Department of Law and Public Safety
Division of Consumer Affairs

July 1, 2000 to February 28, 2003

Richard L. Fair
State Auditor
Enclosed is our report on the audit of the Department of Law and Public Safety, Division of Consumer Affairs for the period July 1, 2000 to February 28, 2003. If you would like a personal briefing, please call me at (609) 292-3700.

James Patterson
Assistant State Auditor
October 14, 2003
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Department of Law and Public Safety
Division of Consumer Affairs

Scope

We have completed an audit of the Department of Law and Public Safety, Division of Consumer Affairs for the period July 1, 2000 to February 28, 2003. Our audit included financial activities accounted for in the state’s General Fund and the division’s nonappropriated accounts.

Total expenditures of the division during fiscal years 2001, 2002 and 2003 as of February 28, 2003 were $58.5 million, $53.1 million and $32.1 million, respectively. Revenue from professional licenses, registration, examination, penalties and other fees totaled $142.3 million for the same period. The prime responsibility of the division is to assure fair, equitable and competent treatment of the consumer in practices relating to the acquisition of goods and services, and the use of professional and occupational services.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the division’s programs, were reasonable, and were recorded properly in the accounting systems. We also tested for resolution of significant conditions noted in our prior report.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the State Comptroller, and policies of the division. Provisions that we considered significant were documented and compliance with those requirements
was verified by interview, observation, and through our samples of financial transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal controls.

A statistical and nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes.

To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the division and walked through the system to determine if the corrective action was effective.

**Conclusions**

We found that the financial transactions included in our testing were related to the division’s programs, were reasonable, and were recorded properly in the accounting systems. In making this determination, we noted certain internal control weaknesses and matters of compliance with laws and regulations meriting management’s attention. We also found that the division has resolved the significant issues noted in our prior report except for the matters related to the revenue collection procedures and maintenance of fixed asset records. These issues have been updated and restated in our current report.
Professional Board Appropriations

In accordance with N.J.S.A. 45:1-3 and the annual appropriation act language, the cost of operations of the professional boards, advisory boards, and committees are to be provided from receipts of those entities. Revenues in excess of anticipation and unexpended appropriation balances of the professional boards are appropriated.

As a result of a change in accounting principal by the Department of the Treasury to no longer defer a portion of the professional boards’ revenues for subsequent year operations, the boards’ available appropriations are in excess of their annual operating cost. In fiscal year 2002 the boards’ available appropriations were $78.4 million. Expenditures for the year were $31.7 million. The excess appropriations over the cost of board operations was $46.7 million at June 30, 2002. This balance, which is available to offset future expenditures of the boards, represented an 11.6 percent reduction from the preceding fiscal year balance. However, our review of fiscal year 2003 activity indicates that the appropriation balance will increase at year end.

These re-appropriated amounts should be more closely monitored by the division and the Department of Treasury to prevent subsequent build ups of available appropriations and to decrease the current excess availability to a more equitable level.

The board’s anticipated revenue is currently tied to their annual appropriation. Anticipated revenue consist of license and permit fees, fines and penalties and other revenues. All of these revenues in excess of original anticipations are appropriated in accordance with the appropriation act language. However, license and permit revenues which make up 89 percent of all board revenues are sufficient to cover the operational cost of the boards.
A review of average board revenues for fiscal years 2000, 2001 and 2002 showed that license and permit revenues are approximately $38 million annually while board expenditures are $30 million. Board revenues and expenditures are as follows:

<table>
<thead>
<tr>
<th>Revenue Source</th>
<th>Three-Year Average</th>
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<tr>
<td>License and Permits</td>
<td>$ 38,298,000</td>
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<tr>
<td>Fines and Penalties</td>
<td>1,618,000</td>
</tr>
<tr>
<td>All Other</td>
<td>3,278,000</td>
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<tr>
<td><strong>Total Revenues</strong></td>
<td><strong>$ 43,194,000</strong></td>
</tr>
<tr>
<td>Professional Board</td>
<td></td>
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<tr>
<td>Expenditures</td>
<td><strong>$ 30,404,000</strong></td>
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Fines, penalties and other revenues approximating $4.9 million annually are not needed to fund current operations. These revenues should be treated as regular general fund miscellaneous revenues and credited to general fund surplus.

**Recommendation**

We recommend that the division and the Department of the Treasury monitor the future appropriations of the professional boards and consider reducing prior years excess available re-appropriations. In addition, revenues from fines, penalties and other fees should be treated as general miscellaneous revenues and not appropriated revenues. This would also help prevent subsequent build ups of excess appropriations.

**Auditee’s Response**

The Division of Consumer Affairs currently has in place a procedure that provides for the regular review of the professional boards’ revenues and expenditures and a mechanism to raise or reduce revenue when it is insufficient or in excess of what is needed to support the boards’ operations.

By law, the division is required to collect a sufficient amount of revenue to support the projected expenditures of the boards and is not permitted to collect revenue in excess of these projections. In order
to ensure that the revenue for a given licensing cycle is adequate, a review of each board’s expenditures and revenues for the licensing cycle, which may be a two or three year cycle depending on the board, is conducted.

If, in a given licensing cycle, there is insufficient revenue projected to support a board’s operations, if the board’s operating costs cannot be reduced, a fee increase is implemented. As licensing fees are set by regulation, any change in the licensing fees requires a change in the board’s regulations. A rule change, which involves a public comment period, requires approximately six months to accomplish.

If in a given cycle there is excess revenue projected, the board will either issue a credit to the licensee upon renewal of the license or decrease the fee by regulation. Unless projected excess revenue is artificially high, a board usually issues a credit to licensees due to the expanse of time and effort needed to change a fee by rule. Normally an overage of revenue results from the board not expending as much as was projected in the fee review. Credits rid revenue excesses where appropriate and allow a board to maintain a constant fee schedule without cyclical fluctuations.

To do a financial analysis of the professional boards as one entity does not provide an accurate representation. Each board has its own licensing cycles, some licensing cycles may span as many as four fiscal years. Fees collected must support the upcoming renewal period which may be 24 or 36 months. As such there should always be a significant amount of monies going forward in the aggregate. To better determine if excess revenue exists, it will be found via the fee review process that currently exists and will be reduced appropriately by issuing credits or by reducing fees.

The Department of the Treasury’s change in accounting principle to count all of the licensing revenue in the current period rather than recognize the deferral of revenue to subsequent years in the licensing
cycle, when no fees will be collected, does not accurately portray how the boards are funded in fact nor the sufficiency of such funding at any given point in time.

In the audit report it is suggested that the revenue collected from licenses and permits are sufficient to cover the operational costs of the boards. Although when looking at the professional boards’ accounts as one entity that appears to be true, it is not an accurate representation. As indicated in the previous finding, if there is an excess of revenue in a given period, that excess is reduced by returning money to the licensees by issuing credits at renewal.

During the fee review process, the expenditures of a board are projected for the licensing cycle. The next step in the fee review process is to project revenue for the upcoming cycle. This revenue projection includes revenue from all sources, including penalty and other miscellaneous revenue. It is the revenue from these sources that help offset the revenue that needs to be collected from licensing fees and serve to keep licensing fees down. If the boards were to lose the penalty and miscellaneous revenue that is collected and appropriated, it would ultimately result in fee increases to the licensees.

Much of the professional boards’ expenditures are for regulating the industry and ensuring the integrity of the profession with the ultimate objective of protecting New Jersey citizens. The revenue collected from fines and penalties is a result of this effort which further supports the argument that penalty revenue be appropriated to the boards rather than going to the general fund. By allowing the penalty revenue to be appropriated, the people who are fined would be supporting this consumer protection effort, rather than placing the financial burden of this protection effort on the licensees who have done no wrong.

The miscellaneous revenue largely comes from application and examination fees. These revenues
offset the costs of processing applications and giving examinations. If this revenue was to be taken away from the boards, licensing fees would have to be increased to offset that revenue loss.

I nternal controls over
timekeeping and
parking to the division
employees’ time and
leave records need to be
strengthened.

Payroll and Time Reporting

The division and professional boards have approximately 670 employees and annual regular payroll expenditures of $27 million. During our review of time sheets and annual leave records for 28 randomly sampled employees (1,860 hours), we noted the following weaknesses:

- Two of 28 employees tested (7 percent) did not have their paid time properly supported by time sheets. These employees had 15 hours paid that were unsupported by detail entries on the time sheet.

- Two of 28 employees tested (7 percent) had incorrect postings of leave time used with 7.5 hours recorded on the time sheets that were not posted to the employees’ leave records.

- Twenty-two out of 28 employees tested (78 percent) did not have supervisory approvals on their time sheets. In some cases the time sheets (which include daily, weekly, and bi-weekly sign-in/sign-out sheets) did not even include a space for a supervisor’s approval.

Based upon our sample population of 1,860 hours tested, the payment of 15 hours unsupported by time sheets results in a potential error of $219,000 when projected to the total population of regular payroll hours (1,101,200). In addition, the failure to post 7.5 hours of used leave time to annual leave records results in a potential error of $141,000 when applied to the total payroll population of regular hours. The
combined effect of these conditions amounts to a potential error in the population of $360,000.

The remaining condition involving supervisory approvals constitutes an internal control weakness that increases the risk that errors and irregularities could occur due to lack of adequate management review, and that employees may not work the appropriate number of hours.

We also noted that a unit improperly disposed of all their time sheets during calendar year 2000, in violation of the state records retention policy. This appeared to be a one time error and the unit had time sheets for later periods on file. However, as a result of the destruction of the time sheets, payroll charges and leave records for the unit’s ten employees could not be supported.

**Recommendation**

The division should strengthen internal control procedures for both timekeeping and leave record maintenance to reduce the likelihood of erroneous payments and misstatements of leave time. The division should also require proper supervisory review of employee time sheets, evidenced by written signature. It should also ensure that record retention schedules are adhered to.

**Auditee’s Response**

The Division of Consumer Affairs concurs with this finding and is in the process of developing a standard operating procedure (SOP) regarding proper timekeeping and posting. The division will require that all time sheets have a place for the supervisor’s signature so to ensure that the supervisor has reviewed the sheets. It will also be recommended in the proposed SOP that these sign-in sheets be sent to the supervisor along with the TALRS sign off sheets to ensure that the posting of time into TALRS is done accurately. Further, the SOP will require the filing of the time sheets with the TALRS sheets so that the division’s personnel office can more easily conduct spot audits to ensure compliance with the new SOP. The SOP will also instruct all employees that they must
sign in and out everyday, and if they are out on a particular day, they will need to contact their supervisor or timekeeper so that the appropriate information may be entered on the time sheet.

Revenue Collection Procedures

The division is not in compliance with Treasury Circular Letter 94-24 which requires that checks be deposited the same day as received. This finding was also stated in our previous two audit reports and therefore is being restated for noncompliance.

In our current review, we tested two batches of revenue receipts from October 2002 for timeliness of deposit. These batches included 107 and 110 transactions totaling approximately $15,000 and $11,700, respectively. We found that on average it took 10 days to deposit receipts on the first batch and 7 days for the second batch. In addition, several payment submittal forms prepared by the professional boards did not record the dates on which the revenue was received. Overall, the number of days it took the division to deposit receipts ranged from 1 to 24 days.

With the implementation of a new licensing system (License 2000) in January 2002, the responsibility of preparing the deposits shifted from the professional boards and bureaus to the division’s fiscal unit with the exception of the Board of Medical Examiners, Centralized Licensing, and the Bureau of Securities. This caused a high volume of receipts from the various boards and bureaus to be processed by a limited number of employees, three cashiers, in the fiscal section.

Recommendation

We recommend the division comply with Treasury Circular Letter 94-24 by devoting additional staff during periods of high volume to enable receipts to be deposited timely.

Auditee’s Response

The Division of Consumer Affairs is currently
implementing a new licensing system, which will allow it to print invoices for payments. Once fully operational, the payment to the division will be accompanied by an invoice. Both the invoice and check will be run through a remittance processor that can process thousands of checks in a day.

In addition to the new system implementation, the division is planning to establish a centralized unit for the intake of monies. Currently checks are being received by each unit in the division. These units then have to take the monies received, enter the information into their accounting systems and prepare the payment for further processing by the accounting unit. Creating this central intake will serve to minimize the number of hands handling the monies received and reduce the time to deposit the funds. This system should be fully operational within the next year.

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**Fixed Assets**

The division maintains fixed assets records for 3,240 items of furniture and office equipment valued at $2.1 million. At October 30, 2002 there was an additional 884 computer related items of which only 647 had an associated cost. In addition, 204 had no acquisition date and 107 had no tag number assigned for control purposes. Failure to have fixed assets properly tagged increases the risk of assets being lost or stolen and not being detected.

**Recommendation**

We recommend the division include all information required by the Treasury Circular Letter 91-32 in its fixed asset inventory.

**Auditee’s Response**

The division concurs with this finding. A change of personnel produced a momentary lack of compliance with Circular Letter 91-32. New personnel are now fully informed of its requirements.

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The Division should comply with Treasury Circular Letter 91-32 regarding the maintenance of fixed asset records.