



State of Arizona
Office
of the
Auditor General

PERFORMANCE AUDIT

**ARIZONA
BOARD OF
DISPENSING
OPTICIANS**

Report to the Arizona Legislature
By Debra K. Davenport
Auditor General

**August 2001
Report No. 01-17**

The Auditor General is appointed by the Joint Legislative Audit Committee, a bipartisan committee composed of five senators and five representatives. Her mission is to provide independent and impartial information and specific recommendations to improve the operations of state and local government entities. To this end, she provides financial audits and accounting services to the state and political subdivisions and performance audits of state agencies and the programs they administer.

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AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

August 23, 2001

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Ms. Careen Heinze, Executive Director
Arizona Board of Dispensing Opticians

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Board of Dispensing Opticians. This report is in response to a June 16, 1999, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §41-2951 et seq. I am also transmitting with this report a copy of the Report Highlights for this audit to provide a quick summary for your convenience.

As outlined in its response, the Arizona Board of Dispensing Opticians plans to implement all of the recommendations.

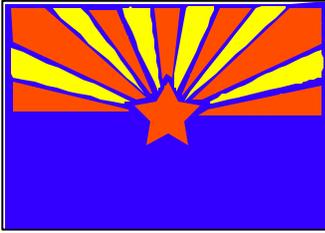
My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on August 24, 2001.

Sincerely,

Debbie Davenport
Auditor General

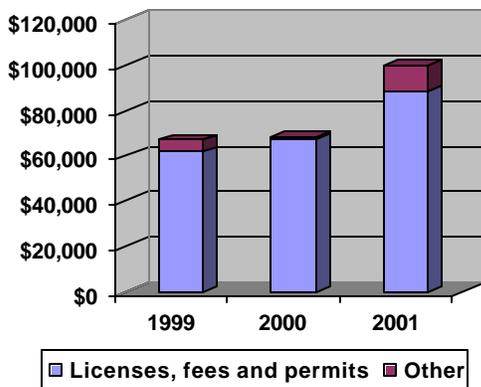
Enclosure



Arizona Board of Dispensing Opticians

Services: The Arizona Board of Dispensing Opticians is responsible for helping to ensure the competency of licensed dispensing opticians and for helping to protect the public’s visual health. To fulfill its responsibilities, the Board performs the following services: **1) conducts licensing examinations; 2) issues and renews dispensing optician and optical establishment licenses; 3) ensures licensed opticians comply with continuing education requirements; 4) investigates and resolves complaints relating to such things as substandard care and failure to comply with licensing requirements; and 5) provides consumer information to the public.**

Revenue: \$100,100
(fiscal year 2001)



The Board receives no General Fund monies. Revenues are primarily derived from license and examination fees. Ten percent of Board revenues are remitted to the State General Fund.

Personnel: One full-time executive director. The Board consists of seven members who serve five-year terms:

- Five licensed dispensing opticians who are in good standing with the Board; and
- Two public members.

Equipment: In addition to standard office equipment, the Board owns specialty equipment used in administering its practical licensing examination, including:

- 5 lensometers (\$3,554)
- 4 vertometers (\$3,780)
- 5 dispensing stools (\$250)
- 3 dispensing tables (\$360)
- 2 magnifiers (\$164)
- 2 radiuscopes (\$2,852)
- 1 pupilometer (\$497)
- 1 keratometer (\$755)

Radiuscope



Keratometer



Vertometer



Mission:

“To protect the visual health of the citizens of Arizona by regulating and maintaining standards of practice in the field of opticianry.”

Facilities: The Board leases office space in a state-owned building located at 1400 W. Washington in Phoenix, and its meetings are held in the same building.

**Program Goals
(Fiscal Year 2001-2002):**

1. To ensure high standards of professional and ethical conduct in the field of opticianry through efficient processing of examination, establishment, and optician license applications and administration of the State Board of Practical Examination.
2. To investigate and adjudicate consumer- and Board-initiated complaints in accordance with statutes and rules in order to protect the public from incompetent services and unprofessional and unethical conduct.
3. To better protect the public through the administration of a continuing education requirement in order to upgrade the profession of opticianry in accordance with the Board's mandate.

Adequacy of Performance Measures:

Although the Board's three goals appear to be reasonably aligned with its mission, auditors identified some problems with the Board's performance measures:

- The Board lacks some of the performance measures recommended by the Governor's Office of Strategic Planning and Budgeting, such as the total number of individuals and establishments licensed; total number of licenses revoked or suspended; percentage of licensees with disciplinary actions; and percentage of applicants or license holders reporting very good or excellent service.
- Some of the Board's reported information appears to be inaccurate or incorrect for some reporting years. For example, the Board reports that it received 26 complaints in fiscal year 2000, but the database indicates that 23 complaints were received. The Board's performance measures also report 5 disciplinary actions taken in fiscal year 1999, but according to the database, there were 3.

SUMMARY

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona Board of Dispensing Opticians pursuant to a June 16, 1999, resolution of the Joint Legislative Audit Committee. This review is part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

Laws 1956, Chapter 32, §1 established the Board to regulate optical dispensing in Arizona. The Board is responsible for licensing opticians who dispense eyeglasses, contact lenses, and other optical devices to the public, and who supervise unlicensed practitioners. It also licenses optical establishments that sell prescription eyewear to the public to ensure that each is staffed by at least one licensed dispensing optician. In addition, the Board investigates and adjudicates complaints against its licensees. The Board consists of seven Governor-appointed members who serve five-year terms.

The Board is generally functioning well. It typically resolves complaints and issues licenses in a timely manner. In addition, it provides consumers with complete information about licensed opticians' and optical establishments' complaint histories.

Because no major operational problems were identified, this report's discussion is limited to the 12 Factors which, under A.R.S. §41-2954, the Legislature considers in determining whether to continue or terminate the Board. This review concludes that, although no significant harm to the public's health or safety would likely result if the Board were terminated, the Board does help protect the public's welfare through its efforts to resolve complaints and ensure consumers are compensated when appropriate. In addition, by licensing optical establishments, the Board helps ensure that unlicensed practitioners who work in these settings receive a minimum level of qualified supervision.

This review recommends that if the Board is continued, it make some improvements to the administration of its licensing examination and to its complaint processing. For example, the Board needs to take steps to ensure that its examination is administered and scored consistently and appropriately. It also needs to separate its complaint investigation and adjudication processes to better enable it to take disciplinary action when violations occur. In addition, the review recommends that the Legislature consider revising the Board's statutes to allow the Board to keep its examination confidential, eliminate the requirement that consumer complaints be verified, and clarify the statutory licensing exemption relating to individuals who work under physicians, optometrists, and licensed dispensing opticians.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona State Board of Dispensing Opticians (Board) pursuant to a June 16, 1999, resolution of the Joint Legislative Audit Committee. This audit was conducted under the authority vested in the Auditor General by Arizona Revised Statutes §§41-2591 through 41-2957.

Board Responsibilities

The Arizona State Board of Dispensing Opticians was created in 1956 to regulate opticians and optical establishments that dispense prescription optical devices, such as eyeglasses, contact lenses, and artificial eyes, to the public. Some of the activities dispensing opticians perform include working with consumers to select appropriate eyeglass frames and lens materials; fitting eyeglass frames to consumers; ensuring proper placement of lens features, such as bifocal lines; and making eyeglass lenses. Dispensing opticians may also fit consumers with contact lenses. Although Arizona law also allows unlicensed practitioners to perform these activities, unlicensed practitioners must be supervised by a licensed dispensing optician, physician, or optometrist.

Opticians fit consumers with contacts and eyeglasses.

The Board's mission is:

“To protect the visual health of the citizens of Arizona by regulating and maintaining standards of practice in the field of opticianry.”

The Board accomplishes this purpose by performing a variety of functions, including enacting rules concerning licensed dispensing opticians and optical establishments; administering a practical licensing examination; issuing and renewing dispensing optician and optical establishment licenses; ensuring that licensed

dispensing opticians comply with continuing education requirements; providing information to the public; and investigating and resolving complaints. The Board receives 18 to 20 consumer complaints each year, which generally relate to unsatisfactory eyeglasses. In addition, the Board initiates 10 to 15 complaints each year, which are typically against establishments that fail to comply with licensing requirements. Statute requires the Board to resolve complaints within 150 days, and the Board meets this timeframe for most complaints. Statute also provides the Board with a number of disciplinary options, including censure, probation, restitution, civil penalties, and license suspension or revocation. The Board resolves many consumer complaints by ensuring that consumers receive refunds for unsatisfactory eyewear.

Statutory Licensing Requirements

The Board's statutes and rules contain licensing requirements for dispensing opticians and establishments. To qualify for a dispensing optician's license, an optician must:

- Complete a three-year apprenticeship or equivalent approved education and training;
- Pass national written contact lens and eyeglass examinations; and
- Pass a Board-administered practical eyeglass and contact lens examination with a score of 75 percent.

Licensed opticians pass multiple examinations.

The Board will also extend licensure to opticians who are licensed in other states if they have met substantially similar requirements. To maintain licensure, dispensing opticians must complete 12 hours of continuing education every three years. In addition, the Board licenses optical establishments that sell eyewear directly to the public. Licensed establishments must have at least one full-time licensed dispensing optician on staff, which helps ensure unlicensed practitioners receive supervision. The Board generally issues both initial and renewal licenses in a

Introduction and Background

629 opticians and 246 optical establishments are licensed in Arizona.

timely manner, and as of January 2001, there were 629 dispensing opticians and 246 optical establishments with active Arizona licenses.

Organization and Staffing

The Board is comprised of seven Governor-appointed members, who are each eligible to serve two consecutive five-year terms. Five of the members must be licensed dispensing opticians who are in good standing with the Board. The remaining two are public members.

Currently, the Board is staffed by an executive director who collects application, renewal, and other fees; prepares application and complaint files for Board review; and provides information to the public. The Arizona Department of Administration State Boards' Office provides office space and administrative assistance to the Board.

Budget

The Legislature appropriates monies to the Board from the Board of Dispensing Opticians Fund, which contains revenues derived principally from the collection of license application and renewal fees. The Board deposits 90 percent of its revenues into the Board of Dispensing Opticians Fund and the remaining 10 percent into the General Fund. Table 1 (see page 4) illustrates the Board's actual and estimated revenues and expenditures for fiscal years 1999 through 2001.

Audit Scope and Methodology

Audit work focused on the Board's performance in accordance with the 12 Sunset Factors set forth in A.R.S. §41-2954 (see Sunset Review Factors, pages 7 through 17). The Sunset Factors include recommendations that relate to the following issues:

- The need for the Board to formally approve all license renewals;

Table 1

**State Board of Dispensing Opticians
Statement of Revenues, Expenditures, and Changes in Fund Balance
Years Ended June 30, 1999, 2000, and 2001
(Unaudited)**

	1999	2000	2001
Revenues:			
Licenses, fees, and permits	\$61,685	\$67,180	\$ 88,385
Sales and charges for goods and services	1,369	391	2,643
Fines and forfeits	3,335	377	8,816
Other	<u>569</u>	<u>282</u>	<u>230</u>
Total revenues	<u>66,958</u>	<u>68,230</u>	<u>100,074</u>
Expenditures and other uses:			
Personal services	37,695	38,897	50,027
Employee-related	6,722	6,633	7,986
Professional and outside services	14,720	21,495	19,235
Travel, in-state	3,520	3,547	3,963
Other operating	5,253	6,882	5,760
Equipment	<u>1,059</u>	<u>1,526</u>	
Total expenditures	68,969	78,980	86,971
Remittances to the State General Fund ¹	<u>6,691</u>	<u>6,781</u>	<u>10,179</u>
Total expenditures and remittances	<u>75,660</u>	<u>85,761</u>	<u>97,150</u>
Excess of revenues over (under) expenditures and remittances to the State General Fund	(8,702)	(17,531)	2,924
Fund balance, beginning of year	<u>54,887</u>	<u>46,185</u>	<u>28,654</u>
Fund balance, end of year	<u>\$46,185</u>	<u>\$28,654</u>	<u>\$ 31,578</u>

¹ As a 90/10 agency, the Board remits all of its administrative penalties and 10 percent of all other revenues to the State General Fund.

Source: Auditor General staff analysis of the Arizona Financial Information System *Revenues and Expenditures by Fund, Program, Organization, and Object* and *Trial Balance by Fund* reports for the years ended June 30, 1999 and 2000; and *Accounting Event Transaction File* for the year ended June 30, 2001.

Introduction and Background

- The need to improve the usefulness and reliability of the Board's practical examination through improvements to administration and scoring procedures;
- The need for the Board to better separate its complaint investigation and adjudication procedures to ensure disciplinary action is taken when appropriate; and
- The need for statutory changes relating to complaint-filing requirements, confidentiality of examination materials and records, and licensing exemptions for individuals who work under the supervision of other licensed professionals.

This audit used a variety of methods to evaluate the Board's performance. To obtain a general understanding of the Board's operations, auditors interviewed Board members and attended six of the Board's monthly meetings conducted between December 2000 and August 2001. Auditors also reviewed statutes and related information from the 23 states, including Arizona, with separate dispensing optician boards, and from 12 other states that regulate opticianry using other methods.

Some additional methods were also used to evaluate specific Board functions. For example:

- To evaluate the Board's licensure examination, auditors observed the Board's March 2001 practical examination;
- To assess the timeliness of issuing initial licenses, auditors analyzed a random sample of 10 dispensing optician and 21 optical establishment licenses issued in 2000. Auditors also assessed the executive director's procedures for issuing renewal licenses;
- To determine whether the Board processes complaints in a timely manner, auditors analyzed a random sample of 26 complaint files received in 1998, 1999, and 2000. Auditors also reviewed 18 additional files to determine whether the Board had actually exceeded its statutory 150-day complaint processing time, and whether there was good cause for doing so;
- To determine whether the Board provides consumers with accurate and complete complaint history and licensing in-

Introduction and Background

formation, two auditors posing as members of the public made calls to the Board requesting information.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Board of Dispensing Opticians' members and executive director for their cooperation and assistance throughout the audit.

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 Factors in determining whether the Arizona Board of Dispensing Opticians should be continued or terminated.

1. The objective and purpose in establishing the Board.

Arizona began licensing opticians in 1956.

Laws 1956, Chapter 32, §1 established the Board, which is responsible for licensing optical establishments and for helping to ensure the competency of dispensing opticians who fit and dispense optical devices such as contact lenses, eyeglasses, and artificial eyes. The Board is also charged with preventing conduct by dispensing opticians that may harm the public's visual health. Under the Board's statutes, dispensing opticians are allowed to fill prescriptions written by physicians and optometrists, and may also reproduce, or copy, a consumer's existing prescription eyeglasses. However, they are not allowed to examine or treat eyes, and cannot prescribe corrective lenses.

To carry out its responsibilities, the Board is statutorily authorized to:

- Adopt rules specifying dispensing opticians' lawful scope of practice and necessary evidence to support a charge of substandard care by a dispensing optician or optical establishment;
- Determine the eligibility of individual dispensing opticians and optical establishments for licensure; and
- Investigate and adjudicate complaints against licensed dispensing opticians and optical establishments.

2. The effectiveness with which the Board has met its objective and purpose and the efficiency with which it has operated.

The Board's licensing and complaint processes appear to be generally efficient and effective; however, some improvements are needed to better serve licensees and consumers.

- **Licenses are issued in a timely manner**—The Board appears generally timely in issuing both initial and renewal licenses for dispensing opticians and optical establishments. Seven of ten applicants sampled received their licenses in fewer than 75 days. In the remaining three cases, processing took much longer because applicants failed the Board's practical examination or did not submit required fees.

Auditors also reviewed all 21 of the optical establishment licenses issued in 2000 and determined that the Board met its required 30-day time frame for issuing establishment licenses most of the time. However, the Board did take longer than 30 days to issue licenses to two establishments, with delays ranging from 5 to 11 days.

Renewal licenses are also processed in a timely manner. However, the Board has not traditionally approved the issuance of renewal licenses as required by statute. Instead, the Board's executive director renews licenses when completed applications and fees are received. In the future, the Board should formally approve all licenses issued under its name.

Initial and renewal licenses are generally issued in a timely manner.

- **Licensing examination administration needs improvement**—Passing the Board’s practical licensing examination is the final requirement for becoming licensed. Applicants who fail the practical examination are not prohibited from working; however, they must continue to practice under the supervision of a licensed dispensing optician, optometrist, or physician.

Based on auditors’ observations of the March 2001 examination, several changes are needed to improve its reliability and usefulness.

- **Examination administration**—The Board’s examination consists of five activities, set up as a “stations.” However, too few station seats were available to seat all applicants at one time, so some applicants were asked to wait at the back of the room until a seat opened up. Applicants then rotated through the stations as individuals finished with various activities until all had completed the examination. This limited proctors’ abilities to ensure that applicants finished at various stations within prescribed time limits and did not return to stations to revise their work.

To improve examination administration, the Board should only allow as many applicants in the examination room as can be accommodated by the various stations at any one time. Time should be kept for each station, and when the time is up, the seated applicants should turn in their response sheets for that station and be removed from the room. If necessary, a new group could then be seated.

- **Examination scoring**—The Board’s examination scoring is inconsistent and potentially inaccurate. Scoring criteria, or tolerances, are printed on each test so that applicants are made aware of how precise their answers must be to obtain credit. However, some of the printed tolerances were found to be inaccurate or inconsistent. For example, the examination listed two acceptable toler-

Better controls are needed when the examination is administered.

Grading criteria is unclear.

ances for measuring the diameter of a contact lens. The Board indicates it is currently reviewing and revising its examination. As part of that review, it should update the examination scoring criteria and ensure that it matches industry standards.

Examination grading is inconsistent.

In addition, the Board's scoring procedures are prone to error. Currently, the Board's professional members participate in grading examinations but each member does not apply scoring criteria consistently to ensure accurate examination results. Of 24 examinations, Board members agreed with the initial examination grade in only 7 instances. In the remaining 17 cases, grades were changed one or more times. In one of the more extreme cases:

Example 1

An examination was originally scored at 79.5 percent, which was above the required passing score of 75 percent. However, when other Board members verified the score, the grade was changed to 77 percent, and then again to 73.5 percent, which was determined to be the final grade. The applicant was informed of the failing grade and requested that the Board rescore the examination. However, when the Board rescored the examination, it determined that the correct grade was actually 69.5 percent.

To minimize error, the Board should train two members or outside individuals to grade examinations, provide the graders with clearly articulated scoring criteria, and establish a procedure for verifying the accuracy of the grades issued.

Finally, the Board does not remove applicants' names from examination answer sheets prior to grading the examination. Because this could lead

to bias, the Board needs to establish a procedure for removing all identifying information before examinations are submitted to graders.

Failing applicants need to know which skills need improvement.

➤ **Examination usefulness**—Currently, the Board informs applicants whether they passed or failed the examination, but does not provide additional detail unless specifically requested to do so. Because many of these applicants are currently dispensing eyewear to the public, the Board should provide information to failing applicants about which skills need improvement.

■ **Complaint handling is generally timely, but some process improvements are needed**—The Board processes most complaints within its required 150-day statutory time frame; however, it needs to ensure that it adequately separates its investigation and adjudication functions.

➤ **Timeliness**—The Board’s complaint process is generally timely, with complaints being resolved within 113 days, on average.¹ A few complaints, however, do take longer to resolve than the 150-day statutory time frame. Of the 75 complaints received between 1998 and 2000, 7 took longer than 150 days to resolve. Resolution times for these complaints ranged from 154 days to 330 days, with the extended processing time attributable to such things as attorney requests for postponements and more complex investigations.

➤ **Investigation and adjudication**—The Board should adequately separate its investigation and adjudication processes. Board members typically investigate complaints. However, in a few instances, investigating Board members have also become involved in attempting to informally settle complaints. For example:

On average, complaints are resolved within 113 days.

¹ Based on an analysis of a random sample of 26 complaints filed in 1998, 1999, and 2000.

Example 2

A Board member investigated two complaints alleging that an establishment dispensed unsatisfactory eyeglasses. The investigating Board member found that the eyeglasses had been made incorrectly and noted potential rule violations. However, rather than presenting these findings to the Board and allowing it to act, the investigating Board member presented the findings to the optical establishment and recommended that a refund be issued. The establishment did issue a refund, and based on this, the investigating Board member recommended that the Board dismiss the complaints. The Board dismissed the complaint since the two parties had been satisfied.

The Board should act when violations occur.

This type of informal mediation can impact the Board's ability to act. For example, in the above case, if the Board member had not already worked out an agreement with the parties, the Board would still have likely ordered the licensee to pay restitution to the consumer. However, this would have been a formal Board disciplinary action that would have become part of the licensee's public record that is available to all consumers. This formal disciplinary record could also be considered when future complaints against this licensee are resolved.

3. The extent to which the Board has operated within the public interest.

The Board has generally operated in the public's interest. For example, through its licensing process, the Board ensures that licensed opticians who dispense eyewear and who supervise nonlicensed individuals have obtained a minimum level of training and have been examined to help ensure competency. In addition, the Board's complaint resolution process is timely and focused on resolving consumer concerns. The Board also provides consumers with information about licensees, including com-

Complaint resolutions are consumer-focused.

plaint histories and any required remediation actions, such as refunding monies to consumers.

4. The extent to which rules adopted by the Board are consistent with the legislative mandate.

According to the Governor's Regulatory Review Council (GRRC), the Board has promulgated most of the rules required of it. The Board has been provided with the full text of GRRC's recommendations, which outline rules needed for such things as license reinstatements; fees charged for late renewals, name changes, and duplicate licenses; and disciplinary actions. The Board will begin its five-year rules review this coming fall and should consider GRRC's analysis as it develops any additional rules.

5. The extent to which the Board has encouraged input from the public before adopting its rules, and the extent to which it has informed the public as to its actions and their expected impact on the public.

The Board indicates that it has sought public input when promulgating its rules. In addition, the Board makes an effort to keep the public informed of its other activities by posting public notices and agendas 24 hours in advance, and by keeping appropriate meeting minutes. Further, the Board sends periodic newsletters to licensees that include information about the Board's meeting schedule. Finally, the Board supplies information about its meetings to the Arizona Association of Dispensing Opticians for publication.

6. The extent to which the Board has been able to investigate and resolve complaints that are within its jurisdiction.

The Board has sufficient statutory authority and disciplinary options to investigate and adjudicate the few complaints it receives each year, and its investigation and adjudication processes are timely.

7. **The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.**

Pursuant to A.R.S §41-192, the attorney general has the authority to prosecute actions and represent the Board in civil actions. The Board currently has a number of disciplinary actions that it may take against licensees who violate the Board's statutes or rules. It can also seek court injunctions against a person who violates the Board's statutes or rules, and may impose a civil penalty of up to \$1,000 against unlicensed optical dispensers and establishments. These civil remedies are in addition to criminal prosecution allowed under A.R.S. §§32-1696 and 32-1697, which establish that violations of the Board's statutes, including unlicensed practice, are misdemeanor offenses. Further, A.R.S. §32-1698 provides for city and county prosecutors to pursue cases involving unlicensed activity; however, the Board indicates that prosecutors' offices often view misdemeanor cases as a low priority and members are unaware of any criminal prosecution resulting from unlicensed activity.

8. **The extent to which the Board has addressed deficiencies in its enabling statutes which prevent it from fulfilling its statutory mandate.**

In 2000, the Board received statutory authority to impose civil penalties of up to \$1,000 against unlicensed individuals and establishments that violate the Board's statutes. The change allows the Board to take action in cases involving unlicensed practice rather than relying solely on county and city prosecutors' offices to pursue criminal charges.

9. The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in the Sunset review statute.

The Legislature should consider modifying the following statutes to better enable the Board to fulfill its responsibilities:

- A.R.S. §32-1691.01(B) should be modified to no longer require that complaints be verified. To comply with the current law, the Board requires complaints to be notarized, which can be an added barrier for consumers.
- A.R.S. §32-1682(D) should be modified to allow the Board to keep its examination confidential. Currently, the Board lacks any provision for maintaining the confidentiality of examination materials, including answer keys and completed applicant examinations.
- A.R.S. §32-1691(2) should be clarified to specify that only *unlicensed* individuals working under the supervision of a physician, optometrist, or licensed dispensing optician are exempt from meeting licensure requirements and standards (*unlicensed* added). The Board's assistant attorney general representative has advised the Board that this statute, as currently written, prevents the Board from taking action against any individual, licensed or unlicensed, who works under the supervision of another licensed professional.

10. The extent to which the termination of the Board would significantly harm the public health, safety, or welfare.

Although terminating the Board would not significantly harm the public's health or safety, the Board does play a role in helping the public to resolve consumer complaints. The Board currently licenses approximately 629 dispensing opticians and approximately 246 optical establishments. In addition, there are numerous other unlicensed individuals involved in dispensing eyewear who work

The Board helps to resolve consumer complaints.

under physicians, optometrists, and licensed dispensing opticians. Despite the large number of practitioners and establishments involved, few complaints are filed. Auditors reviewed the 39 consumer complaints filed between 1999 and 2000 and did not identify any instances resulting in significant harm to consumer health or safety. However, the public's welfare can be at risk if consumers are unable to obtain refunds or replacements for unsatisfactory eyewear, which may cost anywhere from \$30 to \$450 based on the cases reviewed. The Board provides consumers with another avenue for resolving these types of complaints, and the Board's efforts often result in compensation for complainants.

11. The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate.

The level of regulation exercised by the Board appears to be generally appropriate. Currently, unlicensed individuals are allowed to dispense optical devices as long as they work under a physician, optometrist, or licensed dispensing optician. This level of regulation allows for increased access to the profession while, at the same time, helping to ensure a minimum level of supervision by qualified practitioners.

12. The extent to which the Board has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

According to the Board, it has historically used private contractors for such things as court reporting and computer programming. In addition, the Board currently has intergovernmental agreements with the Arizona Department of Administration for office space and administrative support and for equipment maintenance and repair.

Agency Response

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August 2, 2001

Debra K. Davenport, CPA
Auditor General
State of Arizona
2910 N. 44th Street, Suite 401
Phoenix, Arizona 85018

Re: Performance Audit and Sunset Review

Dear Ms. Davenport:

Enclosed is the Arizona State Board of Dispensing Opticians' response to the performance audit conducted by your office, pursuant to a June 16, 1999, resolution of the Joint Legislative Audit Committee.

The Board appreciates the time and effort expended by your office on the production of this report. The report is viewed as a valuable tool to direct the improvement of board operations.

The Board will be assessing its procedures and implementing most recommendations contained in the audit report.

Sincerely,

Careen J. Heinze
Executive Director

AUDIT RESPONSE

Performed in response to a June 16, 1999, resolution of the Joint Legislative Audit Committee

The Board generally agrees with most of the recommendations set forth in the Audit Report and will work to improve performance by implementing the recommendations in areas of concern.

In response to the statement "This review concludes that, although no significant harm to the public's health or safety would likely result if the Board were terminated . . ." the Arizona State Board of Dispensing Opticians maintains that there is a strong potential for significant harm to the public's visual health without a licensing agency to evaluate and regulate opticians and optical establishments charged with the duty of providing eyecare to the public. The very fact that there have been no documented instances of significant harm to the public's visual health clearly affirms that the Board is providing a valuable service to the citizens of Arizona. It is testimony to the Board that there has been no recorded loss of vision caused by an optician in Arizona. However, this record is being challenged with the ever-increasing casual use of corneal contact lenses. In many cases, these contacts are being sold by unregulated sources and there is a distinct failure to educate the contact lens user as to the hazards of improper fit and care of contact lenses. Mal-fitting contact lenses could result in corneal ulcers that can cause serious damage to the eye. Corneal contacts are being viewed by consumers as "cosmetic appliances" when they are, in fact, medical devices as defined and controlled by the Food and Drug Administration. The sale of these medical devices by unlicensed individuals to consumers who are uneducated in the use of contact lenses greatly increases the potential for eye damage.

PRACTICAL EXAMINATION

The Board agrees with the finding of the Auditor General that the administration of the Practical Examination needs improvement and an Examination Review Committee consisting of three Board members will be reviewing procedures and implementing improved procedures that will conform, in part, to audit recommendations.

The following is a means to explain the current practical examination procedures:

The audit report states that there are too few "stations" for applicants. A "station" consists of a calibrated ophthalmic instrument and the materials to be measured/evaluated. Due to budget limitations the Board is unable to provide "stations" for all applicants sitting for the Practical Examination as the ophthalmic instruments involved are costly.

The entire Board is present and participating at every examination. Members act as proctors assigned to different stations. These proctors time the applicants at each station and assist in the movement of applicants between stations.

Interrupting the continuity of the examination by having applicants moving in and out of the examination site could compromise the integrity of the examination. The committee will consider setting the practical examination dates on days other than meeting days and having two separate groups sit for the examination: one in the a.m. and one in the p.m. This would eliminate the "congestion" with so many people functioning in one conference room.

The scoring of the practical examination will be assigned by the Chairman to two of the Board members who have been trained in scoring the practical examination. One member will score the examination, using clearly defined scoring criteria and a second member will verify the accuracy of the grade issued by the first member. These Board members will remove themselves from the presence of the remaining Board members.

The Board agrees that the applicants' names should not appear on the examination answer sheets and will implement a new procedure in that regard at its September practical examination.

The Board, upon written request by the applicant, will provide detailed information as to which areas need improvement in order to perform the duties of an optician effectively.

INVESTIGATION AND ADJUDICATION

Because of the specialized, technical nature of complaints concerning the manufacture of contact lenses and eyeglasses, it is imperative that trained opticians investigate the possibility of improperly manufactured eyewear. The Board has performed its own investigations from the date of the Board's inception. Due to budget limitations, it is not economically feasible to consider hiring an outside investigator. There are some well-qualified, retired, licensed opticians in Arizona who have indicated a willingness to investigate complaints for the mandated daily reimbursement of the Board members. This could be an avenue the Board will pursue in future investigations.

In an effort to resolve complaints and satisfy the consumer, in some cases, the investigating Board member has attempted to effect a resolution. This practice will be discontinued and investigative reports will contain only facts and findings, with a suggested recommendation for Board action.

STATUTORY REVISIONS

The Board agrees with all recommended revisions to its statutes.

Other Performance Audit Reports Issued Within the Last 12 Months

00-18	Arizona State Boxing Commission	01-6	Board of Osteopathic Examiners in Medicine and Surgery
00-19	Department of Economic Security— Division of Developmental Disabilities	01-7	Arizona Department of Corrections—Support Services
00-20	Arizona Department of Corrections—Security Operations	01-8	Arizona Game and Fish Commission and Department—Wildlife Management Program
00-21	Universities—Funding Study	01-9	Arizona Game and Fish Commission—Heritage Fund
00-22	Annual Evaluation—Arizona’s Family Literacy Program	01-10	Department of Public Safety— Licensing Bureau
01-1	Department of Economic Security— Child Support Enforcement	01-11	Arizona Commission on the Arts
01-2	Department of Economic Security— Healthy Families Program	01-12	Board of Chiropractic Examiners
01-3	Arizona Department of Public Safety—Drug Abuse Resistance Education (D.A.R.E.) Program	01-13	Arizona Department of Corrections—Private Prisons
01-4	Arizona Department of Corrections—Human Resources Management	01-14	Arizona Automobile Theft Authority
01-5	Arizona Department of Public Safety—Telecommunications Bureau	01-15	Department of Real Estate
		01-16	Department of Veterans’ Services Arizona State Veteran Home, Veterans’ Conservatorship/ Guardianship Program, and Veterans’ Services Program

Future Performance Audit Reports

Arizona Department of Corrections—Administrative Services and
Information Technology

Arizona Department of Corrections—Arizona Correctional Industries