

LEGISLATIVE AUDIT COMMISSION



Review of
Department of Financial and Professional Regulation
Year Ended June 30, 2008

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REVIEW: 4320
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
YEAR ENDED JUNE 30, 2008

FINDINGS/RECOMMENDATIONS - 19

IMPLEMENTED - 7
ACCEPTED - 12

REPEATED RECOMMENDATIONS - 16

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 18

This review summarizes the auditors' reports of the Department of Financial and Professional Regulation, for the year ended June 30, 2008, filed with the Legislative Audit Commission June 11, 2009. 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. Legislation once again created a separate Department of Insurance effective July 1, 2009.

The Department oversees the regulation and licensure of banks and financial institutions, real estate businesses and professionals, 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. At the time of this audit, the Department had 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. On July 6, 2009, Mr. McRaith became Director of the Department of Insurance, and Mr. Brent Adams was named Acting Secretary of DFPR. Mr. Adams was confirmed by the Senate as Secretary on October 29, 2009. Previously, Mr. Adams served as Chief of Staff at DFPR. 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 FY06 through FY08.

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The average number of employees by division is as follows:

Division	FY08	FY07	FY06	FY05	FY04
Division of Insurance	202	217	231	239	
Division of Banking	148	170	157	193	
Division of Professional Regulation	216	217	211	174	
Division of Financial Institutions	70	61	63	59	
Executive Office	4	4	6	5	
Fiscal Operations Unit	28	28	29	31	
Information Technology Unit	35	33	34	46	
Human Resources Unit	9	12	13	13	
Legal Unit	38	29	29	30	
Legislative Affairs Unit	7	6	6	7	
Administrative Services Unit	25	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	782	804	804	825	908

Expenditures From Appropriations

The General Assembly appropriated a total of \$106,839,800 from 28 different funds during FY08; 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 FY08 and FY07 by major object code.

Total expenditures from all funds was \$93,335,495 in FY08 compared to \$85,112,299 in FY07, an increase of \$8,223,196, or 9.7%. Significant increases in expenditures between FY07 and FY08 included a \$3 million increase in personal services and other related lines; an increase of about \$2.7 million in the employer contribution for retirement; \$915,000 increase in contractual services; and \$800,000 increase in lump sum, grants and awards. Lapse period expenditures were almost \$7.1 million, or 7.6% in FY08.

Cash Receipts

The Department collects fees and taxes in connection with the licensing of various professions, occupations and activities. Cash receipts totaled \$495 million in FY08 and \$508 million in FY07, with almost 79% 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 decreased \$8.2 million as a result of a large protest penalty received from an insurance company in FY07. Group Self-Insurers Workers' Compensation Fund receipts decreased \$1.5 million as a result of several large estate claims which were settled by the Office of the Special Deputy Receiver during FY07.

Mortgage banking registrations decreased almost \$1.4 million in FY08 due to the poor economic conditions and lower volume of mortgage activity, causing the licensees to surrender their licenses.

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 \$13,498,600 as of July 1, 2007 to \$10,831,178 as of June 30, 2008.

Accounts Receivable

As of June 30, 2008, the Department's gross accounts receivable totaled \$36.8 million. Of the \$36.8 million in gross receivable, almost \$27.7 million is current. About \$3.5 million is estimated as uncollectible.

Status of Previous Audits

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

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 should ensure that I-SaveRx pharmacies are authorized under the Pharmacy Practice Act. According to DFPR, I-SaveRx pharmacies are not licensed under the Pharmacy Practice Act.

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

The program audit contained 24 recommendations and the Department made progress in implementing 17 recommendations. The following is the status of the remaining recommendations:

3. Develop management controls to ensure timely completion of investigations of complaints. Partially implemented.
7. Take the steps necessary to assist the Medical Coordinators with backlogs and improve case timeliness. Not implemented—as of December 17, 2008, the Medical Coordinator had 128 cases in his possession.
11. Develop and implement management controls to ensure that prosecution activities are timely and properly documented. Partially implemented.
14. Make rules relating to the definition of disciplinary and non-disciplinary actions consistent with the Medical Practice Act of 1987. Not implemented.
19. Work to assure that all members, including public members, are appointed to the Medical Disciplinary Board as required by law. Not implemented.
20. Ensure the replacement system for the Regulatory Administration and Enforcement system has the capability to help management better control the adequacy of the enforcement process. Not implemented—documentation problems still existed when auditors tested physicians.
24. Require employees, including medical investigators, to prepare timesheets as required by law. Not implemented.

Accountants' Findings and Recommendations

Condensed below are the 19 findings and recommendations included in the audit report. Sixteen recommendations were repeated. The following recommendations are classified on the basis of updated information provided by the Department of Financial and Profession Regulation and the Department of Insurance, via electronic mail received November 10, 2009.

Accepted or Implemented

- 1. Immediately perform a detailed inventory of computer equipment. Also, contact CMS in an effort to reconcile any missing items that may have been transferred to CMS, but lacked appropriate paperwork. In addition, perform a detailed assessment to determine if any of the missing computers contained confidential information.**

Finding: The Department was not able to locate computer equipment and did not adequately plan, coordinate, and verify the transfer of EDP equipment to the Department of Central Management Services (CMS).

In its FY08 Physical Inventory Report submitted to CMS, the Department reported it was unable to locate 98 of 3,771 (3%) items totaling \$169,813. Department personnel stated that \$161,204 was presumed missing as a result of the transfer of computer equipment for the consolidation of the Information Technology (IT) functions of State government with CMS in accordance with Public Act 93-25. Upon further inquiry with Department and CMS personnel, we noted the following:

- The missing EDP equipment consisted of approximately 35 laptop computers, 17 desktop computers, and other peripheral items. The Department "assumed" the missing items were transferred to and removed by CMS.

Upon follow up with CMS, CMS personnel stated none of these missing items were on its post-consolidation property control records.

The Department was unable to produce property transfer records or locate the EDP equipment. The Department had not performed an assessment, and was unsure how much, if any, confidential information was on the missing computers.

- CMS provided us with a list of items that they removed as part of the IT consolidation. We noted 68 items totaling \$223,509 which were on CMS' listing and also still on Department inventory records. As a result, these items are duplicated on two agencies' records, thus overstating State assets by \$223,509.

Department personnel stated there was no paperwork documenting the items that were removed by CMS. Auditors were able to obtain this information from CMS which indicates

Accepted or Implemented - continued

the Department did not make the effort to adjust its records for the items removed by CMS, did not follow up on many computers and peripheral equipment that were missing, and did not assess whether the missing computers contained confidential information.

Updated Response: Accepted. The Department has completed a physical inventory of IT equipment. The results of this inventory will be compiled into a final report to be completed by calendar year end. The IT section has also rolled-out new software to obtain data on equipment usage and location directly from users on a quarterly basis. The system will further enhance computer inventory management. The Department is also in the process of planning an internal audit to confirm correction of this audit finding.

- 2. Comply with the State Records Act and maintain the documentation required within the Enforcement Unit files. Update ILES immediately as case file information changes or additional information becomes available. Further, allocate the resources necessary to comply with internal guidelines for the Enforcement Unit to ensure that case files reflect necessary and significant investigative, prosecution, and probation/compliance activities in the Department within established time frames. (Repeated 2004)**

Finding: The Division of Professional Regulation's Enforcement Unit did not perform and/or document enforcement activities in a timely or sufficient manner. Auditors based their initial testing procedures on guidelines and timeframes provided to them by the Department from their enforcement policies and procedures manual. However, nine months after the testing, the auditors were informed that the guidelines and timeframes were not the correct or most up-to-date versions, causing a retest of many of the files. Auditors reviewed 25 investigation files and noted the following deficiencies:

- In three of the case files reviewed, the Investigative Reports were not generated within 30 days of the investigative activity, ranging from 75 to 126 days late.
- In three of the case files reviewed, the Investigator did not interview the complaining witness within 30 calendar days from the date assigned to the case, ranging from nine to 157 days late.
- In one of the case files reviewed, an Investigative Summary Report was not included in the file.
- In three of the case files reviewed, no acknowledgement letter was sent to the complaint witness.

Auditors also reviewed 25 prosecution files and noted the following deficiencies:

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- In one of the case files reviewed, an Investigative Summary Report was not included in the file.
- In one of the case files reviewed, the Investigative Summary Report was not signed by the investigator.
- In two of the case files reviewed, the Chief of Prosecutions did not review the case and assign to an attorney within 30 days of receipt. The completion of the review and assignment ranged from 3 to 12 days late.

Auditors also noted the Integrated Licensing and Enforcement System (ILES) screen printouts, provided at the time of initial testing, were not updated and did not contain current information. The ILES printouts summarize the most recent activity for each case file. Department management stated printouts originally provided to the auditors were not current because investigators may have been out of the office and not had an opportunity to update investigation and prosecution files.

Response: Accepted. The Department concurs with the recommendation in that investigators and prosecutors should perform and document their activities within the timeframes and in a manner set by Division policy.

The Department believes that facts presented in this audit finding show that the Department has significantly improved its performance in this area. The FY07 compliance audit reported that in 75 files reviewed at that time, a total of 36 deficiencies were found. For the current audit, in the 75 files reviewed, only 14 deficiencies were found. This represents a 61% reduction in deficiencies. Additionally, the auditors found no deficiencies in the 25 Probation files reviewed, thereby eliminating this aspect of previous audit findings.

The auditors reviewed 475 details of the 75 files. Only 14 deficiencies or errors have been found. This represents only 2.9% of the total number of possible deficiencies.

The Department has been able to increase compliance by revising the Enforcement Manual, instituting 30 day case reviews with investigators and prosecutors, instituting weekly tracking reports, completing the conversion of the ILES case tracking system and hiring additional probation investigators.

The Department continues to review its processes and policies so that Division of Professional Regulation investigators and prosecutors may continue to protect the public health, safety, and welfare.

Updated Response: Accepted. The Department continues to monitor the implementation and effectiveness of DPR process modifications and internal changes described in the initial response. The Department will schedule an internal audit to confirm correction of this finding.

Accepted or Implemented - continued

3. **Ensure all interagency agreements are signed by all parties prior to the effective date of the agreement. Further, require that all interagency agreements include methodology supporting the percent allocation. (Repeated-2006)**

Finding: The Department's controls over interagency agreements were deficient. During an examination of three interagency agreements (one between the Department and the Governor's Office of Management and Budget, one between the Department and the Governor's Office of Management and Budget and the Department of Labor, and one between the Department and the Department of Healthcare and Family Services), the following deficiencies were noted:

- Two out of three interagency agreements tested, totaling \$145,000, were not signed by all necessary parties before the effective date. The agreements (between the Department and the Department of Healthcare and Family Services and between the Department and the Governor's Office of Management and Budget and the Department of Labor) were signed 14-105 days late.
- One out of three interagency agreements tested pertaining to legal services (between the Department and the Governor's Office of Management and Budget), totaling \$72,000, did not include supporting documentation detailing the methodology used for determining the percent allocation to be paid by the Department for billing of shared costs.
- In an interagency agreement totaling \$95,000, between the Department, the Department of Labor, and the Governor's Office of Management and Budget, the Department could not demonstrate that an employee paid from the multiple agencies was working on Department related activities. Timesheets maintained by the employee did not detail the amount of time the employee worked for each State agency. Additionally, no supporting documentation existed detailing the methodology used for determining the percent allocation to be paid by each State agency noted in the interagency agreement.

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

Response: The Department will clarify the methodology for the parties' assumption of payment obligations in all interagency agreements to which the Department is a party. Further, the Department will endeavor to approve all such agreements prior to any performance of services thereunder.

Updated Response: Accepted. The Department continues the process of implementing revisions to procedures that were described in the initial response. The

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Department will schedule an internal audit to determine whether this audit finding has been corrected.

- 4. 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 CMS Surplus Property. (Repeated-2006)**

Finding: The Department did not maintain complete and accurate property control records. The Department had property and equipment totaling \$10,831,178 at June 30, 2008. Auditors selected a sample of 105 equipment items from nine Department locations to test whether the equipment was in the correct location and was properly maintained on the Department's inventory system. As a result of testing, auditors noted the following:

- Twelve of 105 items totaling \$8,702 could not be located by Department personnel.
- Three of 105 items were located at sites other than the location listed on the Department's property control listing.
- Two of 105 items were obsolete or unusable, but still maintained on the Department's property control listings.
- 29 of the 105 items tested were required to be reported in the FY08 Physical Inventory Report submitted to the Department of Central Management Services (CMS) as items with a value greater than \$500 or as having a high theft status. Auditors noted three of the 29 items were reported to CMS at amounts differing from the Department's property control records. These differences ranged from \$15 to \$690.

During testing of equipment additions, auditors noted seven of 36 equipment additions totaling \$16,180 were not properly reported on the Department's property control records and the *Agency Report of State Property* forms (C-15) submitted to the Illinois Office of the Comptroller for FY08.

Department management stated that many of the property control issues noted above were a result of a lack of communication between the Administrative Services section and Fiscal section.

Response: Accepted. The Department will review procedures to establish better controls over the accuracy of property control records. The Department will also review obsolete or unusable items and transfer those items to the Department of Central Management Services for surplus property.

Updated Response: Accepted. The Department is currently working with CMS to convert the agency's property inventory system to the CMS Central Inventory System.

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Accepted or Implemented - continued

The CMS inventory system offers enhanced data and reports to enable better management of assets. The Department will schedule an internal audit to determine whether this audit finding has been corrected.

5. **Conclude the Department's Division of Banking's 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 Division of Banking's Credentialing Licensing Enforcement and Regulation (CLEAR) system had significant deficiencies. CLEAR is an enterprise-wide computerized licensing, enforcement and regulatory system, which replaced the Division's outdated legacy systems in 2003, 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 a review of the Division, auditors found the CLEAR system was not meeting the needs of the Division. The following problems with the system were identified:

- 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.

Department management stated it has been 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. Currently, the implementation of the additional component is nearly complete and requires only the final testing and training before being placed in production according to Department management.

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.

Updated Response: Implemented. Identified deficiencies were addressed by the IT section.

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- 6. 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. During 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 four separate funds. Expenditures for these funds totaled \$21,972,801 during the engagement period.

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 cash reconciliations for six months of the fiscal year for one of the Division of Financial Institutions funds.
- The Department failed to document when the reconciliations were completed for all twelve months of fiscal year 2008 for the Division of Professional Regulation funds;
- The Department failed to locate the cash reconciliations for one of the funds for the Division of Financial Institutions.

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. Furthermore, Department personnel stated that the missing reconciliations were due to the move of Fiscal staff to the Administrative and Regulatory Shared Services Center.

Response: Accepted. The Department will continue to work with the Administrative and Regulatory Shared Services Center to ensure that the monthly reconciliations of expenditure and fund records are performed in a timely manner.

Updated Response: Implemented. The Department will schedule an internal audit to determine whether this audit finding has been corrected.

- 7. Implement policies to ensure adequate internal and administrative controls over locally held funds, including adequate segregation of duties and proper reconciliation of funds. Further, an independent supervisor should review the C-17 reports before they are submitted to the Comptroller.**

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Accepted or Implemented - continued

Finding: During a review, auditors noted weaknesses in internal controls, preparation and reporting of three locally held funds maintained by the Department's Division of Professional Regulation. Receipts and disbursements totaled \$7,921 and \$6,145, respectively, in these funds during FY08. Weaknesses noted were as follows:

- The custodian of the locally held funds has incompatible responsibilities including access to funds, recordkeeping and the preparation of monthly bank reconciliations.
- The *Report of Receipts and Disbursements for Locally Held Funds* (Form C-17) required to be filed quarterly with the Office of the Comptroller contained errors.
- The C-17 reports were prepared and approved by a single employee. They are not independently reviewed prior to submission with the Comptroller.
- Adequate reconciliations were not prepared for the locally held funds. Because no monthly reconciliations were prepared, the Department was unable to reconcile to the authorized balances as of June 30, 2008.

Department personnel stated the lack of segregation of duties is a result of Department oversight and that errors have occurred due to the numerous manual calculations required to summarize transactions from several bank accounts. Computerizing the preparation process and training employees on the proper completion of the forms should minimize the errors.

Response: Accepted. The Department will ensure that there are adequate internal and administrative controls implemented to address this finding. All completed reports will also be reviewed by supervisory personnel before submission to the Comptroller's Office.

Updated Response: Accepted. The Department continues to monitor the effectiveness of the internal process revisions described in the initial response. The Department will schedule an internal audit to determine whether this audit finding has been corrected.

8. Monitor the entries made into the Ethics Timekeeping Work Diary to ensure compliance with the Act. (Repeated-2004)

Finding: The Department is not maintaining time sheets for employees in compliance with the State Officials and Employees Ethics Act.

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. However, the Department implemented an additional timekeeping system, the Ethics Timekeeping Work Diary, during FY08 that is

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used to track time for all Department employees. The Ethics Timekeeping Work Diary tracks time all employees spend each day on official State business to the nearest quarter hour. During testing of the Department's Ethics Timekeeping Work Diary, auditors noted the following:

- In 8 out of 35 (23%) employee Ethics Timekeeping Work Diary's reviewed, time was not entered for any days worked by the employee for the selected pay period.
- In 6 out of 35 (17%) employee Ethics Timekeeping Work Diary's reviewed, time was not entered in the work diary for every day worked by the employee for the selected pay period.

Department management stated that employee orientation has been transferred to Shared Services and training in the use of the Ethics Timekeeping Work Diary is not part of the orientation process. They further stated there were employees who have not integrated the Ethics Timekeeping Work Diary entries into their work responsibilities. Department management stated they plan to provide periodic reminders to employees and post them on the Department's intranet about the system and its use.

Response: Accepted. The Department will send an agency-wide reminder to staff about the importance of making timely entries into the Ethics Timekeeping Work Diary. The Department's policy regarding the Work Diary will also be included in the updated version of the Department's Policy Manual. Finally, the Department will coordinate with Administrative and Regulatory Shared Services to ensure that new employees receive orientation regarding the Work Diary.

Updated Response: Partially Implemented. Implementation and testing of revised Department procedure is ongoing. The Department performs random audits to determine compliance, and the A & R Shared Services Center is in the process of adding Ethics Timekeeping Work Diary training to new employee orientation.

9. 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-2004)

Finding: The Department did not conduct employee performance evaluations on a timely basis. During testing, auditors noted that 20 out of 25 employees sampled did not have a performance evaluation performed on a timely basis. These untimely evaluations included 6 evaluations that were not prepared or completed during the fiscal year and 14 evaluations that were completed between 7 to 189 days late.

Department officials stated they send out an initial notification to the supervisor to remind them that evaluations are due, but evaluations continue to be untimely.

Accepted or Implemented - continued

Response: Accepted. The Department will coordinate with the Administrative and Regulatory Shared Services Center to develop internal controls to address the timely submission of employee evaluations.

Updated Response: Implemented. The Department will perform random audits to ensure compliance with this requirement.

**10. Establish effective controls over approval of out-of-country travel requests.
(Repeated-2004)**

Finding: The Department did not enforce the travel regulations outlined within the *Travel Guide for State of Illinois Employees* (Travel Guide). During a review of travel vouchers, auditors noted four of seven out-of-country examiner travel vouchers tested, totaling \$24,963 were not approved in advance by the Chairman of the Governor's Travel Control Board. The vouchers related to travel to London to conduct an examination of a Department regulated bank's international operations in November 2007, but was not approved by the Chairman of the Governor's Travel Control Board until December 10, 2007.

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.

Response: Accepted. The Department has implemented the necessary procedures to address the approval process for out-of country travel requests.

Updated Response: Implemented. The Department will schedule an internal audit to ensure compliance with this requirement.

**11. Follow phone bill distribution procedures and stress to employees the importance of completing these timely reviews of telecommunications services and expenditures. Further, appoint a permanent Telecommunications Coordinator to ensure monitoring of charges and services, as well as adherence to DCMS guidelines and Department policies.
(Repeated-2004)**

Finding: The Department did not maintain adequate controls over telecommunication services and expenditures. During testing auditors examined 60 detail billings for telephone and cell phone charges to determine if the Department performed a timely review of the vendor invoices and monitored charges for services and expenditures to

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ensure unnecessary expenditures were eliminated, proper service was provided, and misuse of telecommunications services did not occur. Auditors noted the following:

- Three detail phone line billings requested for testing could not be located by the Department.
- Six detail phone line billings were approved by an individual other than the user of that particular phone line.
- Nine detail phone line billings included no documentation of supervisor approval.
- Five detail phone line billings were found to be assigned to a user inconsistent with Department records for that particular phone line.
- 23 of 60 (38%) detail phone line billings required a follow-up notice for approval to be sent; however, these notices were not sent out timely or at all. Approvals were received between 11 and 254 days after originally due. The Department paid these invoices prior to receiving approval from the responsible reviewer.

During a review of telephone credit card cancellations, Department failed to timely submit *Telephone Credit Card Request* forms to the Department of Central Management Services for three of six separated employees. The forms were submitted 52 to 305 days after the employee separation.

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 obtaining employee cooperation in completing the reviews. Additionally, telephone credit cards were not properly canceled timely due to oversight.

Response: Accepted. The Department will continue to review procedures to establish better controls over telecommunication services and expenditures. The Department will also continue to stress the importance to employees of completing timely reviews of monthly telecommunications services and expenditures.

Updated Response: Implemented. The Department will schedule an internal audit to ensure correction of this audit finding.

- 12. Revise, review and approve a Vehicle Policy to ensure adequate controls over the operation of automotive equipment and expenditures. Further, Department management should communicate the policies to all employees**

Accepted or Implemented - continued

and implement disciplinary actions for noncompliance to ensure that employees comply with Department policies over the operation of automotive equipment and expenditures. Additionally, we recommend the Department re-evaluate the assignment of vehicles to individuals, especially those driven minimal mileage during the year. (Repeated-2004)

Finding: The Department did not maintain adequate controls over vehicle reporting and operation of automotive equipment expenditures. The Department expended \$261,469 for operation of automotive equipment expenditures and operated an average of 83 vehicles during fiscal year 2008.

During previous examinations, we noted the Department had not standardized its policies and procedures and relied on various legacy agency vehicle policies and procedures. In its previous response, the 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 CMS. Auditors generally followed DCMS rules and existing legacy policies to test controls over vehicle reporting and operation of automotive equipment expenditures.

- Accident reports were not filed properly.
- Automotive invoices were not properly documented.
- In nine out of 25 vehicles tested for proper vehicle maintenance, an oil change was not performed once every 5,000 miles, ranging from 5,048 to 14,134 miles.
- In three out of 61 personally assigned vehicles tested, the vehicle was driven less than 5,000 miles during the fiscal year. Twenty-two of 61 personally assigned vehicles were driven less than 10,000 miles during the fiscal year.

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 six compliance examinations dating back to fiscal year 2003.

Response: Accepted. The Department will include a vehicle policy in its updated policy manual to ensure better controls over the operation of automotive equipment and expenditures. The Department is also in the process of completing a comprehensive review of the assignment of vehicles to individuals, especially those driven minimal mileage during the year.

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Updated Response: Accepted. The Department is currently reviewing its vehicle assignment and usage policies with the goal of reducing cost by assigning under-utilized vehicles to the vehicle pool. The Department will schedule an internal audit to determine whether this audit finding has been corrected.

- 13. Obtain certification forms for license and automotive liability insurance for State assigned vehicles, as required by statute, or rescind an employee's authority to use a state assigned vehicle if they refuse to provide the required certification.**

Finding: The Department did not properly certify license and automotive liability coverage for individuals assigned a State vehicle in compliance with the Illinois Vehicle Code.

According to Department officials, confusion existed regarding who was responsible for the administration of the certification of liability insurance coverage.

Updated Response: The Department has taken necessary corrective action to acquire completed forms from employees who are required to submit them. The Department will schedule an internal audit to determine whether this audit finding has been corrected.

- 14. Appoint qualifying members to Boards as required by the Acts cited 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 of the Department did not appoint one member to the Social Work Examining and Disciplinary Board in order to fill a vacancy. The Board consists of nine members appointed by the Secretary.
- The Secretary of the Department did not appoint two members to the Board of Nursing in order to fill vacancies. The Board consists of 13 members.
- 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. Three of nine positions (licensed pharmacist) were held by individuals with expired terms.

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Accepted or Implemented - continued

- The Secretary of the Department did not appoint members to the Board of Orthotics, Prosthetics, and Pedorthics. Four of six positions were held by individuals with expired terms, and one of six positions (public member) has been vacant since October 2006.
- 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. All seven board positions were vacant. Five had been vacant since the late 1990s.
- 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. Two of four Class A positions were vacant. Nine of ten Class B positions were vacant. One of two Class C positions was vacant.
- The Secretary of the Department did not appoint three members, who are Licensed Certified Public Accountants to the Public Accountant Registration Committee in order to fill vacancies that have existed since November 2006, May 2007 and December 2007, respectively. In addition, one public accountant position was held by an individual whose term expired in January 2003.
- 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 November 2005, and two of three public member positions have been vacant since March 2002 and September 2003, respectively. Additionally, five of six positions were held by individuals with expired terms. 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 Advisers. Three out of five board positions were vacant and two of five positions were held by individuals with expired terms. The Act requires the Governor to appoint five members to the Board of Debt Management Service Advisers.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Real Estate License Act of 2000. One of seven positions on the Advisory Council has been vacant since December 2005, and four of seven positions were held by individuals with expired terms. The Act requires the Governor to appoint seven members to the Advisory Council.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Illinois Dental Practice Act. Three of 11 positions were held by

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individuals with expired terms. 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 agrees with the recommendations regarding insufficiencies in staffing certain advisory boards. 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.

Updated Response: Accepted. The Department launched an initiative to fill Board vacancies. The Department developed a brochure for public circulation and is currently developing an online application process similar to the one at <http://appointments.illinois.gov/>. The progress the Department has made in filling specific Boards is described below:

Social Work Licensing Board: The LCSW vacancy was filled 6/30/09.

Board of Nursing: The LPN and APN/CNM vacancies were filled 5/12/09.

Board of Orthotics, Prosthetics and Pedorthics: The Consumer Member position was filled 4/1/08. The Department is experiencing difficulty finding suitable candidates who are willing to serve in the licensed positions as the professional licensee pools are extremely small: 195 orthotists; 173 prosthetists; and 99 pedorthists.

Board of Currency Exchange Advisors: Four candidates are currently being vetted for recommendation for consideration of appointment by the Governor; additional candidates are being recruited.

State Banking Board: The Department is seeking a legislative remedy to address inherent difficulty in maintaining a full board because of statutory requirements regarding its size and composition. SB 2101, which passed out of the Senate, reduces the number of members and eases restrictive asset categories. The House is to consider the Bill in January 2010.

Public Accountant Registration Committee: Three Public Accountant vacancies were filled on 5/1/09 and 6/30/09; the Public Accountant member who was serving in an expired term was reappointed on 6/24/09.

Board of Debt Management Service Advisors: Five candidates are currently being vetted for recommendation for consideration of appointment by the Governor.

Board of Dentistry: The three board members serving in expired terms were reappointed on 6/24/09.

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Accepted or Implemented - continued

Medical Disciplinary Board: The Governor appointed an osteopath member on November 4, 2009.

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

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 our testing, auditors noted that 19 out of 25 policy forms reviewed were not approved or denied on a timely basis. These policy forms were approved or denied from eight to 402 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 Division of Insurance has taken reasonable measures to partially alleviate delays in the timely approval/disapproval of life, accident and/or health insurance policy forms, but additional staff will also be required to be hired to completely resolve this issue.

16. 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. Examinations are to occur 12 to 36 months from the initial examination based on their previous examination composite rating.

During testing, auditors noted examinations had not been conducted timely for 115 of the 1,386 residential mortgage licensees required to have an examination. The 115 examinations were between one and 67 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. The number of late examinations continues to be addressed by the Division of Banks and currently has been reduced to 20, representing 1.5% of licensee

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exams. The revised exam compliance report from the CLEAR database now clearly identifies the next examination due date and lapsed time since the previous exam.

Updated Response: Implemented.

17. Seek to implement the provisions of the Savings Bank Act until legislative remedy to the statutory requirement is obtained. (Repeated-2002)

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

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.

Updated Response: SB 2011, which passed the Senate, would merge the Illinois Banking Examiners Education Foundation into the Banking Board. The Bill remains on the House calendar for consideration in January 2010.

18. 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. Auditors noted the following:

- The Commissioner did not appoint one member to the Residential Mortgage Board in order to fill a vacancy. This vacancy has existed for the one public member since January 2007.

Department management stated they are currently reviewing qualified candidates to fill the vacancy. Department management stated it is difficult to find a willing candidate to fill the position.

- One 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 2008. In addition, four out of five Board members did not file the statement in a timely manner, ranging from 63 to 89 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 1,530 licensees. According to the Agency's "MB – Audits Received Report – MB Only Report" as of

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Accepted or Implemented - concluded

June 30, 2008, none of the licensees tested submitted 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 179 to 551 days late.

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 1,200 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, Department management stated the Division did not have adequate staffing to keep up with the input on a timely basis.

Response: Accepted. The Department will continue to seek a qualified candidate to fill the vacancy on the Residential Mortgage Board, and to ensure that conflict of interest declarations are filed in a timely manner. The Department will also review internal procedures to ensure that all Mortgage Banking licensees' Annual Reports are received in a timely manner.

Updated Response: The Department's initiative to fill Board vacancies is ongoing. The Department developed a brochure for public circulation and is currently developing an online application process similar to the one at <http://appointments.illinois.gov/>. The Department continues to monitor the efforts described in the initial response.

19. Continue efforts to enact final rules to define homogeneous for Group Workers' Compensation Self-Insured Pool membership, and monitor the pool members for homogeneous risks on an ongoing basis. 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 conducted by the Office of the Auditor General.

The audit was released in January 2003, and 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.
- 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.

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While the Department has implemented many of the recommendations presented in the Management Audit of Group Workers' Compensation Self-Insured Pools, it has not yet promulgated the suggested rules with respect to Recommendations 4 and 5. By promulgating the suggested rules, the Department will have the necessary authority to enforce appropriate standards on homogeneous memberships.

Updated Response: Accepted. Recommendation on homogeneity is being implemented by rulemaking and is awaiting final JCAR approval. The recommendation on minimum payroll may be implemented by statutory change in the 2011 legislative session.

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 FY08.

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 2008, the Department had 238 employees assigned to locations other than official headquarters.