

2001 Annual Report



MASSACHUSETTS OFFICE OF CONSUMER AFFAIRS

&

BUSINESS REGULATION

Jane Swift
Governor

Jennifer Davis Carey
Director

Massachusetts Office of Consumer Affairs and Business Regulation
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The Agency

The mandate for the Office of Consumer Affairs and Business Regulation is clearly articulated in statute:

"In addition to its other duties, the office [of Consumer Affairs and Business Regulations] shall (a) maintain a telephone information service; (b) conduct surveys of consumer needs; (c) investigate consumer problems in cooperation with the attorney general; (d) publish educational brochures; (e) establish programs and services to assist consumers in understanding their rights and responsibilities in consumer transactions; (f) recommend and implement consumer protection policies; (g) monitor the marketplace to promote fair and honest competition; and (h) establish a trust fund for the purpose of consumer education and to further the office's other purposes..."

[Mass. General Laws, Ch24A§2]

Inform Protect

Agency	FY 2002 Appropriation*	FY 2001 Appropriation	FY 2001 Revenue
Consumer Affairs & Business Regulation	1,624,911.00	1,704,870.00	509.00
Alcoholic Beverages Control Commission	1,689,285.00	1,547,380.00	1,660,899.00
Board of Registration in Medicine	2,192,165.00	2,543,661.00	2,924,956.00
Department of Telecommunications & Energy	8,423,069.00	8,477,462.00	14,425,256.00
Division of Banks	10,845,243.00	10,192,747.00	12,527,634.00
Division of Energy Resources	1,328,060.00	1,644,682.00	392,512.00
Division of Insurance	9,442,517.00	10,283,952.00	44,033,258.00
Division of Professional Licensure	7,710,653.00	7,861,693.00	10,252,877.00
Division of Standards	1,134,057.00	1,176,644.00	1,526,804.00
State Racing Commission	3,206,422.00	3,636,212.00	8,942,209.00
Totals	47,596,382.00	49,069,303.00	96,686,914.00

* Includes supplemental funding

A Message from the Director of the Office of Consumer Affairs & Business Regulation

Citizens of the Commonwealth
Governor Jane Swift
Members of the General Court

I am pleased to submit to you the 2001 Annual Report for the Office of Consumer Affairs and Business Regulation.

In September 1999, then Governor Paul Cellucci appointed me the Director of the Office of Consumer Affairs and Business Regulation. During my time as Director, I have maintained a commitment to educating and protecting consumers in the Commonwealth.

The Office of Consumer Affairs and Business Regulation oversees nine agencies: Division of Banks, Division of Energy Resources, Division of Insurance, Department of Telecommunications and Energy, Division of Standards, Board of Registration in Medicine, Alcoholic Beverages Control Commission, Division of Professional Licensure and the Racing Commission.

OCABR and each of its agencies continue to wrestle with timely and important issues. Many of these issues have been shaped by ongoing changes in our health care delivery system, continuing changes in the financial services industry, the evolving structure of energy markets, and new technologies.

As we consider these issues, we work intentionally to strike a balance between competing benefits to make the decision that is best for the people of our state now and in our future.

I look forward to working with you again this year.

Jennifer Davis Carey
Director

Consumer Services Unit

Executive Message

In today's rapidly changing and increasingly complex marketplace, the Consumer Services Unit provides consumers with the resources they need to understand their rights and responsibilities in business transactions.

In 2001, we established new educational programs and services to address the needs of the state's most vulnerable consumers. Partnering with the Division of Banks, we coordinated a seminar designed to educate consumer professionals and housing counselors about predatory lending and to discuss new regulations designed to curb potential abuses in the mortgage lending market. In addition, we launched a new home improvement website with the Executive Office of Public Safety's Board of Building Regulations and Standards. At this site, consumers and contractors can get all of the information they need to know about home improvement and the home improvement contractor law.

The Consumer Services Unit is committed to protecting consumers. In the upcoming year, we will continue to work to enhance and expand our core consumer programs and conduct outreach to educate the public about their rights and responsibilities.

CONSUMER SERVICES UNIT PROFILE

The Consumer Services Unit runs a Consumer Information Call Center, publishes educational brochures and alerts, investigates consumer problems, monitors the marketplace, and runs the state's Lemon Law and Home Improvement Contractor Programs.

Consumer Information and Education: The goal of the Consumer Services Unit is to ensure that consumers are fully and accurately informed so they may make good decisions in the marketplace. To that end, we staff a consumer information telephone hotline and respond to consumer inquiries sent to us by letter and e-mail. Consumers' calls, e-mails and letters help us monitor trends in the marketplace. Armed with this information, we can establish educational programs and services to address consumer needs.

The Lemon Law Program: Buying a vehicle is the second largest purchase most consumers will make in their lifetime. To ensure that vehicle warranties are more than just a slip of paper, Consumer Affairs provides information on automobile purchases and warranties, and manages a dispute arbitration process for automobile buyers.

The New and Leased Car Lemon Law protects consumers who have serious defects in their new cars. The law defines a lemon as a new or leased motor vehicle that has a defect, which substantially impairs the use, safety or market value of the vehicle, and has not been repaired after a reasonable number of repair attempts.

Consumer Services Unit

The Used Vehicle Warranty Law protects consumers who buy used vehicles from a dealer or private party in Massachusetts. The law requires dealers to provide consumers with a written warranty against defects that impair the vehicle's use or safety, and requires private parties to disclose known use or safety defects.

The Home Improvement Program: Every year, consumers spend millions of dollars on home improvements. For most consumers, their homes are their most valuable financial assets. As such, home improvements that are done poorly, or improvements that are paid for but never completed, can be financially devastating. The Massachusetts Home Improvement Contractor Law protects consumers against these harms, and regulates the practice of home improvement contractors.

This law requires most home improvement contractors to register with the state and to follow certain business practices. To further protect homeowners, the law establishes an arbitration program for resolving disputes between homeowners and registered contractors, and creates a Guaranty Fund to compensate consumers up to \$10,000 for unpaid judgments against home improvement contractors. The Guaranty Fund is created by a fee that contractors are required to pay at the time of registration.

The Consumer Services Unit administers consumers' claims to the Guaranty Fund and also runs the arbitration program.

2001 ACCOMPLISHMENTS

- Provided consumer information to 50,274 consumers by answering 45,025 telephone inquiries, 4,483 E-mail inquiries, and 766 letters.
- Saved 204 consumers a total of \$61,200 (the cost of arbitration fees) by continuing to recruit and train pro bono arbitrators to hear lemon law disputes and to provide lemon law arbitration free of charge.
- Received 204 arbitration applications for both used and new and leased car lemon law programs.
- Held 88 arbitration hearings, 39 for new and leased car "lemon" claims and 49 for used car claims.
- A total of \$822,600 was awarded to or received by 92 consumers. \$672,458 was awarded via arbitration awards to 46 consumers who purchased or leased "lemon" vehicles and an additional \$150,142 was returned to 46 consumers where the matter was settled by agreement of the parties.
- Received 109 arbitration applications for disputes between homeowners and registered home improvement contractors.
- Held 55 arbitration hearings for homeowners and registered home improvement contractors.
- Ordered the payment of \$390,153 to 50 homeowners who had a dispute with the registered home improvement contractor whom they hired.

Consumer Services Unit

- Ordered the payment of \$38,163 to 11 registered home improvement contractors who had a dispute with a homeowner.
- Received 80 Home Improvement Contractor Guaranty Fund complaints, and issued 45 award settlements, totaling \$260,195.52.

2002 GOALS

- Continue to provide consumers with accurate and useful information about their consumer rights and remedies.
- Continue to enhance our Online Consumer Resource Center.
- Continue to expand consumer education initiatives through direct outreach; including Consumer Classrooms to be held throughout the Commonwealth

Alcoholic Beverages Control Commission

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Suzanne Ianeella, Commissioner
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Executive Message:

The Alcoholic Beverages Control Commission successfully and efficiently regulated a multi-million dollar liquor industry that affects the \$3 billion hospitality industry in the Commonwealth. The ABCC is responsible for the enforcement, oversight and regulation of over 22,000 liquor licenses.

Pursuant to Chapter 138 of the General Laws of Massachusetts the Alcoholic Beverages Control Commission is responsible for the general supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages and of the quality, purity and alcohol contents thereof pursuant to M.G.L. c.6 § 43.

The ABCC is a commission of three members, a Commissioner, who also serves as chairman, and two associate commissioners. The present chair is Mary Jo Griffin

The Commission

The ABCC is three member body. It sits three days a week to hear violations, appeals and issues requiring administrative review with possible policy and/or legislative action. Violations can be of a variety of offenses, from serving a minor to changing prices causing unfair/illegal business practices. Each decision is published on a monthly basis, and legislation and policy are written or adopted as needed. In 2001, the Commission had a total of 358 hearings of which 261 were violations, 113 Appeals, from decisions of local boards or the Commission, 58 pleadings from sting operations and a variety of others.

Licensing Administrative Unit

This unit is responsible for overseeing, reviewing and tracking over 22,000 Alcoholic Beverage Licenses in the Commonwealth of Massachusetts.

This includes:

- a. 11,197 retail pouring and package store licenses all of which were required to be renewed in 2001.
- b. 1,361 Certificate of Compliance (out of state suppliers) all of which were required to be renewed in 2001.
- c. 8,712 in-state licenses all of which were required to be renewed in 2001. This includes all trains, planes, boats, and trucks etc. who want to sell and/or transport alcohol within Massachusetts.
- d. 317 seasonal retail licenses all of which were required to be renewed in 2001.
- e. 10,000 license transactions that occur throughout 2001. This includes, new licenses, license transfers, new officers/directors, change in location, alter premises, change of corporate name or dba, and change of manager

Alcoholic Beverages Control Commission

Investigative & Enforcement

The Alcoholic Beverages Control Commission's Investigative and Enforcement division consists of 13 special investigators charged with the responsibility to "make all needful and appropriate investigations" for enforcement of laws regulating the alcoholic beverage industry in the Commonwealth of Massachusetts

Community Outreach

In addition, the investigative unit takes an active role in fighting against underage drinking and working with communities to educate and help with problems surrounding alcohol.

Such initiatives in 2001 included:

- **Operation Safe Spring/Prom** is a new program, funded through a grant provided by the Department of Highway Safety. The ABCC conducted an operation to keep alcoholic beverages out of the hands of under-aged individuals during this potentially dangerous time of the year. The ABCC worked in conjunction with local police, school departments and retailers to provide extra enforcement during the prom and graduation season. Local school superintendents provided to the Agency, a list of prom and graduation dates, and ABCC investigators worked with towns during these times to prevent the students from buying alcoholic beverages.

The program included:

- **Cops in Shops Operation:** where ABCC investigators work along with the licensee to prevent underage individuals from purchasing alcoholic beverages through false identification as well as adults procuring alcoholic beverages for under-aged individuals.
- **Operation Tag a Keg:** Past experience has demonstrated that a large number of underage drinking parties include the dispensing of beer from kegs procured by an adult. To deter this activity, the Commission has promulgated regulations directed at the sale of these kegs. The investigative unit has conducted intense enforcement activities to ensure that the regulations are followed. The activities include: criminal complaints filed against the adult who procures the alcoholic beverages for underage individuals and distribution of M.G.L. c.138 §12 to all adults purchasing kegs at retail stores.

This effort resulted in over 220 ID's verified with 54 violations of M.G.L. c. 138 §34C where a minor may not possess alcohol, 47 parent notifications, 9 criminal complaints of M.G.L. c. 138 §34 for the procurement of alcoholic beverages for persons under 21 years old and many other warnings and violations.

Alcoholic Beverages Control Commission

Operation Safe Summer :

- **Cops in Shops Operations** target specific licensees where we have developed information that indicates a serious problem with underage individuals, purchasing alcoholic beverages through false identification; as well as adults procuring alcoholic beverages for underage individuals. This was performed in approximately 15 summer communities, utilizing 4 teams of 3 investigators.
- **Reverse Sting Operations** This program places two undercover investigators, acting as door or bar personnel, in a participating bar or nightclub. The undercover investigator stops anyone under the age of 21 who attempts to purchase alcohol or who uses or possess false identification. A third investigator and a police officer are placed outside the licensed premises to observe outside activity and to transport and process underage individuals who are placed under arrest. This was performed in approximately 15 summer communities, utilizing 4 teams of 3 investigators.
- **Last Call Operations** target specific licensees which have been identified, pursuant to M.G.L. 90 §24J, as having been the last establishment to serve alcoholic beverages to a convicted drunk driver. This was performed in approximately 15 summer communities, utilizing 4 teams of 3 investigators.

This effort resulted in over 700 ID's verified with 45 violations of M.G.L. c. 138 §34C where a minor may not possess alcohol, 25 parent notifications, 18 criminal complaints of M.G.L. c. 138 §34 for the procurement of alcoholic beverages for persons under 21 years old and over 100 other warnings and violations.

Operation Back to School is similar in scope to the Operation Safe Spring/Prom program but this investigation concentrated on College Campuses. During the first several weeks of the 2001-2002 school year the investigative unit performed what is known as "Reverse Sting Operations" where two undercover Investigators, acting as door or bar personnel stop anyone under the age of twenty-one who attempts to purchase alcoholic or who uses or possess a false identification.

This effort resulted in over 1475 ID's verified with 158 violations of M.G.L. c. 138 §34C where a minor may not possess alcohol, 173 parent notifications, 100 criminal complaints of M.G.L. c. 138 §34 for the procurement of alcoholic beverages for persons under 21 years old and over 100 other warnings and violations.

Operation Safe Holiday winter enforcement that included:

- **Underage Sting Operations** in approximately 80 municipalities or sectors, utilizing 6 teams of 2 investigators for each sector over a 10 week period. This operation reaches every alcoholic beverage licensee and serves as an excellent educational tool for the licensees utilizing a fair but effective program.

Alcoholic Beverages Control Commission

This effort resulted in over 1173 ID's verified with 128 violations of M.G.L. c. 138 §34C where a minor may not possess alcohol, 112 parent notifications, 39 criminal complaints of M.G.L. c. 138 §34 for the procurement of alcoholic beverages for persons under 21 years old and over 100 other warnings and violations.

Future Goals

- A Web Site will educate consumers in 2002 about ABCC related matters.
- The current licensing computer system will be upgraded.
- Licensing process and services will be improved
- Completion and distribution of the "Risk Kit", a grant funded kit to better serve the licensee.

The Kit includes:

- a. Guide to Massachusetts Liquor Laws – a revised edition.
 - b. FAQ's – a list of the 50 most frequently asked questions.
 - c. Warning signs – every licensed establishment is required to post them in plain view.
- Continued efforts to form new partnerships with local, state and federal government agencies as well as members of the private sector.
 - Enhance its educational programs by forming additional local/state partnerships to continue to address the problems of underage drinking and service of alcoholic beverages to intoxicated persons.

Board of Registration in Medicine

BOARD OF REGISTRATION IN MEDICINE

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Executive Message

Two years ago, a new management team began its work at the Massachusetts Board of Registration in Medicine. There was a clear mandate from the Administration, the Legislature, and the public for meaningful change in how the agency operated. The volunteer Board of five physicians and two public members led a massive effort to restore public confidence in the agency, re-engineer key work processes, and reinvigorate the agency. In 2000, the agency focused on accomplishing a reduction in the huge backlog of consumer complaints. In 2001, the agency built upon the successes of 2000 to further streamline the complaint resolution process.

The Board of Registration in Medicine also developed plans for meaningful technological enhancements to better reach its goals. In addition to the early development of plans for on-line license applications, the agency is in the process of adding on-line edit capabilities for physicians who wish to update demographic information, business address, insurance plan affiliations, hospital affiliations, and other information. By accepting this information electronically, the Board of Registration will increase the accuracy and timeliness of its data files and provide better service to physicians. Electronic capture of the updates will also allow the agency to incorporate the changes immediately into its Physician Profiles system, resulting in improved services for patients and other consumers.

The most important factor in the long-term success of the Board of Registration in Medicine is adequate funding. In 2001, the Board proposed an increase in licensing fees. Fees have not been increased in over a decade. Although most physicians recognize the importance of a well-funded Board as a means of protecting both the profession and their patients, there is discontent among many physicians about the funding mechanism for the Board. Currently, forty percent of licensing fees are retained by the Board and sixty percent revert to the General Fund. The Board receives a General Fund appropriation.

The Board strongly recommends a change to allow for 100% fee retention by the Board. There is precedent for self-funding agencies in Massachusetts, such as the Department of Public Utilities. Such a structure would bring Massachusetts into alignment with the majority of medical boards throughout the country.

Currently, investigators, complaint counsels and nurse investigators carry large caseloads. A single case can involve numerous individual complaints. For example, the Board may decide to conduct an intensive investigation of a physician with a number of adverse reports in his record. A single case may require a full medical care review of a half dozen patient records, audits of all prescriptions written by the physician, and interviews with many complainants or witnesses.

Board of Registration in Medicine

AVERAGE CASELOAD in 2001

Enforcement Staff	Average Caseload
Complaint Counsel	23 physicians
Investigators	28 physicians
Nurse Investigators	33 physicians

During the past two years, the agency has made tremendous improvement in the management of its caseload of consumer complaints. When the new management team assumed responsibility for the agency, the case management statistics were daunting: there were nearly seven hundred open cases and the average case was over two years old. Many cases were so old that they no longer met the requirements of the Board's "staleness policy" for consideration. Certainly, the situation did not represent the high level of customer service that citizens expect and deserve from their government.

Today, the complaint process is managed in a far more responsive manner. Both the open caseload and the average age of cases have been cut in half.

Caseload Statistics

YEAR	Average Age of Complaint	Open Complaints at End of Year
2001	356.78 days	361
2000	456.29 days	537
1999	790.51 days	698

Looking Forward

The accomplishments of the past year have been impressive, but the Board of Registration in Medicine will not rest on its laurels. Instead, the Board has identified barriers to continued improvement and has developed strategies to respond to these challenges. In 2002, the Board will build upon its successes of the past year.

Board of Registration in Medicine

Among the specific goals for 2002 are the following projects and initiatives:

Finalize Revisions to Regulations.

The Board will issue draft regulations for public comment and implement revisions to existing regulations during 2002. Among the important issues to be addressed by this process are minimum requirements for licensure and clarification of many aspects of the disciplinary process.

The regulations review process has also identified gaps and inconsistencies in some areas of the Board's underlying statutory authority. For example, the Board does not have clearly-defined authority to take disciplinary action in most cases of alleged substandard care unless there are three or more incidents of substandard care. The Board also lacks clear subpoena authority to obtain medical records as part of an investigation. To rectify these and other issues, the Board will submit all requests for amendments to current statutes to the appropriate legislative bodies for action.

The process of addressing the need to amend the statutes and regulations related to the Board of Registration in Medicine presents a unique opportunity to foster meaningful conversation among the Board, the Legislature, and other interested parties.

Implement Needed Changes to the Board's Licensing Fee & Funding Structure

There are two major problems with the structure of the Board's licensing process. First, the fees should be set and appropriated in a manner that allows the Board of Registration in Medicine to meet its public protection mission. Massachusetts should fund the operation of the Board through the complete retention of the fees collected from its licensees. There is precedent in state government for such "self-funding" by agencies. Such a change in structure would bring the Massachusetts Board into alignment with most medical boards in the United States.

There are important policy reasons to allow the Board to self-fund, as well. Historically, the Massachusetts medical board has operated with approximately half the funding of similar-sized boards across the country. Clearly, the Board cannot be successful without a secure level of appropriate funding. In light of the serious fiscal constraints facing the Commonwealth, it is not reasonable to assume that additional support can be identified through the General Fund. Under the proposed fee-retention structure, the Board could achieve appropriate funding without negatively impacting the state's General Fund.

The second problem relates to the biennial renewal of physicians. Currently, nearly all licensees renew their licenses during the same, odd-numbered calendar year. Few renewals are processed during the even-numbered calendar year. By reassigning some licensees to the even-numbered calendar year, the Board could equalize the caseload of work in its licensing division. The change would result in better service for physicians renewing their licenses and less reliance on costly temporary workers to address the "peak year" processing. Similar changes in the term of licensure for physicians in training could result in administrative cost savings for the Commonwealth's teaching hospitals. The Board looks forward to working with all interested parties to implement this beneficial change. Through a creative response to a problem, the Board believes it can offer better customer

Board of Registration in Medicine

service while reducing costs for both teaching hospitals and the agency. Realistically, such a change cannot be accomplished unless the Board's initiative to retain 100% of its licensing fees is approved. There will be some disruption in cash flow during the implementation period of the scheduling change; full retention of licensing fees would allow the Board to plan for this temporary short-fall.

Continued Focus on Technology

The Board of Registration in Medicine is a nationally-recognized leader in the use of technology to assist consumers and physicians. The Board will complete an aggressive document imaging and electronic document management project in 2002. The completion of the project will allow the Board to share more information with consumers and physicians through its website and other points of access. The Board is also fully committed to the implementation of on-line licensure for physicians. An on-line licensure system will help Massachusetts to continue to attract the best physicians from around the world. By reducing its internal administrative tasks through such a system, the Board can refocus more resources on reviewing, investigating, and verifying the credentials of applicants.

The Board also recognizes its responsibility to use technology to reduce the cost of health care whenever possible. In 2002, the Board will expand a 2001 model program designed to help hospitals and health plans maintain important information about their affiliated physicians. The Board will supply regular updates of license status, disciplinary actions, and other information to hospitals and insurers. These entities will help the Board to keep accurate and timely information on hospital affiliations, insurance affiliations, and other information of interest to the consumers who access the Board's "Physician Profiles" system each day. Through collaboration, creativity, and leadership the Board hopes to improve the quality of physician information available to both the profession and consumers.

Department of Telecommunications & Energy

Department of Telecommunications And Energy

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Paul Vassington, Chairman

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Executive Message

The Department of Telecommunications and Energy (“DTE” or “the Department”) regulates the \$12 billion utility industry in the Commonwealth of Massachusetts. To guide that effort, the DTE is headed by five full-time Commissioners, appointed by the Governor. One commissioner is designated Chairman by the Governor; one is required to have a background and expertise in electricity and energy issues, including issues related to natural gas; one is required to have a background and expertise in telecommunications issues; one is required to have a background and expertise in consumer protection and advocacy issues; and one is required to have a background and expertise in cable television issues. The governor appoints each commissioner for a term of three years.

The Department conducts quasi-judicial, formal hearings in accordance with state law. These adjudicatory proceedings culminate in final, written orders appealable to the Supreme Judicial Court or, in some cases, to federal district court or the Federal Communications Commission. The Department’s decisions also adjudicate the rights of private parties. For example, the Department reviews and may approve the rates charged by a utility; may determine if a consumer’s bill is correct; or may assess a civil penalty for violation of gas pipeline safety regulations.

The Department is divided into eleven divisions. Seven divisions oversee specific utility sectors. In addition, the Consumer Division, the Rates and Revenue Requirements Division, the Management Information Systems Division and the Legal Division work cooperatively with each of the seven utility-specific divisions to fulfill the mandate of the Department.

The Electric Power Division is responsible for implementing the Electric Restructuring Act, evaluating electric company restructuring plans, overseeing the procurement and pricing of standard offer and default service supplies and power contract renegotiations.

The Natural Gas Division regulates the rates and practices of ten investor-owned natural gas utilities. In total, these companies serve about 1.25 million customers, and have combined operating revenues of approximately \$1.7 billion.

The Telecommunications Division regulates the rates and practices of common carriers of intrastate telecommunications services such as basic telephone service.

The Cable Television Division establishes basic service tier programming and equipment rates, enforces consumer protection laws and regulations, and oversees the municipal licensing process.

The Rates and Revenue Requirements Division determines the appropriate levels of revenues and specific rates for seven investor-owned electric companies, ten investor-owned gas companies and twenty-six investor-owned water companies.

The Consumer Division responds to consumer calls, negotiates on behalf of the consumer, adjudicates disputes, educates consumers and enforces department regulations.

Department of Telecommunications & Energy

The Pipeline Engineering and Safety Division (“Pipeline Division”) is the Department’s enforcement arm to assure that operators of natural gas distribution companies, municipal gas departments and other intrastate operators are in compliance with state and federal regulations governing pipeline safety.

The Siting Division, as staff to the Energy Facilities Siting Board, is responsible for evaluating proposals to construct major energy facilities in Massachusetts. In addition, the Siting Division reviews petitions to the Department for zoning exemptions, authority to exercise eminent domain, and other siting-related matters.

The Transportation Division regulates the rates and practices of common carriers used to transport merchandise and people, including, trucks, railways, buses, household moving companies, towing companies and hazardous waste. In addition, the Division licenses all Massachusetts based motor bus companies.

2001 Accomplishments

CONSUMER DIVISION

- Received 55,798 consumer inquiries via telephone and investigated 10,878 consumer cases
- Installed a new telephone systems with a voice connector allowing consumers to contact their utility company directly. By speaking the name of the company the consumer is automatically connected to the company without making another call.
- 28,837 calls were forwarded from voice connector to a utility company
- Refunded \$453,949.14 to consumers

ELECTRIC DIVISION

- Promoted development of competitive generation market by requiring (1) electric companies to offer advanced metering technology, governing the manner in which “real time” meters may be installed by customers, and (2) electric companies to make customer information lists available to licensed suppliers, for the purpose of marketing electricity-related products.
- Implemented new methods of apportioning customers’ payments between distribution companies and competitive suppliers.
- Streamlined authorization of customer choice of generation supplier
- Issued extensive guidelines for electric company service quality standards cover-

Department of Telecommunications & Energy

ing both system operation and customer communication standards to ensure that service quality does not deteriorate

- Implemented financial penalties for non-attainment of the established service quality standards.
- Revised method for reporting electric company distribution system outages. Transitioned electric companies from an after-the-fact, duration-based customer outage reporting system to a state-of-the-art, real-time Internet based system that provides both notification and analytical abilities.
- Participated in numerous proceedings before the Federal Energy Regulatory Commission to promote the development of regional wholesale electric market.
- Licensed 2 competitive suppliers and 5 electricity brokers for a total of 17 competitive suppliers and 18 electricity brokers in Massachusetts.
- Issued two major reports to the Legislature:
 - a) The Reliability and Diversity of Electricity and Natural Gas in the Commonwealth of Massachusetts
 - b) A Report Concerning Installations of Cogeneration and Self-Generation Facilities

NATURAL GAS

- Reviewed gas-cost-recovery filings pursuant to the Cost of Gas Adjustment Clause, ensuring that gas customers paid only for the costs that gas companies incurred to procure gas.
- Amended the Department's Cost of Gas Adjustment Clause ("CGAC") regulations, 220 C.M.R. 6, allowing gas companies to file for recovery of gas costs when projected under- or over-collections exceed five percent. This amendment mitigates the impact on customers' bills when there are significant changes in gas costs.
- Issued final guidelines for service quality standards for electric and gas distribution companies (D.T.E. 99-84). Reviewed and approved proposals filed pursuant to the final guidelines to ensure that quality of service does not deteriorate.
- Ensured continued gas reliability for all gas customers, at the lowest possible cost, by examining and approving gas companies' gas supply contracts and reviewing forecast and supply plans.

Department of Telecommunications & Energy

- Continued guiding the transition of the gas industry in Massachusetts to an “un-bundled environment” so that customers have accurate price signals and may make an informed choice to purchase gas supplies separately from distribution services.
- Approved sixteen applications for the licensing of gas suppliers and gas retail agents. These gas marketers participate in the statewide customer-choice program by competing against each other for the provision of gas supply services to Massachusetts gas customers.
- Reviewed and approved numerous non-tariff contracts for the sale and transportation of natural gas to dual-fuel commercial/industrial customers who would have left the system absent such contracts. Existing firm customers benefit from the revenues derived from these contracts in the form of lower rates.

SITING BOARD

- Approved the expansion of Mirant Canal Unit II in Sandwich from 560 MW to 1225 MW, adding needed generating capacity while significantly reducing emissions from Canal Station.
- Approved electric and gas interconnections for the expansion of Mirant’s Kendall Station in Cambridge, which will provide additional generating capacity while reducing emissions of critical pollutants at the Kendall Station site.
- Reduced the cost and environmental impacts of supplying gas to MMWEC’s Stonybrook power plant by approving a 5.6 mile, rather than a 14.7 mile, pipeline.
- Worked with state and federal agencies to reduce the impacts of Maritimes and Northeast’s “Hubline” project, which will bring critical gas supplies to southern Massachusetts.
- Approved the contribution by Millenium Power of \$305,000 to a landfill gas project, offsetting the equivalent of 305,000 tons of CO2 emissions.

RATES AND REVENUE DIVISION

- Finalized service quality standards to prevent service deterioration and provide an incentive for high service quality

Department of Telecommunications & Energy

- Assisted in D.T.E. 99-118, Fitchburg Gas and Electric Light Co., section 93 over-earnings investigation. The result of this case was a \$1.2 million reduction to Fitchburg's distribution rates.
- Assisted in D.T.E. 97-95, Boston Edison Technology Group investment investigation. The result of this case was an approximately \$2.9 million reduction to BECo's transition costs.
- Evaluated new Standard Offer Service Rate Adjustments that became effective January 1, 2002, and resulted in lower rates for all standard offer customers in the Commonwealth.
- Evaluated changes to the Default Service rates that resulted in lower rates for all default service customers in the Commonwealth.
- Participated in competitive market initiative to remove barriers to entry for potential competitive suppliers in the Commonwealth, resulting in greater choice for consumers.
- Assisted in D.T.E. 99-66, the investigation into Fitchburg Gas and Electric Light Co. double-recovery by Fitchburg's gas division, resulting in the return of \$675,000 to ratepayers
- Evaluated money pooling agreements (e.g., D.T.E. 01-75, Bay State Gas Company) which allow companies to consolidate small financing needs into larger financing issuances, thereby saving ratepayers money through lower borrowing costs to the company.

LEGAL DIVISION

- VZ-MA 271 Evaluation and Appeal: Assisted with defense of FCC's approval of Verizon's Massachusetts Section 271 Application to provide long-distance telephone service in the Commonwealth of Massachusetts. Legal Division is working with DC counsel to file Amicus Brief in support of FCC's decision before the U.S. Court of Appeals for the D.C. Circuit. It is estimated that approval of this petition could save consumers \$ 100 million annually.
- Slamming Cases: Worked with the Consumer Division to resolve cases involving "Slamming"(the unauthorized switching of telephone service from one service provider by another service provider.)
- Life Line Investigation: Issued a Notice of Inquiry opening an investigate into increasing the penetration rate for discounted electric, gas and telephone service to consumers requiring assistance.
- Distribution Companies / Self Assessment of Infrastructure: Reviewed reports filed by Electric Distribution Companies regarding infrastructure and operational issues. After a review by the Department. each electric distribution company will put in place a comprehensive action plan to minimize future outages.

Department of Telecommunications & Energy

- BETG : Completed lengthy and complex investigation of Boston Edison Company's investment into unregulated subsidiary which resulted in Department Order directing BECo to return approximately \$ 2.9 million to ratepayers.
- Processed 9 consumer adjudicatory cases resulting in the return of approximately \$ 10,000 to consumers.
- Ensured Department's continued compliance with Restructuring Act, including investigations of electric companies' annual transition charges – reconciliation proceedings.
- Respond to 359 inquiries from legislative staff regarding various consumer/constituent concerns

PIPELINE SAFETY DIVISION

- Received \$361,000 in federal grant money to defer the costs associated with the Pipeline Safety Program.
- Uncovered 85 pipeline safety violations and collected in \$133,000 civil penalties
- Issued 432 Notices of Probable Violation against utility operators and excavators alleged in violation of the Dig Safe Law and collected \$108,200 in civil penalties
- Tested 159,692 gas meters with assessed fees of \$821,300.
- Reinvented the entire program of investigating natural gas incidents to ensure that findings and conclusions are evidentially supported, leading to a more credible report.
- Led the standardization of Operator Qualification procedures for intrastate operators to comply with Congressional Mandates to the Pipeline Safety Act.
- Continuing to work with intrastate operators to standardize welding procedures for interchangeability throughout New England.

CABLE DIVISION

- Issued six rate orders establishing the basic service tier programming and equipment rates in 248 communities. These Orders resulted in savings to subscribers of approximately \$800,000 and will limit the amount operators may recover in the 2002 rate proposals.

Department of Telecommunications & Energy

- Reviewed and accepted a rate settlement agreement between AT&T Broadband and the City of Boston which limited basic service tier programming rate increases for six years.
- Established guidelines for license renewal procedures, specifically advising communities and operators on federal regulations.
- Oversaw the final stages of the Cablevision/AT&T Broadband system transfer.
- Revised Annual Financial and Statistical Data Forms to reduce administrative burden and regulatory compliance costs to operators while providing more useful data to the Cable Division and municipal officials.

TELECOMMUNICATIONS DIVISION

- Continued implementation of pro-competition policies adopted in 20 separate investigations since 1998, thereby helping to achieve one of the highest levels of local telephone competition nationwide.
- Promoted broadband competition by setting economically-efficient rates and reasonable terms and conditions for wholesale broadband services.
- Through an extensive, 16-month long investigation, laid the evidentiary foundation for Verizon's entry into the long distance market in Massachusetts in April, 2001, which is expected to produce \$150 million in savings to consumers.
- Through thousands-block number pooling and exchange code reclamation of more than 1 million telephone numbers, Department has significantly prolonged the life of existing area codes, including 413 area code.
- Approved Verizon's Sixth Annual Price Cap Compliance Filing, resulting in \$39 million rate decrease for Massachusetts telephone customers.

TRANSPORTATION DIVISION

- Continue to revise and update a System Safety/Security Program Standard for the oversight of the MBTA (4th largest transit authority in the U.S.), in accord with federal law.

Department of Telecommunications & Energy

- Alerted the Federal Transit Administration (“FTA”) that their policy of requiring state oversight agencies to submit a transit authority’s System Safety Program Plan (“SSPP”) made the SSPP vulnerable to an FOIA request. Result - the FTA changed its policy nationally and no longer requires States to submit an SSPP for FTA custody.
- Notified the MBTA that buses with non-functioning air-conditioning (“AC”) units would be placed “Out-of-Service” whenever the temperature reached 90 degrees or higher. The MBTA is replacing AC units in 150 buses.
- Conducted extensive out-reach programs for the school bus industry including a one day free seminar to promote school bus driver safety.
- Conducted, in cooperation with the State Police, random unannounced reviews of school bus drivers to ensure compliance with licensing requirements, including criminal record checks of bus drivers.
- Investigate all written consumer complaints against tow companies and household goods moving companies. All consumer complaints closed within 7-10 business days.
- Streamlined the licensing process for new bus companies, tow companies and household goods moving companies. The processing of applications has been reduced from 15-30 days to 5-7 days.

Division of Banks

DIVISION OF BANKS

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Executive Message

The financial services industry, an important segment of which is regulated by the Division of Banks (Division), continues to change rapidly and grow increasingly more complex. Consolidation, new technologies, and innovative product offerings will continue to impact this industry and the consumers who utilize their services in 2002.

While the economy of Massachusetts, like the rest of the nation, fell into recession in 2001, the health of the Massachusetts banking industry remains strong. The Division will continue to be vigilant in its ongoing examination programs to ensure credit underwriting standards do not weaken. Over the last 24 months, the Division has taken every opportunity to reinforce the need for state-chartered banks and credit unions to adhere to sound underwriting practices in a slowing economy. The Division is also reviewing emerging risks to ensure that the banking and financial services industries are healthy and that consumers are adequately protected. Moreover, the Division will continue to closely examine subprime lending activities of state-chartered institutions and licensees to ensure safety and soundness risk is minimized and to ensure that aggressive action is taken against any entity found to be engaging in predatory lending practices.

Agency Profile

The Division traces its origins to 1784 with the chartering of The Bank of Massachusetts, the forerunner of the former First National Bank of Boston. Records dating back to 1839 reveal the existence of 118 Massachusetts banks with total combined assets of \$53 million. Today, the Division currently supervises over 300 state-chartered banks and credit unions with total combined assets in excess of \$185 billion.

The Division's mission is to advance the public interest with the highest level of integrity and innovation by ensuring a sound, competitive, and accessible banking and financial services environment. Its 175 managers, examiners, and support staff are responsible for conducting financial safety and soundness, consumer compliance, community reinvestment act compliance, electronic data processing, and trust examinations of these institutions. Accordingly, the Division plays a key role in maintaining depositor confidence in the state's banking system and fostering a positive impact on the Commonwealth's economy.

The Division also is charged with licensing and examining over 3,000 non-bank financial entities, including mortgage lenders and brokers, check cashers and sellers, automobile sales finance companies, collection agencies, foreign transmittal agencies, insurance premium finance companies, retail installment finance companies, and small loan companies. These organizations are also regularly examined for financial safety and soundness and/or compliance with various consumer protection laws and regulations.

2001 Accomplishments

- Ensured fair competition and the continued safety and soundness of the Massachusetts banking industry through ongoing examination and surveillance programs and through the application of bank and credit union parity regulations.

Division of Banks

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- Combated predatory lending practices through the implementation of the “Mortgage Hotline”. The Mortgage Hotline provides consumers with a resource if they suspect that they are being offered or have been the victim of predatory or abusive lending practices. The Division has also conducted outreach to numerous consumer groups to warn them of potentially predatory lending practices. Together with the Division’s comprehensive high cost loan regulations, and regulatory enforcement, these education efforts are designed to eliminate potential abuses in the mortgage lending industry.
 - Provided guidance to licensed financial entities on their responsibilities under the USA Patriot Act and on President Bush’s Executive Order 13224 which froze assets that support terrorism.
 - Improved consumer access to information on checking account features and fees through the development of a web site which allows individuals to compare information from over 300 Massachusetts banks and credit unions and link directly to these financial institutions’ web sites.

2002 Objectives

- Continue to maintain a safe and sound, competitive banking and financial services environment throughout the Commonwealth.
- Continue to vigilantly protect consumers from potential predatory lending practices.
- Provide widespread electronic access to information, including participation in the License Lookup project and other e-government initiatives. In addition, enhance existing electronic information such as the survey of consumer checking accounts, online license application forms, annual reporting information, and publicly available consumer complaint information on financial institutions.
- Continue to make greater use of technology to both improve the internal operations of the Division and reduce regulatory burden on the entities supervised by the Division.
- Review existing legislation for state-chartered depository institutions and regulated non-bank entities, including finance companies, and propose new legislation that eliminates unnecessary or overly burdensome requirements without sacrificing the Division’s supervisory role.

Division of Energy Resources

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Executive Message

Calendar year 2001 began with the Division of Energy Resources (DOER) (the Division) responding to fallout from California's energy crisis. While many local pundits questioned whether California's story would replay here, DOER remained committed to Massachusetts electricity restructuring, undertaking several initiatives to overcome remaining market barriers and address problems hindering competitive, robust wholesale and retail markets. At the federal policy level, DOER continued work on a Regional Transmission Organization (RTO) in response to the Federal Energy Regulatory Commission's Order 2000.

Heating oil prices and supply dominated the winter agenda. Extremely low heating oil inventories in the fall 2000 led DOER to implement the first-in-the-nation Oil Inventory Program. This program paid heating oil distributors to hold sufficient product in inventory in Massachusetts to both minimize the risk of a supply distribution caused by extreme winter weather and to moderate prices by reducing risks. The final program report to the legislature, in March 2001, showed that the Oil Inventory Program was a cost-effective program.

Massachusetts residents also witnessed record electricity demand during an August heatwave. Drawing on its electricity emergency preparedness experience, DOER provided the administration with timely data analysis and worked closely with ISO-NE and other New England states during the heat wave to monitor the widespread local outages in Greater Boston, which eventually forced an investigation of local transmission and distribution capacity.

All these activities, however, paled in comparison to the events of September 11th. In their aftermath, DOER, along with other federal, state and local agencies responded to public concern over the shipments of Liquefied Natural Gas (LNG) into Boston Harbor. DOER continues to support the Massachusetts Emergency Management Agency and other state and federal agencies to address homeland security issues as they related to identifying high value energy infrastructure and to prepare contingency plans for dealing with energy disruptions.

September 11th Terrorist Attack

• Security Focus on LNG Tankers

Of immediate concern to local officials were issues surrounding the transport of Liquefied Natural Gas (LNG) through Boston Harbor to the Distrigas Everett Facility. DOER worked with other state agencies and local officials to address the possible scenario of a LNG tanker being attacked in the harbor. The US Coast Guard, which is responsible for water transport in the Boston Harbor, temporarily halted LNG ships from entering. This action suspended LNG supplies to Distrigas and some New England utility companies.

In its advisory role to the Governor's Office, DOER analyzed the potential impact of

Division of Energy Resources

these actions on winter natural gas supplies. Meeting with natural gas industry representatives, U.S. Department of Energy, and Massachusetts Emergency Management Agency, the agency assessed: 1) the role of the Everett plant in the Massachusetts/New England gas supply system; 2) the short-term implications of a 2-week delay in LNG supplies; 3) the medium term implications of a winter without LNG supplies; and 4) reliability and economic impacts.

- **Energy Infrastructure and Supply Vulnerabilities**

One of DOER's core responsibilities is energy reliability. Building on our existing expertise, DOER staff mobilized to work with New England state, Federal and Municipal Officials to bring energy emergency preparedness plans into line with the post 9/11 threat assessments. DOER is creating a detailed Geographic Information System database for all petroleum distribution and storage infrastructure in New England. This database will be compatible with existing databases for both electricity and natural gas.

Electricity

- **Peak Electricity Demand Tests Capacity in August**

New England's power grid faced three straight days of record electricity demand during the week of August 6th as temperatures soared. New England demand reached 25,038 megawatts on the third day, the highest ever. ISO New England and the Division issued several appeals to conserve. The ISO also called upon businesses with interruptible service contracts to trim operations and air conditioning use in return for price breaks. While the grid was able to meet demand, many residents and businesses experienced extended local outages. These outages were attributed to local distribution system failures. Subsequently, and at the urging of the Governor, DTE opened an investigation into the matter.

- **Standard Offer and Default Service Rates Uncoupled**

At the end of 2000, the Department of Telecommunications and Energy allowed utilities to uncouple standard offer and default service rates and base the default service price on market-based costs. In 2001, default service prices more closely reflected market forces, resulting in significantly higher electricity prices for some consumers. DOER responded to this situation by:

- Educating consumers, including writing the brochure that was adopted by the consumer education task force and used as a consumer education piece in direct mailings and as bill stuffers by distribution companies
- Urging the DTE to modify the rules regulating the procurement and pricing of default and standard offer services
- Urging the DTE to require greater cooperation between competitive suppliers and distribution companies, reducing barriers to competition.

Division of Energy Resources

As a result, by December 2001, migration data showed 5,390 residential customers signed up with new competitive suppliers. As an example, Dominion Retail, Inc. of Pennsylvania offered multi-year fixed electricity rates to Massachusetts residential default customers.

- **Advanced Metering Services, Competitive Billing, and Service Quality**

DOER advocated for consumer's interests in DTE proceedings to establish terms and conditions for distribution companies to offer advanced metering services and competitive billing. DOER urged DTE to implement and enforce rigorous Service Quality Standards for electricity distribution companies.

- **Reporting and Information Dissemination**

In fulfillment of its statutory obligation, DOER published its second annual report, the 1999 Market Monitor, for the Legislature. The report details the progress during the second year of electric industry restructuring, providing data on electricity prices and price disparities, competitive market developments, and electric system reliability. Additionally, DOER helped organize eight Electric Restructuring Roundtables, providing DOER and stakeholders with an excellent forum to exchange ideas on market developments and market barriers for electric industry restructuring.

- **Oversight of Energy Efficiency Programs**

DOER maintained its oversight and coordination responsibilities for electric ratepayer funded energy efficiency programs. Oversight activities included reviewing and approving distribution company annual plans, monitoring monthly expenditures and energy savings, reporting to the legislature via the *1999 Energy Efficiency Activities in Massachusetts* report, and coordinating the energy efficiency stakeholder group. During 2001 electric ratepayer funded energy efficiency programs in aggregate exceeded savings goals by about 10% and stayed within budget. Electric customers will save nearly \$300 million over the lifetime of the measures, installed at a cost of \$150 million in ratepayer and customer funds.

The Division is also charged with making a recommendation to the legislature regarding whether the energy efficiency charge, used to fund the programs should be continued beyond 2002. The agency was involved on two levels with this issue. In preparation for its legislative recommendation, DOER commissioned an outside contractor to identify remaining energy efficiency opportunities. On a second level, the agency advised the legislature regarding a legislative proposal (H. 4006, which was enacted by the legislature and signed by the Governor on February 28, 2002. It is Chapter 45 of the Acts of 2002), which extends the charge through 2007.

Division of Energy Resources

- **Promulgation of Residential Conservation Service Regulations and Guidelines**

The agency successfully promulgated new regulations and guidelines for the Residential Conservation Service. The regulations require development of a 14-Utility Coalition Action Plan for the statewide home energy audit and efficiency measure implementation program. Screening procedures were developed to better identify candidates likely to implement audit findings. Implementation incentives were also increased. The changes seek to increase implementation rates, thus improving overall program cost-effectiveness.

- **Renewable Portfolio Standards**

In 2001, DOER began the public review process for the renewable portfolio standards (RPS), holding public hearings in Springfield and Boston during October. The agency continued to receive written comments into November and begin its response to public comments in December. The Restructuring Act directs DOER to establish a RPS for all retail electricity suppliers selling electricity to end-use consumers in Massachusetts. Beginning in 2003, each supplier must obtain at least one percent of its supply from qualified new renewable generation units. Each year thereafter, the standard increases by one-half percent (0.5%) through 2009 when it reaches four percent of each supplier's sales in that year. After 2009, the standard may increase by one percent per year until DOER modifies or suspends it.

- **Generation Information System**

As an ongoing participant, DOER took part in the NEPOOL approval of a Generation Information System. This system will provide accurate, timely, and verifiable data on the non-energy attributes of electric generation.

Natural Gas and Petroleum

- **Berkshire Natural Gas Company Rate Case**

DOER scrutinized Berkshire's request to increase the rates it charges customers to deliver natural gas. DOER urged the DTE to correct flaws in the proposed rate design and to mandate inclusion of Service Quality Indicators with penalties for non-performance.

- **Multi-Year Energy Efficiency Plans for Gas Utilities**

DOER negotiated multi-year (2002-2004) energy efficiency plans with four natural gas utilities. Most notably, DOER raised NSTAR Gas energy efficiency investments up to the statewide investment levels of the other Massachusetts gas companies.

- **Heating Oil Inventory Program**

The goal of the first-in-the-nation program was to reduce the risk of supply interruptions for heating oil consumers during the 2000/2001 winter. Through financial incentives, oil distributors purchased and stored oil in December and held it through mid-January. The economic evaluation of the program showed that it was cost effective,

Division of Energy Resources

dampening heating oil prices in the Commonwealth. Since several states showed interest in replicating the program, the report also included discussion of development and implementation challenges and accompanying program documents.

- **Oil and Gasoline Prices and Forecast**

DOER monitored heating oil, propane, and gasoline market prices through weekly price surveys. The highest weekly average price for heating oil was \$1.52/gallon, recorded the week of December 31, 2001. DOER also developed a forecast of Massachusetts retail #2 heating oil prices for winter 2001-02. This forecast is posted on DOER's website. Weekly, actual heating oil prices are published on the website throughout the winter months. Gasoline prices begin their seasonal price climb during the Memorial Day weekend. Gasoline prices climbed nationwide, reaching a national average retail record of \$1.70/gallon in May 2001. Massachusetts hit its high of \$1.77/gallon for regular gasoline during the week June 5-11th.

Regional and National Energy Policies

- **New England Forms Regional Transmission Organization (RTO) Plan**

In 2000, the Federal Energy Regulatory Commission (FERC) called for the creation of Regional Transmission Organizations (RTOs) (in FERC Order 2000). New England electric industry participants collaborated throughout 2000 to propose changes needed to satisfy all of FERC's RTO required characteristics and functions. On January 16, 2001, the New England Independent System Operator (ISO-NE) and the New England Transmission Owners filed a Joint Petition for Declaratory Order To Form the New England Regional Transmission Organization (RTO) with FERC. During the summer and fall, DOER represented the administration at intensive negotiations ordered by FERC to explore the merger of the ISO-NY with the New York and PJM ISOs.

Most recently, DOER is working with ISO-NE participants on plans to merge ISO-NE with the New York ISO. DOER feels that the evolution of the vision from that of a huge Northeast RTO spanning Virginia to Maine, to a more compact merger between New England and New York, represents a positive change. In 2002, DOER will work to assure the New England retains appropriate levels of control as the governance of the new RTO takes shape.

- **The President's Energy Plan**

In May 2001, the President released his national energy policy plan. Under the stewardship of Vice President Cheney, the Energy Plan presents a comprehensive framework for ongoing policy discussion on a wide range of energy topics. DOER reviewed the Plan for the Governor's Office, highlighting particularly relevant issues for Massachusetts and identifying where state policies diverge from the Energy Plan's proposed recommendations.

Division of Energy Resources

Massachusetts lacks indigenous fuel supplies, relying heavily on imports for fuels and some electricity supplies. As such, recommendations related to oil drilling on federal lands and development of new nuclear plants, while controversial on the national scene, are less germane to Massachusetts than recommendations concerning delivery systems and reliability of energy supplies.

In the area of energy production and its environmental impacts, the Plan calls for EPA to propose multi-pollutant reduction legislation, and to mandate reductions for SO₂, NO_x, and mercury. Last spring, the Swift administration implemented such a regulation, including not only the three pollutants mentioned, but also CO₂. DOER reviewed and supported these new rules, concluding there would be no adverse reliability consequences for electricity

Agency Profile

The Division of Energy Resources works to ensure that there are adequate supplies of reliable, affordable, and clean energy for Massachusetts' residents and businesses. The Division seeks to increase consumer awareness of options and prices in restructured energy markets, to increase energy efficiency in buildings, appliances and vehicles, to improve and streamline energy regulation, and to stimulate development of local energy industries.

DOER represents the energy interests of both residential and business customers in Massachusetts before regulatory bodies, the legislature, and in the competitive marketplace. DOER works with other consumer representatives, businesses, utilities, private institutions, government agencies and others to achieve several important goals:

- Reduce energy costs for all Massachusetts consumers
- Provide all customers with choice of energy suppliers
- Advocate for and educate energy customers
- Increase energy efficiency in buildings and vehicles
- Ensure competitiveness in energy markets
- Commercialize new energy technologies
- Reduce the impact of energy use on the environment
- Prepare for rapid response to statewide energy emergencies

Division of Energy Resources

2001 Accomplishments

- Provided Oversight of Electric Energy Efficiency Programs
- Recommended Continuation of Energy Efficiency Charge to Legislature
- Publish 1999 Energy Efficiency Report
- Promulgated Residential Conservation Service Regulations and Guidelines
- Negotiated Multi-year Energy Efficiency Plans with four Gas Utilities
- Completed Heating Oil Inventory Program and Published Final Program Report
- Published the 1999 Market Monitor Report
- Organized Eight Electric Restructuring Roundtables
- Participated in DTE Proceedings on Service Quality Standards
- Represented Massachusetts During FERC's RTO Proceedings
- Analyzed Bush Energy Plan
- Influenced DTE Berkshire Gas Rate Gas Proceeding and Resulting Rate Reduction
- Maintained Two Toll-Free Energy Consumer Hotlines
- Passed Generation Information System
- Hosted Three Clean Cities Conferences on Alternative Fuel Vehicles

2002 Goals

- Publish a Guidebook for Municipalities Interested in Aggregating for Electricity Purchases
- Publish 2000 Energy Efficiency Report
- Publish 2000 Market Monitoring Report
- Secure Continuation of Energy Efficiency Public Benefits Charge
- Promulgate Renewable Portfolio Regulations
- Initiate Registration of Qualified Renewable Generators

Division of Insurance

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Executive Message

In 2001, the Division's mission to provide regulation of the business of insurance included the implementation of innovations aimed at making the business of selling and obtaining insurance quicker and safer as well as increasing consumer protections in the marketplace.

Under the directive of Chapter 141 of the Acts of 2000, the Division's Bureau of Managed Care implemented regulations and completed the process of accrediting and licensing the Commonwealth's managed care organization and health insurance carriers. The review of consumer disclosures, provider contracts and managed care systems in accordance with statutory and national accreditation standards bolsters consumer protection in the state's health insurance market.

The Division's new on-line agent license renewal system is accessed by insurers via the web and allows for immediate notification to the Division of agent renewals, saving time and administrative costs to insurers and Division staff. The full implementation of the renewal system means that more than 1,200 companies throughout the U.S. are now able to renew an estimated 160,000 insurance agent appointments annually.

In addition to being among the first insurance regulatory agencies in the nation to accept electronic policy form and rate filings for all lines of insurance, the Division also introduced a web-based checklist system for all proposed insurance products filed with the Division. With insurers now verifying that their products meet the requirements of Massachusetts law, product review within the Division has been reduced to a 30-45 day timeframe.

The Division's staff conducted financial examinations to monitor the solvency of insurance companies, self-insured groups, health maintenance organizations and fraternal benefit societies; reviewed license applications of agents and brokers; reviewed thousands of policy forms and rate filings submitted by insurers; wrote bulletins interpreting insurance laws for the public and regulated entities alike; analyzed insurance legislation; drafted necessary new regulation tools; oversaw the workings of the residual markets in the medical malpractice, auto, homeowners, workers' compensation and liquor liability lines of insurance; and performed numerous other tasks of regulatory oversight and consumer assistance throughout the year.

2001 saw the Commissioner approve a stipulated settlement in the private passenger automobile rate case that resulted in an overall rate change of 0.0%, saving an estimated \$268 million for consumers from the industry's original request for a 7.8% increase.

The Commissioner also approved a stipulated settlement in a workers' compensation rate case with the Workers' Compensation Rating and Inspection Bureau (WCRIB) that resulted in an overall rate change of 1.0% effective July 2001, saving approximately \$50

Division of Insurance

million in standard earned premium from the WCRIB's original request for a 7.7% increase.

Agency Profile

The Division of Insurance regulates all aspects of the insurance industry in the Commonwealth. It licenses over 1,350 companies including property and casualty, life, title, fraternal benefit societies and HMOs. The Division has issued approximately 195,000 licenses to insurance agents, brokers and organizations. The Division conducts financial examinations of domestic and foreign insurance companies, audits licensees, reviews rates and policy forms and participates in rate setting for several lines of insurance.

2001 Accomplishments

- Recovered more than \$3 million for the Commonwealth's consumers.
- Responded to more than 33,000 phone and written inquiries, complaints and requests for information.
- Approved over 2,100 auto insurance group marketing discounts, available to over 3 million drivers.
- Approved 5 personal auto insurers plans to offer downward rate deviations ranging from -2% to -10% to drivers with Safe Driver Insurance Plan (SDIP) step 9.
- Generated over \$9.7 million from licensing fees for the Commonwealth.
- Completed 33 financial examinations of insuring organizations. 30 financial examinations were still in progress as of December 31, 2001.
- Approved 27 newly licensed insurance companies, amended 24 company licenses.
- Closed 275 investigative cases, resulting in \$367,000 in fines and assessments.
- Issued nearly 47,000 decisions on appeals of Safe Driver Insurance Plan (SDIP) surcharges.

2002 GOALS

- Inform and protect the Commonwealth's consumers of insurance.
- Regulate the insurance industry in a timely and effective manner.
- Maintain National Association of Insurance Commissioners' (NAIC) Accreditation.
- Provide a responsive, well-managed public service regulatory agency for insurance, a major growth industry with a direct impact on the Commonwealth's economy.

Division of Professional Licensure

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Executive Message

The principal focus for Division of Professional Licensure staff and Board members during 2001 was to improve customer services and the processes used to deliver them. Our strategic plan drives the action necessary to demonstrate excellence in each of the following categories: leadership, customer focus, strategy, information and analysis, human resources development, and process improvement, which all contribute to the final category of effective results. The Division has been working with an organizational development manager to focus the organization and its employees on building its ability to serve its constituents.

Agency Profile

The principal focus for Division of Professional Licensure staff and Board members during 2001 was to improve customer services and the processes used to deliver them. Our strategic plan drives the action necessary to demonstrate excellence in each of the following categories: leadership, customer focus, strategy, information and analysis, human resources development, and process improvement, which all contribute to the final category of effective results. The Division has been working with an organizational development manager to focus the organization and its employees on building its ability to serve its constituents.

Accomplishments

- Agency statistics demonstrate a consistent improvement trend in enforcement measures since FY94. In FY01 the agency resolved 2,172 cases, an increase of 25% over FY00 and an increase of 41% over FY94. The agency also took 317 disciplinary actions in FY01, a 9% increase over FY00 and a 47% increase over FY94.
- Agency documented all board and unit business processes in a matrix format. All board managers and the Office of Investigations, the Office of Legal Counsel, and the Office of Prosecutions flowcharted the Complaint Management process as a single system. Three Managing for Results (MRI) teams have been chosen to review, benchmark and improve the system in FY02.
- The boards and the Computer Services office flowcharted the licensure process.. In addition, all board executive directors and board staff conducted a Customer Contact survey over a three-month period. The survey was designed to collect data on why customers contacted the agency, whether by phone, mail, e-mail, or walk-in, and to analyze the data for problems that caused the contacts to occur. The team offered several improvement recommendations that will be examined by a MRI team
The agency has issued licenses to qualified applicants by the statutory deadlines for three new boards of registration: Home Inspectors, Perfusionists, and Dietitians and Nutritionists.

Division of Professional Licensure

- A Voice Mail Review project analyzed agency, board and unit voice mail systems for clarity, ease of navigation, and brevity. Following the review, agency managers were given written recommendations for improving their voice mail systems and the Deputy Director for Administration audited the system to ensure improvements were implemented.
- Staff identified three positions for Career Path Modeling. The program is designed to help managers and employees to identify skill gaps based on position responsibilities “in the real world,” and to provide a roadmap for improving skills along a promotional skill path. Position profiles were created. The team also developed a Skills Gap Planning Form for employees and managers to guide the development of a training program for every employee.
- The agency has issued licenses to qualified applicants by the statutory deadlines for three new boards of registration: Home Inspectors, Perfusionists, and Dietitians and Nutritionists.

General Statistics for 2001

- \$10,243,667- total revenue collected
- 493,305 licensees for the 36 Boards of Registration
- 317 disciplinary actions
- 2,142 complaints received by the Office of Investigations
- 4,548 business inspections and 8,741 license checks
- \$16,000 in refunds or financial settlements from licensees to consumers
- \$20,200 in fines to licensees by two boards.

2002 GOALS

- Implement the 50/50 Trust Fund of Chapter 177 of the Acts and Resolves of 2001. This will allow the boards of registration to raise license fees, which have not been increased since 1989, by 50%. Half the revenues will flow to the General Fund and half will go to the boards. A primary goal of the funds will be to reduce agency enforcement backlogs.
- Establish performance benchmarks for its key business activities with six other states. These benchmarks will become a nationwide standard for measuring performance against industry average performance for professional licensure.
- Develop and issue an RFR for a new licensing data base system to replace the antiquated system of four separate data base developed for the agency in 1984

Division of Professional Licensure

THE BOARDS OF REGISTRATION

Each of the 36 Boards evaluate the qualifications of license applicants, grant licenses to those who qualify, and establish rules and regulations that set ethical and technical competence standards for the professionals it licenses. The Boards also take disciplinary action against licensees whose conduct fails to meet the accepted standards of the profession. All Boards work to protect the health and welfare of the citizens of the Commonwealth.

Allied Health Professions	Professional	Plumbers and Gas Fitters
Allied Mental Health/Human	Funeral Directors and	Podiatry
Architects	Health Officers	Psychologists
Barbers	Hearing Instrument Specialists	Public Accountancy
Chiropractors	Home Inspectors	Radio and Television Technicians
Cosmetologists	Landscape Architects	Real Estate Appraisers
Dentists and Dental Hygienists	Nursing	Real Estate Brokers/Salespersons
Dietitians and Nutritionists	Nursing Home Administrators	Respiratory Care
Dispensing Opticians	Optometrists	Sanitarians
Drinking Water Supply Facilities	Perfusionists	Social Workers
Electricians and Electricians	Pharmacy	Speech-Language Pathology
Electrologists	Physician Assistants	Veterinary Medicine

Division of Standards

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www.state.ma.us/standards

Executive Message

The Division is responsible for enforcing the accuracy requirements and other standards relating to weighing and measuring devices and the use thereof used in the sale of food, fuels and other products. It regulates the sale of gasoline and sets standards for lubricating oils and antifreeze, including the inspection of all fuel dispensing equipment for required markings pertaining to grade and brand. It determines the standards for accuracy of clinical glass thermometers, tests and approves coin operated devices, licenses auctioneers, transient vendors, peddlers, motor fuel and oil retailers and registers auto damage repair shops. The division also enforces the item pricing law and the unit pricing regulations and oversees grants in excess of \$600,000 dollars to support item pricing inspections and scanner accuracy in retail stores.

In addition to our statutory requirements to annually test and certify all weighing and measuring devices used commercially in towns under 5,000 in population, the division tests and inspects price scanners in retail stores for accuracy. Price verification, item pricing inspection and training of officials will be top priorities during the coming year. The division administers grants awarded to local agencies for the purpose of enforcing scanner and item pricing accuracy in retail stores. This year the item pricing scanner accuracy grants will exceed \$600,000 dollars. Grants for this purpose last year resulted in 18 agents being authorized for enforcing scanner accuracy laws throughout the state. These agents inspected over 3000 stores and fines relating to pricing errors exceeded \$384,000 dollars. The division is required to annually test and certify all commercial weighing and measuring devices in towns under 5,000 in population. Towns over 5,000 in population must by law appoint a local inspector for that purpose. The type of devices tested include small and large capacity scales, weights, motor fuel dispensers, vehicle tank meters used in the sale of liquid fuels, propane meters, milk tanks, coin operated amusement devices, and reverse vending machines used for recycling soft drink containers.

In addition to testing and certifying devices, the division conducts inspections to ensure that these devices are being used properly and that security seals are intact. Security seals are affixed to the devices to prevent unauthorized changing of the calibrators, which affects the accuracy of the product being weighed or measured. The division also re-weighs pre-packaged food and non-food products to insure that the net quantity statement, required to be placed conspicuously on all packaged goods, is accurate and that minor variations are within acceptable legal metrology parameters.

Consumer and Merchant Protection Act:

On July 31, 1998, Governor Cellucci signed into law a landmark piece of legislation, which requires new certification standards for appointment of local weights and measures officials. This legislation known as, The Consumer and Merchant Protection Act, in addition to mandating certification standards for officials, also requires scanner inspections in all retail outlets. The new certification standards for local officials require newly appointed officials to be certified within one year of appointment and non-civil service incumbent appointed officials within two years. All officials will be required to obtain CEU's in order to

Division of Standards

maintain their certifications. Therefore, the division will be conducting training for local officials on an ongoing basis throughout the Commonwealth in order to meet the new certification standards required for local officials in the new law.

The main purpose of the new certification requirements is to ensure that weights and measures laws are being enforced equitably in every municipality preserving the division's primary mission of maintaining "equity" in the marketplace. This can only be accomplished by requiring standardized training in testing and enforcement procedures for all enforcement officials and periodic auditing of their performance in the field to ensure that these standards are being applied equitably. The Merchant and Consumer Protection Act requirements are mandatory for all officials.

2001/2002 Accomplishments:

- Issued 9,912 licenses that produced \$ 1.1 million in license fees.
- Tested and certified, as required, 2,981 commercial weighing and measuring devices in 121 towns under 5,000 in population.
- Conducted over 5,000 inspections, which included devices, motor fuel dispensers including price signs and pre-packaged commodities.
- Conducted and administered over 3,500 store inspections pertaining to item pricing and price verification, which resulted in over \$384,000 dollars in civil penalties for items found incorrectly priced.
- Issued 212 civil citations for various weights and measures violations and collected \$ 47,535 in penalties.
- Administered certification tests and field certified another 40 local officials bringing the total of certified local officials to 183.
- Conducted training in various weights and measures disciplines attended by 1200 officials.
- Contracted with 14 municipalities to provide weights and measures services.

Division of Standards

2002/2003 Goals:

- Test and certify over 3,500 commercial weighing and measuring devices in 121 towns under 5,000 in population.
- Issue over 11,000 licenses and collect more than \$ 1.2 million in fees.
- Administer the awarding of over \$ 600,000 dollars in grants for enforcing the item pricing and scanner accuracy laws.
- Implement weights and measures reforms and train and certify local weights and measures inspectors as required in the “Consumer & Merchant Protection Act”
- Implement certification programs relating to weights and measures disciplines not covered in the initial certification.

State Racing Commission

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Executive Message

The racing/sports entertainment industry continues to be dynamic, while operating in an extremely competitive atmosphere. Approximately \$615 million was bet during 2001 at five commercial tracks and three fairs.

On November 14, 2001, five permanent licenses were issued to the tracks – Suffolk, Wonderland, Raynham, Taunton, and Plainridge. Also, three fair licenses were issued to Northampton, Brockton and Middleboro (racing at Brockton).

The Commonwealth received \$10.6 million in Fiscal Year 2001 from these racing activities. This is independent of the income, sales, and property taxes paid by the racetracks. It is estimated that, directly or indirectly, 8 thousand people are employed by the industry. Our regulatory costs remain level at approximately \$3.5 million in F.Y. 2001.

All of the employees of the Racing Commission are committed to ensuring the integrity of racing for its patrons and participants. We thank the public, the administration and the legislature for their support and assistance. We welcome inquiries from all interested parties.

Agency Profile

The Massachusetts State Racing Commission was created by an act of the General Court in 1934. The Commission, consisting of a full-time Chairman and two part-time associate Commissioners, is charged with the supervision of the conduct of the business of racing in Massachusetts, to ensure the integrity of the racing industry. The Commission regulates two Thoroughbred tracks, Suffolk Downs and Great Barrington, two Greyhound tracks, Wonderland and Raynham/Taunton, one harness track, Plainridge; and three fairs located in Northampton, Brockton, and Middleboro (racing at Brockton).

To ensure fair and honest pari-mutuel racing, the Commission promulgates and enforces rules and regulations, proposes legislation and develops policies to better regulate the Racing Industry. Further, it is responsible for ensuring the legitimate performance of all racing animals and the integrity of pari-mutuel wagering. The Racing Industry directly and indirectly employs over 8,000 people in the Commonwealth.

The Commission has 40 employees and 6 major operating divisions: administrative office, laboratory, racing inspectors, accountants, boards of stewards/judges, and state police investigative unit.

NEW FAIR LICENSEES:

After an absence of several years, fair racing returned to the Brockton and Middleboro fairs in 2001. Both meetings were reasonably successful and also included simulcasting during fair racing for the first time in Massachusetts.

State Racing Commission

Performance Recognition:

Greyhound Judge Holly Hall, State Veterinarian Alexandra Lightbown, and Auditor II Bruce LaRocca received Performance Recognition awards.

Legislation:

After passing seven extensions of racing, the Legislature passed and the Governor signed Chapter 139 of the Acts of 2001 in mid-November. This new bill is a very comprehensive package which provides many new initiatives:

Greyhound adoption program funded through the takeout.

All racing revenues are deposited in a separate account administered by the Commission and used in the following priority order:

- Local aid to cities and towns where racing takes place
- Reimburse the General Fund for the Commission's appropriation and welfare funds for backstretch workers at Suffolk Downs
- A payment to a compulsive gamblers organization
- Up to \$4.5 million for purses at the 4 major racetracks (minimum \$400,000 per track) under a formula developed by the Commission.
- Outs to purses at the track where they were generated
- Telephone and electronic account wagering.
- Feasibility study of off-track-betting.
- Enhanced greyhound disposition and injury reporting.
- Temperature study for greyhound racing
- Increased thoroughbred simulcasting plus premium payments for cross breed simulcasting. The new chapter sunsets in 2005.

Goals for 2002

Our primary major activity for 2002 will be implementation of the provisions of Chapter 139. We will have to rewrite at least 3 regulations and develop at least 1 new regulation. Also, the formula for disbursing up to \$4.5 million to the tracks will be an interesting project.

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