

Arizona Board of Psychologist Examiners

Board should seek statutory authority to require criminal background checks for licensure, improve timeliness of complaint and claim handling, and review appropriateness of its licensing fees

Performance Audit and
Sunset Review

April 2019
Report 19-104

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





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Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Ms. Jenna Jones, Executive Director
Arizona Board of Psychologist Examiners

Transmitted herewith is a report of the Auditor General, *A Performance Audit and Sunset Review of the Arizona Board of Psychologist Examiners*. This report is in response to a September 14, 2016, 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 Psychologist Examiners 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,

Lindsey Perry, CPA, CFE
Auditor General

cc: Arizona Board of Psychologist Examiners members



Arizona Board of Psychologist Examiners

CONCLUSION: The Arizona Board of Psychologist Examiners (Board) regulates psychologists and behavior analysts in Arizona through licensure, providing information about licensees to the public, and investigating and resolving complaints against licensees. We found that the Board should obtain statutory authority to require fingerprint-based criminal background checks for license applicants, ensure timely review of claims against court-appointed psychologists, investigate and adjudicate complaints in a timely manner, review the appropriateness of its licensing fees, and determine whether it can rely on the efforts of a national certification board to more efficiently license behavior analysts. Additionally, the Board should ensure that licensees submit sufficient documentation to support compliance with continuing education requirements.

Licenses issued without conducting criminal background checks

The Board does not require psychologist and behavior analyst license applicants to submit fingerprints for criminal background checks because it lacks the statutory authority to do so. Several Arizona regulatory agencies are statutorily required to obtain this information, and fingerprint-based criminal background checks would provide the Board critical information to help it determine whether an applicant is able to safely practice.

Recommendation

The Board should work with the Legislature to obtain statutory authority to require fingerprint-based criminal background checks for its license applicants.

Unprofessional conduct claims should be reviewed timely

Statute requires the Board to review claims of unprofessional conduct against psychologists who are performing court-ordered services to determine whether these claims have merit and should be investigated as complaints. Our review of a random sample of claims the Board reported receiving in fiscal year 2017 found that it took the Board between 96 and 187 days to determine whether these claims had merit. Lengthy claims review can put the public at risk because psychologists alleged to have violated Board statutes and rules may continue to practice while under review even though they may be unfit to do so and/or may need supervision.

The Board took between **96 and 187 days** to determine whether claims had merit for the **5 claims** reviewed.



Recommendation

The Board should continue its efforts to implement its newly adopted claims review procedures, including tracking time frames, and evaluate how these procedures impact its claims review timeliness.

Psychologist complaint investigation and adjudication not timely

The Board took longer than **180 days** to investigate and adjudicate **8/14 complaints** reviewed.

We judgmentally selected and reviewed 14 of the 37 complaints against psychologists the Board reported receiving in fiscal year 2017 and found that the Board did not investigate and adjudicate 8 of these complaints in a timely manner. For these 8 complaints, the Board took between 196 and 510 days to investigate and adjudicate the complaints. Similar to the claims review process, untimely complaint investigation and adjudication may put the public at risk because it allows psychologists alleged to have violated Board statutes and rules to practice while under investigation, even though they may be unfit to do so.

Recommendation

The Board should revise its complaint handling policies and procedures to assign an appropriate complaint-investigation priority for claims that become complaints and continue to implement its newly developed procedures and practices designed to improve its complaint-handling timeliness.

Board has received more revenues than needed to operate

As of fiscal year 2018, the Board's fund balance was nearly twice the Board's expenditures for that year. Specifically, from fiscal years 2016 through 2018, the Board's fund balance increased by more than \$274,000. This increase in the Board's fund balance indicates that the Board has been receiving more revenue than it needs to operate, potentially because the fees it charges for services may be too high. Government fee-setting standards and guidance state that user fees should be determined based on the costs of providing a service. However, our review of Board meeting minutes and documentation related to the Board's rule packages between fiscal years 2008 and 2018 found no indication that the Board's licensing fees had a cost basis.

Schedule of revenues, expenditures, transfers, and changes in fund balance

Fiscal years 2016 through 2018

	2016	2017	2018	Increase between 2016 and 2018
Revenues	\$131,843	\$ 662,293	\$ 596,639	\$464,796
Expenditures and transfers	437,586	439,049	545,439	107,853
Fund balance	802,817	1,026,061	1,077,261	274,444

Recommendation

The Board should conduct a review of its fees and regulatory processes for psychologist and behavior analysts to ensure its fees are based on actual costs and adjust fees accordingly.

Most behavior analyst license requirements closely align with national certification requirements

The Behavior Analyst Certification Board (BACB), a national corporation that certifies behavior analysts, requires its applicants to submit some of the same primary source documentation that behavior analyst license applicants must submit to the Board for licensing, suggesting that the Board's licensing review process may duplicate the BACB's certification process in some ways. For example, both the Board and the BACB review behavior analyst license applicants' official transcripts, and both certification and licensure applicants must also pass the BACB's behavior analyst exam.

Recommendation

The Board should compare its behavior analyst initial licensing process with the BACB's national certification process to determine whether it can rely on some aspects of the BACB's process as part of its licensing review process.

Other Board action needed

As reported in the Sunset Factors section of the report, we found that the Board issued licenses to qualified applicants and in a timely manner for the applications we reviewed, provided accurate information on its website for the licenses we reviewed, and offered opportunities for public input before adopting rules. However, we identified the following area for improvement:

Board should ensure licensees provide appropriate documentation for continuing education requirement—Our review of a random sample of 10 psychologist and behavior analyst renewal applications the Board selected for continuing education audits in fiscal year 2018 found that the Board accepted 1 hour of continuing education for a psychologist without sufficient documentation.

Recommendation

The Board should enhance its procedure for conducting continuing education audits to include guidance for requesting required documentation to support all continuing education hours.



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Mission and responsibilities

The Arizona Board of Psychologist Examiners (Board) was established in 1965 to regulate the practice of psychology in Arizona. In 2008, the Board's authority was expanded to include regulating behavior analysts (see textbox for definitions of these 2 professions). The Board's mission is to protect the health, safety, and welfare of Arizona citizens by regulating psychologists and behavior analysts. Its responsibilities include:

- Issuing licenses that must be renewed every 2 years to qualified psychologist and behavior analyst applicants. As of July 2018, the Board reported that there were 1,815 licensed psychologists and 309 licensed behavior analysts practicing in Arizona.
- Investigating and adjudicating complaints against psychologists and behavior analysts.
- Providing information about psychologists and behavior analysts to the public.

In addition, separate from its responsibilities for investigating complaints, the Board has established a process to review claims alleging unprofessional

conduct made against court-appointed psychologists. As of July 2015, the Board reviews the claims of unprofessional conduct made against court-appointed psychologists to determine if these claims have merit and should be investigated through its regular complaint process (see Figure 1, page 2). Prior to the creation of the claims process in July 2015, statute required the courts to determine whether a complaint against a court-appointed psychologist had sufficient merit to be referred to the Board for further investigation. This responsibility was shifted to the Board by Laws 2015, Ch.168, which requires the Board to review complaints made against psychologists providing court-ordered services through a claims process (see Finding 2 for more information about the claims process). Various stakeholders expressed concerns that the courts were not qualified to appropriately assess potential violations involving a court-appointed psychologist. Board records indicate that between July 2015 and October 2018, the Board had received 50 claims against court-appointed psychologists. Based on their review, board members dismissed 36 claims and investigated 14 claims as complaints.

Psychologists practice psychology, which includes conducting psychological assessments and diagnosing and/or treating mental, emotional, behavioral, or psychological illnesses or disorders. Psychologists must obtain a doctoral degree to practice in Arizona.

Behavior analysts evaluate behavior and develop a treatment plan to increase, decrease, or otherwise change behavior based on the client's individual needs. Behavior analysts must have a graduate degree to be licensed in Arizona.

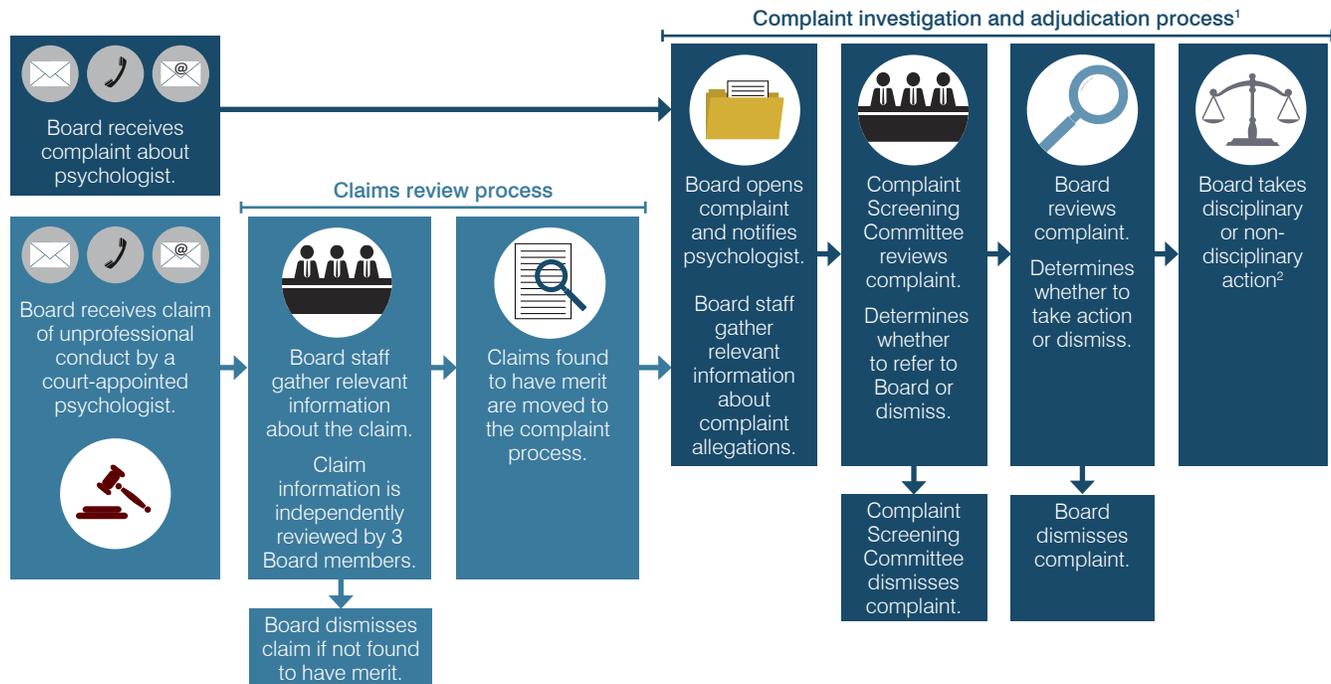
Source: Auditor General staff analysis of Arizona Revised Statutes (A.R.S.) §§32-2061 and 32-2091, information from the American Psychological Association and the Behavior Analyst Certification Board, and Board input.

Organization and staffing

As required by A.R.S. §32-2062, the Board consists of 10 members who the Governor appoints for 5-year terms. Five members must be licensed psychologists, including 3 practicing psychologists and 2 faculty members from psychology programs at Arizona universities. The other 5 members must include 2 licensed behavior analysts and 3 public members who are not eligible to be licensed. As of October 2018, the Board had 2 vacant positions: 1 public member and 1 faculty member.

Figure 1

Board's claims review process for court-appointed psychologists and complaint investigation and adjudication process



¹ The Complaint Screening Committee or the Board may request additional information throughout the process before making a decision.

² For examples of the Board's disciplinary and nondisciplinary options, see textbox, page 26.

Source: Auditor General staff review of A.R.S. §32-2081 et seq., interviews with Board staff, and review of Board procedures.

Statute authorizes the Board to establish the following committees to help execute its responsibilities:

- The Application Review Committee, which helps review initial license applications for psychologists pursuant to A.R.S. §32-2064(B).
- The Continuing Education Committee, which helps ensure licensees comply with the Board's continuing education requirements pursuant to A.R.S. §32-2064(B).
- The Committee on Behavior Analysts, which provides licensing and regulatory recommendations for behavior analysts to the Board pursuant to A.R.S. §32-2091.15.
- The Complaint Screening Committee, which is authorized to review all complaints submitted to the Board pursuant to A.R.S. §32-2081(H). However, according to Board staff, the Complaint Screening Committee does not review complaints against behavior analysts. The Committee on Behavior Analysts, which has statutory authority to provide regulatory recommendations for behavior analysts to the Board, reviews these complaints.

The Board was appropriated 4 full-time equivalent (FTE) staff positions for fiscal year 2018. As of October 2018, these positions were filled by an executive director, deputy director, licensing specialist, and an administrative assistant.

Budget

The Board does not receive any State General Fund appropriations. Rather, the Board's revenues consist primarily of psychologist and behavior analyst licensing fees. Statute requires the Board to remit all monies collected from civil penalties and 10 percent of all other revenues, including licensing fees, to the State General Fund and to

remit the remaining 90 percent to the Board's fund.¹ In fiscal years 2016 through 2018, most of the Board's revenues consisted of licensing and related fees, and most of its expenditures were for personnel costs. See Table 1 for additional information.

Table 1
Schedule of revenues, expenditures, transfers, and changes in fund balance
Fiscal years 2016 through 2018
(Unaudited)

	2016	2017	2018
Revenues			
Licensing and related fees ¹	\$ 138,308	\$ 714,355	\$ 665,972
Other	8,138	9,170	6,717
Total gross revenues	146,446	723,525	672,689
Net credit card transaction fees ²	(10)	11,120	(9,225)
Remittances to the State General Fund ³	(14,593)	(72,352)	(66,825)
Total net revenues	131,843	662,293	596,639
Expenditures and transfers			
Payroll and related benefits	334,618	316,858	326,212
Professional and outside services	15,746	29,102	31,680
Travel	9,496	8,370	9,739
Other operating	74,987	77,316	70,082
Furniture, equipment, and software	2,525	6,203	3,121
Total expenditures	437,372	437,849	440,834
Transfers to other agencies ⁴	214	1,200	104,605
Total expenditures and transfers	437,586	439,049	545,439
Excess of revenues over (under) expenditures	(305,743)	223,244	51,200
Fund balance, beginning of year	1,108,560	802,817	1,026,061
Fund balance, end of year	\$ 802,817	\$1,026,061	\$1,077,261

¹ Licensing fee revenues fluctuated during fiscal years 2016 and 2017 because most psychologists and behavior analysts were required to renew their licenses in odd-numbered fiscal years. However, after May 2017 and as required by Laws 2014, Ch. 258, §8, and Ch. 166, §4, licenses are renewed in both odd- and even-numbered years, which provides for a more uniform distribution of workload and associated revenues (see Finding 4, pages 13 through 16, and Sunset Factor 8, pages 27 and 28, for additional information).

² Net credit card transaction fees were the convenience fees received from licensees netted against payments made to credit card processors. Timing differences occur between when the fees are received and the fees are paid to the processors.

³ As required by statute, the Board remits 100 percent of civil penalties and 10 percent of its other revenues to the State General Fund.

⁴ Includes transfers to the Arizona Office of Administrative Hearings for hearing costs and the Arizona Department of Administration for a portion of a new procurement system, a portion of a new state-wide online licensing system, and one-time relocation costs.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2016 through 2018 and the State of Arizona *Annual Financial Report* for fiscal years 2016 and 2017.

¹ Statute requires that any monies received for licensing and regulating psychologists and behavior analysts be separately accounted for and used for administering each respective profession (see Tables 2, 3, and 4 in Finding 4, pages 13 and 14, for more information on the 2 accounts). We reviewed the Board's revenue transactions from July 1, 2017 to January 31, 2018, and found that the Board maintained separate accounts for psychologist licensing revenue and behavior analyst licensing revenue and deposited 10 percent of these revenues to the State General Fund as required by A.R.S. §32-2065.



Board should seek statutory authority to require criminal background checks for license applicants

Board issues licenses without conducting criminal background checks

The Board does not require psychologist and behavior analyst license applicants to submit fingerprints for criminal background checks because it lacks the statutory authority to do so. Absent this authority, the Board instead requires that license applicants self-disclose unprofessional conduct such as whether they are awaiting trial, have ever been convicted of a misdemeanor or felony, or had any convictions expunged or pardoned. According to the Board, it had previously considered pursuing statutory authority to require criminal background checks but has not yet done so.

Criminal background checks provide better assurance than self-reported information

Fingerprint-based criminal background checks rely on information from law enforcement agencies (see textbox), which provides better assurance of an applicant's ability to safely practice than relying on self-reported information.

Types of fingerprint-based criminal background checks

Criminal history records check—A complete listing of any criminal history, both within the State and nationally, such as criminal charges, arrests, detentions, and indictments. The Arizona Department of Public Safety (DPS) receives this information by obtaining State and Federal Bureau of Investigation fingerprint-based criminal records after an applicant submits fingerprints and then provides this information to a State licensing body or to State agencies that are statutorily required to conduct a fingerprint background check.

Fingerprint clearance card—A card DPS issues indicating that the cardholder is not awaiting trial for or has not been convicted of committing certain precluding criminal offenses, such as sexual assault, forgery, and concealed weapon violations.¹ DPS issues this card based on its review of an applicant's criminal history record information. The card is valid for 6 years, but if a cardholder is employed or licensed by an entity that statutorily requires a card and is subsequently arrested for a precluding offense during this time period, DPS is authorized to suspend the card. DPS is also required to notify the cardholder and the entity, if statutorily authorized to receive notification, that the card is suspended pending the outcome of the arrest.²

¹ An individual who has been denied a fingerprint clearance card may also obtain a card through a good cause exception. The Arizona Board of Fingerprinting is statutorily authorized to grant a good cause exception to individuals who have past criminal offenses by evaluating statutorily specified considerations, such as the extent of the person's criminal record and the length of time since the offense was committed. DPS is statutorily required to issue a fingerprint clearance card to an individual who is granted a good cause exception by the Arizona Board of Fingerprinting.

² The Board is not statutorily authorized to receive DPS notification that a fingerprint clearance card is suspended. However, State agencies may confirm the validity of a fingerprint clearance card on the DPS website.

Source: Auditor General staff analysis of A.R.S. §§41-1701, 41-1750, and 41-1758 et seq.; interviews with DPS staff; and information provided by Arizona Board of Fingerprinting staff.

For example, Board staff reported that they are aware of at least 2 instances since 2014 where an applicant did not disclose criminal information. Specifically, the Board learned that 1 licensee did not disclose a charge that was expunged from his record on his initial license application. After the Board's investigation, the licensee agreed not to renew his license as part of a consent agreement. In the second instance, the Board received an anonymous report that an applicant had submitted an initial license application without disclosing pending criminal charges. After further investigation, the Board requested the applicant undergo an evaluation and eventually approved her license with the stipulation that she enter into a consent agreement.²

Psychologists and behavior analysts may work with vulnerable populations, such as children with autism and adults 18 years and older who may be subject to neglect or exploitation by others due to a physical or mental impairment. Fingerprint-based criminal background checks would provide the Board critical information to help it determine whether an applicant is able to safely practice.

Other Arizona regulatory agencies require criminal background checks for applicants

Several Arizona regulatory agencies are statutorily required to obtain information about an applicant's criminal background as part of their initial license application process. These agencies obtain criminal background check information through 2 fingerprint-based methods (see textbox, page 5). For example:

- The Arizona Board of Behavioral Health Examiners licenses behavioral health professionals, such as counselors and social workers, and statute requires license applicants to submit either fingerprints for a criminal history records check or evidence that they hold a current fingerprint clearance card.
- The Arizona Medical Board and the Arizona Board of Osteopathic Examiners license physicians, and statute requires license applicants to submit fingerprints to conduct criminal history records checks.
- The Racing Division of the Arizona Department of Gaming requires horseracing license applicants, such as jockeys and horse owners, to submit fingerprints for criminal history records checks as required by statute.

Further, we reviewed peer agencies in California, Nevada, Oregon, and Utah and found that all but Utah require fingerprints for criminal background checks for psychologist license applicants. In addition, 3 of these states license behavior analysts, and 2 of them, Nevada and Oregon, require fingerprints for criminal background checks for initial licensure.³

Recommendations

The Board should:

1. Work with the Legislature to obtain statutory authority to require fingerprint-based criminal background checks for its license applicants. In doing so, the Board should work with its Assistant Attorney General to determine if these checks should be conducted through either a criminal history records check or a fingerprint clearance card.
2. Develop and implement policies and procedures for verifying the fingerprint clearance card's validity, both for initial and renewal license applications, if it obtains statutory authority to require fingerprint-based criminal background checks through a fingerprint clearance card.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.

² As part of the consent agreement, the licensee agreed to be placed on probation for 24 months, receive individual face-to-face supervision throughout probation, and, upon licensure, undergo random drug testing for no less than 3 months.

³ Behavior analysts are not licensed in California, and Utah licenses psychologists and behavior analysts but does not require fingerprints. See Sunset Factor 11, pages 28 and 29, for more information.



Board should improve timeliness in reviewing claims against court-appointed psychologists

Board reviews claims of unprofessional conduct against court-appointed psychologists

Statute requires the Board to review claims of unprofessional conduct against psychologists who are performing court-ordered services.⁴ These court-ordered services may include asking a psychologist to serve as a court-appointed parenting coordinator or to conduct a psychosexual evaluation of a juvenile offender to help the court determine the terms of that offender’s probation. A claim of unprofessional conduct regarding a court-ordered psychologist’s services may be filed with the Board; for example, if a parent of a child undergoing a psychological evaluation believes that the psychologist has demonstrated unprofessional conduct, the parent may file a claim. When the Board receives a claim, it does not notify the psychologist. Although this does not allow the Board to receive the psychologist’s perspective and response to the claim, according to a Board official, the Board’s statutes do not require the Board to notify the psychologist, and it allows psychologists to continue working without knowledge of the claim, which would obligate them to withdraw from the court-ordered service for ethical reasons.⁵ Instead, Board staff will log the claim and request additional information, such as documentation of the claim from the claimant and court case minutes from the court system, and summarize the details of the claim based on the documentation received. Board staff then provide their summary of information and all associated documentation about the claim to 3 Board members who independently determine whether the claim has merit by identifying possible violations of statute or the ethical standards the Board has adopted in rule.⁶ If at least 1 of the 3 Board members determines that a claim has merit, the Board will then follow its regular complaint process by opening a complaint investigation and notifying the psychologist about the complaint (see Figure 1, page 2, for more information about the claims and complaints review processes).

Board’s claims reviews were not timely

In fiscal year 2017, the Board reported that it received 11 claims of unprofessional conduct against psychologists performing court-ordered services. We randomly sampled 5 of these claims and found that it took the Board 96 days to 187 days to determine whether these claims either had merit and therefore should be investigated as complaints or did not have merit and could be dismissed. Following the 3 Board members’ review, 2 of the 5 claims reviewed were found to have merit and were investigated as complaints.



The Board took between **96 and 187 days** to determine whether claims had merit for the **5 claims** reviewed.

⁴ See A.R.S. §32-2081(C).

⁵ According to the Board, if it received a claim that indicated significant allegations of harm, the Board can open a complaint and temporarily suspend the psychologist’s license while continuing to investigate and adjudicate the complaint.

⁶ The Board has incorporated the “Ethical Principles of Psychologists and Code of Conduct” by the American Psychological Association into Arizona Administrative Code (AAC) R4-26-301.

Lengthy claims review may put public at risk

Lengthy claims review can put the public at risk because psychologists alleged to have violated Board statutes and rules may continue to practice while under review even though they may be unfit to do so and/or may need supervision. In addition, timely claims review is important because the Board does not begin the complaint investigation process until after a claim has been reviewed and determined to have merit, which further lengthens the amount of time that it can take to resolve any issues first identified in the claim. For example, for the 2 claims we reviewed that were found to have merit, the claims were open for 139 and 187 days, respectively, before they were opened as complaints. After these claims became complaints, the Board's investigation took 364 additional days for 1 complaint that was ultimately dismissed and more than 407 days for the second complaint, which, as of November 2018, was still under investigation.

Board lacked time frames for processing claims and requirements for reporting on timeliness

Although Board staff maintain a log to track claims, the log used in fiscal year 2018 included only the date the claim was received and how long it had been open. It did not include intermediate steps of the claims review process, such as when they had requested and received records for claims. Tracking dates for the various steps of its claims handling process and calculating how long these steps take could help the Board identify where delays occur. For example, for the 5 claims we reviewed, we determined that 50 to 89 percent of the claims review process time occurred between when the Board received a claim and when Board staff provided the claim summary to the 3 Board members for review. Board staff explained that during this information-gathering phase of the claims review process, they frequently experienced delays obtaining documentation from outside sources, such as records from the courts. During this audit, the Board updated its claims log to include the dates that a claim passes through each stage of the claims review process, including when Board staff request and receive records necessary to review a claim.

In addition, although the Board has established a written procedure for processing claims, this procedure does not specify time frames for each step in the claims review process, such as contacting the claimant for missing or additional information or notifying a claimant of the results of the Board's review. For 1 of the 5 claims reviewed, we found that Board staff took 36 days to notify a claimant after Board members had concluded their review and made their determination. However, best practices issued by the U.S. Government Accountability Office (U.S. GAO) recommend that an agency define its objectives, such as timely claim handling, in measurable terms so that it can assess its performance in meeting these objectives.⁷ During this audit, the Board updated its procedures to include time frames for each step of the claims review process.

Finally, although Board staff internally track overall claims-processing timeliness, they do not provide this information to the Board. Instead, Board staff regularly report to the Board the numbers of claims received, pending review, and those that have completed review, but do not report claims-timeliness information. Best practices issued by the U.S. GAO recommend that an agency's oversight body should receive and analyze information regarding an agency's operational processes to help the agency achieve its objectives.⁸ During this audit, Board staff established a new practice for regularly reporting to the Board on the timeliness of the claims review process.

Recommendation

3. The Board should continue its efforts to implement its newly adopted claims review procedures and practices, including tracking time frames, and evaluate how these procedures and practices impact its timeliness in reviewing claims.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.

⁷ U.S. Government Accountability Office. (2014). *Standards for internal control in the federal government*. Washington, DC.

⁸ U.S. GAO, 2014.



Board should improve timeliness in investigating and adjudicating complaints against psychologists

Board responsible for investigating and adjudicating complaints against psychologists

Statute requires the Board to investigate and adjudicate complaints against psychologists alleging violations of statute or rules regarding practicing psychology in the State. When the Board receives a complaint against a psychologist, its process includes sending the complaint to the Complaint Screening Committee, which conducts an initial review of the complaint and determines whether to dismiss this complaint or refer it to the full Board for further review and action (see Figure 1, page 2, for more information on the complaint process). To protect the public’s health and safety, if the Board finds that a psychologist has violated statute or rule, the Board may pursue disciplinary actions against a psychologist such as suspending or revoking that psychologist’s license (see textbox, page 26, for additional examples of disciplinary and nondisciplinary actions available to the Board).

Board not timely in investigating and adjudicating some complaints against psychologists

We have determined that Arizona health regulatory boards should investigate and adjudicate complaints within 180 days of receiving them. To evaluate the Board’s timeliness in investigating and adjudicating complaints, we judgmentally selected and reviewed 14 of the 37 complaints against psychologists that the Board reported receiving in fiscal year 2017.⁹ For 8 of the 14 complaints reviewed, the Board took between 196 days and 510 days to investigate and adjudicate the complaints.¹⁰



Untimely complaint resolution could put the public at risk

Untimely complaint investigation and adjudication can put the public at risk because it allows a psychologist alleged to have violated Board statutes and rules to practice while under investigation, even though they may be unfit to do so. For example, 1 of the 8 untimely complaints we reviewed alleged that a psychologist had not appropriately assessed the suicide risk for a patient who expressed suicidal thoughts and later took his own life. Although the Board ultimately suspended that psychologist’s license for at least 5 years, the psychologist was still able to practice for 510 days before his license was suspended.

⁹ Although the Board reported that it had investigated 37 complaints in fiscal year 2017, we were not able to verify the number of complaints received and resolved in any fiscal year because the Board had not adequately tracked complaints received. However, during this audit, the Board developed and began using a new log to track complaints.

¹⁰ As of November 2018, the Board had not completed its investigation and adjudication of 1 complaint that we sampled for review.

Even when complaints are dismissed, untimely complaint handling allows questions regarding a psychologist's practice to unnecessarily persist until the Board makes this determination. Specifically, 6 of the 8 complaints that took the Board more than 180 days to investigate and adjudicate were dismissed because the Board did not find any violations of statute or rule.¹¹ Although the Board eventually determined that these psychologists did not violate statute or rule, the Board could not have done so until after it investigated and adjudicated the complaint.

In addition, timely complaint review may be even more important for complaints that originate as a claim of unprofessional conduct against psychologists performing court-ordered services. Specifically, as discussed in Finding 2 (see pages 7 and 8), when the Board receives a claim of unprofessional conduct against a court-appointed psychologist, 3 of its Board members independently review the claim to determine whether it has merit or not. If it is determined to have merit, Board staff then open a complaint and follow the Board's regular complaint investigation and adjudication process. In these cases, the total length of time from when the claim is received until the corresponding complaint is investigated and adjudicated may be longer, thereby potentially putting the public at risk for an even greater length of time. For example, 2 of the 8 untimely complaints we reviewed began as claims of unprofessional conduct against court-appointed psychologists. For these cases, the Board's claims review process took 139 and 187 days, respectively, before the 3 Board members received and reviewed claim documentation then determined the claims had merit and the Board opened corresponding complaints based on these claims. After opening these complaints, the Board's complaint investigation and adjudication process took 364 days for the first complaint, while the other complaint was still unresolved as of November 2018 and had been open for 407 days.

Several factors contributed to delays in complaint resolution

Our review of complaint files and interviews with Board staff indicate that several factors contributed to delays in investigating and adjudicating complaints. Specifically:

- **Board limited the number of meetings available for adjudicating complaints**—According to the Board, for the complaints we reviewed, its policy had been to adjudicate complaints only during its in-person Board meetings, which were held approximately 5 times per year. During months that the Board did not have in-person Board meetings, it would meet over the phone but would not hear complaints at those meetings. This policy affected the timeliness of processing 4 complaints we reviewed. For example, the Board postponed its review of 1 complaint for 3 months after the Complaint Screening Committee forwarded this complaint to the Board because an in-person Board meeting had not been scheduled. Although the Board dismissed this complaint, this delay contributed to an overall time of 196 days to investigate and adjudicate this complaint. In addition, had the Board adjudicated the complaint at the soonest available Board meeting, which was a telephonic meeting 30 days after the complaint had been investigated, the overall time frame to investigate and adjudicate the complaint could have been 133 days.
- **Board staff delays**—Two of the complaints we reviewed involved Board staff's untimely complaint handling. For example, the Board received a complaint against a psychologist in June 2017, but the Complaint Screening Committee did not hear this complaint until December 2017. Board staff attributed the delay to the September 2017 resignation of the staff person who oversaw the Board's complaint process, several subsequent months without sufficient staff while the Board attempted to fill that position, and a period of time in November 2017 when staff began packing to move to the Board's new office. For the other complaint, the Board sent a letter to the psychologist notifying her of a complaint received in December 2016, but the letter was returned to the Board in February 2017 because the psychologist no longer practiced at that address. The Board reported that for cases in which notices are returned because of an incorrect address, the Board's practice is to contact the psychologist by phone or email to ask for an updated address. However, the Board did not attempt to contact the psychologist for an updated address to notify the psychologist of the complaint again until April 2017. Board staff reported that staff familiar with this case are no longer with the Board and had not documented reasons for this delay.

¹¹ The other untimely complaint had not been resolved as of November 2018.

- **Board delayed moving a complaint to formal hearing**—One complaint we reviewed was open for 510 days because of delays in moving a complaint to a formal hearing before the Office of Administrative Hearings (Office). Specifically, although the Board was prepared to hear this complaint 155 days after it had received this complaint, the psychologist requested and received a continuance and then offered to enter into a consent agreement to accept certain disciplinary terms in return for resolving the complaint without further litigation. The psychologist and Board spent 98 days drafting and negotiating the terms of this consent agreement before reaching an impasse because the terms the psychologist initially proposed were not acceptable to the Board. As a result, the psychologist requested a formal hearing, and according to the Board, it submitted a request to the Arizona Office of the Attorney General (Attorney General) to schedule a formal hearing before the Office. However, 127 days after the Board reported submitting this request, a hearing had not been scheduled. At this time, the psychologist proposed terms for another consent agreement that were amenable to the Board, such as his agreement to place his license on probation until its expiration date and not to renew his license for a minimum of 5 years. According to the Board, the process for scheduling a formal hearing with all parties is coordinated through the Attorney General and may take several months to schedule.
- **Psychologists requested continuances**—Specifically, for 6 of the 8 untimely complaints we reviewed, the psychologists requested that the Board postpone hearing their complaints until a later Board meeting. For example, psychologists requested continuances for personal/family issues, such as a high-risk pregnancy and being out of the country for a family emergency. Board staff indicated that the Board’s practice is to allow for 1 continuance at each step of the complaint handling process upon a psychologist’s request. For example, a psychologist could request a continuance when providing an initial written response to a complaint, when preparing to have a complaint against them heard by the Board’s Complaint Screening Committee, or when preparing to have a complaint against them heard by the full Board. Additionally, although not reflected in any of the complaints we reviewed, Board staff reported that another cause of psychologists requesting continuances was that the Board provided the psychologist with 14 days’ advance notice of the Board meeting. Specifically, Board staff concurrently notified the psychologists of the date they needed to appear at the Board meeting as Board staff prepared the meeting agenda, which was usually 14 days before the meeting.
- **Psychologists with multiple complaints requested that the Board investigate and adjudicate all complaints together**—Two complaints that took longer than 180 days to investigate and adjudicate involved psychologists who were the subject of multiple similar complaints. The 2 psychologists requested that the Board postpone hearing their initial complaints and instead wait to conduct a single hearing to review all complaints filed against them. For example, in December 2016, the Board received a complaint against a psychologist, which it investigated and was prepared to hear at its June 2017 Board meeting, 157 days after it received the complaint. However, the psychologist requested a continuance until the August 2017 Board meeting. During the interim, the Board received 2 additional similar complaints against the psychologist. The psychologist then requested that the Board investigate and adjudicate all 3 complaints together. While investigating the 2 new complaints, the Board received a fourth similar complaint against the psychologist in November 2017. The psychologist requested an expedited review of this fourth complaint so it would be heard with the other 3 complaints at the Board’s March 2018 meeting. The Board ultimately dismissed all 4 complaints at its April 2018 meeting. Based on each complaint’s receipt date, it took the Board between 143 and 465 days to resolve the 4 complaints.¹² As of November 2018, multiple complaints involving the second psychologist had yet to be resolved.

Board has taken steps to improve complaint timeliness

Board staff revised its complaint handling procedures and practices in 2018 to improve its timeliness in adjudicating complaints against psychologists. Although we could not assess the impact of these changes on the Board’s complaint-handling timeliness because they were recently made, these changes include the following:

¹² Consideration and legal evaluation of the allegations within the multiple complaints and the Board’s jurisdiction over these complaints led to an extended review time frame.

- **Hearing complaints during all board meetings**—Board staff stated that the Board changed its complaint review practices in March 2018 so that it could adjudicate complaints at all Board meetings instead of only at in-person Board meetings. As of September 2018, Board records indicate that only 1 complaint had been forwarded to the Board for its review since changing this practice.
- **Providing earlier notice for psychologist to appear before the Board**—Board staff reported that the Board changed its procedure in June 2018 to provide psychologists with 1 month’s notice to appear before the Board for a complaint hearing rather than 14 days’ notice.
- **Developing and tracking time frames for completing complaint-handling steps**—In response to our audit findings, the Board has revised its complaint handling policies and procedures to specify time frames for completing each step of its complaint handling process and requiring staff to track the time frames. In addition, the Board established a new practice for regularly reporting to the Board on its progress toward meeting time frames for key steps of the complaint process.

Recommendations

The Board should:

4. Revise its complaint handling policies and procedures to require Board staff to consider and assign an appropriate complaint investigation priority for claims that become complaints based on the nature of the alleged violations and the time the Board has already spent reviewing the claim in order to more quickly address these complaints.
5. Continue its efforts to implement all new procedures and practices designed to improve timeliness in investigating and adjudicating complaints and evaluate how its newly adopted efforts impact its complaint timeliness.
6. Continue using its newly developed claims and complaints log to ensure it tracks all complaints received.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.



Board should review appropriateness of licensing fees

Board receives revenues from licensing fees and expends monies to license and regulate psychologists and behavior analysts

As allowed by statute, the Board charges fees for the various activities it performs, such as fees for reviewing an initial license application and the reinstatement of an inactive license for psychologists and behavior analysts.¹³ In fiscal year 2018, the Board received nearly \$597,000 in revenues, primarily from licensing and related fee revenues (see Introduction, pages 1 through 3). Further, most of the Board’s approximately \$545,000 in expenditures for fiscal year 2018 were for payroll and related benefits for Board staff who handle tasks related to licensing and regulating psychologists and behavior analysts.

Board has received more revenues than it needs to operate

From fiscal years 2016 to 2018, the Board’s fund balance—which represents the accumulated difference between revenues and expenditures—increased by more than \$274,000 (see Table 2). As of fiscal year 2018, the Board’s fund balance was nearly twice the Board’s expenditures for that year. This increase in the Board’s fund balance indicates that the Board has been receiving more revenue than it needs to operate, potentially because the fees it charges for services may be too high.

Table 2
Schedule of revenues, expenditures, transfers, and changes in fund balance
Fiscal years 2016 through 2018
(Unaudited)

	2016	2017	2018	Increase between 2016 and 2018
Revenues	\$131,843	\$ 662,293	\$ 596,639	\$464,796
Expenditures and transfers	437,586	439,049	545,439	107,853
Fund balance	802,817	1,026,061	1,077,261	274,444

Source: Auditor General staff analysis of the Arizona Financial Information System Accounting Event Transaction File for fiscal years 2016 through 2018 and the State of Arizona Annual Financial Report for fiscal years 2016 and 2017.

Further, this growing fund balance occurs in the accounts for both professions the Board licenses and regulates. Statute requires licensing-fee revenues and Board expenditures for psychologists and behavior analysts to be recorded in separate accounts.¹⁴ As indicated in Tables 3 and 4 (see page 14), the fund balances for both the psychologist account and the behavior analyst account have increased between fiscal years 2016 and 2018. Specifically:

¹³ A.R.S. §§32-2067 and 32-2091.01 provide the Board with the authority to set various fees for psychologists and behavior analysts, respectively.
¹⁴ See A.R.S. §32-2065. As indicated in the Introduction, we reviewed the Board’s revenue transactions from July 1, 2017 to January 31, 2018, and found that the Board was appropriately maintaining separate accounts for psychologist licensing revenue and behavior analyst licensing revenue (see Introduction, page 3, footnote 1).

- The psychologist account revenues increased in fiscal year 2017 and exceeded its expenditures in both fiscal years 2017 and 2018. Board expenditures for fiscal years 2016 and 2017 were similar but increased in fiscal year 2018 because of a one-time payment of nearly \$92,000 to the Arizona Department of Administration for a new online licensing system (see Sunset Factor 2, page 23, for additional information on this system). However, the fund balance for the psychologist account in fiscal year 2018 was 1.8 times greater than expenditures for that year.

Table 3
Psychologist account—Schedule of revenues, expenditures, transfers, and changes in fund balance
Fiscal years 2016 through 2018
(Unaudited)

	2016	2017	2018	Increase between 2016 and 2018
Revenues	\$106,025	\$575,791	\$494,003	\$387,978
Expenditures and transfers	389,385	388,132	487,371	97,986
Fund balance	702,156	889,815	896,447	194,291

Source: Auditor General staff analysis of the Arizona Financial Information System Accounting Event Transaction File for fiscal years 2016 through 2018 and the State of Arizona Annual Financial Report for fiscal years 2016 and 2017.

- The behavior analyst account revenues increased in fiscal years 2017 and 2018. Further, revenues exceeded expenditures in fiscal years 2017 and 2018 while expenditures slightly increased during this same period. Consequently, the behavior analyst account fund balance was more than 3 times its expenditures for fiscal year 2018.

Table 4
Behavior analyst account—Schedule of revenues, expenditures, transfers, and changes in fund balance
Fiscal years 2016 through 2018
(Unaudited)

	2016	2017	2018	Increase between 2016 and 2018
Revenues	\$ 25,818	\$ 86,502	\$102,636	\$76,818
Expenditures and transfers	48,201	50,917	58,068	9,867
Fund balance	100,661	136,246	180,814	80,153

Source: Auditor General staff analysis of the Arizona Financial Information System Accounting Event Transaction File for fiscal years 2016 through 2018 and the State of Arizona Annual Financial Report for fiscal years 2016 and 2017.

Although previous increases to the Board's fund balance could be attributed to the Board's schedule for renewing licenses, changes to this renewal schedule that became effective in May 2017 indicate that other factors are leading to increases in the Board's fund balance (see next section for an explanation of the Board's fees). Specifically, the Board previously renewed all licensees in odd-numbered fiscal years, which led to sharp increases in revenue in those years (see Tables 3 and 4 for increases in revenues for the psychologist and behavior analyst account in fiscal year 2017). In even-numbered fiscal years, the Board's expenditures exceeded the revenues for these accounts, which lowered the fund balance for these accounts (see Tables 3 and 4 showing that expenditures exceeded revenues in fiscal year 2016). According to the Board, changes to the license renewal schedule that became effective in May 2017 should stabilize the Board's revenues in future fiscal years. Beginning in May 2017, licensees must renew for a 2-year period based on their license number and birth month, which, according to Board staff, should provide a steady stream of license renewal revenue each year. However, in fiscal year 2018, the Board's revenues for behavior analysts exceeded revenues from the previous year in which it renewed all psychologist and behavior analyst licenses. Board staff attributed this increase to a continued growth in the number of newly licensed behavior analysts, which increased from 50 to 75 between fiscal years 2016 and 2018, respectively, and the increased number of renewals associated with a larger number of licensees.

Board's licensing fees may not be based on actual costs of processing licenses

Standards and guidelines for government fee-setting developed by several government and professional organizations state that user fees should be determined based on the costs of providing a service.¹⁵ In addition, fees should be reviewed periodically to ensure they are aligned with program costs and are adjusted to reflect inflation. When an agency does not set fees that are based on the cost of providing a service, there is an increased risk that the agency's fee revenues may be greater or less than the costs of its operations.

Our review of Board meeting minutes and documentation related to the Board's rules packages between fiscal years 2008 and 2018 found no indication that the licensing fees the Board increased and established had a cost basis.¹⁶ Specifically:

- The Board has increased its licensing fees for psychologists once since June 2007, but this increase did not include any justification for the increased fee amount. Specifically, the Board increased its initial psychologist license and renewal fees in January 2016, but neither the Board's meeting minutes nor the information contained in the Board's rules package provide any cost justification.
- The Board's meeting minutes indicate that when it established behavior analyst licensing fees in 2012, it set the fees at the same amounts that it charged for psychologist licensing fees as opposed to establishing these fees based on its costs. In addition, the Board has not changed its behavior analyst licensing fees since adopting them.

Additionally, standards and guidelines for fee-setting indicate that when setting fees to cover the cost of operations, an agency should ensure that its operations are as efficient as possible. Further, an agency should develop a method to identify both direct and indirect costs to help the agency accurately determine its costs for providing a service or good and then set its fees accordingly. Finally, the guidelines indicate that an agency should consider the effect the proposed fee changes may have on stakeholders and obtain their input when reviewing the fees. According to the Board, it had not conducted this type of fee review.

Board has made some changes consistent with fee-setting standards and guidelines

We identified 2 areas where the Board has taken steps that are aligned with fee-setting standards and guidelines:

- **Tracking actual expenditures for each account**—Fee-setting standards and guidelines state that an agency should develop and implement a method for determining and tracking the direct and indirect costs for its processes. Similarly, Board staff reported that beginning in August 2018, they now code their payroll costs to the psychologist and behavior analyst accounts based on the actual amount of time worked on tasks that are specific to each profession. Board staff indicated that they previously recorded payroll and related benefits to the psychologist and behavior analyst account proportionate to the number of psychologists and behavior analysts who were licensed. Because Board staff will be tracking time spent on specific tasks for each account, they will be able to more accurately determine the costs associated with its regulatory functions and activities for each profession.

Tracking actual expenditures should also help the Board account for increases in expenditures that it anticipates in fiscal years 2019 and 2020. Specifically, in fiscal year 2019 the Board was appropriated an additional \$14,900 for expenditures related to ongoing support for its online licensing system. As of January

¹⁵ We reviewed fee-setting guidelines from the Arizona State Agency Fee Commission, the Government Finance Officers Association, the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, the U.S. Government Accountability Office, and the U.S. Office of Management and Budget.

¹⁶ A.R.S. §41-1008(D) requires the Board to adopt rules to establish or increase the amount for each fee it charges.

2019, the same appropriation is anticipated for fiscal year 2020 with an additional \$12,000 for expenditures related to one-time system enhancements.

- **Adopting license renewal schedule will stabilize staff workload and allow for more accurate cost analysis**—As previously indicated, the license renewal time frame for psychologists and behavior analysts was changed beginning in May 2017. Board staff indicated that this new license renewal schedule stabilized the number of license renewals Board staff must process each month, which will allow the Board to more easily track the direct and indirect costs associated with processing license renewals.

We also identified 1 recent statutory change that the Board will need to consider when determining a cost-basis for its licensing fees. Laws 2017, Ch. 323, requires agencies to waive any initial licensing fees charged to an applicant whose family income does not exceed 200 percent of the Federal Poverty Guidelines beginning in August 2017.¹⁷ Board staff stated that between January and November 2018, they had received 6 requests for a waiver. Board staff indicated that the Board may receive more waivers because some applicants for a psychologist license recently completed their education and may not have worked yet and therefore may fall under the federal poverty level.

Recommendation

7. The Board should conduct a review of its fees for psychologists and behavior analysts by taking the following steps:
 - a. Ensure its regulatory processes, such as reviewing initial license and license renewal applications and investigating and adjudicating complaints, are as efficient as possible to help ensure that regulatory costs are as low as possible.
 - b. Develop and implement a method for determining and tracking the direct and indirect costs for its regulatory processes, and create policies and procedures for using this method.
 - c. After developing this cost methodology, determine the appropriate licensing fees and set fees accordingly.
 - d. Consider the effect the proposed fee changes may have on license applicants and licensees and obtain their input when reviewing the fees.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.

¹⁷ According to guidance developed by the U.S. Department of Health and Human Services, an annual income of \$50,200 for a family of 4 would qualify for 200 percent of the federal poverty level in 2018.



Board should study whether it can more efficiently license behavior analysts by relying on a national certification board

Board's requirements for behavior analyst license closely align with national certification requirements

To license behavior analysts, the Board is required by A.R.S. §32-2091.03 to adopt standards for education and supervised experience requirements consistent with the nationally recognized behavior analyst certification board and to require applicants to complete 1,500 hours of supervised work experience. In response to statute, the Board has established rules for behavior analyst licensing that closely align with certification requirements outlined by the Behavior Analyst Certification Board (BACB), a national corporation established to meet professional credentialing needs for behavior analysts.¹⁸ As shown in Table 5 (see page 18), most of the Board's behavior analyst license requirements mirror the BACB's requirements for its Board Certified Behavior Analyst certification.¹⁹ In addition, the Board's requirements for supervised experience are similar to those of the BACB except for the required number of supervised experience hours—the BACB provides 3 options for supervised experience hours for its applicants whereas Arizona's statute requires license applicants to obtain 1,500 hours of supervised experience.

Board reviews documentation that the BACB already reviewed for its certification process

The BACB requires its behavior analyst certification applicants to submit some of the same primary source documentation that applicants must also submit to the Board for licensure, suggesting that the Board's licensing process may duplicate the BACB's certification process in some ways. For example, the Board reviews behavior analyst license applicants' official transcripts, which are the same primary source documents that applicants must submit to the BACB for its review to obtain certification. Applicants for both the BACB's certification and Board licensure must also pass the BACB's behavior analyst exam.

In addition, the BACB's program for certifying behavior analysts is accredited by a national commission, which serves to provide impartial, third-party validation that the BACB meets national and international credentialing industry standards for implementing and maintaining its certification program.²⁰

¹⁸ The BACB is a nonprofit 501(c)(3) corporation established in 1998 to meet professional credentialing needs identified by behavior analysts, governments, and consumers of behavior analysis services. All the BACB requirements and examination content are established by content experts in the discipline. See Appendix A, page a-1, for additional information about the BACB and its accrediting body.

¹⁹ Although applicants for the BACB's Board Certified Behavior Analyst certification are provided with 3 eligibility options, the Board has adopted requirements that align with only Option 1. The BACB's Option 2 includes the requirement of having a full-time faculty position in an area such as behavior analysis that includes research and teaching, and Option 3 requires a doctoral degree awarded in an area such as behavior analysis at least 10 years ago.

²⁰ The BACB's Board Certified Behavior Analyst certification program is accredited by the National Commission for Certifying Agencies (NCCA). The BACB's staff reported its certification program was initially accredited by NCCA in August 2007. The BACB's current accreditation is valid until December 31, 2022 (See Appendix A, page a-1, for additional information on the BACB's accreditation).

Table 5
Comparison of requirements for Arizona licensure and national certification for behavior analysts
As of October 2018

Requirement area	Board's licensing requirements	BACB's Board Certified Behavior Analyst certification requirements
Coursework	Complete 270 hours of behavior analyst coursework.	Complete 270 hours of graduate level instruction in behavior analysis.
Education	Earn a graduate degree in a related subject area, such as behavior analysis or psychology, from an accredited institution as described in rule.	Earn a graduate degree in an acceptable field, such as behavior analysis or psychology from a qualified institution.
Exam	Pass the BACB's exam for board certified behavior analysts.	Pass its exam for board certified behavior analysts.
Supervised experience	Complete 1,500 hours of supervised work experience or independent fieldwork, university practicum, or intensive university practicum.	1,500 hours supervised independent fieldwork or 1,000 hours practicum or 750 hours intensive practicum. ¹

¹ These 3 types of supervised experience require 75 hours of supervision per calendar month; however, the practicum and intensive practicum require more frequent supervisory contact and observations per calendar month to accommodate the shortened overall time frame.

Source: Auditor General staff review of the BACB's Board Certified Behavior Analyst certification requirements information and the Board's statutes and rules.

Although the Board's review may be duplicative, Board staff confirmed that the Board has not evaluated whether it could rely on some aspects of the BACB's review in lieu of its own review of required licensing documentation.

Oregon relies on outside organizations to verify some behavior analyst licensing information

The Oregon Health Authority, Health Licensing Office's Behavior Analysis Regulatory Board relies on the BACB's review of documentation required to obtain BACB certification as part of its licensing process.²¹ Specifically, Oregon's behavior analyst licensing requirements include arranging for primary source verification of current Board Certified Behavior Analyst certification to be sent directly to the Health Licensing Office. According to the Health Licensing Office, it decided to accept the BACB's verification of documentation as part of its licensing process because as a nationally recognized professional association, it considers the BACB to be qualified to verify information applicants provide, including the applicant's degree, education, and supervision. Additionally,

²¹ In addition to requiring the BACB's certification, Oregon's behavior analyst licensing requirements also include completing an application, passing a fingerprint-based, nation-wide criminal records check, submitting an affidavit of licensure from any state where the individual holds or has held a license as a behavior analyst (if applicable), and remitting the license fees.

according to staff, the Legislature wanted to maintain cost-effective licensing options, and by relying on the BACB to verify information, the State is able to keep licensing costs down for behavior analysts and streamline the workflow for State licensing staff.

Board has taken 1 step that may help reduce duplication

In December 2018, the Board revised its rules to establish standards for a behavior analyst license applicant's supervised experience requirement, which is consistent with the BACB's certification requirements and may help eliminate 1 type of duplication. Specifically, the rule change will allow a license applicant to arrange for a copy of their BACB experience verification form(s) to be sent directly to the Board during the licensing process rather than requiring the applicant to request his/her supervisor submit the same information on a Board-specific form.

Recommendations

The Board should:

8. Determine whether it can more efficiently license behavior analysts by:
 - a. Reviewing the BACB's national certification process to determine to what extent the Board might be able to rely on various aspects of the BACB's process as part of its licensing review process.
 - b. Identifying areas where the Board's process may be streamlined to avoid duplicating efforts such as applicants submitting duplicative materials and the Board reviewing materials that the BACB has already reviewed and approved during its certification process.
 - c. Pursuing rule changes to enable modifications to its behavior analyst initial licensing requirements for the aspects of the BACB's certification review process it has determined it will rely on.
 - d. Revising its policies and procedures accordingly.
9. If it determines that it will rely on some aspects of the BACB's certification process as part of its initial licensing process for behavior analysts:
 - a. Establish a process to periodically ensure that the BACB's review continues to satisfy the Board's licensing requirements.
 - b. Periodically evaluate the cost of licensing behavior analysts to determine whether accepting the BACB's review has resulted in a cost savings and, if so, then reduce licensing fees for behavior analysts as appropriate.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.



In accordance with A.R.S. §41-2954, the Legislature should consider the following factors in determining whether to continue or terminate the Board. The analysis of the sunset factors also includes findings and recommendations not discussed earlier in the report.

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 Arizona Board of Psychologist Examiners (Board) was established in 1965, and its mission is to protect the public health, safety, and welfare through the regulation of psychologists and behavior analysts. It accomplishes its mission by issuing licenses to qualified psychologist and behavior analyst license applicants and by investigating and adjudicating complaints against licensees. The Board also provides information to the public on license status and licensees' disciplinary history.

According to the American Psychological Association, all 50 states and the District of Columbia regulate psychologists through licensure. Further, as of September 2018, the Association of Professional Behavior Analysts reported that 29 states license and 1 state certifies behavior analysts. We did not identify any states that met the Board's objective and purpose through private enterprise. Specifically, we contacted and reviewed statutes and websites for 4 states—California, Nevada, Oregon, and Utah—and found that none used private enterprises for licensing and regulating psychologists and behavior analysts. However, as we report in Finding 5, see pages 17 through 19, although the Board is statutorily responsible for licensing behavior analysts, it might be able to rely on some aspects of the Behavior Analyst Certification Board's (BACB) certification process to help review some qualifications for these license applicants.

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 met its statutory objective and purpose by issuing initial psychologist and behavior analyst licenses we reviewed to qualified applicants in a timely manner. In addition, as of October 2018, the Board has demonstrated that it is processing renewal licenses in a timely manner for those we reviewed. Specifically, for the licenses that we reviewed, the Board:

- **Issued initial licenses to qualified psychologists and behavior analysts in accordance with its rules**—AAC R4-26-208 and R4-26-417 require the Board to approve or deny initial license applications for psychologist and behavior analyst applicants who meet or do not meet the qualifications established in rule. We reviewed a random sample of 10 of the 117 psychologist initial license applications and 10 of the 72 behavior analyst initial license applications the Board received and approved in fiscal year 2018. We determined that the 20 applicants met all the qualification requirements and that the Board appropriately approved these license applications.
- **Issued initial licenses to psychologists and behavior analysts in a timely manner**—AAC R4-26-208 and R4-26-417 require the Board to approve or deny initial license applications for psychologist and behavior analyst applicants within 120 days.²² We found that for the 10 behavior analyst initial license applications we reviewed, all were approved within the time frames established in rule. In addition, we

²² AAC R4-26-208 establishes time frames for initial licensure for psychologists, and AAC R4-26-417 establishes time frames for initial licensure for behavior analysts. These rules also include exceptions, such as waiting for requests for additional or missing information, in which the time frame is suspended.

found that the Board processed 7 of the 10 psychologist initial license applications reviewed within the 120-day time frame, and the remaining 3 were allowed additional time to complete a national exam as allowed by rule (see Sunset Factor 4, pages 24 and 25, for more information).

- **Did not document whether psychologist and behavior analyst licenses were renewed within required time frames but demonstrated meeting these time frames moving forward using its new online licensing system**—AAC R4-26-208 and R4-26-417 require the Board to process license renewal applications within 150 days for psychologists and behavior analysts. For the license renewal applications we reviewed, the Board could not provide documentation to support that it processed these applications within 150 days. However, the Board reported that, as of May 2018, it began using a new online licensing system to store licensee information and process initial and renewal license applications, which also allows the Board to automatically track and monitor its compliance with license renewal time frames. We reviewed information from an online licensing system report for 64 license renewals received between July 2, 2018 and October 12, 2018, and found that the Board processed these license renewals within the required time frame.²³

However, we identified 3 areas for improvement to help the Board meet its statutory objective and purpose:

- **Board renewed licenses for psychologists and behavior analysts who met renewal requirements, but it should enhance its review of continuing education audit documentation**—AAC R4-26-205 and R4-26-408 require licensees to submit an application to renew their licenses, which includes information such as whether the applicant has been convicted of a crime since the last renewal period. In addition, rule requires licensees to obtain continuing education during each 2-year renewal period and to attest to completing the required number of continuing education hours in their renewal application.²⁴ Although licensees are not required to provide proof of completed continuing education in their license renewal application, rule requires that licensees retain documentation of continuing education completion and allows the Board to audit a licensee's compliance with continuing education by requesting this documentation. The Board randomly selects and audits 4.5 percent of all active licensees for continuing education compliance. The audit is performed by 3 Board members who serve on the Board's Continuing Education Committee (Committee).²⁵

We reviewed a random sample of 5 of 78 psychologist and 5 of 11 behavior analyst renewal applications that the Board selected for continuing education audits in fiscal year 2018 and found that the Board ensured that all 10 applications reviewed provided the appropriate information to satisfy renewal requirements as established in rule (see Appendix B, pages b-1 and b-2, for more information on the sample). However, our review of the Board's subsequent continuing education audits found that the Board had not ensured that 1 psychologist submitted sufficient documentation. Specifically, the Board accepted 1 hour of continuing education for a psychologist who did not provide sufficient documentation to support this hour of continuing education.

Although the Board has established a written procedure for how it conducts continuing education audits, the Committee did not require that the psychologist submit the required documentation as specified by rule.

- **Board should improve certain aspects of its claim and complaint handling processes**—Although the Board generally investigated and adjudicated the claims and complaints we reviewed in accordance

²³ We assessed the reliability of license renewal information in the online licensing system by comparing documentation for 5 of 64 renewals received between July 2, 2018 and October 12, 2018, to information reflected in an online licensing system report and determined that information in this report was sufficiently reliable for audit purposes.

²⁴ AAC R4-26-207(A) requires psychologists to obtain 40 hours of continuing education, and R4-26-409(A) requires behavior analysts to obtain 30 hours of continuing education during each 2-year license period.

²⁵ The Board reported that it historically performed audits biennially following each license renewal period; however, as of September 2018, it updated its procedure to align with the new license renewal process and will conduct continuing education audits annually beginning in December 2019 (see Sunset Factor 8, pages 27 and 28, for additional information on the Board's new license renewal process).

with its policies and procedures, it should improve its claim and complaint handling process timeliness and retain documentation for complaints that may not be within its jurisdiction (see Finding 2, pages 7 and 8; Finding 3, pages 9 through 12; and Sunset Factor 6, pages 26 and 27, for more information).

- **Board should revise policies and procedures to ensure it monitors and addresses functionality of the new online licensing system**—As previously mentioned, the Board began using an online licensing system in May 2018 to process initial and renewal license applications and track time frames associated with processing these applications. In addition, the online licensing system allows licensees to make payments and stores licensee information.²⁶ However, Board staff identified several continuing technical issues with the online licensing system and reported that they are working with the Arizona Department of Administration (ADOA), which is responsible for administering the online licensing system, to resolve these issues. Specifically, Board staff reported that:
 - The online licensing system should automatically generate and send e-mail reminders to licensees for license renewals at 30 and 60 days prior to license expiration. However, the system did not generate and send reminders to licensees whose licenses expired in October through December 2018.
 - In early August 2018, the Board requested that the ADOA update the online licensing system's behavior analyst license application to reflect changes that were made to the paper application, which is available for download through the Board's website. However, Board staff explained that when the changes were not made 2 months after making the request, they requested that ADOA disable the online behavior analyst initial license application. As of February 2019, ADOA had not disabled access to the incorrect application, so Board staff added a notice on the Board's website directing applicants to submit the paper version of the behavior analyst initial license application.

Additionally, Board staff reported that the online licensing system lacks 1 function of its previous system, which may require the Board to take additional steps to ensure it is appropriately renewing licenses for psychologists and behavior analysts. Board staff explained that the online licensing system accepts renewal applications with any number of continuing education hours entered, even if the number of hours entered does not align with those required for the license renewal.²⁷ In contrast, the Board's former system prevented licensees from submitting a renewal application without entering the correct number of continuing education hours required for renewal. However, the new online licensing system does not perform this function, nor does the Board take any additional steps to ensure that licensees submit the appropriate number of continuing education hours. Although the new online licensing system can produce a report that lists the number of continuing education hours each licensee is required to complete, Board staff reported they do not reconcile the information in this report to the number of continuing education hours the licensee submitted.

We also recommended that the Board:

- Pursue statutory authority to conduct fingerprint-based criminal background checks for its license applicants (see Finding 1, pages 5 and 6).
- Conduct a cost analysis of its regulatory processes to determine whether the fees it charges to support the costs of these regulatory processes are appropriate and adjust its fees accordingly (see Finding 4, pages 13 through 16).

²⁶ In addition to being implemented at the Board, 12 other regulatory boards are using the online licensing system, including the Arizona Board of Athletic Training and the Arizona Board of Respiratory Care Examiners.

²⁷ Although psychologists are required to obtain 40 hours of continuing education and behavior analysts to obtain 30 hours of continuing education during each 2-year license period, new licensees will be required to complete fewer hours during their first license renewal period because rule states that the Board shall prorate the number of continuing education hours required by licensees based on the number of whole months between the date of initial licensure and the end of the license period.

- Compare its behavior analyst initial licensing process with the BACB’s certification process to determine if it may rely on some aspects of the BACB’s process as part of its initial licensing process for behavior analysts and make changes as necessary (See Finding 5, pages 17 through 19).

Recommendations

The Board should:

10. Enhance its procedure for conducting continuing education audits to include guidance for Committee members to request required documentation from audited licensees to support all continuing education hours before it determines the licensee is compliant with the continuing education requirements in rule.
11. Continue to work with ADOA to resolve technical problems with the new online licensing system that may affect the Board’s ability to appropriately process initial and renewal license applications in a timely manner.
12. Enhance its license renewal policies and procedures to better ensure that license renewal applicants take and submit the required number of continuing education hours to renew their licenses.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.

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

The Board serves the entire State by licensing qualified applicants and investigating and adjudicating complaints against psychologists and behavior analysts who practice throughout Arizona.

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

A review of the Board’s statutes and rules found that the Board has adopted rules when statutorily required, but it should further clarify its rules for licensing time frames and examination. According to A.R.S. §32-2063(A)(9), the Board has the statutory authority to adopt rules to carry out its statutory duties, which include licensing psychologists and behavior analysts. The Board revised its rules in 2015 to reduce the number of required continuing education hours for psychologists, and in 2016, the Board again revised its rules to establish requirements for providing psychological services through telepractice (see textbox). Finally, the Board revised its rules in 2018 to include supervised experience requirements for behavior analysts that are consistent with those established by the BACB.

Telepractice—Providing or supervising psychological services through interactive audio, video, or electronic communication that occurs between the psychologist and the patient or client, including any electronic communication for diagnostic, treatment, or consultation purposes in a secure platform.

Source: Auditor General staff analysis of A.R.S. §32-2061.

However, the Board has adopted rules that contain conflicting language related to initial licensing time frames for psychologists. Specifically, the Board’s rules include an overall time frame of 120 days to approve an initial psychologist license, which includes a 30-day administrative review time frame and a 90-day substantive time frame. Rule also specifies circumstances that allow the Board to suspend its time frames, such as waiting for the applicant to provide missing application information. If the applicant has submitted documentation for all educational requirements, statute authorizes the Board to approve an applicant to take the national exam, and rule further allows the applicant up to 1 year to pass this exam.²⁸ Yet, the Board’s rules do not allow its licensing time frames to be suspended while the applicant takes the exam. Consequently, for 3 of the 10 licensee files we reviewed, the Board took longer than 120 days to issue the license because

²⁸ A.R.S. §32-2072 states that the Board must review and approve the education requirements for a psychologist license applicant prior to the applicant taking the national examination. An applicant is exempt from this requirement if he/she is a diplomate of the American Board of Professional Psychology or holds a certificate of professional qualification in psychology in good standing issued by the Association of State and Provincial Psychology Boards.

it allowed these licensees up to a year to take the national exam (see Sunset Factor 2, pages 21 through 22, for additional information).

To adopt or revise its rules, the Board would need to seek an exemption to the rule-making moratorium.²⁹ Although the moratorium restricts rule-making without the prior written approval of the Governor's Office, it provides justification for exceptions to the rule-making moratorium, including reducing or ameliorating a regulatory burden while achieving the same regulatory objective or complying with a State statutory requirement.

Recommendations

The Board should:

13. Work with its Assistant Attorney General to determine whether and when it can develop and adopt rules to clarify its statutes and processes.
14. Contingent on receiving an exemption to the rule-making moratorium, modify its rules to specify that its licensing time frames may be suspended to allow psychologist applicants to complete the initial national licensing exam.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.

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.

We evaluated the extent to which the Board has encouraged input from the public and informed the public of its actions and their expected impact on the public and found the following:

- **Board involved public in adopting rules**—The Board provided opportunities for public input as part of rulemakings it finalized in December 2015, October 2016, and November 2018.³⁰ Specifically, the Board provided opportunities for public input by publishing notices of proposed rulemaking in the Arizona Administrative Register, listing the name of Board staff who could be contacted to provide input about the proposed rulemaking, allowing the public to submit written comments on proposed rule changes for at least 30 days after it published the notice, and holding meetings where the public could provide input.
- **Board complied with various provisions of State's open meeting law**—We determined that the Board complied with various provisions of the State's open meeting law for its 6 Committee and Board meetings held in June and July 2018 (see Appendix B on pages b-1 and b-2 for more information on the number of meetings we tested). For example, as required by open meeting law, the Board posted meeting notices and agendas on its website at least 24 hours in advance and posted the meeting notices at the physical location where the Board's website stated they would be posted. The Board also provided meeting minutes or a video recording to us within 3 business days following the Board meetings. Finally, the Board meeting notices and written minutes we reviewed complied with open meeting law by providing the date, time, and exact location of the meeting on both the meeting notices and written minutes.
- **Board provided accurate and appropriate information on its website**—A.R.S. §32-2066 requires the Board to maintain a directory on its website that contains information on all licensees, such as their names and addresses. We compared information on the Board's website with information in the license

²⁹ Executive Order 2019-01 established the rule-making moratorium on January 9, 2019.

³⁰ A.R.S. §41-1056 requires every State agency to review all of its rules at least once every 5 years to determine whether any rule should be amended or repealed. In December 2014, in response to its rule review, the Board pursued several changes that were intended to make its rules more clear, concise, and understandable. In May 2016, the Board pursued rule changes to conform with statutory changes made through Laws 2014, Ch. 258, which included adding or modifying rules related to license renewals, temporary licenses, and providing psychological services through telepractice. During this audit, the Board also adopted rules that changed the supervised experience requirements and continuing education standards for behavior analysts. These rules were finalized in November 2018 and became effective in December 2018.

files of 15 psychologists and 15 behavior analysts in July and August 2018 and determined that in all cases, the Board's website provided accurate and appropriate information for these licensees. Additionally, the Board has complied with this statute's requirement to include Board members' names and addresses in this directory. Further, we selected and reviewed 4 complaints received in fiscal year 2017 that resulted in disciplinary actions and determined that the Board appropriately disclosed disciplinary information about these licensees on its website.

- **Board provided accurate and appropriate information over the phone**—In August and September 2018, we placed 5 anonymous calls to the Board and requested information about 5 licensees with varying disciplinary histories to test the Board's compliance with statute. We found that Board staff handled all 5 anonymous calls appropriately. Specifically:
 - A.R.S. §32-2081(H)(1) forbids the Board from disclosing over the phone any complaints that were dismissed by its Complaint Screening Committee (see Introduction, pages 1 through 3, for more information on this Committee). Board staff appropriately declined to disclose a complaint in 1 phone call that we placed but explained that we could submit a public records request for additional information.
 - A.R.S. §32-3214 requires the Board to comply with public records law by making information about Board-dismissed complaints, disciplinary actions, and nondisciplinary actions available when contacted by phone and providing information about the status of psychologists' licenses. In all 4 phone calls that we placed to test compliance with this statute, Board staff appropriately disclosed the license status and whether the licensee had dismissed complaints and nondisciplinary actions.

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 adjudicate complaints within its jurisdiction and has various nondisciplinary and disciplinary options available to address statute and/or rule violations (see textbox). The Board reported that it received 37 complaints against psychologists in fiscal year 2017, and Board records indicate that it reviewed 11 claims against court-appointed psychologists. Although no complaints were received in 2017 for behavior analysts, the Board received 4 complaints against behavior analysts between fiscal years 2013 and 2016.

Examples of the Board's disciplinary and nondisciplinary options

Disciplinary actions:

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

Nondisciplinary actions:

- Letter of concern
- Order for continuing education

Source: Auditor General staff analysis of A.R.S. §32-2081.

We reviewed 14 complaints against psychologists received in fiscal year 2017; 5 claims that the Board received in fiscal year 2017 against psychologists who had performed court-ordered services (see Finding 2, pages 7 and 8, for more information on this process); the most recent complaint against a behavior analyst, which was received in January 2016; and 10 complaints the Board received from fiscal year 2014 to the present but that were not within its jurisdiction. The Board generally investigated and adjudicated complaints and claims we reviewed in accordance with its policies and procedures. For example, in 1 of the 14 complaints we reviewed, the Board received a complaint about sexual misconduct and temporarily suspended the psychologist's license within 6 days of complaint receipt to protect the public health and safety while continuing to investigate and adjudicate the complaint. The psychologist ultimately agreed to surrender his license to the Board following the Board's investigation 133 days after the Board had received this complaint. However, we recommended that the Board:

- Continue to implement its newly adopted claims procedures and practices, which includes time frames, and evaluate how these procedures impact claim timeliness (see Finding 2, pages 7 and 8).

- Improve its timeliness in investigating and adjudicating complaints by assessing the impact of its current efforts and taking additional actions to improve complaint resolution timeliness. These additional actions should include revising its complaint handling policies and procedures for complaints that begin as claims to require Board staff to consider and assign an appropriate complaint investigation priority based on the nature of the alleged violations and the time the Board has already spent reviewing the claim (see Finding 3, page 9 through 12).

Additionally, we found that the Board should improve its handling of complaints that it receives but cannot investigate and adjudicate because these complaints are not within its jurisdiction. For example, the Board may receive a complaint about a social worker, which it would then forward to the Arizona Board of Behavioral Health Examiners because that agency is responsible for licensing and regulating social workers. To determine whether the Board had appropriately handled complaints it received that were not in its jurisdiction, we reviewed 10 such complaints the Board received since fiscal year 2014. However, for 6 of the 10 nonjurisdictional complaints reviewed, the Board lacked sufficient documentation to allow us to evaluate whether the Board had appropriately reviewed and forwarded them to the correct regulatory agency. Best practices in internal controls issued by the U.S. Government Accountability Office recommend that agencies document information necessary to provide reasonable assurance that processes are performed effectively and efficiently, such as retaining documents related to nonjurisdictional complaints to demonstrate that the Board handled those complaints in an appropriate and timely manner.³¹ However, the Board's complaint procedures do not specify which documents the Board should retain when it receives a complaint that it determines is not within its jurisdiction. During the audit, the Board revised its complaint procedures to require Board staff to retain copies of all original documentation for all complaints that staff determine are not within the Board's jurisdiction. As of February 2019, the Board reported that it had retained documentation for the 5 nonjurisdictional complaints received between October and December 2018.

Recommendation

15. The Board should continue to implement its revised procedures for handling complaints that staff determine are not within the Board's jurisdiction.

Board response: As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.

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. In addition, as part of its work for the Board, A.R.S. §§32-2082(B) and 32-2091.10(B) provide authority for the Attorney General to request the Superior Court to enforce subpoenas. Further, pursuant to A.R.S. §32-2083, the Board may petition the Superior Court to prevent an unlicensed person from practicing psychology or to stop licensee activities that are an immediate threat to the public. Finally, the Board refers instances of unlicensed practice or unlawful use of the term "psychologist" to the county attorney's office that has jurisdiction.

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 it has addressed deficiencies in its enabling statutes by seeking statutory changes to better manage the license renewal process. Specifically, Laws 2014, Ch. 258, §8, amended A.R.S. §32-2074 to change the time frame for the Board's license renewal process. Beginning on May 1, 2017, the time frame for licensees' renewals became staggered based on the license number and the licensee's birth month. According to the Board, this change spreads the license renewal workload more evenly over the 2-year

³¹ U.S. GAO, 2014.

renewal period and provides a steady stream of renewal revenue.

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

We identified 1 statutory change that will enable the Board to better protect the public health, safety, and welfare. As indicated in Finding 1 (see pages 5 and 6), the Board should pursue changes to its enabling statutes so that it has the authority to require fingerprint-based criminal background checks for its license applicants. Fingerprint-based criminal background checks rely on information from law enforcement agencies, which provides better assurance of an applicant's ability to safely practice than relying on self-reported information.

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 regulations protect the public by ensuring that psychologists and behavior analysts are appropriately qualified to provide services. The Board further protects the public by receiving and investigating complaints against licensees alleging incompetence or unprofessional conduct and has the authority to take appropriate disciplinary action against a licensee when allegations have been substantiated. For example, when the Board received a complaint against a psychologist for sexual misconduct, the Board temporarily suspended the psychologist's license within 6 days of receiving the complaint. The psychologist's license remained suspended while the Board investigated and adjudicated the complaint. Ultimately, the psychologist agreed to surrender his license through a Consent Agreement. Finally, the Board protects the public by providing information to the public about licensees' license status, disciplinary history, and dismissed complaints.

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.

The audit found that the level of regulation the Board exercised appears appropriate and is generally similar to the level of regulation in other states we selected for review. Specifically, we judgmentally selected for review 4 states that license psychologists—California, Nevada, Oregon, and Utah—and found that 3 of these states—Nevada, Oregon, and Utah—also license behavior analysts. We reviewed the regulation of psychologists and behavior analysts in these states and found that the requirements for psychologist and behavior analyst licensure in these states are similar to Arizona's requirements. For example:

- **National examination**—Arizona and all 4 states reviewed require psychologist license applicants to pass a national examination to be licensed. Similarly, Arizona and all 3 states we reviewed that license behavior analysts require a passing score on a national exam in order to be licensed.
- **Doctoral degree required for psychologist license**—Arizona and all 4 states reviewed require applicants for a psychologist license to obtain a doctoral degree.
- **Master's degree required for behavior analyst license**—Arizona, Nevada, and Utah require applicants to have a master's degree to apply for a behavior analyst license. Although Oregon does not specify educational requirements, it requires behavior analyst license applicants to provide proof that the applicant is certified as a behavior analyst by the BACB (see Finding 5, page 17, footnote 18, for more information about this organization), which requires applicants to have obtained a graduate degree.
- **Continuing education**—Similar to Arizona, all 4 states reviewed require psychologists to complete continuing education hours to maintain licensure. Additionally, Arizona, Nevada, and Oregon require behavior analysts to complete continuing education hours to maintain their license. Although Utah does not specifically require continuing education hours for a behavior analyst to renew their license, it requires behavior analyst licensees to maintain current behavior analyst certification from the BACB. This certification specifies continuing education requirements.

We identified 2 areas where the Board's regulation is different from the other states reviewed. Specifically:

- **Claims against court-appointed psychologists**—The Board is responsible for reviewing claims made against court-appointed psychologists, which is separate from its complaint-handling responsibilities (see Finding 2, pages 7 and 8, and Finding 3, pages 9 through 12, for more information on the Board's claims and complaint handling processes). However, based on our review of California, Nevada, Oregon, and Utah statutes, we did not identify a separate claims review process for court-appointed psychologists in these states. In addition, Nevada reported that complaints against court-appointed psychologists are handled through its complaint-handling process with the exception of Clark County, which requires the judges presiding over the cases from that county to first evaluate the complaint. If the judge finds fault, he/she forwards the complaint to the Nevada licensing board for review. Further, we reviewed the statutes for the Arizona Board of Behavioral Health Examiners, which licenses social workers who may also be appointed to perform court-ordered services like psychologists, and found that it does not have a claims review process. Similar to the states reviewed, this Board reviews any concerns or allegations regarding licensed social workers who are performing court-ordered services through its complaint handling process.
- **Fingerprint-based criminal background checks**—Contrary to Arizona, Nevada and Oregon require both psychologist license applicants and behavior analyst certificate applicants to submit fingerprints for criminal background checks. California also requires fingerprint-based criminal background checks for psychologist license applicants, but it does not license behavior analysts. Utah does not require a background check for psychologists or behavior analysts. As discussed in Finding 1, we recommend that the Board work with the Legislature to obtain statutory authority to require fingerprint-based criminal background checks for its license applicants (see pages 5 and 6).

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 several private contractors to help it perform its various functions. For example, in fiscal year 2018, the Board reported contracting for services such as an expert witness for a denial of licensure hearing, assistance with rule-writing, and database technical support and programming at a total cost of \$4,735.

We contacted 4 states—California, Nevada, Oregon, and Utah—to obtain information regarding their use of private contractors, and all 4 indicated that they use private contractors in performing their duties. Specifically:

- California's Board of Psychology uses a private contractor to conduct specimen testing on licensees who are placed on probation for substance abuse.
- Nevada's Board of Psychologist Examiners reported it hired a private company to build its licensing database and that it maintains a month-to-month arrangement to pay this vendor for cloud storage services. Additionally, Nevada's board reported it contracts with a lobbyist to help further its mission.
- Oregon's Board of Psychology reported it contracts with expert witnesses on an individual basis to assist with contested case hearings.
- Utah's Division of Occupational and Professional Licensing, Psychology Board, reported that it contracts with a third-party provider to administer a state-specific test for psychologists as a licensure requirement.

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



SUMMARY OF RECOMMENDATIONS

Auditor General makes 15 recommendations to the Board

The Board should:

1. Work with the Legislature to obtain statutory authority to require fingerprint-based criminal background checks for its license applicants. In doing so, the Board should work with its Assistant Attorney General to determine if these checks should be conducted through either a criminal history records check or a fingerprint clearance card (see Finding 1, pages 5 and 6, for more information).
2. Develop and implement policies and procedures for verifying the fingerprint clearance card's validity, both for initial and renewal license applications, if it obtains statutory authority to require fingerprint-based criminal background checks through a fingerprint clearance card (see Finding 1, pages 5 and 6, for more information).
3. Continue its efforts to implement its newly adopted claims review procedures and practices, including tracking time frames, and evaluate how these procedures and practices impact its timeliness in reviewing claims (see Finding 2, pages 7 through 8, for more information).
4. Revise its complaint handling policies and procedures to require Board staff to consider and assign an appropriate complaint investigation priority for claims that become complaints based on the nature of the alleged violations and the time the Board has already spent reviewing the claim in order to more quickly address these complaints (see Finding 3, pages 9 through 12, for more information).
5. Continue its efforts to implement all new procedures and practices designed to improve timeliness in investigating and adjudicating complaints and evaluate how its newly adopted efforts impact its complaint timeliness (see Finding 3, pages 9 through 12, for more information).
6. Continue using its newly developed claims and complaints log to ensure it tracks all complaints received (see Finding 3, pages 9 through 12, for more information).
7. Conduct a review of its fees for psychologists and behavior analysts by taking the following steps:
 - a. Ensure its regulatory processes, such as reviewing initial license and license renewal applications and investigating and adjudicating complaints, are as efficient as possible to help ensure that regulatory costs are as low as possible.
 - b. Develop and implement a method for determining and tracking the direct and indirect costs for its regulatory processes, and create policies and procedures for using this method.
 - c. After developing this cost methodology, determine the appropriate licensing fees and set fees accordingly.
 - d. Consider the effect the proposed fee changes may have on license applicants and licensees and obtain their input when reviewing the fees (see Finding 4, pages 13 through 16, for more information).
8. Determine whether it can more efficiently license behavior analysts by:
 - a. Reviewing the BACB's national certification process to determine to what extent the Board might be able to rely on various aspects of the BACB's process as part of its licensing review process.

- b. Identifying areas where the Board's process may be streamlined to avoid duplicating efforts such as applicants submitting duplicative materials and the Board reviewing materials that the BACB has already reviewed and approved during its certification process.
 - c. Pursuing rule changes to enable modifications to its behavior analyst initial licensing requirements for the aspects of the BACB's certification review process it has determined it will rely on.
 - d. Revising its policies and procedures accordingly (see Finding 5, pages 17 through 19, for more information).
9. If it determines that it will rely on some aspects of the BACB's certification process as part of its initial licensing process for behavior analysts:
 - a. Establish a process to periodically ensure that the BACB's review continues to satisfy the Board's licensing requirements.
 - b. Periodically evaluate the cost of licensing behavior analysts to determine whether accepting the BACB's review has resulted in a cost savings and, if so, then reduce licensing fees for behavior analysts as appropriate (see Finding 5, pages 17 through 19, for more information).
10. Enhance its procedure for conducting continuing education audits to include guidance for Committee members to request required documentation from audited licensees to support all continuing education hours before it determines the licensee is compliant with the continuing education requirements in rule (see Sunset Factor 2, pages 21 through 24, for more information).
11. Continue to work with ADOA to resolve technical problems with the online licensing system that may affect the Board's ability to appropriately process initial and renewal license applications in a timely manner (see Sunset Factor 2, pages 21 through 24, for more information).
12. Enhance its license renewal policies and procedures to better ensure that license renewal applicants take and submit the required number of continuing education hours to renew their licenses (see Sunset Factor 2, pages 21 through 24, for more information).
13. Work with its Assistant Attorney General to determine whether and when it can develop and adopt rules to clarify its statutes and processes (see Sunset Factor 4, pages 24 and 25, for more information).
14. Contingent on receiving an exemption to the rule-making moratorium, modify its rules to specify that its licensing time frames may be suspended to allow psychologist applicants to complete the initial national licensing exam (see Sunset Factor 4, pages 24 and 25, for more information).
15. Continue to implement its revised procedures for handling complaints that staff determine are not within the Board's jurisdiction (see Sunset Factor 6, pages 26 and 27, for more information).



Behavior Analyst Certification Board accreditation

The Behavior Analyst Certification Board's (BACB) Board Certified Behavior Analyst certification program is accredited by the National Commission for Certifying Agencies (NCCA) through December 31, 2022.

The NCCA was created in 1987 as an administratively independent resource that uses a peer-review process to establish accreditation standards that help ensure the health, welfare, and safety of the public and to ensure ongoing compliance with its standards. In addition, the NCCA reported that its standards align with other professional associations' standards, such as the American Psychological Association. According to the NCCA, its accreditation provides impartial, third-party validation that the BACB's certification program has met credentialing-industry standards for developing, implementing, and maintaining the program.

The NCCA grants accreditation for 5-year periods and requires organizations to complete the same accreditation process, including submitting all documentation, for each subsequent reaccreditation. During the 5-year accreditation period, organizations with accredited certification programs must complete an NCCA annual report form, which enables the NCCA to monitor continuing compliance with its standards.



Objectives, scope, and methodology

The Office of the Auditor General has conducted a performance audit and sunset review of the Arizona Board of Psychologist Examiners (Board) pursuant to a September 14, 2016, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq. This audit addresses the Board's licensing, claims handling, and complaint resolution processes; the appropriateness of its licensing fees; whether it can more efficiently license behavior analysts; and its provision of information to the public. It also includes responses to the statutory sunset factors.

We used various methods to study the issues in this performance audit and sunset review of the Board. These methods included reviewing Board statutes, rules, and policies and procedures; interviewing Board members and staff; and reviewing information from the Board's website. We also attended and reviewed minutes or audio recordings from 6 public meetings of the Board and its committees held between June and July 2018. In addition, we used the following specific methods to meet the audit objectives:

- To determine whether the Board issued initial licenses to qualified applicants in a timely manner, we reviewed random samples of 10 of the 117 psychologist applications for initial licensure and 10 of the 72 behavior analyst applications for initial licensure the Board received in fiscal year 2018. Additionally, to determine whether the Board renewed licenses according to its rules and followed its procedure to audit the continuing education requirements for renewed licenses, we selected and reviewed a random sample of 5 of the 78 psychologist license renewal applications and 5 of the 11 behavior analyst license renewal applications that were submitted by April 30, 2017, and that the Board selected for a continuing education audit in fiscal year 2018. Further, we reviewed documentation licensees submitted for the continuing education audit and the Board's initial and renewal license application forms to determine if it was consistent with statute and rule requirements. To assess whether the Board renewed licenses in a timely manner, we reviewed an online licensing system report for licenses renewed in July 2018 through October 2018. To determine how the Board's process for certifying behavior analysts compares to the process the Behavior Analyst Certification Board (BACB) uses, we reviewed the BACB's website, interviewed BACB staff, and reviewed the website for the National Commission for Certifying Agencies, the organization that accredits the BACB's Board Certified Behavior Analyst certification program.
- To determine how other regulatory boards obtain fingerprint-based background checks for license applicants, we reviewed statutes for the Arizona Board of Behavioral Health Examiners, Arizona Medical Board, Arizona Board of Osteopathic Examiners, and Arizona Department of Gaming Division of Racing. Also, to understand the differences between a fingerprint clearance card and a criminal history records check, we contacted the Arizona Department of Public Safety and the Arizona Board of Fingerprinting.
- To assess whether the Board appropriately investigated and adjudicated complaints in a timely manner, we reviewed a judgmental sample of 14 of the 37 psychologist complaints the Board received in fiscal year 2017; a random sample of 5 of the 11 claims against court-appointed psychologists the Board received in fiscal year 2017; a random sample of 10 of the 26 nonjurisdictional complaints the Board received between fiscal year 2014 to July 2018; and the only complaint against a behavior analyst that the Board received in fiscal year 2016. Further, we reviewed the process that Board staff use to monitor and track complaints and claims.
- To determine whether the Board appropriately established fees, we interviewed Board staff and reviewed Board meeting minutes and rule-making packets. Additionally, we analyzed unaudited information from the

Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2016 through 2018 and the State of Arizona *Annual Financial Report* for fiscal years 2016 through 2017. Further, we reviewed best practices for fee setting from the Arizona State Agency Fee Commission, the Government Finance Officers Association, the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, the U.S. Government Accountability Office, and the U.S. Office of Management and Budget.^{32,33,34,35,36}

- To assess whether the Board shared appropriate information with the public, we placed 5 anonymous phone calls to Board staff in August and September 2018 requesting information about licensees and compared the information provided to Board records. We also reviewed licensing information for 10 psychologists and 10 behavior analysts who were initially licensed in fiscal year 2018 and for 5 psychologists and behavior analysts whose licenses were renewed by April 30, 2017, and disciplinary information for 4 psychologists who received complaints in fiscal year 2017 to assess whether the information provided on the Board's website matched the Board's files and was consistent with statutory requirements. Additionally, we reviewed the Board's website to determine whether it posted Board members' names and addresses pursuant to A.R.S. §32-2066.
- To obtain information for the Introduction, we reviewed Board records regarding the number of licenses issued in calendar year 2017 and the number of active licensees as of June 30, 2018. In addition, we compiled and analyzed unaudited information from the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2016 through 2018 and the State of Arizona *Annual Financial Report* for fiscal years 2016 through 2017.
- To obtain information for the Sunset Factors, we reviewed information in the Arizona Administrative Register regarding the Board's various rulemakings from November 2014 through November 2018 and assessed the Board's compliance with various provisions of the State's open meeting law for 6 Board meetings and committee meetings held in June and July 2018. In addition, we judgmentally selected 4 states (California, Oregon, Nevada, and Utah) and reviewed their regulation of psychologists and behavior analysts. We also contacted staff from entities in these states and obtained information about their use of private contractors.
- Our 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. We reported their conclusions on these internal controls and, where applicable, Board efforts to improve its controls in Findings 2 and 3, as well as Sunset Factor 2 of the report. In addition, we assessed the reliability of the Board's electronic information for performing audit work. Specifically, we interviewed Board staff and compared license renewal information in the online licensing system to the renewal application documents. Through this work, we determined that the information in the Board's online licensing system was sufficiently reliable for audit purposes.

We conducted this performance audit and sunset review of the 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.

We express our appreciation to the Board and its Executive Director and staff for their cooperation and assistance throughout the audit.

³² Arizona State Agency Fee Commission. (2012). *Arizona state agency fee commission report*. Phoenix, AZ.

³³ Michel, R.G. (2004). *Cost analysis and activity-based costing for government*. Chicago, IL: Government Finance Officers Association.

³⁴ Joint Legislative Committee on Performance Evaluation and Expenditure Review. (2002). *State agency fees: FY 2001 collections and potential new fee revenues*. Jackson, MS.

³⁵ U.S. Government Accountability Office. (2008). *Federal user fees: A design guide*. Washington, DC.

³⁶ U.S. Office of Management and Budget. (2004). *OMB Circular No. A-25 Revised*. Washington, DC.

BOARD RESPONSE



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Executive Director

Jenna Jones

March 26, 2019

Lindsey Perry, Auditor General
Arizona Office of the Auditor General
2910 North 44th Street, Ste. 410
Phoenix, Arizona 85018

Dear Ms. Perry:

The Arizona Board of Psychologist Examiners appreciates the opportunity to respond to the report of the Auditor General regarding the performance audit and sunset review.

On behalf of the Board and staff, we would like to thank your staff for the professional and collaborative approach by the Office of the Auditor General during the audit process.

Thank you.

Jenna Jones
Executive Director

Finding 1: Board should seek statutory authority to require criminal background checks for license applicants

Recommendation 1: The Board should work with the Legislature to obtain statutory authority to require fingerprint-based criminal background checks for its license applicants. In doing so, the Board should work with its Assistant Attorney General to determine if these checks should be conducted through either a criminal history records check or a fingerprint clearance card.

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

Response explanation: The Board has reviewed and discussed the implementation of requiring fingerprint clearance cards for new license applicants. The Board's plan includes holding stakeholder meetings this summer to discuss the proposed legislative change. The recommendation for requiring fingerprint clearance cards at renewal will also be discussed and considered. If the Board were to move forward with the statutory change to require a fingerprint clearance card at renewal, it would be one of the first regulatory boards in the state to do so.

Recommendation 2: The Board should develop and implement policies and procedures for verifying the fingerprint clearance card's validity, both for initial and renewal license applications, if it obtains statutory authority to require fingerprint-based criminal background checks through a fingerprint clearance card.

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

Response explanation: If given the statutory authority to require fingerprint clearance cards, the Board will develop and implement policies and procedures for use of a fingerprint clearance card for new applicants and renewals.

Finding 2: Board should improve timeliness in reviewing claims against court-appointed psychologists

Recommendation 3: The Board should continue its efforts to implement its newly adopted claims review procedures and practices, including tracking time frames, and evaluate how these procedures and practices impact its timeliness in reviewing claims.

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

Response explanation: The recommendation has been implemented by the Board. The Board will continue to follow existing procedures for handling claims. Staff has modified the tracking process for claims and will continue to follow this implemented change. As of February 2018, the average time to resolve claims in FY19 has been 59 days. The claims process is unique to Arizona and as such it creates specific challenges to obtaining information to review, consider and evaluate the matter when a claim is made. The Board plans to review this item for possible consideration of a legislative change.

Finding 3: Board should improve timeliness in investigating and adjudicating complaints against psychologists

Recommendation 4: The Board should revise its complaint handling policies and procedures to require Board staff to consider and assign an appropriate complaint investigation priority for claims that become complaints based on the nature of the alleged violations and the time the Board has already spent reviewing the claim in order to more quickly address these complaints.

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

Response explanation: Board staff reviews and evaluates the allegations in each complaint received and prioritizes handling as warranted. When a claim is determined to warrant a complaint, the same initial process is followed. Staff requests a response and copies of the records from the licensee. When the response and records are received from the licensee, the former claim now complaint, could be prioritized over other pending complaints dependent on the subject matter and seriousness of the other complaints. At this time, the complaint process is current and unless there were to be a significant increase in reported complaints, all cases are moving to the next scheduled Complaint Screening Committee meeting.

Recommendation 5: The Board should continue its efforts to implement all new procedures and practices designed to improve timeliness in investigating and adjudicating complaints and evaluate how its newly adopted efforts impact its complaint timeliness.

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

Response explanation: This recommendation has already been implemented. The Board will continue its efforts to improve timeliness in investigating and adjudicating complaints. As of February 2018, the complaints received in FY19 have been resolved in an average of 124 days.

Recommendation 6: The Board should continue using its newly developed claims and complaints log to ensure it tracks all complaints received.

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 use the newly developed claims and complaint logs. A staff change at the Board in late 2017 led to the identification and assessment that a new tracking system would be beneficial. In addition, a number of processes and procedures have been revised. The agency tracks all complaints received, including those matters when the Board does not have jurisdiction and has referred the matter to another agency for handling.

Finding 4: Board should review appropriateness of licensing fees

Recommendation 7: The Board should conduct a review of its fees for psychologists and behavior analysts by taking the following steps:

Recommendation 7a: Ensure its regulatory processes, such as reviewing initial license and license renewal applications and investigating and adjudicating complaints, are as efficient as possible to help ensure that regulatory costs are as low as possible.

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

Response explanation: The agency is very efficient and highly productive in the amount of work processed and completed. The staff's four members accomplish this by being cross-trained and highly proficient at multi-tasking. The staff are exceptionally diligent and dedicated to supporting the Board and its committees all while providing excellent customer service to licensees and the public. Staff is successful in meeting all timeframes for licensing and renewals in addition to improving timeframes for claims and complaints. The staff is also responsible for coordinating and attending meetings each month for the Board and several committees. Due to the increasing workload, proposed projects, rule changes, and the increases in time necessary to process applications and licenses in the new e-licensing system, the Board will need a staffing increase in the next budgetary cycle. The number of licensed Behavior Analysts have increased by 26% over the past two years. The Board's overhead expenses have increased significantly in the past year with the implementation of the e-licensing system. In FY18, the Board was mandated to spend \$91,000 to initiate the e-licensing system. The Board expects to spend approximately \$21,000 this year on the system and its related costs. In addition to the yearly expense of the system, the Board is also seeking an additional appropriation of \$12-\$14,000 in FY20 for software to assist staff in extracting information from the system in a usable format. The Board's overhead has increased significantly as a result of all of these additional expenses. It should also be noted that several of the tenured Board members have waived their per diems. Several years ago the Board's fund was swept by the Legislature. As a result, the Board members chose to forego the per diems to assist the agency with significant funding issues that the sweeps created. The Board members have continued to forego the per diems. Newer Board members are choosing to accept the per diems, as allowed, and we anticipate that those tenured members will accept the per diems as well. Though the per diems are very small when considering the amount of time and work provided by the Board members, it is another cost that will be considered in this process. The Board is also adjusting to the new statute allowing applicants to request a waiver of the initial application fees. The waiver has the potential of making a drastic change to the Board's revenue recognized from initial applications.

Recommendation 7b: Develop and implement a method for determining and tracking the direct and indirect costs for its regulatory processes, and create policies and procedures for using this method.

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

Response explanation: The Board will work to develop and implement a method for evaluating the direct and indirect costs of doing business and tracking the same. Policies and procedures will be developed and implemented as necessary.

Recommendation 7c: After developing this cost methodology, determine the appropriate licensing fees and set fees accordingly.

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

Response explanation: Once the cost methodology is complete, the Board can review and evaluate the current fee structure to determine if costs should be decreased or if an increase is warranted. Currently, the staff time required to process both types of license applications is very similar. All fees are currently in rule, therefore a change to fees would require a rule change.

Recommendation 7d: Consider the effect the proposed fee changes may have on license applicants and licensees and obtain their input when reviewing the fees.

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

Response explanation: The Board considers the effect any proposed fee change will have on applicants and licensees. The Board will hold open meetings and public forums in accordance with the rule process if any fee changes are considered.

Finding 5: Board should study whether it can more efficiently license behavior analysts by relying on a national certification board

Recommendation 8: The Board should determine whether it can more efficiently license behavior analysts by:

Recommendation 8a: Reviewing the BACB's national certification process to determine to what extent the Board might be able to rely on various aspects of the BACB's process as part of its licensing review process.

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 BACB certification process to determine if any of the BACB's documentation could be utilized in the Board's licensing process. Although the Board requires an applicant pass the BACB exam, BACB certification is not required for licensure.

Recommendation 8b: Identifying areas where the Board's process may be streamlined to avoid duplicating efforts such as applicants submitting duplicative materials and the Board reviewing materials that the BACB has already reviewed and approved during its certification process.

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 consider options, if any, to assist in streamlining the application process when considering documentation an applicant has submitted to BACB.

Recommendation 8c: Pursuing rule changes to enable modifications to its behavior analyst initial licensing requirements for the aspects of the BACB's certification review process it has determined it will rely on.

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

Response explanation: If items are identified and the Board chooses to accept items from the BACB, statute and rule changes might be necessary.

Recommendation 8d: Revising its policies and procedures accordingly.

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

Response explanation: If necessary, the Board will revise its policies and procedures accordingly.

Recommendation 9: If it determines that it will rely on some aspects of the BACB's certification process as part of its initial licensing process for behavior analysts:

Recommendation 9a: Establish a process to periodically ensure that the BACB's review continues to satisfy the Board's licensing requirements.

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

Response explanation: If the Board were to rely on aspects of the BACB certification process this issue would need to be considered and a process, if possible, developed. Without a rigorous audit process, it is unclear how documents that the Board currently primary source verifies, could be outsourced.

Recommendation 9b: Periodically evaluate the cost of licensing behavior analysts to determine whether accepting the BACB's review has resulted in a cost savings and, if so, then reduce licensing fees for behavior analysts as appropriate.

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

Response explanation: If the process changes, the Board could evaluate to determine if there are any cost savings that could result in a fee reduction. It is important to remember that licensing fees do not merely support licensing. Fees support all aspects of the agency including, but not limited to, investigations.

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 10: The Board should enhance its procedure for conducting continuing education audits to include guidance for Committee members to request required documentation from audited licensees to support all continuing education hours before it determines the licensee is compliant with the continuing education requirements in rule.

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

Response explanation: The committee evaluates continuing education documentation based upon rule A.A.C. R4-26-207(G). A copy of the rules are provided to the licensee that is being audited. A copy of the rules are also provided to the members of the Continuing Education Committee as part of their materials. It should be noted that the Board recently reduced the number of required continuing education hours so it would align more closely with other jurisdictions.

Recommendation 11: The Board should continue to work with ADOA to resolve technical problems with the online licensing system that may affect the Board's ability to appropriately process initial and renewal license applications in a timely manner.

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

Response explanation: The Board's staff has dedicated an enormous amount of time to work with the new e-licensing system that launched in May 2018. The system's process/features that are broken have created additional costs for the agency. The system's process of sending emails to notify licensees of upcoming renewals has been broken since August 2018. Without this feature, staff has been required to send notices by mail which increases operative costs in the way of staff time, printing, and postage. In addition, several other features of the system do not work and have created additional work for staff by requiring manual corrections to the entries in the system each month since August 2018. To date, we have not been advised as to when these might be repaired. The new system requires an increased amount of staffing time to process applications, renewals and in preparing materials for meetings. The inability to revise applications in a timely manner is not efficient. The Behavior Analyst licensure application required revisions and those changes were sent to ADOA/ASET in July 2018. As of March 2019, the revisions have not been made. Because the online application is outdated and not consistent with rule, we have asked ADOA /ASET to disconnect the link so new applicants may not use the online application. To date, that request has not been completed. Our staff has posted a notice asking applicants to use the paper version but some applicants continue to use the online outdated form. As a result, staff must send the current form to those applicants and ask them to complete the proper form. This is not efficient for anyone involved. In FY18, the agency was mandated to spend \$91,000 for the initial costs of the e-licensing system. In FY19, the agency expects to spend \$21,000 in costs related to the e-licensing system. In FY20, we anticipate spending \$19-21,000 with an additional \$12-14,000 for an enhancement in the software to allow us to pull information from the system in a readable format. The system is not currently user-friendly, efficient, nor does it offer a savings in time or cost. The ongoing costs are difficult to measure. Each time a new agency is added to the platform, our staff is asked to test each and every function of the system to identify problems or errors that the newly added programming may have caused. We are

advised the testing must be conducted within a few days with very short notice (1-4 days). If we do not properly test the system and identify errors, we are advised the problems will not be addressed but will be added to the list of issues to be addressed by ADOA/ASET. Considering the amount of time we have waited to have the other errors corrected, since August 2018, we must set aside workflow and dedicate time to testing the system. This is a continuing struggle and strain on staff in addition to expenses of staff time and loss of productivity.

Recommendation 12: The Board should enhance its license renewal policies and procedures to better ensure that license renewal applicants take and submit the required number of continuing education hours to renew their licenses.

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

Response explanation: The Board staff have implemented a process of reviewing the number of continuing education (CE) hours that are provided by the licensee on the renewal application. Staff is verifying the appropriate number of hours have been submitted with the renewals.

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

Recommendation 13: The Board should work with its Assistant Attorney General to determine whether and when it can develop and adopt rules to clarify its statutes and processes.

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 identify rules that may need to be revised, repealed or added. Once identified, the Board will need to seek an exemption from the Governor's office to the current rule moratorium to make rule changes. If approved, the rules process can begin.

Recommendation 14: The Board should, contingent on receiving an exemption to the rule-making moratorium, modify its rules to specify that its licensing time frames may be suspended to allow psychologist applicants to complete the initial national licensing exam.

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

Response explanation: The Board will seek clarification in the rules as outlined by the Auditor's finding.

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

Recommendation 15: The Board should continue to implement its revised procedures for handling complaints that staff determine are not 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 has already implemented changes in the procedures staff follows when non-jurisdictional complaints are received.

