

PERFORMANCE AUDIT REPORT

Board of Nursing: Assessing Its Efficiency and Effectiveness in Carrying Out Its Administrative Responsibilities

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas

June 2000



Legislative Post Audit Committee

Legislative Division of Post Audit

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LEGISLATIVE DIVISION OF POST AUDIT

800 SW Jackson
Suite 1200
Topeka, Kansas 66612-2212
Telephone (785) 296-3792
FAX (785) 296-4482
E-mail: LPA@lpa.state.ks.us
Website:
<http://skyways.lib.ks.us/ksleg/PAUD/homepage.html>
Barbara J. Hinton, Legislative Post Auditor

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LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

MERCANTILE BANK TOWER
800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
FAX (785) 296-4482
E-MAIL: lpa@lpa.state.ks.us

June 7, 2000

To: Members, Legislative Post Audit Committee

Senator Lana Oleen, Chair
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Senator Pat Ranson
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This report contains the findings, conclusions, and recommendations from our completed performance audit, *Board of Nursing: Assessing Its Efficiency and Effectiveness In Carrying Out Its Administrative Responsibilities*.

The report also contains appendices showing the original scope statement for the audit, and the Board's response.

The report includes several recommendations concerning both the licensing and investigative functions of the Board. We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Question 1: What Problems Have Existed in the Way the Board of Nursing Has Handled Its Administrative Responsibilities Regarding Licensing and the Handling of Fees, and How Can Those Situations Be Corrected?

In the past year, some nurses have experienced significant delays getting their licenses. page 3
Based on our review of a sample of licenses issued during 2 periods (late 1999 and early 2000), we found that some significant delays still were common. For example, "endorsement" licenses issued to nurses who move to Kansas from another state still took nearly 2 months to issue; the longest delay during the more recent period was about 4 months. License renewals generally were issued within 2 weeks; the longest delay during the second period was 4 weeks.

Staff problems--including shortages and a lack of staff training and supervision--appeared to contribute most to licensing delays. At times during the past year, the Board was operating at about half its total staff, but has now filled most of those positions. Even if the Board were fully staffed, however, its licensing staff would have significantly higher workloads than similar staff in other regulatory boards.

Poor customer service frustrated many licensees. . . . page 7
Many licensees complained they weren't able to get through to the Board by phone to resolve licensing problems despite repeated attempts, or that staff weren't responsive when they did get through. Lack of coordination between the Board and the Division of Information Systems and Communications (DISC) appeared to be the primary cause of the phone problems, but lack of properly trained staff and staff shortages also contributed to poor customer service. Our review of recent phone records provided by DISC showed that phone system problems appear to be resolved. In addition, the new Executive Administrator has taken steps to ensure that staff are responsive to phone calls.

We noted a number of problems with the way the Board handles license applications and fees. . . . page 7
For example, the Board doesn't have a current policy and procedures manual, licensing staff process applications with minimal oversight, and the filing system for applications is disorganized. In addition, licensing staff who process applications also process fee payments, increasing the risk that applications and fees could be misplaced or misused. Staff also sometimes file fee payments or leave them in unopened mail instead of depositing them immediately. During our file review, we found 3 undeposited checks for renewal fees filed with the renewal applications. The lack of good procedures for handling applications and fees further increases the risk of additional delays and the loss or misuse of fee payments.

The Board's new Executive Administrator has acted to address many of these problems, but more needs to be done. . . . page 10
The Executive Administrator has filled nearly all the staff vacancies, contacted the Division of Accounts and Reports to help the Board get caught up with processing fee payments, arranged for the Division of Personnel Services to conduct an "operations review" of the workflow process, and provided ongoing staff evaluations and training. However, other steps are needed, such as filling the last 2 vacant positions and ensuring that the Division of Accounts and Reports assesses how the Board segregates its fee handling duties.

Question 1 Conclusion: . . . page 11

Question 1 Recommendations: page 11

Question 2: What Problems Have Existed in the Way the Board Has Handled Its Administrative Responsibilities Regarding Investigations and Discipline, and How Can those Situations Be Corrected?

Licensees have reported a lack of timeliness in investigations. . . . page 12
We reviewed 20% (73) of the cases opened by the Board during the first half of 1999, and found that nearly 1 out of every 4 investigations exceeded the Board's time standards. Staff vacancies were the primary cause of investigation delays. However, even if the Board had a full staff, the Board's investigators would have higher caseloads than similar staff in other boards. More delays may occur because the Board doesn't have a systematic process for deciding which cases should be screened in and investigated, and it doesn't monitor whether investigations are proceeding in a timely manner.

Licensees have expressed concerns about inconsistencies and uncertainties that occur throughout the disciplinary process. . . . page 15
We looked at how the Board's Investigative Committee resolved cases and how the Committee's "informal interviews" were being used. The Committee recently developed thorough guidelines to help it resolve investigations in a consistent manner, but those guidelines weren't being followed. Although the informal interview process is neither an informal hearing nor a violation of the law, it has created a lot of confusion because the Board hasn't made the purpose of the interview clear to those licensees who participate in one. Finally, the Board's monitoring of licensees' compliance with disciplinary agreements is minimal.

Licensees had issues with the Board's written communication, but current letter templates generally didn't appear to be inappropriate. . . . page 19
Although the templates were factual and legalistic, they weren't offensive. One particular form letter, called the "KAPA" letter, was of particular concern to nurses, but the Board discontinued the use of this letter in December 1999. We did find a few individual letters written by past staff members that seemed unnecessarily adversarial, and we pointed these out to the Board staff.

Question 2 Conclusion: . . . page 20

Question 2 Recommendations: . . . page 20

APPENDIX A: Scope Statement . . . page 23

APPENDIX B: Agency Response . . . page 25

This audit was conducted by LeAnn Schmitt, Gretchen Heasty, and Robin Kempf. Cindy Lash was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Schmitt at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

Board of Nursing: Assessing Its Efficiency and Effectiveness In Carrying Out Its Administrative Responsibilities

The Board of Nursing regulates nurses and mental health technicians in Kansas. It licenses practitioners, examines some candidates for licensure, reviews and approves nursing and mental health education programs, investigates complaints against license holders, and offers a program for impaired providers. The Board had a total budget of \$1.2 million in fiscal year 1999, which was entirely funded through fees. The Board's administrative duties are the responsibility of an Executive Administrator, who heads up a staff of 16.5 full-time-equivalent positions, including both licensing and disciplinary staff.

Legislators have expressed concerns about various aspects of the way the Board's administrative responsibilities have been carried out. In particular, concerns have been raised about whether applications for licensure and renewal have taken an unnecessarily long time to process, and whether the Board has been slow to investigate and resolve complaints. Other concerns relate to the tone of the Board's correspondence with applicants and the public, the Board's financial-management practices associated with its renewal process, and how the Board deals with bounced checks. This audit answers the following questions:

- 1. What problems have existed in the way the Board of Nursing has handled its administrative responsibilities, and how can those situations be corrected?**
- 2. Does the Board of Nursing follow reasonable financial-management practices in handling payments for renewal fees?**

To answer these questions, we reviewed complaints about the Board's practices, interviewed the Board's administrative, licensing and disciplinary staff, and reviewed applicable statutes and regulations. In addition, we analyzed the Board's policies and procedures, letter templates, and personnel records. We also analyzed a sample of renewal applications, endorsements, address changes, and investigations for timeliness. We interviewed 6 other regulatory boards about their licensing and disciplinary processes, and met with representatives from the Division of Information Systems and Communications (DISC) and the Division of Accounts and Reports to understand their role in resolving the Board's problems.

A copy of the scope statement for this audit that was approved by the Legislative Post Audit Committee is included in Appendix A. For reporting purposes, we've addressed problems and potential solutions regarding the licensing process and those regarding the disciplinary process in separate questions. Although the Board licenses both nurses and mental health technicians, throughout the report we refer to all licensees as nurses since there are so few mental health technicians.

In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office. Our findings begin on the next page.

Question 1: What Problems Have Existed in the Way the Board of Nursing Has Handled Its Administrative Responsibilities Regarding Licensing and the Handling of Fees, and How Can Those Situations Be Corrected?

Licenses have experienced both delays in licensing and poor customer service from the Board, primarily because of a lack of adequate staff. About half the Board’s licensing staff positions were vacant at some point during the past year. The Board’s licensing staff also have a much higher workload than staff in other similar regulatory boards. The new Executive Administrator has taken numerous steps to resolve these and other problems, like working with the Division of Accounts and Reports to catch up on delays, but additional problems remain. Our recommendations more fully answer how the remaining problems can be solved. These and other findings are discussed in the sections that follow.

In the Past Year, Some Nurses Have Experienced Significant Delays Getting Their Licenses

The Board of Nursing issues about 23,000 licenses per year. For example, they issue initial licenses to newly graduated nurses, and renewal licenses to qualified nurses every other year after that. See the box below for a description of each type of license.

The Board Issues Several Types of Licenses To Practice

<i>Type</i>	<i>Description</i>
Initial	New graduates must pass an exam, pay a fee, and meet other qualifications to become a licensed nurse.
Renewal	Licenses must renew their license every other year.
Reinstatement	Nurses who let their license lapse must apply for reinstatement of that license.
Endorsement	Nurses from other states must apply to be licensed in Kansas.
Verification	Kansas nurses who wish to practice in another state may request the Board to verify their exam scores or their Kansas license.
Speciality	Registered Nurses who complete certain specialized training and education can be licensed as Advanced Registered Nurse Practitioners.

Because professionals regulated by the Board can’t practice without a current license, delays can mean nurses lose work time and employers don’t have enough staff to meet patients’ needs.

When we started this audit, the Executive Administrator had been in her position for about 3 months. She told us the Board was

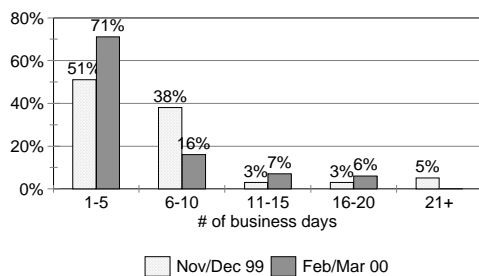
significantly behind on issuing licenses when she started. To see what licensees were saying about delays, we reviewed Board complaint files. Nearly two-thirds (52) of the 81 complaints we reviewed were about delays. Nurses expressed some real frustrations, including having their fee payments cashed by the Board but never receiving a license; having to submit a second application and fee payment because the Board had lost the first set; and having to wait as long as several months to get endorsed by the Board after moving to Kansas from another state, or to get the Board to verify their Kansas license to another state.

We reviewed and compared 119 license renewals and endorsements from November-December 1999 against similar samples from February-March 2000 to see if delays had decreased since the new Administrator started. Here's what we found:

! **The Board issued endorsements very untimely**—it took an average of 57 business days to issue them during the November-December 1999 period; the longest took 113 days. For February-March 2000, the average dropped to 38 business days, but the longest still took 88 days. (To issue endorsements the Board must receive certain information from the applicant's original licensing state, which could delay the process. However, even when the Board had all the required information, it still took several weeks to issue the license.)

! **The Board issued most renewal licenses within 2 weeks for both time periods, as the accompanying chart shows.** However, the longest time it took to issue a renewal license dropped from 70 business days in November-December to 20 business days in February-March.

Days to Issue Renewal Licenses



Source: Data compiled from a file review of 187 renewals – 99 from Nov-Dec 1999 and 88 from Feb-Mar 2000.

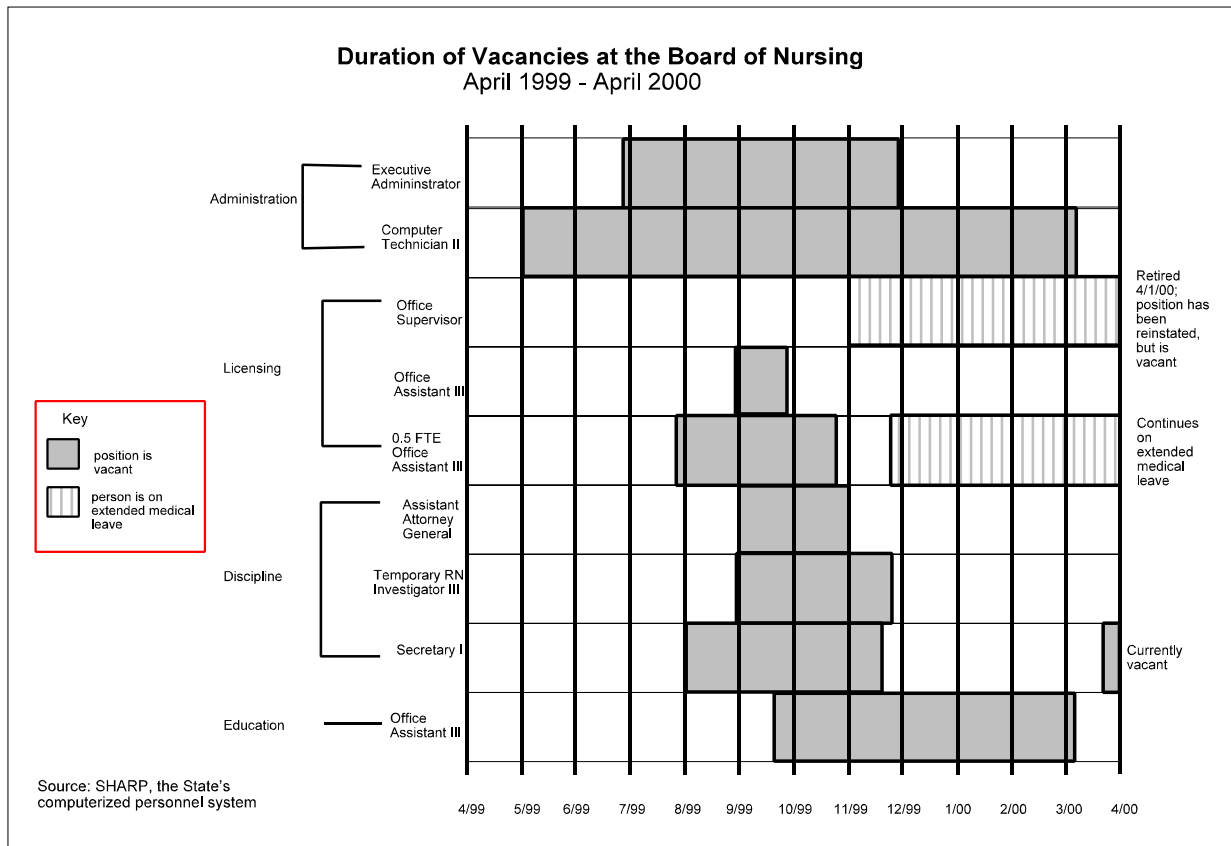
Staff problems appeared to contribute most to licensing delays. In the last half of 1999 and early 2000, the Board was severely understaffed. As shown on the next page, the Board was operating with about half its assigned licensing staff and with about half its total assigned staff. Vacancies included both the

Executive Administrator and the computer technician. Board officials said they tried to fill the vacancies but couldn't find qualified applicants. In addition, they were caught by the Governor's hiring freeze, which was in effect from November 1999 to February 2000.

Although the situation has improved, staffing shortages continue. The new Executive Administrator has since filled all but 2 positions. One of the vacancies is the Office Specialist who works in licensing. In addition, a part-time licensing clerk is on extended medical leave. The Board has 3 temporary workers and 2 part-time volunteers helping out, but they can't work as effectively or efficiently as regularly trained staff.

**Kansas State Board of Nursing Vacancies
From 4/99 - 4/00**

<u>Section</u>	<u># of Authorized Positions</u>	<u># of Positions with a Vacancy</u>	<u>% of FTEs with a Vacancy</u>
Administration	3	2	67%
Licensing	4.5	2.5	56%
Discipline	6 + 1 temp. investigator	3	43%
Education	3	1	33%
Total	16.5 + 1 temp.	8.5	49%



The Board of Nursing's Licensing Staff Have Much Higher Workloads Than Staff in Other Similar Boards

Even with no vacancies, the Board of Nursing's licensing staff have significantly higher workloads than similar staff in other regulatory boards. As the accompanying graph shows, the Board of Nursing's licensing workload is about 2-6 times larger than other boards. If the Board had the same workload per licensing staff as the Board of Cosmetology, which had the next highest workload, it would have 3.5 more full-time staff.

Cosmetology Behavioral Sciences Healing Arts Pharmacy Dental Technical Professions Nursing

Source: Boards self reported the number of licenses issued annually and number of licensing staff.

The absence of properly trained staff created other problems that further delayed licensing. As the Board lost permanent

experienced staff in late 1999, more errors occurred (such as address change notifications not being made), and more unprocessed applications began to stack up or get misplaced. This caused even more problems. For example:

- ! When licensees called to find out what had happened to their applications, they were told to send in new applications and fee payments because the originals had been lost. When the original applications were finally processed, staff would sometimes deposit the original checks as well. The Board has provided 15 refunds to people who complained and provided proof of duplicate payments, but there could be others who haven't complained. The new Executive Administrator doesn't allow staff to say originals are lost—they have to track them down.
- ! Some of the licensees who were told to submit second payments because their first had been lost subsequently put stop payments on the original check. Because of this, they received notification that they'd submitted a bad check when the Board later found and tried to deposit the first payment. The Board is aware of this problem, and in addition to staff not telling licensees their payment has been lost, staff also must check the computer to see if the payment is recorded there.

In addition, the Board installed a new computer system in November 1999. Although the new system didn't directly affect delays, staff had to adjust to using it. Further, a licensing clerk had to fill in for the computer technician position which had been

vacant since April 1999, as well as keep up with his licensing duties. In addition, some licensing information needed to process certain types of applications didn't transfer to the new system. All this contributed further to delays. The Executive Administrator has taken steps to have the system fixed and has hired a full-time computer technician.

***Poor Customer Service
Frustrated Many
Licensees***

Our review of complaint files showed that many licensees complained they weren't able to get through to the Board by phone to resolve licensing problems. For example, one licensee complained she called multiple times to find out why she hadn't received her renewal license, but was put on hold for long periods of time, or inappropriately received a recording that the Board was closed and to call back during office hours. Other problems included often getting busy signals and staff not returning phone calls.

Bad Checks Are Minimal and Don't Warrant Changing the Board's Check Handling Policies

In April 1999, State law was changed to require the Board of Nursing to accept personal checks for payment of licensing fees. Since then, some concerns have been raised about the Board's policies for handling personal checks; specifically, that the Board issues licenses before checks clear, then incurs the costs if the checks bounce. However, we didn't find these concerns to be a major issue.

- ✓ Only 17 licensees submitted bad checks from April 1999 to March 2000, and 11 reimbursed the Board for the payment. This resulted in less than \$300 in outstanding bad check losses in a year's time.
- ✓ Costs associated with bad checks include staff time for writing letters to the licensees and court costs if the Board petitions to cancel the license for non-payment. The Board charges a \$20 fee to help cover staff time, and an additional \$70 fee to cover court costs if a petition is filed.

Problems with the phone system itself appeared to be caused by an ongoing lack of coordination between the Board and DISC. Other factors that appeared to contribute to poor customer service were improperly trained staff and shortage of staff. For example, because of delays in processing licenses more people called in to find out what had happened to their applications, but there were fewer staff there to answer their questions. This created a snowball effect, and led to numerous complaints that the Board's staff weren't responsive.

The new Executive Administrator has been working with DISC to resolve technical problems with the phone system. Our review of recent phone records provided by DISC shows that the phone system problems appear to have been resolved. In addition, the Executive Administrator has required staff to participate in a phone etiquette class and checks to see that staff return calls.

***We Noted a Number of
Problems with the Way the
Board Handles License
Applications and Fees***

During the course of this audit, we reviewed the Board's practices for handling license applications and fee payments and found a number of problems. Even if the Board was fully staffed, the lack of good procedures for handling applications and fees increases

the risk of additional licensing delays, and loss and misuse of fee payments. Here are more details about the problems we found.

Issues Relating to License Applications

- ✓ The Board hasn't had a current policy and procedure manual for some time. With no written guidance, there is less assurance that licensing staff process applications efficiently or effectively, especially if those staff are temporary or new.
- ✓ Licensing staff have been processing applications with minimal direct professional oversight. The new Executive Administrator has paired professional staff with licensing staff to provide some oversight, and plans to supervise licensing staff herself when problems at the Board stabilize. However, we question whether the Executive Administrator would have time to provide adequate direct supervision in addition to her other duties.
- ✓ The lack of direct supervision increases the risk that applications aren't being evaluated correctly and that people are being approved for licensure when they shouldn't be. For example, we observed a licensing clerk evaluate renewal applications with no written guidelines or internal review that the clerk's evaluations were correct.
- ✓ The Board's filing system for certain types of applications is disorganized, and it's difficult to access specific information about licensees. For example, the Board files renewal applications as they are processed, in batches, not by the licensee's name. Further, for several months after the new computer system was installed, the Board didn't enter batch numbers in the computer. So without looking through several thousand renewal applications, there is no way to find a specific licensee's application during that period.
- ✓ The Board doesn't date stamp applications as they arrive in the mail. Instead, the licensing staff date stamp the applications when they process them. This increases the risk that date stamps don't accurately reflect the dates applications arrive, and won't provide an accurate measure of timeliness for internal quality control.

- ✓ The Board has 2-3 staff handle applications for nurses applying for speciality licenses, which potentially creates duplications and could result in delays. This practice also may cause unnecessary inconvenience and confusion for licensees.
- ✓ In those instances where the Board issues temporary endorsement licenses on a walk-in basis, staff don't check the national database for disciplinary and criminal history. As a result, the risk that the Board is licensing people they shouldn't increases. However, the Board does check the database before issuing the permanent license.
- ✓ The Board doesn't notify new graduates applying for licensure when their transcripts don't arrive, or if there's a problem with the transcript. Although having enough staff to notify applicants is an issue, this practice is poor customer service and could delay the new graduate's licensing.

Issues Relating to License Fees

- ✓ The licensing staff who process applications also process fee payments. This practice increases the risk that the applications and fee payments could be misplaced or misused. The new Executive Administrator has discussed this issue with the Division of Accounts and Reports and plans to further discuss the Board's handling of fee payments at a future review by the Division.
- ✓ Licensing staff don't stamp checks for deposit immediately. This practice increases the risk those payments could be misused.
- ✓ Staff sometimes file fee payments with applications until certain information arrives, or may leave fee payments in unopened mail if other pressing duties arise. This increases the risk that fee payments could be misplaced or misused.
- ✓ Staff sometimes file fee payments without checking to ensure that those payments are for the correct amount. When the staff later process the payment, they may notice that the amount isn't correct and return the application and check to the applicant. This results in a longer delay than if the staff had checked the payment as it arrived and sent it back immediately.

- ✓ When looking through filed renewal applications, we found 3 undeposited checks. In all three cases, the license was issued, but the checks weren't deposited. In response, the Executive Administrator had staff look through all renewal files boxes from October 1999 to April 2000 to determine if there were any other undeposited checks. They didn't find any others.

The Board's New Executive Administrator Has Acted To Address Many of These Problems, But More Needs To Be Done

The Executive Administrator has taken a number of steps to address the problems with licensing that we mentioned. The following table summarizes the actions that have been taken, and what still needs to be addressed.

Actions Taken by the Executive Administrator	Steps Still Needed
Filled all but 2 staff vacancies, and is currently advertising for those positions.	Fill the last 2 positions.
Contacted the Division of Accounts and Reports to help the Board get caught up with processing licensing fee payments and to evaluate the Board's fee handling processes.	Ensure that the evaluation of fee handling practices by the Division includes the following: <ul style="list-style-type: none"> • assessment of segregation of duties • determination of timeliness and correctness of deposits • identification of which licensees made duplicate payments, if possible, and refunding of that money
Arranged for the Division of Personnel Services to conduct an "operations review," which will include the following: <ul style="list-style-type: none"> • analysis of the workflow process • analysis of staff positions and job descriptions • assistance in updating the policy and procedure manual 	Ensure that this review includes the following: <ul style="list-style-type: none"> • determine if licensing staff have adequate supervision • analysis of employee classifications • review of the Board's filing system • review of how the Board handles the licensing applications for specialty nurses (Advanced Registered Nurse Practitioners)
Ongoing staff evaluations and training are being provided, including a class on providing good customer service and phone etiquette.	Continue to provide routine staff evaluations and training.
Worked with DISC to fix the phone system.	No further action needed.

CONCLUSION Like other small regulatory agencies we've audited in recent years, the Board of Nursing recently experienced a significant breakdown in its ability to operate effectively and responsibly on behalf of its licensees and the public. Although the new Executive Administrator has taken a number of steps to address the serious problems that existed in the Board's licensing operations, the agency still will need considerable help from the other agencies to get those operations back on track

- RECOMMENDATIONS**
1. For the fiscal year 2002 budget, the Board should request the Legislature fund as many additional staff positions in licensing as needed to help increase the efficiency of the licensing process and allow for further division of duties among staff.
 2. The Board should complete the remaining steps identified in the table on page 10. These include filling still-vacant staff positions, getting an evaluation by the Division of Personnel Services and the Division of Accounts and Reports, and continuing to improve staff training and evaluations.
 3. The Board should take action on several issues noted in the audit but not addressed in the table
 - Applications should be date stamped when they arrive in the mail.
 - Licensees getting temporary endorsement licenses through the walk-in process should be checked for disciplinary and criminal history.
 - New graduates should be notified if their transcript(s) isn't received or if there is a problem with the transcript. The Board of Technical Professions sends form letters to its new licensees informing them of which application materials have been received and what the Board still needs. We think the Board of Nursing should provide a similar service.

Question II: What Problems Have Existed in the Way the Board Has Handled Its Administrative Responsibilities Regarding Investigations and Discipline, and How Can Those Situations Be Corrected?

Licenseses have reported that the Board's investigations take too long, that the disciplinary process is inconsistent, and that written communications are sometimes offensive. As discussed in the previous question, the Board has experienced serious staffing problems, which have affected investigations as well. Other problems stem from a lack of written policies and procedures. Although the Board has addressed some of the problems, others continue, and we address those in our recommendations.

Licenseses Have Reported a Lack of Timeliness in Investigations

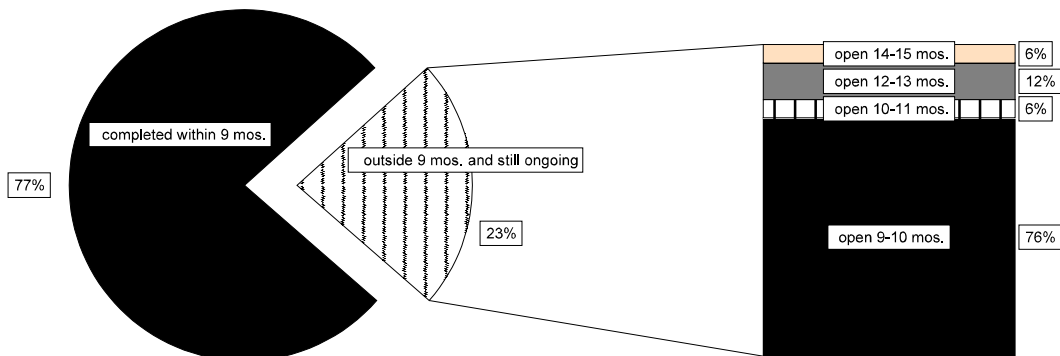
Timely investigation of allegations of inappropriate conduct by nurses and mental health technicians is important to both the public and the licenseses. Delays could threaten public welfare if unprofessional or incompetent licenseses continue providing care to patients without any correction. On the other hand, delays inconvenience professional and competent licenseses who must live with a cloud over their reputation until the matter is cleared up.

Nearly 1 out of every 4 investigations we reviewed exceeded the Board's time standards. The Board's written policies indicate that investigations should be completed within 6-9 months after the investigator receives the file. These time standards were in-line with those of the 6 other regulatory boards we contacted (Cosmetology, Behavioral Sciences, Pharmacy, Dental, Technical Professions, and Healing Arts).

During this audit, we reviewed 20% (73) of the cases opened by the Board during the first half of 1999. In general, we found the following:

- ! 70% of the investigations in the sample were completed within 6 months
- ! 23% had been open more than 9 months and were still open at the time of our review
- ! The lengthiest investigation had been open almost 15 months. The chart on page 13 illustrates our findings.
- ! The head of this section told us one case had been open as long as 2 ½ years.

Timeliness of Investigations at the Board of Nursing



Source: Sample of 73 Board of Nursing investigation summaries for complaints received from Jan. - June/2000

Staff vacancies were the primary cause of investigation delays.

As the chart on page 5 shows, 3 of the 7 positions responsible for carrying out the Board's disciplinary procedures—including one investigator—were vacant for 2-4 months during the latter half of calendar year 1999. These and other vacancies across the agency slowed the progress of investigations, as described below:

- ! Because one investigator position was vacant for nearly 3 months, the 2 remaining investigators had to reshuffle their caseloads to absorb the extra cases.
- ! With a secretary position vacant for nearly 4 months, investigators took on a variety of administrative jobs, including monitoring licensees' compliance with disciplinary penalties imposed by the Board.
- ! Because the Board's computer technician position was vacant during most of 1999, the disciplinary staff haven't been able to adjust to 2 software upgrades. The first upgrade made all information that was entered before October 1999 inaccessible, and the second made the system unusable for disciplinary purposes.
- ! Employees in these positions have been called on to help with the licensing process, since that area was so short-staffed, further reducing the time they have to work on cases.

Even with a full staff, the Board's investigators have higher caseloads than similar staff in other boards. In February 2000, the

Board's 3 investigators each had a caseload of 158. However, they told us they realistically could handle only about 75 cases at a time.

We spoke to officials in 2 other regulatory boards that employ full-time investigators. As the graph on page 15 shows, the Board of Nursing's caseloads are the highest. If the Board were to have the same caseload per investigator as the Board of Healing Arts, it would have to have 4 full-time investigators. A discussion of the history of the Board's third investigator position is presented in the profile on page 16.

We identified additional problems with handling complaints and with the investigation process that may contribute to delays. We noted that cases often sit unaddressed before being assigned to an investigator because of staff vacancies and lack of a systematic process for deciding which cases should be screened in and investigated. For example:

- ! Half the 73 cases we reviewed took longer than 2 weeks from the date they were received to the time they were assigned to an investigator.
- ! In addition, 9 cases sat for more than 2 months before being assigned to an investigator; the longest wait we saw was 3 ½ months.
- ! Because Board staff weren't always clear about whether some cases should be investigated, they sometimes waited to consult with a Board member at the next meeting before assigning some cases.

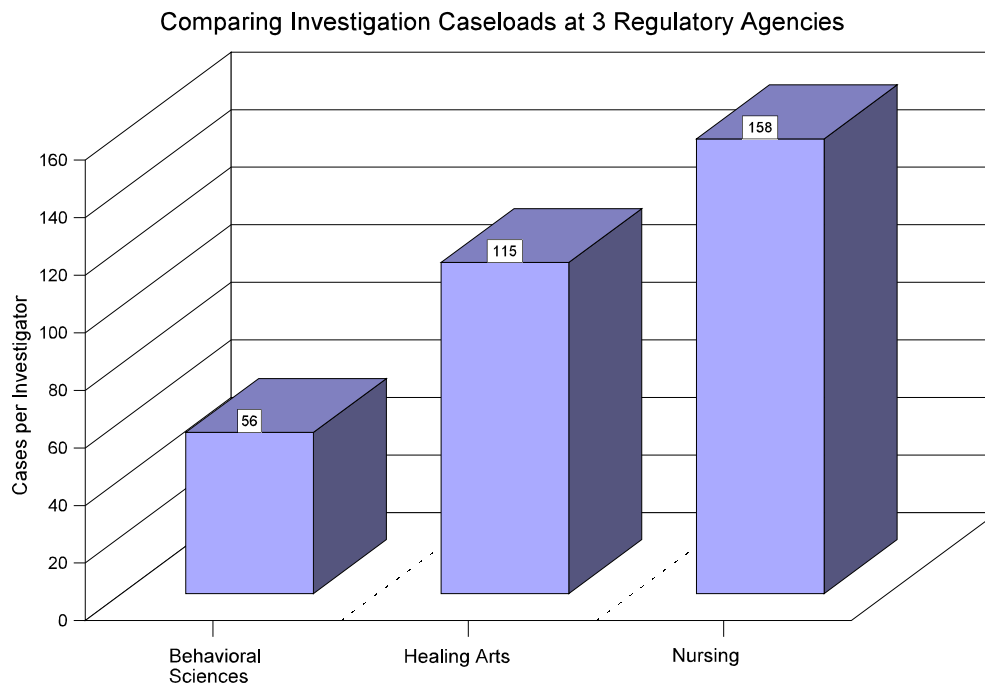
Clearer standards could reduce delay, guide staff to make more decisions about which complaints need investigation without consulting a Board member, and help to lower caseloads by immediately weeding out cases.

We also noted that, once a case was assigned to an investigator, the Board didn't have a good way to oversee that the investigation was done in a timely manner.

- ! Although the Board has developed written policies that guide investigators in prioritizing their cases according to the seriousness of the allegation, no one checks to ensure that investigators have prioritized the cases correctly.
- ! The Board doesn't have guidelines addressing how delays in receiving requested information should be handled. For example, investigators frequently have to wait for a response from a licensee, or receive incomplete records from a medical facility. Guidelines that direct such things as how long an

investigator should wait for a response or at what point the investigator should go to court to get the requested records could help streamline investigations.

- ! The Board doesn't track the progress of cases. Although the Board tracks the date a complaint comes in and the date it's assigned to an investigator, the only way to know how a case is progressing is to pull the case file from an investigator's office. Because there's no tracking of critical dates showing the progression of the case, there's no easy way to make sure high-priority cases progress as quickly as possible, and low-priority cases aren't delayed indefinitely.



Source: Data reported by the Boards of Behavioral Science, Healing Arts, and Nursing

Licenses Have Expressed Concerns about Inconsistencies and Uncertainties that Occur Throughout the Disciplinary Process

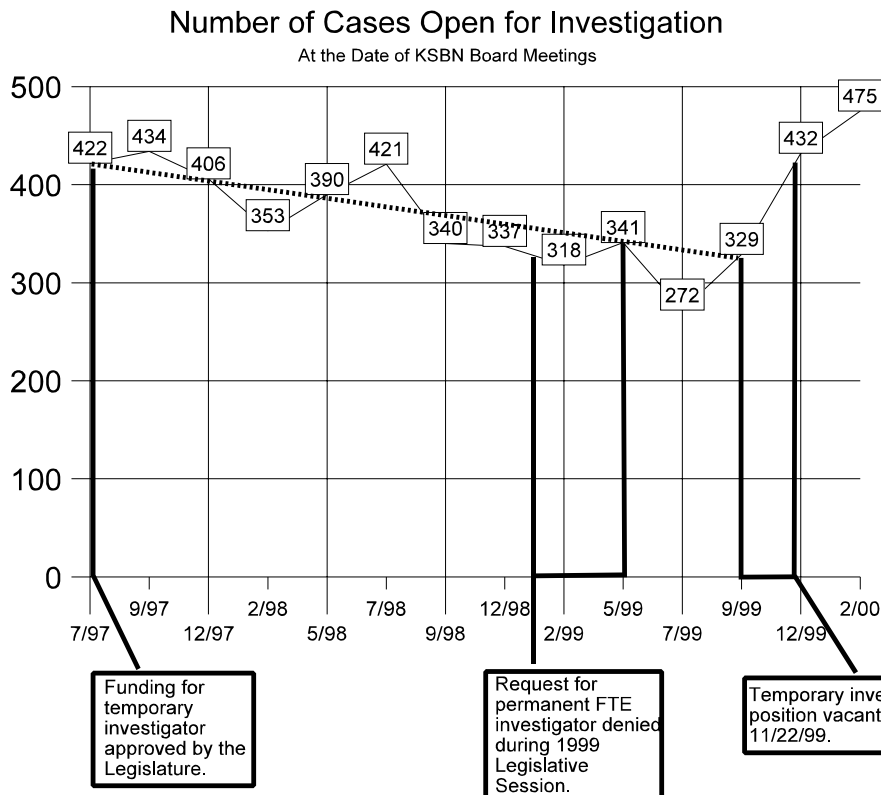
We reviewed 9 complaints maintained by the Board and 7 maintained by the Kansas State Nurses Association, the professional organization for nurses in Kansas, to identify other concerns licenses had with the Board's disciplinary process. We found that in the past 2 years licenses primarily raised issues about 2 things:

- ! Licenses thought the Investigative Committee, a committee of 3 Board members that determines final resolutions to investigations, gave out inconsistent penalties.
- ! Licenses thought the Investigative Committee's interviewing of licenses under investigation was unfair and confusing.

The Temporary Investigative Position, First Funded in FY 1998, Made a Difference In the Number of Open Investigations until that Position Fell Vacant

To help the Board reduce the number of open investigations, the Legislature provided funding for a temporary investigative position for fiscal year 1998 and 1999. The Legislature reviewed the funding during the 1999 Legislative Session when the Board requested that the Legislature convert the position from a temporary position to a permanent FTE. At that time, Kansas State Nurses Association opposed the change from temporary to FTE, arguing that even with the temporary position, the Board hadn't got a handle on the backlog of cases, and that an FTE was harder to take away than a temporary position. The Legislature ultimately rejected the Board's request to convert the position to a permanent FTE, but left the funding for the temporary position in the budget for FY 2000 and 2001.

As the graph below shows, the number of open investigative cases was slowly dropping over time after the temporary position was established. However, when the temporary investigator position fell vacant for several months during the latter half of calendar year 1999, the number of cases dramatically rose to the highest levels in more than two years.



With the addition of 1 investigator, the Board had been slowly reducing the number of open investigations over time. Staff vacancy caused the number of cases to jump up again.

Source: Data maintained by the Board of Nursing

Guidelines for resolving investigations in a consistent manner were adopted by the Board's Investigative Committee in December 1999, but Committee members weren't using them.

These guidelines include:

- ! a list of unlawful acts which are within the authority of the Board to discipline
- ! a list of factors for the Committee to consider when determining the severity of the violation
- ! categories of penalties including mild, moderate and severe options
- ! a requirement that the Committee put in writing why the licensee's mistake amounts to a violation of law and how severe that mistake was

When we attended an April 2000 meeting of the Investigative Committee, there was no mention of the policy, no written copy was present at the meeting, and we saw no evidence that the policy was being followed. If licensees who make similar mistakes are treated differently or unfairly by the Board, such situations can create the perception of favoritism or discrimination.

Interestingly, we noted that the Board of Nursing's policies in this area appeared to be more likely than other board's policies to result in consistent disciplinary actions being applied. Representatives of other boards told us they primarily rely on institutional memory to help ensure that consistent penalties are applied from case to case. Nevertheless, the Board of Nursing's policy can't be effective if it isn't used.

Although licensees viewed the "informal interviews" the Investigative Committee sometimes conducts as unfair disciplinary proceedings, those meetings technically aren't part of a disciplinary hearing. After an investigation has been completed, the Investigative Committee meets on the case to determine whether to act on the complaint or drop it, or whether it needs additional information before making that decision.

If the committee decided to act, it could choose to pursue a formal disciplinary hearing under the Kansas Administrative Procedure Act or settle the case informally. One of the informal settlement practices, the "informal interview," has been the source of many complaints.

There's a lot of confusion among nurses about the purpose of this interview. Some allege it's an informal disciplinary "hearing," held without regard to their due process rights, while others allege that the process is illegal.

In examining the disciplinary process, we were told that the Committee uses this “interview” when it has decided on a disciplinary penalty and wants to convey it in a face-to-face setting, rather than in a letter, to emphasize the seriousness of what the nurse did. Sometimes, the Committee may hear additional information from the licensee, which causes it to impose a different penalty than was originally intended. Much of the confusion may arise because the Board calls this an “interview,” when in fact the purpose of the meeting is for the Committee to state its findings and impose corrective action personally.

It’s obvious that the purpose of the “interviews” isn’t clear to licensees who are involved in such meetings, and that at least some licensees are intimidated by them. Also, it seems misleading to call the meeting an interview when the purpose is not to collect information from the nurse about the case.

Miscommunication and No Monitoring Creates Misunderstanding Between Board and Licensee

In one case we reviewed, a nurse who had repeated drug problems was disciplined by the Board. The nurse signed a consent agreement requiring her to take a nurse refresher course and submit to random drug tests, among other things.

The nurse expected the Board to contact her about how to arrange drug tests, but it didn’t, and 7 months later she contacted the Board. It took the Board 2 months to fully respond to her questions.

Board staff contend that nurses are expected to follow and arrange for the provisions laid out in such disciplinary agreements, but admit that in this case there were some possible lapses by the Board because of staffing problems. At one point the disciplinary section had a secretary who monitored nurses’ progression through the disciplinary process. After she left, this responsibility was turned over to investigators who already had a backlog of new investigation cases.

In this case, the nurse was required to have a substance abuse evaluation and have a copy of it forwarded to the Board. She did this, but when she contacted the Board many months later, the Board said it hadn’t received the evaluation. As it turned out, the Board had received her evaluation, but it had been misfiled. Because no one was actively monitoring such cases, no one noticed that the required drug tests weren’t being performed.

Currently, this case seems to be back on track. The nurse is meeting the terms of the agreement and the Board has all the appropriate documentation.

We were told the Committee recently has done fewer interviews than in the past. Although the Committee reviews about 100 cases at each meeting, the number of interviews has dropped to only 1-3 per meeting.

As we looked at the disciplinary process, we became concerned that the Board’s monitoring of licensees’ compliance with disciplinary agreements is minimal. When licensees are disciplined by the Board—whether formally or informally—they frequently are asked to meet certain requirements, such as completing continuing education or undergoing a drug or alcohol evaluation. Licensees receive written notification of their obligations.

We identified 2 primary problems in this area:

- ! The Board doesn't have a systematic way of monitoring whether licensees are in compliance with the conditions imposed on them.

Limited compliance monitoring used to be performed by the person who was in the Secretary I position, which is now vacant. Since late 1999, however, investigators have been made responsible for monitoring licensees' compliance. Already overloaded with a backlog of cases, these investigators can't make monitoring a priority; in fact, some monitoring now is done only when licensees submit biennial applications to renew their licenses.

Without good monitoring, licensees could continue the same behavior that led to the disciplinary action without being caught, which could jeopardize the public's safety, particularly for those violations related to alcohol or drug abuse.

- ! In the past, the Board has been lenient with disciplined licensees by giving them several chances to come into compliance.

Formerly, investigators issued a letter to licensees when they found the first instance of noncompliance. More recently, the Board has strengthened its response to nurses who don't comply with those requirements. Now, as soon as an investigator discovers one instance of noncompliance, the case is forwarded to the assistant attorney general for review. However, this new approach will be effective only if the Board improves its monitoring of these cases, so that noncompliance can be identified in a timely manner.

***Licensees Had Issues with
The Board's Written
Communication, but
Current Letter Templates
Generally Didn't Appear to
Be Inappropriate***

A number of licensees have indicated they thought the Board's written communication was discourteous and unprofessional. Poor communication between the Board and its licensees can strain the professional relationship that ought to exist.

We reviewed a number of form letters and other correspondence sent out by disciplinary staff. We concluded that in general the correspondence was appropriate. The letters were very factual, formal, and legalistic, but not offensive. We saw that the initial letter sent out to a licensee when an investigation starts has been improved from a rather terse notification to an explanation of the basis of the complaint. We did notice a few individual letters, written by former staff, that seemed excessively adversarial to a licensee, and we pointed those letters out to Board staff.

The Board has discontinued the use of the “KAPA letter,” which was sent to licensees under investigation who applied for a license renewal. Under the Kansas Administrative Procedure Act (KAPA), the license of a nurse under investigation remains valid until the investigation is resolved. In the past, instead of issuing a renewal license to nurses under investigation, the Board sent them a letter indicating that their license was valid, but that the investigation was ongoing. Nurses argued that having to use that letter as proof of being licensed hurt their ability to find or maintain employment.

In December 1999 the Board discontinued the use of this letter. Now, renewals are simply issued to licensees regardless of whether they are under investigation. This practice is consistent with what other regulatory boards do.

CONCLUSION Investigating complaints and administering professional discipline when appropriate is a key function of the Board. To be effective and efficient in regulating licensees, the Board must be timely and consistent in its approach. Lack of staff is one reason why investigations and disciplinary processes aren't as efficient as they can be, but also the lack of written policies and procedures has hampered the Board's effectiveness to discipline. Further, some written policies, such as time standards for the disciplinary process and guidelines for consistent penalties, aren't followed.

- RECOMMENDATIONS**
1. To ensure that it has sufficient staff to effectively carry out its investigatory responsibilities, the Board of Nursing should work to fill all vacancies and should carefully review such things as the number and types of complaints it receives that need to be investigated, its current backlog of investigations, and the extent of monitoring it's able to perform. In its fiscal year 2002 budget request the Board should ask for any additional positions it needs to carry out these activities in an effective and timely manner.
 2. To strengthen its disciplinary process and reduce delays, the Board should adopt written policies for the following areas:
 - ▶ Complaint intake. Policies should clearly define what types of cases should be assigned to an investigator without delay, and what types of cases should be screened out.
 - ▶ The investigations process. Policies should address how investigators should handle typical delays that occur during the course of an investigation.

3. To ensure that investigations are being handled appropriately, the Board should institute management reviews to ensure that cases have been prioritized correctly and that they are progressing without undue delay.
4. The Board's Investigative Committee should actively follow the procedures it has adopted regarding the consistent disposition of investigations.
5. Given the confusion and concern regarding the Investigative Committee's use of "informal interviews" and before the Committee proceeds with more interviews, the Committee should clarify the purpose of the interview, rename the process to better reflect that purpose, and inform nurses of what is intended to be accomplished.

APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on March 2, 2000. The audit was requested by Representatives Lisa Benlon, Bob Bethell, Peggy Long, and Judy Showalter, and Senator Rich Becker.

SCOPE STATEMENT

Board of Nursing: Assessing Its Efficiency and Effectiveness In Carrying Out Its Administrative Responsibilities

The Board of Nursing regulates nursing professionals and mental health technicians in Kansas. It certifies practitioners, examines candidates for licensure, reviews and approves nursing and mental health education programs, investigates complaints against license holders, and offers a program for impaired providers. The Board had a total budget of \$1.2 million in fiscal year 1999, which was entirely funded through fees. The Board's administrative duties are the responsibility of an Executive Administrator, who heads up a staff of 16.5 full-time-equivalent positions.

Legislators have expressed concerns about various aspects of the way the Board's administrative responsibilities have been carried out. According to information they've received, for example, applications for licensure and relicensure have taken an unnecessarily long time to process. Some of the reported reasons: some applications were lost in processing, or the Board didn't process changes of address. Because of such problems, some applicants reportedly have been charged multiple times for their application fees. In addition, the Board reportedly has been very slow to investigate and resolve complaints. Other concerns relate to the tone of the Board's correspondence with applicants and the public, and with the way impaired nurses have been informed about their responsibilities for taking corrective action.

Still other concerns deal with the Board's financial-management practices associated with its relicensure process. When practitioners submit payments for relicensure, Board staff send out new licenses immediately. If any checks submitted for these fees bounce, the Board incurs the cost of collection efforts. It appears to legislators that these fees could be avoided entirely by delaying sending licenses until the checks clear.

Many of these concerns apparently relate to situations that occurred under the previous Executive Administrator. The thought is that a performance audit at this time would help the new Administrator and Board identify what problems exist or may have existed, and ways to correct them. This audit would address the following questions:

- 1. What problems have existed in the way the Board of Nursing has handled its administrative responsibilities, and how can those situations be corrected?** In answering this question, we'd identify, test, and evaluate the Board's procedures and practices in such areas as handling applications for licensure or relicensure, investigating and resolving complaints, ensuring that impaired providers are aware of and follow any rehabilitative steps they must take, and the like. We'd also review and assess the tone and content of the correspondence that has been generated by these activities to determine whether they seemed appropriate under the circumstances. We'd review and assess other aspects of the Board's administrative responsibilities as needed. For any problems we identify, we'd determine what actions the Board has taken or plans to take to address them and whether those actions seem to be sufficient. If needed, we'd make recommendations for other improvements.
- 2. Does the Board of Nursing follow reasonable financial-management practices in handling payments for relicensure fees?** To answer this question, we would review the Board's relicensing process. We also would interview Board officials to identify their policies for handling relicensing fees submitted by practitioners, and for collecting moneys owed to the Board. In addition, we would review accounting records to determine how often checks bounce, and the costs associated with collecting those checks. Finally, we would determine if it seems necessary to modify the Board's licensing process to avoid incurring costs for collecting bad debts.

Estimated completion time: 6-8 weeks

APPENDIX B

Agency Response

On May 31 we provided copies of the draft audit report to the Kansas State Board of Nursing. Its response is included as this appendix.

The Board generally concurred with our recommendations.

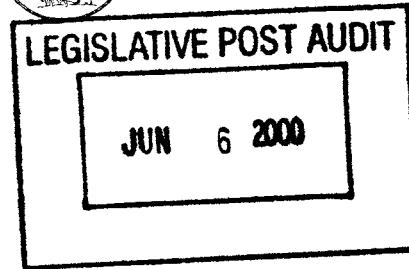
Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551-S
Topeka, Kansas 66612-1230
785-296-4929
FAX 785-296-3929



June 6, 2000

Barbara J. Hinton
Legislative Post Auditor
800 SW Jackson St. Suite 1200
Topeka, Ks 66612-2212



Executive Administrator
785-296-5752
ksbn0@ink.org

Education Specialists
785-296-3782
ksbn1@ink.org

Practice Specialist
785-296-4325

Assistant Attorney General
Disciplinary Counsel
785-296-8401

Dear Ms. Hinton,

This letter acknowledges receipt of your completed performance audit. The Legislative Post Audit was fair, complete, and the staff was wonderful to work with, and in general, we concur with the recommendations. The legislative post audit confirmed what the agency staff identified as problems. This agency has gone through a very difficult time during the last year. As the report states, the agency has had staffing shortages, and even if staff is at full capacity, the staff workload is much larger than other regulatory boards.

The staff and myself have reviewed the recommendations and have discussed possible solutions. The fiscal year 2002 budget is on the agenda for the Kansas State Board of Nursing July meeting. I will be making the recommendations to the board that we request the legislature fund 3.5 additional staff in licensing, make the temporary investigator position permanent, and request funding for one more additional investigator. Not only will we need additional funding for the staff positions, but we will need additional funding for added office space, equipment, postage, and other miscellaneous supplies.

The agency has had nine open positions since April of 99. Since I started my position in December, I have hired 4 staff employees and as of June 2, we currently have just one open position. Interviews for that position should begin around June 12th and hopefully by July 1st, all open positions will be filled.

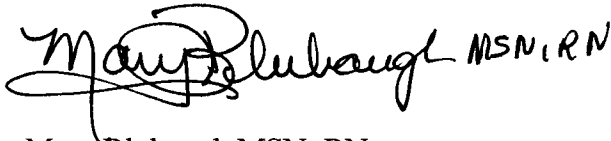
The Kansas State Board of Nursing has entered into an agreement with the Department of Administration to define organizational, operational and other issues that have an impact on performances of the staff. We have asked them to recommend actions to improve the service to licensees and other customers of KSBN, and provide a realistic set of priorities and the magnitude of the costs for implementation. This would include workflow and processes review, job description analysis, policy and procedure manual review, and guidance for rewriting of both licensing and discipline policy and procedure manuals. We will request the DOA also look at supervision of the licensing staff, analysis of employee classifications, review of the boards filing system, and the handling of licenses for ARNP's.

The agency will continue to work with Division of Accounts and Reports for assessment on the segregation of duties for processing licensing fee payments.

Applications are currently being stamp dated when they arrive in the mail; this has been discussed at several staff meetings since January 2000. A form letter will be devised and initiated to inform not only new graduates but also all endorsements on the status of their applications. The investigative committee of the board of nursing at their May meeting followed the procedures regarding the dispositions of cases. I will be making recommendations to the board that discipline and criminal checks be done on walk-in endorsements prior to permits or licenses being issued, management reviews to ensure the discipline cases have been prioritized correctly, and ask they review the use of interviews with the licensees.

This agency has made great steps forward in the last few months but we still have more to do. Not only do we have the suggested recommendations to implement; my goals include renewals on line and digital scanning for records to bring our agency into the 21st century.

Sincerely,

A handwritten signature in black ink that reads "Mary Blubaugh MSN, RN". The signature is written in a cursive style with a large, stylized initial "M".

Mary Blubaugh MSN, RN
Executive Administrator