BOARD OF MEDICAL PRACTICE

FINANCIAL AUDIT

FOR THE THREE YEARS ENDED JUNE 30, 1992

OCTOBER 1993

Financial Audit Division
Office of the Legislative Auditor
State of Minnesota

93-56

Centennial Office Building, Saint Paul, MN 55155 ● 612/296-4708

BOARD OF MEDICAL PRACTICE

FINANCIAL AUDIT
FOR THE THREE YEARS ENDED JUNE 30, 1992

Public Release Date: October 29, 1993 No. 93-56

OBJECTIVES:

- EVALUATE INTERNAL CONTROL STRUCTURE: Original and renewal license receipts, payroll and board per diem, and electronic data processing expenditures.
- TEST COMPLIANCE WITH CERTAIN FINANCE-RELATED LEGAL PROVISIONS.

CONCLUSIONS:

We found three areas where the internal control structure needed improvement:

- Internal controls over license receipts need improvement.
- Contracting procedures did not comply with state requirements.
- Board members are not paid per diems in accordance with the policy adopted by the board.

The three areas had been discussed in the prior audit report for the board.

We found one departure from finance-related legal provisions:

- The board did not establish procedures to ensure compliance with a legislative rider governing its 1990 and 1991 appropriations.

Contact the Financial Audit Division for additional information.
296-1730

STATE OF MINNESOTA
OFFICE OF THE LEGISLATIVE AUDITOR
CENTENNIAL BUILDING, ST. PAUL, MN 55155 • 612/296-4708
JAMES R. NOBLES, LEGISLATIVE AUDITOR

Senator Phil Riveness, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Meredith Hart, President
Board of Medical Practice

Members of the Board of Medical Practice

Mr. H. Leonard Boche, Executive Director
Board of Medical Practice

Audit Scope

We have conducted a financial related audit of the Board of Medical Practice as of and for the three years ended June 30, 1992. Our audit was limited to only that portion of the State of Minnesota financial activities attributable to the transactions of the Board of Medical Practice, as discussed in the Introduction. We have also made a study and evaluation of the internal control structure of the Board of Medical Practice in effect at May 30, 1993.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial activities attributable to the transactions of the Board of Medical Practice are free of material misstatements.

As part of our study and evaluation of the internal control structure, we performed tests of the Board of Medical Practices' compliance with certain provisions of laws, regulations, and contracts. However, our objective was not to provide an opinion on overall compliance with such provisions.

Management Responsibilities

The management of the Board of Medical Practice is responsible for establishing and maintaining an internal control structure. This responsibility includes compliance with applicable laws, regulations, and contracts. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that:

- assets are safeguarded against loss from unauthorized use of disposition;

- transactions are executed in accordance with applicable legal and regulatory provisions, as well as management's authorization; and

- transactions are recorded properly on the statewide accounting system in accordance with Department of Finance policies and procedures.

Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that effectiveness of the design and operation of policies and procedures may deteriorate.

Internal Control Structure

For purposes of this report, we have classified the significant internal control structure policies and procedures in the following categories:

- application and original license receipts
- license renewal receipts
- payroll and board per diem
- electronic data processing expenditures

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

Conclusions

Our study and evaluation disclosed the condition discussed in findings 2 to 4 involving the internal control structure of the Board of Medical Practice. We consider this condition to be a reportable condition under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data.

A material weakness is a reportable condition in which the design or operation of the specific internal control structure elements does not reduce to a relatively low level the risk that material errors or irregularities in amounts that would be material to the financial activities being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We believe none of the reportable conditions described above are material weaknesses.

We also noted other matters involving the internal control structure and its operation that we reported to the management of the Board of Medical Practice at the exit conference held on July 2, 1993.

The results of our tests indicate that, except for the issues discussed in findings 1 to 4, with respect to the items tested, the Board of Medical Practice complied, in all material respects, with the provisions referred to in the audit scope paragraphs. With respect to items not tested, nothing came to our attention that caused us to believe that the Board of Medical Practice had not complied, in all material respects, with those provisions.

This report is intended for the information of the Legislative Audit Commission and management of the Board of Medical Practice. This restriction is not intended to limit the distribution of this report, which was released as a public document on October 29, 1993.

We thank the Board of Medical Practice staff for their cooperation during this audit.

James R. Nobles
Legislative Auditor

John Asmussen, CPA
Deputy Legislative Auditor

End of Fieldwork: June 30, 1993

Report Signed On: October 22, 1993

Table of Contents

Audit Participation

The following members of the Office of the Legislative Auditor participated in this audit:

John Asmussen, CPA	Deputy Legislative Auditor
Warren Bartz, CPA	Audit Manager
Mary Annala, CPA	Auditor-in-Charge
Karen Klein	Senior Auditor

Exit Conference

The findings and recommendations in this report were discussed with the following staff of the Board of Medical Practice on July 2, 1993:

H. Leonard Boche	Executive Director
Lois Kauppila	Office Manager
Tim Willson	Computer Specialist

Introduction

The Board of Medical Practice consists of 16 Minnesota residents appointed by the governor. Ten board members must be doctors licensed to practice medicine, one must be a licensed doctor of osteopathy, and five must be public members. The governor appoints members to the board reflecting the geography of the state. The doctors appointed to the board must represent the broad mix of expertise of physicians practicing in Minnesota. Board members are appointed to a four year term and are limited to serving eight consecutive years on the board. H. Leonard Boche has served as the executive director since April, 1988.

The board is responsible for:

- Protecting the public by ensuring that each candidate for licensure or registration as a physician, physical therapist, physician assistant, respiratory care practitioners and medical corporation meets the necessary qualifications and standards to competently practice in Minnesota.

- Registering annually every physician, osteopathic physician, physical therapist, physician assistant, respiratory care practitioner and medical corporation.

- Receiving and taking action on every complaint alleging a violation of the statutes, investigating allegations, conducting hearings, and taking disciplinary action as indicated, and enforcing board orders.

- Enforcing continuing medical education requirements.

The Board of Medical Practice is authorized to establish fees with the approval of the Commissioner of Finance so that total fees collected will approximately equal anticipated expenditures during the biennium. These fees are to be deposited into the Special Revenue Fund. The fees set by the board also are required to cover the costs of services provided by the Attorney General's Office, as the board usually does not receive an appropriation to pay for these services. Revenue and expenditures for the three years ending June 30, 1992 were:

Board of Medical Practice

	Year Ended June 30		
	1990	1991	1992
Revenue			
License receipts	$2,145,899	$2,149,915	$2,688,717
Other receipts	40,925	38,941	17,783
Total Revenue	$2,186,824	$2,188,856	$2,706,500
Expenditures			
Payroll	$ 845,252	$1,105,090	$ 929,580
Board per diem	31,661	37,722	41,054
EDP expenditures	240,971	234,019	99,645
Other expenditures	501,381	705,933	714,721
Total Expenditures	$1,619,265	$2,082,764	$1,785,000
Attorney General's costs	$ 672,811	$ 356,880	**$ 715,671**
Total Costs and Expenditures	$2,292,076	$2,439,644	$2,500,671

Note 1: Expenditures include $305,294 of salaries for representatives from the Attorney General in the year ended June 30, 1991.

Sources: Statewide Accounting System Estimated/Actual Receipts Reports as of August 31, 1990, August 31, 1991, and September 5, 1992. Statewide Accounting Managers Financial Reports as of September 1, 1990, August 31, 1991, and September 5, 1992. Attorney General's Office quarterly billings during each of the respective fiscal years.

Current Findings and Recommendations

1. The board did not establish procedures to ensure compliance with a legislative rider governing its 1990 and 1991 appropriations.

The board did not adequately monitor attorney general's costs to ensure that the provisions of a legislative rider were satisfied. A rider to the 1989 appropriation laws provided $210,000 and $262,000 for fiscal years 1990 and 1991, respectively, for "purchasing additional legal services from the office of the attorney general. The money is available only in the event that the board requires legal service above and beyond a level equivalent to that provided by the office of the attorney general during 1989." The money was to be used to reduce the backlog of unresolved complaints.

The method for financing attorney services for the Board of Medical Practices (BMP) became quite complicated during fiscal years 1990 and 1991. Prior to the 1989 appropriation rider, the board was not required to use its own direct appropriation to pay for attorney general services. Rather, the Legislature had given the Attorney General a special direct appropriation intended to finance the legal services for all medical licensing boards. Those special appropriations to the Attorney General amounted to about $1 million for each of fiscal years 1990 and 1991. The Attorney General maintained direct control over the costs that were charged to the special appropriations. The 1989 appropriation rider to the Board of Medical Practices was unique, because it appropriated the funds directly to the board, rather than the Attorney General. As a result, the board assumed responsibility for approving any costs that the Attorney General sought to charge against the board's appropriation. According to the rider language, however, the board could use that part of its appropriation only for legal services which were in addition to the level of services provided by the Attorney General during 1989.

The board ultimately spent $444,112 of the $472,000 made available by the 1989 appropriation rider for additional legal services. It did not, however, verify that the cost of these legal services met conditions established by the 1989 rider. The board did not work with the Attorney General to establish a basis for the level of legal services provided in 1989. It also did not compare the Attorney General services provided in 1990 and 1991 to the services provided in 1989. The board had the responsibility to ensure compliance with the provisions of Minn. Laws 1989, Chapter 282, Article 1, Subd. 4.

The board was unable to provide adequate information about the costs of Attorney General services. We asked the Attorney General's Office (AGO) to reconstruct the costs of its services provided to the Board of Medical Practices for 1989 to 1991. According to AGO records, legal services for the board were as follows:

Board of Medical Practice

	Year Ended June 30 1990	Year Ended June 30 1991	Total for Biennium
Cost of AGO Services to BMP	$672,811	$635,471	
Base Year (1989) Costs	489,864	489,864	
Additional costs in excess of base year	$182,947	$145,607	$328,554 (1)
Amount of Attorney General services paid from BMP appropriation	138,818	305,294	444,112
Net amount of services paid from BMP operating budget	($44,129) (2)	$159,687	$115,558

(1) Represents amount the board could spend from the $472,000 made available by the 1989 appropriation rider.

(2) Amounts could be transferred between fiscal years, because the appropriation was for the biennium.

The AGO costs for fiscal years 1990 and 1991 were paid through three funding mechanisms:

-- AGO appropriation for medical board legal services.

-- Amount provided by rider to the 1989 appropriation laws.

-- Board of Medical Practice general operating appropriation.

Since the Legislature provided funding for AGO services through two specific appropriations, we question if the board had the authority to spend its general operating appropriation for Attorney General services.

Recommendations

- *The board should establish legal authority to use the operating budget to purchase AGO services.*
- *In the future, the board should take the necessary steps to ensure that attorney general services are paid from the appropriate source.*

2. Prior Finding Partially Implemented: The internal controls over license receipts need improvement.

Internal controls over receipts need improvement to safeguard assets, as follows:

- checks are not restrictively endorsed upon receipt,
- receipts are not reconciled to licenses generated by the computer system, and
- receipts are not promptly deposited according to state guidelines.

The receptionist receives the applications, renewal forms, endorsements, verifications, and fees. The receptionist date stamps the forms, records the fee received on the form, and places the forms with the checks attached in a fireproof file cabinet. For all fees an accounting technician restrictively endorses checks.

After the board has approved an applicant for licensure, the computer generates a license. Currently the board does not complete a verification between licenses generated by the computer system and fees collected. The reconciliation would provide evidence that a fee was collected for each license issued.

The board is not depositing receipts in a timely manner as required by Minn. Stat. Section 16A.275. Fourteen of thirty deposits in our sample simply were not promptly deposited. The receipts were delayed from three to seven business days, because the board does not adequately assign backup duties when the main processing staff are absent. The board must promptly deposit receipts to reduce the risk of loss to the state.

Recommendations

- *The board should restrictively endorse checks immediately upon receipt.*
- *An independent employee should reconcile receipts to licenses generated from the licensing system.*
- *The board should promptly deposit receipts according to the provisions of Minn. Stat. Section 16A.275.*

3. Prior Finding Not Implemented: Contracting procedures did not comply with state requirements.

Four of nine consultant service agreements in our sample were not supported by a contractual agreement. Payments made to these consultants exceeded the annual spending plan limit. Department of Finance Policy and Procedure 06:04:05 requires a written contract for professional technical services exceeding the annual spending plan. The board established a limit of

$2,000 per vendor in its annual spending plan. Vendors receiving less than $2,000 did not require a contract, but those being paid over $2,000 were required to have a contract. The board made agreements with numerous professional consultants who fell under the $2,000 limit. It has become the board's practice to establish memorandum agreements with these consultants. Without a written contract for those being paid over $2,000, the board exceeded authority delegated by the Department of Administration.

During our review of professional technical payments, we identified six payments processed through a "blanket encumbrance." Blanket encumbrances are set up as a general dollar amount that are not tied to a specific expenditure or service. These payments made under the blanket encumbrance totaled $10,358 and were to have been paid out of the specific account for the established contract. Setting up encumbrances for written contracts reduces the risk a contract will be overpaid.

In addition, the board received services from two contractors before the funds were encumbered and the contract executed. Minn. Stat. Section 16A.15, Subd. 3, states a payment may not be made without prior obligation. The payment can be made retroactively if a letter requesting approval of the commissioner of finance (16A letter) has been filed. Two of the five payments reviewed required 16A letters, but none were on file.

Recommendations

- *The Board of Medical Practice should establish written contracts for all vendors over the annual spending plan limits in one fiscal year and memorandum agreements with vendors under the limit.*

- *The board should make contractual payments using the contracts established account number.*

- *The board should ensure contracts are established before services are rendered.*

4. PRIOR FINDING NOT IMPLEMENTED: Board members are not paid per diems in accordance with the policy adopted by the board.

Board members were not being paid in compliance with policy outlined in the board minutes. Thirteen of thirty-four per diem payments tested were either calculated improperly or did not have enough documentation on file to support the payment. The calculations were based on hourly accumulations and limits as explained below. The improperly calculated per diem payments resulted in seven overpayments totalling $680 and one underpayment of $110.

Furthermore, according to Minn. Stat. Section 214.09 Subdivision 3, "Members of the boards must be compensated at the rate of $55 a day spent on board activities." Effective August 1, 1990, the per diem rate changed from $35 to $55 a day. We saw occurrences in which the board

violated its own policy and processed per diem payments at the $55 rate per day before it was in effect. For some board members paid at the higher rate, the reimbursable meetings were held prior to August 1, but the payments were made after August 1. In addition, five of the sample items did not have enough documentation to determine whether the payment was made properly.

Currently, board members are paid one per diem for every four hours of work performed on board activities. When calculating per diem payments, the board staff occasionally adds all hours worked and divides by four hours and multiplies the equivalent days by the $55 per day rate. Other times adequate documentation is not on file to support the per diem payments. The board minutes state, "For purposes of calculating per diem, time may be accumulated but not divided, meaning that if a board member works eight hours in one day, only one day's per diem may be claimed, but if a board member works two hours one day and two hours another day, the time may be accumulated and one day's per diem claimed." Because of the way the board processes payments, we could not determine whether some board members were overcompensated.

Recommendations

- *The Board of Medical Practice should recover all overpayments of per diem and pay all underpayments to board members.*

- *The Board of Medical Practices should follow the procedures outlined in the July 7, 1990, board minutes for paying per diems.*

- *The board staff should make sure adequate documentation is on file to support the future per diem payments. The board should request additional information for those lacking sufficient documentation and recalculate the payments.*

MINNESOTA BOARD OF MEDICAL PRACTICE
2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

DATE: October 11, 1993

TO: James R. Noble
Legislative Auditor
Centennial Building
St. Paul, MN 55155

FROM: H. Leonard Boche
Executive Director

RE: Current findings and recommendations for the three years ending June 30, 1992

It was a pleasure working with your staff in the audit of our office this past Spring and Summer. They were professional and considerate and this was appreciated by our staff.

The areas identified in the Findings and Recommendations covered areas in which we were concerned and continue to address. Some of these issues are inherently difficult to solve by virtue of the mission of the Board of Medical Practice. Below are the responses to the specific findings and recommendations.

1. The Board did not establish procedures to ensure compliance with the legislative rider governing its' 1990 and 1991 appropriations.

a. Political background: The funding of Attorney General services, in general, and specifically for the Health Licensing Boards has been under review and continues to be studied. The Policy Committees of the Legislature expect the Board of Medical Practice, to reduce or eliminate its backlog. The committees which govern the appropriations to the Attorney General's Office are not the committees that govern appropriations to the Health Licensing Boards, causing a lack of continuity between the legislative directive and its implementation through appropriations. Several efforts were attempted to resolve this inconsistency and one of these efforts was illustrated with the appropriations for 1990 and 1991 to the Board of Medical Practice. It enabled the Board to purchase AGO services, in addition to what was appropriated to the AGO for the Health Division legal services. This was not an adequate solution to the problem for reasons established in your findings and was abandoned in the next biennium. The method used to address the issue in the 1992-1993 biennium also was flawed and did not accomplish its intended purpose, so a new method has been enacted for the 1994-1995 biennium. The legislature has also created a panel to study the funding of legal services and the support of the Attorney General's Office to report to the 1995 session.

b. Implementation of the 1990-1991 appropriation rider:

Though all of the parties' intent was to conform with the letter and the spirit of the 1990-1991 rider, it became exceedingly difficult, if not impossible, to achieve that goal. Because of the long timelines required by the AGO to bring on staff, train them and give them a case load, it was necessary to project the anticipated legal services which would be rendered under the direct appropriation to the Attorney General's Office and then plan for the services to be delivered under the rider. Competition for AGO services from other legal actions, such as the Beverly Nursing Home cases, drained Attorney General services away from the health licensing boards, causing the underutilization of legal services, which was anticipated from the base appropriation. Clearly this could not have been anticipated by the Board. The appropriated funds were used for the purpose for which they were appropriated, that is, to reduce the backlog of cases before the Board of Medical Practice.

c. Steps toward resolution of the problem area:

Several steps have been taken to resolve the issue set forth in Recommendation 1.

i. The Attorney General's Office was reorganized by creating a licensing division, so that the Licensing Boards will be protected from the legal demands made by other operating departments.

ii. The Legislature removed the complement limit from the Attorney General's Office, thereby permitting the AGO to secure staff necessary to provide the legal services which the Health Licensing Boards were prepared to support.

iii. The appropriations for the 1994-1995 biennium to the licensing division AGO appear to be adequate for the services needed by the health licensing boards, with the understanding that if the appropriation is inadequate for the licensing board needs, the AGO will be able to go to the LAC for additional spending authorization, provided the Boards can provide the revenue.

2. Prior finding partially implemented internal controls over license receipts need improvement.

The recommendations are accepted and are being implemented.

3. Prior finding not implemented: Contracting procedures did not comply to state requirements.

The state contracting requirements and the needs of the Board of Medical Practice do not constitute a good fit. At times the Board needs consultants on a short time line, due to an imminent threat to the public or in the midst of a legal action. The time necessary to execute a state contract ranges between 4-8 weeks, which is incongruous with the needs of the Board in carrying out its' statutory responsibilities. The Board, in good faith, attempts to comply with the state requirements for contracts. In those instances where public safety is involved, the Board has proceeded to start services before the contract has been executed, finding that the legislative intent of the Medical Practice Act is better served by asking for forgiveness rather than permission.

After having said that, the Board staff has taken several steps to tighten our contracting process with consultants. Among these steps has been:

a. We have centralized the purchasing of all consulting services in one staff person, with the exception of those purchases made by the AGO on our behalf over which we have no control.

b. With the centralization of the constracting function, we can better assure that a contract or memorandum of agreement is entered into for each consultant.

c. Payments will be linked to the contract or memorandum of agreement.

4. Prior finding not implemented: Board members are not paid per diems in accordance with the policy adopted by the Board.

As of this date, all underpayments have been made to Board members, statements have been sent to all Board members where overpayments were identified by the auditor and all payments have been received with one exception.

The staff will follow the procedures outlined in the July 7, 1990 Board minutes for paying of per diems.

Board staff will make every effort to secure adequate documentation for per diem payments. It does seem demeaning to our Board members for the Board to haggle over their per diem when they are serving the state and receiving compensation equal to approximately 1/10 of their usual and customary charges. In no instance have Board members misrepresented their service to the Board but the auditor identified incomplete documentation as the basis for the recommendation. It should also be noted that more than half of the Board members have less than two years service with the Board, which contributes to the lack of appropriate documentation.
James R. Noble

The Board takes seriously your recommendations and most, if not all, have already been addressed in ways which we believe will meet the standard of the audit in the future.

Respectfully submitted,

H. Leonard Boche

HLB/mkd