State of Washington
Joint Legislative Audit & Review Committee (JLARC)

Health Professions Disciplinary Activities Workload Model Review

Report 09-10

December 1, 2009

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Committee Members

Audit Authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.
JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

TABLE OF CONTENTS

Committee Approval

On December 1, 2009, this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Acknowledgements

We appreciate the assistance provided by the Department of Health staff in conducting this study. In particular, we would like to thank the Health Systems Quality Assurance staff, the Medical Quality Assurance Commission, and the Nursing Care Quality Assurance Commission staff for their availability and responsiveness during a very busy time.

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December 1, 2009

STATE OF WASHINGTON

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REPORT SUMMARY

Health Professions Disciplinary Activities

There are 78 health professions regulated by the Department of Health or by one of 16 separate boards and commissions. The Department's Health Systems Quality Assurance Division and Adjudicative Service Unit provide staff support for the regulation of these professions, as do staff from the Office of the Attorney General. The regulatory activities include both discipline and licensing. As one part of the regulatory role, these staff are responsible for various disciplinary activities. Disciplinary activities include complaint intake, investigations, and administrative proceedings. Complaints of alleged unprofessional conduct can lead to an investigation by disciplining authorities, which may result in a sanction such as suspension of a license, fine, or conditions on practicing the profession.

Legislative Mandate to Develop a Workload Formula

In 2006, the Legislature passed Substitute House Bill 2974 that required the Department to develop and use a workload formula for health professions disciplinary activities.

Specifically, statute (RCW 18.130.380(1)) requires the Department to develop and use a formula that estimates the workload cost of its health professions disciplinary activities for three biennial budgets, beginning with the 2007-09 budget request. With this formula, the Legislature directed the Department to specify:

1) The number of, and cost of supporting, existing full-time employees designated as investigators and attorneys; and
2) The number of, and cost of supporting, additional full-time investigators and attorneys required to achieve a staffing level that is able to respond "promptly, competently, and appropriately" to the workload associated with health professions disciplinary activities.

The formula is to be based on the Department's "prior experience with staff levels compared to the number of providers, complaints, investigations, and other criteria that are determined relevant to staffing level decisions."

The Department first responded to this requirement with an interim formula for the 2007-09 budget. The Department then commissioned development of a model to estimate health professions disciplinary activities workload. SHB 2974 also directed the Joint Legislative Audit and Review Committee (JLARC) to look at the Department's workload formulas for health professions disciplinary activities.

The Department of Health Complies with the Legislative Mandate

JLARC reviewed the development and use of the formulas in the workload model. The workload model is based on reliable and statistically valid data collected from a workload study that used random work sampling, a commonly accepted method for analyzing staff time and resources. The workload model:

1) Is in full compliance with the legislative mandate;
2) Includes the full range of disciplinary activities reflecting the tasks involved in the disciplinary process as identified by the Department of Health and state statute; and
3) Was used by the Department of Health, and was referenced by the two Commissions that are part of the pilot program established in 4SHB 1103 (2008), for the 2009-11 biennial budget requests. The Legislature partially funded one budget request for the Medical Quality Assurance Commission, one of the pilot program's Commissions.

Recommendations to Support Future Compliance

The Department of Health is currently in compliance with the legislative mandate to develop a workload formula for health professions disciplinary activities. However, JLARC's analysis supports two recommendations intended to help the Department and the pilot program's two Commissions remain in compliance in the future.

Recommendation 1

The Department of Health, the Medical Quality Assurance Commission, and the Nursing Care Quality Assurance Commission should develop a formal process to periodically review and update the underlying data and equations in the workload models.

The formal review process should include discussions about impacts from the Health Systems Quality Assurance Division reorganization, current and future work processes and policy changes, training both for staff who manipulate the models and for those who use the output to make management decisions, and the need for updating the underlying data and equations as they become outdated. Based on the results of these discussions, the workload models should be updated as necessary.

Recommendation 2

The Legislature should clarify whether the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission are required to use the workload models when developing their biennial budget requests.

These are the two Commissions that are part of the pilot program established in 4SHB 1103 (2008). The two Commissions receive appropriations from the same account as the Department of Health for its disciplinary activities; however, there is no *explicit* language in statute requiring the Commissions to use a workload formula for estimating their disciplinary activities. By December 15, 2013, the Secretary of Health and the two Commissions are required to report the results of the pilot project to the Governor and the Legislature.

CHAPTER ONE – HEALTH PROFESSIONS DISCIPLINARY ACTIVITIES IN WASHINGTON

The mission of the Department of Health is to protect and improve the health of people in Washington State. According to the 2008 Uniform Disciplinary Act Report, there are 320,115 health professionals who are regulated either by the Secretary of Health or by one of 16 separate boards or commissions. The number of regulated health professions, and thereby the number of regulated health professionals, changes over time. For example, the Department reports that between 2008 and 2009, the Legislature authorized regulation of 11 additional health professions, bringing the current total to 78. The Department's Health Systems Quality Assurance Division and the Adjudicative Service Unit provide staff support for the regulation of these professions, as do staff from the Office of the Attorney General.

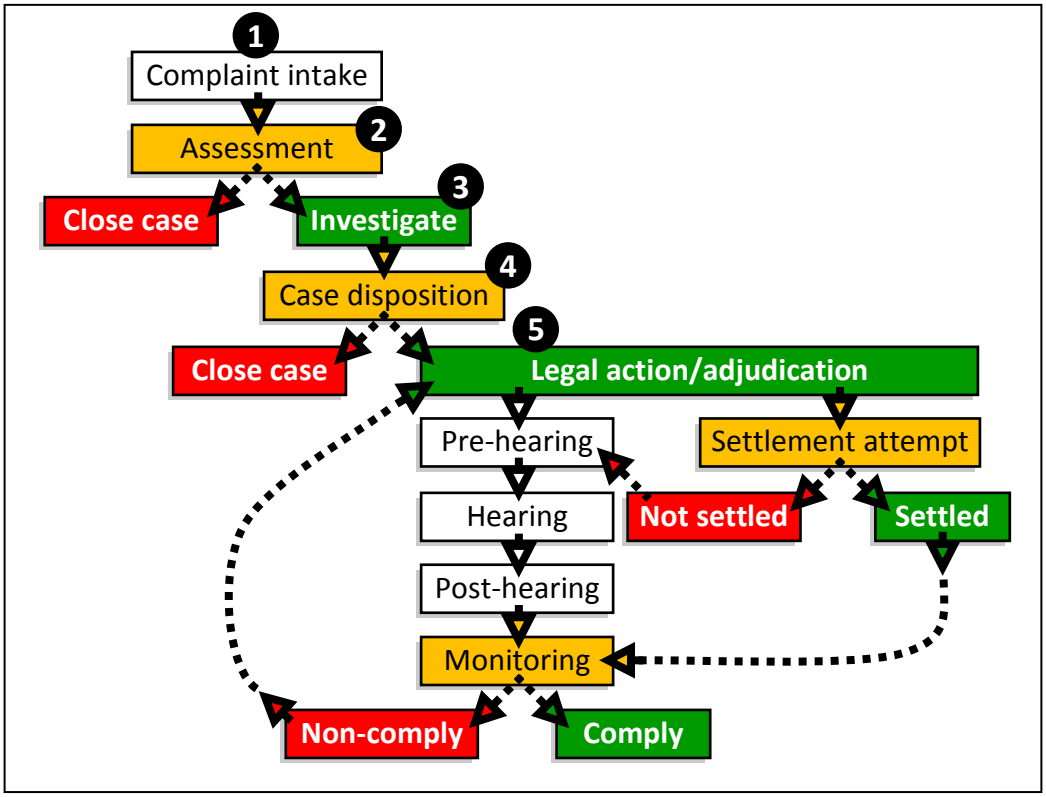
Health professions regulatory activities conducted by the Health Systems Quality Assurance Division include a range of responsibilities from educating health professionals to avoid future disciplinary actions to monitoring a professional's compliance with disciplinary orders. Discipline represents only one area of health professions regulatory activities.

Regulatory activities for the disciplining authorities (Secretary of Health, boards and commissions) are guided by the Uniform Disciplinary Act (UDA), which was enacted in 1984 (Chapter 18.130 RCW). The purpose of the law is to "assure the public of the adequacy of professional competence and conduct in the healing arts." The UDA provides standardized procedures for disciplining healthcare professionals and defines disciplinary actions, provides sanctioning guidelines, establishes disciplinary authority, and outlines standard processes and procedures.

The Disciplinary Process

The disciplinary process represents only one part of the health professions regulatory activities conducted by the Department. The Department has identified five steps within the disciplinary process (see Exhibit 1).

Exhibit 1 – Five Steps in the Health Professions Disciplinary Process



Source: JLARC illustration based on Department of Health information.

1) Complaint intake: activities such as recording the complaint, summarizing the history, and creating a final report.
2) Assessment: a review of the complaint intake report and a decision to investigate or close.
3) Investigations: activities such as formal notification of investigation, fact finding, and creating a final report.
4) Case disposition: a review of the final investigative report, a decision to close, refer for legal action, or refer to a substance abuse monitoring program.
5) Adjudication: activities such as disciplinary decisions, settlement attempts, pre-hearing, hearing, and post-hearing activities including public disclosure preparation and compliance monitoring.

Funding, Staffing, Workload

Health professions regulatory activities, including disciplinary activities, are mostly funded through fees and civil penalties, paid by regulated health professionals. These fees and penalties are deposited into the Health Professions Account. Five emergency medical services professions are General Fund-State funded, and the Midwifery profession has received General Fund-State dollars since Fiscal Year 2007 to "reduce the fees charged to midwives" (2006 supplemental budget notes). All of the other health professions are self-supporting.

In Fiscal Year 2008, health professions regulatory activities totaled $30.8 million ($0.2 million General Fund-State), approximately 78 percent of which was for disciplinary activities, or $23.9 million ($0.2 million General Fund-State). Disciplinary activities costs include costs associated with the Department's indirect support, the Department's Health Systems Quality Assurance Division and Adjudicative Service Unit, and the Office of the Attorney General. An estimated 178.5 FTEs were directly involved with health professions disciplinary activities compared to 263.9 FTEs for all health professions regulatory activities.

According to the 2008 UDA Report, in Fiscal Year 2008 the Department received 7,006 new complaints and had 3,349 open complaints carried over from Fiscal Year 2007. Workload is driven by the number of cases that are open at any step in the disciplinary process.

CHAPTER TWO – DEPARTMENT OF HEALTH COMPLIES WITH WORKLOAD FORMULA REQUIREMENT

The Legislature has noted that "safeguarding the public's health and safety is the paramount responsibility of every disciplining authority" and that it is important for disciplinary actions to take place in a timely manner (RCW 18.130.160 and RCW 18.130.095). In 2006, a backlog in disciplinary cases prompted an interest in better understanding the quantity and cost of existing and additional staff to address the workload concerns. One way to address such a concern was with a workload model or formula.

The disciplinary workload cuts across regulatory resources, making it difficult to isolate. For example, the Department of Health had not isolated FTEs as specifically discipline versus licensing. While the Department had been partially funded in the past to address the increasing workload, it had no quantifiable method to identify the number of staff required to meet disciplinary activities workload demands. When the Department was asked to quantify the health professions discipline workload, the Department needed a method to isolate the staff and time required for disciplinary activities.

With a workload model, the Department is able to estimate how many and what type of employees are needed to meet workload demands by isolating how much time it takes to complete the tasks. A workload model is a tool for understanding how staff use their time.

The Department first responded to the workload formula requirement with an interim formula to meet the 2007-09 biennial budget timeline. The interim formula was in full compliance with the legislative mandate, except in one area: it did not include all support staff involved in the full range of disciplinary activities. Also, consultants reviewed the formula and determined that it was reliable but not statistically valid.[1] This meant that results could be replicated using consistent measurements, but the formula did not use a statistical sampling method, within a specified time period, to collect data that accurately measures what it is intended to measure. Such a sampling method would ensure a high level of confidence in the results.

Development of the Workload Model

Based on the consultant review, the Department wanted to use a statistically valid formula that would include all staff involved in disciplinary activities, including all support staff, and that would provide a method by which it could accurately identify the workload and staffing associated with current and forecasted caseloads.

In April 2007, the Department commissioned a workload standards study to collect data that would be used to develop a reliable and statistically valid workload model. The consultants analyzed the current use of resources and assisted the Department with accurately estimating the number of staff by job function needed for current and future caseloads. The workload model was completed in

[1] Sterling Associates, LLP, December 6, 2006, letter discussing the technical analysis of the workload formula.

December 2007 and subsequently updated in January 2008, at the request of the Department, to separate out supervisory FTEs.

An additional update to the model was completed after passage of 4SHB 1103 (2008), which established a five-year Commission pilot program. As part of this pilot, the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission are responsible for proposing their own biennial budgets beginning with the 2009-11 Biennium.

While there is no *explicit* language in the 2008 legislation that requires the pilot program's two Commissions to use a workload formula when developing their health professions disciplinary activities budget requests, that legislation did not preclude the Department from referring to SHB 2974 (2006) that addresses Department budget requests for *Health Professions Account appropriations*. Since the two Commissions receive appropriations from the Health Professions Account, the Department asked the consultants to create two new workload models in response to 4SHB 1103, for use by the two Commissions. This was accomplished by separating out, from the Department model, the workload and staff associated with each of these Commissions including staff from the Adjudicative Service Unit and Health Systems Quality Assurance Division that continue to support these Commissions. The structure of these models is identical to the Department model.

What Methodology Was Used to Capture the Workload Data?

Measuring the time it takes to accomplish certain tasks can be approached through several methods such as work sampling, time-and-motion, direct observation, and self-report. To capture all disciplinary activities, the consultants used random work sampling, a commonly used and accepted industrial engineering technique for obtaining and analyzing staff time and resources. In addition, extensive controls were used during the workload standards study conducted by the consultants to increase accuracy and reliability.

For additional details describing the methodology, see Appendix 3.

What Does the Workload Model Tell Us?

The workload model was developed using data from the workload study and is designed to provide a reliable and statistically valid estimate of staffing needs for current and forecasted caseloads (workload). This means that the results from the data collected can be replicated using consistent measurements. Having used a random sampling method within a specified period of time with enough observations, the user can be confident that the data collected accurately measures what it is intended to measure. The model can assist decision makers in analyzing the resource impacts of changes to workload and policy decisions.

By itself, the model does not make decisions about the deployment of resources. It is one of many tools that can be used to develop a budget or make management and programmatic changes. The workload study did not address whether or not the staff were working efficiently, conducting the work they were supposed to, or allocated effectively or appropriately. However, this is not what a workload study is supposed to do. The data captures how staff *are* utilized (at time of study), not how the staff *should* be utilized.

For a detailed description of how the model estimates health professions disciplinary staffing, see Appendix 3.

How Can the Workload Model Be Adjusted?

The workload model estimates the number of non-supervisory staff (FTEs), by job function, needed to meet the current and forecasted caseloads for health professions disciplinary activities. Supervisory FTEs are separately calculated for current and forecasted caseloads and are dependent upon the number of non-supervisory staff identified by the model.

Within the model, three main adjustments can be made to meet changing business needs and generate different resource scenarios. These adjustments are controlled by the user with three levers that can create "what if" scenarios about how staff resources are allocated (process and allocation levers) and how staff resources are changed based on forecasted changes to caseload (forecast lever).

For additional details describing other model adjustments, see Appendix 3.

The model provides a useful tool to support management planning, budget development, and strategic planning. However, the tool is only as useful as the quality of model maintenance. Formal discussions about changes to policies, work processes, supervisory FTEs, current allotment updates, training on both the use and application of the model, and updating the underlying data and equations are essential if the tool is to remain valid and useful.

JLARC's Review of the Workload Model

JLARC reviewed the development and use of the Department of Health's workload model. The model is based on reliable and statistically valid data collected from a workload study that used random work sampling, a commonly accepted method for analyzing staff time and resources.

JLARC also asked three questions regarding the model's compliance and use:

1) Is the workload model in compliance with the legislative mandate?
2) Does the workload model include the full range of disciplinary activities to accurately reflect the tasks involved in the disciplinary process?
3) How has the workload model been used, and what was the funding response?

1) Is the Workload Model in Compliance with the Legislative Mandate?

The workload model is in full compliance with the legislative mandate. The model was used for the 2009-11 biennial budget request, and the Department indicates it plans to continue to use the model after the 2011-13 Biennium (statutory expiration of requirement).

Exhibit 2 is an account of the workload model compliance with the legislative requirements from SHB 2974 (2006).

Exhibit 2 – The Department of Health's Workload Model is in Compliance with SHB 2974

Legislative Mandate from SHB 2974 (2006)	Compliance?
Develop and use a workload formula to estimate health professions disciplinary activities.	Yes
Base the workload formula on prior experience with staff levels.	Yes
Include the number and cost of existing and additional full-time investigators and attorneys.	Yes
Include the cost of supporting investigators and attorneys.	Yes
Consider the number of providers, complaints, and investigations.	Yes

Source: JLARC analysis of workload model and SHB 2974.

2) *Does the Workload Model Include the Full Range of Disciplinary Activities to Accurately Reflect the Tasks Involved in the Disciplinary Process?*

The workload model includes the full range of disciplinary activities reflecting the tasks involved in the disciplinary process identified by the Department of Health and state statute (Chapters 18.122 and 18.130 RCW). In addition to the investigators and attorneys expressly called out in the legislation, the model also accounts for other staff who participate in disciplinary activities, such as the support staff identified in the consultant review of the Department's interim formula. The activities in the workload model align with the consultants' workload study framework.

3) *How Has the Workload Model Been Used, and What Was the Funding Response?*

The Department of Health presented the workload model to fiscal staff from the Office of Financial Management and the Legislature in November 2008.

The model helped inform the 2009-11 biennial budget request for the Department of Health. The Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission looked at their respective models while developing their 2009-11 biennial budget requests. The Legislature partially funded one of the Medical Commission's budget requests.

Department of Health: 2009-11 Budget Request

For the 2009-11 Biennium:

- The workload model suggested an additional 18.5 FTEs to address current workload and 17.9 FTEs to address forecasted workload for a total of 36.3 non-supervisory FTEs.[2]

[2] Difference in total FTEs due to rounding.

- The Department requested:
    - An additional 19.3 FTEs (of which 13.6 FTEs are non-supervisory), and
    - $4.2 million from the Health Professions Account.
- Neither the Governor nor the Legislature funded this budget request.

The Department used the results of the workload model, but did not directly apply the model results for its 2009-11 biennial budget request.

The Department adjusted one lever in the model, the forecast lever.

- The Department applied a 4 percent average caseload growth over the 2009-11 Biennium to the caseload forecast assumption, instead of using a 7.75 percent per year actual caseload growth calculated from a two-year history.

The Department reviewed the model results for both current and forecasted workload and decided to request about one-third (13.6 FTEs) of the suggested 36.3 non-supervisory FTEs over the next three biennia. The Department indicates that it based this decision on two considerations: more time was needed to evaluate the impact of the Division reorganization; and the time needed for hiring and training new employees. The request included restoration of one-time FTEs that expired after Fiscal Year 2009.

Department of Health: Other Uses

The Department reports that it has used the workload model for other purposes as well. Examples from the Department of these other uses include:

- Internal management analysis: The Department used the model to assess workload changes when implementing new policies mandated in 4SHB 1103 (2008).
- Fiscal note development: During the 2009 Legislative Session, the Department used the model to develop fiscal notes.
- Internal decision making: The Department used the model to provide an additional perspective for internal work process distribution decision making, such as experimenting with adjusting levers to analyze the changes in the results by job function.

The Medical Quality Assurance Commission: 2009-11 Budget Requests

The Medical Quality Assurance Commission (Medical Commission) submitted two separate budget requests with an impact on staffing for health professions disciplinary activities.

With regard to the first request for the 2009-11 Biennium:

- The Medical Commission's workload model suggested an additional 2.9 FTEs to address current workload and 4.5 FTEs to address forecasted workload for a total of 7.4 non-supervisory FTEs.
- The Medical Commission requested:
    - An additional 5.1 FTEs (of 2.0 FTEs are non-supervisory), and
    - $2.0 million from the Health Professions Account.

- The Legislature partially funded this request. The Medical Commission was allotted 2.4 FTEs to restore the one-time FTEs that had expired after Fiscal Year 2009 and appropriated $0.8 million from the Health Professions Account.

A portion of the second request for the 2009-11 Biennium included staff and costs directly related to disciplinary activities.

- The same workload model was referenced as for the first budget request.
- The Medical Commission requested:
  - An estimated 1.9 FTEs (of which 1.0 FTE is non-supervisory), and
  - $0.6 million from the Health Professions Account.
- Neither the Governor nor the Legislature funded this budget request.

The Medical Commission looked at the workload model results for both of these requests, but did not apply the results directly to its final 2009-11 biennial budget requests. The model included an adjustment for forecasted cases using the same assumptions as the Department of Health. The Commission also assumed that efficiencies developed through the pilot program will allow for an increase in workload, up to 10 percent, without an increase in staffing levels.

In the first budget request, the Commission's intent discussed in the decision package was to increase disciplinary activities staffing for medical providers to reduce or eliminate delays in discipline. The request was based on a decision to restore the one-time FTEs in the legal unit that expired after Fiscal Year 2009.

A portion of the second budget request was to address an increasing workload for disciplinary activities. JLARC extracted the figures referenced above from agency backup documentation to estimate the *disciplinary* portion of this request.

The Nursing Care Quality Assurance Commission: 2009-11 Budget Request

For the 2009-11 Biennium:

- The Nursing Care Quality Assurance Commission's (Nursing Commission) workload model suggested an additional 0.3 FTEs to address current workload and 3.4 FTEs to address forecasted workload for a total of 3.7 non-supervisory FTEs.[3]
- The Nursing Commission requested:
  - An additional 6.6 FTEs (of which 4.0 FTEs are non-supervisory), and
  - $1.9 million from the Health Professions Account.
- Neither the Governor nor the Legislature funded this budget request.

[3] The "current allotments" are manually updated by the workload model user. When the Nursing Commission considered the model results for its 2009-11 budget request, the number of allotted investigators reflected 9.0 FTEs instead of the correct 8.0 FTEs. Eight allotted investigators would have resulted in an additional 1.3 FTEs to address current workload and 3.4 FTEs to address forecasted workload for a total of 4.7 non-supervisory FTEs.

The Nursing Commission considered the workload model results, but did not apply the results directly to its 2009-11 biennial budget request due to concerns with workload demands with the backlog of cases. The model included an adjustment for forecasted cases using the same assumptions as the Department of Health.

The Commission's request intent discussed in the decision package was to reduce or eliminate delays in discipline. This was based on a review of the Commission's disciplinary process, the steps with the largest delays, and a decision about the Commission's immediate need.

Next Step to Remain in Compliance

While the Department is currently in compliance with the mandate for its health professions disciplinary activities workload model, an additional step is necessary in order for the Department to remain in compliance in the future.

The consultants recommended development of a formal process for discussing work processes and policy changes to determine whether or not the workload model needs to be adjusted. A formal process has not been implemented to date. The longer the Department and the two Commissions wait to implement a formal process, the greater the risk that important adjustments to the model or to the underlying data will not be completed in a timely manner.

CHAPTER THREE – CONCLUSION AND RECOMMENDATIONS

JLARC reviewed the health professions disciplinary activities model that the Department of Health developed in response to SHB 2974 (2006).

The Department first responded to the workload formula requirement with an interim formula to meet the 2007-09 biennial budget timeline. The Department then commissioned development of a workload model that it used for development of its 2009-11 biennial budget request. JLARC reviewed the development and use of the workload model and found that the workload model is based on reliable and statistically valid data collected from a workload study that used random work sampling, a commonly accepted method for analyzing staff time and resources. The workload model:

1) Is in full compliance with the legislative mandate;
2) Includes the full range of disciplinary activities reflecting the tasks involved in the disciplinary process identified by the Department of Health and state statute; and
3) Was used by the Department of Health, and was referenced by the two Commissions that are part of the pilot program established in 4SHB 1103 (2008), for the 2009-11 biennial budget requests. The Legislature partially funded one budget request for the Medical Quality Assurance Commission, one of the pilot program's Commissions.

Recommendations to Support Future Compliance

The Department of Health is currently in compliance with the legislative mandate to develop a workload formula for health professions disciplinary activities. However, JLARC's analysis supports two recommendations intended to help the Department and the pilot program's two Commissions remain in compliance in the future.

Review and Update the Workload Models

It is the nature of workload models that the underlying data will become outdated at some point, resulting in the need for an update. In order for this tool to remain valid and useful, all three of the workload models must receive proper maintenance over time with accurate updates, and must have trained staff who manipulate the models and who use the output to make management decisions.

Two examples emphasize the need for a periodic formal review process of all three of the workload models as work processes change over time. In July 2008, the Health Systems Quality Assurance Division completed a reorganization. At the time, Division staff determined there was no need to update the workload model based on the reorganization. JLARC's analysis indicates that the Division reorganization may have implications on the way in which some of the supervisor positions are accounted for. The second example comes from an analysis of the workload model, during which JLARC identified a miscalculation of the additional supervisory FTEs required to manage current cases. JLARC determined this was not a problem for the 2009-11 biennial budget requests. The consultants and the Department are aware of the problem and will correct the error.

It is important for the two Commission models to receive the same updates over time as the Department's model and for staff who may manipulate the models and use the output for making management decisions in the future to be part of the review and training processes. Even though there is no explicit language in the 2008 legislation that requires the pilot program's two Commissions to use a workload formula when developing their disciplinary activities budget requests, two models representing staff associated with the Commissions' workload exist, interact with the Department's model, and were looked at by the Commissions for their 2009-11 budget requests.

The Department has not implemented a formal process for maintaining the three workload models and training users. Reliability and validity of the three models can be maintained through implementation of a formal process with periodic reviews and updates as needed.

Recommendation 1

The Department of Health, the Medical Quality Assurance Commission, and the Nursing Care Quality Assurance Commission should develop a formal process to periodically review and update the underlying data and equations in the workload models.

The formal review process should include discussions about impacts from the Health Systems Quality Assurance Division reorganization, current and future work processes and policy changes, training both for staff who manipulate the models and for those who use the output to make management decisions, and the need for updating the underlying data and equations as they become outdated. Based on the results of these discussions, the workload models should be updated as necessary.

Legislation Required:	None.
Fiscal Impact:	JLARC assumes the formal review process can be implemented with existing resources. An update to the workload models could cost approximately $5,000 (updating equations) to $254,000 (updating the underlying data with a new study), depending on the type of update needed.
Implementation Date:	A report outlining details of the formal review process is to be forwarded to JLARC by June 1, 2010.

Clarify Legislative Intent

The 2008 Legislature passed 4SHB 1103 establishing a five-year pilot program that included a responsibility for the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission to propose their own biennial budget requests. However, there was no *explicit* language in the legislation requiring the Commissions to use a workload formula for estimating disciplinary activities.

Since the two Commissions receive appropriations from the Health Professions Account, the Department of Health referred to SHB 2974 (2006) when it requested the development of the two separate Commission workload models in response to 4SHB 1103 (2008). The Commissions looked at these workload models during development of their 2009-11 biennial budget requests. However,

the Legislature has not provided a clear statement about whether the two Commissions fall under the same mandate as the Department to use the workload models when developing their disciplinary activities biennial budget requests.

Recommendation 2

The Legislature should clarify whether the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission are required to use the workload models when developing their biennial budget requests.

These are the two Commissions that are part of the pilot program established in 4SHB 1103 (2008). By December 15, 2013, the Secretary of Health and the two Commissions are required to report the results of the pilot project to the Governor and the Legislature.

Legislation Required:	Yes.
Fiscal Impact:	If legislative intent includes use of the workload models by the pilot program's two Commissions, JLARC assumes this can be implemented with existing resources.
Implementation Date:	During the 2010 Session in order to provide clarification for the two Commissions prior to submission of their final biennial budget requests (2011-13) for the pilot program that expires on June 30, 2013.

APPENDIX 1 – SCOPE AND OBJECTIVES

HEALTH PROFESSIONS DISCIPLINARY ACTIVITIES WORKLOAD MODEL REVIEW

SCOPE AND OBJECTIVES

APRIL 21, 2009

STATE OF WASHINGTON
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Why a JLARC Review of the Health Professions Disciplinary Activities Workload Model?

In 2006, the Legislature passed Substitute House Bill 2974 which requires the Joint Legislative Audit and Review Committee (JLARC) and the Department of Health (DOH) to look at workload formulas for health professions disciplinary activities. In this study, JLARC will review the workload model and formulas DOH now uses to estimate the workload costs of carrying out its health professions disciplinary responsibilities.

State Regulation of Health Professions

The mission of the Department of Health is to protect and improve the health of people in Washington State. The regulation of health professions falls within that mission. A total of 70 health professions are regulated either by the Secretary of Health or by separate boards or commissions. DOH's Health Systems Quality Assurance Division and Adjudicative Service Unit provide staff support for the regulation of these professions. DOH estimates a cost of about $28 million annually to regulate health professions. Fees and civil penalties paid by regulated health professionals pay for this regulatory function.

As one part of its regulatory role, DOH staff are responsible for various disciplinary activities. Department disciplinary activities include, but are not limited to, complaint intake, investigations, and administrative proceedings. The Department may receive complaints from a variety of filers related to regulated health professionals. Complaints of alleged unprofessional conduct can lead to investigations by disciplining authorities, which may result in a sanction, such as suspension of a license, a fine, or conditions on practicing the profession.

A Workload Model for DOH Disciplinary Activities

As part of developing its biennial budget request, the Department of Health must estimate the cost of its health professions disciplinary activities. The 2006 legislation directed DOH to develop and use a formula for three biennial budget requests, beginning with the 2007-09 budget. As part of this effort, the legislation requires DOH to specify:

1) The number of, and cost of supporting, existing full-time employees designated as investigators and attorneys; and
2) The number of, and cost of supporting, additional full-time investigators and attorneys required to achieve a staffing level that is able to respond "promptly, competently, and appropriately" to the workload associated with health professions disciplinary activities (RCW 18.130.380(1)).

For its 2007-09 budget request, DOH developed a formula to estimate the workload cost of its health professions disciplinary activities. To support its 2009-11 budget request, the Department commissioned a workload study and the development of a workload model. That workload model and its supporting formulas are the focus of this JLARC study.

Study Scope

JLARC will review the methodology used to estimate the health professions disciplinary activities workload and review the workload model formulas. The report will include a summary overview of the methodology, a description of the formulas and how the model works, and a discussion of how the Department of Health has used the model.

Study Objectives

The study will focus on the following questions:

1) What are the statutory obligations related to health professions disciplinary authorities?
2) What methodology was used to estimate health professions disciplinary activities workload?
3) What are the formulas that drive the workload model, and how do they work?
4) Do the assumptions and data elements used in the workload model appropriately reflect the legislative directive in Substitute House Bill 2974 and the actual staff work conducted for health professions disciplinary activities?
5) How has the Department of Health used the health professions disciplinary activities workload model?

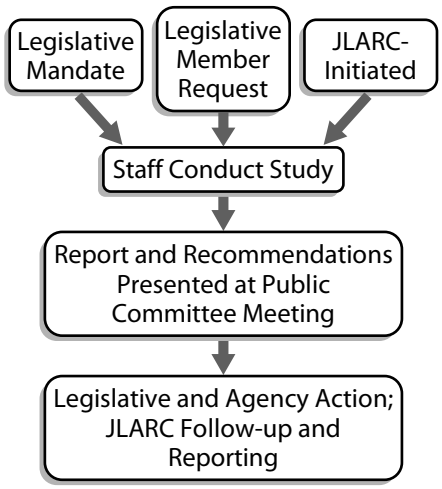
Timeframe for the Study

Staff will present preliminary and final reports at the JLARC meetings in September and October 2009, respectively.

JLARC Staff Contact for the Study

Elisabeth Donner (360) 786-5190 donner.elisabeth@leg.wa.gov

JLARC Study Process



Criteria for Establishing JLARC Work Program Priorities

- Is study consistent with JLARC mission? Is it mandated?
- Is this an area of significant fiscal or program impact, a major policy issue facing the state, or otherwise of compelling public interest?
- Will there likely be substantive findings and recommendations?
- Is this the best use of JLARC resources? For example:
  - Is JLARC the most appropriate agency to perform the work?
  - Would the study be nonduplicating?
  - Would this study be cost-effective compared to other projects (e.g., larger, more substantive studies take longer and cost more, but might also yield more useful results)?
- Is funding available to carry out the project?

APPENDIX 2 – AGENCY RESPONSES

- Department of Health
- Office of Financial Management

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
PO Box 47890 • Olympia, Washington 98504-7890
Tel: (360) 236-4501 • FAX: (360) 586-7424 • TDD Relay Service: 1-800-833-6388

September 29, 2009

Ruta Fanning, Legislative Auditor
Joint Legislative Audit & Review Committee
Post Office Box 40910
Olympia, Washington 98504-0910

Dear Ms. Fanning:

I have reviewed the preliminary report "Health Professions Disciplinary Activities Workload Model Review." The report described our disciplinary work and your assessment of the model in a very readable manner. I have reviewed the recommendations. The executive directors of the Medical Quality Assurance Commission (MQAC) and Nursing Care Quality Assurance Commission (NCQAC) have reviewed the preliminary report as well.

RECOMMENDATION	AGENCY POSITION	COMMENTS
Rec. 1	CONCUR	
Rec. 2	CONCUR	

With respect to recommendation 1, we concur. MQAC, NCQAC, and I agree that it is important to maintain the model. The Health Systems Quality Assurance Division has adopted a procedure related to the use of the model. MQAC has signed off on the procedure as well. We will work with MQAC and NCQAC to develop an agreement to ensure regular review of the model. We agree that we can regularly review the model without substantial costs. If the review indicates an update to the model is needed, we may have to pursue appropriation authority to do so.

With respect to recommendation 2, we concur. We will follow legislative direction in this regard.

Again, thank you for all of your work to bring the review and the report to this point. If you have any questions, please contact me at 236-4030 or Karen Jensen, Assistant Secretary for Health Systems Quality Assurance, at 236-4600.

Sincerely,

Mary C. Selecky
Secretary

cc: Karen Jensen, Department of Health
Patti Latsch, Department of Health
Maryella Jansen, Department of Health
Paula Meyer, Department

STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT
Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

September 22, 2009

TO: Ruta Fanning, Legislative Auditor
Joint Legislative Audit and Review Committee

FROM: Victor A. Moore
Director

SUBJECT: **PRELIMINARY REPORT – HEALTH PROFESSIONS DISCIPLINARY ACTIVITIES WORKLOAD MODEL REVIEW**

Thank you for the opportunity to review JLARC's preliminary report on the Health Professions Disciplinary Activities Workload Model Review. Here is our response to the recommendations in the report.

Recommendation	Agency Position	Comments
1. The Department of Health, the Medical Quality Assurance Commission, and the Nursing Care Quality Assurance Commission should develop a formal process to periodically review and update the underlying data and equations in the workload models.	Concur	None at this time.
2. The Legislature should clarify whether the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission are required to use the workload models when developing their biennial budget requests.	Concur	None at this time.

We look forward to your final report. If you have questions, please call Nick Lutes at (360) 902-0570.

cc: Jonathan Seib, Executive Policy Advisor, Office of the Governor
Carole Holland, Senior Budget Assistant, Office of Financial Management
Nick Lutes, Budget Assistant, Office of Financial Management

APPENDIX 3 – WORKLOAD MODEL METHODOLOGY AND FUNCTION

With a workload model, the Department is able to estimate how many and what type of employees are needed to meet workload demands by isolating how much time it takes to complete the tasks. A workload model is a tool for understanding how staff use their time.

What Methodology Was Used?

To capture all disciplinary activities, the consultants used random work sampling for analyzing staff time and resources. There were three phases to the workload study:

Phase I, The Feasibility Study: The consultants gathered information to frame the study approach including the identification of job functions and service elements (specific job tasks) associated with the disciplinary process. A steering committee, comprised of representatives from the Department of Health and the Office of the Attorney General, identified benchmark job functions. An advisory group, comprised of staff representing various regulatory job functions, defined 15 service elements. To capture additional work activity detail, the consultants worked with staff to identify sub-elements. Based on this information, the consultants developed a survey for use by the study participants.

Phase II, Data Collection Planning and Preparation: The consultants randomly selected a total of 154 employees across all job functions, with an appropriate representation for each, to participate in the study. Each participant received training on the study, the survey tool, and selection and reporting of observations.

Phase III, Data Collection, Analysis and Model Development: The consultants collected random observations during the month of August 2007, analyzed the data, and used it to develop a workload model. The data came from over 21,000 random observations providing a statistically accurate profile of time spent on disciplinary activities. The random observations were initiated for each participant using a common method, a portable pager device. The consultants set the pagers to randomly buzz an average of eight or 12 times every eight hours (depending on the number of participants within a particular job function). When participants received a buzz, they completed a web or paper form to record the work activity they were performing at the time of the observation (buzz).

The consultants analyzed the data with the assumption that the participants accurately reported case specific information. The study used a number of controls to increase accuracy and reliability:

- Participants were trained;
- Participants were given a week long pilot to test the instruments and the forms;
- Supervisors provided onsite coordination, support and assistance to staff, and recorded actual hours worked for each participant;
- A single project liaison was assigned to ensure accurate communication;

- Survey controls included rules to ensure validity of data (example: if participants noted they were on a break, the survey tool would not provide the participants with an option to select additional options related to a service element);
- Consultants noted the complexity of cases;
- Newsletter provided to all staff for updates;
- Data reviews conducted including a daily review for immediate follow-up of discrepancies, a study completion review, and a separate internal cross check of data and model calculations;
- Workload indicator data reviewed by health professions staff to assess credibility; and
- Expert review of study approach and methodology determined they were sound.

This workload study provided information on current business processes (August 2007) and established a baseline of information for future analyses and process improvements for health professions disciplinary activities.

How Does the Model Calculate Staffing?

The workload model relies on time-per-case metrics to estimate the number of FTEs for current and forecasted health professions disciplinary caseloads. The consultants used data from the 154 study participants to extrapolate resource needs across all disciplinary activities and job functions. These core calculations establish the amount of time it takes, on average, for a specific job function to complete a specific work activity.

The metrics provide a standard measurement to quantify staffing needs for the entire health professions disciplinary process. The calculation of the metric includes:

- The number of observations by task;
- Total hours worked; and
- The number of "active" cases (cases that were open at any point during August 2007).

This data, collected during the month of August 2007, provides information on the average amount of time per job task, which job function was conducting that job task, and the average time per case per task.

The number of active cases represents workload, establishing a common unit of measure. This measure represents the "per-case" portion of the time-per-case metric.

The consultants compared the total hours worked to the number of observations to estimate time spent on work activities. The time spent on these activities is divided by the number of active cases, resulting in the time-per-case metric. This metric is applied to each work activity and job function across all disciplinary resources to determine the total hours needed by job function. The result of these calculations translates into the number of FTEs needed by job function.

The model accounts for non-scope hours, or time spent on non-disciplinary activities, which are subtracted from the total hours worked to accurately account only for time spent on disciplinary activities.

The model automatically excludes hours for state holidays and a personal holiday. The user estimates the number of paid leave hours, such as sick, military, and vacation leave. This is subtracted from total hours worked to arrive at total productive hours.

For additional details, see the consultants' report "Workload Standards Study," by Sterling Associates, LLP.

How Can the Workload Model Be Adjusted?

Within the model, three main adjustments can be made to meet changing business needs and generate different resource scenarios.

- Forecast Lever: There are two options to include forecasted changes to caseload, as calculated by the user. The first option distributes the forecast across all of the job functions and activities. The second option allows the user to forecast caseload changes by specific disciplinary activities such as complaint intake or investigations.
- Process Lever: This lever allows the user to estimate the impact of changes to business processes and resource needs as a result of a new policy or procedure. For example, a decision could be made to eliminate public disclosure as an activity considered part of the disciplinary process. The user would exclude the related work activity, thereby redistributing the resource needs across the job functions.
- Allocation Lever: This lever allows the user to change the way in which the underlying metric is weighted, adjusting workload across available resources. For example, a decision could be made to eliminate customer service specialists from public disclosure work activities. The user would exclude this job function from this work activity, thereby redistributing the resource needs across the remaining job functions involved with public disclosure.

Three other adjustments that provide additional information and can assist with internal management practices.

- Vacancy rate: The vacancy rate function allows the user to enter an estimated vacancy rate to understand the effects on resources, across all job functions, assuming the rate were to continue into the future.
- Adjustment to original allotments: The user can enter a decrease or increase of FTEs, by office, to better understand the effect of a new distribution of resources. This information may also help the user understand how best to allocate new FTE resources or manage for a decrease in FTE resources.
- Included/excluded health professions: Modeling by profession is a good starting point for fiscal notes, but it is not a statistically valid approach for assessing the whole disciplinary process.

Supervisory FTEs are separately identified and are not factored into the underlying calculations in the model that result in non-supervisory staff resources. Supervisory FTEs identified for current and forecasted disciplinary workload are dependent upon the number of non-supervisory staff identified by the model. Calculations for the supervisor positions use ratios, established by the user,

that currently range from four to nine staff per supervisor. The user must manually update the ratios, equations, and relevant supervisor positions. The calculations result in an estimated number of supervisory FTEs for both current and forecasted disciplinary workload.

The model is also available for use by the Office of the Attorney General, identifying the estimated number of FTEs for its disciplinary activities workload.