

**Official Response to the Performance Audit of Licensing of Health Care Practitioners
From Department of Health and Office of Financial Management
August 16, 2007**

This document was prepared in response to the final audit report delivered to the Health Professions Quality Assurance office (HPQA) at the Department of Health (DOH). We have provided a coordinated response for each finding from both the Department of Health and the Office of Financial Management (OFM). Our intent is that this organization will make it easier to copy and paste our response after the appropriate finding section in the report.

Finding 1: The state's governance structure involving HPQA and the Boards and Commissions, responsible for regulating health care professions, does not promote effective performance management.

DOH RESPONSE: We agree there is a need for consistent performance expectations of boards and commissions. We believe the expectations should include measures of performance including timelines established in law, compliance with sanction guidelines, and other directives from the Governor.

OFM RESPONSE: We agree that continued improvement in performance monitoring across all disciplinary authorities, both in overall and by individual boards and commissions, could promote better oversight and regulation of the health professions. One way this could be accomplished is if the operating agreements between HPQA and the boards and commissions identified responsibilities for each entity, including specific performance measures. Government Management Accountability and Performance (GMAP) staff members are working with the Department of Health to examine ways to enhance performance expectations for health professions.

Finding 2: Credentialing process inconsistencies and control weaknesses leave the potential for unqualified individuals to practice in Washington and leaves citizens at risk.

DOH RESPONSE: The audit report did not identify any individuals who were credentialed without meeting qualification standards.

To strengthen our credentialing process, we piloted a quality review process that will guide future practices. We are combining all credentialing staff into a single work unit to ensure consistency. We're also installing a new computer system — the Integrated Licensing Regulatory System — which has improved checks against errors. We are replacing desk manuals with online tools to speed updates, assure access, and improve consistency. All procedures are available on the HPQA intranet site.

These are important steps to achieve uniformity. In addition, we must strengthen our training program. We have used on-the-job training due to resource limitations. We agree a formal training program would increase effectiveness. That will require additional resources.

Three subject areas of this finding would require legislative action:

- **Minimum age.** The Legislature could establish a minimum age for health care professions, yet we have no current evidence that the lack of a minimum age has endangered any patients. It is unclear if a minimum age requirement would improve patient safety. It is common in

some professions, such as health care assistants and nursing assistants, for workers to be under age 18.

- **Registered counselors.** In 2006, the Governor asked us to study the registered counselor profession. We requested legislation to change the profession's standards. The 2007 Legislature directed us to complete a second study, which will be available in November 2007.
- **Registered professions.** We encourage a legislative review of all registered professions that have no educational or experience requirements. The review may identify factors that would better protect patient safety.

Action Steps and Timeframe:

- We are conducting a second study of the registered counselors' profession as directed by the Legislature. November 2007.
- The new computer system will have improved checks against errors. June 2008.
- We are replacing desk manuals with online procedures. June 2008.
- We will identify necessary resources for a formal training program. October 2007.
- We will centralize our credentialing work units to promote standard business practices. June 2008.
- We will include audit suggestions and quality assurance pilot project results in revised procedures. June 2008.
- We will work with the boards to change the administration of the exams for the three professions mentioned in the report. December 2007.
- We will review the administration of jurisprudence exams with other boards and commissions in the context of their rules and policies. March 2008.

OFM RESPONSE: We agree that internal controls, appropriate documentation, and consistent procedures within HPQA are good ways to improve public safety. To this end, OFM has supported – and continues to support – HPQA's now nearly-completed installation of the Integrated Licensing Regulatory System, an automated system to improve the agency's credentialing and monitoring process.

Governor Gregoire directed the Department of Health (DOH) to recommend improved standards for registered counselors with the help of a task force. The work of the department to convene a second task force to develop credentialing guidelines for all registered counselors by January 1, 2008, led to agency request legislation in January 2007. The Legislature did not adopt this legislation in 2007, but did direct DOH to convene another task force that would recommend specific guidelines for registered counselors. The Governor and OFM will evaluate the recommendations of this study when received.

Finding 3: Weaknesses in internal controls over the background check process and lack of national criminal background checks can expose the public to serious risk.

DOH RESPONSE: We already conduct Washington State Patrol (WSP) criminal background checks on all new applicants — more than 53,000 a year. We receive background information from the non-criminal national provider data bases (NPD) on all applicants. We also check the WSP and NPD sources on incoming complaints. Based on 2006 legislation, we are able to

compare criminal conviction data from the WSP with our credential records as it is available (quarterly). The Legislature authorized us to check for four types of convictions: assault, kidnapping, homicide, and sex offenses.

A legislative expansion of the convictions list to include all felonies would help identify offenders. For example, convictions for illegal drug use, felony driving while under the influence (DUIs), or fraud by a health professional may present a risk to patient safety. In the meantime, we are testing the use of a national Web-search service for public criminal conviction information.

This finding would require legislative action:

- The Legislature would have to take action to give the department access to the full range of convictions, federal criminal data and in-state non-conviction information including police reports. Legislative action supporting cooperation between law enforcement agencies and the department would promote patient safety.
- Staff and funding will be required for more background checks whether done by the department or contracted firms.

Action Steps and Timeframe:

- We are developing mandatory reporting rules with a timeline for reporting unprofessional conduct. May 2008.
- We will develop a quality assurance sampling process to audit completed background checks. September 2007.
- We are testing a national search service for public criminal conviction records. If it is useful, we will assess the cost of expanding it to all applicants. July 2008.

OFM RESPONSE: HPQA must implement background checks within the authority granted them in the law. While we agree with the recommendation to expand the list of crime types included in background checks for professional licensing, DOH will need to work with the Washington State Patrol, the Office of the Attorney General, and the Legislature to develop options that would provide access to additional background information for the department.

Finding 4: Changes in the complaint management process are needed to more accurately assess complaints and to improve responses to complainants.

DOH RESPONSE: We are pleased that the audit highlighted some of our practices – such as the team approach to high-priority cases – as a model. We are consolidating all intake staff into a single unit. This will ensure consistency and strengthen the complaint management process. We are installing a new computer system, Integrated Licensing and Regulatory System, with improved checks against errors. These changes will enable us to more quickly acknowledge complaints and keep complainants and credential-holders informed.

In 2006, we began reviewing the decisions to close cases without investigation (when the evidence available is “below threshold”). We will provide the threshold list used for Secretary-regulated professions to all boards and commissions for their adoption and use. We are expanding quality assurance processes to other activities.

Certain recurring complaints may escalate into more serious violations. Based on the audit suggestions, we will review other jurisdictions' experience using the number and type of complaints to identify incompetent practitioners.

Action Steps and Timeframe:

- We will provide the threshold list used for Secretary-regulated professions to all boards and commissions for their adoption and use. March 2008.
- We will develop specific criteria for imminent danger. February 2008.
- We will evaluate the success of other states' use of multiple complaints to identify incompetent practitioners. We will adopt practice review procedures if there is evidence they are effective. May 2008.
- We will evaluate the success of other jurisdictions' experience with long-term behavioral indicators. If they are shown to be effective, we will adopt new procedures. May 2008.
- We will update training related to disciplinary case tracking after the first internal quality review. November 2007.
- We will seek funds to study the feasibility of electronic document management. It will include imaging of complaint files. October 2007.
- We will re-evaluate what should be included in case records and revise our procedures on how to organize and manage records. September 2008.
- We will develop a common case assessment worksheet for use in all Secretary-regulated professions and recommend its use in board/commission-regulated professions. November 2007.
- The database complaint types and closure codes are defined in manuals for the obsolete computer system, ASI. We have reduced the number of complaint types and closure codes for the new system. We have clear definitions for each. The new Integrated Licensing Regulatory System will be fully implemented by June 2008. June 2008.
- We will continue to send notification letters when we assess the complaint. We will look into the cost of additional notifications. June 2008.

OFM RESPONSE: It is notable that HPQA's triage process for prioritizing complaints was identified in the audit as a best practice. In addition, per the Governor's May 2006 Executive Order, sexual misconduct rules have been adopted by the Secretary and all boards and commissions.

Finding 5: Improve public education regarding citizens' rights to file complaints about credential holders with HPQA

DOH RESPONSE: A public information strategy would help people understand the complaint process. We expect increased public awareness to generate more complaints. We will have to be prepared to handle them. It is possible that any major public education campaign will require significant resource investment. It is imperative that as we increase public awareness of the complaint process that the infrastructure needed to respond to these complaints is sufficient.

Action Steps and Timeframe:

- We are developing a public awareness strategy and will identify its costs for the Legislature. June 2008.
- We will calculate the cost to redevelop our Web site to focus on customer needs. October 2007.
- We are testing outreach to vulnerable populations, particularly the elderly, based on the results of the February 2007 survey. December 2007.

OFM RESPONSE: We agree that public awareness of the complaint process for credential holders should be improved. We encourage HPQA to explore creative solutions and strategies to work with community partners and other sources to increase the reach and frequency of their public outreach efforts.

Finding 6: Investigations of complaints are delayed by process issues and compromised by staffing shortages and internal control deficiencies.

DOH RESPONSE: Patient safety is our first concern. Cases that endanger patients are the highest priority. Our next focus is to reduce the backlogs. Permanently eliminating backlogs will require more staff and resources. A successful public information campaign will increase complaint volume (see our response to Finding 5).

Processes for boards and commissions to authorize an investigation could be improved. For example, only two of 14 boards and commissions have adopted rules delegating the decision to HPQA staff. These rules should speed up the process. We are encouraging other boards and commissions to follow suit.

We have longstanding investigative guidelines approved by the state's oversight group, the State Investigator Resource Committee (SIRC). Guidelines, rather than rigid policies, are used to address the unique needs of each profession and type of unprofessional conduct.

We have used expert witnesses in investigations for standard of care cases. We will expand the use of experts. We have had supervisory review as part of the investigative report since 1989. We will be able to improve caseload tracking with the new computer system, which will support the use of a single tracking report for each investigator. We will examine the other suggestions in the audit report to improve the investigation process and adopt them as appropriate.

Legislative action could provide new tools for obtaining records, documents, and other evidence. In 2007, we proposed legislation to allow use of citations and fines for failure to provide documents in a timely manner.

Action Steps and Timeframe:

- We will propose improvements to the process to authorize an investigation. June 2008.
- We will identify resources needed for a formal training program. October 2007.
- A workload standards study is now underway to identify appropriate staffing levels. We will provide the report to the Legislature when it is completed. December 2007.

- We will complete the contract process for expert review of standard of care cases. December 2007.
- We will have a single caseload report for each investigator in the new licensing computer system. June 2008.
- We will re-evaluate what should be included in case records and revise our procedures on how to organize and manage records. September 2008.

OFM RESPONSE: We strongly support HPQA's on-going process improvement efforts and will consider requests for additional resources as part of the budget development process in the future.

Finding 7: Deficiencies in the disciplinary (legal) process have led to inconsistent and delayed discipline of practitioners who engage in unprofessional conduct or provide below standard of care.

DOH RESPONSE: Sanction guidelines promote consistent and uniform disciplinary outcomes. That is why the Secretary adopted guidelines in May 2006 for the 23 professions she regulates. Ten of 14 boards and commissions have adopted the Secretary's guidelines. We encourage the remaining boards and commissions to do so.

We issue a statement of charges when an investigation has been completed and there is evidence of unprofessional conduct on the part of a credential-holder. The respondent has 20 days to answer that statement of charges unless the health law judge allows more time. If the respondent does not answer by the end of 20 days, a default order may be entered. We draft the default order only after it is clear the respondent has missed the deadline.

The audit recommends we enter default orders on the 21st day. That means we would have to have the order ready in advance. This would cost additional resources without any gain in patient safety. In addition, the courts typically allow a practitioner to have a hearing when a late answer is filed. The State Supreme Court has noted, "...[d]efault judgments are precarious and not favored because, 'It is the policy of the law that controversies be determined on the merits rather than by default.'" *Lenzi v. Redland Ins. Co.* 140Wn.2d 267, 278 fn. 8 (2000) (Citation omitted).

Accuracy is important on our Provider Credential Search Web site when describing why discipline occurred. We follow the reporting standards of the national practitioner data banks. This requires use of a best-fit approach to match our statutory violations to the national data banks' descriptions. As the audit data showed, the best-fit approach does not always provide the entire picture of a case.

Action Steps and Timeframe:

- We will work with OFM to see whether further action is appropriate to require all boards and commissions to adopt the sanctioning guidelines. December 2007.
- We will continue to enter default orders according to the law. Ongoing.
- We will re-evaluate what should be included in case records and revise our procedures on how to organize and manage records. September 2008.

- We will review our options to assure accuracy in reporting disciplinary actions. June 2008.

OFM RESPONSE: Consistent sanction guidelines among all 57 health professions would increase clarity and add to both the public's and credential holder's understanding of the sanction process. OFM is pleased that DOH adopted Uniform Sanction Guidelines for professions regulated by the Secretary, and that several boards and commissions followed suit. However, OFM will continue to work with DOH to assure that all boards and commissions adopt these guidelines.

Finding 8: The compliance process does not ensure that practitioners who have been disciplined comply with the terms of their sanctions.

DOH RESPONSE: We are consolidating all compliance staff into a single work unit to ensure consistency in processes. We are also installing a new computer system, Integrated Licensing and Regulatory System, with automated deadline notices. Having a central compliance unit with a single management structure will ease training and workload assignment issues.

We are replacing desk manuals with online tools to speed updates, assure access, and improve consistency. All procedures are available on the HPQA intranet site. Training for new staff is now conducted on the job. We agree our training program should be strengthened. A formal training program would be more effective, and it would require additional resources.

We adopted a procedure in 2006 that requires a single reminder letter to practitioners who have not met a due date. We will continue to send follow-up requests for additional information where needed. The ILRS computer system will include standardized letters and compliance worksheets. The study on workload standards will help us set caseload expectations for compliance staff.

Action Steps and Timeframe:

- The new computer system will include automated notices and reminders. June 2008.
- We will complete a workload standards study now underway to identify appropriate staffing levels. We will provide the report to the Legislature when it is completed. December 2007.
- A central compliance unit will support consistency in the compliance process. June 2008.
- We will identify necessary training resources for a formal program. October 2007.

OFM RESPONSE: We are pleased that HPQA has already taken steps to reorganize their compliance work unit under a single management structure. Doing this is expected to provide better outcomes. We also look forward to working with HPQA and the Legislature to develop criteria for evaluating workload standards for HPQA's compliance activities.

Finding 9: DOH and HPQA oversight needs improvements to ensure that its credentialing and its regulatory processes are performing as intended.

DOH RESPONSE: We agree on the importance of performance management and improving our current system. We have enhanced our performance management system to meet the criteria

suggested in the audit. The 2007-2009 Health System Quality Assurance division-wide strategic plan has specific performance measures for HPQA.

Action Steps and Timeframe:

- We will post measures of importance to the public on the agency Web site. June 2008.

OFM RESPONSE: The Governor is committed to accountability within state government and established the Government Management Accountability and Performance program (GMAP) to encourage performance improvement. As is being done in other key areas of government, GMAP will work with HPQA to improve performance of the state's disciplinary process.

Finding 10: The DOH internal audit function is understaffed and does not perform evaluations of HPQA to identify and report deficiencies that could impede HPQA's ability to achieve its goals.

DOH RESPONSE: We will consider options to add capacity. This may include more internal audit staff and quality assurance. We will consider other options for audits that require specialized skills, such as technology systems. This will require additional resources.

Action Steps and Timeframe

- We will identify the costs of adding staff to the department's internal audit function. October 2007.
- We will update job descriptions to incorporate quality assurance as we consolidate functions. March 2008.
- We have begun a pilot of a Control Self Assessment in HPQA. September 2008.

OFM RESPONSE: Enhanced internal audit capacity can help improve processes and program implementation at HPQA. We look forward to working with HPQA in the normal budget process to identify a cost-effective approach to improve internal auditing capacity.

Finding 11: Legacy information systems does not enable HPQA to effectively and efficiently license health practitioners, manage consumer complaints and monitor compliance with disciplinary action.

DOH RESPONSE: We identified and began to address the issues with our legacy information systems several years ago. We have acquired and are now installing a new computer system, Integrated Licensing and Regulatory System (ILRS). This system will resolve the issues identified by the audit. We are on track to implement ILRS in spring 2008. It is a modern system that meets agency and state standards.

It is high risk and not cost effective to modify the old, undocumented legacy computer system that will be decommissioned within a year. We will continue to follow the agency standard and regularly install security patches for all Microsoft equipment.

Action Steps and Timeframe:

- We are implementing the new ILRS computer system that meets agency standards. June 2008.
- We will develop a notification system between HSQA managers and the technology staff to maintain current system access for all users and IT development / maintenance staff. November 2007.
- We will update the user access records and restructure the way they are maintained. November 2007.
- HPQA is in the midst of analyzing and correcting data in the legacy systems in preparation for conversion to ILRS. This will continue until the new system is implemented. June 2008.

OFM RESPONSE: Following up on several years of work and investments in prior budgets, funds were included in the 2007-09 biennial budget to complete the replacement of HPQA's legacy information system. DOH is successfully moving forward with implementation of this project. DOH also has independent quality assurance (QA) in place to evaluate progress and regularly report findings and recommendations to senior agency leadership and the Department of Information Systems. OFM and DIS monitor the progress of the implementation of ILRS and are pleased that the new system is on track. Any action that would delay the timely implementation of this project would be ill-advised.

Finding 12: HPQA's disaster recovery plans and business continuity plans are not fully developed.

DOH RESPONSE: We have completed business continuity plans for the most crucial HPQA work. This includes licensing and public access through the customer service center. We have developed disaster recovery plans for HPQA's most vital technology systems. We will focus next on investigative and disciplinary activities. The department will keep working with the Department of Information Services on a primary disaster recovery hot site.

Action Steps and Timeframe:

- We will complete a business continuity plan to sustain critical investigation and disciplinary activities. December 2007.
- We will develop an alternative means of contact for key personnel. December 2007.
- We will review disaster recovery plans to make sure there is sufficient information for staff to follow them. December 2007.
- We will have an interim disaster recovery site in operation. December 2007.
- We are working with the Department of Information Services for a primary hot site. April 2008.

OFM RESPONSE: We concur with HPQA's strategy to complete its disaster recovery and business continuity plan. Ensuring that critical state services are maintained in the event of a disaster is of statewide significance. To date, the state's planning emphasis has been placed on disaster recovery and providing redundant mainframe computing to enhance the state's ability to access and maintain information. Our next challenge in planning is to attend to the recovery of business functions and resources, such as alternate work space, mail delivery, and essential records.

We have determined that having an enterprise approach to business continuity is the most effective way to ensure that vital public services are maintained in the event of a disaster. It is not enough to be confident that an agency and their employees can communicate within the agency; it is crucial that inter-agency lines of communication can also be preserved.

Finding 13: Hard copy files related to licensing and investigations are not physically secure.

DOH RESPONSE: We take file security seriously. We have enhanced physical security in our buildings. We use electronic identification for access, have security guards onsite in Tumwater, and keep adjudication records and evidence in secure locations. In addition, employees must sign confidentiality forms each year.

We have upgraded our policies on destruction of confidential records. These records must be deposited in locked containers and shredded. Electronic document management would provide the highest level of security, and that would require funding.

Action Steps and Timeframe:

- We will seek funding to study the feasibility of a division-wide electronic document management system. October 2007.

OFM RESPONSE: OFM will consider recommendations to improve file security within DOH as part of the normal budget process.