

STATE OF NEW HAMPSHIRE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT
AUDIT DIVISION

**PROPOSED PERFORMANCE AUDIT SCOPE STATEMENT
DEPARTMENT OF ADMINISTRATIVE SERVICES STATEWIDE RECYCLING**

In January 2014, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Department of Administrative Services (DAS) statewide recycling program. We held an entrance conference with the DAS management in October 2014.

Background

The statewide recycling program, established in 2008 and codified in RSA 9-C:1, et seq., requires all State agencies to:

- Minimize the amount of waste generated,
- Recycle waste materials for which markets are readily available, and
- Purchase supplies and products made of the highest recycled content to the extent feasible and appropriate.

The DAS is responsible to administer the statewide recycling program by facilitating statewide contracts for purchasing materials, supplies, and products containing recycled materials. The Interagency Recycling and Product Purchase Committee (*Committee*), originally created in 2008 and later dissolved through legislation in 2011, was previously charged with coordinating and supporting recycling efforts among state agencies. Prior to its dissolution, the *Committee* recommended agencies recycle 15 different types of materials and purchase eight types of products containing recycled materials. The Legislature subsequently reassigned to the DAS many of the roles and responsibilities formerly assigned to the *Committee*. The Department of Environmental Services (DES) also plays a role in the statewide recycling program, as it is required to help state agencies identify waste reduction and recycling opportunities, as time and resources permit.

State agencies must annually send a form to the DAS to either affirm they have complied with three key provisions of the law, identified in the bullets above, or explain reasons for non-compliance. The DAS is required to provide a report, detailing State agency compliance with the annual certification provision, by November 1 of each year to the Governor, Legislature, DES, and the State library. Further, the report should provide detailed and summary information on the waste materials recycled and purchases of materials with recycled content made by State agencies. Finally, the report should include the certifications of each State agency and any recommended changes to law or policy that would advance statewide recycling efforts.

The *State Recycling Fund*, a nonlapsing fund established in 2008, was created to pay for DAS costs related to administering statewide recycling, provide State agencies with needed recycling equipment or supplies, and offset recycling pickup service costs. Revenues supporting the fund are derived from the sale of recycled materials by all State agencies, with the exception of the Liquor Commission's sale of corrugated boxes. During the past five State fiscal years revenues have consistently outpaced expenditures causing the *State Recycling Fund* balance to grow by

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AUDIT DIVISION

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659 percent. Consequently, at the end of State fiscal year 2014, the *State Recycling Fund* had a balance of roughly \$591,000.

Audit Scope

Our audit period will include State fiscal years 2013 and 2014, and will seek to answer the following question: **Did the Department of Administrative Services administer the statewide recycling program effectively?** To answer this question we will determine the following:

1. **Have State agencies complied with RSA 9-C?**
2. **Did DAS practices ensure the State received the best price for marketable recyclables?**
3. **Did the DAS use the *State Recycling Fund* effectively?**

To address these questions, we plan to:

- review relevant State statutes, administrative rules, policies, procedures, plans, and guidelines;
- interview DAS, DES, and other State agencies' personnel;
- review similar audits and evaluations from other states and the federal government;
- examine state recycling fund expenditures, revenues, and fund balances;
- survey State agencies subject to statewide recycling requirements;
- analyze statewide recycling contracts;
- review waste disposal and recycling market trends; and
- compare DAS practices to applicable statutes and generally accepted practices.

We anticipate completing this project in February 2015 and presenting the final report to the Fiscal Committee at its March 2015 meeting.

**STATE OF NEW HAMPSHIRE
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AUDIT DIVISION**

**PROPOSED PERFORMANCE AUDIT SCOPE STATEMENT
DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOOD PROTECTION**

In April 2014, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Department of Health and Human Services' (DHHS) Food Protection Section (FPS). We held an entrance conference with DHHS management in November 2014.

Background

Foodborne illness can be spread a variety of ways and can result in illness and death. Nationally, foodborne illnesses afflict an estimated 48 million people, hospitalize 128,000, and kill 3,000 annually, costing at least \$14.1 billion. In 2012, over 700 cases, costing an estimated \$681,000, were reported in New Hampshire. Surveillance for foodborne diseases is essential for detecting outbreaks. It also informs regulatory agencies and food-related industries, facilitating control and prevention. Regulatory oversight of food service operations emphasize recognition and correction of food safety violations during or following inspections. Regulators seek to manage foodborne illness by minimizing the use of food from unsafe sources, inadequate cooking practices, improper holding temperatures, contaminated equipment, and poor personal hygiene at food establishments.

The FPS, within the Division of Public Health Services of the DHHS, was primarily responsible for protecting the safety and security of the New Hampshire food supply and for preventing foodborne illness and injury by licensing and inspecting establishments where food is produced, manufactured, stored, or sold. The FPS primarily relied on federal standards for the operation of three of its four major subprograms: food sanitation, shellfish inspection, and dairy sanitation. Regulation of beverage and bottled water production was State-regulated. The FPS licensed, registered, or certified entities engaging in regulated activities; inspected establishments; investigated complaints; sanctioned non-conforming establishments; standardized inspectors in self-inspecting towns; assessed food supply safety and security; reviewed new and remodeled food service establishments; and educated the public on food safety practices and recalls. FPS partners included:

- the Department of Environmental Services, which regulated the sources of bottled water and shellfish;
- the Department of Agriculture, Markets, and Food, which helped ensure safe and healthy food supplies from agricultural operations and meat producers;
- the Fish and Game Department, which regulated inland and marine aquaculture;
- the Milk Sanitation Board, which was responsible for advising the Commissioner, conducting hearings, and adopting rules related to the production of milk and related products; and
- 16 municipalities operating their own food protection programs.

DHHS data suggest in-State cases of foodborne illness rose per capita. Although these data did not clearly delineate between causes of illnesses, three-year averages of reported illnesses commonly associated with foodborne transmission rose 8.9 percent between 2002 and 2013. Reported illnesses that can be passed through food, but are also commonly associated with other forms of transmission, rose 28.9 percent over the same time.

PROPOSED PERFORMANCE AUDIT SCOPE STATEMENT
DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOOD PROTECTION

The FPS was funded with general funds, but recouped some program costs through fees charged to regulated businesses for licensing and inspection activities. The FPS also imposed and collected fines on noncompliant businesses, which were deposited into the General Fund.

Revenue and Expenditures	SFY 2013		SFY 2014	
	Value	Percent of Total Expenditures	Value	Percent of Total Expenditures
Revenue	\$ 446,559	38.8	\$ 625,827	52.5
Expenditures				
Personnel-related	1,050,879	91.3	1,114,600	93.4
Current Expenses and Dues	26,894	2.3	17,326	1.5
Equipment and Telecommunications	17,223	1.5	8,665	0.7
Travel (in and out-of-State)	\$56,555	4.9	\$52,371	4.4
Total Expenditures:	\$ 1,151,551	100.0	\$ 1,192,962	100.0

Source: LBA analysis of Food Protection Section Statements of Appropriations.

The FPS employed 15 personnel, including 9.5 full-time equivalent inspectors who reportedly completed about 5,000 inspections annually of the State's over 5,000 food establishments, beverage and bottled water facilities, and dairy and shellfish operations. DHHS management reported they try to inspect all restaurants once every two years, with some restaurants with more compliance issues receiving more frequent inspections. Other establishments, such as those of the dairy and shellfish industries, receive more frequent inspections due to federal interstate commerce requirements.

Audit Scope

Our audit will be designed to answer the following question:

How efficient and effective was the Department of Health and Human Services in preventing foodborne illness in New Hampshire during State fiscal years 2013 and 2014?

To address this question, we plan to:

- review relevant State and federal statutes, administrative rules, policies, procedures, plans, and guidelines;
- interview key DHHS staff and management personnel, and external stakeholders;
- review similar audits and evaluations from other states and the federal government;
- observe field operations of the Food Protection Section;
- review program performance data and program records;
- review controls over information technology systems integral to the collection of program performance data; and
- compare FPS practices to generally accepted practices.

We anticipate completing this project in May 2015 and presenting the final report to the Fiscal Committee at its June 2015 meeting.

**STATE OF NEW HAMPSHIRE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT - AUDIT DIVISION**

**PROPOSED SCOPE STATEMENT
PERFORMANCE AUDIT OF BOARD OF PHARMACY INSPECTIONS**

In April 2014, the Fiscal Committee approved a joint Legislative Performance Audit and Oversight Committee requested for a performance audit of inspections conducted by the Board of Pharmacy (Board). We informed the Board of this audit at its October 2014 monthly meeting.

Background

Board Of Pharmacy

The Board’s mission is to “promote, preserve, and protect the health, safety, and welfare of the citizens of New Hampshire by fostering the provision of quality pharmaceutical care.” The Board does this by licensing, regulating, and “continuously monitor[ing] the practice of pharmacy in New Hampshire through the ongoing inspection of pharmacies.” State law makes the Board responsible for inspectional services related to the storage, labeling, distribution, and disposal of prescription drugs to the Boards of Medicine, Veterinary Medicine, Podiatry, Optometry, Dental Examiners, and Nursing. The Board has free access to all places where drugs, medicines, poisons or hypodermic devices are held, stored, or offered for sale and to all records of sale and disposition of drugs. In addition to inspections, the Board issues licenses and registrations as shown in Table 1. The Board also investigates pharmacy-related consumer complaints and possible misconduct by licensees.

**Table 1
Board Granted Licenses And Registrations
As Of September 2014**

	Totals
In-State Pharmacies	310
Drug Manufacturers/Wholesalers	1,306
Limited Retail Drug Distributors	222
Pharmacists	2,570
Pharmacy Technicians	2,591
Non-Resident Pharmacies	602
Total	7,601
Source: Unaudited Board data.	

The Board inspects new pharmacies prior to issuing a temporary permit and again within 60 days. Pharmacies that are going out of business are also inspected. The Board conducts periodic inspections of in-State facilities such as pharmacies, drug wholesalers, drug distributors, hospitals, public health clinics, narcotic treatment programs, and durable medical equipment providers. The Board also inspects facilities with healthcare practitioners who dispense pharmaceuticals such as, physicians, dentists, and veterinarians. The frequencies of inspections for these various types of facilities are not established in statute, but left to the Board’s prerogative. The Board requests licensees be inspected annually, but this goal has not been met in recent years. The Board does not inspect non-resident pharmacies.

**STATE OF NEW HAMPSHIRE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT - AUDIT DIVISION**

**PROPOSED SCOPE STATEMENT
PERFORMANCE AUDIT OF BOARD OF PHARMACY INSPECTIONS**

Inspection Positions

Currently, the seven-member Board has one full-time Chief Compliance Inspector, two full-time inspectors, and one part-time inspector. At times during our two-year audit period there were just two funded full-time inspector positions because of budget cuts. Inspections fell from a total of 694 in State fiscal year (SFY) 2012 to 416 and 499 in SFYs 2013 and 2014, respectively. On average during these three fiscal years, 213 in-state pharmacies received an annual inspection (100 less than inspected in SFY 2011). The Board has been without an Executive Secretary since December 2013. The Executive Secretary position was reclassified in September 2014 to have expanded authority over all Board operations, now including inspections.

Compounding Concerns

Pharmacy compounding is the process by which a pharmacist combines or alters ingredients to create a drug tailored to the medical needs of an individual. It includes such things as preparing a liquid formulation for an individual who has difficulty swallowing pills and concocting a unique drug for a person allergic to an ingredient in a manufactured drug. Compounding may also require sterile preparation in which specific equipment, environment, and greater care must be used. In 2012, a sterile compounding pharmacy in Massachusetts, which was essentially practicing as a manufacturer, caused a meningitis outbreak and deaths throughout the country because of its inadequate practices. This refocused the efforts of many state pharmacy boards to reevaluate inspection practices of sterile and non-sterile compounding pharmacies, including New Hampshire's board. Inspectors have been trained on sterile compounding and are using a checklist developed by the Massachusetts Board of Pharmacy in response to this tragedy.

Audit Scope

This performance audit will focus on how the Board's ongoing inspections help to ensure the practice of pharmacy protects the public by attempting to answer the following question:

Did the Board efficiently and effectively inspect facilities and practitioners that handle pharmaceuticals during SFYs 2013 and 2014?

To answer this question, we plan to:

- review inspection-related statutes, Administrative Rules, policies, and procedures;
- interview Board members, personnel, and stakeholders;
- review inspection data, files, and reports;
- observe inspection activities;
- review status of relevant LBA observations from our 2009 financial audit; and
- identify comparable pharmacy inspection practices used in other states and industry standards.

While the audit period is SFYs 2013-2014, current management controls will also be assessed when appropriate. We anticipate completing this project in February 2015 and presenting the final report to the Fiscal Committee at its March 2015 meeting.