



# AUDITOR GENERAL

WILLIAM O. MONROE, CPA



## DEPARTMENT OF HEALTH MEDICAL QUALITY ASSURANCE TRUST FUND AND CONTINUING EDUCATION SYSTEM PRIOR AUDIT FOLLOW-UP

### SUMMARY

The Department of Health, Division of Medical Quality Assurance is responsible for regulating the State's health care professions and practitioners. In previous audit reports<sup>1</sup>, we noted findings related to the Department of Health's Medical Quality Assurance function and its administration of the Medical Quality Assurance Trust Fund (MQATF). Specifically, our findings addressed the inadequacy of renewal fees to cover the cost of regulation, the declining cash balance of the MQATF, the inappropriate allocation of indirect costs to the MQATF, and the implementation of an electronic continuing education (CE) tracking system. The scope of this audit focused on the current status of those findings. Specifically:

**Finding No. 1:** License renewal fees established by the Boards, in consultation with the Department, continue to be inadequate to cover the costs of regulating the majority of health care professions.

**Finding No. 2:** The Department continues to inappropriately charge to the MQATF costs associated with certain administrative positions that perform duties that do not solely benefit the MQA function.

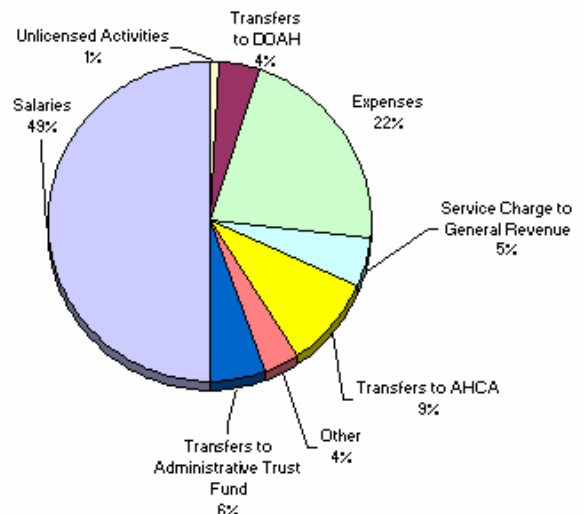
**Finding No. 3:** The Department contracted for a CE tracking system without adequately addressing identified options and associated problems to ensure the procured system would be effective and viable. Additionally, the

Department's contract for the CE tracking system contained provisions not authorized by law.

### BACKGROUND

Financial activity related to the regulation of health care practitioners is primarily accounted for in the Department's MQATF. The trust fund's principal sources of revenue are the fees charged for initial issuance and renewal of health care practitioner licenses. For the fiscal year ended June 2003, revenues of the MQATF totaled \$37.3 million, whereas expenditures totaled \$52.8 million. The following chart provides a summary of expenditures by category during the period.

**MQATF Expenditures  
Fiscal Year Ended June 2003**



<sup>1</sup> Audit Report No. 01-063 issued November 2000 and Audit Report No. 02-130 issued January 2002

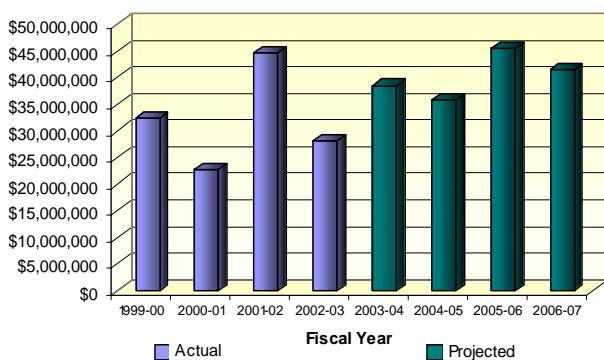
**FINDINGS AND RECOMMENDATIONS**

**Trust Fund Operations**

Florida law<sup>2</sup> requires the regulation of health care professions be financed solely from revenue collected by the Department from fees and other charges that are to be deposited in the MQATF. Additionally, the Department is required to maintain separate accounts for every profession within the trust fund and is prohibited from expending funds from the account of one profession to pay for expenses incurred on behalf of another profession. Accordingly, the MQATF consists of individual accounts to track the revenues, expenditures, and cash balances associated with each regulated health care profession. The cash balances of all professions within the MQATF totaled \$36.3 million at December 31, 2003. However, as depicted in Exhibit 1 of this report, some professions still have significant deficit cash balances. As a result, the Department has continued to pay the expenses of professions with deficit cash balances with cash from professions with positive cash balances.

The following graph depicts the Department’s MQATF historical and projected licensed activity cash balances.

**MQATF Cash Balances**



**Finding No. 1: Deficit Cash Balances**

To ensure all costs of regulating health care professions and practitioners are borne solely by

licensees and licensure applicants, Florida law<sup>3</sup> requires licensure and renewal fees be set by rule and that the fees, among other requirements:

- Be based on revenue projections prepared using generally accepted accounting procedures;
- Be adequate to cover all expenses relating to that Board identified in the Department’s long-range policy plan;
- Not be more than 10 percent greater than the actual cost to regulate that profession for the previous biennium; and,
- Prior to September 15, 2003, not be more than 10 percent greater than the fee imposed for the previous biennium.

Each profession’s Board is required to ensure that license fees are adequate to cover all anticipated costs and maintain a reasonable cash balance. In instances in which a Board has not taken sufficient action within one year of notification by the Department that license fees are projected to be inadequate, Florida law<sup>4</sup> authorizes the Department to set license fees on behalf of a Board to cover anticipated costs and maintain the required cash balance.

Although total costs of \$52.8 million charged to the MQATF during the 2002-03 fiscal year were \$7.7 million less than total costs charged four years ago (1999-2000 fiscal year), 2002-03 fiscal year costs actually increased \$3 million (6.08 percent) from the 2001-02 fiscal year.

As depicted in Exhibit 2, renewal fees for 22 of the 29 professions are not adequate to cover Department-projected Board expenses for the biennial period ending 2005. Shortfalls for the 22 professions range from \$8,088 to \$10.9 million, and total \$30.9 million. Our review of renewal fees disclosed:

- Most renewal fees have statutory caps precluding establishing fees based on Department revenue projections. As of June 30, 2003, the renewal fees for 57 of the 164 license types (35 percent) were at their applicable statutory fee cap.

<sup>2</sup> Section 456.025(8), Florida Statutes

<sup>3</sup> Section 456.025(1), Florida Statutes

<sup>4</sup> Section 456.025(3), Florida Statutes

- Renewal fees for 7 professions (See Exhibit 2) were greater than 10 percent of the actual cost to regulate for the previous biennium (2001-02 and 2002-03 fiscal years).
- Ten professions (See Exhibit 3) were experiencing deficit cash balances, ranging from \$135,822 to \$1,133,146, in their licensed activity accounts at December 31, 2003. Although not utilized by any profession since 1997, Florida law<sup>5</sup> authorizes, within any four-year period, the assessment and collection of a one-time fee from each active and inactive licensee in an amount necessary to eliminate a cash deficit or maintain the financial integrity of the profession. To eliminate the account deficit for these ten professions, the necessary assessment amount by profession would have ranged from \$18.42 to \$33,955.50 per licensee.
- Four professions (See Exhibit 1) that had a deficit in their licensed activity account, but surplus funds in their unlicensed activity account at June 30, 2002, transferred funds from their unlicensed to their licensed activity account. However, despite the transfers, two of the four professions continued to have a deficit cash balance and another subsequently re-incurred a deficit balance.

**Recommendation:**

**In order to overcome the shortfalls and ensure the financial viability of the MQATF, we recommend:**

- **The Department and Boards continue to analyze and pursue cost reductions.**
- **The Boards continue to set fee levels, to the extent possible, to cover costs of regulation.**
- **The Department continues to evaluate existing renewal fees in conjunction with projected costs for the next biennium and, as appropriate within current statutory constraints, pursue fee adjustments in accordance with Section 456.025(3), Florida Statutes.**
- **The Department and Boards use all measures available, including assessing one-time fees, to alleviate, even if only partially, deficit account balances.**

- **The Legislature considers removing or modifying statutory fee caps.**

**Finding No. 2: Administrative Cost Allocation**

In accordance with Florida law<sup>6</sup>, the Department charges each profession’s individual account with all expenses directly incurred by the Department in the performance of its duties. The Department also charges each profession a proportionate allocation of indirect regulation costs. Exhibit 4 provides the amount of direct and indirect costs charged to each health care profession for the 2001-02 and 2002-03 fiscal years.

As first reported in audit report No. 01-063, dated November 2000, and again in audit report No. 02-130, the Department charges to the MQA function the cost of certain designated Department positions, even though only a small percentage of the positions’ duties benefit the MQA function. During the 2002-03 fiscal year, the Department directly charged the MQATF \$2.1 million for salary and benefit costs associated with the following positions:

Functional Area	Total Number of Positions in Functional Area	Number of Positions Charged to MQA Function
Information Resource Management	81	18
Finance and Accounting	104	6
General Services	62	4
Communications	6	1
Inspector General	31	1
General Counsel	<u>20</u>	<u>1</u>
<b>Total</b>	<b><u>304</u></b>	<b><u>31</u></b>

Additionally, since the Department allocates other indirect costs associated with rent, utilities, insurance, etc., based, in part, on number of positions, Department-level costs other than the salaries and benefits of the above positions are also charged to the MQA function.

<sup>5</sup> Section 456.025(5), Florida Statutes

<sup>6</sup> Section 456.025(8), Florida Statutes

Department management indicated the following changes are in the process of being implemented:

- For the 18 Information Resource Management positions, the Department has drafted a plan for a cost allocation methodology that the Department will also use for allocating indirect cost to its Federal programs. The plan has been submitted for Federal approval and the Department plans to implement the methodology by July 2005. Upon implementation the costs associated with the 18 positions will be allocated to all appropriate Department functions with the MQATF charged its allocable share.
- The Bureau of Finance and Accounting is working with the Bureau of Budget Management to move funding for the remaining 13 positions from the MQATF to the Administrative Trust Fund. With this change, the associated costs will be included in the Department's indirect cost allocation process with the MQATF charged its allocable share.

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**Recommendation:** As these deficiencies have been reported since November 2000, we recommend that the Department promptly complete its corrections to the allocation of costs to the MQA function.

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**Continuing Education Tracking System**

**Finding No. 3: System Implementation**

Florida law<sup>7</sup> requires the Department to implement an electronic continuing education (CE) tracking system to be funded within existing resources. It further requires that all approved CE providers provide information on course attendance to the Department necessary to implement the electronic tracking system. However, since some CE obtained by health care practitioners is provided by entities not regulated by the Department or other agencies of the State, such a requirement would be difficult to enforce. Consequently, in audit report No. 02-130, we recommended that the Department identify and analyze various available options, including necessary

statutory changes, to improve its system for ensuring health care practitioners receive appropriate CE.

In October 2002, the Department issued a Request for Proposal soliciting the development of a customer-focused CE tracking system for the Department. After a lengthy bid protest, a contract for a system was awarded for the period August 2003 through June 2006. Our review of the Department's procurement of this system disclosed the following:

- The Department had performed an analysis to determine the options available for improving health care practitioners' compliance with CE requirements and the viability of various options. However, the Department did not adequately address the options and associated problems identified in their analysis to ensure that the implemented system was feasible and would meet the needs of the Department, CE providers, and licensees. Additionally, the Department had identified several statutory changes that may be required to successfully implement the system. However, according to Department management, these changes were not requested because there was a proposal to eliminate the system in 2003 and the Department viewed this as a policy decision to be made by the Legislature. The contracted system, as implemented, has been criticized by professional organizations and the 2004 Legislature is considering Senate Bill 1666 and House Bill 807 to eliminate the statutory requirement for the system. Department management indicated that if the statutory requirement for the system is eliminated, the Department will return to a manual monitoring and audit system.
- The Department's contract contains provisions for the assessment of fees not authorized by Florida Statute, although the provision has not been exercised. While the contract provides that the Department is not responsible for costs relating to the development, implementation, or maintenance of the system, the contractor estimated it would expend \$13.6 million over the initial contract term. Since the contract does not require the Department to pay the contractor, the contract allows the contractor to charge CE training providers \$1.60 for each CE credit hour reported. Given that Florida Statutes do not grant the Department or the

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<sup>7</sup> Section 456.025(7), Florida Statutes

contractor authority to charge such a fee, the contract terms could result in contractual disputes in the future.

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**Recommendation:**

**The Department should:**

- **Taking into consideration possible changes in legislative requirements for the system, amend its contract for the CE system to eliminate provisions related to allowing a fee assessment for each CE unit reported.**
- **Prior to contracting for services, perform and follow up on appropriate analyses to ensure that the services are the best available option and are viable given the regulatory environment in which the Department operates.**
- **Refrain from including terms within its contracts that are not authorized by Florida Statute.**

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**SCOPE, OBJECTIVES, AND METHODOLOGY**

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The scope of this audit focused on the Department's Medical Quality Assurance Trust Fund and continuing education system. Our objectives were:

- To determine whether selected management controls promoted and encouraged the achievement of management's objectives of compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of the Department; the reliability of records and reports; and the safeguarding of assets.
- To determine whether the Department's management has corrected, or is in the process of correcting, deficiencies disclosed in audit report Nos. 02-130 and 01-063.

In conducting our audit, we interviewed auditee's personnel, observed processes and procedures, and completed various analyses and other procedures as determined necessary. Our audit included examinations of various transactions (as well as events and conditions) occurring during the period July 2002 through January 2004.

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**AUTHORITY**

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Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

*William O. Monroe*

William O. Monroe, CPA  
Auditor General



**Exhibit 1**  
**Cash Balances by Profession**  
**For the 2000-2001 Fiscal Year through December 31, 2003**

<i>Board/Profession</i>	<i>Cash Balances (1)</i>			
	<i>June 30, 2001</i>	<i>June 30, 2002</i>	<i>June 30, 2003</i>	<i>December 31, 2003</i>
Board of Acupuncture	\$ 928,638	\$ 1,327,815	\$ 1,253,876	\$ 1,299,275
Board of Athletic Training	240,136	347,655	352,680	348,578
Board of Chiropractic Medicine	<b>(897,994)</b>	610,705	<b>(168,490)</b>	<b>(467,770)</b>
Board of Clinical Laboratory Personnel	<b>(835,363)</b>	298,842 <sup>(4)</sup>	<b>(71,867)</b>	<b>(301,595)</b>
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling <sup>(2)</sup>	1,809,860	1,149,481	3,333,648	2,875,167
Board of Dentistry	<b>(273,479)</b>	2,438,114 <sup>(4)</sup>	79,320	495,419
Board of Hearing Aid Specialists	<b>(902,037)</b>	<b>(1,088,577)</b>	<b>(1,049,845)</b>	<b>(1,133,146)</b>
Board of Massage Therapy	3,114,201	2,070,283	1,912,577	4,206,811
Board of Medicine	1,796,336	12,281,390	2,133,237	5,456,202
Board of Nursing <sup>(3)</sup>	15,067,819	15,408,505	13,703,999	10,574,983
Board of Nursing Home Administrators	<b>(257,866)</b>	<b>(375,396)</b> <sup>(4)</sup>	<b>(474,490)</b>	<b>(580,311)</b>
Board of Occupational Therapy	845,961	768,336	926,588	850,489
Board of Opticianry	1,448,979	1,662,901	1,815,546	1,732,993
Board of Optometry	549,407	273,259	543,612	204,284
Board of Orthotists and Prosthetists	<b>(286,442)</b>	<b>(411,930)</b>	<b>(512,340)</b>	<b>(320,447)</b>
Board of Osteopathic Medicine	914,686	1,874,544	795,153	345,098
Board of Pharmacy	5,615,366	4,714,791	4,055,711	5,893,811
Board of Physical Therapy Practice	2,500,207	2,142,404	1,740,056	2,564,029
Board of Podiatric Medicine	<b>(526,562)</b>	<b>(188,265)</b> <sup>(4)</sup>	<b>(504,928)</b>	<b>(624,997)</b>
Board of Psychology	118,630	1,165,247	717,556	495,761
Board of Respiratory Care	440,882	84,216	741,290	545,156
Board of Speech-Language Pathology and Audiology	2,108,372	2,668,095	2,453,555	2,963,346
Dietetics and Nutrition Practice	401,627	331,007	406,146	347,369
Electrolysis	<b>(662,745)</b>	<b>(666,095)</b>	<b>(762,729)</b>	<b>(789,701)</b>
Medical Physicists	68,199	71,518	127,652	130,673
Midwifery	<b>(602,438)</b>	<b>(615,635)</b>	<b>(659,090)</b>	<b>(653,177)</b>
Naturopathy	<b>(246,294)</b>	<b>(251,392)</b>	<b>(259,304)</b>	<b>(261,221)</b>
School Psychologists	47,589	39,563	26,685	148,486
Total <sup>(5)</sup>	<u>\$ 32,525,675</u>	<u>\$ 48,131,381</u>	<u>\$ 32,655,804</u>	<u>\$ 36,345,565</u>

Source: Department Records

- (1) Includes cash balances for both licensed and unlicensed activities.
- (2) December 31, 2003 cash balance includes a deficit cash balance for Certified Master Social Workers.
- (3) Includes cash balances for certified nursing assistants. Although Section 20.43(3)(g)(9), Florida Statutes, separately establishes certified nursing assistants as 1 of the 29 statutorily created professions, pursuant to Section 456.025(8), Florida Statutes, the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants.
- (4) Professions that transferred funds from their unlicensed to their licensed activity account.
- (5) Does not include the Neurological Injury Compensation Association.

**Exhibit 2**  
**Adequacy of Renewal Fees**

<i>Board/Profession</i>	<b>Projected Expenditures FY 03-04</b>	<b>Projected Expenditures FY 04-05</b>	<b>2 - Year Projected Expenditures</b>	<b>2-Year Renewal Fees</b>	<b>Excess/ (Shortage)</b>
Board of Acupuncture	\$ 270,819	\$ 264,914	\$ 535,733	\$ 479,800	\$ (55,933)
Board of Athletic Training	58,412	57,138	115,550	170,475	54,925 <sup>(1)</sup>
Board of Chiropractic Medicine	1,561,195	1,527,150	3,088,345	2,633,588	(454,757)
Board of Clinical Laboratory Personnel	913,352	893,435	1,806,787	1,932,889	126,102 <sup>(1)</sup>
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling	1,593,056	1,558,316	3,151,372	3,806,350	654,978 <sup>(1)</sup>
Board of Dentistry	4,088,843	3,999,679	8,088,522	5,245,145	(2,843,377)
Board of Hearing Aid Specialists	329,232	322,052	651,284	373,920	(277,364)
Board of Massage Therapy	2,012,560	1,968,673	3,981,233	4,911,850	930,617 <sup>(1)</sup>
Board of Medicine	16,891,700	16,523,349	33,415,049	22,487,528	(10,927,521)
Board of Nursing <sup>(2)</sup>	13,976,408	13,671,630	27,648,038	15,778,195	(11,869,843)
Board of Nursing Home Administrators	408,884	399,968	808,852	463,200	(345,652)
Board of Occupational Therapy	318,611	311,663	630,274	454,495	(175,779)
Board of Opticianry	414,194	405,162	819,356	537,000	(282,356)
Board of Optometry	738,116	722,020	1,460,136	880,100	(580,036)
Board of Orthotists and Prosthetists	201,787	197,387	399,174	314,250	(84,924)
Board of Osteopathic Medicine	1,460,301	1,428,457	2,888,758	2,039,500	(849,258)
Board of Pharmacy	4,269,389	4,176,288	8,445,677	7,352,855	(1,092,822)
Board of Physical Therapy Practice	791,218	773,964	1,565,182	1,086,850	(478,332)
Board of Podiatric Medicine	419,505	410,357	829,862	669,500	(160,362)
Board of Psychology	860,250	841,491	1,701,741	1,628,125	(73,616)
Board of Respiratory Care	589,431	576,577	1,166,008	1,293,936	127,928 <sup>(1)</sup>
Board of Speech-Language Pathology and Audiology	440,745	431,134	871,879	843,825	(28,054)
Dietetics and Nutrition Practice	207,097	202,581	409,678	358,680	(50,998)
Electrolysis	159,306	155,832	315,138	96,300	(218,838)
Medical Physicists	21,241	20,778	42,019	59,150	17,131 <sup>(1)</sup>
Midwifery	69,032	67,527	136,559	64,500	(72,059)
Naturopathy	5,310	5,194	10,504	2,416	(8,088)
School Psychologists	31,861	31,166	63,027	155,550	92,523 <sup>(1)</sup>

Source: Department Records

(1) Contrary to Section 456.025(1), Florida Statutes, renewal fees are greater than 10 percent of the actual cost to regulate the previous biennium.

(2) Includes certified nursing assistants which had a projected shortage of \$2,951,785. Pursuant to Section 456.025(8), Florida Statutes, the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants.

***Exhibit 3***  
***One-Time Assessment***

<i>Board/Profession</i>	<i>December 31, 2003 Cash Balance</i>	<i>Number of Licensees</i>	<i>Calculated Assessment Per Licensee</i>
Board of Chiropractic Medicine	\$ (467,770)	7,420	\$ 63.04
Board of Clinical Laboratory Personnel	(301,595)	16,369	18.42
Board of Hearing Aid Specialists	(1,133,146)	913	1,241.12
Board of Nursing Home Administrators	(580,311)	1,869	310.49
Board of Orthotists and Prosthetists	(320,447)	630	508.65
Board of Podiatric Medicine	(624,997)	2,218	281.78
Certified Master Social Workers <sup>(1)</sup>	(135,822)	4	33,955.50 <sup>(2)</sup>
Electrolysis	(789,701)	963	820.04
Midwifery	(653,177)	129	5,063.39 <sup>(2)</sup>
Naturopathy	(261,221)	8	32,652.63 <sup>(2)</sup>

Source: Department Records

- (1) Revenues and expenditures related to Certified Master Social Workers are included in the amounts reported for the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.
- (2) Eliminating deficits of small professions will require changes in the Department's cost allocation methodology.



**Exhibit 4**  
**Direct and Allocated Expenditures by Profession**  
**For Fiscal Years Ending June 30, 2002 and June 30, 2003**

Board/Profession	Fiscal Year Ending June 30, 2002					Fiscal Year Ending June 30, 2003				
	Expenditures			Percent		Expenditures			Percent	
	Direct	Allocated <sup>(1)</sup>	Total	Direct	Allocated	Direct	Allocated <sup>(1)</sup>	Total	Direct	Allocated
Board of Acupuncture	\$ 76,822	\$ 211,530	\$ 288,352	27%	73%	\$ 47,007	\$ 185,064	\$ 232,071	20%	80%
Board of Athletic Training	12,661	47,363	60,024	21%	79%	19,540	38,878	58,418	33%	67%
Board of Chiropractic Medicine	474,805	1,088,190	1,562,995	30%	70%	404,947	1,037,084	1,442,031	28%	72%
Board of Clinical Laboratory Personnel	120,100	758,442	878,542	14%	86%	217,486	634,303	851,789	26%	74%
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling	151,843	1,135,373	1,287,216	12%	88%	428,291	1,323,833	1,752,124	24%	76%
Board of Dentistry	1,230,166	2,510,679	3,740,845	33%	67%	1,255,289	2,939,367	4,194,656	30%	70%
Board of Hearing Aid Specialists	22,137	272,848	294,985	8%	92%	56,712	288,445	345,157	16%	84%
Board of Massage Therapy	205,128	1,742,898	1,948,026	11%	89%	203,848	1,778,853	1,982,701	10%	90%
Board of Medicine	4,234,230	12,987,538	17,221,768	25%	75%	3,665,401	12,024,500	15,689,901	23%	77%
Board of Nursing <sup>(3)</sup>	4,852,386	7,330,346	12,182,732	40%	60%	5,251,198	9,310,396	14,561,594	36%	64%
Board of Nursing Home Administrators	25,905	388,082	413,987	6%	94%	66,488	299,017	365,505	18%	82%
Board of Occupational Therapy	23,421	214,519	237,940	10%	90%	73,452	294,057	367,509	20%	80%
Board of Opticianry	55,447	240,617	296,064	19%	81%	147,139	361,661	508,800	29%	71%
Board of Optometry	133,919	466,272	600,191	22%	78%	221,327	595,305	816,632	27%	73%
Board of Orthotists and Prosthetists	23,092	177,275	200,367	12%	88%	22,272	168,938	191,210	12%	88%
Board of Osteopathic Medicine	224,685	1,046,838	1,271,523	18%	82%	297,723	1,208,139	1,505,862	20%	80%
Board of Pharmacy	566,823	3,266,218	3,833,041	15%	85%	494,149	3,848,153	4,342,302	11%	89%
Board of Physical Therapy Practice	121,388	618,041	739,429	16%	84%	98,995	707,885	806,880	12%	88%
Board of Podiatric Medicine	71,194	334,639	405,833	18%	82%	75,622	322,595	398,217	19%	81%
Board of Psychology	280,076	630,199	910,275	31%	69%	139,161	614,156	753,317	18%	82%
Board of Respiratory Care	57,180	465,799	522,979	11%	89%	89,837	512,961	602,798	15%	85%
Board of Speech-Language Pathology and Audiology	91,594	324,356	415,950	22%	78%	65,612	361,550	427,162	15%	85%
Dietetics and Nutrition Practice	14,501	141,794	156,295	9%	91%	100,244	223,181	323,425	31%	69%
Electrolysis	16,545	139,792	156,337	11%	89%	15,163	134,005	149,168	10%	90%
Medical Physicists	3,495	17,040	20,535	17%	83%	5,752	9,514	15,266	38%	62%
Midwifery	5,576	67,955	73,531	8%	92%	6,082	47,987	54,069	11%	89%
Naturopathy	69	7,288	7,357	1%	99%	638	7,302	7,940	8%	92%
School Psychologists	1,484	23,097	24,581	6%	94%	3,983	27,547	31,530	13%	87%
<b>Total <sup>(2)</sup></b>	<b>\$ 13,096,672</b>	<b>\$ 36,655,028</b>	<b>\$ 49,751,700</b>	<b>26%</b>	<b>74%</b>	<b>\$ 13,473,358</b>	<b>\$ 39,304,676</b>	<b>\$ 52,778,034</b>	<b>26%</b>	<b>74%</b>

Source: Department Records

(1) Includes both Departmental-level and MQA Division-level indirect costs.

(2) Does not include the Neurological Injury Compensation Association.

(3) Includes certified nursing assistants. Pursuant to Section 456.025(8), Florida Statutes, the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants.

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**AUDITEE RESPONSE**

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In a letter dated April 26, 2004, the Department provided their response to our preliminary and tentative audit findings. The Department concurred with our findings and provided planned corrective actions. The Department's response may be viewed in its entirety on the Auditor General's Web site.

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To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable *Government Auditing Standards* issued by the Comptroller General of the United States. This audit was conducted by Angela Y. Robbins, CPA and supervised by Lisa Norman, CPA. Please address inquiries regarding this report to Marcia Maheu, CPA, Audit Manager, via E-mail at [marciamahcu@aud.state.fl.us](mailto:marciamahcu@aud.state.fl.us) or by telephone at **(850) 487-9038**.

This report and other audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone (850 487-9024); or by mail (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).



Jeb Bush  
Governor

John O. Agwunobi, M.D., M.B.A.  
Secretary

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April 26, 2004

Mr. William O. Monroe, C.P.A.  
Auditor General  
Room G74, Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

This letter is in response to your March 31 correspondence regarding the preliminary and tentative findings of your report entitled, *Department of Health Medical Quality Assurance Trust Fund and Continuing Education System Prior Audit Follow-Up*. The agency's response and corrective action plans to your findings and recommendations may be found in the enclosed document.

We appreciate the work of your staff and will diligently pursue appropriate resolution to the findings.

If I may be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "John O. Agwunobi".

John O. Agwunobi, M.D., M.B.A.  
Secretary, Department of Health

JOA/mhb  
Enclosure

*MQA Trust Fund and Continuing Education System Prior Audit Follow-Up*

<i>Finding</i>	<i>Recommendation</i>	<i>Management's Response</i>	<i>Corrective Action Plan</i>
Deficit Cash Balances	In order to overcome the shortfalls and ensure the financial viability of the MQATF, we recommend: 1) The Department and Boards continue to analyze and pursue cost reductions; 2) The Boards continue to set fee levels, to the extent possible, to cover costs of regulation; 3) The Department continue to evaluate existing renewal fees in conjunction with projected costs for the next biennium and, as appropriate within current statutory constraints, pursue fee adjustments in accordance with Section 456.025(3), Florida Statutes; 4) The Department and Boards use all measures available, including assessing one-time fees, to alleviate, even if only partially, deficit account balances; and, 5) The Legislature consider removing or modifying statutory fee caps.	We concur. All boards are given fiscal information on quarterly basis to aid in cost reductions and recommendations regarding setting appropriate fee levels. Boards have been encouraged and will continue to be shown the option of the one-time assessment. For the professions in a deficit or projected to be in a deficit, the September 2002 Condensed Financial Statements provided to those boards listed options that were available to eliminate deficits, including the needed amount of a one-time assessment. No board chose to assess the one-time fee. The September 2004 Condensed Financial Statements will again provide deficit professions with options available to eliminate existing or projected deficits.	Same as response.
Administrative Cost Allocation	As these deficiencies have been reported since November 2000, we recommend that the Department promptly complete its corrections to the allocation of costs to the MQA function.	We concur. Over the past year, four MQA funded positions with the Executive Direction / Support program have been moved to the Administrative Trust Fund. For those positions in Executive Direction / Support and Information Resource Management, the department is facilitating the budget changes and accounting processes which are listed within the corrective action.	1) Eliminating direct MQA trust fund budget within Executive Direction / Support Services and Information Resource Management; 2) Implement an Information Technology Cost Allocation system and process.



<i>Finding</i>	<i>Recommendation</i>	<i>Management's Response</i>	<i>Corrective Action Plan</i>
System Implementation of the Continuing Education Tracking System	The Department should: 1) Taking into consideration possible changes in legislative requirements for the system, amend its contract for the CE system to eliminate provisions related to allowing a fee assessment for each CE unit reported; 2) Prior to contracting for services, perform and follow-up on appropriate analyses to ensure that the services are the best available option and are viable given the regulatory environment in which the Department operates; and, 3) Refrain from including terms within its contracts that are not authorized by Florida Statute.	We concur. The Department has amended its contract for the existing CE system. Attached is a copy of this amendment which was signed by both parties on April 12, 2004. The Department will, in the future, perform appropriate analyses to ensure the best available option for systems and refrain from including terms within its contracts that are not authorized by Florida Statute.	Same as response.

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**AMENDMENT #1  
CONTRACT #COMR8**

**THIS AMENDMENT**, entered into between the State of Florida, Department of Health, hereinafter referred to as the “**DEPARTMENT**” and Information Systems of Florida, Inc., hereinafter referred to as the “**PROVIDER**”, amends contract number COMR8.

On page 4, section E., delete ~~Exhibit E~~ and insert Exhibit F.

On page 7, section 4. a. is amended to read:

a. Service Units. The PROVIDER will record each continuing education hour received for a licensee and may charge the licensee an optional subscription fee of not more than \$35.00 for each license renewal period. The Provider shall charge CE training providers for each CEU reported as indicated in Exhibit B, section 8.a., Business Plan Proposal, page 1. The Provider shall charge licensees subscription fees for each renewal period. CE training provider application fees collected by PROVIDER will be sent to the DEPARTMENT. Licensees shall not be charged a fee for self-reporting CE hours, and CE training providers shall not be charged a fee for reporting licensee CE hours to PROVIDER.

On page 7, section B.7., is amended to read:

**DEPARTMENT RESPONSIBILITIES.**

- a. The DEPARTMENT agrees to provide approval or comments to the PROVIDER within ten (10) business days for draft documents submitted for approval as stated in Exhibit A.
- b. The DEPARTMENT shall require CE training providers to provide information necessary to implement and maintain register with the CE tracking system and report licensee CEU's. CE training providers may, at their option, submit provider/course applications, and renew such applications through the CE tracking system. Licensees shall not be charged a fee for self-reporting CE hours, and CE training providers shall not be charged a fee for reporting licensee CE hours to PROVIDER.
- e. ~~The Department shall not renew a licensee's license unless the CE tracking system reflects that the licensee has completed the required number of CEU's.~~
- c. ~~d.~~ The DEPARTMENT shall encourage all licensees through media (website and mailings) to use the CE tracking system.

On page 8, section C.1., is amended to read:

1. There is no monetary consideration for this contract. The PROVIDER may charge the licensees an optional subscription fee of not more than \$35.00 for each license renewal period. The Provider may shall charge CE training providers for each CEU

reported and shall charge licensees subscription fees for each renewal period as indicated in Exhibit E. These fees shall be paid to and retained by the PROVIDER.

On page 8, section D.2. is amended to read:

2. Performance Bond. The PROVIDER shall renew the performance bond annually for \$750,000.00 during the initial three (3) year term of this contract (~~Exhibit B, section 8.a., Business Plan Proposal, page 15~~) and provide proof of such renewal to the Contract Manager prior to the bond expiration date. A surety company licensed to do business in the State of Florida shall issue the bond. The cost of the performance bond shall be borne by the PROVIDER.

On page 10, section 12., is amended to read:

- ~~1. Should the number of licensees paying the voluntary subscription fee vary by 10% or more compared to the projection in Exhibit E, the Department agrees to an automatic recalculation of the CEU reporting fee paid by CE training providers. The recalculation of the revenue will be performed as of December 1, 2004 and the recalculated fee will take effect January 1, 2005. The recalculation will focus on revenue. Any expense overages are the responsibility of the Provider. Licensee subscriptions paid through December, 2004 will be used as historical data to project revenue for the remainder of the initial contract period. Projected revenue will be calculated by:
  - a. Mapping all licensee subscription fees paid through December, 2004 to the month of the renewal period in which they were paid (historical data);
  - b. Projecting future licensee subscriptions based on the percentage who renewed each month of the renewal period historically;
  - c. Calculating the total projected licensee subscription fees to be paid December 1, 2004 to July 31, 2006;
  - d. Calculate Total Estimated Licensee Subscriptions by adding licensee subscriptions paid through December 2004 (#1 above) to the projected licensee subscription fees (#3 above);
  - e. Determining if the Total Estimated Licensee Subscriptions (#4 above) is more than 10% above or below the \$3,496,257 Anticipated Subscription Service;
  - f. If more than 10% variance, the Department agrees to enforce a new CEU reporting fee paid by training providers as of January 1, 2005;
  - g. Calculate the new CEU Reporting Fee by increasing/decreasing the current CEU Reporting Fee (\$0.76) by the estimated overage/shortage compared to the projected number of mandatory CEUs to be reported January 1, 2005 to July 31, 2006.~~

(12) "Software Escrow Agreement. The PROVIDER has agreed to grant the DEPARTMENT a license to use, copy and distribute certain computer software programs upon specified terms and conditions. The PROVIDER desires not to disclose the source code and related documentation for the programs except upon certain specific terms and conditions. The major purpose of the Software Escrow Agreement (Exhibit F) is to allow the DEPARTMENT the continued benefit of the programs if the PROVIDER fails to perform its obligation as stated herein and in the DEPARTMENT Contract. To assure the continued availability and usefulness of the programs, PROVIDER has agreed to establish and maintain in escrow the Source Code and documentation thereof."

Exhibit E, pages 21 through 32, is deleted.

The parties agree to enter into and sign, the Software Escrow Agreement (Exhibit F), within thirty (30) days from the date this amendment has been signed by both parties.

This amendment shall begin on April 12, 2004 or the date on which the amendment has been signed by both parties, whichever is later.

All provisions in the contract and any attachments thereto in conflict with this amendment shall be and are hereby changed to conform with this amendment.

All provisions not in conflict with this amendment are still in effect and are to be performed at the level specified in the contract.

This amendment and all its attachments are hereby made a part of the contract.

**IN WITNESS WHEREOF**, the parties hereto have caused this three (3) page Amendment to be executed by their undersigned officials as duly authorized.

**INFORMATION SYSTEMS OF  
FLORIDA, INC.**

**SIGNED BY:** \_\_\_\_\_

**NAME:** J. Thomas Solano

**TITLE:** President

**DATE:** 4/12/2004 \_\_\_\_\_

**STATE OF FLORIDA,  
DEPARTMENT OF HEALTH**

**SIGNED BY:** \_\_\_\_\_

**NAME:** Amy M. Jones

**TITLE:** Division Director

**DATE:** 4/12/04 \_\_\_\_\_

**FEID: 591961607**