

DEPARTMENT OF HEALTH

Office of Medical Marijuana Use,
Prescription Drug Monitoring,
and Selected Administrative Activities



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Auditor General

State Surgeon General and State Health Officer

The Department of Health is established by Section 20.43, Florida Statutes. The head of the Department is the State Surgeon General and State Health Officer who is appointed by the Governor and subject to confirmation by the Senate. During the period of our audit, the following individuals served as the State Surgeon General and State Health Officer:

Dr. Scott Rivkees from June 20, 2019

Dr. Celeste Phillip through January 8, 2019

The team leader was Aaron Franz, CPA, and the audit was supervised by Lisa Norman, CPA.

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SUMMARY

This operational audit of the Department of Health focused on the Office of Medical Marijuana Use (Office). The audit also included a follow-up on the findings noted in our report Nos. 2018-213 and 2017-075. Our audit disclosed the following:

Office of Medical Marijuana Use

Finding 1: Application records did not always evidence that caregivers satisfied statutory requirements to receive a Medical Marijuana Use Registry (MMUR) identification card or that parental or guardian consent was obtained for a minor to receive a MMUR identification card.

Finding 2: Contrary to State law, the Office did not immediately suspend medical marijuana registrations for individuals charged with violations of State drug abuse prevention and control laws.

Finding 3: Office controls for inspecting medical marijuana treatment centers need enhancement to ensure that inspections are appropriately documented, reviewed, and any noted deficiencies are appropriately resolved.

Finding 4: Office contract payment controls need enhancement to ensure that payments to the MMUR vendor are made only upon receipt and satisfaction of all deliverables and performance measures. Additionally, the Office did not assess penalties when the vendor did not satisfy established performance measures.

Finding 5: The Office did not take steps to reasonably ensure that service organization controls relevant to the processing of MMUR identification card applications were suitably designed and operating effectively. Additionally, the Office did not evaluate the adequacy and effectiveness of controls established by the subservice organization responsible for hosting MMUR data.

Finding 6: Office information technology (IT) security administration policies and procedures for the MMUR did not encompass access by Department employees and vendors.

Finding 7: IT security controls for the MMUR need improvement to ensure that MMUR system administrator access privileges are appropriately restricted, all system administrators undergo required background screenings, periodic reviews of user access privileges are performed, and user access privileges are promptly removed upon a user's separation from Department employment.

Prescription Drug Monitoring

Finding 8: Department efforts to effectively assess whether pharmacies, pharmacists, and dispensing practitioners report controlled substance dispensing information to the Department within the time frame prescribed by State law continue to need enhancement.

Selected Administrative Activities

Finding 9: As similarly noted in prior audit reports, most recently in our report No. 2018-213, the Department did not always timely cancel purchasing cards upon a cardholder's separation from Department employment.

Finding 10: Department controls over employee access to the Florida Accounting Information Resource Subsystem (FLAIR) continue to need improvement to help prevent any improper or unauthorized use of FLAIR access privileges.

BACKGROUND

State law¹ specifies that the Department of Health (Department) is to protect and promote the health of all residents and visitors in the State. The Department operates through a State health office in Tallahassee, 67 county health departments, 22 Children's Medical Services area offices, 12 Medical Quality Assurance regional offices, 9 Disability Determinations regional offices, and 3 public health laboratories. The Department has eight divisions and seven offices that report to one of four Deputy Secretaries for Health or the Department Chief of Staff. The Office of Medical Marijuana Use reports to the Deputy Secretary for Health and the Division of Medical Quality Assurance (MQA), responsible for the Prescription Drug Monitoring Program, reports to the Deputy Secretary for Operations.

FINDINGS AND RECOMMENDATIONS

OFFICE OF MEDICAL MARIJUANA USE

Article X, Section 29(a) of the State Constitution, adopted in 2016, provides that the medical use of marijuana by a qualifying patient or caregiver is not subject to criminal or civil liability or sanctions under State law. The State Constitution also specifies that physicians and Medical Marijuana Treatment Centers (MMTCs) operating in compliance with the State Constitution and Department regulations are not subject to criminal or civil liability.

State law² establishes requirements for the regulation and oversight of medical marijuana use, authorizes the Department to adopt administrative rules to implement medical use of marijuana in the State, and specifies various Department responsibilities. Department responsibilities include:

- Creating and maintaining a secure, electronic, and online Statewide medical marijuana use registry (MMUR) for physicians, patients, and caregivers;
- Qualifying physicians and monitoring physician registration in the MMUR;
- Determining whether an individual is a resident of Florida for the purpose of registering qualified patients and caregivers;
- Issuing MMUR identification cards (MMUR cards);
- Suspending or revoking registrations when individuals are no longer a qualified patient;

¹ Section 20.43(1), Florida Statutes.

² Section 381.986, Florida Statutes.

- Licensing MMTCs;
- Conducting announced and unannounced inspections of MMTCs; and
- Imposing fines on MMTCs for violations of applicable laws and rules.

The Department, Office of Medical Marijuana Use (Office), developed and implemented Department medical marijuana use rules and the MMUR. As directed by State law,³ the Department contracted with a third-party vendor to receive, review, and approve applications for MMUR cards, create and issue MMUR cards to patients and caregivers, and operate a call center for answering questions related to medical marijuana use. The MMUR is a secure, electronic, and online database for the registration of ordering physicians and qualified patients. The MMUR is used by physicians, patients, caregivers, law enforcement, Department management and staff, MMTCs, the MMUR card vendor, and the Department's MMUR hosting and maintenance contractor.

As of March 26, 2021, the Department had qualified 515,676 patients and registered 2,533 physicians. Office expenditures totaled approximately \$52 million during the period July 2018 through March 2021. As of April 2021, the Department had licensed 22 MMTCs, 8 of which were granted licenses during the period July 2018 through January 2020.

Finding 1: Caregiver Qualifications

State law⁴ specifies that the Department is to issue MMUR cards to qualified caregivers. Caregivers are individuals who have agreed to assist with a qualified patient's use of medical marijuana. Requirements⁵ to qualify as a caregiver include:

- Be at least 21 years of age or older and a resident of Florida;
- Agree in writing to assist with the qualified patient's medical use of marijuana;
- Successfully complete a biennial caregiver certification course; and
- Pass a background screening unless the caregiver is a close relative of the patient.⁶

State law⁷ also requires the Department to receive written consent from a qualified patient's parent or legal guardian prior to issuing a MMUR card to a minor.

During the period July 2018 through January 2020, the Department's third-party vendor processed 9,367 applications for caregiver MMUR cards. To determine whether the Department's third-party vendor appropriately qualified or denied a caregiver applicant, we examined documentation supporting 40 caregiver applications (30 approved and 10 denied). Our examination disclosed instances where application files did not evidence that the 30 approved caregiver applicants qualified for a MMUR card. Specifically, we noted that:

- The Office's caregiver application did not require applicants to agree in writing to assist with a qualified patient's medical use of marijuana and, consequently, neither the applications nor the

³ Section 381.986(7)(d), Florida Statutes.

⁴ Section 381.986(6)(a), Florida Statutes.

⁵ Sections 381.986(6)(b), Florida Statutes.

⁶ Section 381.986(1)(c), Florida Statutes, defines a close relative as a spouse, parent, sibling, grandparent, child, or grandchild, whether related by whole or half blood, by marriage, or by adoption.

⁷ Section 381.986(7)(b), Florida Statutes.

supporting records associated with the 30 approved caregiver applications evidenced that the applicants agreed in writing to assist with the patient's use of medical marijuana.

- The supporting records for the 30 approved caregiver applications did not evidence the relationship of the caregiver to the patient, including 18 approved caregiver applications where the caregivers did not share a last name with the patient. Therefore, the records did not evidence whether the applicants were required to have a background screening and none of the approved applications were supported by evidence that a background screening was performed. Although we requested, Office management was unable to provide an explanation for why such documentation was not available.
- 3 of the approved caregiver applications were not supported by birth certificates or government-issued identification cards demonstrating that the applicants were at least 21 years of age. Although we requested, Office management was unable to provide an explanation for why such documentation was not available.
- 3 of the approved caregiver applications were not supported by records evidencing that the caregiver had completed the caregiver certification course. According to Office management, the absence of supporting records was due to an issue with the MMUR where a caregiver's status was automatically updated to active (i.e., no longer in a status indicating that training was pending) when a user account password reset occurred.
- 8 of the approved caregiver applications were not supported by records demonstrating that the caregiver's training occurred prior to approval of their application, as the MMUR only maintained the date of the last training attended.
- The records for 8 caregiver applications approved to provide care for a minor patient did not include written consent from the patient's parent or legal guardian. In response to our audit inquiry, Office management indicated that the Department relied on the certifying physicians to obtain the consent forms.

As further discussed in Finding 5, the Office had not made or obtained independent and periodic assessments of the effectiveness of the third-party vendor's relevant internal controls. Effective controls over the caregiver application process, including controls requiring documentation be obtained to support that caregivers satisfy legal requirements prior to receiving MMUR cards, would help ensure and demonstrate that only qualified individuals receive MMUR cards and may assist with a qualified patient's use of medical marijuana.

Recommendation: We recommend that Office management enhance oversight controls to ensure that caregiver applications include all required information and are supported by appropriate documentation. Additionally, Office management should ensure that the third-party vendor obtains all required documentation prior to issuing a MMUR card.

Finding 2: Timeliness of Patient Registry Suspensions

State law⁸ requires the Department to immediately suspend the registration of any qualified medical marijuana patient charged with a violation of Chapter 893, Florida Statutes,⁹ until final disposition of any alleged offense. To fulfill this requirement, the Office established an e-mail account to receive notifications from law enforcement agencies whenever a patient was charged with an applicable violation

⁸ Section 381.986(5)(d) and 381.986(e), Florida Statutes.

⁹ Chapter 893, Florida Statutes, relates to Drug Abuse Prevention and Control.

of law. Upon receipt of an e-mail notification, Office staff were to draft a suspension letter and forward it to the Office's attorney for review and approval or denial of the suspension.

During the period July 2018 through January 2020, the Office received 108 law enforcement notifications. We examined documentation for 20 of the notifications to determine whether the Office immediately suspended applicable patient registrations upon notification by law enforcement. Our examination disclosed that the Office determined that 13 of the 20 patient registrations should be suspended; however the Office did not suspend the 13 patient registrations until 5 to 107 business days (an average of 38 business days) after being notified by law enforcement that the patient was charged with an applicable violation of State law. In response to our audit inquiry, Office management indicated that they could not determine the reason for the delays.

Prompt suspension of a patient's registration upon notification by law enforcement that the patient was charged with an applicable violation of State law helps prevent the use of the patient's registration card to illicitly obtain medical marijuana.

Recommendation: We recommend that Office management enhance controls to ensure that medical marijuana patient registrations are immediately suspended upon notification by law enforcement of a patient being charged with an applicable violation of State drug abuse prevention and control laws.

Finding 3: MMTC Inspections

State law¹⁰ specifies that the Department is to conduct announced or unannounced inspections of MMTCs to determine compliance with applicable laws and Department rules. The Office conducts inspections upon initial licensure of an MMTC and biennially thereafter, when MMTCs open additional cultivating, processing, or dispensing facilities; when an MMTC requests a variance to existing facilities; and upon receipt of a complaint or learning of an incident involving an MMTC's operations. The Office developed checklists to document the compliance items to be reviewed during an inspection and staff assigned to inspections were to complete the applicable checklists, assemble the inspection file, and provide the completed inspection file to the Inspections Manager and Licensing Manager for review. If an issue was identified during an inspection, the Office was to request from the MMTC evidence that corrective action had been taken or a corrective action plan. Depending on the severity of the issue, the Department may impose a fine. During the period July 2018 through January 2020, the Office completed 339 MMTC inspections.

As part of our audit, we performed inquiries of Office personnel, evaluated Office MMTC inspection procedures, and examined documentation for five inspections related to new facilities or requests for variances to existing facilities and three inspections related to an incident or complaint and noted that Office inspection procedures need enhancement. Specifically, we found that:

- While the Office had developed checklists to document the compliance items to be reviewed during an inspection, the Office had not established written policies and procedures for inspections. The absence of established policies and procedures may have contributed to the issues noted on audit.

¹⁰ Section 381.986(10)(a), Florida Statutes.

- For one inspection related to a variance request, items on the checklist related to MMTC security plans were incomplete.
- The checklists or other inspection documentation for the five inspections related to a new facility or variance request were missing either the Inspection Manager or Licensing Manager's signature documenting review.
- For one new facility and two complaint or incident-related inspections with noted issues, the inspection files did not evidence that the Office ensured that the MMTCs corrected the issues. The issues noted included, for example, advertising and selling products not approved by the Department and deficiencies in MMTC dispensing policy.

According to Office management, the missing signatures were the result of workload issues but, although we requested, Office management could not provide an explanation for why inspection checklists were incomplete or documentation evidencing corrective actions was missing.

Written inspection policies and procedures, complete and adequate inspection documentation, and appropriate management review would increase the Office's assurance that the MMTCs complied with applicable laws and Department rules, appropriate corrective actions were completed by the MMTCs, and that inspections were conducted in accordance with management's expectations.

Recommendation: We recommend that Office management establish written policies and procedures for MMTC inspections and ensure that Office records include complete and adequate documentation of inspections performed, management review, and follow-up on issues noted on inspection.

Finding 4: Contract Payments

To receive reimbursement for services provided, the Department's contract with the MMUR vendor required the vendor to prepare and submit to the Department monthly invoices and a Monthly Activity Report (MAR). At a minimum, the MAR was to include a Monthly Call Report that detailed the number of calls received and answered during operating hours, the number of calls answered within 30 seconds and calls serviced through the Interactive Voice Response, the number of abandoned and outbound calls, and the average duration of all calls. Additionally, the MAR was to include an Application Processing Volume Report providing the monthly number of MMUR card applications received, reviewed, and approved, and the number of MMUR cards printed and mailed.

The Department's contract with the MMUR vendor included terms for compensation and established deliverables and related performance measures. The MMUR vendor was to receive a fixed monthly fee of \$99,266.40 for the period November 2017 through October 2018, \$96,259.83 for the period November 2018 through October 2019, and \$93,646.23 for the period November 2019 through October 2020. The MMUR vendor was also to be paid \$4.19 for each MMUR card produced, up to 199,999 MMUR cards, and \$4.01 for each MMUR card thereafter, each year of the contract. Payment was dependent on meeting established deliverables and, if those deliverables were not met in accordance with established performance measures, the vendor was subject to a reduction in payment, up to 5 percent of the monthly invoice total. The contract deliverables and related performance measures included:

- Staffing a call center a minimum of 10 hours a day, Monday through Friday.

- Answering all calls within 30 seconds of receipt.
- Ensuring a call abandonment rate of less than 5 percent each month.
- Reviewing and approving all completed applications within 5 business days of receipt.
- Printing and mailing all MMUR cards to the approved patient or caregiver within 5 business days of application approval.
- Documenting and processing all returned MMUR cards within 2 business days of receipt.
- Preparing and submitting a MAR to the contract manager within 15 days following the end of each month.

Beginning in August 2019, as part of the invoice review process, the Office prepared a Performance Analysis based on the MAR to identify and document whether the contractor had met performance measures.

During the period July 2018 through January 2020, the Department made 20 payments totaling \$4,876,698 to the MMUR vendor. As part of our audit, we examined documentation for 8 of those payments, totaling \$1,958,444, to determine whether the payments were appropriately authorized, supported, and reviewed, and made after the receipt of contract deliverables. Our examination disclosed that Office controls need improvement to ensure that the MMUR vendor provides contract deliverables, meets established performance measures, and contract payments are made in accordance with contract terms. Specifically, we found that:

- For 2 payments totaling \$416,155, the Office did not obtain from the MMUR vendor MARs detailing call center and application and card processing activities by the vendor.
- Office records did not evidence for 6 payments, totaling \$1,542,289, an evaluation of whether the MMUR vendor satisfied the established performance measures. For the 2 payments where the Office completed a Performance Analysis, the analysis did not adequately evidence the Office's review of the MMUR vendor's performance and whether the vendor satisfied performance measures or was subject to a penalty for underperformance. For example, sections of the Performance Analysis intended to cross-reference a performance measure in the contract to supporting monthly invoice documentation did not adequately identify the performance measure reviewed or correctly cross-reference to supporting documentation in the monthly invoice package.

Our examination also found that, for all 8 payments, documentation provided by the vendor was, at times, insufficient to determine whether some performance measures were met and instances where required vendor performance was not always met. For example, the vendor's MAR excluded counts of returned MMUR cards and the average number of days to process the returned MMUR cards and, therefore, did not demonstrate that the vendor processed returned MMUR cards within 2 days. Similarly, while the MAR provided the number of applications received, reviewed, and approved, the MAR did not include the average number of days to process the applications, which was necessary to demonstrate that the vendor satisfied the 5-day processing time requirement. Although the MMUR did not include all required information, our examination identified instances of noncompliance, with potential penalties totaling \$97,922, for which the Department did not assess payment penalties.

- For a \$240,035 payment, the Department paid the MMUR vendor based on an incorrect monthly fee, resulting in a \$3,007 overpayment. Because of this error, we expanded our testing and analyzed all 29 payments, totaling \$8,083,598, made by the Department to the vendor during the period April 2018 through August 2020 to determine whether the correct contract rates were paid. Our analysis found that, for 6 payments totaling \$2,173,415, the Department applied the rate

charged per MMUR card based on a 12-month period of April through March instead of the contract period November through October, resulting in overpayments totaling approximately \$5,700.

- As part of the application process, the MMUR vendor received \$75 per application and, according to the terms of the contract with the Department, was to transfer all confirmed payment transactions into the Department's account each day. During the period July 2018 through January 2020, the Department received approximately \$34.7 million in application fees. Our evaluation of the Office's invoice review process disclosed that the Office did not reconcile revenues remitted by the vendor to applications processed and, therefore, did not verify that all revenues due the Department were received.

According to Office management, during the first several months of the contract, the Office accepted documentation such as weekly reports and a project management plan to confirm that deliverables were met. Office management also indicated that the required documentation was not always provided by the vendor to the Office due to insufficient training and turnover in key positions at the vendor and the Office. Office management posited that, since card printing did not begin until April 2018, the Department and vendor agreed to use an April through March billing cycle instead of the annual contract period of November through October. However, Department records did not include a contract amendment to support the change in billing cycle.

Absent effective contract payment controls, the risk is increased that payments will be made in the wrong amount or without deliverables being received or performance measures met.

Recommendation: We recommend that Office management enhance controls to ensure that the MMUR vendor provides contract deliverables, meets established performance measures, and contract payments are made in accordance with contract terms.

Finding 5: Evaluation of Service and Subservice Organization Controls

As previously mentioned, pursuant to State law,¹¹ the Department executed a contract with a third-party vendor to receive, review, and approve applications for MMUR cards, create and issue MMUR cards to patients and caregivers, and operate a call center for answering questions related to medical marijuana use. The Department executed the contract in November 2017 with a contract amount of \$7.9 million. The specific contract duties of the MMUR vendor included:

- Processing applications for MMUR cards, including the collection and remittance of application fees to the Department.
- Scanning and storing application documentation in a shared location.
- Maintaining a subcontract with an approved vendor that meets the statutory requirements set forth in Section 381.986(7), Florida Statutes, for the printing of the MMUR cards.
- Conducting a quality check on a minimum of 5 percent of printed MMUR cards at the time of production to ensure a maximum error rate of 2 percent.
- Documenting and processing all returned MMUR cards within 2 business days of receipt.

¹¹ Section 381.986(7)(d), Florida Statutes.

- Complying with all Department data security and confidentiality procedures, including providing a service auditor's report¹² to the Office upon request.

The Department contracted with another third-party vendor to provide maintenance and hosting services for the MMUR. The services to be provided by the MMUR hosting vendor included: hosting the MMUR on the vendor's servers; maintaining the availability of the MMUR 24 hours a day, 7 days a week, except on limited occasions; updating the MMUR as needed and upon Office request; exporting data from the MMUR upon Office request; and providing technical support. The MMUR hosting vendor subcontracted these services to another entity.

As the Office relies on a vendor (service organization¹³), and the sensitive and confidential information collected and maintained, to determine eligibility for MMUR cards, it is incumbent upon the Office to take steps to reasonably ensure that relevant service organization controls are suitably designed and operating effectively. Such steps may include requiring the service organization to provide service auditor's reports on the effectiveness of the controls established by the organization or, alternatively, Office monitoring of the effectiveness of relevant service organization controls. Additionally, when a service organization such as the MMUR hosting vendor utilizes a subservice organization¹⁴ to perform services for the Office, it is necessary for the Office to obtain assurances regarding the controls at the subservice organization relevant to those services.

As part of our audit, we interviewed Office management and examined selected Office records to determine whether the Office took steps to reasonably ensure that controls at the service organization responsible for the processing of MMUR applications and at the subservice organization responsible for hosting MMUR data were suitably designed and operating effectively. We found that the Office had not designated an employee responsible for monitoring either the relevant service organization's or subservice organization's controls. Additionally, the Office had not requested or received service auditors' reports on the effectiveness of the controls of the service organization or subservice organization. Although we requested, Office management could not provide an explanation for why relevant service and subservice organization controls were not evaluated.

Absent an evaluation of relevant service organization and subservice organization internal controls, Office management has reduced assurance that controls relevant to security, availability, processing integrity, and confidentiality are in place and functioning effectively.

Recommendation: To promote the appropriate processing of MMUR card applications and ensure the security, availability, and confidentiality of MMUR data, we recommend that Office

¹² A service auditor's report, as described by the American Institute of Certified Public Accountants, AT-C Section 320, Reporting on an Examination of Controls at a Service Organization Relevant to User Entities' Internal Control Over Financial Reporting, provides information and auditor conclusions related to a service organization's controls. Service organizations make service auditor reports available to user organizations to provide assurances related to the effectiveness of the service organization's relevant internal controls. AT-C Section 320.04 states that the guidance provided in AT-C Section 320 may be helpful in reporting on controls at a service organization other than those that are likely to be relevant to user entities' internal control over financial reporting.

¹³ Service organizations provide services to user entities, some of which may be relevant to the user entities' internal control over financial reporting.

¹⁴ A subservice organization is a service organization used by a service organization to perform some of the services provided to user entities, some of which are likely to be relevant to those user entities' internal control over financial reporting.

management make or obtain independent and periodic assessments of the effectiveness of service organization and subservice organization relevant internal controls.

Finding 6: Security Administration Policies and Procedures

Department policies and procedures¹⁵ required each Department program office or division to establish written information security and privacy procedures to ensure the security of information and to protect the confidentiality of information, data integrity, and access to information. Such procedures were to conform to Department Information Security and Privacy Program requirements and be reviewed annually and updated when appropriate.

Security control policies should address the purpose and scope of the policy, roles and responsibilities in security administration, management commitment, coordination among Department staff, and compliance with policy requirements. Such policies should include documented procedures to facilitate the implementation of the security control policy and associated security controls, including access control procedures such as:

- Identifying authorized users of the system.
- Requiring appropriate approvals for requests to establish system accounts.
- Establishing, activating, modifying, disabling, and removing system accounts.
- Deactivating accounts of terminated or transferred users.
- Granting access to the system based on valid access authorization, intended system usage, and other attributes as required by the organization or associated business functions.

As part of our audit, we evaluated Office security administration policies and procedures for the MMUR and noted that, while the Office had established security administration policies and procedures for patients, law enforcement, and physicians, the policies and procedures did not address users of the MMUR employed by the Department or Department vendors. As of January 31, 2020, there were 22 Department and 52 vendor MMUR user accounts. In response to our audit inquiry, Office management indicated that staff resource constraints contributed to the incomplete policies and procedures.

Absent comprehensive security administration policies and procedures for the MMUR that encompass Department and Department vendor MMUR users increases the risk of unauthorized users having access to the MMUR. As noted in Finding 7, the lack of comprehensive security policies and procedures likely contributed to the assignment of inappropriate MMUR access privileges and untimely removal of MMUR access.

Recommendation: We recommend that Office management enhance security administration policies and procedures for the MMUR to include security requirements for Department and Department vendor MMUR users.

¹⁵ Department Policy and Procedure DOHP-50-10-16, *Information Security and Privacy Policy*.

Finding 7: MMUR Security Controls

Department of Management Services (DMS) rules¹⁶ require State agencies to ensure that users are granted access to agency information technology (IT) resources based on the principles of least privilege and a need to know determination and ensure that IT access privileges are removed when access to an IT resource is no longer required. DMS rules¹⁷ also require State agencies to periodically review user access privileges for appropriateness and to perform background investigations on all individuals hired as IT workers who have administrative capabilities for systems or applications with a moderate impact or higher.¹⁸ Effective access controls also include measures that restrict user access privileges to data and IT resources to only those functions that promote an appropriate separation of duties and are necessary for the user's assigned job duties.

As part of our audit, we evaluated MMUR access controls and related documentation to determine whether MMUR access privileges were appropriately granted and periodically reviewed and access was timely removed upon a user's separation from Department employment. Our audit procedures found that MMUR access controls need improvement to ensure that access privileges are appropriate and timely removed upon a user's separation from Department employment. Specifically, we found that:

- 8 of 16 Office employees assigned as a system administrator¹⁹ as of April 21, 2020, did not appear to require system administrator access. For example, 5 employees assigned as system administrators were executive administrative assistants or call support analysts and, subsequent to our audit inquiry, on May 29, 2020, the Office removed system administrator access for the 5 employees.

Additionally, our examination of MMUR records indicated that, as of January 2020, 11 employees of the vendor responsible for patient and caregiver application and MMUR card processing had system administrator access. According to Office management, the 11 employees required the system administrator access when the vendor's system was being integrated with the MMUR; however, the integration was completed in March 2018. Subsequent to our audit inquiry, in July 2020, the employees' access was changed to a different role with limited administrative rights over the vendor employees' MMUR access.

- Department records did not evidence that 1 of 7 Office employees included in audit testing underwent the required background screening as a system administrator.
- Office management did not perform periodic reviews of MMUR user access privileges during the period July 2018 through January 2020.
- MMUR access privileges were not always timely removed upon a user's separation from Department employment. Our comparison of MMUR access records to People First²⁰ records disclosed that MMUR access privileges for 10 of 15 users who separated from Department employment during the period July 2018 through January 2020 were removed 29 to 129 business days (an average of 76 business days) after employment separation. Additionally, we noted that

¹⁶ DMS Rule 60GG-2.003(1)(a)8. and (d), Florida Administrative Code.

¹⁷ DMS Rules 60GG-2.002(1)(f)9. and 60GG-2.003(1)(a)6., Florida Administrative Code.

¹⁸ DMS Rule 60GG-2.002(4), Florida Administrative Code, defines a moderate to high-impact system as one where unauthorized disclosure, modification, or destruction of information or the disruption of access to or use of information or the information system would have a serious to catastrophic adverse effect on operations, organizational assets, or individuals.

¹⁹ A system administrator is an individual appointed to grant, modify, and remove access to the application based on authorized requests from a user's supervisor.

²⁰ People First is the State's human resource information system.

the read-only account for one of these employees was accessed 11 days after the employee's separation from Department employment. Although we requested, Office management was unable to provide an explanation for why the account access occurred.

As noted in Finding 6, comprehensive Office IT security policies and procedures are critical to ensuring that access to the MMUR is appropriate and timely removed.

The existence of inappropriate and unnecessary system administrator access privileges to the MMUR increases the risk that accidental or malicious modification, destruction, or disclosure of Department data and IT resources may occur. Additionally, conducting appropriate background investigations on system administrators provides Department management assurance that system administrator backgrounds are commensurate with the position and performing periodic reviews of MMUR user access privileges and promptly removing user access privileges upon a user's separation from Department employment provide management assurance that user access privileges are authorized and remain appropriate.

Recommendation: We recommend that Office management enhance controls to ensure that MMUR system administrator access privileges are appropriately restricted and that all system administrators undergo a background investigation in accordance with applicable rules. We also recommend that Office management conduct and document in Office records periodic reviews of MMUR user access privileges and ensure that MMUR user access privileges are promptly removed upon a user's separation from Department employment.

PRESCRIPTION DRUG MONITORING

In 2009, the Legislature established the State's Prescription Drug Monitoring Program (Program) in State law²¹ and specified that, by December 1, 2010, the Department was to design and establish a comprehensive electronic database system to collect controlled substance²² prescription information from pharmacies and dispensing health care practitioners and provide prescription information to pharmacies, health care practitioners, certain law enforcement and regulatory agencies, and others as authorized by State law. Pursuant to State law,²³ the Department contracted with a service organization to implement the Electronic-Florida Online Reporting of Controlled Substance Evaluation Program (E-FORCSE[®]) system. The E-FORCSE[®] system captures information specific to each prescribed controlled substance dispensing transaction, such as the name, date of birth, and address of the individual who received the dispensed drug; the name and address of the prescriber and dispenser; the prescription date and dispensing date; and the drug name, quantity dispensed, days of supply, and authorized number of refills.

Finding 8: Prescription Drug Monitoring Program Reporting

State law²⁴ requires that, each time a controlled substance is dispensed²⁵ to an individual, the pharmacy, pharmacist, or dispensing health care practitioner is to report the event in the E-FORCSE[®] system as

²¹ Chapter 2009-198, Laws of Florida, enacted as Section 893.055, Florida Statutes.

²² Pursuant to Section 893.055(1)(c), Florida Statutes, controlled substances include the controlled substances listed in Schedules II, III, IV, or V outlined in Section 893.03, Florida Statutes, or Title 21, Section 812, United States Code.

²³ Section 893.055(2)(a), Florida Statutes.

²⁴ Section 893.055(3)(a), Florida Statutes.

²⁵ Section 893.055(1)(d), Florida Statutes, defines "dispense" as the transfer of possession of one or more doses of a controlled substance by a dispenser to the ultimate consumer or to his or her agent.

soon as possible, but no later than the close of the next business day after the day the controlled substance is dispensed, unless an extension or exemption is approved by the Department. Compliance with the statutory reporting requirement is critical to the Department's ability to effectively administer the Program and further the Program's goal of providing timely information to pharmacies, pharmacists, health care practitioners, and other E-FORCSE® system information users.²⁶

When pharmacies, pharmacists, and dispensing practitioners electronically report to the E-FORCSE® system, the system captures information such as the dispenser name and the number of dispensing transactions included in the uploaded file. Dispensing information for multiple pharmacies that are within the same state may be uploaded in the same file. For example, chains or vendors with multiple stores may set up one account to upload a file for all locations within the state. If the pharmacy, pharmacist, or dispensing practitioner did not have any dispensing transactions to report, the Department required the pharmacy, pharmacist, or health care practitioner to report zero activity in the E-FORCSE® system.

In our report No. 2017-075 (Finding 2), we noted that the E-FORCSE® system did not capture the date uploaded for each dispensing transaction in a manner that would permit a reliable assessment of the number of days that elapsed between the date a controlled substance was dispensed and the date the dispensing information was reported to the E-FORCSE® system. As part of our follow-up audit procedures, we performed inquiries of Department management and analyzed E-FORCSE® system data for the period July 2018 through January 2020 to determine whether the Department took actions to facilitate the reliable determination of whether pharmacies, pharmacists, and dispensing practitioners reported dispensing transaction information to the E-FORCSE® system within the time frame prescribed by State law. Our audit procedures disclosed that, while the E-FORCSE® system was enhanced to require the date each dispensed prescription was uploaded into the system, the Department did not utilize this information to effectively evaluate dispenser compliance with statutory reporting requirements. Specifically, we found that, during the period July 2018 through January 2020, the Department used Monthly Monitoring Compliance Reports generated from their Compliance Dashboard (Dashboard) to monitor reporting compliance. However, the Department evaluated reporting compliance by determining whether pharmacies, pharmacists, and dispensing practitioners were submitting dispensing transaction information daily to the E-FORCSE® system rather than determining if prescriptions were uploaded by the end of the next business day after they were dispensed.

To determine whether dispensing transaction information was timely reported to the E-FORCSE® system, we compared the dates dispensing transaction data was uploaded to the E-FORCSE® system to the dates prescriptions were dispensed for 4 selected weeks during the period July 2018 through January 2020. Our comparison found that 838,720 of 2,120,488 prescriptions (40 percent) reported for those weeks were uploaded 2 to 2,303 business days (approximately 6 years) after the reported dispensed date.

In response to our audit inquiry, Department management indicated that the Dashboard was not fully functional until March 2020 and, until then, the Dashboard did not include the details, such as the dates

²⁶ Section 893.055(5), Florida Statutes, specifies that certain users, such as a law enforcement agency during an active investigation regarding potential criminal activity, fraud, or theft regarding prescribed controlled substances, are not permitted direct access to the E-FORCSE® system, but may request through the Department information from the E-FORCSE® system.

prescriptions were dispensed, necessary to appropriately analyze reporting compliance. As of September 2020, the Department added the dates prescriptions were dispensed and reported to the Dashboard to enhance the Department's ability to monitor reporting compliance.

Appropriately utilizing the information available in the E- FORCSE® system would allow the Department to assess pharmacy, pharmacist, and dispensing health care practitioner compliance with statutory reporting requirements and to investigate instances of noncompliance.

Recommendation: We recommend that Department management continue to enhance procedures to capture, analyze, and monitor controlled substance dispensing data to ensure that pharmacies, pharmacists, and health care practitioners comply with statutory reporting requirements.

SELECTED ADMINISTRATIVE ACTIVITIES

As part of our audit, we evaluated selected Department administrative activities and controls, including those related to purchasing cards and Florida Accounting Information Resource System (FLAIR) access privileges.

Finding 9: Purchasing Card Controls

As a participant in the State's purchasing card program, the Department is responsible for implementing key controls, including procedures for timely canceling purchasing cards upon a cardholder's separation from Department employment. Department policies and procedures²⁷ specified that, when possible, purchasing cardholders were to discontinue purchasing card use 2 weeks prior to employment separation or termination. Additionally, the cardholder's supervisor was responsible for collecting the purchasing card from the employee when notified of the employee's separation from Department employment and notifying the Department Purchasing Card Administration (PCA) Office within 5 business days of the employee's separation to cancel the employee's purchasing card.²⁸

In prior audit reports, most recently in our report No. 2018-213 (Finding 3), we noted that the Department did not always timely cancel purchasing cards upon a cardholder's separation from Department employment. Our follow-up audit procedures included comparing Department employee separation dates recorded in People First to purchasing card cancellation dates recorded in Works²⁹ for the period November 2018 through January 2020 to determine whether purchasing cards were timely canceled. We identified 169 employees whose purchasing card cancellation date appeared to be more than 1 business day after their People First separation date or whose purchasing card appeared to still be active as of January 31, 2020. Further examination of Department records for 36 of the 169 cardholders found that 35 of the 36 employees' purchasing cards were canceled 2 to 189 business days (an average of 40 business days) after the employees' separation dates. In one instance, autopay charges totaling \$197 were incurred subsequent to the employee's separation date and prior to cancellation of the

²⁷ Department Policy and Procedure DOHP 56-44-18, *Purchasing Card Guidelines*.

²⁸ Effective February 25, 2020, and subsequent to the period of our audit, Department *Purchasing Card Guidelines* were updated in DOHP 56-44-20 to specify that notifications of employment separations to the PCA Office were to occur on the date of employment separation, rather than within 5 business days.

²⁹ Works is the State's purchasing card system.

purchasing card. The Department subsequently obtained a credit for those charges. In response to our audit inquiry, Department management indicated that the delays in canceling purchasing cards were due to supervisors not timely notifying the PCA Office when employees separated from Department employment. Additionally, the Department's procedures in effect during the period subject to our audit, which allowed supervisors 5 business days to notify the PCA Office of employment separations, may have contributed to the issues noted on audit.

Prompt cancellation of purchasing cards upon a cardholder's separation from Department employment reduces the risk that unauthorized charges will occur.

Recommendation: We again recommend that Department management promptly cancel purchasing cards upon a cardholder's separation from Department employment.

Finding 10: FLAIR Access Controls

DMS rules³⁰ require State agencies to ensure that users are granted access to agency IT resources based on the principles of least privilege and a need to know determination and ensure that IT access privileges are removed when access to an IT resource is no longer required. Effective access controls also include measures that restrict user access privileges to data and IT resources to only those functions that promote an appropriate separation of duties and are necessary for the user's assigned job duties.

The Department utilizes FLAIR to authorize payment of Department obligations and to record and report financial transactions. Department policies and procedures³¹ specified that supervisors were responsible for terminating all employee access privileges, including access to FLAIR. To terminate access to FLAIR, the supervisor was to submit a FLAIR End-User Access Request form to an access control custodian requesting that access be deactivated. Additionally, Department policies and procedures³² required the Department, Bureau of General Services, Administrative and Finance Application Management section, to perform a monthly comparison of FLAIR users to a list of Department employees and take appropriate action to delete or revoke the access privileges of employees who had separated from Department employment.

In prior reports, most recently in our report No. 2018-213 (Finding 2), we noted that Department controls were not always effective to ensure that FLAIR access privileges were timely deactivated. As part of our follow-up audit procedures, we evaluated Department FLAIR access controls and noted that Department controls were not always effective to ensure that FLAIR user access privileges were timely deactivated or appropriate. Specifically, we noted that:

- FLAIR user access privileges were not always timely deactivated upon a user's separation from Department employment. Our comparison of FLAIR access records to People First records found that 53 of the 72 user accounts deactivated during the period February 2019 through January 2020 appeared to have been deactivated more than 1 business day after the employee's separation from Department employment. Our further review of 15 of the 53 user accounts found that the users' access privileges remained active 2 to 58 business days (an average of 26 business days) after the users' employment separation dates. According to Department

³⁰ DMS Rule 60GG-2.003(1)(a)8. and (d), Florida Administrative Code.

³¹ Department Policy and Procedure DOHP 60-2-16, *Personnel and Human Resource Management - Employee Separations*.

³² Department Policy and Procedure DOHP 56-10-19, *FLAIR and RACF Access and Control*.

management, supervisors rarely informed the applicable access control custodian of employee separations from Department employment. Consequently, the monthly comparison was necessary to identify employee separations. Notwithstanding the untimely deactivation of access privileges, our audit tests disclosed that none of the user accounts were used to access FLAIR after the employees' separation from Department employment.

- The user access privileges assigned to 3 of the 6 employees who, during the period February 2019 through January 2020, transferred to a position no longer requiring access to FLAIR or requiring different user account privileges were not timely deactivated or updated to be compatible with the employees' new job responsibilities and to remove unnecessary access privileges. Subsequent to our audit inquiry, and 91 to 290 business days (an average of 219 business days) after the employees' transfer dates, the employees' unnecessary or incompatible access privileges were deactivated.

The prompt deactivation of user access privileges upon an employee's separation from Department employment or when access privileges are no longer required reduces the risk of unauthorized disclosure, modification, and destruction of Department data.

Recommendation: We again recommend that Department management ensure that FLAIR access privileges are promptly deactivated when an employee separates from Department employment or when an employee no longer requires the access privileges previously granted.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Department had taken corrective actions for the findings included in our report Nos. 2018-213 and 2017-075.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from February 2020 through March 2021 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.

This operational audit of the Department of Health (Department) focused on the Office of Medical Marijuana Use (Office). For those areas, the objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed into operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and

efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.

- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies noted in our report Nos. 2018-213 and 2017-075.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in internal controls significant to our audit objectives; instances of noncompliance with applicable governing laws, rules, or contracts; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, rules, Department policies and procedures, and other guidelines, and interviewed Department personnel to obtain an understanding of the regulation and oversight of medical marijuana use.
- Obtained an understanding of selected Department information technology (IT) controls, assessed the risks related to those controls, evaluated whether selected general and application IT controls for the Medical Marijuana Use Registry (MMUR) were in place, and tested the effectiveness of the selected controls.
- From the population of the 538,172 medical marijuana patient applications processed during the period July 2018 through January 2020, examined 40 selected applications to determine whether the Department's third-party vendor appropriately qualified or denied patient applicants.

- From the population of the 9,367 medical marijuana caregiver applications processed during the period July 2018 through January 2020, examined 40 selected applications to determine whether the Department's third-party vendor appropriately qualified or denied caregiver applicants.
- Examined records for 20 notifications selected from the population of 108 law enforcement notifications to the Office of medical marijuana patients charged with a violation of Chapter 893 Florida Statutes, during the period July 2018 through January 2020, to determine whether the Office timely and appropriately suspended and reinstated patient registrations.
- Examined Department records to determine whether, during the period July 2018 through January 2020, the Department adequately monitored the activities of the third-party vendor responsible for processing medical marijuana patient and caregiver applications, issuing registry identification cards, and remitting application fees in accordance with contract terms and conditions.
- Examined records for 8 payments, totaling \$1,958,444, selected from the population of 20 payments, totaling \$4,876,698, made by the Department to the medical marijuana application processing vendor during the period July 2018 through January 2020, to determine whether the payments were appropriately authorized, supported, and reviewed; made after the receipt of contract deliverables; and correctly recorded in the State's accounting records.
- Examined licensing documentation for four medical marijuana treatment centers selected from the population of the eight treatment centers licensed during the period July 2018 through January 2020, to determine whether the treatment centers were properly and timely licensed in accordance with applicable laws and Department rules.
- Examined records for three selected medical marijuana treatment center license renewal applications, from the population of the seven license renewal applications received during the period July 2018 through February 2020, to determine whether the licenses were properly and timely renewed in accordance with applicable laws and Department rules.
- Examined records for 20 variance requests selected from the population of 389 medical marijuana treatment center variance requests submitted to and closed by the Office during the period July 2018 through January 2020, to determine whether the requests were properly and timely reviewed and approved or denied in accordance with applicable laws, Department rules, and Office procedures.
- From the population of the 339 medical marijuana treatment center inspections completed during the period July 2018 through January 2020, examined records for 8 selected inspections, including 3 where corrective actions were necessary or fines resulted, to determine whether the inspections were performed and fines were assessed and collected in accordance with applicable laws and Department rules.
- Compared application fees reported as collected by the medical marijuana application processing vendor for the period July 2018 through January 2020 to Department accounting records to determine whether the Department received all the application fees due.
- Analyzed Department records to determine whether the number of authorized medical marijuana treatment center dispensing facilities as of May 2020 did not exceed the maximum number authorized by Section 381.986(8)(a)5., Florida Statutes.
- Compared the Department's list of licensed physicians to the list of registered physicians in the MMUR as of February 2020 to determine whether only licensed physicians had active medical marijuana registrations.
- Examined records of the Office's comparison of patient and caregiver accounts in the MMUR to the Department's January 2019 Vital Statistics data to determine whether the Office timely removed registrations for deceased patients and caregivers.

- Analyzed data from the MMUR for the period July 2018 through January 2020 to determine whether any physician certifications exceeded 210 days or orders were issued without a related certification, contrary to Section 381.986(4)f., Florida Statutes.
- Analyzed certification data from the MMUR for the period July 2018 through January 2020 to determine whether patients had overlapping certifications issued by multiple physicians.
- Evaluated Department actions to correct the findings noted in our report No. 2017-075. Specifically, we:
 - Performed inquiries of Department management and examined contracts between the Department and the Electronic-Florida Online Reporting of Controlled Substance Evaluation Program (E-FORCSE[®]) system service organization for the period July 2018 through January 2020 to determine whether the Department had obtained and reviewed a service auditor's report on the effectiveness of the controls established by the organization for the E-FORCSE[®] system.
 - From the population of 51,010,084 records uploaded to the E-FORCSE[®] system during the period July 2018 through January 2020, analyzed 2,120,488 records uploaded to the E-FORCSE[®] system for 4 selected weeks during the period July 2018 through January 2020 to determine whether pharmacies, pharmacists, and dispensing practitioners reported controlled substance prescriptions in a timely manner as required by Section 893.055, Florida Statutes.
- Evaluated Department actions to correct the findings noted in our report No. 2018-213. Specifically, we:
 - Examined Department records for 7 grants, totaling \$5,420,083, selected from the population of 35 Biomedical Research Program grants, totaling \$19,351,500, executed during the period July 10, 2018, through January 31, 2020, to determine whether the Department timely notified the grant recipients regarding the requirement to comply with Department policies and procedures.
 - Examined Florida Accounting and Information Resource Subsystem (FLAIR) access privileges and People First records for 15 of 53 user accounts assigned to 52 employees who separated from Department employment during the period February 2019 through January 2020 to determine whether the Department timely deactivated user access privileges upon the employees' separation from Department employment.
 - Examined documentation supporting the FLAIR access privileges for the 6 Department employees who transferred to another position during the period February 2019 through January 2020 to determine whether the access privileges were timely and appropriately updated or deactivated.
 - Examined FLAIR access records for 9 of 48 FLAIR user accounts (assigned to 48 Department employees) with update privileges as of January 2020 to determine whether the user accounts had update access privileges to incompatible functions in FLAIR.
 - For the period November 2018 through January 2020, compared Department employee separation dates recorded in People First to purchasing card cancellation dates recorded in FLAIR purchasing card records and identified 169 of 506 cardholders whose purchasing card cancellation dates were subsequent to their recorded People First separation dates. For 36 of the 169 cardholders, we examined Department records to determine whether the Department timely canceled the purchasing cards upon the cardholder's separation from Department employment and whether any charges were incurred subsequent to the employees' separation dates.

- Reviewed applicable laws, rules, and other State guidelines to obtain an understanding of the legal framework governing Department operations.
- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
 - The administration of tangible personal property in accordance with applicable guidelines. As of December 31, 2019, the Department was responsible for tangible personal property with related acquisition costs totaling \$73,198,815.
 - The assignment and use of motor vehicles. As of December 31, 2019, the Department was responsible for 221 motor vehicles with related acquisition costs totaling \$4,365,690.
 - The assignment and use of mobile devices with related costs totaling \$3,486,485 during the period July 2018 through January 2020.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

July 30, 2021

Ms. Sherrill F. Norman, CPA
Auditor General
Suite G74, Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Ms. Norman:

We are pleased to respond to the preliminary and tentative audit findings and recommendations made during the Office of the Auditor General's audit of the *Department of Health, Office of Medical Marijuana Use, Prescription Drug Monitoring, and Selected Administrative Activities*. Our response to the findings, as required by section 11.45(4)(d), Florida Statutes, is enclosed.

We appreciate the efforts of you and your staff in assisting to improve our operations. Please contact Michael J. Bennett, CIA, CGAP, CIG, Inspector General, by calling 850-245-4141, should you have any questions.

Sincerely,

Scott A. Rivkees, MD
State Surgeon General

SAR/akm
Enclosure

cc: Cassandra Pasley, BSN, JD, Interim Chief of Staff
Louise St. Laurent, General Counsel
Michele Tallent, Deputy Secretary for Operations
Antonio Dawkins, Assistant Deputy Secretary for Operations
Shamarial Roberson, DrPH, MPH, Deputy Secretary for Health
Mike Mason, Assistant Deputy Secretary for Health
Christopher Ferguson, Director, Office of Medical Marijuana Use
Michael J. Bennett, CIA, CGAP, CIG, Inspector General

Florida Department of Health
Office of the State Surgeon General
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Status of Corrective Action Plans



Report Number: To be determined
Report Title: *Office of Medical Marijuana Use, Prescription Drug Monitoring, and Selected Administrative Activities*
Report Date: To be determined

No.	Finding	Recommendation	Management Response	Corrective Action Plan
Office of Medical Marijuana Use				
1	Application records did not always evidence that caregivers satisfied statutory requirements to receive a Medical Marijuana Use Registry (MMUR) identification card or that parental or guardian consent was obtained for a minor to receive a MMUR identification card.	(1.1) We recommend that the Office of Medical Marijuana Use (Office) management enhance oversight controls to ensure that caregiver applications include all required information and are supported by appropriate documentation. (1.2) Additionally, Office management should ensure that the third-party vendor obtains all required documentation prior to issuing a MMUR card.	(1.1) We concur. (1.2) We concur.	(1.1) In progress. The Office is currently drafting and implementing rules that will help facilitate any caregiver not considered to be a close relative to a qualified patient, to obtain a background screening pursuant to section 381.986(6)(b)6., Florida Statutes. To support the implementation of the process, the Office is making technical changes to the MMUR, to store certain background screening information for caregivers. In addition, to work on a new background screening process, the Office is adding an attestation section for a caregiver's agreement, to assist with a qualified patient's medical use of marijuana. Finally, to ensure that no caregivers are under the age of 21, the Office will add functionality to the MMUR to allow staff to review all driver licenses submitted with caregiver applications. <i>Anticipated Completion Date: November 30, 2021</i> (1.2) In progress. The Office made multiple updates to MMUR for caregivers in May 2020. The updates included correcting an issue that allows caregivers to become active when their password is reset. The update also included creating a new process for caregivers to complete their caregiver training prior to receiving approval of their application. The Office will implement a process to request consent forms for minor patients from the minor patient's parent or legal guardian, as well as adjust the system to allow caregivers to upload the consent forms to MMUR. <i>Anticipated Completion Date: November 30, 2021</i>

Preliminary and Tentative Findings – *Office of Medical Marijuana Use, Prescription Drug Monitoring, and Selected Administrative Activities*

No.	Finding	Recommendation	Management Response	Corrective Action Plan
2	Contrary to State law, the Office did not immediately suspend medical marijuana registrations for individuals charged with violations of State drug abuse prevention and control laws.	We recommend that Office management enhance controls to ensure that medical marijuana patient registrations are immediately suspended upon notification by law enforcement of a patient being charged with an applicable violation of State drug abuse prevention and control laws.	We concur.	<p>Completed.</p> <p>The Office reviewed the existing process for suspension of medical marijuana registrations for individuals, including caregivers, charged with violations of Chapter 893, Florida Statutes. The Office trained additional staff members In April 2021 on the process for valid suspensions for the medical marijuana registrations that required a suspension. There is now a larger team receiving and monitoring the submissions sent by law enforcement organizations. They utilize a shared tracker that has been modified to add additional tracking fields. The manager over the team has also implemented an internal audit he conducts weekly, for updates and to facilitate timely suspensions.</p>
3	Office controls for inspecting medical marijuana treatment centers need enhancement to ensure that inspections are appropriately documented, reviewed, and any noted deficiencies are appropriately resolved.	We recommend that Office management establish written policies and procedures for Medical Marijuana Treatment Center inspections and ensure that Office records include complete and adequate documentation of inspections performed, management review, and follow-up on issues noted on inspection.	We concur.	<p>Completed.</p> <p>The Office implemented written policies and procedures in December 2020 for the proper handling of all inspections, to ensure that inspections are appropriately documented and reviewed. The Office implemented the <i>Compliance, Licensing, Enforcement and Regulatory</i> (CLEAR) online database in July 2020. CLEAR requires that all inspections be reviewed and signed off by management before the inspection is approved and closed.</p> <p>The Office created a compliance section in January 2021 to handle matters related to compliance and complaint inspections. This section sends out a Notice of Violation (NOV) for deficiencies observed during each inspection. The compliance section also reviews each corrective action plan to resolve the identified deficiencies in the NOV. Written policies and procedures were implemented for the compliance section. The policies and procedures are reviewed on a routine basis to reflect any changes made to the inspection process.</p>

Preliminary and Tentative Findings – *Office of Medical Marijuana Use, Prescription Drug Monitoring, and Selected Administrative Activities*

No.	Finding	Recommendation	Management Response	Corrective Action Plan
4	Office contract payment controls need enhancement to ensure that payments to the MMUR vendor are made only upon receipt and satisfaction of all deliverables and performance measures. Additionally, the Office did not assess penalties when the vendor did not satisfy established performance measures.	We recommend that Office management enhance controls to ensure that the MMUR vendor provides contract deliverables, meets established performance measures, and contract payments are made in accordance with contract terms.	We concur.	Completed. The Office implemented a robust tracking system in March 2021 to ensure payments are made only when vendors have satisfied the established performance measures. The tracking system includes detailed trackers, multi-level reviews and manager level approval prior to payments being made. There are also monthly meetings for team calibrations of all invoices paid to vendors. Additionally, the Office has established controls, including budgeting review and revenue reconciliation, to ensure no overpayments to vendors. The controls also ensure that all revenue owed to vendors are released.
5	The Office did not take steps to reasonably ensure that service organization controls relevant to the processing of MMUR identification card applications were suitably designed and operating effectively. Additionally, the Office did not evaluate the adequacy and effectiveness of controls established by the subservice organization responsible for hosting MMUR data.	To promote the appropriate processing of MMUR card applications and ensure the security, availability, and confidentiality of MMUR data, we recommend that Office management make or obtain independent and periodic assessments of the effectiveness of service organization and subservice organization relevant internal controls.	We concur.	Completed. We have begun receiving service organization controls reports and have assigned staff to review.
6	Office information technology (IT) security administration policies and procedures for the MMUR did not encompass access by Department employees and vendors.	We recommend that Office management enhance security administration policies and procedures for the MMUR to include security requirements for Department and Department vendor MMUR users.	We concur.	In progress. Due to some vendors unwillingness to sign Form DH 1120, <i>Acceptable Use and Confidentiality</i> , the Department's Office of Information Technology is in the process of updating the form to accommodate vendor concerns. As soon as the form is approved, the Office will require all employees and vendors to sign the form before access is granted to the MMUR. In the meantime, an attestation outlining security and confidentiality requirements will be created for vendor's staff to sign requesting access to the MMUR and acknowledging requirements. <i>Anticipated Completion Date: October 1, 2021</i>

Preliminary and Tentative Findings – *Office of Medical Marijuana Use, Prescription Drug Monitoring, and Selected Administrative Activities*

No.	Finding	Recommendation	Management Response	Corrective Action Plan
7	IT security controls for the MMUR need improvement to ensure that MMUR system administrator access privileges are appropriately restricted, all system administrators undergo required background screenings, periodic reviews of user access privileges are performed, and user access privileges are promptly removed upon a user's separation from Department employment.	(7.1) We recommend that Office management enhance controls to ensure that MMUR system administrator access privileges are appropriately restricted and that all system administrators undergo a background investigation in accordance with applicable rules.	(7.1) We concur.	<p>(7.1) In progress.</p> <p>The Office is implementing a User Security policy and ticketing system for request to Office systems. Supervisors will be required to submit a ticket for all new Department employees. The tickets will be evaluated and approved before the user is added to the MMUR. The User Security policy will instruct all supervisors to submit a ticket for separated employees. A question was added about terminating access to systems on the Separation Checklist for all separated employees. In addition, the policy will ensure quarterly review of user access to ensure employees have appropriate access.</p> <p><i>Anticipated Completion Date: November 30, 2021</i></p>
		(7.2) We also recommend that Office management conduct and document in Office records periodic reviews of MMUR user access privileges and ensure that MMUR user access privileges are promptly removed upon a user's separation from Department employment.	(7.2) We concur.	<p>(7.2) In progress.</p> <p>The Office is implementing a User Security for processes and procedures. Supervisors will be required to submit a ticket for all new Department employees. The tickets will be evaluated and approved before the user is added to the MMUR. The User Security policy will instruct all supervisors to submit a ticket for separated employees. A question was added about terminating access to systems on the Separation Checklist for all separated employees. In addition, the policy will ensure quarterly review of user access to ensure employees have appropriate access.</p> <p><i>Anticipated Completion Date: November 30, 2021</i></p>

Prescription Drug Monitoring

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| 8 | Department efforts to effectively assess whether pharmacies, pharmacists, and dispensing practitioners report controlled substance dispensing information to the Department within the time frame prescribed by State law continue to need enhancement. | We recommend that Department management continue to enhance procedures to capture, analyze, and monitor controlled substance dispensing data to ensure that pharmacies, pharmacists, and health care practitioners comply with statutory reporting requirements. | We concur. |
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In progress.

1. Sent the following message through electronic mail to dispensers July 1, 2021: "Transactions that do not contain the American Society for Automation in Pharmacy (ASAP) version 4, release 2A fields will be flagged as errors, and the prescription record will not be imported into the *Prescription Drug Monitoring Program* (PDMP) database."
2. Office of the General Counsel is to publish notice of rule development to amend Florida Administrative Code rule 64K-1.002, *American Society for Automation in Pharmacy Standards and Formats*, revising the format and reporting requirements for dispensing of controlled substances to ASAP version 4 release 2B. Dispensers will be given six months from the effective date to comply.
3. Management is to review, revise, and enhance non-compliance auditing procedures.
4. The contract manager is to amend the vendor's scope of work to include the following PDMP database enhancements:
 - Create an online waiver application process to identify dispensers that are exempt from reporting according to section 893.055(3)(b), Florida Statutes.
 - Enhance communication of non-compliant entities within the PDMP database.
 - Enhance Rx Management screen in Appriss' PMP AWARe proprietary software to add "created date" to the prescription record.
 - Request contractor to create a compliance discrepancy report containing the following fields: 1) file name; 2) dispenser's Drug Enforcement Administration registration number, National Provider Identifier number, and permit number; 3) prescription number; 4) date prescription was written, filled, and sold; 5) date prescription record was created for submission to the PDMP database; 6) "create date" compared to "date sold value"; and 7) telephone number of dispenser.

Anticipated Completion Date: October 31, 2021

Selected Administrative Activities

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|----|---|---|------------|---|
| 9 | As similarly noted in prior audit reports, most recently in our report No. 2018-213, the Department did not always timely cancel purchasing cards upon a cardholder's separation from Department employment. | We again recommend that Department management promptly cancel purchasing cards upon a cardholder's separation from Department employment. | We concur. | Completed.

<i>A People First Separation Report</i> is generated every business day to identify employee separations. An email is sent to the employee's supervisor to make sure the employee has left the Department and not just changed positions within the agency. Once confirmation of separation has been received, the Purchasing Card Administration staff cancel the purchasing card within one business day. The <i>FLHealthDesk-HR</i> system and the Purchasing Card Change Champion emails are used as a secondary source of separations that will be verified via emailing the supervisor, if not on the official <i>People First Separation Report</i> . |
| 10 | Department controls over employee access to the Florida Accounting Information Resource Subsystem (FLAIR) continue to need improvement to help prevent any improper or unauthorized use of FLAIR access privileges. | We again recommend that Department management ensure that FLAIR access privileges are promptly deactivated when an employee separates from Department employment or when an employee no longer requires the access privileges previously granted. | We concur. | Completed.

<i>A People First Separation Report</i> is generated every business day to identify employee separations. It is emailed to the Administration and Finance Application (AFAM) team to determine if any separated employees have FLAIR access which should be terminated. This task is completed every business day by the AFAM team. |