



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Oversight of Nurse Licensing

State Education Department



Executive Summary

Purpose

To determine if the State Education Department (the Department): independently verifies information submitted by nursing license applicants; monitors nurses once they are licensed utilizing available criminal and misconduct data; and investigates complaints against nurses in accordance with its policies and procedures in a timely manner. The audit covered the period April 1, 2014 to April 18, 2017.

Background

The Department oversees the licensure and practice of the professions, as outlined in Title VIII of the New York State Education Law (Education Law). Its regulatory responsibilities encompass 54 professions, including nursing. From April 1, 2014 to October 31, 2016, there were about 450,000 active professional nursing licenses – in the titles of licensed practical nurse, registered professional nurse, clinical nurse specialist, and nurse practitioner – in New York State.

To qualify for a nursing license, applicants must meet certain standards, including education, examination, and moral character requirements (such as no involvement in certain crimes or offenses), as established under the Education Law. The Department is responsible for ensuring that applicants seeking a license meet these State standards. The Department also is responsible for investigating complaints and prosecuting professional misconduct (e.g., gross negligence, physical or sexual abuse, practicing under the influence of drugs or alcohol, conviction of a crime). The Department has established a risk-based system for prioritizing investigations as well as time frame goals and benchmarks to ensure they are completed timely. For example:

- Priority 1 investigations (involving complaints that pose a substantial danger to public health and safety) should be completed within six weeks.
- All investigations, regardless of priority, should be completed within 180 days.
- Any investigations that remain open after 360 days are upgraded to a Priority 1 status.

Annually, the Department receives about 6,000 complaints against licensed professionals, including nurses. The final disposition of all disciplinary matters can include the revoking, annulment, or suspension of licenses.

Key Findings

We identified several issues that, if left unaddressed, can increase the risk that nurses who are threats to the public's health and safety are able to continue practicing in New York.

- Despite clear policies and procedures for investigating complaints, the Department is challenged to ensure investigations, particularly Priority 1 complaints, are completed timely. Timely completion of investigations helps ensure the public's safety. As well, it affords timely due process to those nurses subsequently exonerated. Of 8,202 investigations (including 215 Priority 1 and 7,987 Priority 2–4) that were open at some point from April 1, 2014 to February 28, 2017:

- 179 (83 percent) Priority 1 investigations were not completed within the Department's established six-week time frame; on average, they were open over seven months.
 - 482 lower-priority (Priority 2–4) investigations that exceeded the 360-day benchmark were not reclassified as Priority 1.
 - 327 investigations, including 43 designated as Priority 1, were open more than 402 days.
- Citing confidentiality provisions in Section 6510(8) of the Education Law, the Department denied us access to its investigation files. Lacking this information, we were unable to draw conclusions about factors contributing to the noncompliance, nor were we able to assess the Department's compliance with any of its other investigation procedures and benchmarks. (The Education Law effectively prevents independent audit oversight of the complaint investigation process.)
 - The Department independently verifies education requirements, exam results, and out-of-state licenses, but does not take similar proactive steps to check applicants' background in relation to the moral character requirement. Instead, the Department relies solely on applicants to fully and truthfully disclose past misconduct and criminal convictions. While New York does not require fingerprinting or background checks as a condition for obtaining a nursing license, the Department does not take advantage of other available resources that could help minimize the risk that applicants do not submit full disclosures.
 - Once nurses are licensed, the Department does not actively monitor them to identify incidents of professional misconduct or criminal convictions. Furthermore, nurses are only required to disclose this information every three years upon reregistration. As such, the Department cannot be assured that episodes of misconduct are identified properly and in a timely manner, and that nurses who pose a threat to the public's health and safety are prevented from practicing in New York State.
 - Department officials stated resources have not kept pace with increased expectations. Officials stated their computer system is out of date and staffing has been reduced, which has led to investigation backlogs and difficulties using available data to monitor and manage investigations.

Key Recommendations

- Ensure management more closely tracks investigations, particularly those classified as Priority 1, to help ensure they meet established time frames for completion.
- Reevaluate existing resources and procedures to identify opportunities for streamlining investigations.
- Take steps to strengthen oversight of nurse licensing. This should include:
 - Taking steps to strengthen controls over moral character requirements.
 - Researching other states' nurse licensing and monitoring procedures to determine best practices for enhanced oversight.

Other Related Audit/Report of Interest

[Department of Health: Office of Professional Medical Conduct Complaints and Investigations Process \(2005-S-21\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

September 29, 2017

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Dear Ms. Elia:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of Nurse Licensing*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

Table of Contents

Background	5
Audit Findings and Recommendations	7
Compliance With Investigation Procedures	8
Verification of Applicant Information and Ongoing Monitoring	9
Recommendations	10
Audit Scope, Objectives, and Methodology	10
Authority	11
Reporting Requirements	11
Contributors to This Report	13
Agency Comments	14

State Government Accountability Contact Information:

Audit Director: Andrea Inman

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.state.ny.us

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

The State Education Department (Department) oversees the licensure and practice of the professions, as outlined in Title VIII of the New York State Education Law (Education Law). Its regulatory responsibilities encompass 54 professions, including nursing. During the period April 1, 2014 to October 31, 2016, there were about 450,000 active professional nursing licenses – in the titles of licensed practical nurse, registered professional nurse, clinical nurse specialist, and nurse practitioner – in New York State. Individuals can hold more than one license.

To qualify for a nursing license, applicants must meet certain standards, including education, examination, and moral character requirements, as established under the Education Law. For example, applicants must:

- Have graduated from an approved nursing education program as specified for each type of nursing profession;
- Pass a New York State licensing exam or hold a valid nursing license in another state; and
- Be of good moral character.

The Department is responsible for ensuring that license applicants are in compliance with State standards, and requires applicants to provide evidence of their qualifications (e.g., certifications, test results) and moral character. The Department assesses moral character based on applicants' responses to a series of yes/no questions about past criminal convictions, criminal charges pending, and other charges of professional misconduct. A disclosure of misconduct will not necessarily disqualify an applicant. The Department investigates disclosures and decides to grant or deny a license on a case-by-case basis. Once issued, a license is valid for life but must be renewed every three years. At each reregistration, nurses are again required to disclose any misconduct or criminal convictions.

The Department also is responsible for investigating complaints and prosecuting professional misconduct (e.g., gross incompetence, gross negligence, physical or sexual abuse, practicing under the influence of drugs or alcohol, conviction of a crime). The Department has established a risk-based system for prioritizing investigations, as detailed in Table 1.

Table 1 - Prioritization of Investigations

Priority	Description of Severity
1	Substantial danger to public health and safety
2	Gross negligence or incompetence, or substantial violations of statutes where the public health may suffer
3	Significant violations of statute where the public health is not in danger
4	Minor or technical violations

The Department has established certain time frame goals and benchmarks for its investigations to ensure they are completed timely. For example:

- Priority 1 investigations should be completed within six weeks (defined as 42 days for purposes of this analysis).
- All investigations, regardless of priority, should be completed within 180 days.
- Any investigations that remain open after 360 days are upgraded to a Priority 1 status.

Annually, the Department receives about 6,000 complaints against licensed professionals, including nurses. The final disposition of all disciplinary matters can include the revoking, annulment, or suspension of licenses.

Audit Findings and Recommendations

The Department has clear policies and procedures for vetting nursing license applicants, monitoring licensing and registration, and investigating complaints. However, we determined conditions exist that challenge the Department's ability to meet provisions established in its policies and procedures, such as completing investigations within established time frames, especially Priority 1 investigations, and ensuring complaints are properly prioritized.

For example, of 8,202 investigations (including 215 Priority 1 and 7,987 Priority 2–4) open at some point during the period April 1, 2014 to February 28, 2017:

- 179 Priority 1 investigations (83 percent) were not completed within the 42-day time frame. These investigations were open for an average of 228 days, including one case that was open for 866 days as of February 28, 2017.
- 2,035 lower-priority (Priority 2–4) investigations (25 percent) were not completed within the Department's established 180-day time frame.
- 482 Priority 2–4 investigations that exceeded 360 days were not upgraded to a Priority 1 status.
- 327 investigations, including 43 designated as Priority 1, exceeded 402 days, which is the maximum time frame that would be allowable based on Department benchmarks for the lowest-priority investigation (360 days + 42 days).

Citing confidentiality provisions in Section 6510(8) of the Education Law, the Department denied us access to its investigation files. As a result, we were not able to draw any conclusions about factors contributing to the noncompliance, nor could we assess the Department's compliance with any of its additional investigation procedures and benchmarks.

In addition, while the Department independently verifies applicants' education credentials, exam results, and out-of-state licenses to ensure they meet requirements, it takes a more passive approach to confirming the moral character standard. New York State does not require fingerprinting or background checks as a condition for obtaining a nursing license; therefore, the Department's assessment hinges solely on applicants' full and truthful disclosure of past misconduct and criminal convictions. Furthermore, nurses are only required to disclose this information every three years (upon initial license application and at each reregistration thereafter). As such, the Department cannot be assured that all episodes of misconduct are identified properly and in a timely manner.

To help ensure the public's health and safety, the Department must be able to accurately assign and monitor investigation priorities, complete investigations, and independently identify all possible instances of professional misconduct in a timely manner. Unaddressed, these issues increase the risk that nurses who are threats to the public are able to continue practicing in New York. Department officials acknowledged the risks we identified. Officials stated they have taken some steps to address them. For example, in 2016, the Department proposed legislation that would require background checks and fingerprinting for all nurse license applicants and self-

disclosure of criminal convictions and pending criminal charges within 30 days of the event. As of May 2017, that legislation had not been enacted.

Compliance With Investigation Procedures

Timely completion of investigations helps ensure the public's safety. As well, it affords timely due process to those nurses subsequently exonerated. To determine whether the Department processes complaints within established time frames, we analyzed certain dates associated with 8,202 investigations of licensed nurses (215 classified as Priority 1 and 7,987 classified as Priority 2–4) that were open at some point during the period April 1, 2014 to February 28, 2017. We determined the Department completed 73 percent (5,988) of these investigations within the established time frames. Notably, however, this percent largely comprised lower-priority investigations: 5,952 Priority 2–4 investigations compared with 36 Priority 1 investigations, which involve the most serious allegations and substantial danger to public health and safety.

Of the 215 Priority 1 investigations, 179 (83 percent) were not completed within the Department's 42-day time frame; these investigations were open for an average of 228 days, including one that was open for 866 days as of February 28, 2017. Of the 7,987 Priority 2–4 investigations, 2,035 (25 percent) exceeded the 180-day time frame. A summary of investigation timeliness is presented in Table 2.

**Table 2 – Completion Rates for Open Investigations of Licensed Nurses
April 1, 2014–February 28, 2017**

Investigation Priority Levels	Established Time Frame for Completion	Number of Investigations	Number Completed Within Time Frame	Number That Exceeded Time Frame	Percent That Exceeded Time Frame
Priority 1	42 days	215	36	179	83%
Priority 2–4	180 days	7,987	5,952	2,035	25%
Totals		8,202	5,988	2,214	27%

The Department's procedures also state that any investigation outstanding after 360 days is upgraded to a Priority 1 status. Based on this, we calculated 402 days as the maximum time frame for completing any investigation once it is assigned to an investigator (360 days outstanding plus 42 additional days after reassignment to Priority 1). We determined there were 327 investigations (4 percent) that exceeded 402 days, including 43 designated as Priority 1 and 284 designated as Priority 2–4. Further, we identified 482 Priority 2–4 investigations that exceeded 360 days but were not upgraded to a Priority 1 status. The Department must be able to accurately assign and monitor investigation priority and complete investigations, particularly those assigned the highest priority, in a timely manner. Otherwise, there is an increased risk that nurses who pose a threat to the public's health are able to continue practicing in New York.

During our audit, we sought access to the Department's investigation files to determine why investigations exceeded the prescribed time frames and why long-running investigations (360

days or more) were not upgraded to Priority 1 status as required. We also sought to assess the Department's compliance with its additional investigation benchmarks (such as the time it takes an investigator to notify a complainant and the time elapsed between significant investigation activities). However, the Department prevented us from accessing any investigation files, citing confidentiality provisions in Section 6510(8) of the Education Law. According to the Education Law, materials related to complaint investigations may not be shared with anyone other than the people and entities directly involved with the investigation and prosecution of the complaint. Consequently, we were unable to review any investigation files and draw conclusions about the reasons for noncompliance. Further, we conclude that since the Education Law does not allow access to the records necessary for a comprehensive audit or review, it effectively prevents this type of independent oversight of the complaint investigation process.

Department officials did not provide any case-specific explanations during our audit, but did address, broadly, the factors they considered to affect the timely completion of investigations. According to Department officials, higher-priority investigations are more complicated, and investigators must often wait for records from external sources (e.g., courts). Additionally, they cited an overall lack of resources to meet increased expectations for all of the 54 professions that the Department regulates: over time, as the number of licensed professions has increased, according to officials, resources assigned to the Department – both tools and staff – have not kept pace. License fees remitted by applicants go into a fund to support the Department's costs related to professional licensing and oversight. Receipts from the fees have risen steadily from about \$41.5 million in fiscal year 2010-2011 to about \$53.3 million in fiscal year 2016-2017, and the amount appropriated by the Legislature for licensing activities has remained at about \$45.1 million. According to officials, these unappropriated funds could be used to improve the Department's operations. For example, Department officials explained that their computer system is out of date, making it difficult to use the available data to monitor and manage investigations. They also stated that staffing has been reduced despite increased responsibilities, resulting in investigation backlogs. According to officials, these funds could be tapped to update its system, which would increase efficiency or help compensate for decreased staffing.

These issues notwithstanding, the Department should take steps to actively identify other avenues for improving investigation timeliness. For example, according to Department officials, as part of their investigation management process, they run an aging report showing all open investigations older than 270 days. However, this benchmark is well beyond the 42-day and 180-day time frames established in Department procedures and thus minimally effective for backlog management purposes. The Department should develop and use reports that more closely reflect the time frames in their procedures to proactively identify and address investigations at risk of exceeding established time frames.

Verification of Applicant Information and Ongoing Monitoring

We found that the Department generally verifies information submitted by nursing license applicants. Specifically, the Department verifies applicants': education qualifications directly through the educational institution; licensing exam results directly from the national testing authority; and out-of-state licenses (in lieu of the required exam) via a national database of

licensed nurses (Nursys). However, it does not take similar proactive steps to check applicants' background in relation to the moral character requirement. Unlike 40 other states, New York does not require fingerprinting or background checks as a condition for obtaining a nursing license. Thus, the Department's assessment relies on applicants' full and truthful disclosure of past misconduct and criminal convictions. Although officials conceded that individuals are not always truthful in their disclosures, the Department does not take advantage of available resources that could help to minimize this risk. Nursys, for example, may contain information to help identify applicants with sanctions incurred in other states, but the Department does not consult the data base for this purpose, as we found other states do.

Furthermore, the Department does not actively monitor nurses once they are licensed to identify instances of misconduct and criminal convictions. The Department continues to rely on nurses to self-disclose despite the Education Law's requirement that they only self-disclose every three years, enabling nurses who have been sanctioned to practice in the interim. As a result, the Department cannot be assured that all episodes of misconduct are identified properly and in a timely manner, and that nurses who pose a threat to the public's health and safety are prevented from practicing in New York State. We note that other states, such as Pennsylvania and Florida, have addressed this risk by requiring licensees to report new convictions within 30 days.

Department officials acknowledge these risks and cited steps they took to address them such as supporting legislation that would require background checks and fingerprinting for all nursing license applicants, and self-disclosure of criminal convictions and pending criminal charges within 30 days of the event. The legislation was proposed in 2016 and as of May 2017 it had not been enacted by the Legislature.

Recommendations

1. Ensure management more closely tracks investigations, particularly those classified as Priority 1, to help ensure they meet established time frames for completion.
2. Reevaluate existing resources and procedures to identify opportunities for streamlining investigations.
3. Take steps to strengthen oversight of nurse licensing. This should include:
 - Taking steps to strengthen controls over moral character requirements.
 - Researching other states' nurse licensing and monitoring procedures to determine best practices for enhanced oversight.

Audit Scope, Objectives, and Methodology

We audited the Department's oversight of nurse licensing for the period April 1, 2014 through April 18, 2017. The objectives of our audit were to determine if the Department: independently verifies information submitted by applicants for nursing licenses; monitors nurses once they are

licensed utilizing available criminal and misconduct data; and investigates complaints against nurses in accordance with its policies and procedures in a timely manner.

To accomplish our objectives and assess internal controls related to them, we reviewed New York State laws and regulations. We became familiar with the Department's internal controls as they related to oversight of nurse licensing. We also interviewed Department personnel to obtain an understanding of the practices for nurse licensing, and spoke to officials from other states who are responsible for nurse licensing oversight to determine their practices. Additionally, we analyzed Department data related to nurse licensing and investigations of licensed nurses.

We conducted our performance audit in accordance with generally accepted government auditing standards (GAGAS) with the following exceptions. GAGAS requires that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Citing confidentiality provisions in Section 6510(8) of the Education Law, the Department denied us access to its investigation files, and we were thus unable to fully assess the accuracy, completeness, and reliability of the data provided to us. We were also unable to determine why investigations were not completed within the Department's established time frames and to assess the Department's compliance with certain other investigation procedures. We believe that the evidence we obtained provides a reasonable basis for the limited findings and conclusions we made based on our audit objectives. However, because of the limitations imposed on our access to information, we acknowledge the audit risk that our findings, conclusions, and recommendations may be incomplete as a result of factors such as insufficient evidence.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of the report. In their response, Department officials generally

concurred with the audit recommendations and indicated that certain actions have been and will be taken to address them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Contributors to This Report

Andrea Inman, Audit Director
Ed Durocher, CIA, Audit Manager
Brian Krawiecki, Audit Supervisor
Thomas Sunkel, CPA, Examiner-in-Charge
David Brickman, Senior Examiner
Kathy Gleason, Senior Examiner
Zachary Barach, Staff Examiner
Mary McCoy, Senior Editor

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Ken Shulman, Assistant Comptroller
518-473-0334, kshulman@osc.state.ny.us

Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY
12234

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473-4706
F: 518.474-5392

September 1, 2017

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

RE: Response to Draft Report SED Oversight of Nurse Licensing (2016 S-83)

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, SED Oversight of Nurse Licensing (2016 S-83).

Recommendation 1: Ensure management more closely tracks investigations, particularly those classified as Priority I, to help ensure they meet established time frames for completion.

The Department agrees that the monitoring and tracking of our most serious disciplinary cases is of high importance. Accordingly, while the office has routinely tracked and monitored aging cases, following the discussions with State Comptroller auditors and staff, SED/OPD management has initiated a comprehensive review of all current Priority I cases utilizing computer data. Supervisors and staff Investigators are evaluating the oldest cases first and resolving obstacles to case resolution. Additionally, Investigators and supervisors are reviewing the case intake process to determine the seriousness of the nurse misconduct alleged to establish time frames, i.e., 30, 60, 90 days, etc., for individual case review to ensure compliance with established time frames for case completion.

Initially, it should be noted that the priority system was developed over twenty-five years ago for the purpose of charting the cycle times for events that occurred within the two distinct divisions (investigations and prosecutions). Currently, the clear-cut distinction between prosecution and investigation has diminished because we understand that it is often more effective to involve prosecution staff in cases before the case is officially transferred from the investigative division. This happens quite often in cases that are deemed an immediate public safety risk. As a result, a case may be open in the investigations unit beyond the preferred time frame, but a prosecutor is already involved

and a resolution is nearly at hand. Naturally, this impacts the time-frames that cases may remain in investigations, but leads to better and more effective results overall.

Further, while the Priority I cases include our most serious practice related cases, they now also include other cases, such as sensitive cases involving departmental employees or professional board members, and cases of significant public notoriety. Priority I cases also include every case in which there has been a patient death, which often involves professional conduct that is unrelated to the death. Additionally, any case over 360 days old automatically becomes a Priority I case. These are typically the most difficult cases to resolve because of a variety of obstacles including: lack of availability of records; absence of a respondent; or the fact that there is an ongoing criminal investigation with which we cannot interfere.

It is important to note that many of our cases are becoming increasingly difficult to investigate as facilities are unwilling to share documentation with our agency. It is unfortunate that our ability to gain records is not the same as that of our sister agency, DOH Office of Professional Medical Conduct (OPMC), and hospitals increasingly refuse to relinquish records. We have sought legislative relief that would give the Department the same authority as OPMC; however, no statutory change has been approved at this time.

Finally, it must be noted that the Department was unable to share actual investigative files requested by the Office of State Comptroller for purposes of this audit, due to the strict requirements of Education Law Section 6510(8). However, we were able to provide some overall information related to the cases that were under investigation, but were not case specific. These included cases where the professional was in jail and cases where the professional had left the state and was not able to be located.

Recommendation 2: Reevaluate existing resources and procedures to identify opportunities for streamlining investigations.

Supervisors and staff are reviewing Investigator qualifications and experience in healthcare/nursing investigations. Discussions have begun with the Executive Secretary of the State Board of Nursing about possible education/training sessions of Investigators by members of the nursing board. Additionally, discussions will take place with personnel in the Department's Office of Human Resources about recruitment of investigators under the specific title Nurse Investigator or the equivalent. The current civil service titles available have made it very difficult to recruit investigators that have a professional background. However, we understand the value that licensed professional investigators bring to the Department and are seeking to find a way to replace them.

We have also recently lost a number of experienced investigators and supervisors to retirements, and are working to replace them as quickly as possible and provide the training needed to support their efforts. Management continually reviews the Standard Operating Procedures, which are available to all investigators, and staff and supervisors are encouraged to work through their chain of command to consider and suggest process improvements that can further streamline investigations while still ensuring the integrity of the process.

Recommendation 3: Take steps to strengthen controls over moral character requirements. Research other states' nurse licensing and monitoring procedures to determine best practices for enhanced oversight.

It is important to note that the most effective way to evaluate an applicant's background is through an appropriate background check that involves the use of fingerprinting and the associated review with the Division of Criminal Justice Services (DCJS) that occurs in teacher certification as well as in numerous professions in other states. The Department has supported legislation that would enable adequate background checks as well as making other improvements in our disciplinary system, including adding moral character requirements in those professions that lack them and requiring more timely reporting by licensees convicted of crimes, but those efforts have not been successful to this point.

However, the Department already uses a variety of resources to track any information relating to moral character that is available. We receive information from national practitioner databases such as the NURSYS system and utilize that information in evaluating our current applicants.

Nonetheless, we recognize that the Department's staffing levels in the Office of the Professions (OP) have been substantially reduced over the past decade (down from over 370 to our current level of approximately 300). This staffing decrease accompanies a substantial increase in both the number of licensees/applicants as well as the number of licensed professions that we oversee. Additionally, areas of oversight such as professional corporations PLLCs, LLPs and pharmacy establishments have grown and become increasingly complex.

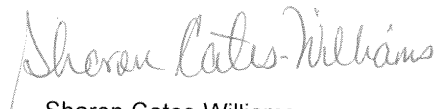
In 1990, OP had 397 filled positions and oversaw 30 professions and approximately 575,000 registered licensees. In 2000, OP had 351 filled positions and oversaw 37 professions and 645,883 registered licensees. By contrast, OP currently has only 304 filled positions and oversees 54 professions and 913,502 registered licensees. Additionally, various changes to professional scopes of practice, including additional privileges and certifications, as well as expanded enforcement responsibilities, are adopted by the legislature nearly every year. For example, in 1990, only two professions had continuing education requirements overseen by the Department. Today 26 professions have such a requirement.

Finally, organizing and retrieving data has become increasingly more important and more difficult at the same time due to the Department's reliance upon a COBOL based computer system that was developed in the 1970's. Efforts to replace this system have been unsuccessful, even though adequate fiscal resources exist. In recognition of OP's growing responsibilities, many professional associations supported a registration fee increase which was adopted by the legislature in 2009 to give us the resources needed to better serve our customers. Unfortunately, the annual approved spending appropriation for the Office of the Professions has not kept up with the increase in

revenue. This has resulted in a growing carry-in balance which we are unable to expend. We have earmarked most of this balance for a much-needed update to our electronic licensing system, but we have not gotten the necessary spending approvals to date that would enable us to move forward with that project.

The Department remains committed to upgrading this computer system and has high expectations for the value of that upgrade. As we continue to pursue this solution, the office is also initiating shorter-term improvements such as scanning case files for electronic storage and retrieval, as well as exploring options for an electronic case management tracking system.

Yours truly,



Sharon Cates-Williams
Deputy Commissioner

cc: Doug Lentivech
Sarah Benson
Thalia Melendez