

**LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE**

Legislative Office Building, Room 212

Concord, NH

Thursday, June 29, 2017

**MEMBERS PRESENT:**

Rep. Lynne Ober, Chair

Rep. Raymond Gagnon

Rep. Richard Barry

Sen. John Reagan

Sen. Lou D'Allesandro

Sen. Dan Innis

(The Committee hearing convened at 11:00 o'clock a.m.)

**1. Acceptance of minutes of the March 6, 2017 meeting.**

LYNNE OBER, State Representative, Hillsborough County, District #37: Every clock in Finance is different. We typically go by this one. So it's 11 o'clock. I'm going to call the meeting of Performance Audit Board today. Dick when he was with Finance sat in the other room and his clock was ten minutes different from this one.

RICHARD BARRY, State Representative, Hillsborough County, District #21: Always came to this late.

CHAIRWOMAN OBER: So he always came late. Are there any additions or corrections to the minutes?

**\*\*** JOHN REAGAN, State Senator, Senate District #17: Move approval.

CHAIRWOMAN OBER: Senator Reagan moves to approve the minutes. Is there a second? Representative Barry seconds. Any discussion? All those in favor say aye? Minutes are approved.

**\*\*\* {MOTION ADOPTED}**

**2. Current status of ongoing and pending performance**

**Audits.**

REP. OBER: Current status.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chair, Members of the Committee. For the record, Steve Smith, Director of Audits for the LBA.

Since your last meeting, we did have one report that was presented to Fiscal and accepted and that was the OPLC Naturopathic Examiners Audit. And in terms of the ongoing and pending audits before us, Community College System of New Hampshire we are -- the report has been drafted. We are currently working with the Community College System. We received their initial responses. We are going back and forth a little bit on that, but we plan to present that report to Fiscal at the August meeting. So we're pretty close to wrapping that one up.

The Real Estate Brokers. If Committee remembered, you approved the Scope Statement last meeting for that one. Field work has been completed. We are currently drafting the report as well as the Observations, and we will be sending that out for the next couple weeks to the Board. And, again, we're targeting an August Fiscal presentation for that audit as well.

The Controlled Drug Prescription Health and Safety Program or PDMP will be discussed -- we'll be discussing and hearing the Scope Statement Proposal for that shortly.

DoIT, Department of Information Technology. We held an entrance meeting with them a couple weeks ago. We are doing our scoping work on that currently. We have received some initial information from them so just request from the Committee if you have any particular areas of concern or any areas that you would like us to look at as it pertains to the Department of Information Technology, please let us know through e-mail, whatever. Be happy to bring those under consideration.

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And the last one that's been approved topic that's in our queue is the Air Resource Division. We hope to pick that one back up this summer after conclusion of the Real Estate Board.

And then probably at the next meeting we will need from the Committee some new topics to add to our queue. I think we're good for a few months now. Probably in the fall we'd be welcome to start up another round, so.

(Senator D'Allesandro entered the Committee room.)

CHAIRWOMAN OBER: I can tell you that Senator D'Allesandro, Representative Eaton, and myself sit on Fiscal. When the Board of Naturopathic Examiners Audit was presented, we asked them in Fiscal if they were surprised with the results, and they said actually they were. That they thought they had been complying and yet they were, if you read that audit, they were out of compliance in a number of areas thinking that they were complying, which was a little scary, I have to say, to say the least.

Steve, thank you. Are there any questions on the status? Representative Gagnon.

RAYMOND GAGNON, State Representative, Sullivan County, District #05: Not in regard to that issue but the Real Estate Commission. ED&A, the House ED&A Committee have been asking me as a member of that Committee as to what the status is. So when you have this draft report, is it -- is it standard operating procedure, can I share that with the members of the committee?

MR. SMITH: Typically, the report is not public until it is accepted by the Fiscal.

REP. GAGNON: Okay. All right.

CHAIRWOMAN OBER: Fiscal accepts it and releases at the same meeting that it's presented. So we are meeting August 24<sup>th</sup> or 25<sup>th</sup>.

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MR. SMITH: Yes.

CHAIRWOMAN OBER: And it will be there. It is immediately, once that happens, it's available on their website and available to the public.

REP. GAGNON: Okay. Including other committees?

MR. SMITH: We just did Naturopathic. If Committee ED&A would like us to come to review that we can do that.

REP. GAGNON: That will be great.

CHAIRWOMAN OBER: Any other questions on the current status?

MR. SMITH: Okay. With your permission, I'll turn it over to Steve Grady. He's going to be in charge on the prescription drug audit. So he'll go over the Scope Statement with you.

CHAIRWOMAN OBER: Perfect. Good morning.

**3. Discussion and approval of scope statement for the Controlled Drug Prescription Health and Safety Performance Audit:**

STEVEN GRADY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning. Thank you for having me. For the record, I am Steve Grady. I am the in-charge auditor for the PDMP Performance Audit.

I do have and in front of you the Proposed Scope Statement. I can go through the Proposed Scope Statement in detail, if you would like, or I can hit a few highlights and leave it open to your discretion.

CHAIRWOMAN OBER: Preference of the Committee, detail or highlights?

SEN. REAGAN: Highlights.

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DANIEL INNIS, State Senator, Senate District #24:  
Highlights.

CHAIRWOMAN OBER: Highlights. Highlights it is.

MR. GRADY: Very good. As you know, in 2012 the Legislature established the Prescription Drug Monitoring Program. The State Law requires that we conduct a performance audit of the program on or before December 31<sup>st</sup>, 2017. The expectation is that our audit will allow for evaluation of the effectiveness of the program to include, but not limited to, changes in the number and type of drug related deaths, the number of instances of drug abuse, and the number of instances of overprescribing.

As I'm sure you're aware, and as depicted in Enclosure 1, drug related deaths in New Hampshire have increased since at least 1995. Reportedly, the illicit use of prescription drugs has increasingly contributed to this trend.

PDMPs are expected to facilitate or at least mitigate some of that negative trend that we are seeing with respect to drug-related deaths, particularly with respect to prescription drugs. However, objectively establishing PDMP performance and quantifying its effects, including its effects on changes in the number and type of drug-related deaths, number of instances of drug abuse, and the number of instances of overprescribing in that complex and uncontrolled environment in which a program is operating will likely be unachievable.

What we can do, however, we believe, is to take a look at controls over registration, utilization, and other what we would call intermediate outcomes of the program without actually describing or quantifying the outcomes of the program.

CHAIRWOMAN OBER: Can you look at the status of the upgrades because two years ago when we passed the budget, we had -- I'm not sure -- Michelle, was it a budget or second bill, \$130,000 for improvements to the system. I know that when we passed the budget this time, we had to extend the deadline for spending that money; correct, Michelle?

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MICHELLE R. RICCO JONAS, B.S., CPM, Program Manager, New Hampshire Prescription Drug Monitoring Program: Hm-hum.

CHAIRWOMAN OBER: So could we add to this a look at where they are and what the plans are to make sure we get that done? Although, I'm not certain how Michelle is going to be paid the way the budget is passed. Michelle, are you still working for us today?

MS. RICCO JONAS: As of today, yes.

SEN. REAGAN: Would you hurry up with it.

MR. GRADY: We will be looking at the program itself, the application software; but we do understand, also, that they're undergoing a migration to a new vendor which may have some effect on aspects of that. But with respect to interstate sharing and other aspects of the PDMP we are going to examine -- examine those.

CHAIRWOMAN OBER: Those of you who don't sit on Finance, the OPLC forgot to budget the PDMP budget as Michelle knows, which came to Division I. Division I put it in the budget. When it went to the Senate, the Senate took it out of the budget, said you need to go to Fiscal to get approval. However, the grant was, when they were in the House, the AG had a grant for \$900,000 which completely covered the budget for the coming biennium. By the time they got to the Senate, the grant had come in, it was only \$800,000. So we did put a thousand dollars in General Funds to cover the cost. But, again, they have to come to Fiscal. Fiscal is not meeting in July. That's why I asked Michelle if she was still working. It's kind of an inside joke. But I had talked to the Director and said you need to talk to Mr. Kane. If you need an emergency meeting to get this to happen, then let's have an emergency meeting. And I think they have worked out a way to ensure that Michelle continues to be employed with us.

However, there was also a provision that said the PDMP staff and the OPLC has to write a plan to provide for future

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funding and ongoing funding for this program since, clearly, this is one of those areas that the Federal Government had a hot button for a while and now the fund dries up as they get another hot button and they move on. So there are a couple of other things going on with this program that may impact how effective and how quickly you can do this audit, and we understand you're running up against that. The budget passed. You have to deal with what it is. Senator Reagan.

**\*\*** SEN. REAGAN: I move approval of the Scope Statement for Controlled Drug Prescription --

REP. BARRY: Question before we get to that.

SEN. REAGAN: -- Health and Safety Program Performance Audit. Now I'm finished.

CHAIRWOMAN OBER: I'll tell you what, I will second for purposes of discussion. Representative Barry has a question.

REP. BARRY: I know it's a complex and uncontrolled environment, but I'm assuming that the Scope will make some serious recommendations on legislation that we need to take into account to get this under control.

MR. GRADY: We will be in the context of the PDMP making recommendations that are appropriate about legislative changes. I will note that the legislation that brought the program into being had a number of theoretical expectations for the program. Some of those may not be a reasonable expectation of the program, and we'll certainly -- our narrative will talk through some of those and describe what we think will be a reasonable outcome for the program.

CHAIRWOMAN OBER: Follow-up.

MR. GRADY: Go ahead.

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REP. BARRY: Is there anything you can think of that we could say or do in anticipation of problems to help you get through it?

MR. GRADY: I can't think of anything in the immediate sense, no. We'll -- we'll go through it and we are very preliminary at this stage. We have the Scope Statement out for review today, but we're still what we call planning stages of the audit. So we are not conducting any detail field work at this point. When we get through that field work, I'll be in a better position to describe some of the specific concerns that we have.

REP. BARRY: Thank you, Madam Chair.

CHAIRWOMAN OBER: Any other questions? Motion on the floor to approve the Scope Statement. All those in favor say aye? Motion is approved.

**\*\*\* {MOTION ADOPTED}**

MR. GRADY: Thank you.

CHAIRWOMAN OBER: You're welcome.

#### **4. Other Business:**

CHAIRWOMAN OBER: Steve, under Other Business, you are perhaps looking to us for some possible topics for future audits. Did I hear you say that?

REP. SMITH: Yes. We don't need anything from the Committee today; but definitely over the next meeting probably the DoIT audit will be coming back within a month or two for -- with that Scope Statement at that meeting. We'll probably be -- we would definitely need some because we only have just the Air Division is the only remaining topic that we have.

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CHAIRWOMAN OBER: Okay. I know Representative Eaton has got one he's going to e-mail me this afternoon. I will pass on to you. Anybody else got any topics before we go?

REP. BARRY: I have one. I'm not sure how we handle it. Two, three years ago I had a report pulled off that looked at all of the checks that were cut because openness in Government. Any check that the Government issued and who issued them and who they were issued to. And there were, I want to say, a hundred million dollars' worth of them where the person that they were issued to or the entity was redacted. A good chunk of those came from Health and Human Services.

I asked Mike to go look at it over there, but he did a superficial thing. What I'd like to do is if you can take a look at it, see if you guys find the same thing this year that several of those that are out there that are redacted and maybe start something that says why is it? What's the procedure for redacting them and --

MR. SMITH: Did our office do that?

REP. BARRY: No, no, no.

CHAIRWOMAN OBER: Sounds like LBA.

REP. BARRY: Mike Kane. LBA did it.

CHAIRWOMAN OBER: So you're wanting -- you're wanting not a financial audit but an audit of when and how information is redacted in Health and Human Services?

REP. BARRY: I'm not sure if that's a performance audit that you guys have to look at.

CHAIRWOMAN OBER: Can you guys talk to Mike Kane and see what you come up with. I know you're not ready to talk about that, but a possible piece to put on. And anybody else got any topics you want to give them to just think about to see if they can word it to our satisfaction. Senator Reagan.

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SEN. REAGAN: There's -- you guys have a list of topics.

CHAIRWOMAN OBER: Yes, they do.

SEN. REAGAN: We could get that again. Gives you all the topics and when the request done last.

JAY HENRY, Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: I have copies of what we gave out last time if anyone wants more copies.

CHAIRWOMAN OBER: Absolutely. If you have copies, hand them out. You never know what we'll think of.

REP. BARRY: Nor do we.

CHAIRWOMAN OBER: Nor do we. My brain was not going to think for two months. So, you know, don't expect a whole lot. Once I knew you were going to get paid, I was done.

MS. RICCO JONAS: Thank you. I appreciate that.

CHAIRWOMAN OBER: Guys, this is your homework. Take it home. We need it by our next meeting.

MR. HENRY: So there's three handouts. One lists all the performance audits we have done by Department. This is the last Fiscal Year's audit so it covers some of those. And then there was our list that we had sort of ongoing that we developed a few years ago that you've been picking off of.

CHAIRWOMAN OBER: Just so you know, Department of Corrections was given three new probation officers in the budget. One starts in the beginning of Fiscal Year 18, one starts in January, and one starts July 1<sup>st</sup> the beginning of the second Fiscal Year. So they're getting three new people.

Senator Innis, you might want to have an audit of the Water Division because water is a hot topic, but you can think about that. DES Water Division. However --

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REP. BARRY: Got the Air Resources Division kind of ties into it.

CHAIRWOMAN OBER: Yeah. So that might be something we want to add onto. We don't have to choose those today. If you have any ideas, please e-mail them to me over the summer. I really am going to read my e-mail and not do a whole lot else.

#### **5. Date of Next Meeting and Adjournment**

CHAIRWOMAN OBER: And if we have no other business, could I have a motion to adjourn until the next meeting.

\*\* SEN. REAGAN: So move.

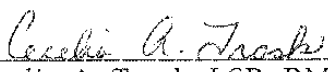
SEN. INNIS: Second.

CHAIRWOMAN OBER: We're adjourned. Thank you everybody for coming.

(The Committee Meeting adjourned at 11:18 a.m.)

## CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

  
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Cecelia A. Trask, LSR, RMR, CRR  
State of New Hampshire  
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