LEGISLATIVE AUDIT COMMISSION

Review of
Department of Financial and Professional Regulation
Two Years Ended June 30, 2012

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REVIEW: 4395
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
TWO YEARS ENDED JUNE 30, 2012

FINDINGS/RECOMMENDATIONS - 14

IMPLEMENTED - 3
ACCEPTED – 10
NOT ACCEPTED - 1

REPEATED RECOMMENDATIONS - 10

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 10

This review summarizes the auditors' report on the Department of Financial and Professional Regulation, for the two years ended June 30, 2012, filed with the Legislative Audit Commission March 28, 2013. The auditors performed a compliance examination in accordance with *Government Auditing Standards* and State statute. The Department was created on July 1, 2004 as a result of the consolidation of the Departments of Financial Institutions, Insurance, Professional Regulation and the Office of Banks and Real Estate.

The Department oversees the regulation and licensure of banks and financial institutions, real estate businesses and professionals, and various licensed professions, enforces standards of professional practice and protects the rights of Illinois residents in their transactions with regulated industries. The mission of the Department is to protect and promote the lives of Illinois consumers. DFPR regulates and oversees over one million professionals and licensed entities in nearly 100 industries. The Department also monitors most of the State's financial institutions, which have combined assets in excess of $4 trillion. The Department has three Operating Divisions: Professional Regulation, Financial Institutions, and Banking.

Mr. Brent Adams was Secretary of DFPR during the two-year audit period. Mr. Adams served as Secretary from July 2009 until October 2012 when Mr. Manuel Flores was named Acting Secretary of DFPR. Mr. Flores has served as DFPR's Director of the Division of Banking since 2009. Mr. Flores continues as Acting Secretary of the Department.

Appendix A is an overview of some of the Department's service efforts and accomplishments from FY12 through FY10.

The average number of employees by division with a comparison to the legacy agencies is as follows:

Division	FY12	FY11	FY10	FY04
Division of Banking	153	156	156	
Division of Professional Regulation	207	210	210	
Division of Financial Institutions	58	59	61	
Executive Office	7	6	7	
Fiscal and Accounting Unit	5	5	5	
Information Technology Unit	17	18	21	
General Counsel	3	3	15	
Legislative Affairs Unit	7	6	7	
Administrative Services Unit	20	20	21	
Shared Services—Fiscal	11	12	15	
Shared Services—Human Resources	57	5	7	
Legacy Office of Banks & Real Estate				251
Legacy Department of Professional Reg				248
Legacy Department of Financial Institutions				82
TOTAL	**493**	**500**	**525**	**581**

Expenditures From Appropriations

The General Assembly appropriated a total of $95,205,400 to DFPR from 27 different funds during FY12; costs associated with some of the professions regulated by the Department are paid from those respective professions' individual funds. Appendix B summarizes these appropriations and expenditures by fund for the period under review, while Appendix C indicates expenditures for FY12, FY11 and FY10 by major object code.

Total expenditures from appropriated funds were $76,671,192 in FY12 compared to $69,580,974 in FY11, an increase of $7 million, or 10.2%. The primary reasons for the increase were salary increases and an increase in the pension contribution rate from 28% in FY11 to 34.1% in FY12. Lump sum expenditures increased due to an increase in appropriation for the newly established Savings Institution Regulatory Fund. Lapse period expenses in FY12 were $4.9 million, or 6.4%.

Cash Receipts

The Department collects fees and taxes in connection with the licensing of various professions, occupations and activities. Cash receipts totaled $98.4 million in FY12 and

$85.5 million in FY11, an increase of $12.8 million. The table in Appendix D summarizes the revenues recorded in the various funds.

The Division of Financial Institutions accounted for $11.5 million in receipts. Banking accounted for $28.6 million, and Professional Regulation accounted for $58.2 million of the $98.4 million in total receipts. Variances in receipts in the Division of Financial Institutions and the Division of Professional Regulation were generally due to timing differences in annual fee payments, renewal cycles and changes in number of licensees.

In the Division of Banking, receipts increased $2.4 million from FY10 to FY11 and then decreased in FY12 due to the transfer of money from Illinois Bank Examiner's Education Fund in FY11 to satisfy deficiency in the funds. The Bank and Trust Company Fund receipts increased $4.7 million in FY11 due to higher credits applied in FY10 and FY12 compared to fees in FY11.

Locally Held Funds

Appendix E summarizes the locally held funds of the Department for the years under review. The Official Advance Fund is a Special Revenue Fund with the purpose of securing and preparing evidence and purchasing controlled substances, professional services, and equipment for enforcement activities.

Property and Equipment

Appendix F provides a summary of changes in property and equipment. Property and equipment decreased from $6,452,652 as of July 1, 2010 to $4,651,487 as of June 30, 2012.

Accounts Receivable

As of June 30, 2012, the Department's gross accounts receivable totaled $20.6 million. Of the $20.6 million in gross receivable, $9.3 million is current. $4.4 million is estimated as uncollectible.

Status of Previous Audits

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

The program audit contained 24 recommendations and the Department made progress in implementing 19 recommendations. The following is the status of the remaining recommendations:

7. Take the steps necessary to assist the Medical Coordinators with backlogs and improve case timeliness. Partially implemented—as of February 14, 2011, the Medical Coordinator had 363 cases in his possession, an increase from 2011. However, the Department filled the Chief Medical Coordinator position and there are three Deputy Medical Coordinators.

11. Develop and implement management controls to ensure that prosecution activities are timely and properly documented. Partially implemented.

14. Make rules relating to the definition of disciplinary and non-disciplinary actions consistent with the Medical Practice Act of 1987. Partially implemented.

19. Work to assure that all members, including public members, are appointed to the Medical Disciplinary Board as required by law. Not implemented.

24. Require employees, including medical investigators, to prepare timesheets as required by law. Partially implemented.

Accountants' Findings and Recommendations

Condensed below are the 14 findings and recommendations included in the audit report. All ten recommendations were repeated from the FY10 audit. The following recommendations are classified on the basis of updated information provided by the Department of Financial and Profession Regulation, via electronic mail received August 1, 2013.

Not Accepted

11. Fill vacant positions to comply with the requirements of statute.

Finding: The Department did not ensure compliance with the Pharmacy Practice Act.

During testing, auditors noted two Deputy Pharmacy Coordinator positions within the Pharmacy Unit of the Department were vacant. In addition, the Department employed three instead of four pharmacy investigators as required by the Act.

Department management stated vacancies in the Pharmacy Unit were due to funding limitations in the current budget. The Department is in the process of employing two more pharmacy investigators.

Response: The Department concurs that there are vacancies in the unit based on the Pharmacy Practice Act. However, the Department does not agree that this is a violation of a statutory mandate. Based on paragraphs 37 through 43 of the opinion of Judge Zappa in the case of *Illinois Association of Realtors v. John Filan et al.,* the word "shall" in a statute does not always indicate a mandatory but sometimes rather a directory intent. Judge Zappa goes on to state that because hiring decisions are inherently discretionary, mandamus is not appropriate to compel the Department to hire certain employees. Therefore, it is the Department's position that failure to hire certain staff based on the Pharmacy Practice Act is not a violation of a statutory mandate.

Auditor Comment: The case referred to by the Department involved litigation surrounding the transfer of funds from the Real Estate License Administration Fund pursuant to the Fiscal Year 2007 Budget Implementation Act and Executive Order 2003-10. In that case, the Court refused to issue the extraordinary remedy of mandamus to force the Department to expend funds for hiring additional investigators pursuant to a provision in the Real Estate License Act. This finding involves the Pharmacy Practice Act and is not a court action for the extraordinary remedy of mandamus. Under the circumstances, we continue to believe that the Department should comply with the plain meaning of the Pharmacy Practice Act or seek a legislative remedy.

Accepted or Implemented

1. Continue to evaluate the procedures and strengthen the controls over inventory of State property. Also, perform an assessment whether missing computers contained confidential information and comply with the Personal Information Protection Act. (Repeated-2008)

Finding: The Department of Financial and Professional Regulation (Department) was not able to locate various pieces of computer equipment during its annual inventories.

During a review of Department's Inventory Certification Discrepancy Reports for FY11 and FY12, the Department was not able to locate 24 pieces of computer equipment consisting of four desktop computers, two hard drives, one Personal Digital Assistant (PDA), one Air Card, and 16 laptops totaling $42,750. Twenty of 24 pieces of computer equipment were part of the items reported as missing in the prior year examination. Auditors tested all missing computer equipment and noted the following:

- Thirteen of 16 missing laptops were used by the Division of Banking Field Examiners and confidential information might have been stored in these computers. According to IT personnel, these items were already scrubbed before the assets were lost. However, the Department was not able to provide documentation to prove that the missing laptops were already wiped of any sensitive information that may have been stored on these laptops. Two of the 16 laptops were subsequently found.
- Of the four missing desktops, one was subsequently found, two did not have confidential information, and the other one was assigned to a contractual employee that had separated from the Department. The Department could not determine if sensitive information was stored on the desktop assigned to a contractual employee who had separated from the Department.

Accepted or Implemented – continued

- The Department could not determine what type of data was stored on the hard drives and the PDA that were missing. In addition, an Air Card has no internal storage; therefore, no information was stored on the Air Card.

Department personnel stated computers that were not located during the Department's inventory might have been transferred to CMS surplus without the proper paperwork or due to inadequate transfer paperwork during the separation of the Department of Insurance from the Department in July 2009.

Response: Accepted. The 24 pieces of missing equipment were written off on December 15, 2011, and removed from the Department's inventory listing on December 30, 2011.

With respect to confidential information contained on missing computers, all laptops used by the Department are password protected. Only the person assigned the unit, Agency IT staff with administrative rights, or CMS IT personnel have the ability to override or change the password. The same password protocol is applied to desktop computers. Confidential information accessed through a desktop computer resides on the network, not on the resident hard drive.

Regarding the lack of documentation for scrubbing laptop computers, current Department policy and practice is to maintain a record of all scrubbed computers.

The Department has revamped its inventory procedure to better track the internal movement of computer equipment within the Department and to document in hard copy and electronic format when equipment is moved. In addition, the Department has acquired an inventory program with state-of-the-art scanning equipment for the physical inventory that allows immediate comparison with inventory records maintained by the Department and CMS to identify any missing equipment and to investigate where that equipment may have been moved. In addition, a hard copy verification of equipment movement is maintained by both the Information Technology Division and the Administrative Services Division.

2. Comply with Enforcement Unit's internal guidelines and ensure that investigative, prosecution, and probation activities are documented properly and performed within the established time frames. (Repeated-2004)

Finding: The Department's Division of Professional Regulation Enforcement Unit did not perform and/or document enforcement activities in a timely or sufficient manner. During a review of 25 investigation files, auditors noted the following:

- For six cases, the investigator did not contact the complainant within 30 days following assignment of the case. Four of the six referenced case files showed that the complainants were contacted 35 to 412 days after assignment, while two of six did not have evidence that contact was made.

- For three cases, the Investigative Reports were not signed by the supervisor.
- For four cases, the Investigative Reports were not prepared in a timely manner. The completion ranged from 124 to 559 days after the investigative activity.
- For two cases, no Investigative Summary Reports were noted on file for investigations that remained open in excess of 180 days.

Department management stated, during the period covered by the testing, the Department had limited investigators to handle cases which caused delays in contacting the complainant and preparing investigative reports. The delay in sending notice of informal conference was due to difficulty in securing a board member to conduct informal conferences, partly due to the fact that the Land Surveyor Board was in transition around the time the case was assigned to Prosecutions.

Updated Response: Implemented. The Department revised its Enforcement Manual to ensure that all activities are performed in a timely manner and that all necessary documentation is maintained in case files. The new manual was distributed to staff in March 2013.

3. Appoint qualified members timely to Boards and Committees as required by statute. Work with the Governor's Office to fill Board vacancies with qualified members as required. (Repeated-2004)

Finding: The Department did not ensure the appointment of the required number of members to various Boards and Committees to fill vacancies.

- The Secretary of the Department did not appoint members to the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Board. Two of 11 positions were held by individuals with terms that expired in October 2002 and September 2011. In addition, these two referenced individuals held their positions beyond three terms. Subsequent to testing, a new appointment was made.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Real Estate License Act. One of nine current members has exceeded the 12-year service limit. In addition, one public member did file required disclosures regarding conflict of interests.
- The Secretary of the Department did not appoint members to the Illinois Occupational Therapy Licensure Board to fill the vacancy. One of seven positions has been vacant since April 2012.

Accepted or Implemented – continued

- The Department's Division of Professional Regulation was not in compliance with the provisions of the Pharmacy Practice Act regarding appointments of members to the State Board of Pharmacy. One of nine positions has been vacant since December 2011. In addition, five of nine positions were held by individuals whose service terms expired in 2007, 2009, or 2010. Subsequent to June 30, 2012, a new member was appointed, and two members were reappointed.
- The Department's Division of Professional Regulation was not in compliance with the provisions of the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, & Locksmith Act of 2004. One of 13 positions has been vacant since November 2011, and one of 13 positions was held by an individual with a second term that expired in January 2012.
- The Department was not in compliance with the provisions of the Respiratory Care Practice Act. One of nine positions has been vacant since February 2012 and three of nine positions were held by individuals whose service terms have exceeded the eight-year limit as of June 30, 2012. Subsequent to testing, one vacancy was filled.
- The Department's Division of Professional Regulation was not in compliance with the provisions of Physician Assistant Practice Act. Two of seven positions have been vacant since October 2009 and November 2000, respectively, and five of seven positions were held by individuals with terms that expired in 1999, 2000, 2001 or 2004. Subsequent to testing, two new members were appointed.

Department management stated that due to the nature of staffing, unpaid board resignations occur with candidates not being immediately available to fill the position. There are challenges inherent in recruiting volunteers willing to donate time and financial resources to serve on the various boards and committees.

Response: Accepted. The Department continues to make substantial progress in filling board vacancies and reappointing statutorily eligible board members as terms expire. In 2012, the Department saw the highest annual number of appointments made in the previous 13 years. For the past year, the vacancy rate has been near 10% and is currently at 7.4%. At this time, 31 of the Department's 52 boards have no vacant positions. A majority of reappointments are being made on or shortly after the member's term expiration date. Of the boards that were part of this finding, two have no vacancies as well as no members serving in expired terms and four have just one vacant position. None were unable to meet or carry out their duties due to quorum issues. The Department continues to work closely with the Governor's Office and to actively recruit new board members to fill vacancies and replace termed-out members by reaching out to professional associations, community leaders and organizations, and current and former board members.

4. Ensure all interagency agreements are signed by all parties prior to the effective date of the agreement. Also, revisit existing interagency agreements to ensure that salaries and benefit costs are appropriately allocated to agencies sharing the services of an employee. (Repeated-2006)

Finding: The Department controls over interagency agreements were deficient. During testing of nine interagency agreements during fiscal years 2011 and 2012, the following deficiencies were noted:

- One of nine interagency agreements tested was not signed by all parties prior to the effective date of the agreement. The agreement was signed four days late.
- Five of nine interagency agreements tested pertain to the sharing of administrative, legal and managerial services of employees between the Department, the Governor's Office of Management and Budget (GOMB), and the Office of the Governor. One of the five referenced agreements was between the Department and GOMB wherein the employee's full salary including benefits was paid by GOMB; however, the employee spent a majority of his time on Department activities. Four of the five referenced agreements were between the Department and the Office of the Governor wherein the employees' full salary including benefits was paid by the Department, but the shared employees' time was spent working on activities for both the Office of the Governor and the Department.

Department management stated the delay in signing the agreement was due to oversight. The Department entered into these interagency agreements in accordance with the Intergovernmental Cooperation Act to eliminate duplication and overlapping of functions among State agencies. According to Department officials, it is the Department's prerogative to construct the Interagency Agreements in a manner chosen to increase the Department's efficiency and pursuant to the overall interagency cooperation.

Updated Response: Accepted and Partially Implemented. The Department agrees with the audit findings and recommendations. The Department established a procedure for ensuring that all interagency agreements are signed prior to the effective date of the agreement.

5. Implement controls to ensure employees with personally assigned State vehicles are charged with the correct amount of fringe benefits and complete the required certification in a timely manner. (Repeated-2008)

Finding: The Department did not ensure that fringe benefits for personal use of assigned vehicles were included in the employees' taxable income. In addition, the Department did not timely obtain the certification for license and automotive liability insurance from employees assigned a State vehicle.

Accepted or Implemented – continued

The Department personally assigned 20 and 18 State vehicles to employees during fiscal years 2012 and 2011, respectively. Auditors noted weaknesses in controls over personally assigned vehicles as follows:

- Taxable fringe benefits relating to the personal use of State vehicles were not properly added to employee's income. Fringe benefits have not been reported for personally assigned State vehicles since April 1, 2010. Employees' fringe benefits amounted to $63,895 and $36,820 for fiscal years 2012 and 2011, respectively, based on records of personal use maintained by the Department.

- Two of 38 certifications of licenses and automotive liability coverage of employees with personally assigned vehicles were submitted to the Department eight to 18 days late after the July 31st deadline.

Department management stated Shared Services used to summarize the number of commutes for each employee assigned with a State vehicle. Shared Services relinquished this responsibility to the Department due to staff shortages. The Department also experienced staff shortages and other responsibilities took precedence. Furthermore, notifications were sent to drivers to submit certifications before the July 31 deadline; however, some individuals did not provide their completed forms until after July 31.

Updated Response: Accepted and Partially Implemented. The Department established a procedure for reporting taxable fringe benefits to employees with personally assigned vehicles. For FY14, employees with personally assigned vehicles and those who plan to use a state vehicle in the upcoming fiscal year are required to complete the Certification of License and Automotive Liability Coverage form prior to July 31, 2013. Employees who do not comply with this requirement are prohibited from using a pool vehicle until this form is on file.

6. Monitor the entries made into the Ethics Timekeeping Work Diary to ensure compliance with statute. Missing entries should be supported by an approved Time Use Authorization Form. (Repeated-2008)

Finding: The Department is not maintaining time sheets of employees in compliance with the State Officials and Employees Ethics Act. The Department implemented the Ethics Timekeeping Work Diary to track time each employee spends each day on official State business to the nearest quarter hour.

Auditors' testing of the employee's Ethics Timekeeping Work Diary disclosed that 15 of 53 employees did not document time worked for State business on the Ethics Timekeeping Work Diary for every day on selected pay periods. In addition, one of 42 Time Use Authorization Forms examined was not properly approved by the Supervisor.

Department personnel stated the exceptions were due to oversight.

Updated Response: Accepted and Partially Implemented. The Department is in the queue with CMS to convert the entire agency to its e-Time system. This new system provides an interface between the ethics timekeeping and the CMS timekeeping system. Currently, the Department has launched a pilot group to test the features of the new system and troubleshoot any conversion issues.

7. Evaluate procedures for monitoring performance evaluations to ensure completion on a timely basis. (Repeated-1993)

Finding: The Department did not complete employee performance evaluations on a timely basis. Auditors noted the following:

- Six of 53 employees' performance evaluations were completed 19 to 337 days after they were due.
- Thirteen of 53 employees tested did not have performance evaluations completed, 10 for FY12 and three for FY11.

Department management stated the delay in completion of employee performance evaluations was due to inadequate monitoring.

Updated Response: Accepted and Partially Implemented. The Department created a policy which requires all supervisors to maintain a list of when employee's evaluations are due and submit this information in a timely manner. The Department continues its efforts to coordinate with the Administrative & Regulatory Shared Services Center to improve timeliness of evaluations.

8. Ensure that all vehicle accidents are reported to DCMS within the required time frame. Also, strengthen procedures to enforce compliance with DCMS policies on maintenance of State vehicles. (Repeated-2003)

Finding: The Department did not maintain adequate controls over vehicle accident reporting and maintenance. During testing of the Department's accident reports and vehicle maintenance records, auditors noted the following:

- Four of eight Motorist's Report of Illinois Motor Vehicle Accident (Form SR-1) were not filed with the Central Management Services Risk Management on a timely basis. The forms were filed 8 to 540 days late.
- One of eight vehicle accident forms tested was not signed by the driver as required.
- Five of six vehicles tested did not have proper vehicle maintenance during FY11 and FY12.
- Five of six vehicles tested did not have tire rotation every second oil change.

Accepted or Implemented – continued

Department management stated the exceptions on vehicle accident reporting were due to oversight. The maintenance of the vehicles was not performed in accordance with the requirement of the Administrative Code due to limited staffing to adequately monitor the vehicles for maintenance.

Response: Accepted. The Department has drafted procedures to effectively address the differing thresholds of maintenance through the monthly reporting process.

9. Emphasize the importance of reviewing and approving all telecommunication charges to ensure that payments are made for State business calls and reimbursements are collected for personal calls. Also, enforce close-out procedures to ensure that all employees have returned State property before leaving the Department. (Repeated-2003)

Finding: The Department did not maintain adequate control over telecommunications services and expenditures. During testing, auditors noted the following:

- Phone charges for six of 86 allocation units affecting 25 telecommunication vouchers sampled were not approved by individual employees as of testing date.

- The Department did not consistently observe the standard closeout procedures to ensure that all portable telecommunication devices were returned before an employee leaves the Department. Twelve of 14 cell phones of inactive employees were returned, disconnected, surplused, or reassigned two to 201 days after the employee left the Department. Nine of the 12 did not have paperwork to show when the devices were returned to the Division of Administrative Services.

Department management stated phone bills were distributed to individual employees for their review and reminders were also sent but the Department is still having difficulty in obtaining employee cooperation to complete the reviews. Delay in disconnecting portable telecommunication devices was due to the time needed to prepare and ship the items to Springfield so that the Telecom Coordinator could prepare the proper documents to send to CMS Telecom for deactivation.

Updated Response: Implemented. The Department created a process for reviewing and approving all telecommunication charges to ensure that payments are made for State business calls and reimbursements are collected for personal calls. Standard close out procedures are now in place.

10. Ensure that all contracts over $10,000 are timely filed with the Office of State Comptroller. Also, coordinate with the Chief Procurement Officer to ensure that emergency purchase affidavits are filed in a timely manner as required.

<u>Finding</u>: The Department did not comply with certain contracting procedures. During testing of contracts and emergency purchases, auditors noted the following:

- Three of 15 contracts tested totaling $337,494 were not filed with the Office of the State Comptroller within 15 days after execution. The contracts were filed 19 to 49 days late and no late filing affidavits were submitted to the Office of the State Comptroller.
- One of two emergency purchase affidavits was filed with the Procurement Policy Board seven days late. In addition, the two emergency purchase affidavits were filed with the Office of the Auditor General 11 to 156 days late.

Department management stated the delay in filing the contracts with the Office of the State Comptroller was due to oversight. The late filing of emergency purchase affidavits was due to late filing by the Chief Procurement Officer who is not an employee of the Department, and therefore the failure of the Chief Procurement Officer or his/her designee to file affidavits in a timely manner is beyond the Department's statutory authority.

<u>Updated Response:</u> Accepted and Partially Implemented. The Department is drafting procurement procedures to ensure that all contracts over $20,000 are filed with the Comptroller within 30 days of execution as required by the Illinois Procurement Code. In addition, the Department is working with staff from the Chief Procurement Office to ensure that emergency purchase affidavits are filed in a timely manner.

12. Ensure that employees processing license applications are aware of the current requirements of the Debt Settlement Consumer Protection Act. Also, surety bond requirements should be properly evaluated to protect the interest of the general public.

<u>Finding</u>: The Department did not comply with the Debt Settlement Consumer Protection Act. During testing, it was noted that the licensed debt settlement provider posted a surety bond of $25,000 instead of the $100,000 as mandated by the Act.

Department personnel stated this was due to oversight. The licensee was notified and the Department has secured the proper bond.

<u>Response:</u> Implemented. Upon notification of the incorrect surety bonds amount, the Department contacted the licensee and secured the appropriate bond.

13. Revisit procedures in monitoring residential mortgage licensees to ensure compliance with statute. In the event the licensee fails to obtain a financial statement certified by a Public Accountant, consider enforcing the statute to cause an audit or compilation of the financial statements at the expense of the licensee. (Repeated-2002)

Accepted or Implemented – concluded

Finding: The Department was not in compliance with provisions of the Residential Mortgage License Act. During testing, auditors noted the following:

- Three of 25 residential mortgage licensees tested did not file an annual financial report certified by a Certified Public Accountant within 90 days after the end of the licensee's fiscal year. The Department sent a deficiency letter to two of the three referenced licensees.

- One of 25 licensees did not maintain the adequate amount of net worth, but was subsequently issued a license by the Department. The Act requires a net worth of $150,000, or $50,000 if the only licensable activity is that of brokering residential mortgage loans. The referenced licensee's net worth was $29,448.

- One of 25 licensees' applications was accompanied by averments containing incomplete answers certifying compliance with the Act. The Department did not maintain any additional documentation as evidence of a follow-up being made.

Department management stated this was due to administrative oversight.

Response: Accepted. The Department will continue to review and enhance its internal procedures to ensure its residential mortgage licensees are in compliance with the provisions of the Residential Mortgage License Act of 1987 (Act). Effective August 03, 2012, Section 3-2(g) of the Act was amended to allow for self-prepared compilation financial statements for licensees who solely broker residential mortgage loans as defined in of Section 1-4(o).

14. Review licensing procedure over wholesale drug distributors. Enforce the requirement to secure a bond for each licensee to protect the Department from future liabilities.

Finding: The Department was not in compliance with a provision of the Wholesale Drug Distribution Licensing Act. During testing, auditors noted the Department did not require applicants for wholesale drug distributor's licenses to submit a bond not to exceed $100,000. The Department issued 181 and 165 licenses during fiscal years 2012 and 2011, respectively.

Department personnel stated this Act was passed around the same time as the Department was implementing major changes to the Pharmacy Practice Act and the Nurse Practice Act. The drafting and complete implementation of the Pharmacy and Nurse Administrative Rules were given priority over the completion of the Wholesale Drug Rules. Additionally, the Department discussed potential legislation to remove or alter the $100,000 bond requirement but was unsuccessful in the attempts to remove this requirement. Draft rules have been initiated; however, they have not been completed. It is the Department's intent to continue promulgation of these Rules and implement all requirements upon adoption.

<u>Updated Response:</u> Accepted and Partially Implemented. The Department is seeking to repeal Section 24 of the Wholesale Drug Distribution Licensing Act (225 ILCS 120) during the General Assembly Veto Session.

Emergency Purchases

The Illinois Procurement Code (30 ILCS 500/) states, "It is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts...." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State Property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however that the term of the emergency purchase shall not exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to the execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.

Notice of all emergency procurement shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing.

A chief procurement officer making such emergency purchases is required to file an affidavit with the Procurement Policy Board and the Auditor General. The affidavit is to set forth the circumstance requiring the emergency purchase. The Legislative Audit Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

The Department filed two affidavits for emergency purchases in FY11 totaling $28,643.05 as follows:

- $13,643.05 for court reporting services; and
- $15,000.00 for background checks for financial licenses.

The Department filed two affidavits for emergency purchases in FY12 totaling $52,270.05 as follows:

- $33,535.00 for counseling services for nurses; and
- $18,735.05 for court reporting services.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Department of Professional Regulation indicated as of July 2012, the Department had 134 employees assigned to locations other than official headquarters.