DYSLEXIA THERAPISTS AND PRACTITIONERS LICENSING REPORT
January 27th, 2020

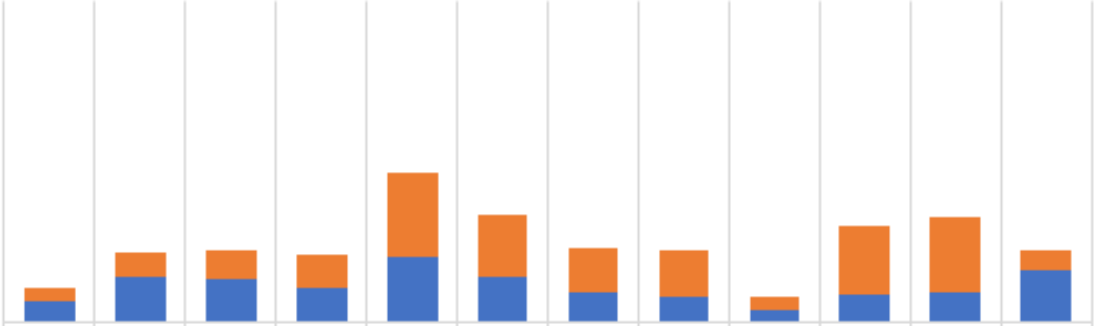
DYSLEXIA PRACTITIONERS

	TOTAL FY 2018	TOTAL FY 2019	1ST Quarter FY 2020
New Licenses Issued	18	17	2
Renewed Licenses Issued	12	16	6
Online Renewals	10	12	1
% Renewed Online	83%	75%	17%
Total Population	52	59	60

DYSLEXIA THERAPISTS

	TOTAL FY 2018	TOTAL FY 2019	1ST Quarter FY 2020
New Licenses Issued	72	81	19
Renewed Licenses Issued	320	441	142
Online Renewals	275	296	82
% Renewed Online	86%	67%	58%
Total Population	886	905	895

DYSLEXIA
CUSTOMER SERVICE CONTACTS
FISCAL YEAR 2019



	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Total	28	55	56	53	117	84	59	57	21	75	82	57
Emails	11	19	21	26	65	48	35	36	11	53	58	16
Calls	17	36	35	27	52	36	24	21	10	22	24	41

DYSLEXIA
CUSTOMER SERVICE CONTACTS
FISCAL YEAR 2020

	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Total	88	55	53	0	0	0	0	0	0	0	0	0
Emails	58	22	25									
Calls	30	33	28									

Dyslexia Therapists and Practitioners Advisory Committee

Enforcement Division Staff Report

January 27, 2020

Key Statistics

Shown below are key statistics for the Dyslexia Therapists and Practitioners program and for all TDLR programs combined through November of Fiscal Year 2020.

Statistic	DYS	TDLR
• Number of cases opened:	0	2,655
• Number of cases resolved:	0	2,570
• Number of Final Orders:	0	470
• Total amount of penalties assessed:	$0	$874,531
• Total amount of penalties collected:	$0	$403,443

Shown below are key statistics for the Dyslexia Therapists and Practitioners program and for all TDLR programs combined for Fiscal Year 2019.

Statistic	DYS	TDLR
• Number of cases opened:	1	10,902
• Number of cases resolved:	1	10,113
• Number of Final Orders:	0	1,887
• Total amount of penalties assessed:	$0	$3,394,345
• Total amount of penalties collected:	$0	$1,731,554

Shown below are key statistics for the Dyslexia Therapists and Practitioners program and for all TDLR programs combined for Fiscal Year 2018.

Statistic	DYS	TDLR
• Number of cases opened:	0	10,585
• Number of cases resolved:	0	9,833
• Number of Final Orders:	0	2,037
• Total amount of penalties assessed:	$0	$3,209,055
• Total amount of penalties collected:	$0	$1,528,594

Texas Department of Licensing and Regulation
Regulatory Program Management Division
Medical and Health Professions Section Staff Report
Dyslexia Therapy Advisory Committee Meeting
January 27, 2020

Update and Discussion Regarding Dyslexia Therapy Program Activities

- Medical and Health Professions Section staff have been assisting Customer Service with email responses to applicants and licensees.
- Regulatory Program Management staff continue to work on Bill Implementation Teams (BIT) to integrate legislative changes from the 86th Texas Legislature. The two bills that passed related to the Dyslexia Therapy program are House Bill 125 and House Bill 2059. House Bill 125 prohibits the online publishing of the home addresses of certain license holders. House Bill 2059 requires certain health care practitioners to successfully complete human trafficking prevention training as a condition of license renewal. The bill teams will also be updating webpages, forms, applications, and other program material, as needed, to reflect statutory changes.
- TDLR Guidance Statement on Senate Bill 1264.

Personnel Updates

- Amanda Smith has joined the MHP RPM Group as an Executive Assistant. Amanda has many years of regulatory experience and previously worked at DSHS.

Medical & Health Professions Section Update

- Medical and Health Professions Section staff continues to publish the *TDLR Health Monitor* newsletter. The most recent edition was published in January 2020 and can be found on the program webpage or the main TDLR page under Agency Newsletters. The newsletter is a wonderful way of getting valuable information to regulated individuals. Please contact Mary Hoffman if there is a topic you would like for us to consider including in a future issue.
- SB 202 Implementation Report on program transfer and integration was published in December 2019. A link to the report can be found on the TDLR webpage under Agency Reports.

State Auditor's Office Report on Health-related Programs at the Department of Licensing and Regulation

- The Audit Report on Health-related Programs at the Department of Licensing and Regulation from the Texas State Auditor's Office was published in August 2019. The State Auditor's Office reports are available on the internet at http://www.sao.texas.gov.

An Audit Report on

Health-related Programs at the Department of Licensing and Regulation

August 2019

Report No. 19-049

State Auditor's Office reports are available on the Internet at http://www.sao.texas.gov/.

An Audit Report on

Health-related Programs at the Department of Licensing and Regulation

SAO Report No. 19-049
August 2019

Overall Conclusion

The Department of Licensing and Regulation (Department) has developed processes and related controls to administer and regulate its 13 health-related programs as required by statute, Texas Administrative Code (rules), and Department policies. However, those processes and controls were not sufficient to ensure appropriate monitoring of licensed facilities. In addition, the Department should strengthen processes and controls to ensure that licensing and enforcement are performed adequately to meet the Department's goal of protecting the health and safety of Texans.

Licensing for Massage Therapy and Speech-Language Pathologists and Audiologists (SPA) Programs. The Department established a process to help ensure that only qualified applicants are licensed for the two programs. However, the Department should strengthen that process by ensuring that it maintains documentation showing that applicants are eligible to be licensed.

Monitoring for All 13 Health-related Programs. The Department established a monitoring framework to help ensure licensed facilities' regulatory compliance. However, the Department should ensure that (1) required inspection forms are completed and retained; (2) inspection violations are consistently referred to its Enforcement Division; and (3) inspections are performed as required.

Enforcement for All 13 Health-related Programs. The Department implemented sufficient controls and processes to enforce regulatory activities in accordance with statute and rules. However, the Department should strengthen its controls by ensuring that license suspensions and revocations are pursued as required when administrative penalties are not paid and establishing a penalty assessment matrix and criminal conviction guidelines for all 13 programs.

Information Technology. The Department should strengthen controls to ensure that access to its information systems complies with Department policy. To minimize security risks, auditors communicated details about the identified information system weaknesses directly to Department management in writing.

Auditors communicated other, less significant issues separately in writing to the Department's management.

Background Information

The Department of Licensing and Regulation (Department) provides oversight for a broad range of occupations, businesses, facilities, and equipment. The Department's goal is to protect the health and safety of Texans and ensure that they are served by qualified professionals.

In 2015, Senate Bill 202 (84th Legislature, Regular Session) was enacted requiring 13 Department of State Health Services' licensing programs to be transferred to the Department in 2 phases.

The Department completed the first phase transferring seven programs on October 3, 2016, and the remaining six transferred on November 1, 2017.

See Appendix 3 for a complete list of health-related programs.

Source: The Department.

This audit was conducted in accordance with Texas Government Code, Section 321.0132.

For more information regarding this report, please contact Courtney Ambres-Wade, Audit Manager, or Lisa Collier, First Assistant State Auditor, at (512) 936-9500.

Table 1 presents a summary of the findings in this report and the related issue ratings. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Table 1

Summary of Chapters/Subchapters and Related Issue Ratings		
Chapter/ Subchapter	Title	Issue Rating [a]
1	The Department Should Strengthen Its License Application Review Process to Ensure That Eligibility Documentation Is Consistently Collected and Retained	Medium
2-A	The Department's Monitoring Framework Was Not Sufficiently Enforced to Help Ensure That Licensed Facilities Complied with Department Requirements	High
2-B	Inspection Data Was Not Reliable for Management's Decision-making Purposes	High
3	The Department Should Strengthen Certain Controls to Help Ensure Compliance with Enforcement Requirements	Medium
4-A	The Department Did Not Have Effective Information Technology Application Controls	High
4-B	The Department Should Strengthen Controls Over Its Information Systems	High

[a] A chapter/subchapter is rated Priority if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated High if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated Medium if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

A chapter/subchapter is rated Low if the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

*Summary **of Management's Response***

At the end of each chapter in this report, auditors made recommendations to address the issues identified during this audit. The Department agreed with the findings and recommendations in this report.

Audit Objective and Scope

The objective of this audit was to determine whether the Department has processes and related controls to help ensure that it administers regulatory activities for selected programs transferred from the Department of State Health Services in accordance with applicable requirements.

The scope of this audit covered licensing, monitoring, and enforcement activities from October 3, 2016, to February 26, 2019, for all of the Department's 13 health-

related programs. Licensing activity was limited to include new and renewed applications for the (1) Massage Therapy and (2) SPA programs, which collectively consist of 11 license types.

Contents

Detailed Results

Chapter 1
The Department Should Strengthen Its License Application Review Process to Ensure That Eligibility Documentation Is Consistently Collected and Retained 1

Chapter 2
Significant Weaknesses in the Department's Monitoring Processes Prevented It from Ensuring That Inspections Were Consistently Performed and Accurately Documented.....4

Chapter 3
The Department Should Strengthen Certain Controls to Help Ensure Compliance with Enforcement Requirements 9

Chapter 4
The Department Should Strengthen Certain Controls to Help Ensure That Its Data Is Complete, Accurate, and Safeguarded 13

Appendices

Appendix 1
Objective, Scope, and Methodology 17

Appendix 2
Issue Rating Classifications and Descriptions..... 21

Appendix 3
Health-related Programs Transferred to the Department..... 22

Detailed Results

Chapter 1

The Department Should Strengthen Its License Application Review Process to Ensure That Eligibility Documentation Is Consistently Collected and Retained

Chapter 1 Rating:

Medium [1]

The Department of Licensing and Regulation (Department) has developed a process for issuing both new and renewal licenses for its health-related programs to qualified applicants as required by statute and the Texas Administrative Code (rules). However, the Department should strengthen its quality control process by ensuring that documentation is retained showing applicants are eligible to receive Massage Therapy and Speech-Language Pathologists and Audiologists (SPA) licenses (see text box for a list of license types for the two programs).

License Types for Massage Therapy and Speech-Language Pathologists and Audiologists (SPA) Programs

The Department's Licensing Division administers the Massage Therapy and SPA programs, which include the following license types:

- Massage Therapist.
- Massage Establishment.
- Massage Instructor.
- Pathologist.
- Assistant Pathologist.
- Pathologist Intern.
- Audiologist.
- Assistant in Audiology.
- Audiologist Intern.

The Department's Education and Examination Division administers the following license types:

- Massage Therapy Continuing Education Provider.
- Massage Therapy School.

Source: The Department.

Auditors tested licensing processes for the Massage Therapy and SPA programs, which are two of the Department's health-related programs (see Appendix 3 for a list of all 13 programs). For the licenses in the 13 programs, the Department has established procedures for data entry of applications into VERSA Regulation (VERSA), which is the Department's licensing and monitoring system. In addition, the Department ensured that the correct application fee was assessed for new and renewed licenses tested. While the Department established those processes, it did not always ensure that documentation to support an applicants' eligibility was consistently collected and retained.

New Licenses for Massage Therapy and SPA Programs. Auditors tested 75 applications for new licenses processed from October 3, 2016, through February 26, 2019. For 65[2] (86.7 percent) of those 75 applications, the

[1] The risk related to the issues discussed in Chapter 1 is rated as Medium because the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

[2] Includes 2 Massage Instructor licenses. The Department requirement for the Massage Instructor license is for the applicant to affirm on the application that eligibility requirements were met.

Department had sufficient required documentation to support applicants' eligibility as required by Title 16, Texas Administrative Code, Chapters 111 and 117, and Texas Occupations Code, Chapter 401. However, the remaining 10 (13.3 percent) applications did not have certain required supporting documentation, such as criminal background check clearances, transcripts, and examination results. For one of those applications, the Department could not locate any supporting documentation.

Renewed Licenses for Massage Therapy and SPA Programs. Auditors tested 55 Massage Therapy and SPA license renewal applications processed from October 3, 2016, through February 26, 2019. For 43 (78.2 percent) of those 55 applications, the Department had sufficient documentation to support applicants' eligibility. However, for the 29 renewal applications subject to the background check requirements outlined in the Texas Administrative Code, Chapters 111 and 117, and the Texas Occupations Code, Chapter 401, auditors determined that the Department:

- Did not maintain documentation of background check clearances for 11 renewal applications (37.9 percent).
- Did not ensure that 1 renewal application (3.4 percent) had a background check clearance as required by Texas Occupations Code, Section 401.3041. The law enforcement agency responsible for processing that applicant's fingerprints deemed them illegible. However, the Department still renewed that license.

Retaining eligibility documentation for both the new and renewed license applications helps ensure that applicants met requirements to practice Massage Therapy and SPA services in the state.

Recommendation

The Department should ensure that it retains all documentation required to support eligibility for Massage Therapy and SPA licenses issued.

Management's Response

Chapter 1: *The Department should strengthen its license application review process to ensure that eligibility documentation is consistently collected and retained.*

Management's Response: *The Department agrees with the finding. The Department requires documentation used to verify licensure eligibility be maintained, including background checks and other supporting documentation. Criminal History Background Check Documentation Procedures were modified on January 1, 2018, to reflect the Agency's background check procedures for all programs, which includes the requirement to maintain documentation. Prior to that date, the procedures did not require the retention of the documentation. The Agency has verified the accuracy and reasonableness of policies and procedures related to reviewing and maintaining documentation of criminal background check clearances. Staff have received updated training to ensure compliance.*

Responsible Party: *Director of Enforcement.*

Implementation Date: *May 2019.*

Chapter 2

Significant Weaknesses in the Department's Monitoring Processes Prevented It from Ensuring That Inspections Were Consistently Performed and Accurately Documented

The Department established a monitoring framework, which includes processes to assess licensed facilities' compliance with statutory requirements and Department policies and rules. However, the Department should strengthen those monitoring processes to help ensure that (1) licensed facilities are monitored as required and (2) its inspection tools are consistent and used as intended to deter noncompliance. In addition, the Department should strengthen controls to help ensure that inspection data is accurate for decision-making purposes.

Chapter 2-A Rating:

High [3]

Chapter 2-A

The Department's Monitoring Framework Was Not Sufficiently Enforced to Help Ensure That Licensed Facilities Complied with Department Requirements

As part of its monitoring framework, the Department developed certain processes, tools, and controls to standardize the inspection process and oversee the quality of inspections and information documented in VERSA (see text box for information on the Department's monitoring framework). However, the Department did not ensure that (1) Proof of Inspection and inspection checklist forms were completed for all inspections; (2) checklists were consistent; and (3) inspection quality was monitored.

Monitoring Framework

- **Proof of Inspection** – The form used to document inspection results, including whether a facility is out of business.
- **Inspection checklist (checklist)** – Includes program-specific statutory and Department rule requirements used by field inspectors to verify whether a licensed facility complied with those requirements. The checklist also identifies the requirements, which if not met, require the licensed facility to be referred to the Department's Enforcement Division.
- **10-day follow-up visit** – Performed by field inspectors to verify whether a licensee took corrective action for minor violations cited during an inspection.
- **Quality assurance inspection** (or follow-up inspection) – Performed by regional managers to assess the completeness and accuracy of inspections performed by field inspectors.
- **Quarterly validations** – Reviews performed by regional managers to verify the accuracy of inspection results documented in VERSA.

Source: The Department.

[3] The risk related to the issues discussed in Chapter 2-A is rated as High because the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

Proof of Inspection and Inspection Checklist. Field inspectors did not always complete a Proof of Inspection and a checklist as required by Department policy. Auditors tested 60[4] (9.2 percent) of 652[5] inspections completed from October 3, 2016, through February 26, 2019, and determined that:

- For 21 (35.0 percent) inspections, a Proof of Inspection form was not completed.
- For 14 (46.7 percent) of the 30 inspections for facilities that were active, an inspection checklist was not completed.

Not completing the required forms increases the risk that facilities are not inspected in accordance with Department rules.

In addition, inspection violations were not consistently reported to the Enforcement Division. Not consistently referring violations to the Enforcement Division as required diminishes the effectiveness of inspections to deter future noncompliance.

Checklist Inconsistencies. Some program checklists identified specific requirements that if not met resulted in a referral to the Enforcement Division. However, other requirements of a similar type within the same checklist did not necessitate an enforcement referral. One checklist did not contain any referral requirements. For example, an inspection checklist may state that practicing without a license or with an expired license requires a referral to the Enforcement Division. However, a similar violation, such as failure to present a license upon the field inspector's request, does not require a referral.

Inconsistencies within program inspection checklists increase the risk that violations identified during inspections may not be referred to the Enforcement Division for appropriate follow-up or further investigation.

Monitoring Inspection Quality. While the Department established certain processes to monitor the quality of inspections, it did not ensure that those processes were performed. For example, for 660 inspections:

- Quality assurance inspections - Department management asserted that regional managers did not perform any quality assurance inspections as required by Department policy. Management also asserted that the

[4] A total of 30 (50.0 percent) of 60 inspections performed were for facilities that were considered out of business and no longer active. Department policy and procedures require a Proof of Inspection to be completed for these businesses; however, an inspection checklist is not required.

[5] An additional eight inspections were performed; however, they were not documented in VERSA by February 26, 2019. Therefore, those eight inspections were not considered in this testing but were included in the data analysis performed.

purpose of those inspections is to (1) identify inspectors' training needs and (2) verify that inspections were performed.

- 10-day follow-up visit - Department management asserted that field inspectors did not perform any follow-up inspections to verify whether licensees addressed the correctable violations identified, as required by Department policy.

By not monitoring the quality of the inspections completed and not ensuring that licensees correct identified deficiencies, the Department cannot ensure the effectiveness of its inspection processes.

Program Inspection Frequency Requirements. The Department did not inspect all health-related program facilities at the frequency required by Department rules (see text box for health-related inspection requirements). Auditors analyzed data to determine whether facilities were inspected according to program requirements and determined the following:

Inspection Requirements

- Massage Establishments - Every two years.
- Massage Therapy School - (1) Pre-inspection prior to licensing and then (2) annually.
- Midwifery School - Course evaluation during the provisional year and then every three years.
- Orthotics and Prosthetics Establishments - Every two years.

Source: Department rules.

- All 11 newly licensed massage therapy schools were pre-inspected as required. However, 38 (71.7 percent) of 53 massage therapy schools were not inspected annually as required.

- 118 (44.9 percent) of 263 orthotics and prosthetics facilities were not inspected every two years as required.

The timely inspection of all licensed facilities would help the Department ensure compliance with rules and statutory requirements. In addition, it would help the Department achieve its goal to ensure the public's health and safety.

Recommendations

The Department should ensure that:

- It completes and retains Proof of Inspection and inspection checklist forms.

- Inspection violations are consistently referred to the Enforcement Division.

- Inspections are performed in accordance with Department rules.

Management's Response

Chapter 2-A: *The Department's Monitoring Framework Was Not Sufficiently Enforced to Help Ensure That Licensed Facilities Complied with Department Requirements.*

Management's Response: *The Department agrees with the finding. Inspectors have received further direction to ensure proof of inspection has been completed. Checklists have also been updated to contain all pertinent information. TDLR has comprehensive policies and procedures as it relates to inspection findings being sent directly to Enforcement. The agency utilizes industry experts on advisory boards and in stakeholder groups to create and approve penalty matrices in all programs. These matrices are used to determine which violations are most egregious and should result in a direct referral to Enforcement. These checklists vary by program. Additionally, Agency reference guides (checklists) are continually being updated and revised, and training provided to staff, including the use of the Inspection Checklist and the completion and submission of the Proof of Inspection. Statewide massage inspector training was conducted on June 4-5, 2019.*

Responsible Party: *Director of Field Inspections.*

Implementation Date: *June 2019.*

Chapter 2-B Rating: High [6]

Chapter 2-B

Inspection Data Was Not Reliable for Management's Decision-making Purposes

While Department management asserted that regional managers performed quarterly validation reviews to verify the accuracy of inspection results documented in VERSA, those reviews did not identify the significant data inaccuracies that auditors identified. In addition, the lack of application controls on selected key data fields and written procedures on how to document inspection outcomes in VERSA contributed to incomplete and inaccurate data (see Chapter 4-A for additional details).

Auditors analyzed all inspections completed from October 3, 2016, through February 26, 2019, and determined that 62 (8.6 percent) of 722 inspection records were inaccurate or incomplete for various reasons such as

[6] The risk related to the issues discussed in Chapter 2-B is rated as High because the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

overwritten inspection results or inaccurate inspection statuses (because of blank start and end date fields).

Lack of sufficient controls over inspection data increases the risk that management could make decisions based on inaccurate and incomplete information.

Recommendation

The Department should develop and implement written policies and procedures to help ensure that inspection results are completely and accurately documented in VERSA.

Management's Response

Chapter 2-B: *Inspection Data Was Not Reliable for Management's Decision-making Purposes.*

Management's Response: *The Department agrees with the finding. The Legislature authorized the development of a new Licensing system for TDLR. Until that system is in place, TDLR will continue to use numerous licensing systems, one of which is VERSA. The Agency has staff who have begun making adjustments to the VERSA system and memorializing those changes as they occur.*

Responsible Party: *Chief Information Officer.*

Implementation Date: *Ongoing as needed.*

The Department Should Strengthen Certain Controls to Help Ensure Compliance with Enforcement Requirements

Chapter 3 Rating:

Medium [7]

The Department implemented sufficient controls and processes to help ensure that it adequately enforces regulatory activities in accordance with statute and the Texas Administrative Code (rules). However, the Department should strengthen its controls to help ensure that (1) it pursues the suspension or revocation of a license when administrative penalties are not paid and (2) each of the Department's 13 health-related programs has a penalty assessment matrix and criminal conviction guidelines.

The Department's Enforcement Division (Division) is responsible for enforcing regulatory requirements. As part of the enforcement process, the Division processes licensing-related complaints about individuals and businesses. Complaints can be submitted by the public or from within the Department. If a complaint includes sufficient information and it is within the Department's jurisdiction, an investigation case (case) is opened. All complaints and cases are tracked in the Division's Legal Files system (see text box for a description of Legal Files).

Legal Files

Legal Files is a Web-based case management system that the Enforcement Division uses to record and track all activity and documentation relating to a complaint or a case from its receipt to its disposition.

Source: The Department.

The Department processed most complaints as required by statute and Department rules and policies.

Auditors randomly selected a sample of 60 complaints and cases received October 3, 2016, through February 26, 2019, to determine whether they were consistently processed in compliance with certain statutory requirements and Department rules and policies. The Department appropriately processed all tested complaints and cases that were subject to the following requirements:

- Timeliness of Notifications – Complaint respondents were notified in a timely manner when a complaint involving a licensed respondent was opened for investigation, as required by Department policy.
- Complaint Completeness – Complaints included information required by Texas Occupations Code, Section 51.252(b), such as a complaint received date and an investigation summary.
- Completeness of Notice of Alleged Violation – Notices included a violation summary, a penalty amount, and information on the respondent's right

[7] The risk related to the issues discussed in Chapter 3 is rated as Medium because the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

to further legal proceedings, as required by Texas Occupations Code, Section 51.303.

- Administrative Penalties Assessed – The assessed penalty amount complied with the program-specific penalty assessment matrix, if available, or Texas Occupations Code, Section 51.302(a), which states that administrative penalties cannot exceed $5,000 per violation.

- License Revocations – Recommended revocation actions aligned with the Department's enforcement plan and criminal conviction guidelines, if available. In addition, auditors verified that the Department revoked those licenses.

Auditors also reviewed all five complaints dismissed during the same time period and determined that the Department's dismissal of those complaints was reasonable and in accordance with Department policies.

The Department did not always enforce license revocations as required by its policies.

While the Department processed complaints and cases as required, it should strengthen its process in the following areas:

- License Revocations – The Department assessed 165 administrative penalties from October 3, 2016, through February 26, 2019; however, the Department did not follow its policy for 5 (62.5 percent) of 8 cases in which a penalty amount was assessed and the licensee failed to make a payment. The Department's policy requires it to pursue revocation or suspension of a license if the licensee does not pay the assessed administrative penalty. For example, while a licensee was assessed a $12,000 administrative penalty in June 2018, the Department had not taken further action as of April 25, 2019. Not pursuing the suspension or revocation of a license when administrative penalties are not paid diminishes the Department's effectiveness to enforce regulatory requirements.

- Enforcement Plan Requirements – The Department did not establish a penalty assessment matrix and criminal conviction guidelines for all 13 programs as required by statute. Specifically:

  - 7 (53.8 percent) of 13 programs did not have a penalty matrix. Those programs are: Dyslexia Therapy Program; Code Enforcement Officers; Laser Hair Removal; Massage Therapy; Mold Assessors and Remediators; Offender Education Programs; and Sanitarians.

- 3 (23.1 percent) of 13 programs did not have criminal conviction guidelines. Those are: Laser Hair Removal; Mold Assessors and Remediators; and Offender Education Programs.

The penalty assessment matrix describes the specific ranges of penalties and sanctions[8] that apply to specific statutes and Department rules violations. In addition, Texas Occupations Code, Section 53.025(a), requires the Department to establish criminal conviction guidelines for each program. The lack of program-specific penalty matrices increases the risk that the Department may not consistently assess penalties for similar violation types within a program. In addition, not establishing program-specific criminal conviction guidelines increases the risk that the Department may license an ineligible applicant or may not suspend or revoke a license timely based on a conviction warranting that action.

Recommendations

The Department should:

- Ensure that it enforces its policies and procedures to suspend or revoke licenses when licensees fail to comply with administrative penalties.
- Develop a penalty assessment matrix and criminal conviction guidelines for each health-related program it administers.

Management's Response

Chapter 3*: The Department Should Strengthen Certain Controls to Help Ensure Compliance with Enforcement Requirements.*

Management's Response: *The Department agrees with the finding. The five instances mentioned were the result of Default Orders. When a Default Order is issued, an enforcement hold is placed in the licensee's file, which should keep the licensee from renewing. Also, programming staff have verified that the enforcement hold now works in the licensing system. The case is then sent to the General Counsel's Office for collection. Procedures were in place at this time. Staff have received training again on this process to ensure compliance.*

As stated previously in the Management Response, the agency utilizes industry experts on advisory boards and in stakeholder groups to create and approve penalty matrices in all programs. These matrices are used to

[8] Texas Occupations Code, Section 51.001(6), defines a sanction as an action by the executive director against a license holder or another person, including the denial, suspension, or revocation of a license, the reprimand of a license holder, or the placement of a license holder on probation.

determine which violations are most egregious and should result in a direct referral to enforcement. These checklists vary by program. TDLR is in the process of creating any outstanding penalty matrices for those programs that do not have an advisory board. The Offender Education Program stakeholder meeting was held in July 2019. Those guidelines will be presented at the next Commission meeting scheduled for October 2019.

With regard to penalty matrices, the Agency should have all approved by the Commission by June of 2020.

Responsible Party: *Director of Enforcement.*

Implementation Date: *All penalty matrices should be in place by June 2020.*

The Department Should Strengthen Certain Controls to Help Ensure That Its Data Is Complete, Accurate, and Safeguarded

Auditors identified significant weaknesses in the Department's application and general controls. As a result, auditors determined that the Department's data was not sufficient to ensure that (1) field inspection records were complete; (2) license renewals were prevented for individuals under review by enforcement; and (3) licensee information was updated in a timely manner for the public. The Department should strengthen controls to ensure that the data maintained in its systems is complete and accurate.

In addition, the Department should strengthen controls to ensure that access to its information systems complies with Department policy.

Chapter 4-A

The Department Did Not Have Effective Information Technology Application Controls

Chapter 4-A Rating:

High [9]

Application Controls. Auditors determined that VERSA lacked specific application controls to ensure that the data maintained was complete and accurate for the Department's monitoring process (see Chapter 2-B for additional VERSA application control issues identified). Specifically:

- Inspection start and end dates are key fields used to determine the status of a field inspection. However, those key fields were not required in VERSA; as a result, they were not always populated. Those key fields help ensure that the data is complete. Not making those inspection fields mandatory increases the risk that the Department may not be able to identify whether an inspection was performed or is needed.

- VERSA allowed duplicate field inspection records for five inspections instead of assigning unique inspection numbers. Assigning unique inspection numbers to field inspections helps ensure that records are complete and accurately reflect the results of each inspection.

In addition, auditors determined that the data sets provided for the licensing and enforcement processes were sufficiently reliable for the purposes of this audit; however, the Department should strengthen VERSA application controls to ensure that license renewal requirements are met and fees are

[9] The risk related to the issues discussed in Chapter 4-A is rated as High because the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

waived or adjusted appropriately. Specifically:

- As part of its enforcement process, the Department places holds on licenses to prevent unintended renewals. However, that control is not working as intended. To minimize security risks, auditors communicated details directly to Department management in writing.

- Due dates and received dates are key fields used for determining whether licensees have the required continuing education to maintain license eligibility. However, those key fields were not required in VERSA; as a result, that information was not always populated. Requiring those key fields would assist staff in determining whether continuing education documentation was received and when it was due to ensure licensee renewal eligibility.

- Licensing staff must choose from 138 distinct fee descriptions to adjust or waive a fee; however, fee descriptions are not clearly defined in VERSA or in Department procedures. In addition, the mandatory justification comment field for those fee descriptions does not require an appropriate justification regarding the adjustment or waiver. As a result, the risk that licensing fees could be adjusted or waived inappropriately is increased.

License Statuses. Auditors identified license statuses that were not accurate or updated timely in VERSA. As a result, the Department's Web site did not show accurate statuses or expiration dates for those licenses. Having current and correct data on its Web site is important because the public may rely on that information to make decisions.

Recommendations

The Department should:

- Implement controls to ensure that data in VERSA is complete and accurate as required.

- Ensure that VERSA and the Department's Web site present accurate information that is updated timely.

Management's Response

Chapter 4-A*: The Department Did Not Have Effective Information Technology Application Controls*

Management's Response: *The Department agrees with the finding. Changes to the data system VERSA have been made or are in process. Several active*

account management controls have been modified. Specifically, the following things have been corrected: the enforcement hold function in VERSA has been engaged to prevent unintended renewals prior to the completion of the process; some TDLR staff had access to systems that they should not have had, or former employees were still active in the system; duplicate active accounts have been deleted; and lockout settings had allowed six attempts but TDLR policy is five attempts. Additionally, restoration testing has now been performed.

Other changes to the VERSA system are currently underway. These include ensuring the accuracy of license status on the TDLR website and correcting the fact that the enforcement hold can be bypassed.

Furthermore, the Legislature authorized the development of a new Licensing system for TDLR. It will initially be used for the Massage program and then Cosmetology and Barbering. The Agency will go out for bids soon, and it is planned that the first phase will be in place by March 2020.

Responsible Party: *Chief Information Officer.*

Implementation Date: *December 31, 2019.*

Chapter 4-B

The Department Should Strengthen Controls Over Its Information Systems

Chapter 4-B Rating: High [10]

The Department has established policies and procedures for its information systems; however, the Department does not consistently apply certain general controls. Specifically:

User Access. The Department did not ensure that it restricted access to its VERSA system based on users' current job responsibilities as required by Department policy. Auditors identified users who had inappropriate access to certain functions in that system, such as the ability to process license applications or waive fees. The Department appropriately restricted access to the Legal Files application and to the network drive containing supporting documentation. However, Department management asserted that it had not performed a review of user access to VERSA or Legal Files every six months as required by Department policy.

[10] The risk related to the issues discussed in Chapter 4-B is rated as High because the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

Implementing effective information technology security controls would help the Department ensure that access to critical information systems is appropriately restricted to minimize the risk of unauthorized changes to information.

Disaster Recovery. The Department has established a disaster recovery plan; however, auditors identified certain areas in which the Department could improve its disaster recovery process.

To minimize security risks, auditors communicated details directly to Department management in writing.

Recommendation

The Department should ensure that it complies with established information technology policies and procedures.

Management's Response

Chapter 4-B*: The Department Should Strengthen Controls Over Its Information Systems.*

Management's Response: *The Department agrees with the finding. A full audit has been completed on all user access for systems within the agency and will be done on a quarterly basis with each system being reviewed annually.*

Responsible Party: *Chief Information Officer.*

Implementation Date: *April 30, 2019.*

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Department of Licensing and Regulation (Department) has processes and related controls to help ensure that it administers regulatory activities for selected health-related programs transferred from the Department of State Health Services in accordance with applicable requirements.

Scope

The scope of this audit covered licensing, monitoring, and enforcement activities from October 3, 2016, to February 26, 2019, for all of the Department's 13 health-related programs. Licensing activity was limited to include new and renewed applications for the (1) Massage Therapy and (2) Speech-Language Pathologists and Audiologists programs, which collectively consist of 11 license types.

Methodology

The audit methodology included reviewing relevant criteria for all health-related programs; interviewing Department staff; testing licensing applications, field inspections documentation, and complaint processing; and analyzing licensing and field inspection data. In addition, auditors performed a review of selected general and application controls over VERSA Regulation (VERSA), the Department's licensing system, and Legal Files, its case management system. The Department uses those information technology systems for licensing, monitoring, and enforcement.

Data Reliability and Completeness

To assess the reliability of the data sets extracted from the Legal Files and VERSA systems as they relate to licensing, auditors observed the Department staff extract the data sets, reviewed the queries the Department used to extract them, and analyzed them for reasonableness and completeness. Additionally, auditors compared a nonstatistical random sample of data to source documents. Auditors determined that those data sets were sufficiently reliable for the purposes of this audit.

To assess the reliability of the field inspections data set from VERSA, auditors observed the Department staff extract the data and analyzed it for reasonableness and completeness. Additionally, auditors compared a

nonstatistical random sample of data to source documents. Auditors identified incomplete and inaccurate information in that data set. Therefore, auditors determined that the field inspections data was not sufficiently reliable for the purposes of this audit. However, auditors used that data because it was the most complete data available.

Sampling Methodology

To assess the Department's licensing process for issuing new licenses, auditors selected a nonstatistical sample of 75 of 13,019 approved license applications primarily through random selection designed to be representative of the population. Test results may be projected to the population, but the accuracy of the projection cannot be measured.

Auditors also selected nonstatistical samples primarily through random selection of (1) renewal licenses, (2) field inspections completed, (3) complaints, and (4) quarterly review checklists received and processed from October 3, 2016, to February 26, 2019. The samples were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population. Those samples included:

- 55 of 44,158 renewal applications.
- 60 of 652 field inspections.
- 60 of 3,323 cases processed by the Department's Enforcement Division.
- 15 of 30 Enforcement Division quarterly review checklists.

In addition, auditors tested all eight cases in which the licensee did not pay the administrative penalty assessed and all five dismissed complaints.

Information collected and reviewed included the following:

- Statutes, rules, guidelines, and operating procedures relevant to the licensing, monitoring, and enforcement activities for all health-related programs.
- Initial and renewal licensing applications and documentation to support applicants' eligibility.
- Proof of Inspection forms and program-specific checklists used for field inspections.

- Enforcement logs to (1) track dismissed complaints and (2) document quarterly reviews of the intake, investigations, and prosecutions processed.

- Complaint supporting documentation, such as letters for the opening and closing of investigations, notices of alleged violation, and complaint forms submitted through mail or the Department's Web site.

Procedures and tests conducted included the following:

- Interviewed Department management and staff.

- Analyzed data pertaining to continuing education audits, licensing application fee waivers and adjustments, licensing status and expiration dates, and field inspections completed.

- Tested initial and renewal licensing applications for compliance with eligibility requirements.

- Analyzed and tested field inspections and complaint/case data for compliance with Department policies and rules and applicable statute.

- Tested enforcement quarterly reviews for compliance with Department policy.

- Tested selected general controls for the VERSA and Legal Files systems. Auditors also performed limited application control testing on those systems.

Criteria used included the following:

- Texas Occupations Code, Chapters 51, 53, 401, and 455.

- Title 16, Texas Administrative Code, Chapters 60, 100, 111, 114, 115, and 117.

- Title 1, Texas Administrative Code, Chapter 202.

- The Department's *Complaint Resolution Procedures Manual.*

- The Department's standard operating procedures for licensing.

- The Department's *Field Operations Division Inspector's Resource Manual*.

- *Carrying Out a State Regulatory Program*, National State Auditors Association, 2004.

- The Department's *Information Security Manual.*

- *VERSA Regulation & VERSA Regulation Online Portal Database Guide*.
- *VERSA MicroPact/Atos Statement of Understandings Texas Department of Licensing and Regulation Hosting Project.*
- Department's Enforcement Plan.
- Department's Criminal Conviction Guidelines.

Project Information

Audit fieldwork was conducted from January 2019 through June 2019. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Jacqueline M Thompson, CFE (Project Manager)
- Ileana Barboza, MBA, CGAP (Assistant Project Manager)
- Allison Fries, CFE
- Joseph Kozak, CPA, CISA
- Elijah Marchlewski
- William J. Morris, CPA
- Michelle Ann Duncan Feller, CPA, CIA (Quality Control Reviewer)
- Courtney Ambres-Wade, CFE, CGAP (Audit Manager)

Appendix 2

Issue Rating Classifications and Descriptions

Auditors used professional judgment and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 2 provides a description of the issue ratings presented in this report.

Table 2

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

Appendix 3

Health-related Programs Transferred to the Department

Senate Bill 202 (84th Legislature, Regular Session) transferred 13 health-related programs from the Department of State Health Services to the Department of Licensing and Regulation (Department). Table 3 lists the number of license types and the total number of licenses for each of those programs as of fiscal year 2018 and the 3rd quarter of fiscal year 2019.

Table 3

License Programs and Number of Licenses for Fiscal Years 2018 and 2019			
License Programs	Number of License Types per Program	Number of Licenses	
		Fiscal Year 2018	Fiscal Year 2019 [a]
Programs Transferred to the Department on October 3, 2016			
Athletic Trainers	2	3,922	3,930
Dietitians	1	5,965	6,131
Dyslexia Therapy Program	2	938	962
Hearing Instrument Fitters and Dispensers	4	858	888
Midwives	4	294	307
Orthotists and Prosthetists	18	912	926
Speech-Language Pathologists and Audiologists	6	24,319	21,442
Programs Transferred to the Department on November 1, 2017			
Code Enforcement Officers	2	2,571	2,571
Laser Hair Removal	6	3,357	3,328
Massage Therapy	5	34,540	34,376
Mold Assessors and Remediators	8	5,789	5,351
Offender Education Programs	8	4,077	3,709
Sanitarians	2	1,336	1,305
Total	68	88,878	85,226

[a] As of May 31, 2019.

Source: The Department.

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable Dan Patrick, Lieutenant Governor, Joint Chair
The Honorable Dennis Bonnen, Speaker of the House, Joint Chair
The Honorable Jane Nelson, Senate Finance Committee
The Honorable Robert Nichols, Member, Texas Senate
The Honorable John Zerwas, House Appropriations Committee
The Honorable Dustin Burrows, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Department of Licensing and Regulation

Members of the Department of Licensing and Regulation Commission

- Mr. Rick Figueroa, Chair
- Mr. Thomas F. Butler, Vice Chair
- Dr. Gerald R. Callas
- Ms. Helen Callier
- Ms. Nora Castañeda
- Mr. Joel Garza
- Dr. Gary Wesson

Mr. Brian Francis, Executive Director

This document is not copyrighted. Readers may make additional copies of this report as needed. In addition, most State Auditor's Office reports may be downloaded from our Web site: www.sao.texas.gov.

In compliance with the Americans with Disabilities Act, this document may also be requested in alternative formats. To do so, contact our report request line at (512) 936-9500 (Voice), (512) 936-9400 (FAX), 1-800-RELAY-TX (TDD), or visit the Robert E. Johnson Building, 1501 North Congress Avenue, Suite 4.224, Austin, Texas 78701.

The State Auditor's Office is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs, or activities.

To report waste, fraud, or abuse in state government call the SAO Hotline: 1-800-TX-AUDIT.

Implementation Report
Senate Bill 202, Article 1

As Required By
Senate Bill 202, Section 1.301, 84th Regular Session, 2015

Texas Department of Licensing and Regulation
December 2019

Table of Contents

Executive Summary.....3

Legislative Requirements…….....….....3-4

Transition Overview……..……...4-6

Advisory Boards and Advisory Committees……..……..…6-8

Audit of Health-Related Professions Programs…….8-10

Current Initiatives…….……10-12

Key Statistics……....13-16

Executive Summary

This is the final report on the implementation of S.B. 202.

This report is provided by the Texas Department of Licensing and Regulation (TDLR) in accordance with the requirements of S.B. 202, Article 1, 84th Regular Session of the Texas Legislature, 2015. S.B. 202, Article 1 implemented the Sunset Advisory Commission's recommendation to transfer 13 occupational licensing programs from the Department of State Health Services (DSHS) to TDLR. The recommendation was intended to reduce the regulatory responsibilities assigned to DSHS and result in more effective administration of the programs at TDLR.

S.B. 202, Article 1 has been fully implemented. The bill required the transfer of the programs to TDLR in two phases. The first seven programs were required to be transferred no later than August 31, 2017. The remaining six programs were required to be transferred no later than August 31, 2019.

In accordance with Sec. 1.300 of the bill, DSHS and TDLR adopted a transition plan in April 2016 to provide for the orderly transfer of powers, duties, functions, programs, and activities. Under the terms of the transition plan, the first seven programs were successfully transferred to TDLR on October 3, 2016. The remaining six programs were successfully transferred to TDLR on November 1, 2017. The transfers occurred well in advance of the deadlines established in the bill.

Legislative Requirements

S.B. 202 (2015), Article 1, Sec. 1.301, requires the development and submission of this report.

"(a) The Texas Department of Licensing and Regulation shall, not later than December 1 of each year, submit a report regarding the implementation of this article with respect to that calendar year to:
(1) the Sunset Advisory Commission;
(2) each standing committee of the senate and house of representatives having primary jurisdiction over matters related to health and human services or the occupational licensing of health-related professions; and
(3) each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article.
(b) A report submitted under this section must include:
(1) detailed information regarding:
(A) the status of the implementation of the transition plan adopted under Section 1.300 of this Act, including an explanation of any delays or challenges in implementing the plan;
(B) appointments to each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article; and
(C) the establishment and operation of the health professions division of the Texas Department of Licensing and Regulation; and

(2) any other information the Texas Department of Licensing and Regulation considers relevant to the transfer of programs to the department under this article.
(c) In preparing a report required by this section, the Texas Department of Licensing and Regulation shall solicit input from the Department of State Health Services and each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article.
(d) The Texas Department of Licensing and Regulation shall make each report submitted under this section available to the public on the department's Internet website.
(e) This section expires January 1, 2020."

Transition Overview

TDLR formed the Health Professions Consolidation Team in July 2016 to coordinate and facilitate internal activities and planning of each transfer phase. Each functional area of the agency (licensing, customer service, enforcement, financial services, information technology, regulatory program management, general counsel, strategic communications, innovation, web services) was represented DSHS staff also participated as members of the team. The team coordinated the creation of new web content, the revision of forms and publications, and public outreach to license holders via e-mails and a mass mailing. The team analyzed and resolved challenges and concerns related to go-live, staff training, the transfer of records from DSHS to TDLR, and external inquiries.

TDLR and DSHS adopted a detailed transition plan with several components:

- Summary of all transition and planning activities completed after the enactment of S.B. 202 and prior to the adoption of the transition plan;
- Summary of programs to be transferred, including current governance structure and projected transfer dates; and
- Specific activities to be accomplished in each phase of the transfers, with designation of the responsible agency and projected completion dates.

The transition plan projected the transfer date of the first seven programs (Phase One) to be October 1, 2016. Those programs included:

- Athletic trainers
- Dietitians
- Dyslexia therapists and practitioners
- Fitters and dispensers of hearing instruments
- Midwives
- Orthotists and prosthetists
- Speech-language pathologists and audiologists

These seven programs were successfully transferred to TDLR on October 1, 2016, and there were no delays or challenges associated with the transfers. The success of the transfer was due to

extensive pre-transfer planning, as well as the collaborative working relationship between TDLR and DSHS.

Upon completion of the Phase One transfers, TDLR and DSHS agreed that the remaining six programs (Phase 2) would transfer on November 1, 2017. These programs included:

- Code enforcement officers
- Laser hair removal professionals and facilities
- Massage therapists, instructors, schools, and establishments
- Mold assessors and remediators
- Offender education providers
- Sanitarians

For the first three business days after each phase of program transfers, TDLR staffed a command center to monitor all aspects of the transfer, including information technology issues, the volume of customer contacts by telephone and e-mail, the timeliness of responses to customer contacts, and the processing of initial and renewal license applications. After analysis of TDLR's performance in these areas for the first three days, the command center was discontinued due to the overall success of the transfer operation.

The ultimate success of Phase Two was due to legislative approval of Exceptional Item One, described in TDLR's FY 2018-2019 Legislative Appropriations Request. Since Phase Two was not scheduled to occur within the FY 2016-2017 biennium, funding was not included in the 2015 General Appropriations Act. Successful program consolidation requires sufficient and timely funding to evaluate the programs, solicit and select information technology bids, streamline and adopt program rules, identify and select office locations, train existing staff, and hire and train new staff.

In addition, TDLR's 2017-2021 Strategic Plan proposed several statutory changes for programs transferred in Phases One and Two to eliminate unneeded or redundant licenses and regulatory requirements, eliminate licensing impediments and other excessive requirements, and eliminate burdens and government interference with business practices. These recommendations were adopted by the Legislature to better align the transferred programs with TDLR's existing and successful regulatory model.

Outreach During Transfer of Programs to TDLR from DSHS

TDLR believes that proactive communication with licensees and interested parties is essential to the ongoing successful operation of its licensing programs. During Phase One and Phase Two of the program transfers, E-mail subscribers received a *Welcome to TDLR* notice on the morning of transition. TDLR also posted information regarding the transfers on its Facebook and Twitter accounts.

Staff within the TDLR Regulatory Program Management Division served as a point of contact for professional associations and advisory board chairs during the important post-transition periods. Staff conducted telephone calls to share specific information regarding the status of the transition and to solicit input and concerns from the regulated community. TDLR received useful

information from stakeholders, which allowed for improvements in service delivery. TDLR also received significant positive feedback regarding the transition planning effort. Outreach included each of the ten advisory board chairs, as well as the following associations:

- Academic Language Therapy Association
- Texas State Athletic Trainers Association
- Texas Academy of Audiology
- Texas Speech-Hearing-Language Association
- Texas Academy of Nutrition and Dietetics
- Texas Hearing Aid Association
- Association of Texas Midwives
- Texas Association of Orthotists and Prosthetists
- American Academy of Orthotists and Prosthetists, Texas Chapter
- Texas Environmental Health Association
- Code Enforcement Officers Association of Texas
- American Massage Therapy Association – Texas Chapter

Information Forums

In January and March 2017, TDLR hosted information forums in Dallas, Houston, and Austin and invited licensees and stakeholders from the Phase Two programs. During the forums, TDLR staff presented information about TDLR, including regulatory philosophy, core values, agency organization and overview, and the rulemaking process. At the March 2017 forum, TDLR staff presented draft proposed rules for each program, soliciting and incorporating input on the rules prior to publication in the Texas Register.

Advisory Boards and Advisory Committees

In accordance with S.B. 202, Sec. 1.300(c), the following legacy boards and committees were abolished on October 1, 2016:

- Advisory Board of Athletic Trainers
- Texas State Board of Examiners of Dietitians
- Dyslexia Therapists and Practitioners Advisory Committee
- State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments
- Texas Midwifery Board
- Texas Board of Orthotics and Prosthetics
- State Board of Examiners for Speech-Language Pathology and Audiology

On October 14, 2015, the Texas Commission of Licensing and Regulation established the new advisory boards and committees for the Phase One programs and began appointing members. TDLR hosted an Advisory Board Summit on October 28-29, 2015, and boards began meeting in early 2016.

On October 20, 2017, the Texas Commission of Licensing and Regulation established the new advisory boards and committees for the Phase Two programs and began appointing members. TDLR hosted an Advisory Board Summit on November 8-9, 2017 and boards began meeting in late 2017.

The technical expertise and industry input that was provided by advisory board members was invaluable to the transition of the health-related programs.

Current Advisory Boards and Advisory Committees

The Advisory Board of Athletic Trainers consists of five members serving six-year terms expiring on January 31 of each odd-numbered year. Members are David Weir, Presiding Officer, College Station; Darrell Ganus, Kilgore; Dr. David Schmidt, San Antonio; Brittney Webb, San Marcos; and Michael Fitch, Richardson.

The Code Enforcement Officers Advisory Committee consists of nine members serving six-year terms expiring on February 1 of each odd-numbered year. Members are Teresa Adrian, Presiding Officer, Irving; Richard Adams, El Paso; Jennifer Bernal, Kingsville; Marie Brown; Flint; Matthew Christianson, College Station; Jyoti Naik, Port Lavaca, Texas; Christylla Miles, Houston, Mariola Sullivan, Austin; and Stuart Walker, Lubbock.

The Dietitians Advisory Board consists of nine members serving staggered six-year terms expiring September 1 of each odd-numbered year. Members are Janet Suzanne Hall, Presiding Officer, Georgetown; Irma G. Gutierrez, Georgetown; Matilde Ladnier, Houston; Aida "Letty" Moreno-Brown, El Paso; LeAnne Skinner, Austin; Mary Kate "Suzy" Weems, Waco; and Grace E. White, Watauga. Currently, the advisory board has two vacant public member position.

The Dyslexia Therapy Advisory Committee consists of five members serving six-year terms expiring on December 31 of each odd-numbered year. Members are Robin G. Cowsar, Presiding Officer, Fredericksburg; Beatriz "Betty" Daniels-Mills, Brownsville; Misty Dempsey, Kingwood; Helen M. Macik, Hutchins; and Letricia "Puff" L Niegos, Canyon.

The Hearing Instrument Fitters and Dispensers Advisory Board consists of nine members serving staggered six-year terms with the terms of three members expiring on February 1 of each odd-numbered year. Members are Benjamin Norris, Presiding Officer, Waco; Lance Robert Brooks, Paris; Jackie Cooper, Spring; Richard Davila, Lubbock; Dr. James Fowler, Brownwood; Gary Haun, San Angelo; T.J. McDow, Dallas; Detra Stewart, Houston; and Amy Trost, Seguin.

The Massage Therapy Advisory Board consists of nine members serving six-year terms expiring on September 1 of each odd-numbered year. Members are David Lauterstein, Presiding Officer, Austin; Antonio Gracia, Jr., Houston; Caroline Guerin, Spring; Roberta Hutson, San Antonio; Russell Rust, Dallas; Susan Sparks, Corpus Christi; Paul Stone, Tyler; Karen Vasquez, McKinney; and Carol Willess, Round Rock.

The Midwives Advisory Board consists of nine members serving staggered six-year terms with the terms of three members expiring on January 31 of each odd-numbered year. Members are Meredith Rentz Cook, Presiding Officer, Keller; Roxanne Anderson, Grand Prairie; Laurie

Fremgen, Austin; Dr. Charleta Guillory, Houston; Destiny Hooper, Pearland; Christy Martin, Fort Worth; Victoria Meinhardt, Austin; Dr. Michael Nix, Austin; and Erica Steele, San Marcos.

The Orthotists and Prosthetists Advisory Board consists of seven members serving staggered six-year terms with the terms of two or three members expiring on February 1 of each odd-numbered year. Members are Miguel Mojica, Presiding Officer, Coppell; David Ahrens, Denton; Randall Duncan, McKinney; and Catherine A. Mize, Double Oak. Currently the advisory board has vacancies for one licensed orthotist, one licensed prosthetist, and one public member who uses an orthosis.

The Registered Sanitarian Advisory Committee consists of nine members serving six-year terms expiring on February 1 of each odd-numbered year. Members are Jim Dingman, Presiding Officer, Plano; Erin Dunn, College Station; Dalton Knight, Tyler; Steven Kotsatos, Austin; Shaun May, Amarillo; Lisa Pomroy, Fort Worth, and Terry Ricks, San Antonio. Currently, the advisory committee has two vacancies.

The Speech-Language Pathologists and Audiologists Advisory Board consists of nine members serving six-year terms with the terms of three members expiring September 1 of each odd numbered year. Members are Sherry Sancibrian, Presiding Officer, Lubbock; Emanuel Bodner, Houston; Cheval Bryant, Sugar Land; Dr. Tammy Camp, Shallowater; Dr. Cristen Plummer-Culp, Round Rock; Kristina Kelley, Dallas; Kimberly Ringer, Pflugerville; Elizabeth Sterling, Austin; and Michelle Tejada, San Antonio.

Laser Hair Removal, Mold Assessors and Remediators and Offender Education Programs have no legally-required advisory boards. Historically, these programs had no advisory committee roles and TDLR believes the programs will continue functioning well without advisory board requirements.

SAO Audit of Health-Related Professions Programs

On January 30, 2019, TDLR was notified of the State Auditor's Office's (SAO) intent to audit the health-related programs that were transferred from the Department of State Health Services. The audit objective was to determine whether TDLR had processes and related controls to help ensure that the agency administers regulatory activities in accordance with applicable requirements for selected health-related programs. The audit also included a review of the automated systems and processes that supported the audited functions.

On February 7, 2019, representatives from TDLR and SAO held an entrance conference to discuss the scope of the audit and engagement expectations. SAO staff began meeting with and interviewing TDLR staff the following week. SAO began their fieldwork in March 2019.

The SAO published their Audit Report in August 2019. Overall the audit found that TDLR had developed processes and related controls to administer and regulate the health-related programs as required by statute, administrative rules, and Department policies. However, not all processes, controls, and policies were sufficient.

The audit found that TDLR needed to:

- strengthen the license application review process;
- ensure that inspections are consistently performed and accurately documented;
- strengthen controls to ensure compliance with enforcement requirements;
- implement effective information technology application controls; and
- strengthen information system controls.

Strengthen the License Application Review Process

The SAO found that TDLR had established processes to ensure that only qualified individuals are licensed. However, the process to ensure that all application documentation is consistently collected and maintained needed to be strengthened. This finding was given a medium-risk rating.

TDLR agreed to the finding. Procedures do require that application documentation be maintained in accordance with the Records Retention Schedule. Procedures for criminal history background checks and documentation were modified in January 2018 to ensure that the transferred health-related programs aligned with other TDLR programs. TDLR also reviewed current policies and procedures for accurateness and provided additional staff training. This finding was remedied in May 2019.

Ensure that Inspections are Consistently Performed and Accurately Documented

The SAO found that TDLR had established a monitoring framework that included processes to assess a licensed facilities' compliance with statutory requirements and TDLR policies and rules, but it was insufficient. Additionally, inspection data was not reliable for decision-making purposes. These findings were given a high-risk rating.

TDLR agreed to the findings. TDLR's monitoring framework includes proof of inspection, inspection checklists, 10-day follow up visits, quality assurance inspections, and quarterly validation reviews. However, proof of inspection and inspection checklists were not completed and consistent for all inspections and inspection quality was not monitored. Inspectors received additional training on completing inspection forms, inspection forms were updated, and TDLR has comprehensive policies and procedures. TDLR has a robust enforcement process that includes penalty matrices for each program that help determine which violations are to be directly referred to Enforcement. Statewide massage inspector training was conducted in June 2019. This finding was remedied in June 2019.

The Legislature authorized the development of a new licensing system for TDLR. Though TDLR has begun updating VERSA to add inspection data entry controls to ensure data validity, the new system will be built to ensure appropriate controls are in place. This corrective action is currently ongoing.

Strengthen Controls to Ensure Compliance with Enforcement Requirements

The SAO found that TDLR had sufficient controls and processes to ensure adequate enforcement of regulatory activities in accordance with statute and rules. However, TDLR should strengthen controls to ensure that suspension/revocation of a license is pursued with penalties are not paid

and to ensure that all 13 of the transferred health-related programs have a penalty matrix and criminal conviction guidelines in place. This finding was given a medium-risk rating.

TDLR agreed to this finding. TDLR updated the enforcement hold functionality in VERSA. TDLR does have procedures in place for the handling of cases when penalties are not paid. Staff have received training on the process to ensure compliance. Criminal conviction guidelines for all 13 health-related programs have been approved and are available on the Department's website. There are currently three health-related programs that have penalty matrices in various stages of development and three programs that have not been started. TDLR is ahead of the projected June 2020 corrective action implementation date.

Implement Effective Information Technology Application Controls
The SAO found that licensing and enforcement processes were reliable; however, VERSA lacked controls to ensure that key fields were required, allowed for duplicate data entry, the enforcement hold was not functioning properly, and there were inaccurate license statuses. This finding was given a high-risk rating.

TDLR agreed to the finding. VERSA updates have been made or are in progress. The enforcement hold function has been engaged; unauthorized users, such as former employees, have been removed from the acceptable user lists; and lockout settings have also been updated. TDLR is working with our vendor to ensure the correct license status is displayed. This finding is expected to be remedied by December 31, 2019.

Additionally, the new licensing system will further TDLR's endeavor to implement greater controls.

Strengthen Information System Controls
The SAO found that TDLR has established policies and procedures; however, not all controls are consistently applied. There were VERSA users who had inappropriate access to certain functions based on their current job responsibilities. TDLR was not performing user access reviews every six months as required by policy.

TDLR agreed to this finding. TDLR immediately conducted a full audit of user access to each system within the agency and corrected any deficiencies or removed users accordingly. TDLR will also conduct quarterly audits with each system being reviewed at least annually. This finding was corrected April 30, 2019.

Current Initiatives

Legislative Bill Implementation
In 2018, through a comprehensive strategic planning process, TDLR developed 11 strategic initiatives with a total of 28 statutory recommendations. Of these, 9 initiatives and 20 statutory recommendations were directly related to the transferred health-related programs. TDLR made 28 recommendations to the 86th Texas Legislature for statutory changes to various programs. The proposed recommendations were designed to further remove redundancies and impediments,

streamline regulations, safeguard the public, and ensure our licensing process is easier for our licensees.

Since the 86th Legislative Session has ended, TDLR has begun to implement the changes by seeking input from advisory boards, adopting rules, modifying forms, designing software programming, updating webpages, and providing notice to our licensees. The 86th Legislature adopted 21 of the 28 proposed statutory changes resulting in a 75 percent adoption rate.

Adopted statutory changes that impact the transferred health-related programs include:

- elimination of the voluntary registration of Orthotic Technicians, Prosthetic Technicians, and Orthotic/Prosthetic Technicians (HB 2847);
- authorization of fingerprint background checks for both new massage therapy applicants and existing licensees (HB 2747);
- requiring posting of human trafficking awareness signs in licensed massage establishments and schools (HB 2747);
- authorization for TDLR to issue massage therapy student permits, standardize massage school reporting of hours, and determine examination eligibility (HB 1865);
- for all health-related programs, provide TDLR with general rulemaking authority to establish uniform complaint confidentiality (HB 2847);
- removal the five-year "sit-out" period for a licensee who has any violation of the Massage Therapy statute (HB 1865);
- authorization for the Texas Commission of Licensing and Regulation (Commission) to standardize license terms and continuing education requirements for all programs (HB 2847);
- removal of the statutory fee floor that prohibits the Commission from setting a fee for an amount less than the amount on September 1, 1993 for midwives (HB 2847);
- removal of the required passing score of 70 percent or greater for Hearing Instrument Fitters and Dispensers applicants set by statute (HB 2699);
- reinstatement of continuing education requirements for laser hair removal providers (HB 2847);
- removal of the requirement that dietitians use a seal (HB 2847);
- removal of the requirement that the chair of the Midwives Advisory Board be a public member (HB 2847); and
- removal of the unnecessary requirement that an audiologist must register with TDLR their intention to fit and dispense hearing instruments (HB 2847).

Strategic Planning

Because listening to people we serve is essential, TDLR is set to host the next strategic planning sessions in spring 2020. Every two years TDLR seeks the input of our licensees, industry leaders, and the public by holding face-to-face public meetings around Texas. The purpose of these meetings is to find out how well TDLR is meeting their needs and how we can improve our services. In the spring of 2018, TDLR facilitated strategic planning sessions in North Texas (Arlington), Central Texas (Austin), West Texas (El Paso), Southeast Texas (Houston), and South

Texas (McAllen). In addition, TDLR offered an online survey to allow our customers and others to share their observations and suggestions. Input gathered from these meetings, surveys and through social media helped develop the agency goals and strategic initiatives that are included in the TDLR 2019-2023 Strategic Plan.

Innovation and Efficiency

TDLR's mission is to earn the trust of Texans every day by providing innovative regulatory solutions for our licensees and those they serve. Our vision is to the be the best at creating 'next' practices that deliver low-cost licensing and regulatory services and an exceptional customer experience. In support of the mission and vision, TDLR strives to remove redundancies and impediments, streamline regulations, and ensure our licensing processes are easier for our licensees while protecting the public. TDLR continues to deliver on our promise to promote transparency and accountability, reduce fees, protect the health and safety of all Texans, and eliminate unnecessary barriers to doing business. To that end, TDLR has made some significant strides in implementing innovative regulatory improvements to increase program efficiency and reduce costs. These include:

- fee reductions totaling nearly $2 million during the first three fiscal years since the program transfers occurred;
- streamlined rules to improve readability, remove duplicate or obsolete language, and reorganize the rules into smaller, more distinct rule sections;
- creating online services to replace cumbersome and time-consuming paper processes;
- reorganizing webpages for ease of navigation and to reduce the amount of time it takes to find information which reduced the time spent by visitors to the medical and health-related program pages by over 27 percent;
- refining licensing processes and forms to reduce license processing times; and
- performing school visits to help prospective applicants understand the licensing process and requirements.

Midwives Educational Summits

TDLR has hosted two educational summits for the midwifery program. The first was held on January 7, 2019, in Austin and the second was held on July 26, 2019, in Hurst. The purpose of the summits is to share, educate, and have open dialogue on important topics within the profession. Midwives do incredibly important work and TDLR wants to honor the profession by actively learning from and engaging with licensees. The summits provide education to both the midwives who attend the conference and TDLR staff. Midwives receive continuing education for attending and students may count it towards their education requirements as well.

The Health Monitor Newsletter

TDLR produces a quarterly newsletter, *The Health Monitor*, that spotlights the TDLR Medical and Health Professions programs. The newsletter is distributed via email to more than 29,000 subscribers (*see Figure 1*) and has an average open rate per issue of 30 percent. Articles highlight programmatic and innovative changes, successes within the regulated community, upcoming outreach activities, advisory board/committee and commission meeting dates, how to find a licensee, and how to file a complaint. Current newsletters are also posted to the program webpages and past issues are available on the TDLR webpage.

Figure 1: TDLR Health Monitor - Total Delivered FY18-19

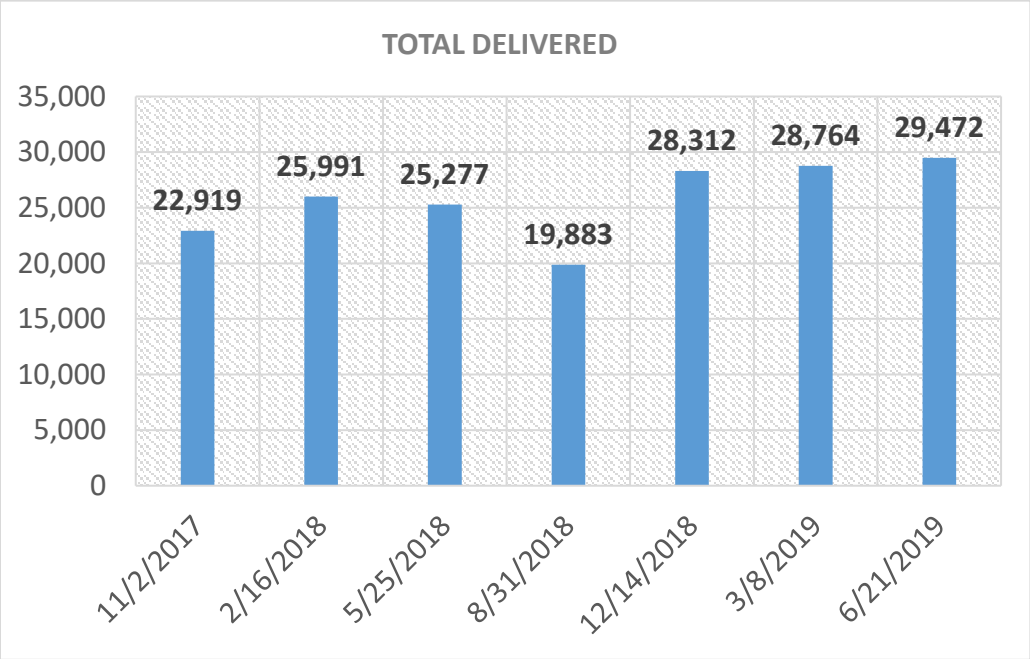
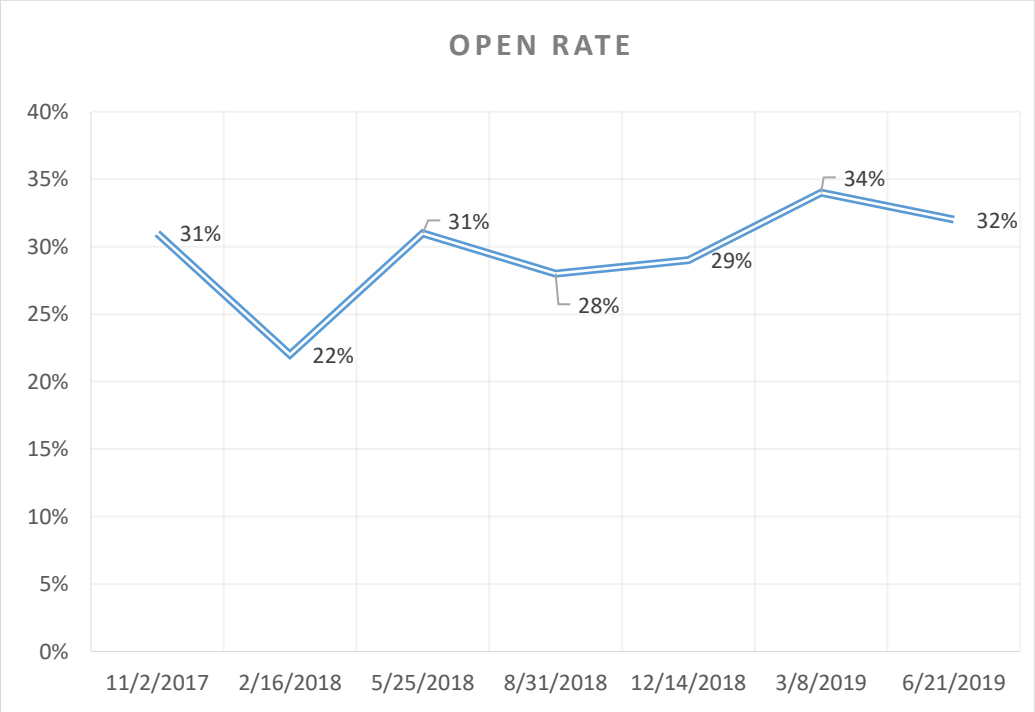


Figure 2: TDLR Health Monitor Open Rate Among Subscribers



Key Statistics

Licensing Statistics for Phase One Transfer Programs, FY 2019

Program	License Renewals	New Licenses	Total Population
Athletic Trainers	1,796	367	3,974
Dietitians	2,842	548	6,134
Dyslexia Therapists & Practitioners	457	98	964
Hearing Instrument Fitters & Dispensers	357	214	885
Midwives	141	39	313
Orthotists & Prosthetists	410	107	912
Speech Language Pathologists & Audiologists	10,160	2,335	21,692
TOTALS	**16,163**	**3,708**	**34,874**

Licensing Statistics for Phase Two Transfer Programs, FY 2019

Program	License Renewals	New Licenses	Total Population
Code Enforcement Officers	979	358	2,571
Laser Hair Removal	550	1,269	3,357
Massage	14,628	3,206	33,986
Mold Assessors & Remediators	907	1,204	5,789
Offender Education Programs	546	245	4,077
Sanitarians	542	109	1,336
TOTALS	**18,152**	**6,391**	**51,116**

Customer Service Statistics for Phase One Transfer Programs, FY 2019

Program	Phone Calls Answered	Email Responses
Athletic Trainers	2,124	2,827
Dietitians	3,116	3,920
Dyslexia Therapists & Practitioners	356	352
Hearing Instrument Fitters & Dispensers	1,550	835
Orthotists & Prosthetists	942	709
Midwives	335	319
Speech-Language Pathologists/Audiologists	15,718	17,654
TOTALS	**24,141**	**26,616**

Customer Service Statistics for Phase Two Transfer Programs, FY 2019

Program	Phone Calls Answered	Email Responses
Code Enforcement Officers	2,264	1,149
Laser Hair Removal	2,460	1368
Massage	19839	10,647
Mold Assessors & Remediators	3,906	3,697
Offender Education Programs	4,983	3,221
Sanitarians	1,131	693
TOTAL	**34,583**	**20,775**

Exams Administered for Phase One Transfer Programs, FY 2019

Program	Exams Administered
Athletic Trainers	664
Dietitians	2,241
Dyslexia Therapists & Practitioners	No Exam Requirement
Hearing Instrument Fitters & Dispensers	167
Licensed Prosthetists & Orthotists	75
Midwives	82
Speech Language Pathologists & Audiologists	2,106
TOTAL	**5,335**

Exams Administered for Phase Two Programs, FY 2019

Program	Exams Administered
Code Enforcement Officers	346
Laser Hair Removal	No Exam Requirement
Massage Therapy	1,883
Mold Assessors and Remediators	231
Offender Education Programs	No Exam Requirement
Sanitarians	91
TOTAL	**2,551**