

**STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY**

**FINANCIAL AUDIT REPORT
FOR THE SIX MONTHS ENDED
DECEMBER 31, 2008**

**STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY**

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**STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY**

Reporting Entity And Scope

The reporting entity of this audit and audit report is the New Hampshire Board of Pharmacy. The scope of this audit and audit report includes the financial activity of the Board of Pharmacy for the six months ended December 31, 2008. Unless otherwise indicated, reference to the Board or auditee refers to the Board of Pharmacy.

Organization

The Board of Pharmacy is established by RSA 318:2 to consist of six members: including five practicing pharmacists and one public member, each appointed by the Governor, with the approval of the Executive Council, to a term of five years. No member may serve for more than two consecutive terms.

The Board of Pharmacy is administratively attached, under RSA 21-G:10, to the Department of Health and Human Services by RSA 318:2-a. In accordance with RSA 318:5, the Board has a president, vice-president, secretary, and a treasurer who are elected annually from among the Board members.

The Board, pursuant to RSA 318:9, employs an Executive Secretary to be responsible for the performance of the regular administrative functions of the Board and other duties as the Board may direct. At December 31, 2008, the Board had six full-time and one part-time employees.

The Board of Pharmacy Office is located at 57 Regional Drive in Concord, New Hampshire.

Responsibilities

The Board of Pharmacy's stated 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 duties of the Board include the licensure and regulation of pharmacists, pharmacies, limited retail drug distributors, and prescription drug and device manufacturers and wholesalers. The Board also registers pharmacy technicians and out-of-state mail-order pharmacies. Other responsibilities of the Board include the investigation of pharmacy-related consumer complaints and incidents of prescription and controlled drug diversion. The Board continuously monitors the practice of pharmacy in New Hampshire through the ongoing inspection of pharmacies throughout the state in order to ensure that the citizens of New Hampshire receive safe, quality pharmaceutical care.

Funding

The financial activity of the New Hampshire Board of Pharmacy is accounted for in the General Fund of the State of New Hampshire. A summary of the Board's revenues and expenditures for the six months ended December 31, 2008 is shown in the following schedule.

Summary Of Revenues And Expenditures - General Fund For The Six Months Ended December 31, 2008

Total Revenues	\$ 550,869
Total Expenditures	<u>385,665</u>
Excess (Deficiency) Of Revenues Over (Under) Expenditures	<u>\$ 165,204</u>

Prior Audit

There have been no recent financial audits of the Board of Pharmacy.

Audit Objectives And Scope

The primary objective of our audit was to express an opinion on the fairness of the presentation of the financial statement of the New Hampshire Board of Pharmacy for the six months ended December 31, 2008. As part of obtaining reasonable assurance about whether the financial statement is free of material misstatement, we considered the effectiveness of the internal controls in place at the Board and tested its compliance with certain provisions of applicable State and federal laws, rules, regulations, and contracts. Major accounts or areas subject to our examination included, but were not limited to revenues and expenditures.

Our report on internal control over financial reporting and on compliance and other matters, the related observations and recommendations, our independent auditor's report, the financial statement, and supplementary information are contained in the report that follows.

Auditor's Report On Internal Control Over Financial Reporting And On Compliance And Other Matters

To The Fiscal Committee Of The General Court:

We have audited the Statement of Revenues and Expenditures, General Fund, of the New Hampshire Board of Pharmacy (Board) for the six months ended December 31, 2008 and have issued our report thereon dated June 8, 2009, which was qualified as the financial statement does not constitute a complete financial presentation of the Board. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Board's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Board's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the

entity's internal control. We consider the deficiencies described in Observations No. 1 through No. 14 to be significant deficiencies in internal control over financial reporting.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, of the significant deficiencies described above, we believe Observations No. 1 through No. 3 are material weaknesses.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Board's financial statement is free of material misstatement, we performed tests of the Board's compliance with certain provisions of laws, rules, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted immaterial instances of noncompliance which are described in Observations No. 15 through No. 19.

The Board's response is included with each observation in this report. We did not audit the Board's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of the management of the New Hampshire Board of Pharmacy, others within the Board, and the Fiscal Committee of the General Court and is not intended to be used by anyone other than these specified parties.

Office Of Legislative Budget Assistant

June 8, 2009

Internal Control Comments
Material Weaknesses

Observation No. 1: Organizational Structure Should Be Clarified

Observation:

The Board's organizational structure, as it existed during the six months ended December 31, 2008, did not support and promote the controlled operations of the Board. Lack of clarity in the lines of authority, responsibility, and flow of information contributed to a situation where employees and Board members were unclear as to who was responsible for managing the daily operations of the Board, including directing and monitoring employee activity and performance.

Board employees report they understood that Board members consider themselves the agency head. This understanding is illustrated in the Board's organizational chart, which shows administrative office and compliance office employees as subordinate to the Board members. The Board members meet once a month and often discuss and direct administrative decisions.

While RSA 318:9, I directs the Board members to employ a person to serve as a full-time Executive Secretary and the Executive Secretary to be responsible for the performance of the regular administrative functions of the Board and other duties as the Board may direct, no single Board employee exercises authority over the daily operations of the Board office. The Executive Secretary position heads the administrative unit and the Chief Compliance Investigator heads the compliance unit. It is the employees' reported perception that the Chief Compliance Investigator position has greater authority in the day-to-day operations of the Board, as this position is better compensated. The professional requirements for both the Executive Secretary and Chief Compliance Investigator positions appear to be the same or very similar. Both positions require a pharmacy degree.

The Board reports it has attempted to clarify its organizational structure through a request to reclassify the Executive Secretary position. Approval for the reclassification has not been forthcoming from the Department of Administrative Services, Division of Personnel.

Recommendation:

An organizational structure must be established by the Board that will promote the achievement of Board objectives. The Board should clarify its organizational structure to clearly establish and define lines of authority, responsibility, and flow of information including one clear administrative head of the combined compliance and business activities of the Board. The Board may want to consult with the Department of Justice to determine and better understand staff and Board member roles and responsibilities in the day-to-day operations of the Board.

Once established, Board members must provide consistent direction and support within the organizational structure to promote efficient and effective Board operations.

Auditee Response:

The Board partially concurs.

The Board developed an Organizational Chart Sept/Oct 2008. It was approved and reviewed by the Department of Personnel during the waiver process to hire a Chief Compliance Officer and Executive Secretary / Director.

The Organizational Chart will be reviewed with all staff, eliminating confusion over duties due to staff turnover. The Board now conducts staff meetings once a month, the Thursday after a Board meeting, to improve communications.

Observation No. 2: Controls Over Financial Activities Must Be Implemented

Observation:

The responsibilities for the Board's financial transactions were not sufficiently segregated or otherwise controlled during the six months ended December 31, 2008, placing the Board's financial operations at significant risk of undetected error or fraud.

A vacancy in a critical position, combined with the Board's normally small office staff during the six months ended December 31, 2008, contributed to a situation where segregation of responsibilities for effective controls was not possible. One Board employee, by necessity, became a key participant in several business functions without effective oversight and review and approval controls, increasing the risk of error or fraud.

1. In consideration of concerns regarding effective segregation of duties and also as a general offer of assistance, the Department of Health and Human Services (Department) assumed responsibility for the Board's payroll and accounts payable processing during the six months ended December 31, 2008. The Department provides this service to most of the boards that are administratively attached to it.
 - During and shortly after the six months ended December 31, 2008, the Board detected several errors made by the Department in the Board's payroll. Concern over the number of errors detected prompted the Board to once again process its own payroll and accounts payable even though doing so resulted in the previously recognized risk from the lack of segregation of duties in the Board's expenditure processing.
2. A similar segregation of duties concern exists in the Board's processing of revenue. During the six months ended December 31, 2008, two employees processed license revenues at the Board. One key Board employee regularly was responsible for the complete processing and recording of revenue without any effective oversight and review and approval controls.

The Board hired a new Executive Secretary in April 2009, which should allow the Board to redistribute some of the incompatible financial activities from this employee's assigned responsibilities and provide for more effective review and approval controls.

Recommendation:

The Board must review the structure of its financial activities and incorporate appropriate controls into its operations. Aspects of all five internal control components of control environment, risk assessment, control activities, information and communication, and monitoring must be effectively implemented in the Board's financial operations. The Board should request the assistance of the Department of Administrative Services in designing controls that are appropriate given the Board's level of financial activity and small financial staff.

While the initial results of the Board's attempt to establish a reasonable segregation of duties control by accepting assistance from the Department of Health and Human Services for processing expenditures was disappointing, gaining that control for both expenditures and revenues is critical for the Board to reasonably limit its risk for error and fraud. The Board should again review with the Department of Health and Human Services reasonable ways for the Board to establish an effective segregation of responsibilities over the Board's financial processes. If due to limitations in the number of staff an effective segregation of responsibilities is not reasonably possible, the Board should take other steps to mitigate the risks posed by employees processing financial transactions without appropriate oversight and review and approval controls.

Mitigating controls could include, for example, the Board receiving and reviewing reports designed to provide meaningful activity information including reconciliations and analysis of licenses and registrations processed to revenues collected and reported. The Board's thoughtful review and consideration of this and other similar information, along with assistance that might be provided by the Department of Health and Human Services in this area, could supplement the limited segregation controls that are possible in the Board's small business office.

The Board should review with the Department of Health and Human Services the causes and solutions to the errors that occurred in the processing of the Board's payroll to determine whether future errors can be avoided. Based on the results of that review, the Board should consider having the Department of Health and Human Services again process the Board's expenditures.

Auditee Response:

The Board concurs.

Since the audit has occurred, there have been several changes in process.

Revenue: Firstly, we are no longer taking cash as a method of payment. Checks (or money orders) are initially handled by the licensing assistant. She will immediately endorse the back of the check with a rubber stamp for deposit and cross reference the application with check number

and payment method which is manually written on the application. Then she records the check in an electronic spreadsheet. The checks are then forwarded to the business manager who will prepare a bank deposit slip and populate the Lawson's NH First secure financial system. The deposit slip is cross referenced with the computer record. The deposit is approved by the Director of the Pharmacy Board, assigned an approval number by NH First, and deposited at the local bank by the Director or designee.

Payroll: Payroll is now being handled by the Department of Health and Human Services (DHHS). Time sheets, application of leave, and additional compensation time request forms are signed by the immediate supervisor upon approval and sent to DHHS for processing. Payroll is delegated outside the Department.

The Board is working with the Department of Administrative Services to implement all the control measures outlined in the recommendation.

Observation No. 3: Revenue Processing Activities Should Be Improved

Observation:

At December 31, 2008, approximately 300 pharmacies, 2,200 pharmacists, 2,700 pharmacist technicians, 380 nonresident pharmacies, 860 manufacturers, and 90 other entities were licensed with the Board. All licenses issued by the Board are effective for a one-year duration. During the six months ended December 31, 2008, the Board recorded approximately \$410,000 of revenue from its licensing activities.

Deficiencies in the Board's revenue processing activities, specifically its cash and check handling procedures in place during the six months ended December 31, 2008, posed a significant risk that errors or frauds may occur and not be detected timely in the normal course of business.

Deficiencies included:

- Checks not restrictively endorsed upon receipt. Checks are typically endorsed in the deposit process, which can occur one to two weeks after receipt as discussed below.
- Cash routinely replaced with employee's personal checks. Board employees routinely replaced cash received by the Board with a personal check, reportedly to avoid the inefficiency of having to personally deliver deposits containing cash to State Treasury. Deposits with checks and no cash were messenger mailed to the State Treasury.
- Checks not consistently recorded upon receipt. The Board records receipts on an electronic check log (log). The log is totaled every time a bank deposit is prepared, which could range between one to two weeks. The log is dated on the deposit date, which does not necessarily reflect the actual dates the listed checks were received. Checks may not be posted to the log when received, as Board employees may hold checks unrecorded while awaiting additional information relating to an applicant's license.

- Unprocessed applications and fees left unsecured on employees' desks. Applications with associated fees that are determined to be incomplete or require special review or approval may remain unsecured on an employee's desk until ultimately processed.
- Checks deposited up to 16 business days after initial receipt. At the time of the audit, RSA 6:11 generally required daily deposits. The revenue recording and deposit process used by the Board during the six months ended December 31, 2008 unnecessarily delayed deposits putting the Board out of compliance with RSA 6:11 and increasing the risk of theft or loss and negatively affecting the State's cash flow. Audit procedures noted deposits made between two and 16 business days after initial receipt.
- Reconciliations between the Board's licensing database and revenue recorded in the State's accounting system (NHIFS) not regularly performed. The Board does not routinely reconcile license records per the licensing database to license revenue recorded in the State's accounting system. If performed, this reconciliation would ensure all licensing activity that generates fees results in revenues collected and recorded in NHIFS. The licensing database used by the Board does not track payment dates or amounts, impeding the reconciliation between the two systems. Further complicating the revenue control value of the database is that the licensee's prior information is overwritten when new information is added to the licensee's record in the system.

Recommendation:

The Board should establish appropriate controls over its revenue processing activities. In establishing these controls, the Board should consider all five generally recognized components of controls; control environment, risk assessment, control activities, information and communication, and monitoring. The Board should adopt policies and procedures over revenue processing that incorporate the relevant aspect of each of these components of control.

- Policies and procedures should direct employees to process and record revenues as received.
- Checks should be restrictively endorsed, logged, and secured with cash for daily deposit.
- Cash should never be replaced with employees' personal checks.
- Supporting systems should be regularly reconciled to promote the complete and accurate deposit and recording of revenue.

In order to lessen its daily revenue processing activities, the Board should consider requesting a change in statute to provide for a multi-year license, similar to the biennial licenses issued to doctors and nurses in the State.

Auditee Response:

The Board concurs.

Checks are now restrictively endorsed upon receipt. Cash is no longer accepted for payment. Employees do not swap cash with personal checks. Checks are now recorded / processed upon receipt. Checks are deposited to Treasury accounts daily if checks total \$100 or over per RSA 6:11.

The Board is currently working with the Department of Information Technology (DoIT) to implement the Licensing 2000 (L2000) system that has the capability of cross-referencing payments with licenses.

Other Significant Deficiencies

Observation No. 4: Account Structure Should Be Supplemented

Observation:

The Board's account structure in the State's accounting system (NHIFS) during the six months ended December 31, 2008 did not adequately reflect and support the Board's financial operations.

The Board's account structure in NHIFS provided three revenue accounts to record revenues from eight license types as well as administrative fines and miscellaneous fees. In addition, unrestricted revenue generated by the Board was not reported in NHIFS as Board revenue but was reported in a Board of Medicine unrestricted revenue account, unrelated to the Board of Pharmacy financial operations. To supplement information available from NHIFS, the Board purchased an off-the-shelf small-business software package to better track the Board's financial activity. While using this software provided additional management information for the Board, it did not clarify Board information available to other NHIFS users. The use of this software also resulted in redundant entry of financial transactions and the need for additional reconciliations of information in the two accounting systems.

Recommendation:

The Board should work with the Department of Administrative Services to supplement the Board's accounting structure with sufficient revenue accounts to enable the Board to clearly account for, understand, report, and monitor Board financial operations without the added burden of maintaining a secondary, supporting accounting system.

Auditee Response:

The Board concurs.

We held a meeting on June 16, 2009 with our Financial Manager (Department of Health and Human Services) and Business Supervisor (Department of Administrative Services) to address these issues.

We will continue to work with our Business Supervisor and the Department of Information Technology to set up revenue source codes for each licensee/revenue type and for the procurement and implementation of the License 2000 system. License 2000 is included in our approved budget for fiscal year 2010.

Observation No. 5: Formal Fraud Prevention And Detection Program Should Be Established

Observation:

The Board has not established a formal fraud prevention and detection program. A formal fraud prevention and detection program should make employees aware of the importance of controls in the organization, typical indicators of fraud often referred to as “red flags,” and appropriate actions for employees to take if fraud is suspected.

As a regulatory organization, Board operations are susceptible to both occupational fraud and abuse, that is, fraud and abuse perpetrated by Board staff and employees, and also fraud perpetrated by persons interacting with the Board. Fraud typically can include the deliberate misuse or misapplication of an organization’s resources or assets, misappropriation of cash, inventory and other assets, fraudulent disbursements, and corruption including conflicts of interest, bribery, and economic extortion.

Based on discussions with Board employees, it is not clear that employees have been provided with appropriate direction regarding fraud awareness and reaction to fraud. Management has not provided employees with fraud training and has not developed a way to report fraud or suspected fraud. The Board appears to rely on the personal integrity of its staff to prevent any fraudulent activity.

Recommendation:

Board operations should be supported by a formal fraud prevention and detection program that includes fraud reporting policies and training that will promote the timely detection and reporting of suspected fraudulent activity. The Board should request assistance from the Department of Health and Human Services, to which it is administratively attached, and the Departments of Administrative Services and Justice to obtain appropriate policies and staff training in fraud recognition, prevention, and detection.

Auditee Response:

The Board concurs that fraud prevention is necessary. The Board does not concur that the policy and training for fraud prevention should be established by this agency.

The Board of Pharmacy is comprised of six volunteer board members; the agency also includes only six full-time and one part-time office staff. Recommending that the volunteer Board members of the New Hampshire Board of Pharmacy “establish a formal fraud prevention and detection program” would create a significant waste of time, money and other state resources. With all due respect to its valuable operation, the Board of Pharmacy is a tiny state agency. There are dozens of similarly situated state agencies – i.e. occupational and professional licensing boards. Requiring each state agency of its kind to create such a program is tantamount to creating ad hoc program. Not only would each state agency have a different program with different rules, but the amount of time that the volunteer board members of each of these state

agencies would have to spend to create such programs independently would be a significant waste of the volunteers' time and of taxpayers' money. Standardization among the state agencies would be ideal for consistency, training, and economy of scale.

The statutory framework that defines the Board of Pharmacy's Board member qualifications to serve on the Board requires that the individual board members be either pharmacists or public members. The law does not require the board members to be qualified to, and it is unclear whether such board members are qualified to, "establish" the recommended programs. Moreover, there is no statutory authority for the Board to do so.

The New Hampshire Board of Pharmacy is an administratively attached agency to the Department of Health and Human Services. The Board will seek and adopt any "formal fraud prevention and detection program" that is available from DHHS.

Observation No. 6: Formal Risk Assessment Process Should Be Implemented

Observation:

The Board does not have a formal risk assessment process. While the Board reports it does consider and assess risk, the process is ad-hoc and not part of a formal internal control process.

Risk assessment, one of the five generally recognized interrelated components of internal control, is a process for identifying and responding to business risks and the results thereof. A prerequisite to an effective risk assessment is the establishment and recognition of an organization's objectives and the risks that may put achieving those objectives in jeopardy. While the Board has experienced organizational and operational changes over time, they have not periodically and formally reviewed operations to assess where and how things could go wrong, evaluated the likelihood of those occurrences, and established reasonable responses to those potential occurrences. Without a risk assessment process, the identification and response to risk occurs in a reactive mode, often after a risk has been realized and a loss incurred.

Examples of risks that the Board should consider include license fraud, including misuse of licensure authority, as well as the risks related to the controlled financial operations of the Board's business office activities.

Recommendation:

Board operations should be supported by a risk assessment process to continuously review Board financial operations for exposure to risk and to plan for and reasonably respond to the identified risk through risk elimination or mitigation as appropriate. The Board should request assistance from the Department of Health and Human Services, to which it is administratively attached, and the Departments of Administrative Services and Justice to obtain appropriate policies and staff training in risk assessment processes.

Auditee Response:

The Board concurs.

For the reasons set forth in the Board's response to Observation No. 5, the Board declines to "establish a formal and documented risk assessment process." However, the New Hampshire Board of Pharmacy is an administratively attached agency to the Department of Health and Human Services. The Board will seek and adopt such processes as are available from DHHS.

Observation No. 7: Scope Of Inspectional Efforts Should Be Reviewed

Observation:

The procedures used by the Board to direct its inspectional efforts during the six months ended December 31, 2008 did not result in a balanced inspectional effort over all of the entities subject to the Board's inspection responsibilities.

The Board's Compliance Investigator's Unit is comprised of two full-time and one part-time investigators and a full-time Chief Investigator who perform routine inspections as well as investigations. As a general policy, the Board reports it performs routine annual inspections of each of the approximately 300 in-state pharmacies licensed with the Board. A follow-up inspection generally is performed during the first year a pharmacy operates and every time a pharmacy changes locations. The Board does not perform routine inspections of other in-state Board-licensed facilities, such as drug manufacturers, wholesale distributors, limited retail drug distributors of medical gases and medical devices, public health clinics, and methadone maintenance facilities. As of January 2009, there were approximately 112 non-pharmacy Board licensees located in New Hampshire that had been inspected only once since they obtained their original license (unless there had been a subsequent non-routine investigation performed).

In addition to inspecting pharmacy operations, RSA 318:8-a also makes the Board responsible for inspecting all physicians, veterinarians, dentists, advanced registered nurse practitioners, physician assistants, and clinics under contract to the Department of Health and Human Services and agricultural, technical, or industrial users of prescription drugs. As of February 2009, there were approximately 7,100 New Hampshire practitioners licensed by these boards subject to inspection by the Board of Pharmacy. At the time of the audit, the Board did not have listings of subject practitioners or have procedures for obtaining that information. As noted in Observation No. 15, the Board has not established memorandums of agreement required by RSA 318:9-a with the licensing boards (user boards) which pay the Board for inspectional services.

The large number of licensees, combined with the Board's inspectional focus on routine pharmacy inspections, increases the risk that the Board's inspectional efforts do not consider and proportionately respond to the greatest pharmacy-related risks to the State and its citizens.

Recommendation:

The Board should review the scope of its inspectional efforts to determine whether it currently is efficiently and effectively responding to risks in the industry it regulates. Recognizing its limited resources and the relatively large number of diverse entities it is responsible to inspect, the Board should ensure that its inspection scheme provides the most efficient and effective response to risk. The Board should:

- Establish policies and procedures for scheduling and performing inspections that best respond to industry risk.
- Establish policies and procedures for regularly updating its list of user board licensees subject to its inspections and provide a mechanism for user board input to inspection schedules.
- Establish policies and procedures for formally reviewing, monitoring, and communicating the results of inspections to determine whether problems, risks, or other concerning trends are evident that suggest changes should be made to the inspection schedule or issues should be relayed to the Board or other user boards for consideration and action.

Auditee Response:

The Board concurs there should be a policy describing scheduling of inspectional services based upon priorities and resources available.

The scope of responsibility and the resources available make inspectional efforts incredibly challenging. We will work to develop increased efficiencies in inspectional activity through documentation and communication with other boards. Currently, staff is stretched to the maximum. Decisions are based upon priorities with an understanding that protecting the public from eminent danger is paramount.

The auditor's opening statement referred to a "balanced inspectional effort over all of the entities subject to the board's inspection responsibilities". If numbers have any meaning, which it appears that they do, this would mean that the Board's Chief Compliance Inspector should be specifically assigning "inspections" (the auditors do NOT mention any activity regarding consumer complaint investigations or referrals from other licensing agencies) to attempt to cover 3,500 registrants in the 6 month period.

It is "assumed" that they are referring to inspection numbers on a percentage basis. This is not always possible, given the large geographical areas assigned to the inspectors, the broad scope of their activity, and the time element required. These factors should ALWAYS be directed at the "protection of the health and welfare of the public". This being the case, perhaps responding to complaints, pharmacy inspections (given the increased numbers of pharmacy complaints, robberies and general drug diversion issues) would take precedent over the routine inspection of a dentist office.

Observation No. 8: System To Capture And Report Inspectional Activity Should Be Established

Observation:

The Board does not currently maintain a system to capture and report sufficient data on its inspectional activities to allow for efficient and effective management, monitoring, and reporting of those activities.

The Board employs two full-time compliance investigators (CI) and one part time CI to perform inspections and investigations of all places where drugs, medicines, poisons, or hypodermic devices are held, stored, or offered for sale in New Hampshire. The CIs are generally out of the Board's office performing inspections for the majority of the time, making it difficult for management to monitor their work activity. According to the Chief Investigator, monitoring of CI activity and performance is done occasionally, informally, and for reasonableness through the review of inspection reports and time of log in/out. When auditors attempted to compare hours reported on timesheets to inspection reports submitted to the Chief, it was explained that hours worked were not always supported by inspection reports, as investigators performed other duties in addition to inspections. Assignments are informal, generally on a weekly basis, and by location. That is, while a CI is scheduled to visit a city or town, it is left to the investigators' discretion as to what pharmacies or practitioner's offices are inspected. The Chief CI reported there were no concerns during the six months ended December 31, 2008, that CI work time was not reported accurately on timesheets.

As noted in a table in Observation No. 15, the Board's CIs performed inspections covering 208 of the more than 7,000 licensees of other boards during fiscal year 2008, the most recent complete fiscal year. In addition, the Board reports it also visited each of the approximately 300 in-state pharmacies at least once during that year.

Recommendation:

The Board should establish a system to capture and report its inspectional activities sufficient to effectively monitor and manage those activities. Better documentation of compliance investigator activities would allow the Board to reasonably ensure it is utilizing its inspectional resources in an efficient and effective manner according to the expectations of the Board and the user boards that contribute toward the investigators' services.

The reporting system for the Board's inspectional activities should be sufficient to direct and monitor the performance and results of inspections and investigations and include:

- Periodic inspection schedules, which could help plan for and monitor reasonable coverage of operations subject to inspections,
- Activity report logs, which report information on time worked, nature of the work completed, and locations visited to document inspections performed, and
- Timesheets that report type and duration of investigative activity.

Information in this system would allow for more effective utilization and monitoring of inspectional activities and for reporting of relevant activity to user boards.

Auditee Response:

The Board concurs.

We acknowledge we currently have antiquated software for recording inspections. We are presently in negotiations with the Department of Information Technology to purchase Licensing 2000 software which has inspectional software that is more practical to our needs.

Observation No. 9: Policies And Procedures Should Be Established For Non-Domestic Pharmacy Investigations

Observation:

The Board has not documented its plan and policies and procedures for regulating Internet, mail-order, and other out-of-state (non-domestic) pharmacy activity in New Hampshire. The Board currently relies upon the experience of a retired employee who works on a part-time basis to review and investigate certain non-domestic pharmacy activity as well as perform other inspections.

According to the Board, non-domestic, and particularly Internet, pharmacy activity is difficult to regulate and presents a serious risk and threat to New Hampshire residents who may purchase prescription drugs from unscrupulous non-domestic pharmacies.

As of January 2009, there were approximately 380 non-domestic pharmacies licensed with the Board. Most of these entities conduct business through the Internet. While all licensed pharmacies are subject to inspection by the Board, Board employees generally do not inspect non-domestic pharmacies. The Board relies on the licensure and inspection control activities performed by the governmental regulators in locations where the non-domestic pharmacies reside.

One part-time Board employee has developed expertise in Internet pharmacy investigations and has become primarily responsible for performing these investigations for the Board. This employee performs these investigations based on personal experience and relationships with other investigators and law enforcement units developed over time. The employee performs much of the research on a home computer, further isolating the performance of the investigations from other Board employees. Investigators at the Board agreed that the lack of training and documentation of Internet pharmacy investigative procedures increases the risk the Board would lose its ability to perform effective Internet investigations if this employee were to leave Board service.

Recommendation:

As recommended in Observation No. 7, the Board should establish a plan and appropriate policies and procedures for all of its inspectional activities including the Board's efforts to regulate non-domestic pharmacy activity in New Hampshire.

The Board should immediately establish a plan to document and properly communicate procedures pertaining to Internet pharmacy investigations. The plan should include steps to effect a reasonable transfer of knowledge for Internet investigative activity. Sufficient employee understanding reinforced by appropriate training, policies, and procedures should support all significant Board processes and provide for an improved control environment. The Board should not remain in a condition where it is dependent upon the personal performance of a key employee for the completion of significant but regular Board activity.

Auditee Response:

The Board concurs.

Staffing has been a major obstacle in the non-domestic pharmacy investigations as well as many of the other areas. There is no question that "training" other employees to conduct Internet investigations and provide oversight is an important issue. We will develop a generalized policy and procedures to train Internet investigations, however, a good portion of conducting an Internet investigation and oversight is dependent upon utilizing contacts with other agencies and individuals domiciled in other states. These "contacts" have been developed over a period of years, networking at diversion investigator conferences and other law enforcement training seminars. Although a "list" of these contacts can be made available to the other investigators, they still would have to establish [the contacts] themselves.

In the interim, we have begun training another Compliance Investigator to conduct an Internet investigation.

Providing "oversight" to the registrants domiciled in another state is a challenge. The Board is mandated by law to license pharmacies located in foreign jurisdictions that meet the Board's requirements. The Board has no legal authority to inspect pharmacies in foreign jurisdictions. Therefore, the Board must rely on its counterpart state-sanctioned licensing regulating authority in those jurisdictions.

Finally, with regards to "surfing" from a non-state, home computer vs. the office computer, there is the issue of the "target" identifying the state computer, which happens often and results in a termination of available data. Querying from an "outside" source has a tremendous advantage and there is no confidential data involved. This is just a "Surfing" activity. Therefore, often times, working from the office site is a disadvantage.

We will work with the Department of Justice to determine ways to do this work without utilizing home computers and without compromising investigators' identity.

Observation No. 10: Policies And Procedures Should Be Established For Processing Administrative Fines

Observation:

The Board has not established formal policies and procedures for the assessment, collection, and reporting of administrative fines.

As part of its inspection and investigation activity, the Board may assess administrative fines for pharmacy-related violations and other noncompliance.

The Board was unable to provide an accounting of all fines assessed, including the status of uncollected fines, when requested by the auditors. Board employees reported they presumed the Department of Justice (DOJ) would have that information as the DOJ Administrative Prosecution Unit assists the Board in finalizing settlement agreements with violators and some collections are processed by the DOJ Debt Collections Unit and remitted to the Board.

The Board reported the collection of approximately \$23,700 of administrative fines in the State's accounting system (NHIFS) during the six months ended December 31, 2008. The Board did not have a record of the dollar value of fines assessed during that time. Board minutes reported one settlement agreement during the six-month period for \$10,000, which was collected in February of 2009. A review of case files indicated the Board issued at least two other settlement agreements totaling \$12,000 during the six months ended December 31, 2008.

We also reviewed Board minutes for fiscal year 2008 and noted several settlement agreements with approximately \$245,000 in fines assessed. After further inquiry, it was determined most of the amounts assessed during that year were either collected in full, through payment plans established by the DOJ Debt Collections Unit, or deemed uncollectible. Board employees were not aware of the stipulations or conditions of payment plans established by the DOJ.

Recommendation:

The Board should establish policies and procedures for assessing, recording, collecting, reporting, and monitoring all administrative fines levied by the Board. Once policies and procedures are established, employees should be provided with appropriate training to ensure they are able to competently implement the policies and procedures.

The Board should fully document all settlement agreements and understandings between the Board and violators to ensure the Board is able to monitor compliance with the agreements and fully and accurately collect assessed fines.

The Board should establish a memorandum of understanding with the Department of Justice to clarify roles and responsibilities for collecting and reporting Board-issued administrative fines, including establishing procedures and responsibilities for determining uncollectible accounts.

Auditee Response:

The Board concurs.

The Board does document all settlement agreements and understandings between the Board and violators. All such documents require that any and all administrative fines be paid to the General Fund via ‘Treasurer, State of New Hampshire.’ The Board will work with the various state agencies that assist the Board in enforcing and collecting administrative fines to provide for a consistent accounting of such fines. We will re-establish a tracking log for fines owed/collected, and train employees on the use of it until we have the new Licensing 2000 software, which is being negotiated with the Department of Information Technology.

Observation No. 11: Policies And Procedures For Revenue Recognition Should Be Established

Observation:

The Board has not established policies and procedures for the recognition of Board revenues in compliance with State revenue recognition policies and procedures.

The Board generally recognizes revenue when cash and checks are received and does not consider whether additional revenue should be reported as accrued for accounts receivable or reported revenue reduced, to defer the recognition of revenue collected early to the period to which the revenue applies.

The State’s fiscal year 2008 *Annual Closing Review (Review)* directs agencies to report accounts receivable to the Department of Administrative Services (DAS) on a Form A-34. There is no threshold in the *Review* and all amounts due are to be reported. The *Review* also directs agencies to report deferred revenue to DAS if the total deferred revenue for the agency exceeds \$250,000.

In addition to its importance for State financial reporting purposes, accounting for accounts receivable and deferred revenue can be important to controlled agency operations. Accounts receivable and deferred revenue records are necessary to track and ensure ultimate collection of amounts owed to the agency and also to track amounts collected by the agency that may need to be returned or refunded.

Due to the nature of the Board’s licensing activity, the majority of Board revenue is appropriately recognized and recorded as revenue when received. There are, however, certain Board revenue transactions that require tracking as either accounts receivable or deferred revenue for control purposes.

- As noted in Observation No. 10, the Board does not have a system in place to track and monitor collections on outstanding administrative fines. The Board could not provide the auditors with a full accounting of fines owed to the Board as of December 31, 2008.

- The Board collects and reports first-time pharmacist applicants' fees as revenue at the time of application even though the applicant may take 12 or more months to pass the exam and meet other licensing criteria. The Board reported that on occasion it refunded license fees previously reported as revenue when an applicant decided to withdraw an application prior to taking the pharmacy examination. Because the Board regards the collection of the first-time license fee as a refundable transaction, the revenue from those transactions should be deferred until a license is granted.

The following table provides information on when fees were collected and licenses issued for first-time pharmacist applicants whose payments or licensure were outside the six months ended December 31, 2008 audit period. The information was determined through the auditor's review of Board revenue and licensure records. The Board does not track this information.

Application Submitted And Fee Paid	License Issued			
	During Period		After Period	
	Number	Revenue	Number	Revenue
Prior To Period	42	\$ 11,130	31	\$ 8,215
During Period			29	\$ 7,685

Recommendation:

The Board should review DAS policies and procedures and its current practices and operations and establish appropriate revenue recognition policies and procedures.

- As recommended in Observation No. 10, the Board should establish policies and procedures for recording and reporting administrative fines, including administrative fines that should be recognized as accounts receivable. The Board should use these records to report appropriate amounts to the DAS at fiscal year end as required by the *Review*.
- The Board should establish policies and procedures for processing and recognizing revenue from first-time pharmacist applicants.
 - If the Board decides to continue current practice, which allows refunds if a license is not granted, policies and procedures should be established clearly defining conditions under which fees are to be refunded and the Board should consider deferring this revenue until the license is granted.
 - As an alternative, the Board could consider creating a non-refundable application fee under administrative rules to cover the cost of processing the initial application and record revenue immediately upon receipt.

Auditee Response:

The Board concurs.

The Board will consider and seek legislation to change 'licensing fees' to 'application fees' (which will be non-refundable). As stated in our response to Observation No. 10, the Board will

work with the various state agencies that assist the Board in enforcing and collecting administrative fines to provide for a consistent accounting of such fines.

Observation No. 12: Policies And Procedures For Promoting The Licensing Of Out-Of-State Entities Should Be Established

Observation:

The Board reports it has only limited ability to ensure all individuals and entities subject to its licensure authority are licensed. The Board reports the changing nature of the industry, combined with Board resource limitations, hamper its ability to monitor compliance with applicable statutes and Board rules.

In its regulation of the pharmacy industry, Board investigators perform routine inspections of all in-state pharmacies and initial inspections for other licensed in-state entities upon their start-up. In addition to its inspections, the Board relies upon consumer complaints and other notifications about entities or individuals, which may be operating without a license or otherwise contrary to Board guidelines. The Board does not perform inspections of out-of-state facilities requesting licensing by the Board and instead relies upon the licensing controls in that out-of-state jurisdiction.

As noted in Observation No. 9, a part-time Board employee performs some investigative activity for out-of-state, primarily on-line, pharmacies. That investigative activity is generally ad-hoc in nature and not directed or controlled by formal Board policies and procedures.

- An auditor's cursory review of available information, primarily a review of the Federal Drug Administration and the National Association of Boards of Pharmacy websites, identified 20 unlicensed entities, mostly manufacturers, which appear subject to Board licensure. Board employees agreed it appeared these entities should be licensed with the Board.

Recommendation:

As recommended in Observations Nos. 8 and 9, the Board should establish policies and procedures for its compliance and investigatory operations, including policies and procedures to promote the licensing of out-of-state entities subject to Board license requirements. Given the breadth of the Board's responsibilities and the limits of its resources, the policies and procedures should direct the Board's compliance and investigatory efforts towards the most efficient and effective activities considering the Board's assessment of the risk faced by the State and its citizens.

Auditee Response:

The Board concurs.

The Board concurs that they should be more proactive in evaluating the entities that need to be licensed. Unless there is an increase in resources, an increase in efficiency is unlikely.

The auditing team provided the agency with a list 15 manufacturers and 3 mail order pharmacies that the auditors felt may not be in compliance. Each business was researched by the Board agency to evaluate their compliance status. Three of the companies have under gone corporate mergers into one parent company and will require further investigation as to compliance status. Three companies from the auditors list did need to be licensed and now are in full compliance. The other nine are not required to license based on type of business.

Specifically, there are thousands of Non-Resident / Mail-Order pharmacies selling prescription drugs via the Internet. Many of these do not ship finished product into the state, for which registration is not required. Many of these are “Rogue” sites and do not want to register. Without being able to ascertain which of these are shipping into the state, registration is left to being “voluntary”, a result of a consumer complaint, or as a result of “Surfing” activity.

A similar issue may be applied to Manufacturers, Wholesalers, and Distributors. There are hundreds of them doing business but not all either ship into NH or their product reaches the shelves in NH. Again, we are left to a voluntary licensure or complaints. In the interim, each of the Compliance Investigator’s has been instructed to make note of, during routine inspections, any manufacturer or distributor that may not be licensed. Licensure is then sought out. Of course, there are many “Grey” market distributors that are identified only via inter agency communication.

More formal “Policies and Procedures” alone will not solve this issue as the bottom line is staffing.

Coordinating with other licensing boards in other states is taking place as time and staffing permits. Since there is no central database for any of these licensing activities, one on one contact has been the usual course of action.

Observation No. 13: Procedures For Licensing Applicants Should Be Reviewed

Observation:

The Board only takes limited actions to determine and ensure that applicants comply with New Hampshire licensing criteria prior to issuing licenses to operate in the State.

In general, pharmacy statutes require persons seeking licensure in New Hampshire, whether pharmacy, manufacturer, distributor, wholesaler, or limited retail drug distributor, to furnish satisfactory proof:

- The person, as well as its respective manager officers if the applicant company is incorporated, is of good moral character,
 - The applicant has sufficient land, buildings, and such security equipment so as to properly carry on the business described in its application, and
 - Such person has not been convicted of a violation of any law of the United States, or of any state, relating to drugs and is not a drug-dependent person.
1. The Board generally relies upon applicants to self-report any issues that may prevent licensure. For example, the Board includes a check box on the application to indicate whether an applicant has been convicted of a law violation. If an applicant does not report a violation, the Board generally does not undertake procedures to verify an applicant's violation status. If the out-of-state applicant reports a drug violation has been committed or if the company is resident in one particular state, the application and accompanying documentation is reviewed by an investigator prior to the issuance of a license. The Board does not require any applicants, in-state or out-of-state, to submit to criminal background checks.

For applicants with in-state facilities, Board employees perform primary and, in some cases, secondary inspections to ensure facilities comply with requirements in statute and rule. For applicants with out-of-state facilities, the Board requests proof the entity is licensed in the state of residency and also requests submission of a copy of the latest inspection report performed by any regulatory agency. If the company reports their state of residency does not perform inspections, the Board does not perform additional steps to ensure such companies meet the requirements of sufficient land, building, and security equipment to be able to manufacture, sell, or distribute drug products to New Hampshire citizens.

- Four of 10 applications for out-of-state manufacturer, wholesaler, or distributor licensure and all three out-of-state Limited Retail Drug Distributor license applications selected for testing did not include inspection reports with their applications. Each of these applications were approved for licensure without any documentation of consideration as to whether the applicants complied with Board statutes and rules relative to sufficient land, buildings, and security equipment.

Effective December 2008, the Board requires photographs of out-of-state mail-order pharmacy facilities to provide some evidence of a facility meeting licensure requirements. Photographs are not required for other out-of-state licensees. The Board does not require any certifications of the photographs to establish authenticity.

2. With the exception of applicants from one particular state and applicants that self-report violations, one Board employee routinely licenses out-of-state applicants without an effective review and approval process for that activity.

Recommendation:

The Board should review and revise as appropriate its licensing policies and procedures to make certain the Board can reasonably ensure applicants comply with New Hampshire pharmacy statutes and rules, prior to the Board granting a license to operate in the State.

The Board should require and review evidence supporting an applicant's qualification for licensure, including satisfactory proof of good moral character and lack of drug convictions or drug dependency. The Board should consider requesting copies of official criminal records checks as part of its required licensing documentation.

The Board should require evidence in addition to photographs to establish an applicant's facilities meet the Board's requirement for sufficient land, buildings, and security in the case of out-of-state applicants domiciled in jurisdictions that do not require licensing inspections.

Information sought and received from an applicant to support the issuance of a license should be properly reviewed and considered to ensure the applicant meets all appropriate license criteria. Renewal applications should include all necessary information to ensure licensees continue to meet criteria for holding licenses with the Board.

The Board should implement a review and approval process for all licenses granted to monitor for continued Board compliance with policies, procedures, statutes, and rules.

Auditee Response:

The Board concurs in part.

Without amending its current statutory practice act, the Board of Pharmacy is prohibited from requiring applicants and licensees to provide anything more than a criminal background check from the State of New Hampshire. Such a background check would not provide the Board with sufficient information on most of the applicants/licensees. Moreover, requiring the licensees to self-report includes the threat of perjury for a sworn false statement to a state agency. The legislature of the State of New Hampshire has not seen fit to allow the New Hampshire Board of Medicine to require a federal criminal background check for licensure; moreover, such a statutory amendment would need to be approved by the United States Department of Justice. The Board of Pharmacy is a member of the National Association of Boards of Pharmacy and receives national information about discipline and convictions through this organization.

Additionally, as stated in the response to Observation No. 9, this Board is mandated by law to license pharmacies located in foreign jurisdictions that meet the Board's requirements. The Board has no legal authority to inspect pharmacies in foreign jurisdictions. Therefore, the Board must rely on its counterpart state-sanctioned licensing regulating authority in those jurisdictions. This is a national issue and the National Association of Boards of Pharmacy has developed a process for inspection and certification of Non-Resident mail order pharmacies called VIPS. VIPS is a new certification process that still needs to be locally and nationally adopted.

Should there be prior violations or missing information indicated, they are followed up on. Since these are non-resident licensees and out of state travel prohibited, one must assume that continued licensure in the state of domicile signals compliance, until such time as something untoward is detected.

The Board has now instituted protocols and criteria for its licensing activities.

Observation No. 14: Sanctions For Late License Renewals Should Be Considered

Observation:

Licensed pharmacists who do not renew their licenses timely are required by RSA 318:26 to pay the Board a restoration fee in addition to the annual renewal fee. The Board does not sanction other licensees who do not renew their licenses timely.

Some licensees allow their license to lapse and therefore practice pharmacy or operate a facility without a license. For example:

- The licenses for approximately 121 manufacturers, distributors, brokers, and wholesalers (\$250 per license) were renewed between one to six months after the June 30, 2008 expiration date. The total license fees collected late from these licensees were \$30,250.
- The licenses for seven mail-order pharmacies (\$300 per license) with expiration dates of March 31, 2008 were renewed after June 30, 2008. The total license fees collected late from these licensees were \$1,950 (one licensee was allowed a reduced \$150 fee due to a Board oversight).
- The licenses for approximately 42 pharmacy technicians (\$25 per license) with expiration dates of March 31, 2008 were renewed after June 30, 2008. The total license fees collected late from these licenses were \$1,050.

The lack of Board sanctions for late license renewals may serve as a disincentive for timely license renewals.

Recommendation:

The Board should consider whether it should request a revision to its statutes and rules to clearly allow for financial sanctions for untimely renewal of all Board issued licenses.

Given the regulatory nature of the Board's operations, the Board should require that all licensees remain current in their license status and discourage licensees from operating with expired licenses

Auditee Response:

The Board concurs.

In the past, the Board has tried to adopt administrative rules for penalties and/or late fees for license renewals. The Board has the statutory authority to do so in accordance with RSA 318:5-a, VII. The process for promulgating administrative rules in New Hampshire is tedious, time-consuming, and the process is not user friendly. The Board has not been able to have such rules approved and has been given the reason that the Board needs a statutory change to do so. The Board will continue to try to promulgate such rules in accordance with this audit.

Compliance Comments

Observation No. 15: Agreements For Inspectional Services Should Be Established

Observation:

The Board of Pharmacy (Board) has not entered into agreements required by RSA 318:9-a for providing inspectional services to other State boards.

According to RSA 318:9-a, “For the purpose of providing inspectional services under this chapter and RSA 318-B:25, the pharmacy board shall enter into separate agreements with the board of medicine, the board of veterinary medicine, the board of podiatry, the board of registration in optometry, the board of dental examiners, and the board of nursing providing for each such board to compensate the pharmacy board for such inspectional services. The agreements shall provide for payment based upon a per capita charge for each person registered with each such board as a percentage of the total number of persons subject to inspection under this chapter and RSA 318-B:25. The fees received from agreements under this section shall be deposited with the treasurer as restricted revenue by the pharmacy board, and shall be included in the computation of fees to be established for the following fiscal year.”

While the statute requires the Board to base its charges for inspectional services upon a per capita charge for each person registered, the amounts charged by the Board have been the budgeted amount with no analysis performed by the Board of Pharmacy that the amount billed by the Board is a statutorily accurate amount.

- The Board has not established procedures for determining the amount of inspectional services costs to be recovered from billings of user boards. The Board has billed the user boards the same budgeted amount for inspectional services for several years without regard to the Board’s actual costs incurred in performing inspections.
- The Board has not regularly updated licensee lists from user boards to determine the current number and identities of persons subject to inspection. Without current information, the Board cannot accurately allocate inspectional costs in the manner provided by statute.
- Actual incurred direct costs to perform inspections are tracked by the Board but are not considered in the determination of amounts billed and are not provided to the user boards.
- Basis for the cost tracked in the inspection log is not documented.
- Total cost incurred and tracked for inspections performed is substantially less than amounts billed.
- The Board does not provide user boards with the summaries of inspectional services performed. The user boards are not provided information that would enable the user boards to determine whether the results of the inspections would indicate additional board guidance, rules, policies, or training provided to the licensees would be appropriate.

The following table presents information on the Board’s inspections of user board practitioners for fiscal year 2008, the most recent complete fiscal year.

<u>Board</u>	<u>Licensees</u> <u>Subject To</u> <u>Inspection</u>	<u>2008 Inspections *</u>		<u>2008 Inspectional Services *</u>	
		<u>Locations</u>	<u>Practitioners</u>	<u>Cost</u>	<u>Billed</u>
Medicine	3,761	40	116	\$ 2,514	\$ 78,020
Nursing	1,412	14	23	842	24,050
Dental	1,013	25	37	1,542	22,000
Veterinary	610	19	23	1,155	11,250
Optometry	213	4	8	371	4,100
Podiatry	65	1	1	62	1,325
	<u>7,074</u>	<u>103</u>	<u>208</u>	<u>\$ 6,486</u>	<u>\$ 140,745</u>

*Source: Auditor compiled data from Board Inspection Logs and State integrated financial system.

Recommendation:

The Board must establish inspectional service agreements with the Boards of Medicine, Veterinary Medicine, Podiatry, Registration in Optometry, Dental Examiners, and Nursing as required by RSA 318:9-a.

The agreements should, at a minimum, describe the scope of services to be provided by the Board, the expected nature and form of communication related to inspectional services that will be provided by the Board, and how the costs of the inspectional services will be determined and billed to the user boards.

Auditee Response:

The Board concurs.

The Pharmacy Board will work with Board Counsel and other boards to develop Memorandums of Understanding regarding the inspectional services. The boards will need to work with current RSA to give the Board of Pharmacy the authority to enact rulemaking to set a per capita rate. A change in RSA is also needed to allow the Board to hire additional compliance investigators commensurate with the growing number of licensees permitted to store and dispense pharmaceuticals in this State.

Comment: Staffing shortages combined with an increased work load are the major reasons that have led to the observed diminished services to the other boards. This issue has been brought to the Board on multiple occasions in the past with only marginal improvement.

The auditors observed that there are over 7,000 registrants subject to our oversight. In 1987 we had approximately 3,500 and staff consisted of a Chief Compliance Investigator and two Compliance Investigators. In 2009 (12 years later), the numbers of registrants has nearly doubled and staff in compliance has only increased by one part-time investigator.

Observation No. 16: License Duration Should Not Be Greater Than Statutory Period

Observation:

The Board's current practice is to grant certain licenses for greater than a 12-month period when a new licensee applies for an original license within six weeks of the annual license renewal date. The Board's current practice of granting a license for more than a 12-month period is not provided for in statute or rule.

By statute, all licenses issued by the Board expire annually either on June 30, March 31, or December 31, depending upon the license type. There are no provisions in statute or administrative rule to provide for a license period greater than one year.

The Board's current practice allows licensees, except pharmacists, who apply for a license during the last six weeks of a licensing period to not have to pay a renewal fee at the start of the new license period and, in essence, have a valid license issued for greater than a 12-month period. For example, a drug manufacturer who applies and becomes licensed on June 1 would be granted a 13-month license. The manufacturer's license would expire on June 30 of the following year. This is contrary to the Board's statutes, which state all licenses expire annually and should be renewed upon satisfactory receipt of an application and license fee.

Recommendation:

The Board should consider whether its current practice is in the best interests of the Board and State.

If the Board determines that it wants to continue to grant licenses for greater than a 12-month period, the Board should by statute or rule seek the authority to do so. Pending the receipt of that additional authority, the Board should comply with statute and grant annual licenses.

Auditee Response:

The Board concurs.

The Board concurs that license duration should not be greater than the statutory period. It appears that this policy was adopted by our previous Executive Secretary as a courtesy to those whose application was within a month of the expiration date. We concur that the staff should be instructed to apply the statute in accordance with the licensing periods specified and that it is not in the best interest to deviate.

Observation No. 17: Board Administrative Rules Should Be Reviewed

Observation:

The Board reports its administrative rules need to be updated.

Based on discussions with the Board, certain provisions of its current administrative rules are considered extraneous and are not implemented by the Board. The Board also reports that certain other activities of the Board are not adequately addressed in the administrative rules to reflect the changing nature of the Board's operations. For example:

- License applications reviewed for pharmacies, pharmacy renewals, and pharmacist renewals did not include all the information stated in the applicable administrative rules. For example, Pharmacy applications do not contain requests for all information specified in N.H. Admin. Rules Ph 307.03 and Ph 304.02 such as home address of licensing pharmacist, pharmacy operation hours, hours worked for all pharmacists employed, and approximate value of prescription drug inventory. Renewal applications for pharmacists did not request pharmacist's date of birth and hours worked per week as specified in N.H. Admin. Rule Ph 401.02. Board employees reported that this information did not seem necessary in order to license with the Board.
- N.H. Admin. Rule Ph 600 for limited retail drug distributors should more clearly describe provisions related to limited retail drug distributors of medical gases and medical devices. Per review of the rules and confirmation by Board employees, rules for such operations are not sufficient and comprehensive. The Board has treated these operations similar to its treatment of wholesale distributors, as these companies operate in essentially the same manner, the only significant difference being retail versus wholesale customers. Currently, administrative rules for limited retail drug distributors mostly address rules applicable to public health clinics, and methadone facility operations.
- The Board stated the requirements for the licensing and regulation of brokers are not currently very clear, as the administrative rules do not clearly address the activity of a broker and the licensing criteria that should be applied to brokers. N.H. Admin. Rule Ph 701.02 (c), mentions "broker" as a type of "distributor" and the Board has been applying the rules for distributors to the regulation of brokers. However, administrative rules for distributors appear to refer primarily to entities having access to prescription drugs, when brokers typically do not have access to drug products. Therefore, it appears that applying rules for distributors for broker licensing may not appropriately consider the activity of a broker.

Recommendation:

The Board should review its administrative rules to ensure rules that are in effect adequately address all licensing activity as required by RSA 318:5-a (Board rulemaking authority). The administrative rules should be sufficiently explicit to implement, interpret, and make specific all relevant statutes enforced and administered by the Board and to allow the public and regulated organizations to interpret agency policies, procedures, and practices binding on persons outside the Board.

Auditee Response:

The Board concurs.

The process for updating administrative rules in New Hampshire is tedious, time-consuming, and the process is not user friendly. The Board has worked diligently to update its administrative rules and will continue to do so within the constraints specified in Observation No. 6.

Observation No. 18: Authority To License International Entities Should Be Clarified

Observation:

The Board has expressed concerns regarding its authority and responsibility for licensing international entities.

During the six months ended December 31, 2008, two international firms applied for and were granted licenses by the Board. While the Board reported it had licensed other international companies in the past, the request to issue licenses to the two international drug manufacturers raised Board concerns as to its scope of authority for issuing licenses.

The Board reported statutes, administrative rules, and Board policies and procedures do not clearly address the licensing of international entities.

Recommendation:

The Board should clarify its responsibility for licensing international entities. The Board should consult with the Department of Justice to determine whether current statute provides the Board direction and authority to license international entities. The Board should also confer with the Boards in other states and relevant national associations to determine common practice.

Based upon the results of those efforts, the Board should determine whether changes to statutes and/or administrative rules should be requested.

The Board should establish policies and procedures to assist Board employees to properly address requests for licensure from international entities in a manner consistent with the Board's statutory direction and authority.

Auditee Response:

We concur that the Board should clarify the responsibility for licensing International entities. The Board will confer with NABP (National Association of Boards of Pharmacy) and some other state boards to see if we should pursue changes to statutes or rules to accommodate these entities. We are not allowed by law to license international entities. Any observations of international entities having been licensed were licensed in error and will be appropriately addressed.

Observation No. 19: Biennial Report Should Be Filed

Observation:

The Board has not filed biennial reports required by RSA 20:7 and 318:11.

RSA 20:7 requires specific agencies to file annual reports and all other agencies and institutions of the State to file biennial reports. In addition, RSA 318:11 specifically requires the Board of Pharmacy to “file with the governor and council, on or before December 1 biennially, a report upon the condition of pharmacy in the state and containing a record of their acts and proceedings.”

According to the Board, it was unaware of the statutory reporting requirements.

Recommendation:

The Board should file biennial reports in compliance with the reporting requirements in RSA 20:7 and RSA 318:11.

The Board should review and coordinate its reporting efforts with the Department of Administrative Services to ensure the Board prepares and submits biennial reports that are compliant with the statute and Governor and Council guidelines.

Auditee Response:

The Board concurs.

We will communicate with the Department of Administrative Services and report to the Governor and Council as required in RSA 20:7 and RSA 318:11. The Board will file a report biennially starting 2009 and every odd year thereafter.

Independent Auditor's Report

To The Fiscal Committee Of The General Court:

We have audited the accompanying Statement of Revenues and Expenditures, General Fund, of the New Hampshire Board of Pharmacy (Board) for the six months ended December 31, 2008. This financial statement is the responsibility of the management of the Board. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statement of the Board is intended to present certain financial activity of only that portion of the State of New Hampshire that is attributable to the transactions of the Board. The Statement of Revenues and Expenditures, General Fund, does not purport to and does not constitute a complete financial presentation of either the Board or the State of New Hampshire in conformity with accounting principles generally accepted in the United States of America.

In our opinion, except for the matter discussed in the third paragraph, the financial statement referred to above presents fairly, in all material respects, certain financial activity of the Board for the six months ended December 31, 2008, in conformity with accounting principles generally accepted in the United States of America.

Our audit was conducted for the purpose of forming an opinion on the Statement of Revenues and Expenditures, General Fund, of the Board. The supplementary information, as identified in the table of contents, is presented for purposes of additional analysis and is not a required part of the financial statement. Such information has been subjected to the auditing procedures applied in the audit of the financial statement. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the financial statement taken as a whole.

In accordance with *Government Auditing Standards*, we have also issued a report dated June 8, 2009 on our consideration of the Board's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, rules, regulations, contracts, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Office Of Legislative Budget Assistant

June 8, 2009

**STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY
STATEMENT OF REVENUES AND EXPENDITURES - GENERAL FUND
FOR THE SIX MONTHS ENDED DECEMBER 31, 2008**

Revenues

Unrestricted Revenues

Pharmacy License Fees	\$ 341,754
Manufacturer-Distributor-Broker License Fees	49,900
Pharmacist License Fees	<u>18,470</u>

Total Unrestricted Revenues **410,124**

Restricted Revenues

Inspectional Services	<u>140,745</u>
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Total Restricted Revenues **140,745**

Total Revenues **550,869**

Expenditures

Salaries And Benefits	332,462
Current Expenses	19,106
Rents And Leases Other Than State	15,453
Legal Services - DOJ	10,135
In State Travel	5,394
Information Technology Services - DoIT	1,351
Consultants	1,035
Organizational Dues	450
Equipment	<u>279</u>

Total Expenditures **385,665**

Excess (Deficiency) Of Total Revenues

Over (Under) Expenditures **165,204**

Other Financing Sources (Uses)

Net General Fund Appropriations <i>(Note 2)</i>	<u>244,920</u>
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Total Other Financing Sources (Uses) **244,920**

Excess (Deficiency) Of Total Revenues And

Other Financing Sources Over (Under)

Expenditures And Other Financing Uses **\$ 410,124**

The accompanying notes are an integral part of this financial statement.

**STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY**

NOTES TO THE FINANCIAL STATEMENT
FOR THE SIX MONTHS ENDED DECEMBER 31, 2008

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accompanying financial statement of the New Hampshire Board of Pharmacy has been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) and as prescribed by the Governmental Accounting Standards Board (GASB), which is the primary standard-setting body for establishing governmental accounting and financial reporting principles.

A. Financial Reporting Entity

The New Hampshire Board of Pharmacy (Board) is an organization of the primary government of the State of New Hampshire. The accompanying financial statement reports certain financial activity of the Board.

The financial activity of the Board is accounted for and reported in the General Fund in the State of New Hampshire's Comprehensive Annual Financial Report (CAFR). Assets, liabilities, and fund balances are reported by fund for the State as a whole in the CAFR. The Board, as a department of the primary government, accounts for only a small portion of the General Fund and those assets, liabilities, and fund balances as reported in the CAFR that are attributable to the Board cannot be determined. Accordingly, the accompanying Statement of Revenues and Expenditures, General Fund, is not intended to show the financial position or fund balance of the New Hampshire Board of Pharmacy in the General Fund.

B. Financial Statement Presentation

The State of New Hampshire and the Board use funds to report on their financial position and the results of their operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities. A fund is a separate accounting entity with a self-balancing set of accounts. The Board reports its financial activity in the fund described below.

Governmental Fund Type:

General Fund: The General Fund is the State's primary operating fund and accounts for all financial transactions not specifically accounted for in any other fund. All revenues of governmental funds, other than certain designated revenues, are credited to the General Fund. Annual expenditures that are not allocated by law to other funds are charged to the General Fund.

C. Measurement Focus And Basis Of Accounting

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay the liabilities of the current period. For this purpose, except for federal grants, the State generally considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, expenditures related to debt service, compensated absences, and claims and judgments are recorded only when payment is due.

D. Budget Control And Reporting

General Budget Policies

The statutes of the State of New Hampshire require the Governor to submit a biennial budget to the Legislature for adoption. This budget, which includes a separate budget for each year of the biennium, consists of three parts: Part I is the Governor's program for meeting all expenditure needs and estimating revenues. There is no constitutional or statutory requirement that the Governor propose, or that the Legislature adopt, a budget that does not resort to borrowing. Part II is a detailed breakdown of the budget at the department level for appropriations to meet the expenditure needs of the government. Part III consists of draft appropriation bills for the appropriations made in the proposed budget.

The operating budget is prepared principally on a modified cash basis and adopted for the governmental and proprietary fund types, with the exception of the Capital Projects Fund. The Capital Projects Fund budget represents individual projects that extend over several fiscal years. Since the Capital Projects Fund comprises appropriations for multi-year projects, it is not included in the budget and actual comparison schedule in the State of New Hampshire CAFR. Fiduciary Funds are not budgeted.

In addition to the enacted biennial operating budget, the Governor may submit to the Legislature supplemental budget requests necessary to meet expenditures during the current biennium. Budgetary control is at the department level. In accordance with RSA 9:16-a, notwithstanding any other provision of law, every department is authorized to transfer funds within and among all program appropriation units within said department, provided any transfer of \$2,500 or more shall require prior approval of the Joint Legislative Fiscal Committee and the Governor and Council.

Both the Executive and Legislative Branches of government maintain additional fiscal control procedures. The Executive Branch, represented by the Commissioner of the Department of Administrative Services, is directed to continually monitor the State's financial operations, needs, and resources, and to maintain an integrated financial accounting system. The Legislative Branch, represented by the Joint Legislative Fiscal Committee, the Joint Legislative Capital Budget Overview Committee, and the Office of Legislative Budget Assistant, monitors compliance with the budget and the effectiveness of budgeted programs.

Unexpended balances of appropriations lapse at year-end to undesignated fund balance unless they have been encumbered or legally defined as non-lapsing, which means the balances are reported as reservation of fund balance. The balance of unexpended encumbrances is brought forward into the next fiscal year. Capital Projects Fund unencumbered appropriations lapse in two years unless extended or designated as non-lapsing by law.

Contracts and purchasing commitments are recorded as encumbrances when the contract or purchase order is executed. Upon receipt of goods or services, the encumbrance is liquidated and the expenditure and liability are recorded. The Board's unliquidated encumbrance balance in the General Fund at December 31, 2008 was \$24,322.

A Budget To Actual Schedule, General Fund, is included as supplementary information.

NOTE 2 - NET GENERAL FUND APPROPRIATIONS

Net General Fund appropriations reflect appropriations for expenditures in excess of restricted revenues.

NOTE 3 - EMPLOYEE BENEFIT PLANS

New Hampshire Retirement System

The New Hampshire Board of Pharmacy, as an organization of the State government, participates in the New Hampshire Retirement System (Plan). The Plan is a contributory defined-benefit plan and covers all full-time employees of the Board. The Plan qualifies as a tax-exempt organization under Sections 401 (a) and 501 (a) of the Internal Revenue Code. RSA 100-A established the Plan and the contribution requirements. The Plan, which is a cost-sharing, multiple-employer Public Employees Retirement System (PERS), is divided into two membership groups. Group I consists of State and local employees and teachers. Group II consists of firefighters and police officers. All assets are in a single trust and are available to pay retirement benefits to all members.

Group I members at age 60 qualify for a normal service retirement allowance based on years of creditable service and average final compensation (AFC). The yearly pension amount is 1/60 (1.67%) of AFC multiplied by years of creditable service. AFC is defined as the average of the three highest salary years. At age 65, the yearly pension amount is recalculated at 1/66 (1.5%) of AFC multiplied by years of creditable service. Members in service with ten or more years of creditable service who are between ages 50 and 60 or members in service with at least 20 or more years of service, whose combination of age and service is 70 or more, are entitled to a retirement allowance with appropriate graduated reduction based on years of creditable service.

Group II members who are age 60, or members who are at least age 45 with at least 20 years of creditable service can receive a retirement allowance at a rate of 2.5% of AFC for each year of creditable service, not to exceed 40 years.

All covered Board employees are members of Group I.

Members of both groups may qualify for vested deferred allowances, disability allowances, and death benefit allowances subject to meeting various eligibility requirements. Benefits are based on AFC or earnable compensation, service, or both.

The Plan is financed by contributions from the members, the State and local employers, and investment earnings. During the six months ended December 31, 2008, Group I members were required to contribute 5% and Group II members were required to contribute 9.3% of gross earnings. The State funds 100% of the employer cost for all of the Board's employees enrolled in the Plan. The annual contribution required to cover any normal cost beyond the employee contribution is determined every two years based on the Plan's actuary.

The Board's payments for normal contributions for the six months ended December 31, 2008 amounted to 8.74% of the covered payroll for its Group I employees. The Board's normal contributions for the six months ended December 31, 2008 were \$20,260.

A special account was established by RSA 100-A:16, II (h) for additional benefits. During fiscal year 2007, legislation was passed that permits the transfer of assets into the special account for earnings in excess of 10.5% as long as the actuary determines the funded ratio of the retirement system to be at least 85%. If the funded ratio of the system is less than 85%, no assets will be transferred to the special account.

The New Hampshire Retirement System issues a publicly available financial report that may be obtained by writing to them at 54 Regional Drive, Concord, NH 03301 or from their web site at <http://www.nhrs.org>.

Other Postemployment Benefits

In addition to providing pension benefits, RSA 21-I:30 specifies that the State provide certain health care benefits for retired employees and their spouses within the limits of the funds appropriated at each legislative session. These benefits include group hospitalization, hospital medical care, and surgical care. Substantially all of the State's employees who were hired on or before June 30, 2003 and have 10 years of service, may become eligible for these benefits if they reach normal retirement age while working for the State and receive their pensions on a periodic basis rather than a lump sum. During fiscal year 2004, legislation was passed that requires State Group I employees hired after July 1, 2003 to have 20 years of State service in order to qualify for health insurance benefits. These and similar benefits for active employees are authorized by RSA 21-I:30 and provided through the Employee and Retiree Benefit Risk Management Fund, which is the State's self-insurance fund implemented in October 2003 for active State employees and retirees. The State recognizes the cost of providing these benefits on a pay-as-you-go basis by paying actuarially determined contributions into the fund. The New Hampshire Retirement System's medical premium subsidy program for Group I and Group II employees also contributes to the fund.

The cost of the health benefits for the Board's retired employees and spouses is a budgeted amount paid from an appropriation made to the administrative organization of the New Hampshire Retirement System and is not included in the Board's financial statement.

The State Legislature currently plans to only partially fund (on a pay-as-you-go basis) the annual required contribution (ARC), an actuarially determined rate in accordance with the parameters of Governmental Accounting Standard Board (GASB) Statement No. 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities over a period not to exceed 30 years. The ARC and contributions are reported for the State as a whole and are not separately reported for the Board.

**STATE OF NEW HAMPSHIRE-BOARD OF PHARMACY
BUDGET TO ACTUAL SCHEDULE - GENERAL FUND
FOR THE SIX MONTHS ENDED DECEMBER 31, 2008**

	<u>Original Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>
<u>Revenues</u>			
Unrestricted Revenues			
Pharmacy License Fees	\$ 500,000	\$ 341,754	\$ (158,246)
Manufacturer-Distributor-Broker License Fees	200,000	49,900	(150,100)
Pharmacist License Fees	<u>40,000</u>	<u>18,470</u>	<u>(21,530)</u>
Total Unrestricted Revenues	<u>740,000</u>	<u>410,124</u>	<u>(329,876)</u>
Restricted Revenues			
Inspectional Services	140,745	140,745	-0-
Impaired Pharmacist Program	<u>6,500</u>	<u>-0-</u>	<u>(6,500)</u>
Total Restricted Revenues	<u>147,245</u>	<u>140,745</u>	<u>(6,500)</u>
Total Revenues	<u>887,245</u>	<u>550,869</u>	<u>(336,376)</u>
<u>Expenditures</u>			
Salaries And Benefits	566,377	332,462	233,915
Current Expenses	42,000	19,106	22,894
Rents And Leases Other Than State	36,000	15,453	20,547
Legal Services - DOJ	19,991	10,135	9,856
In State Travel	28,000	5,394	22,606
Information Technology Services - DoIT	6,935	1,351	5,584
Consultants	100	1,035	(935)
Organizational Dues	2,000	450	1,550
Equipment	30,000	279	29,721
Impaired Pharmacist Program	<u>6,500</u>	<u>-0-</u>	<u>6,500</u>
Total Expenditures	<u>737,903</u>	<u>385,665</u>	<u>352,238</u>
Excess (Deficiency) Of Total Revenues			
Over (Under) Expenditures	<u>149,342</u>	<u>165,204</u>	<u>15,862</u>
Other Financing Sources (Uses)			
Net General Fund Appropriations <i>(Note 2)</i>	<u>590,658</u>	<u>244,920</u>	<u>(345,738)</u>
Total Other Financing Sources (Uses)	<u>590,658</u>	<u>244,920</u>	<u>(345,738)</u>
Excess (Deficiency) Of Total Revenues And			
Other Financing Sources Over (Under)			
Expenditures And Other Financing Uses	<u>\$ 740,000</u>	<u>\$ 410,124</u>	<u>\$ (329,876)</u>

The accompanying notes are an integral part of this schedule.

Notes To The Budget To Actual Schedule - General Fund For The Six Months Ended December 31, 2008

Note 1 - General Budget Policies

The statutes of the State of New Hampshire require the Governor to submit a biennial budget to the Legislature for adoption. This budget, which includes annual budgets for each year of the biennium, consists of three parts: Part I is the Governor's program for meeting all expenditure needs as well as estimating revenues to be received. There is no constitutional or statutory requirement that the Governor propose, or the Legislature adopt, a budget that does not resort to borrowing. Part II is a detailed breakdown of the budget at the department level for appropriations to meet the expenditure needs of the government. Part III consists of draft appropriation bills for the appropriations made in the proposed budget.

The operating budget is prepared principally on a modified cash basis and adopted for the governmental and proprietary fund types with the exception of the Capital Projects Fund.

The New Hampshire biennial budget is composed of the initial operating budget, supplemented by additional appropriations. These additional appropriations and estimated revenues from various sources are authorized by Governor and Council action, annual session laws, and existing statutes which require appropriations under certain circumstances.

The budget, as reported in the Budget To Actual Schedule, reports the initial operating budget for fiscal year 2009 as passed by the Legislature in Chapter 262, Laws of 2007.

Budgetary control is at the department level. In accordance with RSA 9:16-a, notwithstanding any other provision of law, every department is authorized to transfer funds within and among all program appropriation units within said department, provided any transfer of \$2,500 or more shall require approval of the Joint Legislative Fiscal Committee and the Governor and Council. Additional fiscal control procedures are maintained by both the Executive and Legislative Branches of government. The Executive Branch, represented by the Commissioner of the Department of Administrative Services, is directed to continually monitor the State's financial system. The Legislative Branch, represented by the Joint Legislative Fiscal Committee, the Joint Legislative Capital Budget Overview Committee, and the Office of Legislative Budget Assistant, monitors compliance with the budget and the effectiveness of budgeted programs.

Unexpended balances of appropriations at year-end will lapse to undesignated fund balance and be available for future appropriations unless they have been encumbered or are legally defined as non-lapsing accounts.

Variances - Favorable/(Unfavorable)

The variance column on the Budget To Actual Schedule highlights differences between the original operating budget and the actual revenues and expenditures for the six months ended December 31, 2008. Actual revenues exceeding budget or actual expenditures being less than

budget generate a favorable variance. Actual revenues being less than budget or actual expenditures exceeding budget cause an unfavorable variance.

Unfavorable variances are expected for revenues and favorable variances are expected for expenditures when comparing six months of actual revenues and expenditures to an annual budget.

Note 2 - Net General Fund Appropriations

Net General Fund appropriations reflect appropriations for expenditures in excess of restricted revenues.

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APPENDIX – GENERAL COMMENTS FROM BOARD OF PHARMACY

STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY
57 Regional Drive
Concord, NH 03301-8518



General Comments LBA Board of Pharmacy Audit

This year has been especially trying for the board. During this time they were forced to deal with the unexpected retirement of the two most senior directors of the agency, the Executive Secretary and Chief Compliance Officer. With their retirement the board lost over 50 years of agency experience.

The extreme financial crisis precipitated a series of state government mandates which affected the board's ability to recruit replacements, maintain communication with professional organizations, upgrade technology, and implement essential training. The excessive paper work required to replace personnel affected productivity of both full time and volunteer staff.

During the audit period the business manager performed two critical roles. He was required to elevate his workload to handle the executive secretary / director's job and still keep pace with his own responsibilities.

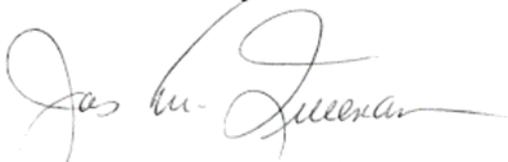
President George L. Bowersox, R.Ph. Hudson	Vice President Ronald L. Petrin, R.Ph. Bedford	Secretary (<i>Public Member</i>) Sandra B. Keans Rochester	Treasurer Kristina Genovese, R.Ph. East Swanzey	Member Charles J. Fanaras, R.Ph. Bow	Member Vahrij Manoukian, R.Ph. Hollis
	Executive Secretary / Director James M. Queenan, R.Ph., M.B.A.			Chief Compliance Investigator Margaret A. Clifford, R.Ph.	

Telephone: (603) 271-2350 ♦ Fax: (603) 271-2856
Website: www.nh.gov/pharmacy ♦ E-Mail: pharmacy.board@nh.gov

The board feels that the staffing model may need to be adjusted to meet current work loads. The auditors offer all kinds of observations and make recommendations which are based upon the board having enough staff to implement all the recommendations. A good portion of the "recommendations" refer to the establishment of "Policies & Procedures" for a multitude of issues. In order to be effective there would need to be enough knowledgeable staff, resources and time to create and implement these policies and procedures.

The auditors have done an admirable job trying to understand and analyze the activity of this agency. It would be very naïve to believe that anyone without a pharmacy background could fully comprehend the tasks, challenges and mission of the board in such a short period of time.

Furthermore, based upon the auditor's comments, it would appear that the new Executive Secretary will have a full time job just developing administrative policies and arranging internal procedures in such a way as to comply with the recommendations. This is a great opportunity for DHHS to which we are linked to offer a leadership role.

A handwritten signature in cursive script, appearing to read "James M. Queenan".

James M. Queenan R.Ph.
Executive Secretary / Director
FOR THE BOARD