

STATE OF NORTH CAROLINA

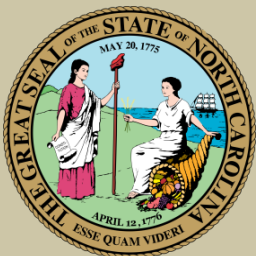
OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA



NORTH CAROLINA PHYSICIANS HEALTH PROGRAM

FOLLOW-UP AUDIT

PERFORMANCE AUDIT
FEBRUARY 2019



NCOSA
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

PURPOSE

The purpose of this audit was to determine whether the North Carolina Physicians Health Program (Program) took appropriate corrective action to address recommendations made in the *North Carolina Physicians Health Program* performance audit report issued by the Office of the State Auditor in April 2014.

BACKGROUND

The 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 nondisciplinary therapeutic program for health care practitioners with health conditions which may compromise their ability to practice with reasonable skill and safety.”

This audit was conducted as a result of the findings reported in the April 2014 audit titled, *North Carolina Physicians Health Program*. The April 2014 audit determined whether North Carolina 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 undue burden.

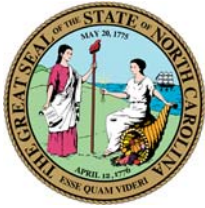
KEY FINDINGS

The Program took appropriate corrective action to address recommendations made in the *North Carolina Physicians Health Program* performance audit report issued by the Office of the State Auditor in April 2014.

KEY RECOMMENDATIONS

The Program should monitor established policies and procedures to ensure they are working as designed.

STATE OF NORTH CAROLINA
Office of the State Auditor



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State Auditor

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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Joseph P. Jordan, PhD, Chief Executive Officer, North Carolina Physicians Health Program
William E. Bowman, MD, Chair, North Carolina Physicians Health Program Board of Directors
David Henderson, JD, Chief Executive Officer, North Carolina Medical Board
Robert Seligson, MBA MA, Chief Executive Officer, North Carolina Medical Society

Ladies and Gentlemen:

We are pleased to submit this performance audit report titled *North Carolina Physicians Health Program Follow-Up Audit*. The audit objective was to determine whether the North Carolina Physicians Health Program took appropriate corrective action to address recommendations made in the *North Carolina Physicians Health Program* performance audit report issued by the Office of the State Auditor in April 2014.

The North Carolina Physicians Health Program Chief Executive Officer, Joseph Jordan, reviewed a draft copy of this report. His written comments are included starting on page 7.

This audit was conducted in accordance with Article 5A of Chapter 147 of the *North Carolina General Statutes*.

We appreciate the courtesy and cooperation received from management and the employees of the North Carolina Physicians Health Program, North Carolina Medical Board, and North Carolina Medical Society during our audit.

Respectfully submitted,

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

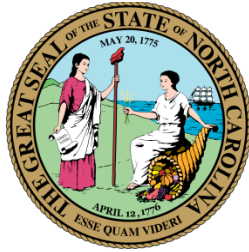
Beth A. Wood, CPA
State Auditor



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TABLE OF CONTENTS

	PAGE
BACKGROUND	1
OBJECTIVE, SCOPE, AND METHODOLOGY	2
RESULTS AND CONCLUSIONS	3
FINDING, RECOMMENDATION, AND RESPONSE	4
RESPONSE FROM NORTH CAROLINA PHYSICIANS HEALTH PROGRAM....	7
ORDERING INFORMATION.....	9



BACKGROUND

This audit was conducted as a result of the findings reported in the April 2014 audit titled, *North Carolina Physicians Health Program*. The April 2014 audit determined whether 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 undue burden.

The 2014 audit found that Program controls were not adequate to prevent abuse of authority or to ensure objective and quality evaluations.

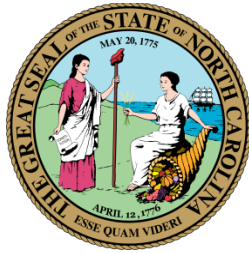
The 2014 audit report recommended the following key recommendations for responsible parties to take appropriate corrective action:

- The Program should ensure physicians have access to objective, independent due process procedures.
- The Medical Board and 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 effort to identify qualified in-state treatment centers.

The North Carolina Physicians Health 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 nondisciplinary 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), North Carolina Medical Society (Medical Society), and the North Carolina Academy of Physician Assistants, Inc. (Academy) 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 three members from the Medical Board, three members from the Medical Society, and nine members from other health care provider organizations.

The Program provided services to about 330 physicians for the two-year period ending December 31, 2017. The Program had about \$2.6 million in total revenue for the year ended December 31, 2017.



OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this audit was to determine whether the North Carolina Physicians Health Program (Program) took appropriate corrective action to address recommendations made in the *North Carolina Physicians Health Program* performance audit report issued in April 2014.

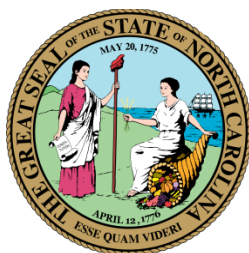
The audit scope included Program policies, procedures, and operations for the period of January 1, 2015 through December 31, 2018. To review the Program's due process procedures, the audit scope included physicians that received services from January 1, 2015 through December 31, 2017.

To accomplish the audit objective, auditors reviewed case files, interviewed personnel, observed operations, reviewed policies and best practices, analyzed financial reports, and examined documentation supporting the Program policies and procedures as considered necessary. Whenever sampling was used, auditors applied a non-statistical approach. Therefore, results could not be projected to the population. This approach was determined to adequately support audit conclusions.

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.

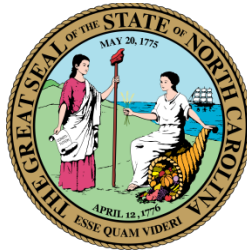
As a basis for evaluating internal control, auditors applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

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.



RESULTS AND CONCLUSIONS

The North Carolina Physicians Health Program took appropriate corrective action to address recommendations made in the *North Carolina Physicians Health Program* performance audit report issued by the Office of the State Auditor in April 2014.



FINDING, RECOMMENDATION, AND RESPONSE

OFFICE OF STATE AUDITOR RECOMMENDATIONS IMPLEMENTED

The North Carolina Physicians Health Program (Program), in collaboration with the North Carolina Medical Board (Medical Board) and North Carolina Medical Society (Medical Society), implemented recommendations to improve Program operations and oversight as recommended in the April 2014 performance audit titled *North Carolina Physicians Health Program*.

Specifically, policies and procedures were implemented to ensure physicians have access to independent and objective due process procedures, protect against potential conflicts of interest between the Program and treatment centers, improve the selection and monitoring of treatment centers, and improve oversight of the Program.

Independent and Objective Due Process Procedures

The Program developed and implemented policies and procedures to improve the intake and management process for the physicians who are referred to the Program. Collectively, procedures ensure that physicians have access to independent and objective due process procedures and maintain their anonymity from the Medical Board. Specifically, the Program:

- Separated the duties of the Chief Executive Officer and Medical Director¹
- Adjusted the roles and responsibilities of the Compliance Committee.² The Compliance Committee serves as reviewer of all the Program's evaluations and directives. However, it does not evaluate disputes from physicians
- Formed an independent Review Committee³ to evaluate physician disputes of the Program's evaluations or directives
- Created policies and procedures that allow physicians to:
 - o Access their evaluations and case records maintained by the Program
 - o Effectively represent themselves when disputing recommendations
 - o Attend the Program's Review Committee meeting when the physician's complaints are presented

Auditors reviewed case files for 67 out of 332 (20%) cases managed by the Program during the two-year period ending December 31, 2017. Each case file contained sufficient, appropriate evidence that supports that independent and objective due process procedures have been implemented.

Additionally, auditors reviewed case files for all seven of the cases in which physicians disputed the Program's evaluation and requested an evaluation by the Review Committee. Again, each case file contained sufficient, appropriate evidence that supports that independent and objective due process procedures have been implemented.

¹ At the time of the previous audit, the roles of Chief Executive Officer (CEO), Medical Director, and Clinical Director were held by the same individual. The duties of Medical and Clinical Directors were combined and are now performed by the Medical Director.

² The Compliance Committee meets every other month and consists of nine members from the Program's Board of Directors, those appointed by the Medical Board, and a Physician Assistant member of the Program's Board of Directors.

³ The Review Committee meets upon request and is an independent three-person panel of medical professionals who are not employed by the Program, the Program's Board of Directors, the Medical Board, the Medical Society, or the Program's Compliance Committee.

The implementation of objective and independent due process procedures improves physicians' ability to successfully defend themselves against potentially erroneous accusations and evaluations. The new procedures help reduce the risk that a physician would be required to enroll in comprehensive evaluations and treatment based on erroneous accusations and initial evaluations and experience undue and unnecessary financial, reputational, and familial hardships.

Protection Against Conflicts of Interest Between Program and Treatment Centers

The Program has implemented policies and procedures to protect against potential conflicts of interest between the Program and the treatment centers. Specifically, the Program:

- Did not accept contributions from treatment centers that receive referrals to fund the Program's biennial retreats
- Did not pay scholarships⁴ directly to treatment centers
- Allowed physicians to select the treatment center. For those physicians in which an evaluation resulted in a recommendation for treatment, the Program allowed physicians to select the treatment center from a list of treatment providers. This was documented in writing and co-signed by the physician

The implementation of policies and procedures to protect against potential conflicts of interest between the Program and treatment centers make it less likely that the objectivity of treatment centers is questioned.

Improved Selection and Monitoring of Treatment Centers

The Program developed and implemented policies and procedures to identify, select, and monitor treatment centers. Specifically, the Program improved the:

- **Selection of Qualified Treatment Centers.** Program executives network at professional conferences and events to identify treatment centers. The Program joined a consortium⁵ of other state programs to identify and evaluate treatment centers. The Program requires each potential treatment center⁶ to receive an initial comprehensive evaluation⁷ to ensure that each meets quality standards applicable to safety-sensitive workers.
- **Systematic Monitoring of Treatment Centers.** Treatment centers that receive referrals from the Program are periodically evaluated according to an established schedule. Program policies and procedures require treatment centers, that have been approved for Program referrals through an initial evaluation, to be evaluated at least once every three years.⁸
- **Identification of In-State Options.** The Program has added two in-state treatment centers to meet the needs of the physicians. Additionally, the Program continues to network with medical professionals to identify any new treatment centers in North Carolina.

⁴ Scholarships are used to pay the treatment costs of physicians who may not be able to afford treatment. The scholarship process is now administered by the Medical Society.

⁵ After the 2014 OSA Performance Audit, the Program joined a "consortium" of other State Physician Health Programs to share resources and maximize options available for participants. Other state programs currently in the consortium are West Virginia, Georgia, Indiana, and Mississippi.

⁶ The term "treatment center" is used to refer to treatment centers and/or assessment centers.

⁷ Initial evaluations are conducted by an independent consultant.

⁸ Periodic evaluations are conducted by an independent consultant.

The Program has 15 approved treatment centers, including two in-state options and five options in states bordering North Carolina. Each treatment center has received an initial evaluation, and nine have received an additional periodic evaluation in accordance with the Program's monitoring schedule.

The implementation of improved procedures to select and monitor treatment centers reduces the risk that the Program is referring physicians to treatment centers that do not meet quality standards and increases the Program's ability to identify and take corrective action to address treatment centers whose services do not meet established quality standards. The new in-state treatment center options help reduce the risk of undue burden for some physicians.

Improved Program Oversight

The Program, in collaboration with the Medical Board and the Medical Society, developed and implemented policies and procedures for improved oversight of the Program. Specifically, the Program implemented:

- **Tri-annual performance audits.** The Program hired independent consultants to conduct tri-annual performance audits of Program operations and to identify areas of improvement for the Program. The first audit was completed in April 2017. Results of the audit were provided and discussed with the Program's Board of Directors, the Medical Board, and the Medical Society.
- **Regular reporting and communication requirements.** The Program provided regular operational reports to the Medical Board and Medical Society. The Medical Board receives a Compliance Committee report⁹ every other month, and a Financial, Performance, and Quality Assurance report¹⁰ twice a year. The Medical Society receives a report of the Program's Financial and Performance Measures¹¹ on an annual basis.
- **Ongoing reviews of physician evaluations.** The Program's evaluations of physicians and Program directives are reviewed by the Compliance Committee. New case files and existing case files in which new information has been uncovered are reviewed during bi-monthly Compliance Committee meetings.

The implementation of improved oversight activities increases the Medical Board and Medical Society's ability to identify and correct any potential abuse of authority, lack of due process, or other significant noncompliance with Program requirements.

RECOMMENDATIONS

The Program should monitor established policies and procedures to ensure they are working as designed.

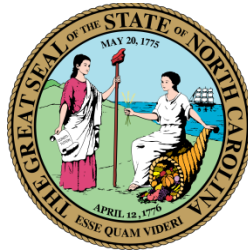
AGENCY RESPONSE

See page 7 for the Program's response to this finding.

⁹ The Compliance Committee report contains the minutes of Compliance Committee meetings. These meetings are held to discuss and decide on the status of cases.

¹⁰ The Financial, Performance, and Quality Assurance report contains operational information such as referral statistics, evaluation outcomes, and success rates.

¹¹ The Financial and Performance Measures report contains operational information such as referral statistics, evaluation outcomes and success rates.



RESPONSE FROM NORTH CAROLINA PHYSICIANS HEALTH PROGRAM



February 15, 2019

The Honorable Beth A. Wood, State Auditor
Office of the State Auditor
2 South Salisbury Street
20601 Mail Service Center
Raleigh, North Carolina 27699-0600

Dear State Auditor Wood:

The North Carolina Physicians Health Program (NCPHP) accepts the Office of the State Auditor Findings and Recommendations from the North Carolina Physicians Health Program Follow-up Performance Audit completed February of 2019.

Key Findings:

NCPHP notes that the Office of the State Auditor found that the Program took appropriate corrective action to address recommendations made in the North Carolina Physicians Health Program Performance Audit Report issued by the Office of the State Auditor in April 2014.

NCPHP is pleased to observe that, when 20% of the cases managed by NCPHP during the two-year period ending December 31, 2017 and all cases in which physicians disputed NCPHP's evaluation and requested an evaluation by the Review Committee were reviewed, auditors found sufficient, appropriate evidence to support the conclusion that independent and objective due process procedures have been implemented.

Recommendations:

NCPHP should monitor established policies and procedures to ensure they are working as designed.

Response:

The North Carolina Physicians Health Program agrees with the findings and recommendations from the Office of the State Auditor Follow-Up Performance Audit completed February of 2019. NCPHP embraced the findings and recommendations of the NCOSA 2014 Performance Audit issued April of 2014 and NCPHP believes that this is reflected in the findings of this recent Follow-Up Performance Audit of NCPHP.

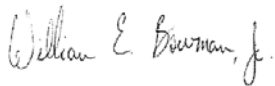
As recommended by NCOSA, NCPHP fully intends to continue monitoring its current Policies and Procedures to ensure that they are working as designed. The continued collaboration, support, and oversight of the North Carolina Medical Board and North Carolina Medical Society in this effort is welcomed and appreciated.

The NCPHP would like to recognize the diligence, hard work and professionalism exhibited by NCOSA staff in this recent Follow-Up Performance Audit.

Sincerely,



Joseph Jordan PhD
Chief Executive Officer



William Bowman MD
Chair, NCPHP Board of Directors

cc: David Henderson JD, CEO, NC Medical Board
Robert Seligson MBA MA, CEO, NC Medical Society

ORDERING INFORMATION

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This audit required 2,049.5 hours of auditor effort at an approximate cost of \$211,098.50.