Office of the Auditor General
Follow-Up Report on Prior Audit Recommendations

Oversight of Health Professions

Bureau of Professional Licensing
Department of Licensing and Regulatory Affairs

March 2019

State of Michigan Auditor General
Doug A. Ringler, CPA, CIA

641-0430-14F

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The auditor general may make investigations pertinent to the conduct of audits.

Article IV, Section 53 of the Michigan Constitution

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Report Summary

Follow-Up Report

Oversight of Health Professions

Bureau of Professional Licensing (BPL) Department of Licensing and Regulatory Affairs (LARA)

Report Number:
641-0430-14F

Released:
March 2019

We conducted this follow-up to determine whether LARA had taken appropriate corrective measures in response to the three material conditions noted in our February 2015 audit report. In April 2015, LARA's restructuring dissolved the Bureau of Health Care Services and created BPL.

Prior Audit Information	Follow-Up Results		
	Conclusion	**Finding**	**Agency Preliminary Response**
Finding #1 - Material condition Improvement needed to help ensure that the Michigan Automated Prescription System had complete and accurate data for all required controlled substances dispensed. Agency agreed.	Complied	Not applicable	
Finding #2 - Material condition Improved monitoring of the Health Professional Recovery Program contractor's performance needed. Agency agreed.	Complied	Not applicable	
Finding #3 - Material condition Complete investigations of Public Health Code violations filed against health professionals were not consistently conducted. Agency agreed.	Complied	Not applicable	

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March 13, 2019

Ms. Orlene Hawks, Director
Department of Licensing and Regulatory Affairs
Ottawa Building
Lansing, Michigan

Dear Ms. Hawks:

This is our follow-up report on the three material conditions (Findings #1 through #3) and three corresponding recommendations reported in the performance audit of Oversight of Health Professions, Bureau of Health Care Services, Department of Licensing and Regulatory Affairs. That audit report was issued and distributed in February 2015. Additional copies are available on request or at audgen.michigan.gov.

We appreciate the courtesy and cooperation extended to us during our follow-up. If you have any questions, please call me or Laura J. Hirst, CPA, Deputy Auditor General.

Sincerely,

Doug Ringler

Doug Ringler
Auditor General

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OVERSIGHT OF HEALTH PROFESSIONS

INTRODUCTION, PURPOSE OF FOLLOW-UP, AND AGENCY DESCRIPTION

INTRODUCTION

This report contains the results of our follow-up of the three material conditions* (Findings #1 through #3) and three corresponding recommendations reported in our performance audit* of the Oversight of Health Professions, Bureau of Health Care Services (BHCS), Department of Licensing and Regulatory Affairs (LARA), issued in February 2015.

In April 2015, LARA restructured its operations and dissolved BHCS and created the Bureau of Professional Licensing (BPL). LARA's corrective actions to address the recommendations reported in our audit report issued in February 2015 were primarily carried out by BPL.

PURPOSE OF FOLLOW-UP

To determine whether LARA had taken appropriate corrective measures to address our corresponding recommendations.

AGENCY DESCRIPTION

As of August 2018, BPL was responsible for licensing and regulating approximately 670,000 health professionals in accordance with the Public Health Code. This includes conducting investigations of authorized allegations of violations filed against health professionals. BPL is also responsible for the Michigan Automated Prescription System* (MAPS), which is the State's electronic prescription monitoring system for controlled substances* included in schedules 2 through 5 of the Public Health Code. State law requires dispensers of controlled substances included in schedules 2 through 5, such as veterinarians, pharmacists, pharmacies, and dispensing prescribers*, to report certain prescription information to LARA using MAPS.

Public Act 80 of 1993 established the Health Professional Recovery Program* (HPRP) as a voluntary, confidential, non-disciplinary treatment-oriented approach to treating addictions and mental illness among healthcare professionals. Pursuant to State law, LARA contracts with a private entity to act as a consultant to assist the Health Professional Recovery Committee* (HPRC) with the administration of HPRP. LARA has designated BPL as the contract administrator to oversee the HPRP contractor's compliance with contract requirements.

BPL performs its oversight of health professionals through its Licensing Division, Investigations and Inspections Division, and Enforcement Division. The Enforcement Division includes the Pharmacy and Drug Monitoring Section and the MAPS Section. As of June 30, 2018, BPL had 191 employees.

** See glossary at end of report for definition.*

PRIOR AUDIT FINDINGS AND RECOMMENDATIONS, AGENCY PLAN TO COMPLY, AND FOLLOW-UP CONCLUSIONS

FINDING #1

Audit Finding Classification: Material condition.

Summary of the February 2015 Finding:
LARA's former Health Professional Investigation Division (HPID) could not ensure that it had complete and accurate MAPS data for all required controlled substances that were dispensed. Specifically, we noted that HPID did not ensure that:

a. All dispensers that were required to report the dispensing of controlled substances in MAPS were reporting.

b. It had established error threshold levels in MAPS that would help prevent MAPS from accepting data containing errors.

c. It maintained documentation of approved waivers for dispensers requesting to report in paper form rather than electronically in MAPS and that it retained claim forms for prescriptions reported in paper form.

Recommendation Reported in February 2015:
We recommended that HPID develop additional processes to help ensure that it had complete and accurate data in MAPS for all required controlled substances dispensed.

AGENCY PLAN TO COMPLY*

On June 7, 2015, LARA indicated that HPID had implemented steps designed to ensure that dispensers of controlled substances complied with their MAPS registration and reporting requirements. These steps included:

- Increasing the number of inspections of dispensers and updating procedures for compliance monitoring.

- Setting the new threshold for erroneous data to "zero," effective October 23, 2014, and using *Submission Tracking* to detect errors and ensure that dispensers correct errors timely.

- Requesting current waiver forms for all practitioners and dispensers that cannot submit data electronically in MAPS and maintaining waiver documentation for 7 years. Also, entering claim form information in MAPS for each prescription reported as dispensed by these practitioners and dispensers and retaining the claim forms for 30 days.

** See glossary at end of report for definition.*

FOLLOW-UP CONCLUSION

Complied.

Our follow-up noted that LARA had developed processes to help ensure that it had complete and accurate data in MAPS for controlled substances dispensed. Specifically, we noted:

- In 2016, the State entered into a contract to modernize MAPS.

  On April 4, 2017, the updated MAPS went live and included functionalities to help ensure more complete and accurate data submission from dispensers such as, but not limited to:

  - A "zero report" process that helps provide BPL positive assurance that all required dispensers are reporting daily in MAPS.
  - Data error thresholds set to zero to prohibit dispensers from uploading controlled substance prescription data with errors to MAPS.
  - An error correction process that enables dispensers to review and correct data errors within seven calendar days.

- BPL developed a process for auditing pharmacies' prescription information entered in MAPS. Between August 28, 2017 and February 8, 2018, BPL conducted audits of 1,034 randomly selected controlled substance prescriptions from 79 randomly selected pharmacies to verify the accuracy of the dispensers' MAPS reporting. BPL's process included confirmation that pharmacies corrected MAPS data errors noted during the audits.

- Effective April 1, 2016, BPL updated its policy and procedure regarding dispensers' applications for waivers from electronically submitting controlled substance data. Our review noted that BPL:

  - Maintained appropriate documentation for all 30 dispensers with approved waivers as of July 12, 2018.
  - Retained authorized paper claim forms and accurately input prescription data into MAPS for 10 paper claim forms for 2 selected dispensers we reviewed.

FINDING #2

Audit Finding Classification: Material condition.

Summary of the February 2015 Finding:
LARA's former Health Professional Licensing Division (HPLD) did not effectively monitor the HPRP contractor's performance. Specifically, we noted that HPLD did not:

a. Ensure that the HPRP contractor appropriately monitored both regulatory and non-regulatory participants* or use an independent evaluator to review the contractor's performance.

b. Ensure that HPLD, or the HPRP contractor, had a functional database to access regulatory participant information to ensure participant compliance.

c. Require written reports from the HPRP contractor regarding performance and/or progress of specified actions and processes and certain participant status information.

Recommendation Reported in February 2015:
We recommended that HPLD effectively monitor the HPRP contractor's performance.

AGENCY PLAN TO COMPLY

On June 7, 2015, LARA indicated that HPLD had implemented quarterly compliance reviews of the HPRP contractor's required deliverables, with specific attention given to those listed under Section 1.030 of the contract - Roles and Responsibilities. In addition, LARA indicated that it was reviewing the HPRP contract and that amendatory language would likely result.

FOLLOW-UP CONCLUSION

Complied.

Our follow-up noted that LARA had:

- Amended its contract with the HPRP contractor, effective September 1, 2015, and added language to establish contractor performance standards and documentation requirements for both regulatory and non-regulatory participants.

- Designated BPL as the contract administrator to oversee the HPRP contractor's compliance with contract requirements.

- Assigned responsibility to the contractor to develop, maintain, and host a database software application that tracks regulatory and non-regulatory participants' information and program compliance.

** See glossary at end of report for definition.*

- Received required written reports from the HPRP contractor. These included quarterly reports that communicated pending issues that required direction from either the contract administrator or the HPRC and monthly progress reports that described frequent and regular interaction between the contractor and the HPRP contract administrator.

FINDING #3

Audit Finding Classification: Material condition.

Summary of the February 2015 Finding:
LARA's former HPID did not consistently conduct complete investigations of Public Health Code violations filed against health professionals. Specifically, we noted that HPID did not:

a. Fully investigate authorized allegations to determine if a violation of the Public Health Code existed in 4.9% of investigation files reviewed.

b. Conduct an investigation of authorized allegations for violations of the Public Health Code against a licensee in 4.9% of investigation files reviewed.

Recommendation Reported in February 2015:
We recommended that HPID consistently conduct complete investigations of Public Health Code violations filed against health professionals.

AGENCY PLAN TO COMPLY

On June 7, 2015, LARA indicated that HPID had implemented business process improvement measures to better ensure that investigations were performed in a consistent and complete manner. Outcomes included updated written policies and procedures and a new investigation report format that made investigative action clearer and more consistently documented.

FOLLOW-UP CONCLUSION

Complied.

Our follow-up noted that LARA had:

- Completed investigations that fully addressed the authorized allegations of violations of the Public Health Code against the licensee for 8 investigation files reviewed.

- Established and implemented an updated written procedure and investigation report template to help ensure Public Health Code investigators consistently completed investigation reports.

FOLLOW-UP METHODOLOGY AND PERIOD

METHODOLOGY

We reviewed LARA's corrective action plan, organizational charts, and relevant policies and procedures and interviewed staff. In addition, for:

a. Finding #1, we:

- Examined the State's contract to modernize MAPS and obtained an understanding of the functionalities provided applicable to the prior audit finding.

- Observed a MAPS screen for one judgmentally sampled dispenser to confirm that the dispenser reported no controlled substances dispensed on November 22, 2018 to validate that the MAPS zero report process was in place and functioning in MAPS as intended.

- Observed 5 judgmentally sampled screens of the 334 screens in MAPS listing dispenser data files that contained prescription data errors for November 30, 2018 to confirm that MAPS data error thresholds were set to zero and functioning in MAPS as intended.

- Examined MAPS screens for 5 judgmentally sampled prescriptions with identified errors in required data fields between October 20, 2018 and November 24, 2018 to confirm that the dispensers made timely error corrections in MAPS and validate that the MAPS error correction process functioned as intended.

- Reviewed BPL's pharmacy prescription audit procedures. We also randomly sampled 5 of the 79 audits that BPL conducted between August 28, 2017 and February 8, 2018 and examined BPL's audit records and applicable MAPS screens to verify that BPL pharmacy prescription audit procedures were conducted as prescribed. For each of the 5 audits, we:

  - Obtained BPL's notification letter to the pharmacy requesting copies of the specific prescriptions for audit.

  - Reviewed BPL's testing summary spreadsheet to confirm that the BPL analyst recorded audit results for the selected pharmacy.

  - Verified that the pharmacy timely corrected any MAPS data errors identified by the audit.

- Confirmed that LARA maintained approved waiver applications for all 30 dispensers with an active waiver from electronic reporting in MAPS as of July 12, 2018. In addition, we randomly sampled 2 of the 30 dispensers and verified that BPL staff accurately inputted in MAPS the last 5 prescription claims forms submitted by the selected dispensers and maintained the paper claim forms.

b. Finding #2, we:

- Reviewed the HPRP contract effective as of September 1, 2015 and verified that LARA had amended the terms of the original contract to establish written deliverables, due dates for the HPRP work plan, and metrics and statistics for the contractor.

- Verified that BPL assigned a designated contract administrator to oversee HPRP contractor performance. In addition, we reviewed HPRP contractor monthly progress reports from October 2017 through April 2018, and we validated that the reports supported that the HPRP contractor and the contract administrator interacted frequently regarding program activities.

- Examined 5 randomly sampled regulatory participant case files for May 2018, and we verified that the HPRP contractor had reviewed each participant's case file on a quarterly basis and documented all required HPRP information, as applicable.

- Confirmed that the HPRP contractor administered a Web-based database for participant information. We judgmentally sampled a regulatory participant for May 2018 and a non-regulatory participant and a regulatory participant who had successfully completed the program from the HPRP database on June 26, 2018, and we verified that LARA was able to access participant information directly from the HPRP database.

- Reviewed 7 monthly, 7 quarterly, and 2 annual reports judgmentally sampled from October 1, 2015 through April 30, 2018 and verified that the HPRP contractor had provided LARA with written reports containing required information according to the contract.

c. Finding #3, we:

- Examined 8 randomly sampled investigation files for investigations completed between October 1, 2016

and June 19, 2018 and verified that the investigators fully addressed all authorized allegations.

- Reviewed LARA's revised procedure and updated the investigation report template dated July 31, 2017.

PERIOD

Our follow-up generally covered October 1, 2015 through November 30, 2018.

GLOSSARY OF ABBREVIATIONS AND TERMS

agency plan to comply	The response required by Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100). The audited agency is required to develop a plan to comply with Office of the Auditor General audit recommendations and to submit the plan to the State Budget Director. Within 30 days of receipt, the Office of Internal Audit Services, State Budget Office, is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.
BHCS	Bureau of Health Care Services.
BPL	Bureau of Professional Licensing.
controlled substance	A drug, substance, or immediate precursor included in schedules 1 through 5 of the Public Health Code.
dispensing prescribers	Licensed health professionals that distribute controlled substances including dentists, doctors, physician assistants, podiatrists, optometrists, veterinarians, and advanced practice registered nurses under delegation.
Health Professional Recovery Committee (HPRC)	A committee created by Public Act 80 of 1993 to develop and implement criteria for the identification, assessment, and treatment of health professionals who may be impaired. In addition, the committee shall develop and implement mechanisms for the evaluation of continuing care or aftercare plans for health professionals who may be impaired (Sections 333.16165 and 333.46167 of the *Michigan Compiled Laws*).
Health Professional Recovery Program (HPRP)	A confidential, nondisciplinary, treatment-oriented program for impaired health professionals established by Public Act 80 of 1993. The Program is available to all Michigan healthcare professionals who are actively licensed, registered, or certified under the Public Health Code.
HPID	Health Professional Investigation Division.
HPLD	Health Professional Licensing Division.
LARA	Department of Licensing and Regulatory Affairs.

material condition	A matter that, in the auditor's judgment, is more severe than a reportable condition and could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program. Our assessment of materiality is in relation to the respective audit objective.
Michigan Automated Prescription System (MAPS)	An electronic system utilized by Michigan as a reporting system to monitor the dispensing of controlled substances included in schedules 2 through 5 of the Public Health Code.
performance audit	An audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations, reduce costs, facilitate decision-making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.
regulatory and non-regulatory participants	Regulatory participants are healthcare professionals who are referred to the HPRP under the terms of an order from a health professional board. Non-regulatory participants are healthcare professionals who self-report or are referred to the HPRP by the licensing bureau for non-disciplinary issues.
reportable condition	A matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: an opportunity for improvement within the context of the audit objectives; a deficiency in internal control that is significant within the context of the audit objectives; all instances of fraud; illegal acts unless they are inconsequential within the context of the audit objectives; significant violations of provisions of contracts or grant agreements; and significant abuse that has occurred or is likely to have occurred.

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