Audit Report

Medical and Chirurgical Faculty of Maryland
Physician Rehabilitation and
Peer Review Activities Programs

January 2002

Office of Legislative Audits
Department of Legislative Services
Maryland General Assembly
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January 11, 2002

Senator Nathaniel J. McFadden, Co-Chair, Joint Audit Committee
Delegate Samuel I. Rosenberg, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Physician Rehabilitation and Peer Review Activities Programs of the Medical and Chirurgical Faculty of Maryland (Faculty) for the period beginning January 1, 1999 and ending December 31, 2000.

The primary objectives of this audit were to evaluate internal control over the Programs’ major financial related applications (for example, cash receipts and disbursements) and to review the Programs’ expenditures and compliance with applicable laws, rules and regulations. Our audit did not disclose any findings that warrant mention in this report.

We also conducted a follow-up review on a prior performance audit finding pertaining to certain peer review activities. Our review again disclosed that the Faculty’s investigations of complaints against physicians were generally not completed timely. This condition has been commented upon in our audit reports dating back to 1994.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor
Background Information

Organization and General Information

The Health Occupations Article, Section 14-402(e) of the Annotated Code of Maryland, requires that the State Board of Physician Quality Assurance (Board) assess each applicant for a license (or renewal) to practice medicine, a fee not to exceed $50. The fee is forwarded to the Medical and Chirurgical Faculty of Maryland (Faculty), a nonprofit, tax-exempt association representing Maryland physicians, to fund its Physician Rehabilitation and Peer Review Activities Programs. In addition, the aforementioned law provides that the Legislative Auditor shall biennially audit the accounts and transactions of the Programs.

The Physician Rehabilitation Program functions under the direction of the Physician Rehabilitation Committee, which the Faculty established in 1978. The Program’s purpose is to identify physicians who suffer from impairments (for example, physical illness or substance abuse) which would prevent them from practicing medicine with reasonable skill and safety, assess their condition, and refer them to appropriate treatment and support, and monitor their recovery. The Program also helps educate physicians on the issues and causes of these physician impairments.

The Peer Review Activities Program is authorized under the Health Occupations Article, Section 14-401 of the Annotated Code of Maryland. Although by law the Board has the authority to license and discipline physicians in Maryland, the law requires that the Board refer to the Faculty for review any allegation involving standards of medical care or gross over-utilization of health care services.

The Faculty engages an independent certified public accounting firm to perform audits of its financial statements. In its audit report dated March 27, 2001, applicable to the fiscal years ended December 31, 2000 and 1999, the firm stated that the Faculty’s financial statements presented fairly, in all material respects, its financial position, the changes in its net assets and its cash flows for the years then ended in conformity with generally accepted accounting principles. According to the Faculty’s financial statements, expenditure activity related to the Physician Rehabilitation and Peer Review Activities Programs collectively accounted for approximately 11% and 10% of the Faculty’s total expenditures for fiscal years 2000 and 1999, respectively.
### Financial Information

The following is a summary of the revenues and expenditures based on the Faculty's records for the Physician Rehabilitation and Peer Review Activities Programs for the years ended December 31, 2000 and 1999. This summary is not intended to and does not provide the financial position and results of operations in accordance with generally accepted accounting principles. Specifically, certain financial statements and disclosures (for example, balance sheet, summary of significant accounting policies) have not been provided as required by generally accepted accounting principles.

<table>
<thead>
<tr>
<th></th>
<th>For The Year Ended</th>
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<tbody>
<tr>
<td></td>
<td>December 31, 2000</td>
</tr>
<tr>
<td><strong>Revenues:</strong></td>
<td></td>
</tr>
<tr>
<td>License fees (1)</td>
<td>$ 630,250</td>
</tr>
<tr>
<td>Other revenues</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td>$ 630,250</td>
</tr>
<tr>
<td><strong>Expenditures:</strong></td>
<td></td>
</tr>
<tr>
<td>Physician Rehabilitation Program</td>
<td>$ 354,231</td>
</tr>
<tr>
<td>Peer Review Activities Program</td>
<td>$ 204,460</td>
</tr>
<tr>
<td><strong>Total Expenditures</strong></td>
<td>$ 558,691</td>
</tr>
<tr>
<td><strong>Excess (Deficiency) of Revenues Over Expenditures</strong></td>
<td>$ 71,559</td>
</tr>
</tbody>
</table>

(1) Physicians license renewals are staggered alphabetically, which results in a fluctuation of license revenue.

Calendar year 2000 represents the first time since 1993 that the Programs’ annual revenues exceeded expenditures. In preceding years, the Faculty funded expenditures that exceeded available revenues.
Current Status of Findings from Preceding Audit Report

Our audit included a review to determine the current status of the one prior performance audit finding included in our preceding audit report dated September 14, 1999. We determined that the prior performance item was not resolved and, therefore it is repeated in this report.

Findings and Recommendations

Performance Audit Follow-up

Background Information

The Faculty’s Peer Review Activities Program is authorized under the Health Occupations Article, Section 14-401 of the Annotated Code of Maryland. The law states that unless the Board grants an extension, the Faculty is required to report the results of an investigation relating to an allegation involving medical care to the Board within 90 days after the allegation was referred.

In our 1994 audit report, we reported the results of our performance audit on the efficiency and effectiveness of the Peer Review Activities Program. Although certain findings in that report were resolved, our preceding report dated September 14, 1999 again commented upon the lack of timely investigations of complaints against physicians. During our current audit, we conducted a follow-up review on the Faculty’s efforts to resolve this issue.

Current Status of Unresolved Finding

<table>
<thead>
<tr>
<th>Current Status (Issue #1)</th>
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<tr>
<td>Investigations of complaints made against physicians were still not completed in a timely manner.</td>
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</tbody>
</table>

Prior Report

In our preceding audit report we recommended that the Faculty continue to monitor the time taken to complete peer reviews (investigations of complaints). We also recommended that the Faculty, in conjunction with the Board, take the appropriate action necessary to significantly improve the timeliness of such reviews.
Follow-up Analysis
Effective June 1999, the Faculty and the Board revised their formal procedures with the aim of improving the timeliness of peer reviews. Under these revised procedures, the Board is now responsible for subpoenaing the respondent and related health care records, copying the records and delivering them to the parties conducting the investigation under the Program. However, we again noted that the time it took the Faculty to complete investigations of complaints made against physicians was still significantly above the 90-day standard established in State law. Based on the Faculty's records of 119 investigations that it received during the period from January 1, 1999 through June 30, 2001, and completed prior to September 30, 2001, we noted the following:

<table>
<thead>
<tr>
<th></th>
<th>Calendar Year</th>
<th>01/01/01 to 06/30/01</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1999</td>
<td>2000</td>
</tr>
<tr>
<td>Cases Completed Within 90 days</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Cases Completed Beyond 90 days</td>
<td>44</td>
<td>43</td>
</tr>
<tr>
<td>Total Cases Completed</td>
<td>48</td>
<td>52</td>
</tr>
<tr>
<td>Average Days to Complete a Case</td>
<td>237</td>
<td>167</td>
</tr>
</tbody>
</table>

These test results suggest that some improvement has been made since our last follow-up review. Specifically, in our preceding audit report, we noted that for 22 investigations we reviewed, the reviews took an average of 194 days to complete. Nevertheless, the time to complete more recent investigations still significantly exceeded the 90-day legal requirements. Finally, it should be noted that although the Faculty routinely obtained time extensions from the Board, physicians are allowed to continue practicing pending the results of the investigation.

Recommendation (Issue #1)
We again recommend that the Faculty continue to monitor the time taken to complete peer reviews. Furthermore, we again recommend that the Faculty, in conjunction with the Board, take the appropriate action necessary to improve the timeliness of such reviews.

Audit Scope, Objectives and Methodology

We have audited the Physician Rehabilitation and Peer Review Activities Programs of the Medical and Chirurgical Faculty of Maryland for the period beginning January 1, 1999 and ending December 31, 2000. The audit was conducted in accordance with generally accepted government auditing standards.
The Health Occupations Article, Section 14-402(e) of the Annotated Code of Maryland, provides that the Secretary of the Department of Health and Mental Hygiene shall have approval authority over the use of certain fees that are collected by the State Board of Physician Quality Assurance and are transferred to the Faculty to fund the Programs. Additionally, the law provides that the Legislative Auditor shall biennially audit the accounts and transactions of the Programs.

The primary objectives of this audit were to evaluate internal control over the Program’s major financial related applications (for example, cash receipts and disbursements) and to review the Programs’ expenditures and compliance with applicable laws, rules and regulations. We also determined the status of the prior performance audit finding pertaining to certain peer review activities.

In planning and conducting our audit, we focused on the major financial related areas of the Programs based on assessments of materiality and risk. Our audit procedures included inquiries of appropriate personnel, inspection of documents and records, and observation of the Programs’ operations. We also tested transactions and performed such other auditing procedures as we considered necessary in the circumstances to achieve our objectives.

The Faculty’s management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities that are functioning properly.
Our audit did not disclose any internal control deficiencies that warrant mention in this report. However, our follow-up review disclosed that the prior performance audit finding related to an instance of noncompliance with State law, had not been resolved and, therefore, has been repeated in this report.

The Faculty’s response to our finding and recommendation is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Faculty regarding the results of our review of its response.
APPENDIX

January 10, 2002

Hand Delivery & Via e-mail

Bruce A. Myers, CPA, Legislative Auditor
Department of Legislative Services
Office of Legislative Audits
301 W. Preston Street, Room 1202
Baltimore, Maryland 21201

Re: Audit Report on MedChi Physician Rehabilitation & Peer Review Programs

Dear Mr. Myers:

Thank you for the opportunity to comment on the draft audit report on MedChi Physician Rehabilitation & Peer Review Programs, dated January 2002. On behalf of MedChi's membership and staff, I also wish to express our appreciation for the professionalism and courtesy of your audit team, Kenneth Barton and Gregory Hook.

Regarding the financial information at page 4 of the draft report, which notes that combined program revenues exceeded expenditures for the first time since 1993, MedChi anticipates that it will again incur expenses that exceed revenue in the current calendar year and in succeeding years, based upon case volume. As we noted in our presentations to the House and Senate committees regarding the BPQA Sunset Review, peer review case referrals to MedChi dropped to their lowest levels ever in calendar years 1999 and 2000, then spiked back up to near-record levels in 2001. (Attached is a graph depicting our recent case volume history, which was part of those presentations.) MedChi has hired two additional full-time peer review professionals to address the higher case volume, and in addition, we have begun to pay a nominal stipend to reviewers ($100 per incident review and $200 per practice review) as an incentive to participate in the arduous review process and to perform the work in a timely manner.

The principal issue is the unresolved finding that it continues to take more than 90 days to perform many peer review cases. The draft report again recommends that MedChi, in conjunction with BPQA, monitor and take action to improve the timeliness of reviews. The draft report correctly notes that the rate at which cases are completed within the 90-day deadline increased to 17 percent in 2000 from 8 percent in 1999. MedChi continues to implement modifications of its operations aimed at achieving more timely case turnaround. As indicated above, we have significantly augmented our peer review staffing to address increased case volume and ability to process cases quickly. We have also begun paying a stipend to reviewers both to encourage reviewer participation and timely performance. In addition, in the current quarter we are developing additional physician leadership on a regional and specialty-specific basis to assist MedChi staff in identifying and working with reviewers.

It is interesting to note that the BPQA Sunset Review report commented on timeliness issues in various elements of the disciplinary process, of which peer review is one. Its finding was similar
Bruce A. Myers, CPA
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to the draft report regarding average number of days to complete a peer review in calendar year 2000: 169 days, compared to 167 days found in the draft report. By comparison, the BPQA Sunset Review found that it takes more than 150 days for prosecutors in the Attorney General’s office to perform the ministerial task of simply drafting a charging document to initiate a prosecution. The point is that the current 90-day performance standard may be unrealistic as a standard for all cases, considering the complexity of the materials to be reviewed in many cases. But so long the standard is 90 days, MedChi will continue to strive to complete cases within that time frame.

We welcome any questions or comments. Kindly direct them to MedChi’s Executive Director, Michael Preston (extension 304). In appreciation of your courtesy, I am,

Sincerely,

[Signature]

Hillary T. O’Herlihy, M.D.
President

cc: Henry Farkas, M.D., Peer Review Committee Chair
Gary Roggin, M.D., Peer Review Medical Director
MedChi Peer Review
AUDIT TEAM

Gregory A. Hook, CPA
Audit Manager

Kenneth R. Barton
Senior Auditor