

**BOARD OF MEDICAL EXAMINERS' COMMITTEE ON  
PHYSICIAN ASSISTANTS  
SEPTEMBER 1996**

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September 3, 1996

The Honorable John S. Wilder  
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The Honorable Joe Haynes, Chair  
Senate Committee on Government Operations  
The Honorable Mike Kernell, Chair  
House Committee on Government Operations  
and  
Members of the General Assembly  
State Capitol  
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the performance audit of the Board of Medical Examiners' Committee on Physician Assistants. This audit was conducted pursuant to the requirements of Section 4-29-111, *Tennessee Code Annotated*, the Tennessee Governmental Entity Review Law.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the Committee on Physician Assistants should be continued, abolished, or restructured.

Very truly yours,

W. R. Snodgrass  
Comptroller of the Treasury

WRS/tp  
96-026

# Audit Highlights

Comptroller of the Treasury

Division of State Audit

Performance Audit

**Board of Medical Examiners' Committee on Physician Assistants**

September 1996

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## AUDIT OBJECTIVES

The objectives of the audit were to review the committee's legislative mandate and the extent to which the committee and the Division of Health Related Boards have carried out that mandate efficiently and effectively, and to make recommendations that might result in more efficient and effective regulation of physician assistants.

## FINDINGS

### **Physicians' Supervision of Physician Assistants Is Not Monitored**

Neither the Committee on Physician Assistants, the Board of Medical Examiners, nor the Primary Health Care Centers Advisory Board monitors the quality and extent of the physician's supervision of the physician assistant. Currently, this supervision is not reviewed unless there is a complaint concerning the physician assistant and/or the supervising physician. Without some type of monitoring, the public has little assurance that physician assistants are being supervised in accordance with statutes and rules and regulations (page 7).

### **Complaint Handling Needs to Be More Timely**

Handling complaints concerning physician assistants was a lengthy process in some cases, taking from 29 to 644 days for the closed cases reviewed. The open cases reviewed had already been in process from 105 to 640 days at the time of review. Delays in investigating complaints and prosecuting cases lessen the effectiveness of the enforcement process. Because certified physician assistants can continue to practice while their cases are being prosecuted, timely enforcement is important in protecting the public's health and safety. Lengthy investigations and prosecutions may also adversely affect the lives and careers of the physician assistants. Finally, the longer the process takes, the greater the chance that critical evidence or witnesses may no longer be available, affecting the outcome of the case (page 11).

### **The Payment of Monetary Fines Is Not Effectively Monitored**

Two of the five individuals who were assessed monetary fines between June 1993 and December 1995 never paid the fines—\$1,000 in one case, \$41,000 (to be suspended upon payment of \$2,500) in the other. The files contained no evidence that reminder letters were sent or that the information was forwarded to the Office of General Counsel so the collection process could begin. The state loses revenues, and the Division of Health Related Boards loses a part of its disciplinary effectiveness, when individuals are assessed fines and the fines are not paid or delinquent payments are not monitored (page 15).

### **Not All Expired Certificates Have Been Administratively Revoked in a Timely Manner**

As of January 1996, the committee had not administratively revoked the certificates of 61 persons whose certificates expired between December 1988 and December 1992. Committee staff indicated that most of these individuals are probably practicing out of state and are not a potential hazard to the citizens of Tennessee. However, some of these persons may have continued to practice in Tennessee with expired certificates (page 16).

### **The Committee Does Not Monitor the Expiration of Temporary Permits**

Although the committee has developed procedures to monitor the expiration of physician assistants' certificates, committee staff do not systematically monitor the expiration of temporary permits. The physician assistant is responsible for knowing when the temporary permit expires and renewing the permit if applicable. Without some monitoring system for temporary permits, the committee has little assurance that physician assistants are not practicing on expired temporary permits and that they have met all conditions necessary to maintain the permits (page 17).

### **The Board's Approval of Physician Assistant Certifications Is Not Documented**

The checklists for the 40 certification applications approved in 1995 did not contain a Board of Medical Examiner member's signature or initials to indicate final approval for certification. Eleven of the checklists did not indicate the date the board had approved the application (page 19).

## **OBSERVATIONS AND COMMENTS**

The audit also discusses the following issues that affect the regulation of physician assistants: the role of the Committee on Physician Assistants, the need for procedures to monitor continuing medical education, the need for a conflict-of-interest disclosure form, and the decrease (and expected elimination of) the committee's deficit (page 4).

## **ISSUE FOR LEGISLATIVE CONSIDERATION**

The General Assembly may wish to consider the costs and benefits of monitoring physicians' supervision of physician assistants and to clarify the extent and type of monitoring it believes appropriate (page 10).

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"Audit Highlights" is a summary of the audit report. To obtain the complete audit report which contains all findings, recommendations, and management comments, please contact

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PERFORMANCE AUDIT  
BOARD OF MEDICAL EXAMINERS' COMMITTEE ON PHYSICIAN ASSISTANTS

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PERFORMANCE AUDIT  
BOARD OF MEDICAL EXAMINERS' COMMITTEE ON PHYSICIAN ASSISTANTS

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INTRODUCTION

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**PURPOSE AND AUTHORITY FOR THE AUDIT**

This performance audit of the Board of Medical Examiners' Committee on Physician Assistants was conducted pursuant to the Tennessee Governmental Entity Review Law, *Tennessee Code Annotated*, Title 4, Chapter 29. Under Section 4-29-218, the committee is scheduled to terminate June 30, 1997. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the committee and to report to the Joint Government Operations Committee of the General Assembly. The performance audit is intended to aid the committee in determining whether the Committee on Physician Assistants should be abolished, continued, or restructured.

**OBJECTIVES OF THE AUDIT**

The objectives of the audit of the Board of Medical Examiners' Committee on Physician Assistants were

1. to determine the authority and responsibility mandated to the committee;
2. to determine the extent to which the committee has fulfilled its legislative mandate and has complied with applicable laws and regulations;
3. to evaluate the efficiency and effectiveness of the committee and the Division of Health Related Boards in regulating the physician assistant profession; and
4. to develop recommendations, as needed, for administrative and legislative action which might result in more efficient and/or more effective regulation of the physician assistant profession.

**SCOPE AND METHODOLOGY OF THE AUDIT**

The committee's activities and procedures were reviewed, focusing on procedures and conditions in effect at the time of field work (November 1995 through January 1996). The audit was conducted in accordance with generally accepted government auditing standards and included

1. review of applicable legislation and rules and regulations;

2. examination of prior performance audit and financial and compliance audit reports;
3. examination of Board of Medical Examiners and Committee on Physician Assistants meeting minutes, a Department of Health internal audit of the Board of Medical Examiners, contested cases heard by the Board of Medical Examiners or the Committee on Physician Assistants, investigation files related to physician assistants, physician assistant application files, physician assistant individual computer files and account files, and physician assistant applications for recertification;
4. interviews with the committee members, the Associate Administrator of the Board of Medical Examiners, the Administrative Assistant of the Committee on Physician Assistants, the manager of the Investigation section of the Health Related Boards, the Assistant General Counsel for the Health Related Boards, personnel in the Bureau of Manpower and Facilities, the chairman of the Board of Medical Examiners, and staff to the Primary Health Care Centers Advisory Board; and
5. review of information concerning the physician assistant training program from Trevecca Nazarene College and the American Academy of Physician Assistants.

## **ORGANIZATION AND STATUTORY DUTIES**

### Authority and Responsibility

The Committee on Physician Assistants was created by Chapter 376 of the Public Acts of 1985, codified as *Tennessee Code Annotated*, Section 63-19-101 et seq. Established as a committee of the Board of Medical Examiners, its purpose is to assist the board in regulating physician assistants (including orthopedic physician assistants). The Board of Medical Examiners must approve all the committee's decisions. The Division of Health Related Boards provides administrative, fiscal, inspection, and secretarial services to the committee, and the department's Office of General Counsel provides legal assistance.

The following duties have been assigned to the Committee on Physician Assistants:

1. Promulgate, in accordance with the provisions of the Uniform Administrative Procedures Act, all rules reasonably necessary for the performance of the duties of physician assistants.
2. Set fees, subject to the maximum limitations prescribed, for the examination, certification, and certification renewal of physician assistants in an amount sufficient to pay all the committee's expenses as well as all the board's expenses resulting from the regulation of physician assistants.

3. Review and approve or reject the qualifications of each applicant for initial certification as a physician assistant.
4. Biennially review and approve or reject the qualifications of each applicant for biennial certification renewal.
5. Issue, in the board's name, all approved physician assistant certificates and renewals.
6. Collect or receive all fees, fines, and money owed and pay the same into the state's general fund.
7. Deny, suspend, or revoke the certificate of, or otherwise discipline by a fine (not to exceed \$500), or by reprimand, a certificate holder who is guilty of violating statutes or board rules.

The committee's actions shall only be effective after adoption by a majority vote of the committee's members and after adoption by a majority vote of the board's members at the next administrative board meeting.

### Organization

The committee consists of six members appointed by the Governor, each a resident of this state and each a physician assistant (one orthopedic physician assistant) who meets the criteria for certification. In addition to the required six members, a public member serves on the committee. Each appointment is for a term of four years. No member shall serve more than two consecutive four-year terms, and each member shall serve on the committee until a successor is appointed. In making appointments to the committee, the Governor is to strive to ensure that at least one committee member is 60 years of age or older and that at least one committee member is from a racial minority. Committee members receive a \$50 per diem and compensation for travel expenses (in accordance with the State of Tennessee's Comprehensive Travel Regulations). The committee elects a chairperson and secretary from among its members at the first meeting held in each fiscal year. A committee meeting may be called on reasonable notice at the discretion of the chairperson and at any time on reasonable notice by a petition of three committee members to the chairperson.

### Physician Assistant Profession

A physician assistant is a skilled health practitioner qualified by academic and clinical experience to provide a broad range of medical services under the direction and supervision of a licensed physician. As of January 12, 1996, Tennessee had 239 individuals who were certified and actively practicing full-time as physician assistants. An additional 36 persons were certified but were practicing part-time, were not practicing, or had not reported their status.

## OBSERVATIONS AND COMMENTS

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The issues discussed below did not warrant findings, but were included in this report because of their potential impact on the regulation of physician assistants in Tennessee.

### **The Role of the Committee on Physician Assistants**

According to Section 63-19-103(a), *Tennessee Code Annotated*, the Committee on Physician Assistants was created to assist the Board of Medical Examiners. However, the extent of assistance the committee actually provides appears to be limited by the statutes and by some overlap in the review of applications. In order to efficiently regulate physician assistants, it is important that the board and the committee and their staffs coordinate activities and that the committee's expertise be used whenever possible.

The committee is responsible for promulgating rules to regulate the physician assistant profession, setting fees, reviewing and approving or rejecting certification and recertification applications, and conducting disciplinary hearings. However, the statutes require that the Board of Medical Examiners review all committee decisions for final approval. In addition, the board (rather than the committee) has sole responsibility for temporary permit applications and conducts the majority of disciplinary hearings.

The committee and the board both have review responsibilities for certification applications. The review of applications for certification or temporary permits begins with the committee's administrator, who combines all the required documents and prepares the applicant's file for review. Because the committee meets only quarterly, approval of a certification application may take as long as three months. The medical director for the Bureau of Manpower and Facilities is responsible for reviewing and approving (for the board) the applications for temporary permits. The medical director also reviews some applications for certification (e.g., out-of-state applications and problem applications) after the committee approves the application and before the application goes before the Board of Medical Examiners. The board, which meets almost monthly, does not require very much meeting time to review the applications, according to the board's associate administrator. It is very rare for the board to send an application back to the committee for more information or to deny an application the committee has recommended for ratification.

From January 1993 to December 1995, the Board of Medical Examiners conducted four of the five disciplinary hearings involving physician assistants or individuals practicing as physician assistants. Three of the five hearings involved individuals practicing as physician assistants without valid certificates in the State of Tennessee. Although one of these hearings was conducted by the Committee on Physician Assistants, the committee's legal counsel stated that the board should also have conducted that hearing because the individual did not have a valid certificate (and, therefore, was not under the committee's jurisdiction). The two other hearings

involved individuals who had valid certificates to practice, but were conducted by the board because the individuals were charged with practicing medicine without a license.

### **Procedures Needed for Monitoring Continuing Medical Education.**

*Tennessee Code Annotated*, Section 63-19-104(a)(4), requires that all applicants for recertification as a physician assistant successfully complete 100 hours of continuing medical education during a two-year period. This requirement only became effective in March 1995, and as of December 1995 the committee had not developed a formal method of monitoring the physician assistants' continuing education.

The committee might consider requiring individuals to provide a list of courses taken and maintaining documentation of the courses for random audits by the committee. (This method is used by the Board of Accountancy.) The committee might also consider having the individual submit a copy of the documentation to the committee when reapplying for certification and placing the documentation in the individual's active file. (This method is used by the Board of Pharmacy.) The second option would not require random audits since physician assistants would send documentation directly to the administrator of the Committee on Physician Assistants. The committee would then need to review the documentation to determine whether the courses taken met the qualifications to be considered as continuing medical education.

### **Conflict-of-Interest Disclosure Form Needed**

The committee is made up of physician assistants, the people whom the committee is designed to regulate. The Committee on Physician Assistants' Rule 0880-3-.19(6) states that any committee member having an immediate personal, private, or financial interest in any matter pending before the committee must disclose the fact in writing and not vote on such matter. However, the disclosure process could be improved if committee members completed disclosure statements at the beginning of their terms and updated those statements regularly as part of the public record.

Nothing came to the auditor's attention during this audit to indicate that committee members were influenced by personal or professional conflicts of interest. However, without a means of identifying potential conflicts of interest and discussing and resolving them before they have an impact on decisions, committee members could be subject to questions concerning impartiality and independence.

### **Committee's Deficit Decreasing**

*Tennessee Code Annotated*, Section 4-29-121, requires that each health-related board, commission, or entity collect fees sufficient to pay its cost of operation. However, there was a question whether the committee was a separate fiscal entity (rather than a part of the Board of Medical Examiners) and, thus, subject to the requirement. By the time the committee was determined to be a separate entity, it had accumulated a substantial deficit. The Committee on

Physician Assistants increased fees significantly in October 1993 and as of June 30, 1995, had almost eliminated the deficit (see Exhibit 1).

The committee had \$50,178 in revenue for the period July 1, 1995, to March 31, 1996, prompting the Fiscal Officer for the Bureau of Manpower and Facilities, Department of Health, to anticipate a surplus by June 30, 1996.

Exhibit 1

COMMITTEE ON PHYSICIAN ASSISTANTS  
Financial Reports - Summary of Revenues and Expenses

	Fiscal Year		
	1993	1994	1995
Total Revenues	\$23,388	\$30,465	\$67,155
Expenses			
Direct	\$8,379	\$5,686	\$7,532
Indirect	\$16,869	\$24,701	\$27,425
Total Expenses	<u>\$25,248</u>	<u>\$30,387</u>	<u>\$34,957</u>
Current Year Net	(\$1,860)	\$78	\$32,198
Cumulative Carry-Over	(\$31,476)	(\$33,336)	(\$33,258)
Balance as of June 30	<u>(\$33,336)</u>	<u>(\$33,258)</u>	<u>(\$1,060)</u>

Direct Costs

Indirect Costs

Salaries	Administration
Travel	Investigations
Printing	Office of General Counsel
Communication	Revenue Control
Maintenance	Support Staff
Professional Services	
Supplies	
Rent	
Vehicle	
Grants	
Equipment	

Source: Division of Health Related Boards, Department of Health.

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## FINDINGS AND RECOMMENDATIONS

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### PHYSICIANS' SUPERVISION OF PHYSICIAN ASSISTANTS IS NOT MONITORED

1. FINDING:

Neither the Committee on Physician Assistants, the Board of Medical Examiners, nor the Primary Health Care Centers Advisory Board monitors the physician's supervision of the physician assistant. At this time, the quality and extent of the licensed physician's supervision is not reviewed unless there is a complaint concerning the physician assistant and/or the licensed physician. According to *Tennessee Code Annotated*, Section 63-19-106(a),

A physician assistant is authorized to perform selected medical services only under the supervision of a licensed physician. (1) Supervision requires active and continuous overview of the physician assistant's activities to ensure that the physician's directions and advice are in fact implemented, but does not require the continuous and constant physical presence of the supervising physician. The supervising physician shall, however, make a personal review of historical, physical and therapeutic data on all patients and their condition, and so certify by signature in a timely manner.

The rules and regulations further specify that an appropriate degree of supervision includes personal and regular (at least weekly) review of all patient records by the supervising physician, as indicated by the physician's signature/initials.

*Tennessee Code Annotated*, Section 63-19-107(2), states that after a physician assistant has practiced at least one year after graduation from an accredited physician assistant program, a supervising physician may delegate authority to prescribe drugs. A physician assistant delegated that authority must file notice with the Primary Health Care Centers Advisory Board listing his or her name; the name of the licensed physician having supervision of, control over, and responsibility for prescriptive services rendered by the physician assistant; and a copy of the formulary describing the categories of leg-end drugs the physician assistant will be prescribing and/or issuing. Section 63-19-107 also states that

the prescriptive practices of physician assistants, and the supervision by physicians under whom such physician as-

sistants are rendering service, shall be monitored by the Primary [Health] Care [Centers] Advisory Board . . . “Monitor” does not include the regulation of the practice of medicine or the regulation of the practice of a physician assistant, but may include site visits by members of the Primary [Health] Care [Centers] Advisory Board.

The Primary Health Care Centers Advisory Board does review the formularies to ensure the physician assistant is not prescribing controlled substances. However, staff stated that the board does not have the personnel or resources to monitor the physician’s supervision of the physician assistant.

The lack of monitoring could lead to potential problems in the medical profession. Physician assistants could perform activities beyond their scope of duties and responsibilities (written protocol). In addition, the public cannot be assured that physician assistants are properly supervised according to the statutes and rules and regulations without some type of regulatory follow-up to monitor the licensed physician and physician assistant. (See Exhibit 2 for an example of improper supervision.) As of February 1, 1996, there were two open complaints that involved unsupervised physician assistants.

RECOMMENDATION:

The Board of Medical Examiners, the Committee on Physician Assistants, and the Primary Health Care Centers Advisory Board and their staff should work together to develop a process for monitoring the physicians’ supervision of physician assistants. The monitoring process should include some site visits and file reviews to determine if the physician is supervising the physician assistant as required by statutes and the committee’s rules and regulations.

MANAGEMENT’S COMMENTS:

Department of Health:

While we concur that there is no routine monitoring of the supervision for physician assistants, we also recognize that this responsibility has not been given to the Board of Medical Examiners, Committee on Physician Assistants or Primary Health Care Advisory Board. The physician supervising the physician assistants assumes responsibility for this practice arrangement when he/she delegates certain duties and responsibilities within a protocol. There is no routine monitoring of physicians’ offices whether they supervise a physician assistant or not. Investigations occur only in response to complaints.

**EXHIBIT 2  
COMMITTEE ON PHYSICIAN ASSISTANTS**

## **Improper Supervision of Physician Assistant**

The case involved the improper supervision of a physician assistant by the primary physician and an alternate supervising physician. The Board of Medical Examiners conducted a hearing in October 1994.

### **Situation:**

The physician assistant was working in a free-standing clinic, and the supervising physician's review consisted primarily of initialing daily progress notes and therapeutic data on the patients. According to the records reviewed by the Department of Health, the physician assistant was providing new patient examination, diagnosis, and treatment as well as follow-up care regardless of the existing medical conditions. The supervising physician did not personally review the patient and his/her problem. When the primary supervising physician temporarily left the country, the alternate supervising physician did not supervise the physician assistant's activities. The physician assistant, in many instances, modified or did not follow the written protocol, even when the diagnosed condition was contained in the protocol. The physician assistant on numerous occasions called in or dispensed medications without any prior or timely contact or consultation with the supervising physician concerning the patient's condition.

### **Results:**

The Board of Medical Examiners found the physician assistant guilty of practicing medicine without a license and assessed a \$5,000 penalty. Actions were also taken against other parties. The alternate supervising physician was found guilty of unprofessional, dishonorable, or unethical conduct by the Board of Medical Examiners in April 1994 and was assessed 15 type B civil penalties and fined \$5,040. The primary supervising physician was ordered by the Osteopathic Examiners Board to surrender his license to practice in November 1995. This physician was also found guilty of 21 felony counts (including mail fraud, racketeering, and racketeering conspiracy) in the U.S. District Court, Eastern District of Kentucky.

Source: Division of Health Related Boards' files.

Committee on Physician Assistants:

We concur with this finding. However, there does not exist a precedent within any of the health professions for a monitoring process for compliance with rules and regulations. It is the role of the Primary Care Advisory Board to function as the monitoring body for both physician assistants and nurse practitioners in a limited capacity. The legislation which established this role is new and thus the process of establishing a mechanism of monitoring is currently evolving. However, their board, like the Committee on Physician Assistants, is composed of appointed volunteer individuals from across the state and a minimal full-time staff with limited financial resources. Neither the committee nor the Primary Care Advisory Board has the man-power or resources to undertake a site monitoring program. The Primary Care Advisory Board has recently sent a survey dealing with all aspects of supervision to all physicians using physician assistants and nurse practitioners. It is my understanding that the survey will be utilized to determine if a need exists for a more comprehensive monitoring program.

Tennessee's history of using physician assistants over the past 20 years has not borne out the audit conclusion that a lack of monitoring could lead to potential problems in the medical profession. Exhibit 2 in the audit is the only case that we are aware of in the recent past involving violation of supervision requirements that has resulted in major disciplinary action. While complaints may be filed in the category of improper supervision due to the broadness of the category, the lack of cases in which charges are filed would not support the audit conclusion of public risk in this area.

AUDITORS' COMMENT:

Our discussions with Department of Health and committee representatives raised questions about the legislative intent concerning monitoring. Therefore, the General Assembly may wish to consider the costs and benefits of monitoring and to clarify the extent and type of monitoring it believes appropriate.

## COMPLAINT HANDLING NEEDS TO BE MORE TIMELY

### 2. FINDING:

Handling complaints concerning physician assistants was a lengthy process in some cases, taking from 29 to 644 days for the closed cases reviewed. The open cases reviewed had already been in process from 105 to 640 days at the time of review.

The Division of State Audit reviewed all complaints against physician assistants or individuals practicing as physician assistants opened for investigation from January 1, 1994, to December 7, 1995. The 24 cases reviewed consisted of 13 closed cases, 7 open cases assigned to the Investigations Section, and 4 cases that had been sent to the Office of General Counsel.

Delays in investigating complaints and prosecuting cases lessen the effectiveness of the enforcement process. Because certified physician assistants can continue to practice while their cases are being processed, timely enforcement is important in protecting the public's health and safety. Lengthy investigations and prosecutions may also adversely affect the lives and careers of health practitioners. Finally, the longer the process takes, the greater the chance that critical evidence or witnesses may no longer be available, affecting the outcome of the case.

#### Enforcement Process

The enforcement process implemented by the Department of Health consists of two primary components—an investigation by the Division of Health Related Boards and action by the Office of General Counsel to either prosecute the case, negotiate a settlement, or close the case without prosecution. When the Investigations Section receives a complaint, the manager decides whether to refer the complaint to another agency (i.e., Division of Consumer Affairs) or to give the complaint to the investigators or physician assistant consultant to review. The consultant will decide whether to open the case for investigation or close the case. (See Exhibit 3 for a flowchart of the investigation process.)

When the investigation is completed, the consultant will review the complaint file and decide whether to submit the case to the Office of General Counsel or close the case. According to the Manager of Investigations, an average investigation could take up to 241 days, about eight months, to complete. This figure was based on staff estimates because the division did not have established time guidelines for investigating complaints.

The prosecution phase consists of all activity from the time a case is referred to the Office of General Counsel until it is closed. After receiving the written investigations report, the physician assistant consultant and the Office of General Counsel determine whether a case requires legal action or should be closed without prosecution. The Office



of General Counsel has developed time frames to serve as the standard operating procedure for all legal matters referred to the Office of General Counsel. Time frames vary based on the complexity level assigned to each case.

### Investigations

Closed Cases. Six of the 13 cases reviewed (46%) exceeded the 241-day average time to complete an investigation by 17 to 403 days. Five of the cases were considered high priority; one was medium priority. Three of the six cases exceeded the 241-day average by 188 days or more. Two of these three cases resulted in warning letters to the physician assistant. The third case was sent to the Office of General Counsel—the committee eventually accepted the retirement of the physician assistant’s certificate and notified him that any attempt to reactivate his certificate would be denied until the charges were answered.

Open Cases: Seven cases were being investigated at the time of the file review. Six of the seven open cases had already exceeded the 241-day average time standard by 4 to 376 days (excess days were 4, 14, 180, 247, 350, and 376).

### Office of General Counsel

Closed Cases. Only one of the 13 closed cases had been sent to the Office of General Counsel. That case, which was listed as a high priority, was with the Office of General Counsel for 146 days before it was closed.

Open Cases. The file review included four open cases that had been sent to the Office of General Counsel (OGC). The cases had been with OGC for 225 to 382 days. Two of the three cases were classified as a priority ten (the highest priority level) and a complexity code two (moderate complexity). According to the schedule, the two cases should have been closed within 300 days of the Office of General Counsel’s receiving the cases. As of February 20, 1996, the two cases had been with the Office of General Counsel for 382 days. The two cases are companion cases involving two physician assistants and one licensed physician. The licensed physician was issued a warning letter on June 2, 1994, and his case was closed. However, the cases of the two physician assistants are still open. The third case was shifted from a high priority to a low priority because the individual is no longer in Tennessee, but the case has not been closed and the individual is now practicing as a physician assistant in Michigan. The fourth case is presently being negotiated for an informal settlement.

### RECOMMENDATION:

The Health Related Boards Investigations Section should develop written procedures for classifying complaints when cases are opened. This classification should be based on a conceptual framework, including the potential harm to the public and the

number of related complaints received against the individual. Specific time guidelines for each classification should be developed to encourage a rapid resolution of complaints without endangering the public's safety and welfare. The guidelines should be used as part of a tracking system to monitor timely completion of investigations.

The Office of General Counsel should review its guidelines to ensure that they promote timely resolution of cases, particularly high-priority cases. OGC should then evaluate its current methods for processing cases and take steps to close cases within the guidelines.

#### MANAGEMENT'S COMMENTS:

##### Department of Health:

We concur. Ongoing efforts are being made to correct this finding. Management responsibility for the Investigations Section has recently been moved from Health Related Boards to the Office of Audit and Investigations. Staff within Audit and Investigations have training and experience in conducting investigations and record audits and will be valuable resources to investigations staff. They will be able to provide immediate technical consultation and back-up support. In addition, there are established procedures in Audit and Investigations for assigning, prioritizing, and tracking complaint investigations. An established mechanism is also in place for maintaining time and activity records which can be used for tracking expenditures by each board to ensure accurate billing for investigative services to the appropriate profession. Efforts are also being made in the Office of General Counsel to expedite the legal portion of the process including developing a computerized case tracking system. It is too early to determine if the complaint-handling process will be expedited by these changes. However, the department is monitoring this area very closely and is willing to implement additional changes to improve the situation.

##### Committee on Physician Assistants:

We concur with this finding. This item will be referred to the Health Related Boards Investigations and the Office of General Counsel for resolution. I met with the acting Director of Investigations on June 7, 1996, and also with Attorney Bob Kraemer of OGC on the same date with regard to these issues of timely review, investigation, and resolution of complaints. The problem has improved considerably over the past two years; however, the primary focus of delay from both offices appears to be inadequate staffing to resolve these issues in a timely manner.

## THE PAYMENT OF MONETARY FINES IS NOT EFFECTIVELY MONITORED

### 3. FINDING:

Five individuals were assessed monetary fines from June 1993 to December 1995. Three of the individuals paid the assessed fine as required by the Board of Medical Examiners. Two individuals (40%) did not pay the assessed penalty. In one case, the individual was assessed a fine of \$41,000 (eighty-two \$500 fines), to be suspended upon payment of \$2,500. The individual never paid the \$2,500. In the other case, the individual was assessed a fine of \$1,000, which was never paid. Neither individual was certified as a physician assistant in Tennessee.

Health Related Boards staff are responsible for monitoring penalty payments and sending reminder letters if payment is not received. After the third reminder letter, staff should forward the information to the Office of General Counsel (OGC) so the collection process can begin. However, for the two cases described above, the information was not sent to OGC, and there is no evidence that reminder letters were sent. The state loses revenues and the Division of Health Related Boards loses a part of its disciplinary effectiveness when individuals are assessed fines and the fines are not paid or delinquent payments are not monitored.

### RECOMMENDATION:

Staff of the Health Related Boards should monitor the disciplinary accounts monthly and make an effort to contact individuals who are delinquent in making scheduled payments. The Division of Health Related Boards and the Office of General Counsel should develop and follow procedures for taking action against individuals who fail to pay assessed penalties.

### MANAGEMENT'S COMMENTS:

#### Department of Health:

We concur. The Division of Health Related Boards has just completed a procedure manual concerning the tracking of disciplinary actions and follow-up activities required by these actions. Each board administrator will establish a "tickler file" to be used in determining when monetary fines are due. Each administrator will process those which are paid and will work with the Office of General Counsel to determine what needs to be done to those who do not comply.

Committee on Physician Assistants:

We concur with this finding. We also agree with the audit's recommendations and this issue will be placed on the agenda of the next committee meeting on September 6, 1996, for discussion and development of an appropriate monitoring plan.

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NOT ALL EXPIRED CERTIFICATES HAVE BEEN ADMINISTRATIVELY  
REVOKED IN A TIMELY MANNER

4. FINDING:

As of January 1996, the committee had not administratively revoked the certificates of 61 persons whose certificates expired between December 1988 and December 1992: 11 expired in December 1988; 20, in December 1990; 14, in December 1991; and 16, in December 1992. The committee's administrative assistant stated that most of the individuals are probably practicing out of state and are not a potential hazard to the citizens of Tennessee. However, some of these persons may have continued to practice in Tennessee with expired certificates.

The committee's legal counsel has informed the administrative assistant that the committee must give the individuals an opportunity to renew their expired certificates before they can be administratively revoked by the committee. However, according to staff, locating the individuals and sending the final renewal letters (necessary before revocation can proceed) is a low priority.

RECOMMENDATION:

The committee should attempt to locate the 61 persons with expired certificates and complete the process to administratively revoke their certification.

MANAGEMENT'S COMMENTS:

Department's of Health:

We concur. At the time of this audit, expired certificates had not been administratively revoked. Since January 1996, due process has been carried out to alert all those physician assistants whose certificates had expired and had not been reinstated that their certificates were being administratively revoked by the committee. This action was taken in June 1996, and these decisions were ratified by the Board of Medical Examiners in July 1996.

Committee on Physician Assistants:

We concur with this finding but have resolved this issue. Each of the individuals in question has been issued a certified letter as per the recommendations of General Counsel allowing them due process. The 30-day time period to respond has elapsed and all expired certificates were administratively revoked by vote of the committee on June 7, 1996. In addition, all expired certificates since January 1, 1996, are now monitored and administratively revoked in a timely manner.

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THE COMMITTEE DOES NOT MONITOR THE  
EXPIRATION OF TEMPORARY PERMITS

5. FINDING:

Although the Committee on Physician Assistants has developed procedures to monitor the certificate date of expiration (see Exhibit 4), committee staff do not systematically monitor the expiration of temporary permits. The physician assistant is responsible for knowing when the temporary permit expires and renewing the permit if applicable.

Temporary permits are issued for two reasons:

- An individual who has completed the physician assistant training and graduated from an accredited program but has not taken or passed the physician assistant examination may receive a temporary permit for 15 months and may renew for an additional 12 months.
- An individual certified as a physician assistant in another state may receive a nonrenewable temporary permit to practice for six months while applying for certification in Tennessee.

For those persons attempting to pass the examination, committee rules state that a temporary permit expires if the person fails to take each scheduled examination (until successful completion). However, no one monitors whether the physician assistant has taken the examination as required to maintain the temporary permit. Without some monitoring system for temporary permits, the committee has little assurance that the physician assistants are not practicing on expired temporary permits and that they have met all conditions necessary to maintain the permits.



RECOMMENDATION:

Staff of the Committee on Physician Assistants should develop a method to track the status of temporary permits, especially the expiration date and any conditions attached to the permits. Staff should then notify physician assistants and supervising physicians if the permit expires or conditions are not met.

MANAGEMENT'S COMMENTS:

Department of Health:

We concur in part. While it is true the computer system was not "set-up" to monitor expiration dates of temporary permits, there is a process in place for monitoring these dates via a labeling system of paper files. The number of pending applications for physician assistants, including those working on temporary permits, currently numbers about 21. This is a reasonable number for an administrator to monitor by reviewing the files each month to determine if the permits are still current or about to expire and notifying the permit holder prior to expiration of the permit.

It is anticipated that changes to the computer system concerning this finding will be made within the next year which will allow this process to be automated.

Committee on Physician Assistants:

We concur with this finding. This item will be placed on the agenda for the next scheduled committee meeting September 6, 1996. A plan for monitoring temporary permits will be discussed and implemented in conjunction with the committee staff as recommended in the audit report.

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THE BOARD'S APPROVAL OF PHYSICIAN ASSISTANT CERTIFICATIONS IS  
NOT DOCUMENTED IN THE FILES

6. FINDING:

A Department of Health internal audit of the Board of Medical Examiners for the year ended December 31, 1994, found that 50 percent of the physician assistant application files reviewed were missing a board member's signature or other indication of approval to issue a certificate. This same weakness was identified during a Division of State Audit review of the 40 certification applications the board approved in 1995. As part of the review, each file's application checklist (used by staff to track items required for certification) was examined. All 40 checklists were missing a board member's signa-

ture or initials to indicate final approval for certification. Eleven of the 40 checklists (27%) did not indicate the date the board had approved the application for certification. When a board member's signature or initials and the date of the application's approval are missing, there may be doubts about whether the board has approved an individual to practice as a physician assistant.

RECOMMENDATION:

Staff of the Committee on Physician Assistants should ensure that final approvals of physician assistant certifications by the Board of Medical Examiners are documented in the files. Documentation should include the date of approval and a board member's signature or initials.

MANAGEMENT'S COMMENTS:

Department of Health:

We concur. The date of ratification of the certificate by the Board of Medical Examiners will now be recorded in each certificate holder's file.

Committee on Physician Assistants:

We concur with this finding. At this time board approval of physician assistant applications is documented in the minutes of the board meeting. Beginning August 1, 1996, documentation of board approval of all applicant files will be made on the application checklist by a board member or consultant per the audit's recommendation.

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## RECOMMENDATIONS

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### **LEGISLATIVE**

This performance audit identified an area in which the General Assembly may wish to consider statutory changes to improve the regulation of physician assistants.

1. The General Assembly may wish to consider the costs and benefits of monitoring physicians' supervision of physician assistants, and clarify the extent and type of monitoring it believes appropriate.

### **ADMINISTRATIVE**

The Board of Medical Examiners' Committee on Physician Assistants and the Department of Health should address the following areas to improve the regulation of physician assistants.

1. The Board of Medical Examiners, the Committee on Physician Assistants, and the Primary Health Care Centers Advisory Board and their staff should work together to develop a process for monitoring the physician's supervision of physician assistants. The monitoring process should include some site visits and file re-views to determine if the physician is supervising the physician assistant as re-quired by statute and the committee's rules and regulations.
2. The Health Related Boards' Investigations Section should develop written procedures for classifying complaints when cases are opened. This classification should be based on a conceptual framework, including the potential harm to the public and the number of related complaints against the individual. Specific time guidelines for each classification should be developed to encourage a rapid resolution of complaints without endangering the public's safety and welfare. The guidelines should be used as part of a tracking system to monitor timely completion of investigations.
3. The Office of General Counsel should review its guidelines to ensure that they promote timely resolution of cases, particularly high-priority cases. The office should then evaluate its current methods for processing cases and take steps to close cases within the guidelines.
4. Staff of the Health Related Boards should monitor the disciplinary accounts monthly and make an effort to contact individuals who are delinquent in making scheduled payments. The Division of Health Related Boards and the Office of

General Counsel should develop and follow procedures for taking action against individuals who fail to pay assessed penalties.

5. The committee should attempt to locate the 61 persons with expired certificates and complete the process to administratively revoke their certification.
6. Staff of the Committee on Physician Assistants should develop a method to track the status of temporary permits, especially the expiration date and any conditions attached to the permits. Staff should then notify physician assistants and supervising physicians if the permit expires or conditions are not met.
7. Staff of the Committee on Physician Assistants should ensure that final approvals of physician assistant certifications by the Board of Medical Examiners are documented in the files. Documentation should include the date of approval and a board member's signature or initials.

