

LEGISLATIVE AUDIT COMMISSION



Review of
Department of Financial and Professional Regulation
Year Ended June 30, 2007

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REVIEW: 4309
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
YEAR ENDED JUNE 30, 2007

FINDINGS/RECOMMENDATIONS - 18

IMPLEMENTED - 3
ACCEPTED - 15

REPEATED RECOMMENDATIONS - 18

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 29

This review summarizes the auditors' reports of the Department of Financial and Professional Regulation, for the year ended June 30, 2007, filed with the Legislative Audit Commission May 24, 2007. The auditors performed a compliance examination in accordance with *Government Auditing Standards* and State statute. The auditors expressed an unqualified opinion on the Department's financial statement of the Security Deposit Fund. The Department was created on July 1, 2004 as a result of the consolidation of the Departments of Financial Institutions, Insurance, Professional Regulation and the Office of Banks and Real Estate.

The Department oversees the regulation and licensure of banks and financial institutions, real estate businesses and professionals, insurance companies and various licensed professions, enforces standards of professional practice and protects the rights of Illinois residents in their transactions with regulated industries. The mission of the Department is to protect consumers of financial and professional services by ensuring the integrity and standards of regulated industries and professionals through an efficiently consolidated supervisory and enforcement function. The Department has four Divisions: Insurance, Professional Regulation, Financial Institutions, and Banking.

Mr. Dean Martinez was the Secretary of the Department during the audit period. He resigned in December 2008 and Michael McRaith became Secretary. Previously, Mr. McRaith served as DFPR's Director of the Division of Insurance. He continues to serve in that position as well as Department Secretary. Dan Bluthardt is the Director of the Division of Professional Regulation; Jorge Solis, Director, Division of Banking; and Robert Meza, Director, Division of Financial Institutions.

Appendix A is an overview of some of the Department's service efforts and accomplishments from FY05 through FY07.

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The average number of employees by division is as follows:

Division	FY07	FY06	FY05	FY04
Division of Insurance	217	231	239	
Division of Banking	170	157	193	
Division of Professional Regulation	217	211	174	
Division of Financial Institutions	61	63	59	
Executive Office	4	6	5	
Fiscal Operations Unit	28	29	31	
Information Technology Unit	33	34	46	
Human Resources Unit	12	13	13	
Legal Unit	29	29	30	
Legislative Affairs Unit	6	6	7	
Administrative Services Unit	27	28	28	
Legacy Department of Insurance				327
Legacy Office of Banks & Real Estate				251
Legacy Department of Professional Reg				248
Legacy Department of Financial Institutions				82
TOTAL	804	804	825	908

Expenditures From Appropriations

The General Assembly appropriated a total of \$98,846,800 from 28 different funds during FY07; costs associated with some of the professions regulated by the Department are paid from those respective professions' individual funds. Ordinarily, no GRF funds are expended. Appendix B summarizes these appropriations and expenditures by fund for the period under review, while Appendix C indicates expenditures for FY06 and FY07 by major object code.

Total expenditures from all funds was \$85,112,299 in FY07 compared to \$80,028,097 in FY06, an increase of \$5,084,202, or 6.4%. Significant increases in expenditures between FY06 and FY07 included an increase of about \$1.6 million in the employer contribution for retirement; \$1.3 million increase in data processing; \$3.6 million for shared services (lump sum); and \$1 million increase in awards and grants for the continuation of pharmacy grants. Lapse period expenditures were approximately \$5.7 million, or 6.7% in FY07.

Cash Receipts

The Department collects fees and taxes in connection with the licensing of various professions, occupations and activities. Cash receipts totaled about \$508 million in FY07 and almost \$512 million in FY06, with 81% coming from the Division of Insurance. The table in Appendix D summarizes the revenues recorded in the various funds. Variances in receipts in the Division of Financial Institutions and the Division of Professional Regulation were generally due to timing differences in annual fee payments, renewal cycles and changes in number of licensees.

Protest Fund receipts within the Division of Insurance increased \$8.9 million as a result of a large protest penalty from an insurance company. Group Self-Insurers Workers Compensation Fund receipts increased \$1.2 million as several large estate claims were settled by the Office of the Special Deputy Receiver.

Receipts for GRF within the Division of Banking decreased to \$0 as a result of a one-time fine levied against a foreign bank in FY06.

Locally Held Funds

Appendix E summarizes the locally held funds of the Department for the year under review. The Official Advance Fund is a Special Revenue Fund with the purpose of securing and preparing evidence and purchasing controlled substances, professional services, and equipment for enforcement activities.

Property and Equipment

Appendix F provides a summary of changes in property and equipment. Property and equipment decreased from \$14,305,902 as of July 1, 2006 to \$13,498,600 at June 30, 2007.

Accounts Receivable

As of June 30, 2007, the Department's gross accounts receivable totaled \$38.1 million. Of the \$38.1 million in gross receivable, almost \$20.7 million is current and \$17.4 million is past due, with \$6 million estimated as uncollectible.

Status of Previous Audits

Management Audit of the Flu Vaccine Procurement and the I-SaveRx Program (September 2006)

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The management audit contained three recommendations for the Department. Auditors noted the Department had made progress in implementing some of the recommendations; however, certain recommendations were only partially implemented.

- The Department still does not utilize supervisory review for the inspection of I-SaveRx pharmacies.
- Prior approvals were not obtained for I-SaveRx travel, per diem rates were not in compliance with State travel regulations, and the Department still utilizes the Illinois Pharmacy Disciplinary fund to reimburse travel expenses.

Program Audit of the Department's Disciplining of Physicians (August 2006)

The program audit contained 24 recommendations and was released during the current compliance examination period. The Department has not had adequate time to implement some of the recommendations. The auditors noted the Department had made progress in implementing several of the recommendations.

Accountants' Findings and Recommendations

Condensed below are the 18 findings and recommendations included in the audit report. All 18 recommendations were repeated. The following recommendations are classified on the basis of updated information provided by the Department, via electronic mail received April 9, 2009.

Accepted or Implemented

1. **Comply with the State Records Act and maintain the documentation required within the Enforcement Unit files. Further, allocate the resources necessary to comply with internal guidelines for the Enforcement Unit to ensure that case files and the Regulatory Administration and Enforcement System reflect necessary and significant investigative, prosecution, and probation/ compliance activities within established time frames. (Repeated-2004)**

Finding: The Department's Division of Professional Regulation's Enforcement Unit did not perform and/or document enforcement activities in a timely or sufficient manner.

The Department has established and implemented guidelines and time frames for significant investigation, prosecution, and probation/compliance activities of the Enforcement Unit. Since the Department did implement guidelines to ensure that the investigation and prosecution activity is initiated and completed within reasonable time parameters, auditors used their guidelines and time frames as the criteria for tests. Auditors reviewed 33 investigation files and noted some of the deficiencies as follows:

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- In five out of 33 case files reviewed, the Investigative Reports were not generated within 30 days of the investigative activity. The reports ranged from 37 to 167 days late.
- In two out of 33 case files reviewed, the Chief of Investigations did not review the initial claim and delegate the case to an investigator or supervisor within 10 business days of receipt. The Chief of Investigations' review ranged from 41 to 50 days late.
- In two out of 33 case files reviewed, the Investigator did not interview the complaining witness within 30 calendar days from the date assigned to the case. For both of the cases, the interviews were 70 and 142 days late.

Auditors reviewed 35 prosecution files and noted the following deficiencies:

- In three out of 35 case files reviewed, the acknowledgement letter sent to the complainant was not maintained in the case file. Therefore, auditors were unable to determine if one was completed or filed within 30 days of initial receipt.
- In two out of 35 case files reviewed, auditors noted the Consent Order in the case file was not signed by the Director following review by the attorney.
- In two out of 35 case files reviewed, the Notice of Formal Complaint, the Notice of Informal Conference, and the Notice of Disciplinary Hearing were not maintained in the file.

Auditors reviewed seven probation files and noted the following deficiencies:

- In four out of seven case files reviewed, the Chief of Probation Investigations did not review the file and assign the case to a probation investigator within 10 days of the Consent Order. The completion of the Chief of Probation Investigations' review ranged from 12 to 34 days late.

The Department's Enforcement Unit outlined several corrective courses during fiscal year 2006. However, implementation of these corrective courses started during the current fiscal year, and were still in process as of the end of fiscal year 2007.

Updated Response: Accepted. The Department, in the exercise of its control of the investigation and prosecution processes, periodically reviews the Enforcement Policy Manual. The Department is considering further revisions to the Investigation and Probation sections of the Manual. The Department has completed a draft of the Prosecution section and, pursuant to the Collective Bargaining Agreement, will be presenting the draft to the Union for its review and comment.

Accepted or Implemented – continued

Chiefs of each unit – Investigation, Prosecution, and Probation – continue to conduct monthly reviews of enforcement files using new policy guidelines to ensure accuracy and timeliness.

Additionally, the Department continues to work on development of enhancements to the ILES system to expand data reporting capabilities, assist management in oversight, and create additional features to help employees complete their work within specified timeframes.

The Department has also implemented the recommendation to allocate resources necessary to comply with its internal guidelines. Since the 2007 audit, the Department has hired additional investigators, prosecutors, and probation investigators and despite the tumult of an expedited transition with a new administration, continues efforts to hire more where needed.

- 2. Ensure all interagency agreements are approved by an authorized signer prior to the effective date of the agreement. Further, require all interagency agreements include methodology supporting the percent allocation and the billing of shared services. (Repeated-2006)**

Finding: During an examination of three interagency agreements (two between the Department and the Governor’s Office of Management and Budget and one between the Department and the Department of Healthcare and Family Services), the following deficiencies were noted:

- All three interagency agreements tested, totaling \$106,750, were not signed by all necessary parties before the effective date. The agreements were signed 105-296 days late.
- Two out of three interagency agreements tested pertaining to legal services, totaling \$74,978, did not include supporting documentation detailing the methodology used for determining the percent allocation to be paid by the Department for billing of shared services.

Department personnel stated the Department was a party to the Agreement and shared in the costs in connection with employment and labor litigation issues relating to the Agency.

Response: Accepted. The auditor’s statement of the results of testing and has modified its process to ensure that all interagency agreements to which it is a party describe the method of allocating the vendor payment obligation. Further, the Department will endeavor to ensure that all interagency agreements to which it is party are approved prior to the effective date.

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3. Ensure monthly reconciliations are performed in accordance with SAMS procedures to ensure accurate financial reporting. (Repeated-2003)

Finding: The Department did not perform timely reconciliations of Department receipt records to the Illinois Office of the Comptroller records, as required.

During the engagement period, the Department's receipts totaled \$508,122,989. Receipts are collected by the Department through five different cash systems. Auditors' testing of monthly receipt reconciliations of Department records to the Comptroller's Monthly Revenue Report noted the Department failed to perform timely receipt reconciliations for all twelve months of fiscal year 2007 for Division of Professional Regulation funds. Additionally, reconciliations for the months of January through June 2007 for the Division of Banking's Savings and Residential Finance Regulatory Fund were not started until after the end of FY07 and not completed until October 2007.

Department personnel stated the timeliness and accuracy of receipt reconciliations are complicated due to the use of several legacy financial systems and the current implementation process of the Integrated Licensing and Enforcement System (ILES) for the Division of Professional Regulation. The implementation of the ILES has been initiated, but was not completed as of June 2007.

Updated Response: Implemented.

4. Ensure all monthly expenditure and fund reconciliations are performed in accordance with SAMS procedures to ensure accurate financial reporting. (Repeated-2005)

Finding: The Department did not perform timely reconciliations of Department expenditure and fund records to the Illinois Office of the Comptroller records, as required. During the testing of monthly expenditure reconciliations of Department records to the Comptroller's Monthly Appropriation Status Report, auditors noted the following:

- The Department failed to perform timely expenditure reconciliations of Department records for three separate funds. Expenditures for these funds totaled \$33,000,654 during the engagement period. The reconciliations for the months of September 2006 through April 2007 were performed one to seven months late for two funds related to the Division of Professional Regulation. The reconciliations for the months of February 2007 through April 2007 were performed one to three months late for one fund related to the Division of Banking.

During testing of monthly fund reconciliations of Department records to the Comptroller's Cash Report, auditors noted the following:

- The Department failed to timely perform fund cash reconciliations for all twelve months of fiscal year 2007 for Division of Professional Regulation funds. The

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reconciliations for July 2006 through June 2007 were performed between June 2007 and October 2007.

- The Department failed to timely perform cash reconciliations for six months of the fiscal year for Division of Banking funds. The reconciliations for the month of January 2007 through June 2007 were performed four months after the fiscal year end.

Department personnel stated the reconciliations were prepared untimely due to loss of staff within the Division of Fiscal and Accounting, the time required to implement a reconciliation process, and the inability to catch up on the back log of activity as a result of the staff shortages.

Response: Accepted. The Department will continue to work to consolidate and standardize the reconciliation process to ensure monthly expenditure reconciliations are performed in a timely manner.

5. Direct the Division of Banking to continue to work with the contractor to conclude its evaluation of the CLEAR system and develop a corrective action plan to enhance the system to ensure that it meets the needs of the users. (Repeated-2004)

Finding: The Department's Division of Banking's Credentialing Licensing Enforcement and Regulation (CLEAR) system had significant deficiencies.

The CLEAR system was implemented in February 2003. CLEAR is an enterprise-wide computerized licensing, enforcement and regulatory system, which replaced the Division's outdated legacy systems, and processes approximately \$40 million in receipts per year. The system was developed by a contractor with a total cost of approximately \$1 million.

During the review of the Division, auditors found the CLEAR system was not meeting the needs of the Division as follows:

- Inability to accurately count fees and reconcile to dollar amounts.
- General policies and procedures for revenue processing with the CLEAR system have not been developed to make the CLEAR system more user friendly for Department staff.

The CLEAR system was implemented without the use of system development standards that require adequate testing and security controls to ensure the accuracy and integrity of the system.

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Department management stated it is currently working with the contractor responsible for the development of the CLEAR system to develop an additional financial system component that will provide for adequate documentation and to address other deficiencies within the system. Additionally, the Department has moved information related to the Real Estate section maintained on the CLEAR system to the Division of Professional Regulation's new Integrated Licensing and Enforcement System (ILES).

Updated Response: Accepted. On June 10, 2008, we received the Financial Module from the vendor and installed it in our test environment. Information Technology analysts tested the software, and corrected all programming or functionality issues with the vendor that arose from the testing. On August 14, 2008, we moved the Financial Module for the CLEAR system to the production environment and made it available to agency users.

6. Amend policies to require all employees to maintain time sheets in compliance with statute. (Repeated-2004)

Finding: The Department is not maintaining time sheets for union employees in compliance with the State Officials and Employees Ethics Act. The Department expended \$45,454,049 for payroll and had an average of approximately 601 union employees during fiscal year 2007.

The Department's official timekeeping system is the Central Management Services (CMS) payroll system, which tracks time using a "negative" approval, whereby the employee is assumed to be working unless noted otherwise. No time sheets for the CMS system documenting the time spent each day on official State business to the nearest quarter hour were maintained.

The Department has implemented an additional timekeeping system that is primarily used to track time for merit compensation employees. This system does track time employees spend on State business, but is not used for union employees and is not the official timekeeping system for the Department. It is also not reconciled to the official CMS timekeeping system. Department management stated they plan to extend the additional system to the union employees in fiscal year 2008.

Response: Accepted. At the time of the audit the Department did not maintain time sheets for union employees. On July 2, 2007, however, the Department implemented the Ethics Timekeeping Work Diary for all employees, so this finding has been corrected.

7. Implement controls to ensure evaluations are completed on a timely basis and hold management personnel accountable for completing employee performance evaluations on a timely basis. (Repeated-1993)

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Finding: The Department did not conduct employee performance evaluations on a timely basis. During testing, auditors noted that 18 out of 25 employees sampled did not have a performance evaluation performed on a timely basis. These untimely evaluations were completed between 2 to 169 days late.

Response: Accepted. The Administrative and Regulatory Shared Services Center, which is responsible for the evaluation process for the Department of Financial and Professional Regulation, Department of Central Management Services, and the Department of Revenue, is developing internal controls to ensure evaluations are prepared on a timely basis. Such controls will help ensure that management is held accountable for the timely completion of employee performance evaluations.

8. Establish effective controls over travel including adequate approval of travel requests and review of both in-state and out-of-state travel vouchers prior to reimbursement. Direct employees to reimburse insurance companies for all travel overcharges that are identified. (Repeated-2004)

Finding: The Department did not enforce travel regulations. During a review of travel vouchers, auditors noted the following exceptions:

- All seven out-of-country examiner travel vouchers tested, totaling \$50,110 were not approved in advance by the Chairman of the Governor's Travel Control Board.
- One of seven out-of-country examiner travel vouchers tested did not adequately distinguish the Department's portion of meals incurred. The receipts attached to the voucher included the expenses incurred by the entire party attending the meal and then were divided by the total number of attendees to evenly allocate the expenses among those present. The traveler did not indicate on the receipts the actual charges incurred for each of the meals.

When an insurance examiner working for the Division of Insurance performs an out-of-state examination of an insurance company, the examiner shall receive reimbursement for travel from the insurance company. The reimbursement rates shall comply with federal travel guidelines. A sample of 25 out-of-state insurance examination travel vouchers was reviewed and auditors noted the following:

- Two out of 25 travel vouchers tested failed to follow the federal travel reimbursement guidelines for lodging expenses. These vouchers resulted in an overpayment totaling \$142.
- One out of 25 travel vouchers tested contained an overcharge for mileage reimbursement. This voucher included 88 miles overcharge resulting in overpayments totaling \$39.

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Department officials stated that the Travel Control Board approvals for out-of-country travel were not obtained prior to travel due to a key fiscal employee being on leave of absence and the remaining fiscal employees were unaware of the requirement to obtain approvals. They further stated the instances of incorrect voucher completion were due to human error and Department oversight.

Response: Accepted. Additional controls have been put in place by the Department to address this finding.

9. Implement procedures to ensure property control records are accurate, including frequent physical observation and reconciliation to property control records. Also, delete all obsolete or unusable items and transfer those items to the Department of Central Management Services Surplus Property. (Repeated-2006)

Finding: The Department did not maintain complete and accurate property control records. The Department had property and equipment totaling \$13,498,600 at June 30, 2007. Auditors selected a sample of 100 equipment items from 23 Department locations as of June 30, 2007 to test whether the equipment was in the correct location and was properly maintained on the Department's inventory system. Auditors noted the following:

- Seven of 100 items were located at sites other than the location listed on the Department's property control listing.
- Six of 100 items were obsolete or unusable, but still maintained on the property control listings.
- Three of 100 items totaling \$1,209 could not be located by Department personnel.
- One item value reported on Department's property control listing was overstated by \$18,681 based on supporting invoices.

During the review of the *Agency Report of State Property* forms (C-15) submitted to the Illinois Office of the Comptroller for FY07, the Department reported incorrect additions and deletions. The C-15 forms understated additions by \$147,958 and understated deletions by \$14,596. These errors led to inaccurate amounts reported on the Department's *Capital Asset Summary* form (SCO-538) submitted to the Comptroller for GAAP reporting purposes.

Department management stated that many of the property control issues noted above were a result of errors during the consolidation of legacy agencies' property control systems into one system. Additional errors were due to oversight on the part of the

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property control supervisor. A revised C-15 form was prepared and submitted to the Office of the Comptroller.

Response: Accepted. However, the Department notes the following:

Bullet Point #3: Two of the three items identified as the basis for the finding: P04220 Chair Red Plastic; and F01170 Dell Desktop, have been located as the result of the ongoing inventory of agency equipment. While the agency strives for precision in all administrative processes, management believes that given the large volume of property utilized and managed, the flaws described (“3 of 100 [3%] items totaling \$1,209 could not be located by Department personnel[,]” are not material.

Bullet Point #4: The item identified as the basis for the finding has been transferred to CMS as a surplus item with the correct value.

Reporting of the C-15 (Fixed Assets): The Department has implemented reconciliation procedures in an effort to eliminate inaccuracies in future C-15 reports.

- 10. Devote adequate resources and develop a formal policy for the timely review of telecommunications services and expenditures, along with a cell phone and pager usage policy. Further, appoint a permanent Telecommunications Coordinator to ensure monitoring of charges and services, as well as adherence to DCMS guidelines and Department policies. (Repeated-2003)**

Finding: The Department did not maintain adequate controls over telecommunication services and expenditures. The Department expended \$893,351 for telecommunications services during FY07. During testing, auditors noted the following:

- In 13 out of 40 invoice vouchers for telephone, pager, and cell phone charges tested, the Department did not perform a timely review of the vendor invoice and monitor charges for services and expenditures to ensure unnecessary expenditures were eliminated, proper service was provided and misuse of telecommunications services did not occur. The Department’s review of charges for services was six to eleven months after the statement date. The Department paid these invoices prior to receiving approval from the responsible reviewer. In addition, 27 of the 40 vouchers tested were either not sent out to be reviewed or not returned to the fiscal office if reviewed.
- The Department had not distributed detailed telecommunication billings related to August 2006 through June 2007 to agency supervisors until after the end of the fiscal year.
- During our review of telephone credit card cancellations, the Department failed to submit any *Telephone Credit Card Request* forms to the Department of Central

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Management Services after employee separation. During the review of separated employees, auditors noted nine separated employees with telephone credit cards, none of which were cancelled by the Department.

- During the review of pager assignments, none of the eleven pagers was returned to the agency upon separation of the employee. Monthly pager service was not canceled for 10 of 11 of these pagers.
- The Department does not have a formal policy related to the approval and usage of the Department's cellular phones and pagers.

Subsequent to Department consolidation, one individual has been temporarily assigned the Telecommunications Coordinator responsibilities in addition to normal duties. The Department has not staffed this position permanently.

According to Department personnel, billings were distributed and approved untimely due to difficulties in determining supervisory responsibility for individual billings. Additionally, pagers and calling cards were not properly canceled due to oversight.

The Department's telephone usage policy provides guidelines for appropriate usage of the State's telephone system, but fails to include any guidelines for the cellular phones assigned to employees of the Department.

Response: Accepted. However, the Department notes that it has taken the following remedial actions to address the points raised:

1st and 2nd Bullet Points: The Department has dedicated additional resources to consolidate billing information, distribute invoices and obtain approval from responsible reviewers in a timely manner.

3rd Bullet Point: All telephone calling cards have been cancelled.

4th Bullet Point: All pager lines identified by the auditor have been terminated.

5th Bullet Point: The Department anticipates implementing an appropriate curative policy in the near future.

- 11. Revise, review and approve a Vehicle Policy to ensure adequate controls over the operation of automotive equipment and expenditures. Further, communicate the policies to all employees and implement disciplinary actions for noncompliance to ensure that employees comply with policies for the operation of automotive equipment and expenditures. (Repeated-2003)**

Finding: The Department did not maintain adequate controls over vehicle reporting and operation of automotive equipment expenditures. During previous examinations, the

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Department stated it was in the process of reviewing and approving an extensive policy to address ongoing audit issues.

During the current examination, Department officials stated no extensive vehicle policies and procedures were developed. They stated the Department now relies on the Illinois Administrative Rules promulgated by the Department of Central Management Services as its vehicle policies. These rules are general in nature and without additional internal written policies and procedures. Little guidance exists for employees on timing and completion of various automotive forms.

During testing of the Department's accident reports filed, vehicle maintenance records, and automotive invoice vouchers processed during the examination period, auditors noted the following:

- In one of 13 accident files reviewed, the "Motorist's Report of Illinois Motor Vehicle Accident" form (SR-1) on the Illinois Motorist Report was not submitted by the employee; therefore, auditors were unable to determine if the form was filed with the Department within two working days, as required by existing Department vehicle policies.
- In seven out of 13 accident files reviewed for the examination period, the "Motorist's Report of Illinois Motor Vehicle Accident" form (SR-1) with an Auto Liability Uniform Cover Letter was not filed with DCMS' Risk Management within seven calendar days of the accident, as required by the DCMS' Vehicle Policy. The forms were filed from 3 to 53 days late.
- In 17 out of 65 automotive invoice vouchers tested, the expenses incurred were not reported on the Monthly Automotive Cost Report for that particular State vehicle.
- In one out of 65 automotive invoice vouchers tested, an automobile description, license plate number, vehicle ID, or any other means to identify the State vehicle used was not given on the supporting documentation.
- In seven out of 25 vehicles tested for proper vehicle maintenance, an oil change was not performed once every 5,000 miles, as required by existing Department vehicle policies. Mileage at the time of the oil change ranged from 5,589 to 10,543 miles.

Current delays in reporting were a result of drivers reporting information to the Vehicle Coordinator in an untimely manner. Department officials further stated there were several issues contributing to the problems noted including procedures not being followed, a lack of standardized procedures during the examination period, and a need to more efficiently allocate resources.

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Department officials were unresponsive when questioned as to why the Department was unable to compel employees to follow existing policies and procedures as noted in the previous five compliance examinations dating back to FY03.

Response: Accepted. The Department continues to work to reduce reporting delays and assure compliance with appropriate maintenance standards.

Bullet Points #1 - #4: The Department has implemented and is enforcing standardized reporting procedures across Divisions.

Bullet Point #5: The Department has also implemented a procedure to provide employees with supplemental notice of required State-owned vehicle maintenance.

12. Appoint qualifying members to Boards as required by statute, and reappoint applicable Board members in a timely manner. In those cases where the Governor's Office is required to appoint the Board members, work with the Governor's Office to fill Board vacancies by appointing qualified members to the Boards. (Repeated-2004)

Finding: The Secretary of the Department did not appoint the required number of members to the various Boards in order to fill vacancies.

- The Secretary did not appoint two members to the Social Work Examining and Disciplinary Board in order to fill vacancies. A vacancy existed for one licensed social worker and one licensed clinical social worker since January 2004.
- The Secretary did not appoint five members to the Board of Nursing in order to fill vacancies. Vacancies existed for one LPN educator, one public member, one APN (CRNA), one LPN, and one APN (CNM).
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Pharmacy Practice Act of 1987 regarding the State Board of Pharmacy. During testing auditors noted one of nine positions (licensed pharmacist) has been vacant since December 2005 and two of nine positions (licensed pharmacist) were held by individuals with terms that expired April 2004 and April 2007.
- The Secretary did not appoint members to the Board of Orthotics, Prosthetics, and Pedorthics. During testing auditors noted that four of six positions were held by individuals with expired terms. Also, two of six positions (public member and consumer) have been vacant since October 2006 and February 2001.
- The Department's Division of Financial Institutions was not in compliance with the provisions of the Currency Exchange Act regarding the Board of Currency Exchange Advisers. During testing auditors noted that all seven board positions

Accepted or Implemented – continued

- were vacant. One position has been vacant since January 1997, two positions have been vacant since January 1998, two positions have been vacant since January 1999, and two positions have been vacant since January 2001. Department personnel stated they were unaware of when the Board last met.
- The Department's Division of Banking was not in compliance with the provisions of the State Banking Act regarding the State Banking Board. The Act requires the Governor to appoint members to the State Banking Board of Illinois with the advice and consent of the Senate. The Board should consist of the Commissioner as its chairman and 16 additional members divided into 3 classes designated as Class A members, Class B members, and Class C members. During testing auditors noted the following:
 - One of four Class A positions was vacant.
 - Nine of ten Class B positions were vacant.
 - One of two Class C positions was vacant.
- The Secretary did not appoint two members, who are Licensed Certified Public Accountants, and one member who is not a licensed member, to the Public Accountant Registration Committee in order to fill vacancies that have existed since November 2006, May 2007 and August 2006, respectively. In addition, one public accountant position was held by an individual whose term expired in January 2003.
- The Secretary did not appoint a member to the Massage Licensing Board in order to fill a vacancy. A vacancy existed for one of six massage therapist member positions since May 2006.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Real Estate License Act of 2000. One of six positions (actively engaged broker or salesperson) has been vacant since October 2006 and two of three positions (public members) have been vacant since October 2003 and October 2005, respectively. Additionally, four of six positions were held by individuals with terms that expired in October 2006. The Act requires the Governor to appoint 9 persons to the Board.
- The Department's Division of Financial Institutions was not in compliance with the provisions of the Debt Management Service Act regarding the Board of Debt Management Service Advisors. During testing, auditors noted that three out of five board positions were vacant. Two positions have been vacant since November 2005 and 1 position has been vacant since February 2006. Additionally, two of five positions were held by individuals with terms that expired in July 2004 and July 2005. Department personnel stated they were unaware of when the Board last met. The Act requires the Governor to appoint 5 members to the Board of Debt Management Service Advisors.

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- The Department's Division of Professional Regulation was not in compliance with the provisions of the Real Estate License Act of 2000. During testing, auditors noted that one of seven positions (licensee) on the Advisory Council has been vacant since December 2005. Additionally, three of seven positions were held by individuals with terms that expired in October 2003 (one position) and October 2006 (two positions). The Act requires the Governor to appoint 7 members to an Advisory Council within the Department's Division of Professional Regulation.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Illinois Dental Practice Act. During testing, auditors noted that four of eleven positions (3 dentists and 1 dental hygienist) were held by individuals with terms that expired in October 2005 (1 position), December 2006 (2 positions) and April 2007 (1 position). The Act requires the Director to appoint members to the Board of Dentistry.

Department management stated they are currently reviewing qualified candidates to fill the vacancies. Department management stated it is difficult to find willing candidates to fill the positions. Reappointments were not made due to oversight.

Response: Accepted. The Department concurs with the auditors finding regarding insufficiencies in staffing certain advisory boards. However, the Department requests that the following improvements be noted:

Social Work Examining and Disciplinary Board: The one licensed social worker vacancy noted in the finding was filled in April 2008.

Board of Nursing: Of the five vacancies indicated in the finding, three were filled in April 2008 (LPN Educator, APN/CRNA and public member). The Department has identified qualified candidates for the two remaining vacancies; at present both are moving through the appointment process.

State Board of Pharmacy: The deficiencies noted in the finding are currently being addressed. We will continue to work with the Governor's Office to address term expirations and vacancies by identifying and reviewing qualified candidates.

Board of Orthotics, Prosthetics and Pedorthics: Of the deficiencies noted in the finding, the consumer member position was filled April 2008. We are working to identify qualified candidates in a continuing effort to address term expirations and vacancies.

Public Accountant Registration Committee: Of the deficiencies noted in the finding, the public member vacancy was filled January 2008. We are reviewing qualified candidates in a continuing effort to address term expirations and vacancies.

Massage Licensing Board: The vacancy noted in the finding was filled January 2008.

Accepted or Implemented – continued

Real Estate Administration and Disciplinary Board: The deficiencies noted in the finding are currently being addressed. We will continue to work with the Governor's Office to address term expirations and vacancies by identifying and reviewing qualified candidates.

Real Estate Education Advisory Council: The deficiencies noted in the finding are currently being addressed. We will continue to work with the Governor's Office to address term expirations and vacancies by identifying and reviewing qualified candidates.

Board of Dentistry: The deficiencies noted in the finding are currently being addressed. We are reviewing qualified candidates in a continuing effort to address term expirations.

State Banking Board: The restrictive asset categories established for State Banking Board membership, which require the appointment of members from institutions classified by asset size, has made the appointment of qualified members from each such category difficult. In response, the Department introduced legislation (HB 4898) to reduce the size of the Board, eliminate the requirement that members be appointed from institutions within each of several specific asset categories, and provide for the continuing service of members whose terms have expired until their successors are appointed and qualified. We believe that passage of this legislation will eliminate the problem of multiple vacancies on this Board.

Board of Currency Exchange Advisors: The Division of Financial Institutions agrees with the recommendation regarding the vacancies on the Board of Currency Exchange Advisors. Since the FY06 audit, letters have been sent out to potential candidates for each of the subject boards and numerous applications were processed. As a result, five (5) candidates were selected for recommendation to the Governor for the Currency Exchange Advisors Board.

The Department concurs with the auditors finding regarding insufficiencies in staffing certain advisory boards. However, the Department requests that the following improvements be noted:

Social Work Examining and Disciplinary Board: The one licensed social worker vacancy noted in the finding was filled in April 2008.

Board of Nursing: Of the five vacancies indicated in the finding, three were filled in April 2008 (LPN Educator, APN/CRNA and public member). The Department has identified qualified candidates for the two remaining vacancies; at present both are moving through the appointment process.

State Board of Pharmacy: The deficiencies noted in the finding are currently being addressed. We will continue to work with the Governor's Office to address term expirations and vacancies by identifying and reviewing qualified candidates.

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Board of Orthotics, Prosthetics and Pedorthics: Of the deficiencies noted in the finding, the consumer member position was filled April 2008. We are working to identify qualified candidates in a continuing effort to address term expirations and vacancies.

Public Accountant Registration Committee: Of the deficiencies noted in the finding, the public member vacancy was filled January 2008. We are reviewing qualified candidates in a continuing effort to address term expirations and vacancies.

Massage Licensing Board: The vacancy noted in the finding was filled January 2008.

Real Estate Administration and Disciplinary Board: The deficiencies noted in the finding are currently being addressed. We will continue to work with the Governor's Office to address term expirations and vacancies by identifying and reviewing qualified candidates.

Real Estate Education Advisory Council: The deficiencies noted in the finding are currently being addressed. We will continue to work with the Governor's Office to address term expirations and vacancies by identifying and reviewing qualified candidates.

Board of Dentistry: The deficiencies noted in the finding are currently being addressed. We are reviewing qualified candidates in a continuing effort to address term expirations.

State Banking Board: The restrictive asset categories established for State Banking Board membership, which require the appointment of members from institutions classified by asset size, has made the appointment of qualified members from each such category difficult. In response, the Department introduced legislation (HB 4898) to reduce the size of the Board, eliminate the requirement that members be appointed from institutions within each of several specific asset categories, and provide for the continuing service of members whose terms have expired until their successors are appointed and qualified. We believe that passage of this legislation will eliminate the problem of multiple vacancies on this Board.

Board of Currency Exchange Advisors: The Division of Financial Institutions agrees with the recommendation regarding the vacancies on the Board of Currency Exchange Advisors. Since the FY06 audit, letters have been sent out to potential candidates for each of the subject boards and numerous applications were processed. As a result, five (5) candidates were selected for recommendation to the Governor for the Currency Exchange Advisors Board.

Debt Management Advisors Board: The Division of Financial Institutions agrees with the recommendation regarding the vacancies on the Debt Management Advisors Board. Since the FY 06 audit, DFI sent letters out to potential candidates for each of the subject boards and numerous applications were processed. As a result, four (4) candidates were selected for recommendation to the Governor for the Debt Management Advisors Board.

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Debt Management Advisors Board: The Division of Financial Institutions agrees with the recommendation regarding the vacancies on the Debt Management Advisors Board.
Accepted or Implemented – continued

Since the FY 06 audit, DFI sent letters out to potential candidates for each of the subject boards and numerous applications were processed. As a result, four (4) candidates were selected for recommendation to the Governor for the Debt Management Advisors Board.

Updated Response: Accepted. The prior administration maintained tight control over all boards, which resulted in a substantial delay in filling vacancies. This delay would sometimes result in the candidate losing interest, moving, or changing occupations. The current administration has explicitly signaled that it will constructively support Department efforts so that vacancies will be filled expeditiously.

13. Assess fines or penalties for a provider's failure to submit the required forms in a timely manner or seek legislative remedy from statutory requirements. (Repeated-2004)

Finding: The Department failed to receive annual statements from viatical settlement providers. During the examination of annual statements received by the Department for the calendar year ended December 31, 2006, auditors noted that the Department failed to receive annual statements in a timely manner from 10 of 13 viatical settlement providers licensed by the State. The statements were received between 20 and 221 days late. Additionally, the Department did not assess any penalties for statements that were not filed timely.

The Department has adopted rules regarding specific statements to be filed with the Department and has statutory authority to assess penalties for annual statements that were not filed timely under the Illinois Insurance Code. However, because the Department only assesses late filing penalties to providers that have filed untimely and have experienced viatical settlement transactions during the calendar year, statements continue to be filed late. Many years, providers do not experience any viatical settlement transactions.

Response: Accepted. The companies that failed to file with the Division of Insurance did not perform any viatical settlements last year. All viatical statements for the period ending March 1, 2008, have been received whether they did settlements or not. We also support HB 4941, which will require greater reporting and assist in out market analysis.

Updated Response: Implemented.

14. Implement procedures to ensure life, accident, and/or health insurance policy forms are properly approved or disapproved in a timely manner as required by law. (Repeated-2006)

REVIEW: 4309

Finding: The Department's Division of Insurance failed to approve/deny life, accident, and/or health insurance policy forms submitted by insurance companies in a timely manner as required by the Illinois Insurance Code.

During testing, auditors noted that 21 out of 25 policy forms reviewed were not approved or denied on a timely basis. These policy forms were approved or denied between 20 to 281 days later than the maximum 90-day time period.

Department personnel stated that the policy forms were not being approved or disapproved within the required timeframe due to a shortage in staff. In addition, many of these reviews are complex and lengthy.

Response: Accepted. The new filings that the Division of Insurance is receiving are becoming more complex and lengthy as companies file new products to keep up with their competitors. Last year, the Department implemented an expedited review process that should improve the timeliness of approvals.

15. Ensure examinations are conducted within the required timeframe and ensure licensees are in compliance with the Residential Mortgage License Act. (Repeated-2004)

Finding: The Department failed to timely conduct examinations of the affairs of residential mortgage licensees.

During our testing, auditors noted examinations had not been conducted timely for 746 of the 1,578 residential mortgage licensees required to have an examination. The 746 examinations were from one month to 48 months late.

Department personnel stated due to staff shortages, the Department has not been able to complete all examinations in the required timeframe. Although additional examiners were hired during the year, much of their initial time was spent on training and educational courses due to the highly technical industry.

Response: Accepted. Additional examiners were added from the HB 4050 Program to assist with the backlog of examinations. The past audit finding was mainly due to out-of-state examinations that had travel restrictions. Since the audit finding, the Department has received approval from the Governor's Office for out-of-state examination travel. The Department will continue to ensure examinations are conducted within the required timeframe and that licensees are in compliance with the Residential Mortgage Act of 1987.

16. Enforce the provisions of the Savings Bank Act until a legislative remedy to the statutory requirement is obtained. (Repeated-2002)

Accepted or Implemented – concluded

Finding: The Department's Division of Banking did not establish a Savings Bank Examiner Training Foundation as required by statute.

Department officials stated they did not feel the Foundation was necessary and is seeking legislation to remedy the statutory requirement. Currently, the Department employs no savings bank examiners, as these duties are performed by financial institutions examiners.

Response: Accepted. The Department will continue to seek the passage of legislation to delete Section 9007 from the Savings Bank Act, which will repeal the requirement to establish a Savings Bank Examiner Training Foundation.

17. Implement procedures to ensure compliance with provisions of the Residential Mortgage License Act of 1987. (Repeated-2002)

Finding: The Department's Division of Banking was not in compliance with provisions of the Residential Mortgage License Act of 1987. The auditors noted the following:

- The Commissioner did not appoint two members to the Residential Mortgage Board in order to fill vacancies. Vacancies existed for the two public members since January and March 2007.

Department management stated they are currently reviewing qualified candidates to fill the vacancy, as one of the public members was appointed in September 2007. Department management stated it is difficult to find willing candidates to fill the positions.

- Three out of five Board members did not file a statement with the Commissioner regarding current business transactions or other affiliations with licensees under the Act for 2007. In addition, two out of 5 Board members did not file the statement in a timely manner. These statements were filed 53 and 70 days late.

Department management stated the Conflict of Interest Statements were not filed timely or at all due to the Board members delay in signing the statements and the timing of board appointments.

- A sample of 25 licensees was selected from a universe of 2,016 licensees. According to the Agency's "MB – Audits Received Report – MB Only Report" as of June 30, 2007, thirteen (52%) of the licensees tested did not submit an annual audit report within 90 days of their fiscal year end. The Commissioner did not cause an audit of any of the licensees, as required by law, to be made due to the untimely filing of annual audit reports. The reports were filed from two to 138 days late.

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Department management stated that the Examination staff review the reports as they come in, but the Licensing Section must input the reports. The date the reports are received is logged manually and approximately 1,700 licensees have December 31 year-ends, so between March and April the Department has a large volume of statements to input. Although letters are sent if audit reports are late, the Division did not have adequate staffing to keep up with the input on a timely basis.

Response: Accepted. Residential Mortgage Board members' terms have been renewed and new members have been appointed to the Board. Conflict of interest declarations have also been filed with the Department in a timely manner. Additionally, the Department has developed written procedures to ensure that all Mortgage Banking licensees' Annual Reports are received.

Updated Response: Accepted. The number of late examinations continues to be addressed by the Division. The revised exam compliance report from the CLEAR database now clearly identifies the next examination due date and lapsed time since the previous exam.

- 18. Continue efforts to enact final rules to define homogeneous for pool membership and monitor the pool members for homogeneous risks on an ongoing basis; and continue efforts to enact final rules that would set forth a process to follow in the event that a pool has less than the required gross payroll. (Repeated-2004)**

Finding: The Department did not fully implement two of nine recommendations presented in the Management Audit of Group Workers' Compensation Self-Insured Pools (Management Audit) conducted by the Office of the Auditor General and released in January 2003. The following are findings and issues raised in the audit that have not been fully implemented.

- The Management Audit found that there were pools in liquidation and some active pools that included members with dissimilar risk characteristics. Having members with dissimilar risk characteristics creates the potential for unexpected risks, as claims could greatly exceed the premium rates collected for expected losses. According to Department officials, this issue will be resolved by regulations currently in draft form. (Recommendation 4)
- The Management Audit found that 12 of the 23 pools licensed at December 31, 2001, either reported gross annual payrolls under \$10,000,000, or did not disclose payrolls in their annual statements at all. Of the nine active pools as of June 30, 2007, all had annual gross payrolls in excess of the statutory requirement. The Department has indicated that pools in runoff (not active) lack payroll. According to Department officials, this issue will be resolved by regulations currently in draft form. (Recommendation 5)

REVIEW: 4309

Updated Response: Accepted. Recommendation on homogeneity is being implemented by rulemaking initiated in 2008 and currently in process. The recommendation on minimum payroll may be implemented by statutory change in 2010.

Emergency Purchases

The Illinois Purchasing Act (30 ILCS 505/1) states that “the principle of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts ...” The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption for emergencies “involving public health, public safety, or where immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage ... prevent or minimize serious disruption in State services or to insure the integrity of State records, or to avoid lapsing or loss of federal or donated funds. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make ‘quick purchases’, including but not limited to items available at a discount for a limited period of time.”

State agencies are required to file an affidavit with the Auditor General for emergency procurements that are an exception to the competitive bidding requirements per the Illinois Purchasing Act. The affidavit is to set forth the circumstance requiring the emergency purchase. The Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

The Department filed no affidavits for emergency purchases in FY07.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Department of Professional Regulation indicated as of July 2007, the Department had 240 employees assigned to locations other than official headquarters.