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State of Arizona Acupuncture Board of Examiners

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September 8, 2016

Auditor General Debbie Davenport
Office of the Auditor General
2910 North 44th Street, Suite 410
Phoenix, AZ 85018

RE: Performance Audit – Sunset Review

Dear Auditor General Davenport:

The Arizona Acupuncture Board of Examiners (Board) has reviewed the preliminary report draft of the performance audit and sunset review. As requested, please find the following responses:

Chapter 1: Licensing and certification

Recommendation 1.1: The Board should continue to develop and implement policies and procedures for reviewing and approving initial and renewal applications that direct staff to obtain and assess the appropriateness of all documentation required by statute and rule. In addition, the policies and procedures should:

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

Response explanation: The Board has begun to develop a format to accomplish the intent of this recommendation.

Recommendation 1.1a: Direct staff to obtain and assess the appropriateness of both initial citizenship documentation and updated citizenship documentation from non-U.S. citizens whose documentation has expired; and

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

Response explanation: The Board will develop a more accurate method of obtaining and recording this critical information.

Recommendation 1.1b: Direct staff on how to conduct continuing education audits, including how many licensees to review, how to determine the appropriateness of continuing education hours submitted, and how to verify that the continuing education was completed during the audit period.

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

Response explanation: The Board will seek to improve the process by updating the current electronic licensing database.

Recommendation 1.2: The Board should develop a more reliable system for tracking when licensees' citizenship documentation expires, such as tracking licensees' documentation in its electronic licensing database.

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

Response explanation: The Board will update the current electronic licensing database to address this recommendation.

Recommendation 1.3: The Board should work with its Assistant Attorney General to update its citizenship form to reflect current statutory requirements.

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

Response explanation: The Board has begun discussions with the Assistant Attorney General to update its current citizenship form to reflect current statutory citations.

Recommendation 1.4: The Board should improve its timeliness tracking by including in its database a field for recording the date when it receives missing application items.

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

Response explanation: The Board office has developed and implemented a new method to record the listing of missing application items and when the required items arrive at the office. The board will seek to further improve this process by updating the current electronic licensing database.

Recommendation 1.5: The Board should finalize and implement its draft checklist to help ensure it correctly notifies applicants that their applications are complete only after all required elements of an application have been received.

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

Response explanation: The Board will refine its current notification of administrative completeness to license applicants.

Chapter 2: Complaint resolution

Recommendation 2.1: The Board should remove its complaint resolution process from rule, including the 90-day filing limitation.

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

Response explanation: The Board will remove the complaint resolution process currently in board rules to include the elimination of the 90-day filing limitation. In addition, the Board will develop and implement policies and procedures for the complaint resolution process.

Recommendation 2.2: The Board should develop and implement policies and procedures for its complaint resolution process. The Board's policies and procedures should address the following:

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process

Recommendation 2.2a: Determining the jurisdiction of a complaint. Specifically, the policies and procedures should identify who should determine whether a complaint is within the Board's jurisdiction, and when this

determination should be made, and provide guidance for how to properly determine if a complaint is within the Board's jurisdiction.

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process. The Board in the development of policies and procedures will incorporate the intent of this recommendation.

Recommendation 2.2b: Responding to complaints that fall outside of its jurisdiction, such as referring them to the appropriate regulatory board for review, and how this will be documented;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process. The Board in the development of policies and procedures will incorporate the intent of this recommendation

Recommendation 2.2c: Prioritizing the complaints it receives that are within its jurisdiction for investigation based upon the nature of the complaint allegations, such as assigning a higher investigation priority to complaints with allegations that pose a potential danger to public health and safety;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process. The Board will develop and implement new procedures and policies to ensure this recommendation is met.

Recommendation 2.2d: Identifying the information the Board needs to obtain from the complainant in order to initiate an investigation;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process. The Board will develop and implement new procedures and policies to ensure this recommendation is met.

Recommendation 2.2e: Components of an adequate complaint investigation, such as interviewing the complainant, licensee, and all applicable witnesses; obtaining and reviewing all necessary responses and medical documentation; and ensuring that all complaint allegations are adequately investigated;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process. The Board will develop and implement new procedures and policies to ensure this recommendation is met.

Recommendation 2.2f: Directing that staff fully investigate complaints and prepare investigative reports that summarize complaints and the results of the investigations before forwarding complaints to the Board for review and adjudication;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process. The Board will review "best practice" procedures and policies used by other health care regulatory boards to develop and implement new procedures in order to meet this recommendation.

Recommendation 2.2g: Requiring the Board to proceed with the investigation and adjudication of a complaint, even if a complainant wishes to withdraw a complaint or settle with the licensee;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process. Again, the Board will review “best practice” procedures and policies used by other health care regulatory boards to develop and implement new procedures to satisfy this recommendation.

Recommendation 2.2h: Developing, reviewing, and executing consent agreements. Specifically:

- Ensuring consent agreements terms are reviewed and adopted by the Board at a board meeting;
- Ensuring that all appropriate parties, including the licensee and executive director, sign the consent agreement; and
- Including guidance for how the Board should proceed if the licensee fails to sign the consent agreement;

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

Response explanation: The Board will study, develop, and implement new procedures and policies to meet the intent of this recommendation.

Recommendation 2.2i: Requiring staff to track when the Board sends consent agreements to licensees and when the licensees should return the signed consent agreements to the Board;

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

Response explanation: The Board will direct staff to develop procedures and policies to better track the sending and receiving of consent agreements.

Recommendation 2.2j: Notifying employers of disciplinary action, including how staff should notify the employer;

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

Response explanation: The Board will review the current requirement and direct staff to notify employers of disciplinary action.

Recommendation 2.2k: Determining how to proceed if a licensee does not submit a response to the complaint within 20 days, such as continuing with the complaint investigation and/or adding an additional violation of statute to the complaint;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process to meet the intent of this recommendation.

Recommendation 2.2l: Requiring staff to send all notices of complaints to licensees using certified mail or personal delivery;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process.

Recommendation 2.2m: Developing time frames for key steps of its complaint resolution process, such as when the licensee received the notice of complaint, when the licensee's response is due to the Board, when the Board should send the licensee's response to the complainant, and when the complainant's rebuttal should be received by the Board;

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

Response explanation: The Board will develop and implement policies and procedures for the complaint resolution process to meet this recommendation.

Recommendation 2.2n: Requiring staff to use an electronic tracking mechanism, such as its complaint log, to track these time frames so that the Board can ensure that complaints continue to move through the complaint process in a timely manner; and

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

Response explanation: The Board will update the current electronic licensing database to address this recommendation.

Recommendation 2.2o: Requiring staff to submit reports to the Board regarding complaint-processing timeliness to help the Board identify and address factors in the complaint resolution process that may affect timeliness.

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

Response explanation: The Board will work with staff to develop and implement procedures on how best to address this recommendation.

Recommendation 2.3: Once the Board has developed its policies and procedures for resolving complaints, the Board should train all board members and staff on these policies and procedures.

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

Response explanation: The training will be incorporated into the board meeting training sessions conducted throughout the year.

Recommendation 2.4: The Board should modify its initial and renewal application forms to include questions about whether licensees are self-employed, have an employer, and the name of the employer, if employed.

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

Response explanation: The Board will review and determine if any statutory or rulemaking changes are required to implement this recommendation.

Chapter 3: Public information

Recommendation 3.1: The Board should implement the new policies and procedures staff developed for providing information to the public.

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

Response explanation: The Board has begun to implement these new policies and procedures.

Recommendation 3.2: The Board should develop and implement a mechanism to ensure that the information in its licensing database is accurate, such as periodically comparing information in a random sample of complaint files to information in the Board's licensing database.

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

Response explanation: The Board will direct staff to develop some options to consider for implementation of a mechanism to accomplish this recommendation.

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

Recommendation 1: The Board should modify its license and certificate applications to more clearly direct applicants on the documentation they are required to submit and the information that should be included in this documentation.

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

Response explanation: The Board will direct staff to review and recommend changes for Board consideration.

Recommendation 2: The Board should develop and implement policies and procedures directing staff to obtain all required documentation, such as the documentation applicants must submit if they answer yes to any of the Board's disclosure questions.

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

Response explanation: The Board will develop and implement the appropriate policies and procedures to meet the intended outcome of this recommendation.

Recommendation 3: The Board should identify licensing, certification, and continuing education requirements that have been established in rule that are not needed to protect the public health and safety or are not within the Board's ability to enforce and work to remove these unnecessary requirements from its rules.

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

Response explanation: The Board will review these rules and determine if changes are required.

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

Recommendation 4: The Board should seek the following statutory and/or rule changes to ensure that the Board's rules are consistent with its statutory authority:

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

Response explanation: The Board will review its statutes and rules for potential changes.

Recommendation 4a: Requiring only non-U.S. citizens whose documentation of lawful presence in the U.S. has expired to provide updated documentation upon renewal of a license or certificate; and

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

Response explanation: The Board will seek to improve the process by updating the current electronic licensing database.

Recommendation 4b: Reconciling the differences between statutory and rule renewal application submission deadlines for certificate holders.

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

Response explanation: The Board will review and determine if statutes or rules require change and take the appropriate action to reconcile the differences.

Sunset Factor 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.

Recommendation 5: The Board should ensure that its board meeting minutes accurately reflect what occurred during the meeting and include sufficient information to clearly communicate to the public the basis for its complaint-adjudication decisions.

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

Response explanation: The Board will continue to examine continual improvements in providing accurate information to the general public.

Sunset Factor 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.

Recommendation 6: The Board should seek statutory changes to allow it to inquire about all other active and past professional healthcare licenses or certificates for auricular acupuncture certificate applicants and request license or certificate verification directly from the jurisdiction that issued the license or certificate.

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

Response explanation: The Board will review this recommendation and direct staff to take the necessary steps in having legislation drafted for consideration.

On behalf of the Acupuncture Board of Examiners, I want to thank you for the opportunity to respond to the recommendations presented by your office. In addition, we commend the work of your staff throughout the whole audit process.

Sincerely,

Pete Gonzalez
Executive Director