



A REPORT
TO THE
ARIZONA LEGISLATURE

Performance Audit Division

Performance Audit and Sunset Review

Arizona Board of Osteopathic Examiners in Medicine and Surgery

Board Appropriately Issued Licenses and Permits,
Resolved Complaints, and Provided Public Information,
but Should Continue to Improve Complaint Resolution
Timeliness

June • 2016
REPORT NO. 16-104



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Auditor General

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June 16, 2016

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Jenna Jones, Executive Director

Arizona Board of Osteopathic Examiners in Medicine and Surgery

Transmitted herewith is a report of the Auditor General, *A Performance Audit and Sunset Review of the Arizona Board of Osteopathic Examiners in Medicine and Surgery*. This report is in response to an October 22, 2014, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within 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 Osteopathic Examiners in Medicine and Surgery agrees with all of the findings and plans to implement all of the recommendations.

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

Sincerely,

Debbie Davenport
Auditor General

Attachment

cc: Arizona Board of Osteopathic Examiners in Medicine and Surgery Members

Arizona Board of Osteopathic Examiners in Medicine and Surgery

REPORT HIGHLIGHTS PERFORMANCE AUDIT

Board issued licenses and permits to qualified applicants within required time frames

Our Conclusion

The Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board) issues licenses, permits, and registrations to doctors of osteopathy (DO); investigates complaints against licensees; and provides information to the public, such as DOs' license status and disciplinary history. We found that the Board issued licenses and permits only to applicants who met statutory and rule requirements, and did so in a timely manner. Additionally, the Board appropriately investigated and adjudicated the complaints reviewed, but did not resolve some complaints in a timely manner. The Board should continue to take steps to improve its complaint resolution timeliness, such as assessing its investigative staffing needs and taking appropriate action based on the results of the analysis. Finally, the Board provided appropriate, accurate, and timely information to the public.

Board issued licenses and permits to qualified applicants—We reviewed random samples of ten board-approved applications for DO licenses and five board-approved applications for post-graduate training permits approved in fiscal years 2014 and 2015 and found that the Board issued licenses or permits only to qualified applicants. To help ensure the Board issues licenses, permits, and registrations only to qualified applicants, board staff use checklists to document that applicants submit all necessary paperwork, including the application, fee, citizenship form, and education and training documentation.

Board ensured licensee compliance with continuing medical education requirements—DOs must meet various requirements every 2 years in order to renew their licenses, including attesting that they have met continuing medical education (CME) requirements, providing a statement regarding history of professional conduct, and submitting the required fee. To help ensure DOs complete the required 40 hours of CME every 2 years prior to renewal, the Board randomly selects and then audits 5 percent of its licensees for compliance with CME requirements. DOs selected for audit must submit documentation to demonstrate compliance with the CME requirements to renew their licenses. If board staff identify noncompliance, the Board allows licensees to apply for an extension of their current license in order to address the noncompliance before renewing their license.

Board issued licenses and permits in a timely manner—The Board issued licenses and permits within the time frames specified in rule. We reviewed a random sample of 20 DO license applications and 20 post-graduate training permit applications approved in fiscal years 2014 and 2015 and found that these licenses and permits were processed within the time frames allowed by board rules.

Board appropriately resolved complaints, but should continue its efforts to improve timeliness

Board has adequate controls to guide complaint resolution process—The Board has implemented adequate controls to guide its complaint investigation and adjudication processes, including policies and procedures, board member review of investigated complaints, and the use of a database to organize all complaint documents and information and monitor complaint investigation and resolution progress. We reviewed complaint data, including a random sample of 20 complaints opened and resolved from July 1, 2014 to December 31, 2015, and determined that the Board appropriately investigated and adjudicated these complaints.

Some complaints not resolved in a timely manner—The Office of the Auditor General has determined that Arizona health regulatory boards should resolve complaints within 180 days of receiving them, which includes the time to both investigate and adjudicate the complaints. The Board resolved 12 of the 20 complaints we reviewed within 180 days, but took longer than 180 days to resolve 8 complaints. Multiple factors contributed to the Board's untimely resolution of these 8 complaints, including the lack of



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space on board meeting agendas, delays caused by licensees, and board staff delaying the investigation of some complaints to address higher-priority complaints. Although none of the 8 untimely complaints represented a threat to public health and safety, lengthy investigations and/or adjudications may delay board actions that protect the public.

Board should continue to take steps to improve complaint resolution timeliness—The Board began gradual implementation of three measures starting in 2012—additional board meetings, tracking complaints, and complaint review process by committee—with the goal of improving complaint-handling timeliness. The Board should continue to implement these measures, monitor their effect on complaint resolution timeliness, and make changes as needed to its complaint-handling process. However, because the resolution of some complaints continues to be untimely and the number of complaints the Board has been receiving is increasing, the Board should also assess its investigative staffing needs and take appropriate action based on its assessment. This action could involve maximizing its allocated resources and/or working with the Legislature to request additional resources to hire more staff or contract for additional resources as needed.

Recommendations

The Board should:

- Continue to implement the measures it adopted to improve complaint resolution timeliness, monitor their effect on resolving complaints in a timely manner, and make changes as needed to its complaint resolution process; and
- Assess its investigative staffing needs and take appropriate action based on its assessment, such as maximizing its allocated resources and/or working with the Legislature to request additional resources to hire more staff or contract for additional resources, as needed.

Board provided accurate, appropriate, and timely information to the public

The Board provided information to the public on its Web site and over the phone. We reviewed 30 randomly selected profiles of DOs on the Board's Web site and placed four phone calls to request information about licensees. The Board provided accurate and appropriate information on its Web site and accurate, appropriate, and timely information over the phone. Specifically, the Board provided all information about DOs' complaint histories in compliance with statute. For example, although statute prohibits the Board from divulging information about dismissed complaints and nondisciplinary actions on its Web site, the Board provided this information to members of the public who contacted the Board directly.

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Introduction

Audit scope and objectives

The Office of the Auditor General has conducted a performance audit and sunset review of the Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board) pursuant to an October 22, 2014, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes (A.R.S.) §41-2951 et seq. This audit addresses the Board's licensing and complaint resolution processes and its provision of information to the public. It also includes responses to the statutory sunset factors.

Mission and responsibilities

The Board was established in 1949 and its mission is to protect the public by setting educational and training standards for licensure, and by adjudicating complaints made against doctors of osteopathy (DO) (see textbox), interns, and residents to ensure that their conduct meets the standards of the profession, as defined in law. The Board's responsibilities include:

- **Licensing, permitting, and registration**—The Board issues DO licenses that must be renewed every 2 years. The Board also issues 1-year post-graduate training permits for interns, residents, and fellows; retired licenses; pro bono registrations; a 2-year teaching license; a prescription drug dispensing registration; and locum tenens registrations.¹ For descriptions of these license, permit, and registration types, see Table 1 on page 2. According to board records, as of March 2016, there were 3,044 active DO licenses and 333 interns, residents, and fellows practicing under post-graduate training permits. The Board issued 248 initial DO licenses and 343 post-graduate training permits during calendar year 2015.²
- **Investigating and resolving complaints**—The Board investigates complaints against licensees, permittees, and registrants and can take statutorily authorized nondisciplinary or disciplinary action, as needed, such as issuing a letter of concern or placing a licensee on probation (see Complaint resolution, page 9, for examples of the Board's nondisciplinary and disciplinary

Doctors of osteopathy

DOs are one of two types of physicians who are qualified to practice medicine in all 50 states. Allopathic physicians (MDs) are the other. DOs receive similar education and training to MDs and also receive training in the musculoskeletal system and manipulation.

Source: Auditor General staff summary of board documents.

¹ A locum tenens registration allows a DO licensed in another state to practice as a substitute for or temporarily assist a board-licensed DO for 90 days.

² According to board management, there were 10 fewer active post-graduate trainees in March 2016 than the number of post-graduate training permits issued during calendar year 2015 because some permits are for programs for durations of less than 1 year and because some permits were canceled by the permittees.

**Table 1: License, permit, and registration descriptions and number active
As of March 2016
(Unaudited)**

Type	Description	Number
Doctor of osteopathy (DO) license	DOs are one of two types of physicians who are qualified to practice medicine in all 50 states. Allopathic physicians (MDs) are the other. DOs receive similar education and training to MDs and also receive training in the musculoskeletal system and manipulation.	3,044
Post-graduate training permit	A 1-year permit that allows a person to practice medicine in the supervised setting of an approved teaching hospital's internship, residency, or fellowship training program.	333
Dispensing registration	Allows a DO to dispense drugs and devices.	106
Retired license	Grants retired status to an actively licensed DO. DOs with retired status may not practice but may perform 10 hours of volunteer work each week or teach at a school of osteopathic medicine.	19
Pro bono registration	Allows a DO licensed in another state to practice in Arizona for a total of 60 days each calendar year.	4
Locum tenens registration	Allows a DO licensed in another state to practice as a substitute or temporarily assist a board-licensed DO for 90 days.	0
2-year teaching license	Allows a DO licensed in another state to teach as full-time faculty at an Arizona school of osteopathic medicine.	0

Source: Auditor General staff review of A.R.S. §32-1822 et seq. and board documents.

options). According to board records, the Board opened 307 complaints and resolved 351 complaints in calendar year 2015.¹

- **Providing information to the public**—The Board provides information about DOs with active, revoked, and retired licenses, including disciplinary history, on its Web site. In addition, the Board publishes public meeting agendas and minutes on its Web site. Board staff also respond to requests for public information, including requests made by phone, regarding the license status and disciplinary history of DOs.

Organization and Staffing

As required by A.R.S. §32-1801, the Board consists of 7 Governor-appointed members, including 5 DOs who have practiced in the State for at least 5 years and 2 public members. Board members are eligible to serve two consecutive 5-year terms. The Board is assisted by various staff, including an executive director. The Board was appropriated 6.7 full-time equivalent (FTE) staff positions for fiscal year 2016. As of March 2016, one FTE position was unfilled. In addition to the executive director,

¹ Complaints may not be resolved in the same calendar year they are received. In calendar year 2015, the Board resolved some complaints it received in prior years.

the Board employed a licensing administrator, investigations manager, part-time medical consultant, part-time investigator, part-time compliance monitor, and receptionist.

Budget

The Board does not receive any State General Fund appropriations. Rather, its revenues consist primarily of license and certification fees. A.R.S. §32-1805 requires the Board to remit to the State General Fund all monies collected from civil penalties and 10 percent of all other revenues, and to remit the remaining 90 percent of these revenues to the Board of Osteopathic Examiners Fund.¹ As shown in Table 2 (see page 4), the Board's fiscal year 2015 net revenues totaled \$994,050 and its fiscal year 2016 net revenues are estimated to total \$893,200. Personnel costs accounted for the majority of the Board's expenditures, which totaled \$505,278 in fiscal year 2015 and are estimated to total \$479,000 in fiscal year 2016. The Board's fiscal year 2016 ending fund balance is estimated to be nearly \$1.6 million.

¹ The Board did not collect any civil penalties in fiscal years 2014 or 2015.

**Table 2: Schedule of revenues, expenditures, and changes in fund balance
Fiscal years 2014 through 2016
(Unaudited)**

	2014 (Actual)	2015 (Actual)	2016 (Estimate)
Revenues			
Licenses and fees	\$ 1,001,091	\$ 1,081,224	\$ 1,009,000
Publication and reproduction fees	9,181	9,871	10,500
Fines, forfeitures, and penalties	4,025	7,100	4,400
Private grants	<u> </u>	<u>20,000</u>	<u> </u>
Gross revenues	1,014,297	1,118,195	1,023,900
Remittances to the State General Fund ¹	(99,552)	(108,227)	(110,900)
Credit card transaction fees	<u>(18,781)</u>	<u>(15,918)</u>	<u>(19,800)</u>
Net revenues	<u>895,964</u>	<u>994,050</u>	<u>893,200</u>
Expenditures and transfers			
Personal services and related benefits	479,799	505,278	479,000
Professional and outside services	101,075	147,257	170,000
Travel	3,949	8,137	9,000
Other operating	120,794	119,656	145,700
Furniture, equipment, and software	<u>18,618</u>	<u> </u>	<u> </u>
Total expenditures	724,235	780,328	803,700
Transfers to other agencies ²	<u>16,929</u>	<u>2,937</u>	<u> </u>
Total expenditures and transfers	<u>741,164</u>	<u>783,265</u>	<u>803,700</u>
Net change in fund balance	154,800	210,785	89,500
Fund balance, beginning of year	<u>1,142,731</u>	<u>1,297,531</u>	<u>1,508,316</u>
Fund balance, end of year	<u>\$ 1,297,531</u>	<u>\$ 1,508,316</u>	<u>\$ 1,597,816</u>

¹ As required by statute, the Board remitted to the State General Fund 10 percent of its revenues except for revenues from private grants.

² According to the Board, the fiscal year 2014 amount primarily comprised transfers to the Arizona Department of Administration for improvements made to its reception area to create a secure entry. In addition, transfers in fiscal years 2014 and 2015 included transfers to the Office of Administrative Hearings for hearing services it provided.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* and the AFIS Management Information System *Status of General Ledger-Trial Balance* screen for fiscal years 2014 and 2015; and board-prepared estimates for fiscal year 2016.

Licensing, permitting, and registration

The Board issued licenses and permits to qualified applicants within the overall time frames specified in board rules. As a result, auditors make no recommendations in this chapter.

Board issued licenses and permits to qualified applicants

The Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board) issued the licenses and permits that auditors reviewed to qualified applicants. Specifically, auditors reviewed random samples of ten board-approved applications for Doctor of Osteopathy (DO) licenses and five board-approved applications for post-graduate training permits approved in fiscal years 2014 and 2015, and found that the Board issued licenses or permits only to qualified applicants. In addition to the DO license and post-graduate training permit, the Board issues five other license, permit, and registration types to DOs. Board statutes and rules outline specific requirements for licensure, permitting, and registration, which vary according to type (see Table 3 on page 6). To help ensure the Board issues licenses, permits, and registrations only to qualified applicants, board staff use checklists to document that applicants submitted all necessary paperwork including the application, fee, citizenship form, and education and training documentation. Additionally, board staff maintain a database that manages scanned application documents and generates notices of deficiency and approval that are sent to applicants. Finally, board management determines that each applicant has provided evidence of meeting all statutory requirements prior to granting approval of license or permit by reviewing and comparing submitted license documents with the Licensing Administrator's checklist to ensure completeness.¹ As allowed by Arizona Revised Statutes (A.R.S.) §32-1804(B) (9), the Board's Executive Director is authorized to issue licenses to applicants who meet the requirements.

In addition, auditors reviewed the one DO application that the Board denied during fiscal years 2014 and 2015. The applicant's DO license was previously revoked in 2011 for unprofessional conduct. The Board determined the applicant had violated A.R.S. §32-1854 by prescribing and dispensing excessive amounts of controlled substances without conducting examinations and failing to maintain patient records. The Board denied the new license application on the basis of the previous revocation because it did not believe the applicant could safely practice medicine.

¹ For applications that include a statement that indicated the applicant had been the subject of complaints and/or been disciplined in other states where he/she is also licensed, was the subject of a malpractice suit, and/or has a history of mental or physical limitation that prevented the safe practice of medicine, a board member provides the final review and may refer the application to the entire Board for a licensing decision.

**Table 3: License, permit, and registration requirements
As of March 2016
(Unaudited)**

Type	Requirement
Doctor of osteopathy (DO) license	Graduation from an approved osteopathic school of medicine, successful completion of an internship or residency, and passing physician licensure exams or board-approved equivalency of practice experience.
Post-graduate training permit	Graduation from an approved osteopathic school of medicine and passing licensure exams appropriate to the applicant's level of education and training.
Dispensing registration	A list of all locations where the DO intends to dispense, and a copy of the physician's Drug Enforcement Agency card if he/she intends to dispense controlled substances.
Retired license	Submittal of an affidavit to the Board stating that the DO has permanently retired from practice.
Pro bono registration	Active and unrestricted licensure in another state and agreement to practice at no cost to patients.
Locum tenens registration	Must meet the same requirements for the DO license and submit a written request from the licensed DO for whom he/she is substituting or assisting.
2-year teaching license	Must meet the same requirements as for the DO license.

Sources: Auditor General staff review of Arizona Revised Statutes §32-1822 et seq. and Arizona Administrative Code (AAC) Title 4, Ch. 22.

Board ensured compliance with continuing medical education requirements for license renewal

DOs must meet various requirements every 2 years to renew their licenses, including attesting that they have met continuing medical education (CME) requirements, providing a statement regarding history of professional conduct, and submitting the required fee. To help ensure DOs complete the required 40 hours of CME every 2 years as required by rule prior to renewal, the Board randomly selects and then audits 5 percent of its licensees for compliance with CME requirements. DOs selected for audit must submit CME documentation to prove that they have completed at least 24 hours of in-person or interactive online courses sponsored by the American Osteopathic Association (AOA) and at least 16 hours of courses sponsored by the AOA, American Medical Association, or American Council for Continuing Medical Education since they last renewed or were issued their licenses. The Board provides guidance on these requirements on its Web site and in its renewal applications. The Board's CME audit procedures are similar to those used by other Arizona health regulatory boards, such as the Arizona Medical Board and the Arizona State Board of Physical Therapy.

The Board's audit process has helped ensure that DOs are in compliance with CME requirements prior to renewal. According to board documents, the Board randomly selected 78 DOs to audit for CME compliance for the 2015 renewal term. DOs selected for audit must submit documentation verifying compliance with the CME requirements before the Board will renew their licenses. If board staff identify noncompliance with CME requirements, the licensee

is notified that he/she must apply for an extension of his/her current license in order to provide time to address the noncompliance with the CME requirements. For the 2015 renewal term, 23 DOs, or about 29 percent of the 78 DOs randomly selected for audit, applied for an extension of their license because of a CME deficiency. According to board management, most of the DOs who applied for an extension had at least 40 hours of earned CME, but did not have at least 24 hours earned through AOA-sponsored courses. Board management also explained that if any of the DOs with deficient CME had not applied for an extension or did not remediate their CME deficiencies by the expiration of the extensions, they would be brought before the Board to decide if their licenses should be renewed. For the 2015 renewal term, all DOs with CME deficiencies filed for an extension, and all 23 completed the required courses prior to the extended license renewal deadline.

Board issued licenses and permits in a timely manner

The Board issued licenses and permits within the time frames specified in rule. Statute requires the Board to establish time frames in administrative rule for issuing licenses, permits, and registrations. These time frames are important because they provide information and assurance to the public about what to expect in regard to having a license, permit, or registration approved or denied, and increase the Board's accountability when time frames are not met. If the Board does not meet its time frames, statute requires it to refund licensing fees to applicants and pay a penalty of 2.5 percent of the application fee to the State General Fund for each month that licenses, permits, or registrations are not issued or denied within the established time frames.

Auditors' review of a random sample of 20 DO license applications and 20 post-graduate training permit applications approved in fiscal years 2014 and 2015 indicated that these licenses and permits were processed within the time frames allowed by board rules for administrative completeness and substantive review.¹ Specifically:

- **DO applications**—AAC R4-22-104 requires the Board to approve or deny DO applications within a 120-day time frame. The Board is required to complete its administrative review of these applications in 30 days and conduct its substantive review of these applications in 90 days. For the 20 DO license applications reviewed, the Board took between 10 and 33 days to determine administrative completeness.² For 19 of the 20 applications reviewed, the Board took between 0 and 28 days to substantively review the applications and between 13 and 47 days overall to approve or deny the applications. For the one remaining application, the Board took 24 days to determine administrative completeness and 119 days to conduct its substantive review for an overall time of 143 days to grant the license. Although the Board exceeded the 90-day substantive review time frame and the 120-day overall time frame for this application, the Board can extend overall application time frames by 25 percent (i.e., to 150 days for DO license applications) if the applicant agrees, according to rule. According to board management, the Board interviewed the applicant about his post-graduate training before making a decision. Board management scheduled the interview for a board meeting that would have ensured the

¹ These time frames are measured in calendar days. The administrative time frame is the time used to ensure that an application is complete. The substantive time frame is the time the Board has to review the applicant's qualifications for licensure, permitting, or registration.

² Although the Board exceeded the administrative completeness review time frame for one application, the overall processing time was 33 days, which is within the 120 days allowed by rule.

substantive review time frame was met, but the applicant requested to be interviewed at a later board meeting. Therefore, the Board met the overall application time frame of 150 days allowed by rule for this application.

- **Post-graduate training permits**—AAC R4-22-104 requires the Board to complete its administrative review of these applications in 30 days and conduct its substantive review in 30 days for an overall time frame of 60 days. For the 20 applications reviewed, the Board took between 3 and 16 days to determine administrative completeness and between 0 and 32 days to substantively review the applications.¹ The total time to issue the post-graduate training permits was between 5 and 45 days.

To help ensure that the Board issues licenses, permits, and registrations within required time frames, board staff use worksheets for each application to log and monitor the time spent processing each application. In addition, auditors' review of licensing files indicated that board management expedites board member review of applications when necessary to help ensure that the Board meets required substantive review time frames.

¹ Although the Board exceeded the substantive review time frame for one application, the overall processing time was 45 days, which is within the required overall time frame of 60 days.

Complaint resolution

The Board appropriately resolved complaints, but should continue its efforts to improve complaint resolution timeliness.

Board's complaint resolution process is generally sound, but some complaints were not resolved in a timely manner

As discussed in the Introduction (see pages 1 through 4), the Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board) is responsible for investigating complaints against licensees, permittees, and registrants and may take nondisciplinary and disciplinary action as necessary (see textbox). According to board records, the Board opened 307 complaints and resolved 351 complaints in calendar year 2015.¹ Auditors' review of complaints found that the Board appropriately opened, investigated, and adjudicated complaints, but also found that some complaints were not resolved in a timely manner. Although the Board has limited control over some causes of complaint resolution untimeliness, such as complaint subjects who engage in lengthy legal negotiations over terms of disciplinary orders, the Board should continue with the measures it initiated in 2012 to improve the timeliness of its complaint resolution.

Examples of Board's nondisciplinary and disciplinary options:

Nondisciplinary options

- Letter of concern
- Order for continuing medical education

Disciplinary options

- Civil penalty
- Decree of censure
- Scope of practice restriction
- Probation
- License suspension or revocation

Source: Auditor General staff analysis of Arizona Revised Statutes (A.R.S.) §32-1855.

The Board has adequate controls to guide complaint resolution process—Auditors determined that the Board has implemented adequate controls to guide its complaint investigation and adjudication processes, including policies and procedures, board member review of investigated complaints, and the use of a database to organize all complaint documents and information and monitor complaint investigation and resolution progress. Based on auditors' review of complaint data, including a random sample of 20 complaints opened and resolved from July 1, 2014 to December 31, 2015, auditors determined that the Board appropriately investigated and resolved these complaints. Specifically, the Board:

- Opened only complaints for which it had jurisdiction;
- Notified licensees and complainants when a complaint was opened;

¹ Complaints may not be resolved in the same calendar year they are received. In calendar year 2015, the Board resolved some complaints it received in prior years.

- Followed board procedure for prioritizing complaints according to the complaint's potential risk to public health and safety. For example, complaints involving poor recordkeeping were categorized as low priority, while complaints involving drug- or alcohol-impaired DOs were categorized as high priority;
- Adequately investigated these complaints by collecting sufficient information to determine if a licensee violated board statutes and preparing detailed reports for board review;
- Followed an adjudication process that is consistent with statute and is sufficiently separated from the investigative process. Further, the Board imposed only discipline that is permitted by statute (see textbox on page 9);
- Dismissed complaints, as allowed by statute. Specifically, A.R.S. §32-1855 permits the Board to dismiss complaints if it finds no violation of statute. For each dismissed complaint auditors reviewed, the Board determined there was no violation of statute before dismissing the complaints;
- Took disciplinary and nondisciplinary action. After board review and discussion of investigated complaints, if the Board determined there was not enough evidence to support a violation of statute, it issued a nondisciplinary letter of concern or order for continuing medical education. However, if the Board found that there was enough evidence to support a violation of statute, it took disciplinary action, such as suspending a license and imposing a civil penalty;
- Took progressive disciplinary action against a licensee who committed repeat offenses. One of the 20 randomly selected complaints that auditors reviewed was opened by the Board against a Doctor of Osteopathy (DO) for violating board orders and agreements, which is an act of unprofessional conduct according to A.R.S. §32-1854. Auditors reviewed the DO's disciplinary history and determined that the DO entered into an agreement with the Board in 2013 to practice without restriction while undergoing treatment and monitoring for substance abuse. In 2014, the DO violated the terms of the 2013 agreement. In response, the Board ordered that she be placed on probation for 5 years, work under a practice restriction, and meet additional requirements beyond those in the original agreement. In 2015, the DO violated the Board's 2014 order. In response, the Board suspended her license and ordered that she undergo evaluations of her ability to practice medicine before applying to the Board for permission to return to practice; and
- Monitored compliance with disciplinary actions and other agreements between licensees and the Board.

Some complaints not resolved in a timely manner—Auditors' review of the 20 complaints found that the Board did not resolve all of these complaints in a timely manner. The Office of the Auditor General has determined that Arizona health regulatory boards should resolve complaints within 180 days of receiving them, which includes the time to both investigate and adjudicate the complaints. Although the Board resolved 12 of the 20 complaints within 180 days, it took longer than 180 days to resolve 8 complaints. Specifically, the Board took between 203 and 430 days to resolve these complaints from date of receipt.

In addition, auditors analyzed complaints that the Board opened but had not yet adjudicated to assess the Board's timeliness in resolving these complaints. As of December 31, 2015, the Board had 191 open complaints. Of the 191 complaints, 56 had been open longer than 180 days. Auditors' review of the 56 complaint files indicated that all complaints were progressing through the investigation or adjudication process and that board management and staff were monitoring these complaints and following up on sources of delay, as appropriate. Specifically, board management and staff regularly review open complaint reports and follow up with licensees, records custodians, and outside medical consultants, as appropriate, to ensure they provide the information needed to adjudicate the complaints.

However, various factors are contributing to the Board's lack of timely complaint resolution, including:

- **Lack of available space on board meeting agendas**—For 5 of the 8 untimely complaints auditors reviewed, board review of the complaint was delayed by at least a month because space was not available on the next available board meeting agenda. In 2015, the Board held 13 meetings and auditors observed two 11-hour board meetings that had about 25 complaints scheduled for some type of board review. However, because the Board's meeting agendas were often full, board review of complaints was sometimes delayed.
- **Licensee-caused delays**—For 4 of the 8 untimely complaints reviewed, licensees contributed to delays in processing the complaint. For these complaints, two licensees were slow to respond to requests for information that delayed investigating the complaints by over 100 days, one licensee requested continuances for the Board's review of the complaint that delayed that case by 290 days, and one licensee engaged in protracted negotiations with board management over terms of a board order that delayed resolution of the complaint by 163 days. Complaint files included evidence that board management and staff appropriately followed up with licensees, including using subpoenas if they did not provide the requested information.¹
- **Prioritizing staff workload**—For 2 of the 8 untimely complaints reviewed, board staff delayed investigation of these complaints to address higher-priority complaints. According to board management, if investigative caseloads exceed staff resources, staff will postpone investigation of lower-priority complaints. The 2 complaints involved customer service-related issues that did not represent a risk to public health and were therefore a lower priority for investigation and potential board action.

Delays in resolving complaints can affect public safety and licensees. Licensees alleged to have violated board statutes and rules may continue to practice while under investigation, even though they may be unfit to do so and may need supervision. Although none of the 8 untimely complaints auditors reviewed represented a threat to public health or safety, lengthy investigations and/or adjudications may delay board actions that protect the public.² Conversely, if complaint allegations cannot be substantiated, licensees could be affected by a lengthy complaint resolution process.

¹ For one complaint reviewed, the Board subpoenaed a licensee to obtain necessary documents and start the investigation.

² Although licensees may continue to practice while under investigation, if the Board finds "that the public health, safety, or welfare imperatively requires emergency action...the Board may order a summary suspension of a license pending proceedings for revocation or other action" in accordance with A.R.S. §32-1855. In addition, A.R.S. §32-1804 permits the Board to authorize its executive director to enter into agreements with licensees on its behalf to restrict practice while they seek evaluation and treatment for alcohol and substance abuse.

Additionally, the Board is required to divulge the existence of open complaints to members of the public if requested, which could negatively impact a licensee's practice.

Board should continue to take steps to improve complaint resolution timeliness—According to board management, the Board began gradual implementation of three measures starting in 2012—additional board meetings, tracking complaints, and complaint review process by committee—with the goal of improving complaint-handling timeliness. Specifically, the Board:

- **Increased the number of board meetings**—The Board held 8 board meetings in calendar year 2012 but increased the number of board meetings to 13 in calendar year 2015. This action provided the Board with increased capacity to review and resolve complaints.
- **Tracked and monitored open complaints**—According to board management, prior to 2012, open complaints and complaints submitted for outside medical consultant review were not monitored. As a result, some complaints became untimely because board staff did not have a tool or procedure for identifying open complaints and ensuring they were adequately progressing through the complaint-handling process in a timely manner. In 2012, board management implemented a procedure to monitor open complaints by developing queries of the Board's licensing and complaints database that identify each open complaint and the dates for completing various complaint-processing steps. Board management and staff generate open complaint reports once each month and follow up with licensees, custodians of records, outside medical consultants, and other parties as appropriate to expedite complaint resolution.
- **Created a complaint review process by board committees**—According to board management, prior to 2012, investigated complaints were assigned to three randomly selected board members for initial review. However, the reviewers were not given deadlines for completing the reviews and board staff did not monitor and follow up on the complaints to ensure timely review. According to the Board's president, the Board began to revise its complaint review process in 2012 in order to make the complaint-handling process more efficient. Specifically, the Board created two committees composed of three board members each to review investigated complaints and established a schedule for board staff to make investigated complaint information available for committee review. In addition, it established deadlines for committee members to complete their reviews and created a system to monitor when investigated complaints are sent for committee review and to follow up with committee members if they do not meet a deadline.

The goal of these three complaint-processing changes was to have an initial review of the complaints completed in time to place them on the next available board meeting agenda for either dismissal or for consideration by the entire Board.¹ Based on the sample of complaints reviewed, auditors found that the Board had implemented these changes, and these changes

¹ Each committee member independently reviews the investigative report and supporting documentation and should independently conclude on whether the complaint should be dismissed or go before the Board in public session for review or investigative interview. If all three committee members agree a complaint should be dismissed, board staff place it on the next board meeting's agenda for the entire Board to vote on whether the complaint should be referred to the Executive Director for dismissal. If the decision is not unanimous for dismissal, the complaint will proceed to the entire Board.

have helped the Board to resolve some complaints in a more timely manner. According to the Board's complaint records, the Board resolved 110 more complaints in 2015 than it did in 2014. Increasing the rate of complaint resolution helps to ensure more complaints are resolved in a timely manner. Therefore, the Board should continue to implement these measures, monitor their effect on complaint resolution timeliness, and make changes as needed to its complaint resolution process to ensure that it is as efficient as possible.

However, these measures alone may not be sufficient to ensure timely complaint resolution. Although the Board is resolving complaints at an increased rate, auditors' review of complaints that were resolved in 2015 included some complaints that were resolved in an untimely manner, as indicated previously. In addition, the number of complaints the Board receives each year is increasing, which could further compromise the Board's ability to handle all complaints in a timely manner. For example, the Board reported that it received 200 complaints in calendar year 2012, compared to receiving 324 complaints in calendar year 2014 and 307 complaints in calendar year 2015. Additionally, during this period, the Board's staffing levels have remained unchanged.¹ Auditors also found that board management and staff have delayed investigation of some low-priority complaints because of insufficient staffing resources (see page 11). Therefore, an increasing number of complaints could affect the Board's ongoing ability to resolve complaints in a timely manner. Board management reported that in order to resolve an increasing number of complaints in a timely manner, the Board would need more staff to process complaints, which involves requesting, subpoenaing, and collecting documents needed for investigation. In addition, board management reported it would need more staff to prepare reports for complaints that allege substandard care, investigate nonmedical complaints, and oversee complaints sent to outside medical consultants for review.

Therefore, the Board should assess its investigative staffing needs. This assessment should include a documented workload analysis that compares the Board's workload, including an estimate of future workload, with its staff resources. The Board should then take appropriate action based on the results of this analysis. For example, the Board could use the workload analysis to determine how to maximize its allocated resources and/or work with the Legislature to request additional appropriations to hire more staff or contract for additional staff resources as needed to address temporary workload fluctuations, as appropriate.

Recommendations:

1. The Board should continue to implement the measures it adopted to improve complaint resolution timeliness, monitor their effect on resolving complaints in a timely manner, and make changes as needed to its complaint resolution process to ensure that it is as efficient as possible.
2. The Board should assess its investigative staffing needs. This assessment should include a documented workload analysis that compares the Board's workload, including an estimate of future workload, with its staff resources. The Board should then take appropriate action based

¹ According to board records, 3.7 full time equivalent (FTE) staff conduct complaint-related duties (executive director, investigations manager, medical coordinator, investigator, and compliance monitor) and 1 FTE position was unfilled as of March 2016.

on the results of this analysis. For example, the Board could use the workload analysis to determine how to maximize its allocated resources and/or work with the Legislature to request additional appropriations to hire more staff or contract for additional staff resources as needed to address temporary workload fluctuations, as appropriate.

Public information

The Board provided appropriate, accurate, and timely public information regarding disciplinary history on its Web site and over the phone. As a result, auditors make no recommendations in this chapter.

Board provided accurate and appropriate information on its Web site

The Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board) provided accurate and appropriate information on its Web site. Specifically, as of December 2015, the Board's Web site included a doctor search feature that allows the public to look up and review physician profiles for doctors of osteopathy (DO) with active, revoked, and retired licenses. The information on the profiles included physician name, date of initial licensure, date of last renewal, medical degree, post-graduate training, and disciplinary actions taken against a DO's license. In December 2015, auditors compared the profiles of a random sample of 30 DOs to board licensing and complaint files and found the profiles to be accurate. In addition, the disciplinary histories provided on the DOs' physician profiles complied with Arizona Revised Statutes (A.R.S.) §32-3214, which prohibits state agencies from providing information on their Web sites about dismissed complaints or complaints that resulted in nondisciplinary action. In accordance with this statute, each DO's profile on the Web site included a statement that members of the public may request information about dismissed complaints or complaints that resulted in nondisciplinary action by contacting the Board directly.

Board provided accurate, appropriate, and timely information over the phone

Auditors' calls to the Board's office to request information about licensees resulted in accurate, appropriate, and timely information. Although the Board is prohibited from divulging information about dismissed complaints and nondisciplinary actions on its Web site, A.R.S. §32-3214 provides that this information is available to the Board and the public. In January 2016, auditors placed four calls to the Board to request information about four licensees with varying disciplinary histories. Board staff provided accurate and statutorily permissible information at the time of each phone call. The information included:

- Details about closed complaints including any that resulted in disciplinary or nondisciplinary action against the licensee;
- Information about a closed complaint that resulted in dismissal; and
- The existence and number of a licensee's open complaints (i.e., not yet investigated or adjudicated), but not the nature of these complaints.

Sunset factor analysis

The analysis of the sunset factors includes two recommendations not discussed earlier in this report. First, the Board should revise its rules regarding continuing medical education requirements and second, it should promulgate a rule specifying the license processing time frames for retired license applications as required by statute (see Sunset Factor 4, page 18).

In accordance with Arizona Revised Statutes (A.R.S.) §41-2954, the Legislature should consider the following 12 factors in determining whether the Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board) should be continued or terminated.

1. The objective and purpose in establishing the Board and the extent to which the objective and purpose are met by private enterprises in other states.

The Board was established in 1949 and its mission is to protect the public by setting educational and training standards for licensure, and by adjudicating complaints made against doctors of osteopathy (DO), interns, and residents to ensure that their conduct meets the standards of the profession, as defined in law (A.R.S. §32-1854). It accomplishes this mission by issuing licenses, permits, and registrations; and by investigating and adjudicating complaints against licensees. The Board also provides information to the public on DOs' licensure status and disciplinary history.

Auditors did not identify any states that met the Board's objective and purpose through private enterprises.

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

The Board has generally met its statutory objective and purpose by licensing qualified applicants in a timely manner (see Licensing, permitting, and registration, pages 5 through 8); appropriately resolving complaints against licensees (see Complaint resolution, pages 9 through 14); and providing appropriate and timely information to the public (see Public information, page 15). However, the Board should continue to implement the measures it adopted to further improve its complaint resolution timeliness. These measures include increasing the number of board meetings it holds annually, tracking the status of open complaints, and using an enhanced board member complaint review process. The Board should continue to monitor the effect of these measures on complaint resolution timeliness and make changes as needed to its complaint resolution process to ensure that it is as efficient as possible. The Board should also assess its investigative staffing resources by conducting a documented workload analysis and taking appropriate action based on this analysis (see Complaint resolution, pages 9 through 14).

3. The extent to which the Board serves the entire State rather than specific interests.

The Board serves the entire State by licensing and resolving complaints against DOs who practice throughout the State.

In addition, in 2014 and 2015, the Board organized and held seminars in opioid prescribing practices around the State, including in Flagstaff, Kingman, Phoenix, Sierra Vista, Tucson, and Yuma. The seminars educated licensees on the risks of prescribing opioids, statistics on opioid abuse, chronic pain management, and mitigation strategies to reduce opioid use and find alternative pain management strategies.

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

General Counsel for the Auditor General has analyzed the Board's rulemaking statutes and determined that one rule is not consistent with statute. Specifically, Arizona Administrative Code (AAC) R4-22-207(A) requires 20 hours of continuing medical education (CME) in each of the 2 years preceding license renewal. However, A.R.S. §32-1825(B) allows for 40 hours of CME to be completed any time in the 2 preceding years. Therefore, the Board should revise its rule to ensure it is consistent with statutory CME requirements.

Additionally, the Board's rules do not establish the license processing time frames for retired license applications. According to A.R.S. §41-1073, an agency that issues licenses shall have in place rules establishing a time frame during which the agency will either grant or deny each type of license that it issues. Therefore, the Board should promulgate a rule that specifies the license processing time frame for retired license applications as required by statute (see Table 1 on page 2 for the retired license description).

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.

Auditors found that the Board provided opportunities for input from the public before adopting rules by publishing notices of proposed rulemaking in the Arizona Administrative Register. Specifically, prior to revising its rules in November 2014, the Board advertised the name of board staff who could be contacted about the proposed rulemaking and a meeting where the public could provide input. However, the Board did not receive any public input. These rule changes included provisions to allow the Board to require applicants for licensure to submit to an application interview at a board meeting, a physical or psychological examination, a practice assessment evaluation, and/or pass a competency examination if the Board needs additional information to determine if the applicant meets licensure requirements. The Board also adopted rules for issuing dispensing registrations.

In addition, auditors assessed the Board's compliance with various provisions of the State's open meeting law for its October and November 2015 board meetings and found the Board to be in compliance. For example, as required by open meeting law, the Board posted meeting notices and agendas on its Web site at least 24 hours in advance and posted the notices and agendas at the physical locations where the Board's Web site stated they would be posted. The Board also posted written meeting minutes on its Web site within 3 business days following the board meetings. These meeting notices and written minutes complied with statute by providing the date, time, and exact location of the meeting on both the meeting notices and written minutes. Further, the Board also made calls to the public

and professional stakeholders to address the Board during the board meetings regarding items of personal and professional concern.

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

The Board has statutory authority to investigate and resolve complaints within its jurisdiction and has various nondisciplinary and disciplinary options available to address statute and/or rule violations, such as issuing a letter of concern, ordering continuing medical education, imposing probation, and suspending or revoking a license. However, as discussed previously, auditors found that the Board should continue its efforts to improve complaint resolution timeliness (see Complaint resolution, pages 9 through 14, for additional information).

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.

The Attorney General serves as the Board's legal advisor and provides legal services as the Board requires, according to A.R.S. §41-192(A)(1). In addition, the Attorney General can file a petition to enjoin the unauthorized practice of osteopathic medicine according to A.R.S. §32-1857(C).

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

The Board reported that both it and a stakeholder group proposed statutory changes in 2015 to address deficiencies in its statutes. These statutory changes included:

- Laws 2015, Ch. 135, §§5 and 11, which amended A.R.S. §32-1823 and A.R.S. §32-1831, respectively, to require applicants for a locum tenens registration and teaching license, respectively, to submit to an interview with the Board to provide it with adequate information regarding the applicant's ability to practice. This statutory change also allows the Board to deny the application, or issue the license with practice restrictions for both the locum tenens registration and the teaching license. See Table 1 on page 2 for descriptions of these registration and license types.
- Laws 2015, Ch. 135, §13, which added A.R.S. §32-1833 to provide for a pro bono registration allowing a DO who is not an Arizona licensee to practice in Arizona for a total of 60 days if the doctor meets the Board's requirements for a DO license. See Table 1 on page 2 for a description of this license.

9. The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in the sunset law.

The audit did not identify any needed changes to board statutes.

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

Terminating the Board would affect the public's health, safety, and welfare if its regulatory responsibilities were not transferred to another entity. The Board's role is to protect the public by regulating the practice of osteopathy. It accomplishes this mission by licensing individuals who meet statutory requirements; receiving and investigating complaints against licensees alleging statute and/or rule violations, including unprofessional conduct; and taking action against licensees when necessary. The Board also provides information to the public about licensees, including disciplinary history. These functions help protect the public from harm. For example, auditors reviewed complaints alleging actions by DOs who posed a threat to the public, including DOs who allegedly provided treatment that was inconsistent with the standards of practice.

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

According to the Federation of State Medical Boards, all 50 states regulate DOs and 14 states including Arizona have separate boards for DOs and allopathic physicians (MDs).¹ The audit found that the level of regulation exercised by the Board appears appropriate and is generally similar to that in other states with separate osteopathic boards. Specifically:

- **Issuance of licenses, permits, and certificates**—Arizona issues license, permit, and registration types that are similar to those issued by 11 states; and
- **Actions or sanctions**—Arizona and all 13 other state osteopathic boards are permitted to revoke a license, issue a summary license suspension, place a licensee on probation, enter into a stipulation or consent agreement, and collect a fine.

The audit did not identify areas where more or less stringent levels of regulation would be appropriate.

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

The Board uses private contractors to perform mission-critical services, which include the use of outside medical consultants, specialist physicians who act as experts at hearings, and nonmedical investigators. Auditors compared the use of contractors for these types of services with that of five western states' osteopathic boards—California, Nevada, New Mexico, Utah, and Washington.² Generally, auditors found that the Board uses contractors

¹ The other 36 states have one board that regulates both DOs and MDs. Some of these boards also regulate other professions such as physician assistants, anesthesiologist assistants, respiratory therapists, podiatrists, acupuncturists, and surgical assistants.

² Although the Board and the five state boards of osteopathy selected for analysis have similar missions (regulation of osteopaths), they vary in organization and levels of autonomy. For example, Arizona's and Nevada's boards are stand-alone agencies, whereas the other four boards fall under an umbrella agency that regulates a variety of professions. In addition, four of the five boards are similar to Arizona in that they exercise all licensing and disciplinary powers. However, one state board, Utah, acts only in an advisory role to its umbrella agency.

for mission-critical services to the same extent as the five other states. However, auditors found that only one other state—Washington—contracts for nonmedical investigators, similar to Arizona.

Auditors did not identify any additional areas where the Board should consider using private contractors.

Recommendations:

1. The Board should revise AAC R4-22-207(A) to allow for the completion of 40 hours of continuing medical education any time during the 2 preceding years consistent with A.R.S. §32-1825(B).
2. The Board should promulgate a rule that specifies the license processing time frames for retired license applications as required by statute.

Appendix A

This appendix provides information on the methods auditors used to meet the audit objectives. The Auditor General and staff express appreciation to the Board, its Executive Director, and its staff for their cooperation and assistance throughout the audit.

Methodology

Auditors conducted this performance audit and sunset review of the Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board) in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Auditors used various methods to study the issues in the performance audit and sunset review. These methods included reviewing board statutes, rules, and policies and procedures; interviewing board members and staff; and reviewing information from the Board's Web site. Auditors also reviewed minutes from and attended two board meetings held in October and November 2015. In addition, auditors used the following specific methods to meet audit objectives:

- To determine whether the Board issued licenses and certificates to qualified applicants in a timely manner, auditors reviewed random samples of 10 doctor of osteopathy (DO) license applications and 5 post-graduate training permit applications approved in fiscal years 2014 and 2015. Auditors also reviewed the one application the Board denied in the same time period. Additionally, auditors reviewed the Board's application forms for initial licensure and post-graduate training permits, and compared them to statutes and rules. Finally, in order to determine whether the Board issued licenses and permits in a timely manner, auditors calculated the amount of time the Board took to process a random sample of 20 DO license and 20 post-graduate training permit applications approved in fiscal years 2014 and 2015 using items such as application dates and dates on documents in licensing files.
- To assess whether the Board appropriately investigated complaints and resolved them in a timely manner, auditors reviewed a random sample of 20 complaints the Board opened and resolved between July 1, 2014 and December 31, 2015, and calculated the amount of time the Board took to open and resolve these complaints. Auditors also reviewed the status of complaints that were open as of December 31, 2015; and the process that board staff used to monitor and track the complaints, including open complaint reports and board staff entries in the Board's complaints database.
- To assess whether the Board shared appropriate information with the public, auditors placed four anonymous phone calls to board staff in January 2016 requesting information about four licensees and compared the information provided to board records. Auditors also reviewed licensing and disciplinary information for a random sample of 30 licensees to assess whether the information provided on the Board's Web site matched the Board's files.
- To obtain information for the Introduction, auditors analyzed board licensing records from March 2016 and reviewed the Board's open complaint report as of January 2016. In addition, auditors

compiled and analyzed unaudited information from the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2014 and 2015, the AFIS Management Information System *Status of General Ledger-Trial Balance* screen for fiscal years 2014 and 2015, and board-prepared estimates for fiscal year 2016.

- To obtain information used in the Sunset Factors, auditors reviewed information in the Arizona Administrative Register in 2013 and 2014, and assessed whether board staff appropriately posted public notices and agendas for board meetings held in October and November 2015. In addition, auditors reviewed the Federation of State Medical Boards' U.S. Medical Regulatory Trends and Actions to identify levels of regulation in the 14 states that have separate osteopathic boards.¹ Auditors also contacted staff from osteopathic boards in five states—California, Nevada, New Mexico, Utah, and Washington—to obtain information about their use of private contractors.
- Auditors' work on internal controls included reviewing the Board's policies and procedures for ensuring compliance with board statutes and rules, and where applicable, testing its compliance with these policies and procedures. Auditors reported their conclusions on these internal controls and, where applicable, board efforts to improve its controls in the Licensing, permitting, and registration; Complaint resolution; and Public information chapters.

¹ Federation of State Medical Boards. (2014). *U.S. medical regulatory trends and actions*. Eules, TX.

AGENCY RESPONSE



Governor
Douglas Ducey

**ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
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Executive Director
Jenna Jones

June 13, 2016

Debra K. Davenport
Auditor General
2910 N. 44th Street, Suite 410
Phoenix, AZ 85018

Dear Ms. Davenport:

The Arizona Board of Osteopathic Examiners in Medicine and Surgery would like to express its appreciation for the opportunity to respond to the recommendations in your recent performance audit of the Board. We would also like to thank you for a thorough and open audit process.

Response to Complaint Resolution Recommendations:

- 1. The Board should continue to implement the measures it adopted to improve complaint resolution timeliness, monitor their effect on resolving complaints in a timely manner, and make changes as needed to its complaint resolution process to ensure that it is as efficient as possible.**

The finding of the Auditor General is agreed to and the audit recommendation will be implemented. While a majority of the Board's complaints are resolved in a timely manner, the Board and staff are continuously seeking ways to reduce the time in which it takes to resolve complaints. The staff is regularly reviewing our systems to identify areas where timeframes can be reduced and instituting improvements where appropriate.

As recognized in the audit report, several factors can affect the timely resolution of complaints. The Board has exhibited an ongoing commitment and taken steps to improve the timeframe in which it resolves complaints. The Board and staff will continue to seek improvement.

- 2. The Board should assess its investigative staffing needs. This assessment should include a documented workload analysis that compares the Board's workload, including an estimate of future workload, with its staff resources. The Board should then take appropriate action based on the results of this analysis. For example, The Board could use the workload analysis to determine how to maximize its allocated resources**

and/or work with the Legislature to request additional appropriations to hire more staff or contract for additional staff resources as needed to address temporary workload fluctuations, as appropriate.

The finding of the Auditor General is agreed to and the audit recommendations will be implemented.

The Board will initiate a tracking method to account for staff's time to complete an investigation and the time involved in each step of the investigative process. This should allow for us to track the actual time involved in each step of the investigation from beginning until the end. We will also compare our staffing and workload levels to similar regulatory agencies.

Based upon the results, the Board will conduct a workload analysis to include a comparison of the Board's workload, an estimate of future workload, and staff resources. If the analysis supports additional staffing or additional resources, the Board will seek additional funding through the appropriation system. Although the Board has requested additional appropriations in past budget submissions, it has not been successful in obtaining additional funding. With this additional documentation and justification, we will request additional personnel and resources, if supported.

Response to Sunset Factor Analysis Recommendations:

- 1. The Board should revise AAC R4-22-207(A) to allow for the completion of the 40 hours of continuing medical education any time during the 2 preceding years consistent with A.R.S. §32-1825(B).**

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

A.R.S. §32-1825 was revised during the 2015 legislative session. Due to the rules moratorium and timing of the audit, the Board chose to seek a rules package after completion of the audit process in the event additional recommendations were made. The Board will request an exception to the current rules moratorium and, if approved, begin the process for a rule change.

- 2. The Board should promulgate a rule that specifies the license processing time frames for retired license applications as required by statute.**

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The Board will seek an exception to the current rules moratorium and, if granted, begin the process to promulgate rules for the timeframes regarding retired license applications.

Thank you for the opportunity to respond to the audit recommendations. We would also like to commend the audit staff on their professionalism throughout the audit.

Regards,

Jenna Jones
Executive Director

Performance Audit Division reports issued within the last 12 months

15-CR1	Independent Review—Arizona's Child Safety System and the Arizona Department of Child Safety
15-CR1SUPP	Supplemental Report to the Independent Review—Arizona's Child Safety System and the Arizona Department of Child Safety
15-106	Arizona State Retirement System
15-CR2	Independent Operational Review of the Arizona State Retirement System's Investment Strategies, Alternative Asset Investment Procedures, and Fees Paid to External Investment Managers
15-107	Arizona Sports and Tourism Authority
15-108	Arizona Department of Administration—Personnel Reform Implementation
15-109	Arizona Department of Administration—Sunset Factors
15-110	Arizona Foster Care Review Board
15-111	Public Safety Personnel Retirement System
15-CR3	Independent Operational Review of the Public Safety Personnel Retirement System Investment Strategies, Alternative Asset Investment Procedures, and Fees Paid to External Investment Managers
15-112	Arizona Commerce Authority
15-113	Arizona Department of Transportation—Transportation Revenues
15-114	Arizona Department of Transportation—Sunset Factors
15-115	Arizona Radiation Regulatory Agency, Arizona Radiation Regulatory Hearing Board, and Medical Radiologic Technology Board of Examiners
15-116	Arizona Department of Revenue—Security of Taxpayer Information
15-117	Arizona Department of Revenue—Sunset Factors
15-118	Arizona Department of Child Safety—Child Safety, Removal, and Risk Assessment Practices
15-119	Arizona Department of Environmental Quality— Vehicle Emissions Inspection Program
15-120	A Comparison of Arizona's Two State Retirement Systems
15-121	Alternatives to Traditional Defined Benefit Plans
16-101	Arizona Department of Education—K-3 Reading Program
16-102	Arizona Department of Child Safety—Differential Response and Case Screening.
16-103	Arizona State Board of Respiratory Care Examiners

Future Performance Audit Division reports
