had established effective procedures for periodically evaluating the sufficiency of fees assessed to cover the costs of regulating health care professions, completed an annual analysis of the Medical Quality Assurance Trust Fund (MQATF) and professions, based renewal fees on the completed analysis, complied with all applicable laws, and took appropriate action when fee amounts were insufficient.
- Reviewed documentation related to the Division's methodology for allocating costs and evaluated the allocation process to determine whether the methodology was reasonable and appropriately administered. Additionally, examined one of the Division's quarterly Cost Allocation Matrices, completed during the period July 2012 through December 2013, to determine the completeness and accuracy of the Cost Allocation Matrix.
- Analyzed Department data to determine the reason for changes in the MQATF balance between the 2003-04 fiscal year and 2012-13 fiscal year. Additionally, analyzed Department data from the 2011-12 and 2012-13 fiscal year Annual Reports related to regulated health care professions to determine the reasons for professions with significant deficit cash balances and evaluate the actions taken to resolve the deficits.
- Reviewed a list of the background screenings performed for 50 service organization users of COMPAS to determine whether level 2 background screenings had been performed and reviewed prior to the service organization users accessing COMPAS.
- Obtained an understanding of Department information technology (IT) controls for COMPAS, assessed risks related to those controls, evaluated whether selected general and applications IT controls were in place, and tested the effectiveness of the controls. Specifically, we:
 - Reviewed Department change management procedures and a list of COMPAS changes made during the period July 2012 through December 2013 to determine whether the Department's change management procedures provided for sufficient documentation and separation of duties when making system changes.
 - Reviewed the background screenings and position descriptions for all COMPAS security administrators to determine whether all COMPAS security administrators had received a level 2 background screening and were granted appropriate access.
 - Reviewed Department procedures for establishing and changing passwords and evaluated controls for password length and composition, change interval, reuse, changing passwords, masking, invalid attempts, and system timeouts.
 - Reviewed COMPAS access forms and position descriptions for 15 COMPAS user accounts active as of March 17, 2014, to determine whether access was appropriate and authorized.

- Inquired of Department management regarding the use and necessity of 24 system administrator and 47 generic user accounts active as of March 17, 2014.
 - Evaluated the timeliness of the cancellation of COMPAS user access privileges for 10 Department employees who separated from employment during the period July 1, 2012, through March 10, 2014, and determined whether the COMPAS user access privileges for 25 former Department employees identified in our report No. 2014-014, finding No. 9, had been canceled.
 - Evaluated the adequacy of COMPAS controls related to data entry, data edits, and batch processing designed to ensure the accuracy and completeness of data recorded within COMPAS.
 - Evaluated COMPAS edit checks designed to detect logic errors, invalid data errors, and missing data errors.
- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
- The Department’s purchasing and cash management processes.
 - The administration of Department travel. Department travel costs totaled approximately \$7.9 million during the 2012-13 fiscal year.
 - The management of Florida Single Audit Act activities in accordance with State law.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

David W. Martin, CPA
Auditor General

MANAGEMENT’S RESPONSE

In a response letter dated March 2, 2015, the State Surgeon General provided responses to our audit findings and recommendations. The State Surgeon General’s response is included as **EXHIBIT B**.

EXHIBIT A
CASH BALANCES BY HEALTH CARE PROFESSION

Profession	Cash Balances at June 30,				
	2010	2011	2012	2013	2014
Acupuncture	\$ 1,109,010	\$ 743,438	\$ 822,006	\$ 357,215	\$ 721,929
Anesthesiologist Assistant ^(a)	(61,172)	(25,015)	(23,194)	13,078	19,647
Athletic Trainer	140,269	203,140	91,654	149,529	73,754
Certified Nursing Assistant	(2,696,904)	(2,696,743)	(2,043,113)	(2,079,003)	(814,471)
Certified Master Social Worker ^(a)	(126,256)	(127,133)	(129,496)	(129,529)	(129,473)
Chiropractic Medicine	3,417,366	1,920,707	2,765,019	1,618,406	1,886,435
Clinical Laboratory Personnel	166,072	455,339	(78,107)	282,604	44,025
Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling	1,768,185	2,911,242	1,120,660	2,479,855	920,593
Dental Hygienist	1,559,779	1,020,011	1,318,837	521,464	1,063,509
Dental Laboratory	409,667	316,911	365,375	268,771	316,483
Dentistry	1,981,844	126,972	1,326,764	(716,665)	254,414
Dietetics and Nutrition	235,648	394,383	90,971	259,256	124,716
Drugs, Devices, and Cosmetics	(1,513,028)	(2,050,949)	51	^(b)	^(b)
Electrolysis	(330,461)	(419,336)	(382,473)	(555,377)	(527,535)
Emergency Medical Technician ^(c)	(3,208,740)	(3,491,174)	(3,442,634)	(3,308,846)	(4,442,867)
Hearing Aid Specialist	(448,528)	(97,848)	(178,423)	188,369	(81,637)
Massage Therapy	2,836,876	1,252,990	1,216,518	(968,026)	(595,212)
Medical Physicist	124,613	139,296	91,807	99,317	95,828
Medicine	8,395,413	9,299,193	9,259,055	11,000,662	9,111,009
Midwifery ^(a)	(772,860)	(806,279)	(785,557)	(834,964)	(860,708)
Naturopathy ^(a)	(300,570)	(301,625)	(303,442)	(304,378)	(305,321)
Nursing	4,552,259	5,509,773	3,629,639	6,657,842	5,264,746
Nursing Home Administrator	(182,279)	88,898	(101,675)	123,358	(59,636)
Occupational Therapy	396,159	662,676	381,459	583,500	223,670
Opticianry	929,986	1,060,613	576,216	674,264	380,172
Optometry	388,806	832,910	457,450	988,472	522,207
Orthotists and Prosthetists	(67,590)	(148,328)	104,041	38,223	223,071
Osteopathic Medicine	1,803,020	674,035	1,799,469	930,503	1,924,956
Paramedic ^(c)	(169,555)	(450,458)	(342,537)	(127,006)	^(c)
Pharmacy	5,733,097	3,935,066	1,419,981	(322,427)	145,497
Physical Therapy	1,579,155	830,698	1,144,135	314,230	901,373
Physician Assistant	717,201	(3,611)	1,308,108	417,310	1,402,833
Podiatry	311,556	4	313,138	44,122	431,365
Psychology	1,581,198	733,541	1,410,083	673,321	1,665,879
Radiological Technician	(1,815,205)	(1,800,587)	(1,939,612)	(2,033,081)	(2,162,881)
Respiratory Therapy	454,120	1,013,365	276,545	937,369	359,427
School Psychology	281,957	201,448	195,308	69,510	116,196
Speech-Language Pathology/Audiology	<u>2,287,116</u>	<u>1,824,559</u>	<u>1,920,294</u>	<u>935,853</u>	<u>1,261,312</u>
Totals	\$ 31,467,224	\$ 23,732,122	\$ 23,654,320	\$ 19,247,101	\$ 19,475,305

^(a) Four professions had less than 250 licensees as of June 30, 2014: Anesthesiologist Assistant (201 licensees), Certified Master Social Worker (3 licensees), Midwifery (188 licensees), and Naturopathy (no licensees).

^(b) Pursuant to Chapter 2010-161, Laws of Florida, the regulation of Drugs, Devices, and Cosmetics was transferred to the Department of Business and Professional Regulation effective October 1, 2011.

^(c) Due to the amendment of Section 401.34(2), F.S. to deposit licensure fees for Emergency Medical Technicians and Paramedics directly into the Medical Quality Assurance Trust Fund, the Department combined the cash accounts for these two professions.

Source: Compiled from Division Annual Reports.

**EXHIBIT B
MANAGEMENT'S RESPONSE**

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

March 2, 2015

Mr. David W. Martin, CPA
Auditor General
Room G74, Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Mr. Martin:

We are pleased to respond to the preliminary and tentative audit findings and recommendations concerning the Office of the Auditor General's operational audit of *Regulation of Health Care Professions*. Our response to the findings is enclosed, as required by Section 11.45(4)(d), *Florida Statutes*.

We appreciate the effort of you and your staff in assisting to improve our operations. Please contact our Director of Auditing, Michael J. Bennett, CIA, by calling (850) 245-4444, extension 2150, should you have any questions.

Sincerely,

John H. Armstrong, MD, FACS
Surgeon General & Secretary

JHA/mhb
Enclosure

cc: James D. Boyd, CPA, MBA, Inspector General
Michael J. Bennett, CIA, Director of Auditing
J. Martin Stubblefield, Deputy Secretary for Administration

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Office of the State Surgeon General
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**EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE**

Preliminary and Tentative Findings



Report Number: [To be determined]
 Report Title: *Regulation of Health Care Professions*
 Report Date: [To be determined]

No.	Finding	Recommendation	Management Response	Corrective Action Plan
1	<p>The Division of Medical Quality Assurance (Division) did not always take sufficient actions to maintain the financial integrity of each profession's Medical Quality Assurance Trust Fund account (MQATF).</p>	<p>To ensure that license fees and cash balances for the regulated health care professions are managed in accordance with State law, we recommend that Division management work in concert with the boards to:</p> <ul style="list-style-type: none"> • Establish a reasonable cash balance for each profession's MQATF account. • Recommend to the Legislature that a renewal license fee cap be increased when the cost to regulate a profession consistently exceeds the statutory fee cap. • Adopt rules regarding the advancement of funds, and related interest charges, to professions with negative cash balances. <p>Additionally, Division management should consider proposing that State law be revised to require that renewal fees be based on projected costs rather than actual prior biennium costs.</p>	<p>We concur.</p>	<p>In Progress. Projected Completion Date - 2016 legislative session.</p> <ul style="list-style-type: none"> • The Division is in the process of developing by rule, the definition of a reasonable cash balance. The Division will recommend statutory changes to address deficit cash balances by professions that are already charging fees at their statutory fee cap. The recommendations will be aligned to the statutory requirement that fees not serve as a deterrent to practicing in the profession and that they should be based upon potential earnings from working under the scope of the profession. • The Division has maintained that there was not an advancement of funds due to the fact that there were no transfers of cash from one cash account to another, therefore interest would not be charged. Further, the Division is opposed to charging interest to those professions that have a negative cash balance, which would hinder solvency. The Division will propose legislation in the 2016 legislative session to eliminate the statutory requirement.

**EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE**

Preliminary and Tentative Findings - Regulation of Health Care Professions

No.	Finding	Recommendation	Management Response	Corrective Action Plan
2a	The rate used to allocate Department indirect costs to the Division was not adequately supported and did not appear to provide for a proportionate allocation of costs to the account of each profession.	We recommend that Department management ensure that the account of each profession is allocated a proportionate share of the indirect costs incurred by the Department in the performance of its duties with respect to each regulated profession.	We concur.	In Progress. Projected Completion Date of April 1, 2015 The Office of Budget and Revenue Management will establish an internal procedure using the most recently approved departmental cost allocation plan to establish an appropriate rate to charge the MQATF for administrative overhead each fiscal year.
2b	The rate used to allocate Department indirect costs to the Division was not adequately supported and did not appear to provide for a proportionate allocation of costs to the account of each profession.	Additionally, we recommend that Department management ensure that appropriate documentation is maintained to demonstrate the accuracy of the indirect rates and the calculations used to allocate the indirect costs to each profession's account.	We concur.	In Progress. Projected Completion Date of April 1, 2015 The Office of Budget and Revenue Management will establish an internal procedure using the most recently approved departmental cost allocation plan to establish an appropriate rate to charge the MQATF for administrative overhead each fiscal year.
Regulatory Oversight				
3	Division management could not always demonstrate that employees had received required training or that training records were complete.	We recommend that Division management enhance established procedures to ensure that training activities are appropriately recorded in the TrainingFinder Real-Time Affiliate Integrated Network (TRAIN) system and to ensure and demonstrate that all Division employees have received appropriate training.	We concur.	Completed. The Division's Bureau of Enforcement will enhance its process of submitting all sign-in sheets for in-service training to the Division's TRAIN liaison for entry into the system. This process will ensure timely entry and a record of all training offered and completed by employees in one central database.

**EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE**

Preliminary and Tentative Findings - Regulation of Health Care Professions

No.	Finding	Recommendation	Management Response	Corrective Action Plan
4a	<p>Contrary to State law, Division staff did not inspect the facilities of dispensing practitioners prior to initial licensure or upon a change of ownership, name, or location. In addition, Division staff did not inspect certain other medical facilities prior to initial licensure or registration or upon a change of a facility's ownership, name, or location as, according to Division management, the Department lacked the necessary statutory authority to inspect.</p>	<p>We recommend that Department management ensure that all inspections are conducted as required by State law.</p>	<p>We concur.</p>	<p>In Progress. Projected Completion Date March 31, 2015 The Division's Bureau of Enforcement is implementing processes and measures to ensure compliance with State law.</p>
4b	<p>Contrary to State law, Division staff did not inspect the facilities of dispensing practitioners prior to initial licensure or upon a change of ownership, name, or location. In addition, Division staff did not inspect certain other medical facilities prior to initial licensure or registration or upon a change of a facility's ownership, name, or location as, according to Division management, the Department lacked the necessary statutory authority to inspect.</p>	<p>We also recommend that the Department seek appropriate statutory authority for the inspection of all health care facilities and establishments prior to licensure and upon a change in ownership, name, or location.</p>	<p>We concur.</p>	<p>Completed. The Division's Bureau of Enforcement conducts inspections pursuant to State laws and rules. Inspection of all health care facilities and establishments prior to licensure and upon a change in ownership, name or location is not required by law. Therefore no further action will be taken.</p>

**EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE**

Preliminary and Tentative Findings - Regulation of Health Care Professions

No.	Finding	Recommendation	Management Response	Corrective Action Plan
5	Service Organization Management The Division's contract with a service organization for licensing support and payment processing services needs amending to require an independent service auditor's report that provides appropriate assurances related to the effectiveness of the controls designed and established by the service organization relevant to the contracted services.	We recommend that Division management revise the contract with the service organization to explicitly require the service organization to annually obtain and timely submit to the Division a <i>Statement on Standards for Attestation Engagements</i> (SSAE) No. 16 Service Organization Controls (SOC) 1 - Type 2 report. Upon receipt of the report, Division management should review the report findings and ensure that the report contains all the required information and auditor conclusions.	We concur.	In Progress. Projected Completion Date March 31, 2015 The Division will amend the contract with its service organization, Image API, to include the SSAE No. 16 SOC 1 - Type 2 report.
6a	The Department did not ensure that service organization employees with access to information that was confidential and exempt from public inspection received required level 2 background screenings.	We recommend that Division management amend the service organization's contract to require for all service organization employees with access to the Division's licensing system.	We concur.	In Progress. Projected Completion Date March 31, 2015 The Division will amend the contract with its service organization, Image API, to require level 2 background screenings for all service organization employees with access to the Division's licensing and enforcement system.
6b	The Department did not ensure that service organization employees with access to information that was confidential and exempt from public inspection received required level 2 background screenings.	Additionally, we recommend that Division management review the results of the level 2 background screenings prior to authorizing licensing system user access privileges.	We concur.	In Progress. Projected Completion Date March 31, 2015 The Division will review results received from the level 2 background screenings of service organization employees who access the Division's licensing system prior to granting access and will deny access to employees with convictions.

**EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE**

Preliminary and Tentative Findings - Regulation of Health Care Professions

No.	Finding Information Technology Controls	Recommendation	Management Response	Corrective Action Plan
7a	Department controls over access to the Customer Oriented Medical Practitioner Administration System (COMPAS) need improvement.	We recommend that Division management ensure that each COMPAS user account is assigned to a specific individual.	We concur.	Completed. The Division modified its policy to ensure user accounts in the Division's licensing system are assigned only to a specific individual [RW-03-01, Pgs. 17/19].
7b	Department controls over access to COMPAS need improvement.	We also recommend that Division management amend procedures to require periodic reviews of the appropriateness of user access privileges and that notice be provided to Division staff managing COMPAS access privileges either prior to or the day of a user's employment termination.	We concur.	Completed. The Division amended its existing user access control procedures for the Division's licensing system to require Division management to notify System Support Services prior to or the day of a user's employment termination and to include periodic reviews of user access privileges.
7c	Department controls over access to COMPAS need improvement.	In addition, we recommend that the Division maintain documentation demonstrating that user access privileges were approved by the users' supervisors and that Division management ensure that access to COMPAS is timely deactivated when users terminate employment or transfer to a position where access is no longer required. The Division should also modify COMPAS to provide for a record of when an account was last used.	We concur.	In Progress. Projected Completion Date May 1, 2015 The Division will: <ul style="list-style-type: none"> • Establish procedures for maintaining documentation of user access which includes establishing and terminating user access to the Division's licensing system. • Modify the Division's licensing system to record the date a user last accessed and used the system.