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# Program Audit: Department of Health Child Care Facilities Licensing Program

*Prepared for the Committee on Legislative Research  
by the Oversight Division*

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*January, 1997*



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# COMMITTEE ON LEGISLATIVE RESEARCH

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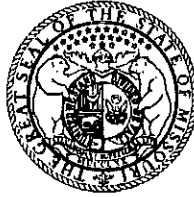




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January, 1997

Members of the General Assembly:

As authorized by Chapter 23, RSMo, the Committee on Legislative Research adopted a resolution in May, 1996 directing the Oversight Division to perform a program audit of the Child Care Facilities Licensing Program which included the examination of records and procedures in the Department of Health to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The accompanying report includes Oversight's comments on internal controls, compliance with legal requirements, management practices, program performance and related areas. We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates.

Respectfully,

  
Senator Harry Wiggins, Chairman

  
Representative Larry Thomason, Vice Chairman



## EXECUTIVE SUMMARY

Effective August, 1993, all duties relating to the licensing of child day care facilities in the State of Missouri rests with the Department of Health. Certain license-exempt facilities, including religious-based facilities and nursery schools are regulated by DOH to ensure that basic fire safety and health requirements are met. Licensed child care facilities can be one of three established types- family day care homes, group day care homes, and child day care centers. As of July 31, 1996 there were 2,638 family day care homes with a licensed capacity of 25,726 children; 220 group day care homes with a licensed capacity of 4,318 children; and 1,414 child day care centers with a licensed capacity of 86,771 children. Approximately 700 license-exempt facilities operated by religious organizations and nursery schools have also been identified. The Department of Health employs 102 full time employees in its Division of Health Standards and Licensure, Bureau of Child Care Safety and Licensure to carry out its mission of "ensuring that child care facilities provide a healthy and safe environment for Missouri's children in day care facilities."

**Is the Department of Health Meeting its Statutory Obligations Relating to the Regulation of Child Care Facilities in the State?** The Oversight Division found that safety and health inspections of licensed facilities were not being conducted as frequently as required by law. These inspections are currently being done bi-annually rather than annually. Additionally, DOH allows child care providers to exceed the legal limits on number of children which can be cared for in a facility. This is being done by regulation and by policy. Oversight suggests this creates a potential for substandard care and may pose safety risks. DOH's response time in implementing HB 376 (1993) regarding religious-based and other license-exempt daycare facilities has been slow and ineffective. Regulations which would have provided guidance to the facilities were not issued until two years following the effective date of the law. Of the 700 religious-based daycare facilities and nursery schools identified, only 95 have received a formal inspection, of which only two (2) were considered to be in compliance with regulations. It is possible that either a large number of these facilities may be operating without adequate fire safety and health conditions, or that rules governing the facilities may be prohibitive. One half of inspections conducted by DOH on licensed facilities are announced in advance. These on-site monitoring inspections are the primary means of ensuring compliance with rules governing child care facilities. Even the unannounced inspections are conducted at predictable times (sometimes exactly six months apart) and are in many cases anticipated by the child care providers. Announced and/or anticipated inspections allow providers to be evaluated when they and their facilities are at their best. It would be difficult to conclude that standards and conditions observed during an announced inspection were maintained on an on-going basis. During these inspections, DOH personnel frequently record areas of non-compliance as being "in compliance". This policy defeats the whole inspection process. In Oversight's review of screenings of individuals involved in the care of children in licensed facilities, it was determined that a more complete screening process which includes criminal background checks should be done at the request of DOH.



**Is the Department of Health Using its Resources Efficiently and Effectively in Carrying out its Duties Related to Child Care Facility Licensing and Inspection?** The DOH does not maintain information regarding the effectiveness of monitoring activities on the quality of daycare in the State. Supervisory staff indicated that over the years the number of inspections per year by licensing staff has decreased from five visits per year to two visits per year. However, it is unknown whether the rate of noncompliance by providers and the number of complaints against providers has conversely increased as a result. Many of DOH's internal management reports related to this program are inaccurate or outdated and are printed and filed on a regular basis, but never utilized. One example is the "Negative Actions Pending" report which is still generated monthly even though data has not been entered in the system since 1993.

Oversight noted that extensive staff time is spent attending internal meetings of the Department, with at least ten staff members from around the state spending approximately 480 hours per year (or an equivalent of three months) attending meetings, exclusive of travel time or time spent in training. DOH's process for renewing licenses may be resulting in excessive administrative time with no appreciable benefit to the state. Oversight recommends a change in the renewal procedure which includes a computer generated 'self-certification' checklist. Oversight also noted a more efficient use of staff time could be made if inspectors eliminated extraneous comments from the inspection forms and if the forms were revised to eliminate information which is not necessary to the inspection process. The overall efficiency of the DOH Child Care Licensing Bureau could not be evaluated primarily because the Bureau maintains no time accounting records related to the time required to complete assigned tasks. Oversight prepared an estimated time study using a sample of on-site inspection times and determined that the Bureau may have approximately 30% more staff than actually necessary to complete the required duties. Even so, DOH is contemplating submitting a FY98 budget expansion to include a request for an additional 39 FTE.

**Has the Department of Health Administered Grant Monies Appropriately for the Benefit of Child Care Facilities?** The DOH paid state university and college employees a net hourly rate of \$60 per hour to "score" grant proposals, with total costs including incidentals of \$26,000 in grants funds during 1995. Oversight recommends DOH employ a more cost effective approach in the future. The majority of block grants are awarded to providers in the ten counties that receive 25 priority points for "high poverty" and "high population density". Because of the priority status, many other providers in more than three-fourths of the state are effectively eliminated from the grant process. Proper controls are not in place to make sure that grantees are in good standing when applying and receiving grant monies, that merchandise purchased with grant funds is on site at the applicable facilities and that funds are only used for items which are allowable according to grant criteria. DOH has not adequately taken steps to ensure that the required 25% match amount is being provided in order to meet eligibility requirements for resource and referral grants. There currently is a total of \$82,445 in unauthorized purchases or unused grant funds which have been paid to providers and remains reimbursable to DOH.




**Is the Department of Health's Child Care Licensing Program Adequate to Protect Children in Child Care Facilities?** While the DOH believes it has a responsibility to provide technical assistance to providers, it is clear that their statutory mission is to ensure a healthy and safe environment for children in daycare. DOH does not penalize facilities who fail to comply with applicable licensing laws and regulations. Out of a total of 4,272 licensed providers, there have been no revocations of licenses and no facilities against which DOH has sought injunctive relief during the audit period (1993 through 1996). In the event of a substantiated complaint or of pending negative action against a provider, the public is not notified.

Public records are available for inspection by appointment with DOH staff. Since DOH took over administration of the program in 1993, no informational materials have been specifically developed for parents regarding licensing laws. The potential danger exists that parents may place too much assurance on DOH's regulatory role and its extent in monitoring day care facilities. Under current conditions, it is unlikely that parents or guardians throughout the state will obtain information necessary to make informed decisions regarding placement of their children in day care.

This audit report includes detailed findings and recommendations for changes in management practices and procedures. The Department of Health's official responses to the findings and recommendations are incorporated into the report. Our audit was performed in accordance with generally accepted government auditing standards as they relate to program and performance audits. We did not examine departmental financial statements and do not express an opinion on them.

We acknowledge the cooperation and assistance of staff of the Department of Health during the audit process.

  
Jeanne A. Jarrett, CPA, CGFM  
Director, Oversight Division





## Introduction

The Joint Committee on Legislative Research directed the Oversight Division to conduct a program audit of the child care facility licensing function within the Department of Health (DOH). HB 376, passed in 1993 by the state legislature, transferred all duties relating to the licensing of child day care facilities from the Department of Social Services, Division of Family Services, to DOH effective August, 1993. Also contained in HB 376 were new provisions requiring DOH to begin regulating certain license-exempt facilities, including religious-based facilities and nursery schools, to ensure that basic fire safety and health requirements are met by these facilities.

Licensed child care facilities can be one of three established types—family day care homes, group day care homes, and child day care centers. As defined by rules, family day care homes are child care programs where care is given by a person licensed as a day care home provider for no more than ten (10) children not related to the provider for any part of the twenty-four (24) hour day. Group day care homes are defined as child care programs where care is given by a person licensed as a group day care home provider for eleven (11) but not more than twenty (20) children not related to the provider for any part of the twenty-four (24) hour day. A group day care home must be in a location other than the provider's permanent residence or separate from the provider's living quarters. Child day care centers are defined as child care programs conducted in a location other than the provider's permanent residence, or separate from the provider's living quarters, where care is provided for children not related to the provider for any part of the twenty-four (24) hour day. The following table represents Department of Health figures for licensed facilities as of July 31, 1996.

Statewide Department of Health Figures Licensed Facilities As of July 31, 1996		
Type	Number of Facilities	Licensed Capacity
Family Daycare Homes	2,638	25,726
Group Daycare Homes	220	4,318
Child Daycare Centers	1,414	86,771
Total	4,272	116,815

As the agency designated by statute to license facilities who are subject to licensing laws, the Department of Health is responsible not only for the issuance of licenses, but also for the periodic inspections of facilities to determine compliance with licensing rules promulgated by DOH, for approving variance requests by providers unless such approval would endanger the health or safety of children in the facility, and for investigating complaints against licensed and unlicensed facilities. DOH is also required by statute to perform or designate local authorities to perform annual fire safety and health inspections of certain license-exempt organizations, including facilities operated by religious organizations and nursery schools. The department is also responsible for administering a portion of the Child Care and Development Block Grant which includes awarding funds to providers for enhancement of their facilities, as well as awarding funds for training providers and for resource and referral networks, which provide a link between available providers and parents seeking day care services.

This audit is intended to provide the General Assembly with information as to the effectiveness and efficiency of the Department of Health's regulation of child care facilities in the state of Missouri.

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## **Background**

Prior to August, 1993, the statutory responsibility for regulating licensed day care facilities in the state of Missouri rested with the Department of Social Services (DOS), Division of Family Services (DFS). In the 1993 legislative session the General Assembly truly agreed to and finally passed SS for SCS for HS for HB 376 which transferred this function to the Department of Health (DOH). In addition to transferring regulation of licensed facilities to DOH, the legislation included new provisions requiring the annual inspection for fire safety and health for certain facilities previously exempt from any type of state regulation. Those facilities include child care facilities operated by religious organizations, nursery schools, boarding schools, summer camps, hospitals, sanitariums and homes conducted primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children. Statutes require either the DOH or its designee (local fire inspectors or health departments) to perform these inspections. The legislation also established a requirement that any facility receiving any state or federal funds be licensed (excluding those facilities otherwise statutorily exempt from licensing requirements, such as those caring for fewer than five

children). As a result of this requirement, the Department determined that all Headstart facilities and government agency-sponsored facilities are required to be licensed. The legislation also transferred the administration of 25% of the total amount awarded to the state through the federal Child Care and Development Block Grant (CCDBG).

An agreement between DOS and DOH was consequently made in order to provide for the transfer of the 83.5 child care licensing personnel and related expenditures and the transfer of administration of the block grant. Personnel were transferred to the Department of Health's Division of Maternal, Child and Family Health, Bureau of Child Care Safety and Licensure (BCCSL). The Bureau of Child Care Safety and Licensure was transferred to a newly-created division within the Department of Health as of July 1, 1996, known as the Division of Health Standards and Licensure.

Since the regulation of child care facilities was transferred to the DOH, the total number of licensed providers has increased from 3,725 to 4,272, or approximately 15%. The Department has identified approximately 700 license-exempt religious-based facilities and nursery schools that require annual fire safety and health inspections, in addition to an unknown number of summer day camps and other license-exempt facilities now subject to regulation.

Rules governing all licensed facilities (family day care homes, group day care homes and centers) were transferred to Department of Health chapters in the Code of State Regulations in December, 1993. DOH developed rules governing license-exempt facilities operated by religious organizations that were effective July 30, 1995. Final rules have not been promulgated for other license-exempt facilities that are now subject to state regulation.

The Department's mission is "to ensure that child care facilities provide a healthy and safe environment for Missouri's children in day care facilities." The Department's primary method for ensuring compliance with its rules governing the day care facility environment is on-site monitoring. Current DOH policy requires semi-annual on-site inspections of all licensed facilities, one of which must be unannounced. DOH policy also provides for not only the determination of compliance with rules, but for technical assistance and consultation. Per DOH policy, technical assistance is designed to provide the facilities with information on methods of complying with rules, while consultation is designed to upgrade child care services beyond minimum requirements. Staff are to offer technical assistance whenever compliance

with rules is not achieved, while consultation is offered when requested or if staff believe it would be beneficial to the facility.

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## Objectives

The primary focus of the audit is to provide the General Assembly with information regarding the effectiveness and efficiency with which the Department of Health carries out its regulatory duties and oversight of licensed child care providers and license-exempt providers subject to regulation. Specifically, Oversight staff concentrated on three primary objectives:

- To determine if the Department of Health is meeting its statutory obligations relating to the regulation of child care facilities in the state.
- To determine if the Department of Health is using its resources efficiently and effectively in carrying out its duties related to child care facility licensing and inspection.
- To determine if the Department of Health has administered grant monies appropriately for the benefit of child care facilities.

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## Scope

The scope of the audit focused on reviewing DOH's procedures for licensing and inspecting child day care providers, granting variance requests, and investigating complaints against both licensed and unlicensed facilities. Staff reviewed DOH's progress in regulating those license-exempt facilities which are now required to have annual fire safety and health. Staff also reviewed DOH's procedures for administering its portion of the Child Care and Development Block Grant. Information was obtained and reviewed for the period beginning August, 1993 (when this program was transferred to DOH) to date.

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## Methodology

The Oversight Division conducted the audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States as those standards relate to program and performance audits. The methodology used by Oversight included evaluation of management controls to the extent necessary to fulfill our audit objectives. A primary method used to measure objectives was conducting interviews with agency personnel. In addition, staff performed on-site testing of controls and procedures, including direct observation through the accompanying of staff performing inspections of facilities. DOH provided the information requested, including procedures manuals, forms utilized by staff, as well as documentation related to grant awards. Surveys were also sent to a sample of licensed providers in order to obtain input from those regulated by the DOH.

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## Findings

### Recommendations

### Agency Responses

<b>FINDING #1:</b>	<b>Safety and health inspections of licensed facilities are not performed as frequently as required by law.</b>
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State law requires that annual fire safety and health inspections are to be done by either DOH or its designee. Such inspections are being done only bi-annually, upon license renewal.

As a result, providers are allowed to operate two years before re-inspection for fire safety and health.

### **RECOMMENDATION TO FINDING #1**

Oversight recommends that DOH begin complying with legal requirements to perform annual fire safety and health inspections.

**Agency Response to Finding #1**

*Historically, child care facilities have had annual fire safety inspections conducted by the State Fire Marshall's Office. The current schedule of one inspection bi-annually at renewal is a work reduction because of the limited personnel in the Fire Marshall's Office. Limited personnel in both the Bureau of Child Care Safety and Licensure (BCCSL) and in local county health agencies is also the main reason for the bi-annual health and sanitation inspections.*

*Also, in 1993, the BCCSL received the job of inspecting the license-exempt facilities who deliver child care. With that additional number of facilities to inspect and the ever increasing number of licensed facilities we need more staff to do our job.*

*The DOH is requesting additional FTEs to meet the mandated inspections and to continue to inspect facilities to protect children.*

<b>FINDING #2:</b>	<b>DOH allows child care providers to exceed legal limits on number of children in their facilities.</b>
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Statutes specify that related children are to be excluded in determining if a provider is caring for four or fewer children, and therefore not subject to licensure. However, the Department's rules for all licensed facilities provides for the exclusion of related children in any count of children, other than in staff/child ratios. DOH rules regarding related children conflict with statute; therefore, DOH staff are enforcing these rules in monitoring providers, which conflicts with statutory intent. In other words, a person licensed by DOH to care for ten children could also care for an additional unlimited number of related children according to DOH rules. Furthermore, DOH policy is to allow providers to care for more than four children if they have applied for licensure and while the application is pending, although statutes require any provider caring for more than four children to be licensed. The application for a license is valid for up to six months.

DOH staff do not require a provider to stop caring for more than four children while awaiting licensure and will allow a new provider to begin caring for more as long as they are applying for a license. The draft of DOH's procedures manual states that "if care is being provided for more

than four children not related to the provider, compliance must be reached within 90 days...if after 60 days from application, the provider is not making substantial progress toward compliance, a second letter will be sent repeating the deadline for meeting full compliance or reducing care to four or fewer children."

Providers are allowed to care for an unlimited number of related children, resulting in the potential for substandard care and safety risk of children in care. Furthermore, while it may be practical to allow providers to care for more than four children while awaiting licensure, this practice appears to be illegal.

### **RECOMMENDATION TO FINDING #2**

Rules regarding the inclusion of related children should be revised as soon as possible to conform with statutes. DOH should reconsider the policy of allowing providers to care for more than four children during the license application process.

### **Agency Response to Finding #2**

*Currently, children related to the provider are not counted in the capacity of the facility, thus a provider with three children can provide care for her children and 10 additional children.*

*The public and parents of young children are not always aware of Missouri's statute and child care rules. Part of the BCCSL's function is to educate and inform. When a provider's first knowledge of the statute comes as a result of a complaint investigation, children in need of care are already in attendance. When no imminent danger to children is found, it is in the public interest not to disrupt the children's care or cause hardship to the parent's employment. When licensure does not occur within expected time limits, the provider is given notice to cease child care until compliance with rules is achieved.*

*To correct this situation, the BCCSL is planning to revise or repeal current rules which allow related children to be exempt from licensing rules. The rule change is to be submitted by January 1, 1997.*

*Although this rule will address the conflict with state statute, there are several consequences that may occur with a change in the current rules:*

1. *There will be a financial impact when related children are counted in capacity and the total number of children in care will need to be reduced.*
2. *There will be fewer child care slots.*
3. *There is a concern that some providers may go "underground." They may provide care for 10 or any number of children but not make themselves known to DOH; therefore, they will not be regulated for health and safety, and children may suffer.*
4. *Some providers may provide care for a number of children that will be less than the licensure requirement. Unregulated care will be provided, and children may be harmed.*

<b>FINDING #3:</b> DOH has not completed fire safety and health inspections of certain license-exempt facilities as required by a statutory change in 1993.
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Effective August, 1993, RSMo 210.252 (as amended by HB 376 in the 1993 legislative session) required the DOH (or its designees) to promulgate rules and to perform annual inspections for fire safety and health on certain license-exempt facilities, including religious-sponsored facilities, nursery schools, summer camps, boarding schools and others. The statute gives no timetable by which these tasks were to be completed.

The DOH did not issue rules governing license-exempt religious-sponsored facilities until July, 1995. No rules have been issued for other license-exempt organizations subject to regulation, such as summer day camps, nursery schools, etc. As of July, 1996, the DOH had identified approximately 700 religious-sponsored facilities and nursery schools subject to regulation. Of that number, only 95 have had formal inspections, of which only two are considered to be in compliance with rules governing such facilities. It is possible that either a large number of these facilities may be operating without adequate fire safety and health conditions, or that rules governing the facilities may be prohibitive.

Because these license-exempt facilities had been previously exempt from state regulation, the DOH has encountered difficulties in identifying those facilities that are now subject to regulation. Rules were not promulgated until two years after the law's effective date. The DOH has been attempting



to work with those facilities identified to make them aware of the regulations and to provide guidance to the facilities regarding what is required of them. Staff indicate that in many cases, a substantial amount of time and money is required for the facilities to come into compliance with rules. However, a letter was sent July 31, 1996 to all religious-based facilities and nursery schools notifying them that compliance with rules must be met by August 15, 1996, with twenty days given to correct any noncompliances.

### **RECOMMENDATION TO FINDING #3**

Oversight recommends that the DOH adopt rules governing all such organizations subject to regulation as soon as possible. A review of the existing health and safety rules for religious-based facilities may be advisable in order to determine if the rules are prohibitive. Facilities need to be inspected as soon as possible as required by statute.

### **Agency Response to Finding #3**

*DOH was well aware that the General Assembly was concerned that DOH would close down facilities. The goal of the BCCSL was to formulate the regulations in such a way as to gain cooperation and support of existing license-exempt sites. The goal was to be reached in two phases.*

*Phase one included DOH's allowing time for a cross-section of public experts in the field of child care to be assembled to develop minimum rules for health and safety in license-exempt facilities. This phase allowed DOH to develop regulations that met the intent of the statute and allowed for adequate public participation in the rule development. Phase two allowed for introduction of the statute, rules, and inspection procedures to the facilities by Child Care Representatives. This phased-in approach resulted in a generally positive response by the organizations affected and a successful implementation of the program with the July 31, 1996, notice to license-exempt child care providers that if compliance was not completed within 20 days of notification they would be referred to the local prosecuting attorney.*

*The 20 day compliance timeframe specified in the statute is being imposed statewide, and referrals to local prosecuting attorneys are being made as required. Staff are making initial/introductory contacts with each prosecuting attorney prior to the first referral in a county to encourage their*

*support. As of November 20, 1996, DOH has referred fewer than 10 facilities to the local prosecuting attorney.*

<b>FINDING #4:</b> The screenings required by the DOH for child abuse and neglect reports on all child care providers may not be adequate to protect children in care.
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DOH rules require a child abuse/neglect screening (CA/N) for all child care providers, employees and household members. A CA/N conducted by Department of Social Services, Division of Family Services (DFS) of the central registry maintained by DFS will only register a "hit" if the charge is child abuse or neglect as defined by statute to cover only those individuals with care, custody and control of the child (see RSMo 210.110). Other crimes such as murder, rape, etc., would not be detected in this screening.

RSMo 210.150 indicates that the central registry is to include a number of crimes where the victim is less than eighteen years of age; however, DFS indicates that federal law prohibits them from having access to the Highway Patrol's criminal records system. Highway Patrol criminal background checks would provide information regarding all crimes of which individuals have been convicted.

As a result of the limited nature of CA/N screenings, individuals who have been convicted of violent crimes (including against children) may apply to be licensed day care providers or become employed in licensed facilities, and the CA/N screen obtained on that individual would not reflect that fact other than if the charge was child abuse or neglect as defined by statute to cover only those with care, custody and control of the child.

#### **RECOMMENDATION TO FINDING #4**

Oversight recommends that the DOH immediately begin to require more complete screenings of individuals involved in the care of children in licensed facilities. DOH should consider requiring complete criminal background checks (including nationwide criminal registries) on all such individuals. Such screenings should be conducted periodically.

#### **Agency Response to Finding #4**

*When DFS denied DOH access to its confidential data system, the BCCSL faced serious problems. Prior to the loss of access, DOH had the capability to access the confidential data system and immediately determine if new facility staff posed a threat to the health and safety of children. When DFS denied access to DOH, the task of obtaining an employee screening was passed to the provider. Lengthy time lags in receiving screening reports resulted in delays in the licensing/inspection process for both the provider and DOH.*

*A new CA/N screening rule was made part of the DOH PHASE ONE priority rule revision process and will be submitted by January 2, 1997. The proposed rule will broaden screening categories to all individuals who have access to children and will require bi-annual updates.*

*The BCCSL began consultation with the Department of Public Safety - Highway Patrol and the Department of Social Services in July, 1995, in an effort to develop a method for timely/inexpensive criminal record checks. The estimated cost would be \$16.00 for the provider for each employee. This was in response to the National Child Protection Action of 1993 and the Violent Crime Control and Law Enforcement Act of 1994. The number of child caregivers in Missouri exceeds the funding ability of DOH to provide the service of obtaining criminal record checks as part of facility's licensing investigations. In September, 1996, the BCCSL sent delegates to the annual conference of the National Association of Regulatory Administrators to learn how other states manage criminal record checks. A legal workshop presented by a panel of state government attorneys recommended a coordinated national databank available to child care regulatory agencies on a free request basis from a linked network of state Criminal Records and Identification Divisions. The BCCSL is studying and preparing a rule revision to impose this requirement on the licensee or employee unless or until a free national network becomes available.*

<b>FINDING #5:</b> DOH does not penalize facilities who fail to comply with applicable licensing laws and regulations.
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The mission statement of the DOH's Bureau of Child Care Safety and Licensure states that the Bureau's mission is "to ensure that child care facilities provide a healthy and safe environment for Missouri's children in child care facilities." RSMo 210.221 provides that DOH is "after inspection,

to grant licenses to persons to operate child care facilities if satisfied as to the good character and intent of the applicant and that such applicant is qualified and equipped to render care or service conducive to the welfare of children, and to renew the same when expired..." and that DOH is "to inspect the conditions of the homes and other places in which the applicant operates a child care facility, inspect their books and records, premises and children being served, examine their officers and agents, and suspend or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health." It is not clear from the DOH's mission statement whether its primary goal is regulatory in nature, as implied by statute. Staff appear to spend a significant amount of time providing technical assistance and consultation services to providers, in addition to fulfilling the statutory obligation of regulation. Also, DOH indicates that one in ten licensed centers and one in six licensed family homes are under close supervision by DOH staff due to serious noncompliance issues. It appears that only a very subjective case-by-case analysis is used by staff in determining the need for negative action against a facility. The DOH does not assess any penalties for noncompliance other than to seek revocation in extreme cases of noncompliance. In situations where children in the facility are determined to be in imminent danger, the DOH may file suit for injunctive relief, which may include removing the children, overseeing the operations, or closing the facility.

Out of a total of 4,272 licensed providers, there have been no revocations of licenses since DOH assumed administration of the licensing function in 1993 and no facilities against which DOH has sought injunctive relief.

#### **RECOMMENDATION TO FINDING #5**

Staff should be made aware that their statutory mission is regulatory in nature, and clearcut guidelines need to be developed which allow for the evaluation of whether to continue to allow providers to hold a valid license issued by the DOH. Oversight is not recommending that the DOH staff discontinue providing technical assistance to providers. On the contrary, it is assumed that providing technical assistance leads to greater compliance with licensing rules, a position supported by a study recently completed in the state of Georgia. However, clarification needs to be given to the DOH's regulatory function, and how other services provided support that function rather than supplant it.

The DOH should consider requiring providers to conspicuously post a copy of their most recent inspection report completed by licensing staff. Since parents would readily be able to view this report, such a requirement may provide additional incentives for providers to comply with rules. Also, the department should consider seeking legislative approval for assessing monetary penalties against providers for noncompliance, including assessing monetary fines or withholding grant funds from providers who fail to comply with licensing rules. Furthermore, in the event of license revocation, the DOH should ensure that the official license is returned to the department.

### **Agency Response to Finding #5**

*As part of the DOH development of a five-year strategic plan for meeting the department's mandated responsibilities, the BCCSL is in the process of formulating current vision, mission, and goal statements.*

*The current mission statement states the BCCSL's regulatory function very clearly: "The mission of the Bureau of Child Care Safety and Licensure is to assure the healthy and safe growth/development of Missouri's children through a regulatory process to prevent injury, risk, or harm to dependent children in out-of-home child care settings."*

*Effective regulation of child care must identify noncompliance and provide clarification of regulatory requirements. Child care providers, especially home providers, are widely diverse in their skill, education, and ability levels. Without technical assistance of the child care representative, too many providers would be unable to achieve compliance and would lose their licensed status. With more than 4,200 licensing child care providers in Missouri, it is cost effective and clearly in the public's best interest for licensing staff to perform an interpretive role. To do otherwise fails to protect the availability of the state's current 116,657 licensed child care slots for children of working parents. The BCCSL agrees with the auditors' statement that providing technical assistance leads to greater compliance with rules, and therefore, to safer and healthier environments for Missouri's children.*

*The Rules Revision Task Committee has proposed a weighted system of rules with indicators of noncompliance that most significantly affect children's health and safety. When these core rules are identified and in place, they will form clear formulae for enforcement and revocation of licenses.*

*The BCCSL will evaluate the effectiveness of assessing monetary penalties against providers for noncompliances by contacting other states. If the research indicates that monetary penalties are effective, the BCCSL will propose statutory change.*

*The BCCSL's October, 1996, legislative proposal includes permission for DOH to finalize other enforcement and disciplinary actions for failure to meet standards. The proposals also provide for "immediate" suspension when children are in "imminent" danger.*

<p><b>FINDING #6:</b> There does not appear to be a valid method of measuring the DOH's effectiveness in monitoring child care facilities based on information readily available within the department.</p>
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The DOH should have a means by which to determine if the monitoring they are conducting of child care facilities is effective in reaching their goal "to ensure that child care facilities provide a healthy and safe environment for Missouri's children in child care facilities."

The DOH's database does not provide for a historical analysis comparing the number and types of inspections performed by licensing staff to the number of noncompliances by and complaints against providers in the same time period.

Supervisory staff indicated that over the years (including when the program was under DFS) the number of inspections per year by licensing staff has decreased from five visits per year to two visits per year. However, it is unknown whether the rate of noncompliance by providers and the number of complaints against providers has conversely increased as a result. Oversight assumes that it is likely that decreased regulation would result in increased noncompliance and complaints.

#### **RECOMMENDATION TO FINDING #6**

Oversight recommends that the DOH determine if a historical analysis can be prepared to support the effectiveness of the department's monitoring of facilities. Such an analysis would indicate if in fact the number of

inspections per year should be increased in order to reduce the rate of noncompliance and number of complaints that must be resolved by licensing staff.

**Agency Response to Finding #6**

*The BCCSL conducted a year long study of the deficiencies in its database system, many of which resulted as part of the transfer from DFS. The BCCSL established a standing committee of line staff, supervisors, clerical and central office personnel to produce a formal assessment of strengths, needs, and weaknesses of the current database system. The BCCSL has entered a cooperative effort with the DOH Office of Information Systems for development of a comprehensive computerized program that will meet the needs of the BCCSL as determined by the database committee. A basic component will be monitoring the effectiveness of licensing procedures in assuring safe and healthy environments for children.*

*To more effectively organize staff and work functions involving regulatory matters, the DOH created the new Division of Health Standards and Licensure. The BCCSL is part of that division. Licensing automation and improvement has been submitted as budget decision item for the next fiscal year to coordinate a division level automation of the licensing procedures and data collection. This system will support consistency in operational procedures between programs and improve monitoring of program activities and outcomes.*

*Data collected in this system will be used in program decisions for refining and improving licensing procedures.*

*If the Division budget decision item for licensing automation and improvement is not approved by the General Assembly Appropriations Committee, DOH will not be able to respond to their customers in a timely and efficient manner.*

<b>FINDING #7:</b> <b>One-half of the inspections of licensed facilities by DOH are announced in advance.</b>
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The Department's primary means of ensuring compliance with rules governing child care facilities is to conduct two on-site monitoring

inspections each year. DOH requires only one of the semi-annual inspections to be unannounced. The inspections are often exactly six months apart.

It would appear conducting more random unannounced inspections would be a more effective method for determining routine compliance with child care rules as providers would be less likely to anticipate inspections.

DOH staff indicated that announced inspections were used for two reasons. One reason is to give the providers time to accumulate requested records for the licensing representative's review during the inspection. The other reason given was to allow the providers to present themselves at their best.

Conducting announced inspections allows providers to be evaluated when they and their facilities are at their best. It would be difficult to conclude that standards and conditions observed during an announced inspection conducted at regular intervals were maintained on an on-going basis.

### **RECOMMENDATION TO FINDING #7**

Oversight recommends DOH conduct unannounced inspections whenever possible. Oversight also recommends the timing of the semi-annual inspections be varied so the inspections are not anticipated by the providers.

### **Agency Response to Finding #7**

*The statute does not mandate announced or unannounced visits. In order to monitor whether appropriate health and safety is provided, the BCCSL implemented regulations. It is appropriate that some inspections are announced, particularly in those instances where the inspector is verifying corrections of noncompliances on medical records or some administrative aspect of the facility. In those instances where there has been complaints on staff/child ratio, then certainly an unannounced visit is appropriate. The BCCSL will re-evaluate its inspection procedures and initiate more unannounced inspections where appropriate. The BCCSL will review the timing of the semi-annual inspections so that the inspections are not anticipated by the providers.*



**FINDING #8: DOH inspectors frequently record areas of non-compliance as actually being "in compliance."**

Through a policy memo, DOH has directed its licensing representatives not to mark an item out of compliance if the provider asserts a previous inspector did not mark the item out of compliance. Additionally, if a provider or a facility is not in compliance with a rule when the inspector arrives, DOH will not record a non-compliance if the provider comes into compliance during the inspection.

A provider is either in compliance with the child care rules at the time of their inspection or they are not, regardless of any previous or future actions. When items of non-compliance are not noted on the inspection forms, users of the forms will not have a true picture of the condition of the provider.

**RECOMMENDATION TO FINDING #8**

Oversight recommends the DOH require licensing representatives to inspect the current condition of the facility and record the results without regard to any previous or future actions.

**Agency Response to Finding #8**

*Because the current regulations do not differentiate between minor violations and serious health and safety issues, a DOH policy memo was written which directs licensing representatives not to mark an item out of compliance if the provider asserts a previous inspector did not mark the item out of compliance on minor issues. The policy memo further indicates that if a provider or a facility is not in compliance with a rule when the inspector arrives, DOH will not record a non-compliance if the provider comes into compliance during the inspection. This policy had been adopted 1) to ensure fairness to a provider who states they are receiving the first notice of a non-compliance as it allows an opportunity to achieve compliance within a reasonable timeframe without penalty of a negative notation in the record and 2) to allow the provider to replenish paper towels or toilet tissue supplies that were emptied at the time of the visit rather than mark a non-compliance.*

*In the future, child care representatives will inspect the current condition of the facility and record the results without regard to any previous or future actions.*

**FINDING #9: Many of DOH's internal management reports do not provide useful or meaningful information.**

Several reports reviewed by Oversight with management were determined to be inaccurate and outdated, yet the DOH continues to print and file copies of the reports.

Accurate information should be available from the department's database that would allow for the department's management to accurately monitor such things as pending complaints and negative actions in process.

It appears that the reports produced by DOH's database existed under DFS's management. Some of the information required to be entered to keep the reports up-to-date and relevant has not been entered by DOH. One example is the "Negative Actions Pending Report," which could provide management and DOH's legal counsel with a valuable tool in the monitoring of negative actions, as well as provide monthly updates to licensing staff as to the status of these cases. However, the DOH has not entered relevant data to the system since it assumed the licensing function in 1993. Another example, the "Pending Complaints Report," is inaccurate in that it apparently includes complaints that were resolved in some cases significantly long ago. Staff does not know why such items are included, but they are not able to rely on this report to monitor pending complaints. No other consistent, reliable methods of monitoring negative actions and pending complaints were noted as having been implemented in the DOH's central office.

**RECOMMENDATION TO FINDING #9**

DOH should consider in general what information would be useful and meaningful to both licensing staff and management, and determine how to redesign their reports and procedures to produce such information. Oversight recommends that DOH discontinue the production of reports it currently produces monthly from its database which are not useful either due

to their design or the failure to enter current information required to update the reports.

**Agency Response to Finding #9**

*In October 1995 internal meetings were initiated between DOH's Office of Information Systems and the Bureau of Child Care Safety and Licensure to identify and prioritize data needs for the child care data base. The first priority was the transfer of the maintenance of the data base from the Department of Social Services to DOH. A Child Care Data Base Work Group consisting of staff from OIS and staff from the Bureau's Central Office and District Offices met in August 1996. Staff on the Work Group include levels from the Bureau Chief to field clerical support. The Work Group met in August and October. They are establishing and prioritizing needs as identified by statewide staff. The Bureau will prioritize the inclusion of pending complaints and disciplinary actions into management reports.*

<p><b>FINDING #10:</b>      Instances were noted where staff time is not used efficiently.</p>
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During accompanied inspections of child care facilities, Oversight observed significant additional time was taken to obtain and record other information which appeared to be unnecessary to the inspection process.

During the inspections the licensing representatives check "yes" or "no" boxes on preprinted forms indicating the providers' compliance with established rules. Examples of further unnecessary information recorded by the licensing representatives were what the provider had or was planning to serve for meals and snacks on the day of the inspection, whether the provider seemed friendly, and what specific activity each age group of children was engaged in.

Some DOH staff said the narrative comments and descriptions were included because some supervisors liked to read them. Other staff members said such comments were included for the benefit of parents reviewing the provider's file.

Inspections could be completed more quickly and efficiently if extraneous comments were not included on the inspection form. A significant amount

of the staff time required to do an inspection could be saved if narrative comments included on the inspection forms were limited to those necessary to detail compliance exceptions. A reduction in the time required to complete individual inspections would mean more time would be available for other functions or to conduct more frequent inspections.

Furthermore, efficiency of staff time has been compromised because of excessive time attending internal meetings. According to information provided by the DOH at least ten of the child care licensing staff throughout the state spend 480 hours per year or an equivalent of three months attending meetings, exclusive of training. This time does not include travel time which is estimated separately.

Time spent on meetings should be kept to a minimum to allow staff sufficient time to carry-out the regulatory responsibility of the program.

### **RECOMMENDATION TO FINDING #10**

Oversight recommends DOH require licensing representatives to limit narrative comments to those necessary to detail non-compliance with child care rules.

Oversight also recommends the DOH limit the amount of time licensing staff spend in meetings by seeking more efficient means of communicating with staff and accomplishing program objectives. DOH should explore other methods of disseminating information to outstate staff such as teleconferencing, video conferencing or written directives from management.

### **Agency Response to Finding #10**

*Oversight raises a valid point in recommending that licensing representatives limit narrative comments to those necessary to detail non-compliance with child care rules. It is true that the licensing representatives can check "yes" or "no" boxes on preprinted forms indicating the providers' compliance with established rules. However, the narrative comments provide a tickler file on the compliance report as to the breadth of the non-compliance and whether or not it was corrected by the time of the next visit. DOH staff will continue to enter narrative comments when appropriate.*

*DOH will also provide additional training to the child care representatives to streamline the documentation.*

*Approximately one year ago all ten of the child care supervisors (3 District Supervisors and 7 Child Care Licensing Supervisors) were required to attend monthly meetings in Jefferson City. In the spring of 1996 the format of these meetings was revised to include a meeting of the Bureau Chief and the three District Supervisors every other month. A meeting including full Bureau Central Office staff and all ten licensing supervisors would occur during the other months. This reduced time and financial resources incurred by the seven licensing supervisors. It is the performance expectation of the District Child Care Supervisors that they serve as the liaison between the District and Bureau administration. Responsibilities include the development of statutes, rules, policy and procedures, rule interpretation, and grant initiatives. Because of this liaison relationship, District Supervisors are often required to travel. DOH has on several occasions used conference calls with the supervisors and will continue to do that. When possible, DOH will explore other methods of disseminating information to outstate staff. Once all supervisors have network capability, Central Office can communicate through that medium.*

<b>FINDING #II</b>	<b>DOH cannot justify staffing requirements due to their inability to determine workload measures.</b>
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The overall efficiency of the Child Care Licensing Bureau could not be evaluated primarily because the Bureau maintains no time accounting records. The Child Care Licensing Bureau has not collected any data regarding the time required to complete assigned tasks. Oversight prepared an estimated time study based on discussions with Bureau staff and a review of child care provider inspection forms which include an entry for the time the inspector arrived at the facility and the time the inspector concluded the inspection. Our sample of on-site inspection times, including renewal inspections, revealed an average on-site time of approximately 1.75 hours. From our analysis, Oversight believes the Bureau currently may have approximately 30% more staff than necessary to perform the required duties. Subsequent to reviewing Oversight's analysis, the Bureau prepared four different versions of their own estimated time study. From the four different versions, the Bureau concluded they have somewhere between 13% and 59% fewer staff than needed to carry out the program. However, Oversight

believes that several of their time estimates are significantly overstated. For example, although the Bureau's initial estimates showed six hours of staff time for family home renewals, their final estimate showed 25.5 hours for family home renewals. This estimate seems excessive based on Oversight's calculated average of 1.75 hours on-site at the facilities for all types of inspections, even when allowing for up-front and follow-up time by staff.

The Bureau has indicated they plan to conduct an abbreviated time study during mid-October through mid-November, as they indicated in a memo dated September 17, 1996 that their data is not sufficient in many areas to explain what the true workload of the Bureau is.

It should be noted that in spite of the fact that the Bureau management asserts that they do not know what their true workload is, the DOH is contemplating submitting a FY 1998 budget expansion to include a request for an additional 39 FTE.

### **RECOMMENDATION TO FINDING #II**

Oversight recommends the DOH conduct a time study in sufficient detail to determine the actual staff needed to carry-out the responsibility of the Child Care Licensing Bureau. The data from the time study should be reviewed carefully for reasonableness and consistency across the state.

### **Agency Response to Finding #II**

*The Bureau management did not assert that they do not know what their true workload is. In their September 17, 1996, memo, referenced in the Oversight Division's finding, it said that the data is not sufficient in many areas to help us explain what our workload truly is. However, we do have enough data to know that our workload, as evidenced by the increase in the number of licensed and inspected child care facilities, is increasing drastically. Our individual inspector's caseloads have doubled and will continue to increase as the changes brought about by Welfare Reform causes more child care facilities to open to fill the need of families seeking daycare. We need additional staff to assure that both accessibility and quality child care is available to Missouri families.*

*The Bureau's self-evaluation of manpower hours and procedures was an evolving process, changing as input was received and evaluated. The Bureau's estimated manpower hours were based on input from staff*

*experienced in the field of child care. The average time estimates identified by the audit is based upon a minimal number of hours of review and does not take into account the numerous hours required for lengthy inspections when serious health and safety issues are identified, follow-up visits to assure that problems are corrected, etc.*

*The DOH is requesting the additional FTE's to meet the mandated inspections and to continue to inspect facilities to protect children. If we do not get the additional FTE's, we will not be able to keep up with the mandated inspections and more children will be at risk.*

<b>FINDING #12:</b> <b>DOH does not assess license fees to licensed child care providers.</b>
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Statutes do not provide for the collection of licensing fees by DOH to partially offset the cost of regulating licensed providers by DOH. Most, if not all, other licenses issued by the state, including licenses for hunting, fishing, cosmetology, and real estate agents, require the payment of a fee to the state by the licensee.

Because licensed providers do not pay any fees to be licensed, it is possible that less credence is given by providers to the validity of licenses. Also, all costs of regulating licensed providers is funded by the state and federal government, rather than at least partially funded by those being regulated as with other state-issued licenses. It is likely that the cost of regulating child care facilities far exceeds the costs incurred by the state in regulating many other types of licensees.

**RECOMMENDATION TO FINDING #12**

Oversight recommends that the DOH consider seeking legislative approval for assessing licensing fees to licensed providers. The fees would not need to be significant, but could help emphasize the importance and legal nature of the licenses, as well as partially offset the cost of regulation by the state.

**Agency Response to Finding #12**

*Currently DOH does not have statutory authority to assess license fees to licensed child care providers. However, counties have the statutory authority under Section 192.300 RSMo Supp. 1994 to make additional health rules and to establish reasonable fees to carry out the health rules.*

*DOH will take under advisement Oversight's recommendation to consider seeking legislative approval for assessing licensing fees to licensed providers keeping in mind the limitations placed upon state revenue by the Hancock amendment. DOH has proposed legislative changes to clarify enforcement procedures for the 1997 session. These proposals are critical to the effective operations of the child care program. DOH will consider assessing license fees in future legislative years.*

<b>FINDING #13:</b>	<b>DOH's process for renewing licenses may be resulting in excessive administrative time with no appreciable benefit to the state.</b>
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RSMo 210.221 states that "no license shall be granted for a term exceeding two years." DOH rules and procedures provide for a renewal of licenses at the end of each two-year term. At that time an apparently significant amount of time is spent by licensing staff collecting various paperwork from providers and preparing reports. Inspection visits at renewal are always announced, as DOH staff indicate the need for providers to have documents ready and allow additional time to review and discuss those documents and other matters related to license renewal.

The renewal process for licenses appears to result in more paperwork, but does not appear to provide any additional regulatory assurance of compliance by providers.

### **RECOMMENDATION TO FINDING #13**

Since statutes already require annual fire safety and health and sanitation inspections, negative actions can be commenced at any time during the license term, and licenses are already amended for significant provider changes (such as in the number of children in care), the DOH should consider what benefit is derived from the current license renewal process. The DOH should reconsider the extent of documentation required at



renewal. Periodic updating of provider information could eliminate the need for a complete re-inventory of required documentation every two years. At renewal, providers could simply be requested via a computer-generated notice to document any changes to existing file information. Scaling back the renewal process could allow staff to perform an additional unannounced inspection in place of the announced renewal visit.

### **Agency Response to Finding #13**

*DOH will review the administrative process to renew licenses. One possibility is self-certification—where a facility would complete a checklist and submit to DOH every two years. The Child Care Representatives could then monitor compliance at unannounced visits that would occur at staggered intervals.*

<p><b>FINDING #14:</b> In the event of a substantiated complaint or of pending negative action against a provider, the public is not notified.</p>
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Parents should be made aware of substantiated complaints and pending negative actions, including license revocation and denials, in order that they may make informed decisions as to the placement of their children in daycare.

Substantiated complaints are maintained chronologically in the facility's public records which are available for public review by appointment with DOH staff. However, based on verbal representations of DOH licensing staff regarding the number of instances in which parents request to review these records, it would be highly unlikely that parents would review the files and learn of the substantiated complaint in that manner. The method of filing substantiated complaints with other licensing information in chronological order in the manual files may preclude parents from becoming aware of all substantiated complaints on file. Furthermore, when the DOH commences negative action against a provider (either through revocation or denial of a license), the public records are closed due to the potential for legal action.

### **RECOMMENDATION TO FINDING #14**

Oversight recommends that DOH explore possible methods, within legal boundaries, of notifying the public or requiring providers to notify parents when complaints are substantiated or when negative actions are commenced against licensed facilities. At a minimum, DOH should file substantiated complaints in a separate section to be kept in the most recent volume of provider records.

**Agency Response to Finding #14**

*While the public has the right to be notified of a substantiated complaint or of pending negative action against a provider, the provider also has rights. DOH has been exploring possible methods with DOH's Office of the General Counsel to meet the needs of the parents while assuring the provider's rights are not jeopardized.*

*One possible method is to educate the parents so that they, as consumers, review facility's public records when they are selecting child care and periodically once they have selected a facility. DOH will inform parents that when a public record is closed there is a potential for pending negative action against the facility. Parents can then consider reviewing other facilities to provide child care for them.*

*DOH will also discuss with their Office of General Counsel the possibility of creating a separate section in the "Permanent Licensing Material" for substantiated complaints to be kept in the most recent volume of provider records. A facility may have several volumes of records. The "Permanent Licensing Material" is always retained in the active record; consequently, the substantiated complaints would always be accessible.*

<p><b>FINDING #15:</b>      <b>The Department of Health does not provide adequate or easily accessible information to parents regarding the placement of their children in daycare.</b></p>
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Parents should be made aware of statutory requirements regarding licensing of facilities and DOH's role in regulating facilities, rules governing the different types of facilities, information as to what their rights and provider rights are, the availability of public records on licensed providers, as well as general information on what to look for in choosing child care providers.

Since DOH assumed responsibility for this program in 1993, there have been no materials specifically developed for parents. As a result, parents may be unaware of licensing laws and rules. The potential danger exists that parents may place too much assurance on DOH's regulatory role and its extent in monitoring day care facilities. Many complaints may be made by parents due simply to their lack of knowledge of rules governing providers, resulting in additional time spent by DOH staff investigating such complaints.

Furthermore, parents and other interested persons should be readily able to access information that is required to be maintained in a public record. DOH maintains manual files for each licensed provider. Persons wishing to review these records must make appointments with DOH staff, who will sit with those looking at the files to answer any questions that arise. It may be difficult for parents to find time during regular office hours to schedule an appointment with DOH staff to review files.

#### **RECOMMENDATION TO FINDING #15**

Oversight recommends that DOH develop educational material, which could include brochures and videos, for distribution to new parents in the state. Written materials could be made available at physicians' offices in order that more future parents are exposed to them. These materials need only briefly summarize statutory requirements for licensing and note that there are specific rules governing the different types of facilities. The materials should also specify what DOH's role is in the regulation of providers, explain what information is available for review for each provider in the public record, and detail the process for complaints.

To improve public access to pertinent information, Oversight also recommends that DOH consider making at least some information maintained in the public record available electronically on the Internet. Summary information, such as pertinent provider information, number of substantiated complaints, whether any noncompliances were noted, etc. available to the public via computer would greatly increase its accessibility and usefulness to the general public. Summary information could also easily be mailed if requested.

#### **Agency Response to Finding #15**

*DOH has revised a packet of parent educational materials that was developed by the Department of Social Services. DOH is currently securing funding to print the materials. The packet will include the following topics:*

- Choosing and Evaluating a Child Care Home...A Parent's Guide*
- Choosing and Evaluating a Child Care Center...A Parent's Guide*
- How To Avoid Infectious Diseases in Group Settings...A Parent's Guide*
- Recognizing the Symptoms of Child Abuse and Neglect...A Parent's Guide*
- Recognizing and Preventing Child Sexual Abuse...A Parent's Guide*

*The "Choosing and Evaluating" pamphlets include information on complaints. Parents are informed that if they have situations about the provider not responding to their concerns and not meeting state licensing standards they should contact the Bureau of Child Care Safety and Licensure. They are also advised that a copy of the licensing rules is on file at the facility for their review.*

*The "Choosing and Evaluating" pamphlets also advise the parents that they have the right to review records maintained by DOH on licensed child care providers.*

*While these parent educational materials are being developed, parents do have access to choosing and evaluating child care facilities through two means:*

- 1. The BCCSL's District Offices have limited supplies of such material produced by the National Association for the Education of Young Children (NAEYC).*
- 2. The Resource and Referral (R&R) agencies funded by the Child Care and Development Block Grant have developed a checklist for parents who inquire about selecting child care.*

*DOH will take under advisement Oversight's recommendation to make the public record available electronically, possibly on the Internet. This is a task that can be addressed with DOH's Office of the General Counsel and with the Child Care Data Base Work Group.*

**FINDING #16:** DOH's review of block grant applications includes the awarding of priority points which actually exclude applicants in certain counties from receiving funds.

The majority of the block grant funds are awarded to providers in the ten counties that receive 25 priority points for "high poverty" and "high population density." All proposals from the counties of Boone, Buchanan, Clay, Greene, Jackson, Jasper, Jefferson, St. Charles, St. Louis, and St. Louis City – regardless of individual income or qualification – receive 25 priority points. DOH reportedly has made this determination based on a national survey which lists these counties as a whole to be "high poverty" and to contain a "high population density."

The Request for Proposal (Statewide Child Care and Development Block Grant – Enhancement Contract) states that the purpose of the grant is to provide a source of funds for states to improve the quality and increase the availability of child care services for children 13 years of age and under. 45 CFR Parts 98 and 99 states that priority may be given to areas with concentrations of poverty and any areas with very high or very low population densities.

The current priority point system utilized by DOH precludes more than three-fourths of the counties in Missouri from receiving a score any higher than 75 points on their grant proposals. The cut-off point in scoring proposals for awarding grant funds was 68 points in 1995. Therefore, the assessment of 25 priority points to the above-mentioned ten counties has a significant impact on the grant awards.

#### **RECOMMENDATION TO FINDING #16**

Oversight recommends that DOH consider reducing the number of priority points awarded for "high poverty," and "high population density". Federal law encourages that priority be given for poverty, however, DOH is not required to give such a great advantage. As a result of DOH's current evaluation criteria, many low income providers do not receive grant funds. DOH should reconsider the number of priority points given to certain providers to allow the grant funds to be distributed more uniformly throughout the state for the purpose of improving the quality and increasing the availability of services.

**Agency Response to Finding #16**

*Priority points given to "high poverty" in the Enhancement Grant evaluation process have been changed following discussion with Oversight during the program audit. Priority points were decreased from 15 points to 5 points in the October 1996 Enhancement RFP for counties with high poverty levels. Priority points for "high/low population density" remain at 5. This RFP was issued October 7, 1996 and proposals are to be submitted by November 15, 1996.*

<p><b>FINDING #17:</b> There is a lack of control by DOH over the verification process to ensure that all grant recipients are actually licensed child care providers on the date that the grant awards are actually determined, again on the date the grant funds are disbursed, and again one year later as required by grant criteria.</p>
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The federal guidelines require that grant funds be awarded to licensed providers. RSMo Section 210.211.2 requires child care facilities to be licensed in order to receive any state or federal funds. Additionally, DOH requires that day care providers be licensed or have applied for licensure with the Bureau of Child Care Safety and Licensure in order to be eligible to apply for and receive block grant funds.

DOH requires providers to submit a copy of their current day care license; however, they do not verify that the providers are in good standing at the time the grant funds are initially awarded, again on the date that the funds are actually disbursed, and again one year later. It is DOH's policy that grant funds are not awarded to providers when their license is revoked for noncompliance. Therefore, when a child care representative notifies DOH block grant staff that a provider is no longer licensed, that provider's block grant is rescinded and the provider must repay funds received from DOH within the prior twelve months.

Since providers are required to be licensed, it would be proper for DOH to verify licensure. Also, the block grant coordinator should verify license revocation whenever block grants are revoked. We reviewed one file where a provider was initially approved for funding and later the block grant coordinator revoked the grant. There was a note in the file from the

provider's licensing representative which stated that the provider's license had been revoked a year earlier and the provider was operating under a temporary license. Our review concluded that this license was never revoked.

### **RECOMMENDATION TO FINDING #17**

Oversight recommends that DOH consider implementing more stringent licensure verification procedures to ensure that all grant recipients are actually licensed child care providers on the date that the grant awards are actually determined, again on the date the grant funds are disbursed, and again one year later. DOH should also consider verifying license revocations when later a decision is made to disallow the funds. Since this information is readily available to DOH, it could be easily verified.

### **Agency Response to Finding #17**

*The Department will verify licensure to ensure that all grant recipients are licensed providers on the date that grant awards are determined, again on date grant funds are disbursed to child care providers, and one year later following completion of the grant project. This process was recommended by Oversight during the program audit and the Department agreed that such verification is important and will be implemented in December 1996 as Enhancement proposals from providers are being evaluated and awards determined.*

<b>FINDING #18:</b> DOH has inadequate measures in place to ensure that merchandise purchased with grant funds is on site at the applicable facilities.
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DOH should verify that the merchandise purchased with grant funds is actually present in the day care facilities. Although DOH has a verification process in place, they need to take measures to ensure that the procedures are followed and the merchandise is present.

The block grant coordinator sends a list of the items funded by the grant to the provider's licensing representative and requests the licensing representative to confirm that the items are on site.

In the sample size chosen, the verification form utilized by DOH for this process was returned to the block grant coordinator in the central office in only 30% of the files. In our conversations with the child care representatives, we determined that many child care representatives do not understand that they are supposed to verify the presence of the merchandise and return the form. There has apparently been very little discussion regarding this practice and no one seems to realize the importance of this verification. DOH does not have a system in place to track the verification forms or to ensure compliance. Without controls in place, it would be possible for day care providers to purchase merchandise with grant funds and then return the merchandise for a cash refund or give it away as a gift.

#### **RECOMMENDATION TO FINDING #18**

DOH should instruct field staff regarding their existing procedures for verification that items purchased with grant funds are on-site at the child care facilities.

#### **Agency Response to Finding #18**

*Child Care Licensing supervisory staff have been verbally instructed in staff meetings regarding the monitoring of grant purchases by child care providers. Through discussion with Oversight during the program audit, it was determined that written communication with each Licensing Representative should be the course of action, beginning with the grants to be issued in January 1997. Written procedures for Child Care Licensing Representatives will be developed for monitoring Enhancement Grant purchases at the time of licensing inspections.*

<b>FINDING #19:</b> DOH awarded grant funds for items specifically disallowed according to grant criteria.
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45 CFR Section 98.54 sets forth guidelines and restrictions on the use of grant funds. It states that block grant funds may not be expended for any



activity not authorized in the federal regulations. Federal law specifically dictates that no funds shall be expended for the purchase or improvement of land, or for the purchase, construction or permanent improvement of any building or facility. Funds may be expended for minor remodeling only if necessary to bring the facility into compliance with the health and safety requirements established in the federal guidelines. DOH's RFP #95013 specifically states that funding may not be used for major remodeling such as "new roof, driveway, sidewalks, porches, or retaining walls."

Grant funds are sometimes awarded for items that appear to be out of the scope of the grant. Oversight discovered instances where providers were awarded grant funds for inappropriate items; e.g., to purchase carpeting (which is specifically disallowed by the grant criteria), to build a new deck, (despite the fact that "permanent improvements" are specifically disallowed) and to purchase wood working tools.

Furthermore, DOH denied funding to some facilities for certain items, yet the very same items were approved for funding for other facilities. For example, some providers were allowed to purchase a certain type of playground equipment, while other providers were denied funding on the exact same item.

DOH utilizes a team of seven to ten evaluators to grade the block grant proposals. Therefore, inconsistencies in the items approved for funding exist. DOH receives approximately 1,400 grant proposals each year.

### **RECOMMENDATION TO FINDING #19**

Oversight recommends DOH follow the federal guidelines on the use of grant funds. Funding for items such as carpeting and decks is explicitly prohibited in the federal guidelines and should not be allowed. Approximately 400 providers ultimately receive grant funds each year, and the block grant coordinator should consider reviewing each proposal again before the funds are actually awarded. This would provide more control and consistency over the actual use of grant funds. In addition there should be more guidance with respect to the specific items that should be approved for funding.

### **Agency Response to Finding #19**

*When Oversight identified grant funds which were awarded for items that were outside the scope of the 1995 Enhancement RFP, it was determined that following the evaluation process in December 1996, the Grant Coordinator will select 5% of the evaluated/scored Enhancement proposals for review of requested items which has been approved by the review team. Careful review and enhanced training with the Review Panels will include emphasis on specific items which are and are not eligible for funding.*

<b>FINDING #20:</b> DOH has inadequate measures in place to ensure that resource and referral grant recipients are providing the required 25% match of funds.
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Resource and referral grant recipients are each receiving between \$22,000 and \$55,000 annually and are receiving these funds based on their listing of expenses. They are providing no documentation to verify actual expenses, nor documentation to verify that they contribute funds from other sources.

DOH's RFP #93005 provides that grant recipients must provide a local match amount of at least 25% in order to be eligible for grant funds.

Resource and referral grant recipients provide DOH with a written list of their expenses on a monthly basis and DOH reimburses them for 75% of their expenses. Contracts are awarded to each of the service areas in amounts ranging from \$22,000 to \$55,000 per year. DOH does not require any documentation or verification whatsoever on the 25% local match. Oversight staff also observed a memorandum from the grant coordinator which documented that many of these recipients are delinquent in providing the requested information relating to the numbers of referrals made, etc.

Without controls in place, it would be possible for recipients of resource and referral grant funds to receive their money without providing adequate local matching of funds.

### **RECOMMENDATION TO FINDING #20**

Oversight recommends that DOH implement procedures to verify the 25% local match. There are only seven recipients of the resource and referral

grants; therefore, DOH should consider visiting the facilities at least one time per year to review their receipts and local match funds.

**Agency Response to Finding #20**

*The Resource and Referral grantees will receive an on-site visit during FFY 1997 from the audit firm which currently conducts reviews of the Child and Adult Care Food Program in order to review receipts/local match fund documentation. Monitoring visits to each grantee were made in October of 1994 and monitoring forms were completed following review of their receipts and program files.*

<b>FINDING #21:</b> DOH does not promptly act to recover funds owed back to the Department.
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In November 1995, as a result of an internal audit, DOH sent out numerous certified letters in an attempt to collect grant monies owed to the department by providers. To date, DOH has collected a minimal amount of this past due debt. The majority of the past due debts remain unpaid, yet DOH has not referred any providers for legal action. DOH has, however, threatened legal action against providers owing as little as \$13. DOH reports that there is a total of \$82,445 in reimbursements due to DOH by providers. Amounts awarded prior to 1992 were written off by DOH.

Federal and state laws require that grant funds must be used for specific purposes, and any unauthorized purchases or unused funds must be returned to DOH.

**RECOMMENDATION TO FINDING #21**

Oversight recommends that DOH promptly collect improperly awarded grant funds. Certified letters should be sent out after the debt is past due and collection procedures should be implemented promptly. It is not cost effective to initially begin trying to collect a debt that is three or four years old. Additionally, DOH should not attempt to collect insignificant amounts as the costs of collection would exceed any amounts collected.

**Agency Response to Finding #21**

*Certified letters, composed by the Bureau of Child Care Safety and Licensure, were issued to all previous grantees who were identified as owing CCDBG funds from all previous grant years, including 1992 and 1993 grants, which were awarded by DSS. A comprehensive list from all 4 grant cycles has now been compiled, noting original amount awarded, amount still owed and reason for debt. At this time, no debts have been "written off" by DOH. It was a DOH auditing decision to attempt to collect from those which DSS awarded in 1992 and 1993. It was a Bureau of Child Care Safety and Licensure decision to collect from those grantees who owed an "insignificant" amount.*

*The list of child care providers who owed DSS for 1992 and 1993 grants totaled 66 and 24 respectively. There were only 12 in 1994 and 8 in 1995 which have been notified to return grant funding. The dramatic decrease from the initial 2 years is due to DOH's decision in 1994 to only reimburse grantees for purchases made. DSS issued checks to grantees in the amount of 2/3 of their grant award and followed with the final 1/3 payment when grantees submitted receipts. This procedure created a long list of debtors.*

*Certified notices have been issued by the Department of Health for the outstanding DSS debts from 1992 and 1993, per Department procedure. At this time, this list of debts will be forwarded to legal counsel for a determination regarding legal action.*

<b>FINDING #22:</b> DOH inefficiently expends grant funds for contracted administrative functions which could be done with existing personnel.
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The team of scorers are brought to Jefferson City to stay at the Capitol Plaza Hotel for three days during the grading process. It is very important that the proposals be graded fairly and without bias; however, the method of scoring should be economical.

The block grant coordinator elected to have the proposals graded by a team of college professors from all over the state with expertise in the areas of child care and development. In the sample size that we reviewed, there were still a number of inconsistencies in the grading techniques.

DOH paid state university and college employees \$20 per proposal to "score" the grant proposals. Oversight determined that the scorers were able to review approximately three proposals per hour, resulting in a net hourly rate of \$60 per person. With respect to the grant proposals received in 1994, DOH paid \$16,800 for these individuals to score 840 grant proposals. DOH paid \$23,900 for the contracted individuals to grade 1,195 grant proposals received in 1995. Additionally, DOH spent \$2,876 for direct expenses relating to the 1995 grading session (\$940 for hotel expenses, \$600 for mileage and miscellaneous expenses, and \$1,337 for banquet facilities and catered meals).

### **RECOMMENDATION TO FINDING #22**

Oversight concedes that it is important to have the proposals graded objectively, however, this could be accomplished without the necessity of expending over \$26,000 in grant funds. Oversight recommends that DOH consider having the proposals scored by a team of their own personnel such as area child care supervisors or perhaps a team of child care licensing representatives. Staff would review proposals outside their region of supervision only to ensure objectivity.

### **Agency Response to Finding #22**

*Evaluation of Enhancement Grant proposals by university review panels was a decision made in 1994 when the authority for the CCDBG Quality Set-Aside was transferred to DOH from DSS. This decision was made under the advisement of a national child care consultant who was hired to assess the Child Care Licensing Unit upon transfer to DOH. The consultant recommended a fair and impartial review panel which would not include individuals from the regulatory staff. Education and experience in child growth and development, as well as expertise in the area of child care administration are all qualities of early childhood educators at the college level who prepare students to be future child care providers. University faculty/staff were identified by the Division of Maternal, Child and Family Health as objective, external reviewers who represent a neutral arena regarding child care programs and developmentally appropriate early education.*

*It is essential to provide evaluation of the Enhancement Grant proposals from a developmentally appropriate perspective, with a thorough knowledge*

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*of early care and education. Cognitive, psycho-social, emotional, and physical development are essential considerations when evaluating the appropriateness of requests for enhancing child care learning environments. University faculty provide a strong competency base in the area of child care and represent an objective, non-governmental perspective as requests from child care providers are considered for funding. The intent of selecting these review panel members is to obtain the best available professional judgments for each application submitted. The reviewers are requested to consider all aspects of each child care provider's proposal diligently, equally and impartially in accordance with the criteria established in the RFP.*

*Potential grantees have expressed reassurance and confidence of impartial review when they have been informed of the evaluation process. This review process has been recognized by others outside our state as a sound approach to a fair, comprehensive evaluation of grants which have been submitted by child care providers. The Grant Coordinator will research the most cost-efficient approach for the evaluation process in December of 1996.*