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AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

June 10, 2003

The Honorable Robert Blendu, Chair
Joint Legislative Audit Committee

The Honorable John Huppenthal, Vice Chair
Joint Legislative Audit Committee

Dear Senator Blendu and Representative Huppenthal:

Our Office has recently completed a 24-month followup of the Board of Osteopathic Examiners in Medicine and Surgery regarding the implementation status of the 27 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in April 2001 (Auditor General Report No. 01-6). As the attached grid indicates:

- 11 of the 27 recommendations have been implemented;
- 14 of the 27 recommendations are in the process of being implemented; and
- 2 recommendations have not been implemented.

Unless otherwise directed by the Joint Legislative Audit Committee, this report concludes our follow-up work on the April 2001 performance audit report.

Sincerely,

Debbie Davenport
Auditor General

Attachment

cc: Ms. Elaine LeTarte, Acting Executive Director
Board of Osteopathic Examiners in Medicine and Surgery

**BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY
24-Month Follow-Up Report To
Auditor General Report No. 01-06**

FINDING I: The Board Should Take Disciplinary Action When Physicians Violate Statutes

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
<p>1. The Board should take disciplinary action, rather than issue letters of concern or dismiss complaints, when it determines that a statutory violation has occurred.</p>	<p>Not Implemented</p>	<p>Minutes from the Board's January 18, 2003, meeting indicate that the Board is not always taking disciplinary action against physicians when there is evidence that the physicians violated the statutes. In addition, minutes from the Board's January 18, 2003 and March 22, 2003 meetings indicate that when issuing a Letter of Concern, the Board does not always clearly communicate that the evidence was insufficient to find a statutory violation.</p>
<p>2. Board staff should ensure complete investigations are performed by including at least the following procedures:</p> <ul style="list-style-type: none"> a. Identifying each allegation and potential associated statutory violation; b. Requiring the named physician to address each potential violation; c. Interviewing all complainants to confirm the allegations; and d. Providing the Board with reports indicating whether the evidence collected verifies each allegation of statutory violation. 	<p>Implemented at 12 months</p> <p>Implemented at 6 months</p> <p>Implemented at 6 months</p> <p>Not Implemented</p>	<p>The Board does not believe that its staff should make determinations regarding whether evidence collected verifies allegations of statutory violation.</p>

**BOARD OF OSTEOPATHIC EXAMINERS
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24-Month Follow-Up Report To
Auditor General Report No. 01-06**

FINDING I: The Board Should Take Disciplinary Action When Physicians Violate Statutes (Concl'd)

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
3. The Board's medical consultant should be required to provide an opinion on whether the named physician's actions met the standard of care for each allegation involving quality of care.	Implemented at 24 months	
4. As part of its adjudication process and prior to taking appropriate action, the Board should determine and include documentation of whether a violation occurred for each alleged statutory violation.	Implementation in Process	
5. The Board should establish and use disciplinary guidelines that include consideration of violation severity, the need to take progressive action, and mitigating factors.	Implementation in Process	
6. The Board should consistently receive and review the named physician's disciplinary and letter-of-concern history as part of the adjudication process.	Implementation in Process	

**BOARD OF OSTEOPATHIC EXAMINERS
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FINDING II: The Board Can Improve Complaint Processing

Recommendation	Status of Implementing Recommendation	Explanation of Recommendations That Have Not Been Implemented
<p>1. The Board should ensure it fulfills its responsibility to protect the public in regard to malpractice complaints by:</p> <ul style="list-style-type: none"> a. Immediately opening complaint investigations on the approximately 45 malpractice settlements and judgments for which it received notice, but has not yet initiated an investigation; b. Prioritizing the resolution of open malpractice complaints based on the severity of the complaints; and c. Not opening malpractice investigations until it receives notice of a settlement or judgment unless the Board believes a physician involved in a pending malpractice lawsuit may be an immediate threat to the public. 	<p style="text-align: center;">Implementation in Process</p> <p style="text-align: center;">Implemented at 24 months</p> <p style="text-align: center;">Implemented at 6 months</p>	

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FINDING II: The Board Can Improve Complaint Processing (Concl'd)

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
2. The Board should amend its current complaint policy to add process deadlines for each step of the complaint process.	Implementation in Process	
3. The Board should generate monthly management reports that track all steps in the complaint process to ensure process deadlines are met.	Implemented at 24 months	
4. The Board should develop performance standards for medical consultant reviews, including the number of reviews to be completed and the amount of time it should take to complete the reviews.	Implementation in Process	
5. The Board should develop and implement policies and procedures to prioritize all complaints based on severity.	Implementation in Process	

**BOARD OF OSTEOPATHIC EXAMINERS
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FINDING III: Poor Complaint Recordkeeping Negatively Impacts Complaint Process and Public Information

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
<p>1. The Legislature should consider amending A.R.S. §32-1803(A) to eliminate the requirement to delete complaint records. The Legislature could consider amending the Board’s statutes to be consistent with BOMEX’s statutes.</p>	<p>Implemented at 6 months¹</p>	
<p>2. The Board should ensure the accuracy and completeness of its complaints database by:</p> <ul style="list-style-type: none"> a. Developing a procedure and time frame to identify and correct errors; b. Developing and implementing a policy to routinely monitor the database’s accuracy and completeness; c. Working with its computer consultant to revise the database to include edit controls and receipt date, and ensure the database captures other needed management information such as the final adjudication of complaints; and 	<p style="text-align: center;">Implementation in Process</p> <p style="text-align: center;">Implementation in Process</p> <p style="text-align: center;">Implementation in Process</p>	

¹ The Legislature amended A.R.S. §32-1803(A) to require the Board to delete only the *public* record of a dismissed complaint 3 years after it is dismissed. The Arizona Medical Board’s dismissed complaints are public record for 5 years.

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Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
d. Developing a policy for data entry to help ensure information is entered in the correct fields.	Implementation in Process	
3. The Board should discontinue using its word processing complaint log. For future complaints, the Board should ensure staff complete the data fields in the complaint database and use it to track the complaint process.	Implemented at 24 months	
4. Board management should use the complaint database to generate on at least a monthly basis routine reports that indicate complaint timeliness and status.	Implementation in Process	
5. The Board should develop a procedure to specifically account for the location of open complaint files.	Implementation in Process	

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SUNSET FACTOR RECOMMENDATIONS:

Recommendation	Status of Implementing Recommendation	Explanation of Recommendations That Have Not Been Implemented
1. Board members should receive additional training on the need to recuse themselves in instances where there is bias or the potential for bias.	Implemented at 6 months	
2. The Board should maintain Board meeting minutes in compliance with Open Meeting Law.	Implemented at 6 months	
3. The Board should work with the Governor's Regulatory Review Council to develop needed administrative rules.	Implementation in Process	