



# STATE OF NORTH CAROLINA

**PERFORMANCE AUDIT**

**NORTH CAROLINA PHYSICIANS HEALTH PROGRAM**

**APRIL 2014**

**OFFICE OF THE STATE AUDITOR**

**BETH A. WOOD, CPA**

**STATE AUDITOR**

## **EXECUTIVE SUMMARY**

### **PURPOSE**

The Office of the State Auditor initiated this audit to address concerns about the North Carolina Physicians Health Program (Program). Several physicians alleged that the Program abused its authority by intimidating some physicians into unnecessarily enrolling in alcohol and chemical dependency treatment programs. These physicians also questioned the quality of the evaluations and treatment they received and alleged a conflict of interest between the Program and the treatment centers. Additionally, physicians were concerned about the predominant use of out-of-state treatment centers.

### **BACKGROUND**

The Program was created to “provide a non-disciplinary therapeutic program for health care practitioners with health conditions which may compromise their ability to practice with reasonable skill and safety.” The Program provided services to about 1,140 physicians for the 10-year period ended December 31, 2012, and had about \$1.9 million in total operating revenue for calendar year 2012.

### **KEY FINDINGS**

- The audit found no indications of abuse by the Program; however abuse could occur and not be detected because the Program lacks objective, impartial due process procedures for physicians who dispute its evaluations and directives.
- Abuse could occur and not be detected because the Program gave the CEO/Medical Director and the Clinical Director excessive influence over the process for reviewing physician complaints, and physicians were not allowed to effectively represent themselves when disputing evaluations.
- Abuse could occur and not be detected because the North Carolina Medical Board did not periodically evaluate the Program, and the North Carolina Medical Society did not provide adequate oversight.
- The Program created the appearance of conflicts of interest by allowing treatment centers that receive Program referrals to fund its retreats, paying scholarships for physicians who could not afford treatment directly to treatment centers, and allowing the centers to provide both patient evaluations and treatments.
- Program procedures did not ensure that physicians received quality evaluations and treatment because the Program had no documented criteria for selecting treatment centers and did not adequately monitor them.
- The Program’s predominant use of out-of-state treatment centers created an undue burden on physicians.

### **KEY RECOMMENDATIONS**

- The Program should ensure physicians have access to objective, independent due process procedures.
- The Medical Board and the Medical Society should develop and implement plans for better oversight of the Program.
- The Program should not allow treatment centers to fund its retreats and should stop directly paying scholarships to the centers.
- The Program should make it clear in writing that the physician may choose separate evaluation and treatment providers. It should also develop procedures for selecting and monitoring treatment centers.
- The Program should continue its efforts to identify qualified in-state treatment centers.

*Key findings and recommendations may not be inclusive of all findings and recommendations in the report.*



Beth A. Wood, CPA  
State Auditor

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**Office of the State Auditor**

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April 8, 2014

The Honorable Pat McCrory, Governor  
Members of the North Carolina General Assembly  
Dr. Warren J. Pendergast, Medical Director, North Carolina Physicians Health Program, Inc.  
David Henderson, Executive Director, North Carolina Medical Board  
Robert W. Seligson, Executive Vice President, Chief Executive Officer, North Carolina Medical Society

Ladies and Gentlemen:

We are pleased to submit this performance audit titled *North Carolina Physicians Health Program*. The audit objectives were to determine if the North Carolina Physicians Health Program (Program) controls provided reasonable assurance that (1) an abuse of authority would be prevented or timely detected if it occurred and (2) physicians would receive objective and quality evaluations without experiencing any undue burden. Representatives from the North Carolina Physicians Health Program, North Carolina Medical Board, and North Carolina Medical Society reviewed a draft copy of this report. Their written comments are included in the appendix.

The Office of the State Auditor initiated this audit to address concerns expressed by some North Carolina physicians. These physicians alleged that the Program abused its authority by intimidating some physicians to unnecessarily enroll in alcohol and chemical dependency treatment programs. Physicians questioned the objectivity and quality of the evaluations that they received, alleged a conflict of interest between the Program and the treatment centers, and had concerns about the quality of the treatment centers. Additionally, physicians were concerned about the burden placed on physicians due to the Program's predominant use of out-of-state treatment centers.

We wish to express our appreciation to the staff of the North Carolina Physicians Health Program, North Carolina Medical Board, and North Carolina Medical Society for the courtesy, cooperation, and assistance provided us during the audit.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

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**INTRODUCTION**

**BACKGROUND**

The North Carolina Physicians Health Program (Program) was created in accordance with North Carolina General Statute 90-21.22. According to the Federation of State Physician Health Programs, Inc., the purpose of a physician health program is to “provide a non-disciplinary therapeutic program for health care practitioners with health conditions which may compromise their ability to practice with reasonable skill and safety.”

A memorandum of understanding between the North Carolina Medical Board (Medical Board) and the North Carolina Medical Society (Medical Society) establishes the provisions for administering the Program. The memorandum also establishes the North Carolina Physicians Health Program, Inc., a nonprofit affiliate organization of the Medical Society, as the Program’s administrator. The North Carolina Physicians Health Program, Inc. has a 15-member Board of Directors that consists of five members from the Medical Society, three members from the Medical Board, and seven members from other health care provider organizations.

The Program provided services to about 1,140 physicians for the ten year period ended December 31, 2012. The Program had about \$1.9 million in total operating revenue for the year ended December 31, 2012.

**OBJECTIVES, SCOPE, AND METHODOLOGY**

The audit objectives were to determine if the Program controls provided reasonable assurance that (1) an abuse of authority would be prevented or timely detected if it occurred and (2) physicians would receive objective and quality evaluations without experiencing any undue burden.

The Office of the State Auditor initiated this audit to address concerns expressed by some North Carolina physicians. These physicians alleged that the Program abused its authority by intimidating some physicians into unnecessarily enrolling in alcohol and chemical dependency treatment programs. Physicians questioned the objectivity and quality of the evaluations that they received, alleged a conflict of interest between the Program and the treatment centers, and had concerns regarding the quality of the treatment centers. Additionally, physicians were concerned about the burden placed on physicians by the Program’s predominant use of out-of-state treatment centers.

The audit scope included Program operations for the 10-year period ended December 31, 2012. We conducted the fieldwork from April 2013 to December 2013.

To determine if Program controls provided reasonable assurance that an abuse of authority would be prevented or timely detected if it occurred, we obtained subject matter experts to review a statistical sample of 110 physician case files from the population of 1,140 physicians

## PERFORMANCE AUDIT

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evaluated by the Program for the 10-year period ended December 31, 2012. Subject matter experts reviewed the case files to determine if the files contained sufficient, appropriate evidence to support a referral to a treatment center. Subject matter experts also interviewed 38 physicians<sup>1</sup> who were former Program participants. We reviewed state laws, state administrative code, Program policies and procedures, and the written agreement between the Medical Board and the Medical Society. We also interviewed personnel and board members of the Program, Medical Board, and Medical Society. In addition, we interviewed attorneys who regularly represent physicians before the Medical Board.

To determine if Program controls provided reasonable assurance that physicians would receive objective and quality evaluations without experiencing any undue burden, we reviewed state laws, state administrative code, and Program policies and procedures. We reviewed best practices contained in the Federation of State Physician Health Programs' "Physician Health Program Guidelines" and the Federation of State Medical Boards' "Policy on Physician Impairment." We also interviewed personnel at the Program, Medical Board, and Medical Society.

Because of the test nature and other inherent limitations of an audit, together with limitations of any system of internal and management controls, this audit would not necessarily disclose all performance weaknesses or lack of compliance.

As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components: (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

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.

We conducted this audit under the authority vested in the State Auditor of North Carolina by *North Carolina General Statute 147.64*.

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<sup>1</sup> The Office of the State Auditor used procedures in its audit methodology to protect the anonymity of all interviewees from the Program, Medical Board, and Medical Society. Interviewee anonymity is further assured because state law protects the confidentiality of Office of the State Auditor audit work papers.

## FINDINGS AND RECOMMENDATIONS

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### 1. CONTROLS<sup>2</sup> WERE NOT ADEQUATE TO PREVENT ABUSE OF AUTHORITY

The Program controls did not provide reasonable assurance that an abuse of authority would be prevented or timely detected if it occurred.

Physicians alleged that the North Carolina Physicians Health Program (Physicians Health Program or Program) intimidates some physicians into unnecessarily enrolling in alcohol and chemical dependency treatment programs. Physicians may be vulnerable to intimidation because failure to comply with Program directives can result in referral to the North Carolina Medical Board (Medical Board) and the loss of the physician's medical license.

Based on our audit procedures, we found no indications of abuse by the Physicians Health Program. Subject matter experts reviewed a statistical sample of 110 case files out of the 1,140 cases managed by the Program during the 10-year period ended December 31, 2012. Each case file contained sufficient, appropriate evidence to support the referral to a treatment center.

However, (1) the Physicians Health Program lacked objective and independent "due process" procedures, as required by statute,<sup>3</sup> for physicians who disputed the Program's evaluations and directives; (2) the Medical Board did not conduct periodic evaluations of the Program to ensure compliance with established policies, procedures, and best practices; and (3) the North Carolina Medical Society (Medical Society) did not provide adequate oversight of the Program.

#### **Physicians Health Program Lacked Objective and Independent "Due Process"**

The Program did not have objective, impartial due process procedures for physicians who disputed the Program's evaluations and directives.

Additionally, the Program did not have due process procedures independent of the Medical Board so that physicians could challenge Program evaluations and directives without risk of being identified to the licensing board.

The Program lacked objective, independent due process procedures for three reasons.

First, objectivity was compromised because Program procedures allowed the CEO/Medical Director<sup>4</sup> and the Clinical Director excessive influence over the process by which physician participant complaints were reviewed. The CEO/Medical Director and the Clinical Director are allowed to make the initial assessment of physicians and to make recommendations for a comprehensive assessment at a treatment center. If a physician

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<sup>2</sup> "Internal control, sometimes referred to as management control, in the broadest sense includes the plan, policies, methods, and procedures adopted by management to meet its missions, goals, and objectives." Government Auditing Standards, 2011

<sup>3</sup> *North Carolina General Statute* 90-21.22

<sup>4</sup> The positions of Chief Executive Officer and Medical Director are held by the same person.

## FINDINGS AND RECOMMENDATIONS

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disagreed with the initial or comprehensive assessment, the physician was required to submit a complaint in writing to the CEO/Medical Director and the Clinical Director. The CEO/Medical Director and the Clinical Director would then present the complaint to the Program's Compliance Committee without the physician's attendance. As members of the Program's Compliance Committee, the CEO/Medical Director and the Clinical Director also participated in deciding the merits of the complaint.

Second, objectivity was compromised because Program procedures did not give physicians the ability to effectively represent themselves when disputing evaluations. The Program's policies did not allow physicians to have access to their evaluations and case records that the Program maintained. The Program's policies did not outline any required communication between the Program and the physicians. And physicians were not allowed to attend the Program's Compliance Committee meeting when the CEO/Medical Director and the Clinical Director presented the physicians' complaints.

Third, independence was compromised because Medical Board members participated as members of the Program's Compliance Committee. Some physicians are on the "voluntary track" which the Federation of State Medical Boards defines as "A confidential process of seeking assistance and guidance through a PHP without required personal identification to the state licensure board..." Participation on the Program's Compliance Committee could have allowed the Medical Board to learn the identity of physicians who wanted to remain anonymous – despite procedures designed to protect identities. Furthermore, Medical Board participation would certainly compromise anonymity if, in the future, physicians are allowed and choose to appear before the Compliance Committee to represent themselves.

State law requires due process procedures for peer review activities such as those performed by the Physicians Health Program. Specifically, *North Carolina General Statute 90-21.22-(a)* and (b) state:

- Peer review activities "shall include programs for impaired physicians and impaired physician assistants"
- "Peer review agreements **shall** include provisions **assuring due process.**" (Emphasis added)

Additionally, the agreement between the Medical Board and Physician Health Program requires due process procedures for the Physicians Health Program. Specifically, section five of the Memorandum of Understanding between the Medical Board and the Program states,

"Any action taken by NCPHP under this Memorandum with respect to an impaired practitioner will in all respects comply with all of such practitioner's due process rights enumerated in Article 1, Chapter 90 of the General Statutes of North Carolina and all relevant due process rights contained in the Administrative Procedures Act, Chapter 150B of the General Statutes of North Carolina."

## **FINDINGS AND RECOMMENDATIONS**

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The lack of objective and independent due process procedures could prevent physicians from successfully defending themselves against potentially erroneous accusations and evaluations. If a physician is required to enroll in comprehensive evaluations and treatment based on erroneous accusations and initial evaluations, the physician could experience undue and unnecessary financial, reputational, and familial hardships. For example,

- Physicians may be required to pay for comprehensive evaluations that could take four days and cost about \$4,500;
- Physicians may be required to pay for 12-week treatment programs that could cost about \$46,000;
- Physician reputations may be harmed;
- Physicians may not be able to manage their medical practices or earn a living during evaluation and treatment; and
- Physicians may be separated from family during evaluation and treatment.

### **Medical Board Did Not Conduct Periodic Evaluations of the Program**

The Medical Board did not conduct periodic evaluations of the Physicians Health Program to ensure compliance with state laws, written agreements, and best practices. In accordance with *North Carolina General Statute 90-21.22.(a)*, the Medical Board entered into an agreement to outsource Program administration to the North Carolina Physicians Health Program, Inc. The Medical Board received periodic reports from the Program, but it did not conduct periodic evaluations of Program activities.

Internal control best practices require periodic evaluations of outside service providers such as the Physicians Health Program. For example, the Committee of Sponsoring Organizations of the Treadway Commission (COSO)<sup>5</sup> states:

“Many organizations outsource business functions, delegating their roles and responsibilities for day-to-day management to outside service providers. ... While these external parties execute activities for or on behalf of the organization, management cannot abdicate its responsibility to manage the associated risks. It must implement a program to evaluate those activities performed by others on their behalf to assess the effectiveness of the system of internal control over the activities performed by outsourced service providers.”

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<sup>5</sup> The Committee of Sponsoring Organizations of the Treadway Commission (COSO) is a joint initiative of five private sector organizations and is dedicated to providing thought leadership through the development of frameworks and guidance on enterprise risk management, internal control, and fraud deterrence. The five private sector organizations include the Institute of Management Accountants (IMA), American Accounting Association (AAA), American Institute of Certified Public Accountants (AICPA), Institute of Internal Auditors (IIA), and Financial Executives International (FEI).

## FINDINGS AND RECOMMENDATIONS

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The lack of periodic evaluations could prevent the Medical Board from timely identifying and correcting any potential abuse of authority, lack of due process, or other significant noncompliance with established policies, procedures, and best practices.

### **Medical Society Did Not Provide Adequate Oversight of the Program**

The Medical Society did not use its appointees on the Program's Board of Directors to provide adequate oversight of the Program's operations. The Program is administered by a Medical Society affiliate (North Carolina Physicians Health Program, Inc.). The Medical Society appointed five members to the Program's 15-member Board of Directors, but the Medical Society did not take an active role in overseeing Program activities.

For example, the Medical Society did not use its appointees on the Program's Board of Directors to require audits or evaluations of Program performance. As a result, the Medical Society did not identify concerns with the Program's due process procedures.

Internal control best practices require the Board of Directors to provide active oversight. For example, COSO states:

**“The board is responsible for overseeing the system of internal control.** With the power to engage or terminate the chief executive officer, the board has a key role in defining expectations about integrity and ethical values, transparency, and accountability for the performance of internal control responsibilities.” (Emphasis added)

The lack of active oversight could prevent the Medical Society from timely identifying and correcting any potential abuse of authority, lack of due process, or other significant noncompliance with the program requirements and state laws referenced in the written agreement between the Medical Board and the Medical Society.

### ***Recommendations:***

The Physicians Health Program should draft and execute written policies and procedures that ensure physicians have access to objective, independent due process procedures.

The Physicians Health Program should review and modify the CEO/Medical Director and the Clinical Director duties so that they cannot compromise the objectivity of the complaint process.

The Physicians Health Program should establish policies to give physicians access to the evaluations, case records, and Program personnel needed to effectively represent themselves when disputing Program evaluations and directives.

## **FINDINGS AND RECOMMENDATIONS**

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The Physicians Health Program should modify its procedures or the membership of its Compliance Committee so that physician anonymity is protected from the licensing board.

The Medical Board should draft and execute written policies and procedures that describe how it will provide oversight for the Physicians Health Program.

The Medical Society should draft and execute written policies and procedures that describe how it will provide oversight for the Physicians Health Program.

### **2. CONTROLS DID NOT ENSURE OBJECTIVE AND QUALITY EVALUATIONS**

Our audit found that the North Carolina Physicians Health Program (Physicians Health Program or Program) controls did not provide reasonable assurance that physicians received objective and quality evaluations without experiencing any undue burden.

Physicians questioned the objectivity and quality of the evaluations that they received through the Program. Physicians alleged a conflict of interest between the Program and the treatment centers and had concerns about the quality of the treatment centers. Additionally, physicians were concerned about the burden placed on physicians due to the Program's predominant use of out-of-state treatment centers.

The Program: (1) created the appearance of a conflict of interest by allowing treatment centers to fund biennial retreats for the Program; (2) created the appearance of a conflict of interest by providing scholarship funds directly to treatment centers; (3) allowed treatment centers to have a potential conflict of interest in evaluation results because treatment centers provided both evaluations and treatment; (4) did not have a documented policy for selecting treatment centers; (5) did not adequately monitor treatment center operations; and (6) predominantly used out-of-state treatment centers.

#### **Funding for Biennial Retreat Created Appearance of Conflict of Interest**

Until 2013, the Program created the appearance of a conflict of interest by allowing treatment centers that receive Program referrals to contribute funds to the Program's biennial retreats.

The Program received approximately \$13,700 in contributions from treatment centers for the 2012 retreat. The \$13,700 in contributions is a small amount (0.72%) compared to the Program's \$1.9 million total operating revenues.

However, allowing treatment centers that receive referrals from the Program to fund retreats that Program management attends created the appearance of a conflict of interest.

The Federation of State Physician Health Programs established guidelines that prohibit conflicts of interests. Specifically, the "Physician Health Program Guidelines" state,

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“Due diligence must be taken to avoid acceptance of funds from sources that create a conflict of interest.”

The guidelines further state,

“Physician Health Programs must not have any conflict of interest or business association with programs utilized for referrals.”

The appearance of a conflict of interest caused some physicians to question the objectivity of Program referrals. Physicians questioned whether referrals were based on physician needs or the Program’s financial relationship with the treatment center.

### **Scholarships Paid To Treatment Centers Created Appearance of Conflict of Interest**

The Program also created the appearance of a conflict of interest by paying scholarships directly to treatment centers.

The scholarships were used to pay the treatment costs of physicians who may not be able to afford treatment. The Program paid about \$82,950 in scholarships to 10 treatment centers during the year ended December 31, 2012.

However, the direct payments created a business association between the Program and the treatment centers.

The Federation of State Physician Health Programs established guidelines that prohibit conflicts of interests. Specifically, the “Physician Health Program Guidelines” state,

“Physician Health Programs must not have any conflict of interest or business association with programs utilized for referrals.”

The appearance of a conflict of interest caused some physicians to question the objectivity of treatment center evaluations. Physicians questioned whether evaluations were influenced by the Program’s financial relationship with the treatment center.

### **Treatment Centers Had Potential Conflict Of Interest In Evaluation Results**

The Program allowed treatment centers to have a potential conflict of interest in evaluation results because treatment centers provided both evaluations and treatment. The Program makes referrals to approximately 19 treatment centers. Each of the treatment centers provided evaluations as well as treatment programs.

Treatment centers had a potential interest in evaluation outcomes because the treatment center could charge thousands of dollars if a physician was found to need treatment and chose to stay at the center that provided the evaluation. For example, one physician was evaluated at a treatment center and received a recommendation to attend a 12-week treatment program costing \$46,000.

## FINDINGS AND RECOMMENDATIONS

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Program policy did not require physicians to obtain treatment at the treatment center that provided the evaluation. Physicians were allowed to obtain treatment from any of the approved treatment centers.

However, about 11 out of 82 (13%) physicians treated in 2012 were evaluated and treated at the same treatment center.

The Federation of State Physician Health Programs established guidelines that prohibit treatment centers from having conflicts of interests related to the evaluations they perform. Specifically, the “Physician Health Program Guidelines” state,

- “There should be no actual or perceived conflicts of interest between the evaluator and the referent or patient.”
- “No secondary gain should accrue to the evaluator dependent on evaluation findings/outcome.”
- “An evaluator should not be in a treatment relationship with the professional being evaluated.”

The appearance of a conflict of interest caused some physicians to question the objectivity of treatment center evaluations.

### **No Documented Policy For Selecting Treatment Centers**

The Program did not use documented criteria to select treatment centers. Program management stated that it learns of new treatment centers through professional networks and other informal sources. Program management said it uses the treatment centers’ reputation as a basis for establishing a referral relationship.

The Federation of State Physician Health Programs and the Federation of State Medical Boards requires physician health programs to use established guidelines to select evaluation providers and treatment centers.

In its “Physician Health Program Guidelines,” the Federation of State Physician Health Programs established:

- “Characteristics of Evaluation Providers Appropriate for PHP referrals,” and
- “Characteristics of Treatment Programs which are appropriate for PHP referrals.”

And in its “Policy on Physician Impairment,” the Federation of State Medical Boards states:

- “PHPs should employ FSPHP [Federation of State Physician Health Programs] Guidelines in selecting the providers/facilities to provide treatment of physicians with addictive and/or psychiatric illness.”

## FINDINGS AND RECOMMENDATIONS

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Failure to use Federation of State Physician Health Programs recommended criteria to select treatment centers could cause the Program to enter into referral arrangements with service providers that do not meet quality standards.

### **Treatment Centers Not Adequately Monitored**

The Physicians Health Program did not conduct periodic evaluations of the treatment centers to ensure compliance with established operating criteria.

The Physicians Health Program used approximately 19 outside service providers to provide evaluations and treatment to physicians.

However, the Program only performed and documented two evaluations of treatment centers during 2012. The Program did not use standardized criteria to perform or document the evaluations. The evaluations were documented in different formats and addressed different performance areas.

There were no documented evaluations prior to 2012.

Additionally, there was no documentation showing that the Program used the evaluation criteria established by the Federation of State Physician Health Programs such as:

- “Characteristics of Evaluation Providers Appropriate for PHP referrals”
- “Characteristics of Treatment Programs which are appropriate for PHP referrals”

Internal control best practices require periodic evaluations of outside service providers such as the treatment centers. For example, the Committee of Sponsoring Organizations of the Treadway Commission (COSO) states:

“Many organizations outsource business functions, delegating their roles and responsibilities for day-to-day management to outside service providers. ... While these external parties execute activities for or on behalf of the organization, management cannot abdicate its responsibility to manage the associated risks. It must implement a program to evaluate those activities performed by others on their behalf to assess the effectiveness of the system of internal control over the activities performed by outsourced service providers.”

North Carolina Administrative Code also requires the Program to periodically evaluate treatment centers. Specifically, 21 NCAC 32K .0203 states:

“The Program shall monitor the cost of treatment. Treatment sources receiving referrals from the Program also shall be monitored as to their ability to provide:

- adequate medical and non-medical staffing;
- appropriate treatment;
- adequate facilities; and

## FINDINGS AND RECOMMENDATIONS

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- appropriate post-treatment support.”

Lack of periodic evaluations could prevent the Program from timely identifying and taking corrective action to address treatment centers whose services do not meet established quality standards.

### **Predominant Use of Out-Of-State Treatment Centers Created Undue Burden**

The Program did not meet program participant’s need for in-state treatment centers.

The Program predominantly used out-of-state treatment centers. Program management stated that there were limited in-state treatment centers with the capacity to perform “comprehensive assessments.” When asked for the list of treatment centers, Program management provided a list that only included out-of-state treatment centers. Additionally, Program management did not document any research it may have performed to determine if qualified in-state treatment centers were available. Once auditors brought the issue to its attention, the Program added two in-state treatment centers to its approved list in 2013.

The Federation of State Physician Health Programs’ “Physician Health Program Guidelines” says referrals should be based on the program participant’s needs. Specifically, the Physician Health Program Guidelines state that the Program should have the:

“Ability to make appropriate referrals for evaluation and treatment based on the participant’s needs (**not a preset list of providers**). A choice of several appropriate evaluation/treatment options/programs should be offered participants whenever possible.” (Emphasis added)

The Program’s predominant use out-of-state evaluation and treatment centers created an undue burden for some physicians. For example, physicians may have incurred unnecessary hotel, travel, and meal expenses.

#### ***Recommendation:***

The Physicians Health Program should continue its practice of no longer allowing treatment centers to fund the biennial retreats.

The Physicians Health Program should discontinue its practice of paying scholarships directly to treatment centers.

The Physicians Health Program should make it clear in writing that the physician may choose separate evaluators and treatment providers so that evaluators do not have a potential financial interest in the outcome of an evaluation. To help ensure this separation, the Program should secure written documentation, co-signed by the physician, that alternate treatment provider choices have been offered by the evaluator.

## **FINDINGS AND RECOMMENDATIONS**

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The Physicians Health Program should establish written policies and procedures for selecting treatment centers. The Program should also document its evaluations when selecting treatment centers.

The Physicians Health Program should establish written policies and procedures for systematically monitoring treatment centers. The Program should also document its monitoring visits.

The Physicians Health Program should continue its efforts to identify qualified in-state treatment centers to meet the needs of the physicians.

## MATTER FOR FURTHER CONSIDERATION

The North Carolina Medical Society (Medical Society), North Carolina Medical Board (Medical Board) and the North Carolina Physicians Health Program (Physicians Health Program) should seek to have the wording in *North Carolina General Statute 90-21.22* amended. The statute should be amended to reflect mutually desired structure and activities using terminology appropriate in the circumstances consistent with the intent of the original statute. The Memorandum of Understanding between the three entities should be similarly amended.

The current language of North Carolina General Statute 90-21.22 implies the Medical Society is conducting the “Peer Review” activities, as it did until 1988. However, this changed when the Medical Society and the Medical Board joined to form the North Carolina Physicians Health & Effectiveness Program under the North Carolina Medical Society Foundation to conduct the program contemplated by the general statute. Subsequently, the Medical Society and the Medical Board created the Physicians Health Program in 1993 and entered into a Memorandum of Understanding related to the Physicians Health Program.

Additionally, the language in North Carolina General Statute 90-21.22 and the Memorandum of Understanding has created misunderstanding of each entity’s responsibility as to governance of the Physicians Health Program as well as the activities of the program. Specifically, the use of the terms “Peer Review” and “Impaired” have created misunderstanding in the public and the health care community. Also, because of misunderstandings regarding the term “Peer Review” it has created confusion about physicians’ rights to access their records at the Physician Health Program.



**NORTH CAROLINA  
MEDICAL BOARD**

Paul S. Camnitz, MD  
President

Cheryl L. Walker-McGill, MD  
President-Elect

Pascal O. Udekwo, MD  
Secretary/Treasurer

April 3, 2014

The Honorable Beth A. Wood, CPA  
State Auditor  
Office of the State Auditor  
State of North Carolina  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, North Carolina 27699-060

Dear Ms. Wood:

The North Carolina Medical Board (NCMB) accepts the recommendations of the Office of State Auditor (OSA).

The NCMB is gratified that the OSA found “no indications of abuse by the [NCPHP]” and that the OSA, with the assistance of two independent experts, found NCPHP had “sufficient, appropriate evidence to support the referral to a treatment center” in each of the 110 participant cases it reviewed.

The Medical Board is committed to working with NCPHP and the North Carolina Medical Society to address the issues identified by the OSA, and to implementing its recommendations.

To that end, the Medical Board has already removed from the NCPHP Compliance Committee the three NCMB members who served on it to address the concern that direct NCMB participation might compromise the privacy of participants who are unknown to the Medical Board. The Board is also taking steps to ensure that more formal oversight of NCPHP is established. Within the next six months, the NCMB will develop the criteria by which it will evaluate the NCPHP. The criteria will include, among other things, elements to ensure that the NCPHP has established written policies and procedures for selecting and monitoring treatment centers, is continuing its efforts to identify additional qualified in-state treatment centers and is avoiding the appearance of impropriety in the payment of scholarships. The Medical Board will conduct the evaluations twice a year thereafter.

The NCMB appreciates the time, effort and professionalism exhibited by the OSA staff. The audit process has been a time of education and self-reflection, and the Medical Board is confident that it will be a better organization as a result of this review.

Sincerely,

R. David Henderson  
Executive Director

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April 3, 2014

The Honorable Beth A. Wood, State Auditor  
Office of the State Auditor  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, North Carolina 27699-0601

Dear Ms. Wood:

The North Carolina Medical Society (NCMS) believes the Office of the State Auditor (OSA) report identifies areas for improvement that will make the North Carolina Physicians Health Program (NCPHP) more effective. The NCPHP serves an important public protection role, and the recommendations in the audit will strengthen NCPHP's ability to discharge those responsibilities.

The NCMS is already taking steps to implement new policies and procedures to recruit and thoroughly vet candidates for the NCPHP Board of Directors, and ensure their accountability for sound oversight of the program and implementation of all items identified by the OSA in this report. By September 30, 2014, the NCMS will develop and implement criteria to evaluate the performance of PHP overall, and with respect to each aspect of the OSA's report. In addition, the NCMS, through its Foundation, is committed to working with NCPHP to develop an impartial system for the award of scholarship funds for qualified individuals.

Sincerely,



Robert W. Seligson  
Executive Vice President, CEO

Copy: Devdutta Sangvai, MD, President  
Varsha Gadani, JD, Assistant General Counsel



North Carolina Physicians Health Program

April 3, 2014

The Honorable Beth A Wood, State Auditor  
Office of the State Auditor  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601

Dear State Auditor Wood:

The North Carolina Physicians Health Program (NCPHP) accepts the Office of the State Auditor (OSA) recommendations. NCPHP has worked diligently with the OSA to provide requested information in the course of the audit, and welcomes the opportunity to improve program policies and procedures. In so doing, NCPHP strives to improve physician, PA and other important stakeholder knowledge and comfort with program processes and outcomes. The new processes and documentation outlined below are intended in part to promote participation by professionals early in the disease process, and thereby continue the high recovery rate achieved by the critically important health care professionals working in our state.

NCPHP notes the OSA expert review of 110 files led to a finding of “no indications of abuse” with “sufficient, appropriate evidence to support the referral to a treatment center” for each referral.

NCPHP appreciates the extensive measures taken by the OSA to safeguard participant privacy and confidentiality in this review process.

The NCPHP Board of Directors (BOD) has approved all the measures as outlined in this response in principle. The BOD will engage in ongoing oversight as implementation proceeds, including review and approval of policies and procedures.

NCPHP staff and BOD will work in conjunction with the North Carolina Medical Society (NCMS) to develop objective, impartial due process procedures for participants who dispute the Program’s evaluations and directives. Due process procedures are targeted for implementation no later than November 2014.

As part of this initiative, measures will be taken to ensure that all NCPHP staff duties are structured so as to preclude compromising objectivity of due process procedures. A review of NCPHP staffing needs and organizational infrastructure will take place in 2014. Full implementation of all OSA recommendations will require additional staff resources and hence additional program funding will be requested no later than August 2014.

NCPHP removed current NCMB Board Members from the NCPHP Compliance Committee and modified the NCPHP bylaws to this effect in March of 2014. Measures to protect the identity of all anonymous participants in Compliance Committee proceedings will continue.

NCPHP opened discussions with an outside Foundation in 2013 with the goal of outsourcing the treatment scholarship disbursement process, and will seek assistance from NCMS to implement this change in 2014.

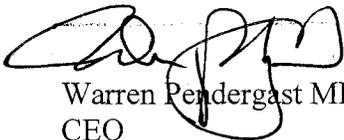
Regarding assessment and treatment centers, NCPHP will take the following steps, to be incorporated in policy and procedures:

- Continue the practice of disallowing treatment center funding for biennial retreats.
- Ensure that the assessment process includes documentation, co-signed by participants, of alternative recommendations for treatment other than the center conducting the assessment, beginning April 2014.
- Documentation by NCPHP staff of the selection and monitoring process for centers used for assessment and treatment, including regular site visits to centers. Criteria will be finalized and site visits scheduled by a target date of June 2014.
- Ongoing identification and continued use of qualified in-state centers for assessment and treatment. Study of options for additional qualified in-state assessment and treatment will be completed by target date of December 2014.

Sincerely,



David Collins MD, Chair  
NCPHP Board of Directors



Warren Pendergast MD  
CEO

## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

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For additional information contact:

Bill Holmes

Director of External Affairs

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This audit required 3,190 audit hours at an approximate cost of \$242,440. Total cost, including the expert consultants, was approximately \$328,531.