

State of Arizona Naturopathic Physicians Medical Board

Board issued licenses/certificates we reviewed to qualified applicants within required time frames but did not resolve some complaints in a timely manner, which may impact patient safety, and did not provide sufficient public information

Performance Audit and
Sunset Review

June 2022
Report 22-104

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





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June 7, 2022

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Ms. Gail Anthony, Executive Director
State of Arizona Naturopathic Physicians Medical Board

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the State of Arizona Naturopathic Physicians Medical Board*. This report is in response to a December 17, 2020, 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 to provide a quick summary for your convenience.

As outlined in its response, the State of Arizona Naturopathic Physicians Medical Board agrees with all the findings and plans to implement or implement in a different manner all the recommendations. My Office will follow up with the Board in 6 months to assess its progress in implementing the recommendations.

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

Sincerely,

Lindsey A. Perry

Lindsey A. Perry, CPA, CFE
Auditor General

State of Arizona Naturopathic Physicians Medical Board

Board issued licenses/certificates we reviewed to qualified applicants within required time frames but did not resolve some complaints in a timely manner, which may impact patient safety, and did not provide sufficient public information

Audit purpose

To determine whether the Board issued licenses and certificates in accordance with statute and rule requirements, resolved complaints in a timely manner and in accordance with Board policy, provided information to the public as required by statute, and provide responses to the statutory sunset factors.

Key findings

The Board:

- Was established in 1935 to regulate the practice of naturopathic medicine in Arizona.
- Ensured that all 27 initial naturopathic physician licenses and 22 certificates to dispense natural substances, drugs, and devices we reviewed generally met statute and rule requirements and were issued within required time frames.
- Did not resolve 11 of 27 complaints we reviewed within 180 days—taking between 182 and 476 days to resolve 10 of these complaints, with 1 complaint open for more than 500 days and still pending as of February 2022.
- Did not respond to 2 of 3 anonymous phone calls we made and had not removed some disciplinary actions older than 5 years from its website, as required by statute, but did so during the audit.
- Did not perform statutorily required inspections of naturopathic physicians' dispensing and prescribing practices, training programs, and continuing education programs.
- Complied with the open meeting law requirements we reviewed for the 4 monthly meetings the Board held between May and August 2021.
- Requires naturopathic medical students to obtain a certificate and pay a fee for engaging in the clinical training part of their education, unlike other Arizona health regulatory boards and naturopathic regulatory boards in other states.

Key recommendations

The Board should:

- Investigate and resolve complaints within 180 days by developing and implementing time frames for completing all key steps in its complaint-handling process and monitoring its performance against these time frames.
- Comply with its policies and procedures for returning voicemail messages requesting information on licensees and certificate holders within 24 hours.
- Perform statutorily required inspections or work with the Legislature to modify statute related to these statutory requirements.
- Consistent with its reported plans, work with the Legislature to pursue a statutory change to eliminate medical students' clinical training certification requirement.



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Board overview

The State of Arizona Naturopathic Physicians Medical Board (Board) regulates naturopathic medicine by issuing licenses and certificates, resolving complaints, and providing information to the public about licensees and certificate holders. Statute requires the Board to consist of 7 members appointed by the Governor for 5-year terms. For fiscal year 2022, the Board was appropriated 2 full-time equivalent staff positions. As of April 2022, the Board had a full-time executive director and part-time administrative assistant. The Board does not receive any State General Fund appropriations. Rather, the Board's revenues consist primarily of licensing and related fees.

Active licenses and certificates as of February 2022	Complaints received in fiscal year 2021
2,247	27

Audit results summary

Key regulatory areas reviewed		
Initial licenses/certifications —Process initial license/certificate applications within required time frames. Key license/certificate qualifications include education, passing an examination, lawful presence documentation, passing a fingerprint-based criminal history records check, and providing a photograph.	Issued timely ✓	Generally ensured qualifications met ✓
Inspections —Perform statutorily required inspections of naturopathic physicians' (1) dispensing and prescribing practices, (2) training programs, and (3) continuing medical education programs.	Performed inspections ✗	Sought changes to inspection requirements ✗
Complaint handling —Investigate complaints it receives and take action to address violations.	Resolved complaints within 180 days ✗	Imposed consistent disciplinary actions ✓
Public information —Provide specific complaint and licensee/certificate holder information to the public upon request.	Provided public information upon request ✗	Provided required information on website within time frames ✗
Other responsibilities reviewed		
Fee setting —Establish policies and procedures to ensure fees are based on costs of providing services and periodically review fees.	Established fee-setting policies and procedures ✗	Periodically reviewed ✗
Conflicts of interest —Requirements and recommended practices include signing a disclosure form annually and maintaining a special file to document substantial interest disclosures. During the audit, the Board updated its conflict-of-interest procedures and adopted a new conflict-of-interest annual disclosure form.	Board members and staff signed annual disclosure form ✓	Maintained special file to document substantial interest disclosures ✓
Rulemaking and open meeting law —Requirements include involving the public in rulemaking and making meeting minutes or a recording of Board meetings available in 3 working days.	Involved public in rulemaking N/A	Meeting agendas posted and meeting minutes available in 3 working days ✓

The Arizona Auditor General has completed a performance audit and sunset review of the State of Arizona Naturopathic Physicians Medical Board (Board). This performance audit and sunset review provides responses to the statutory sunset factors and determined whether the Board (1) issued licenses and certificates in accordance with statute and rule requirements, (2) resolved complaints in a timely manner and in accordance with Board policy, and (3) provided information to the public as required by statute.

Mission and responsibilities

The Board was established in 1935, and its mission is to protect the public through regulating the practice of naturopathic medicine (see textbox). The Board's responsibilities include:

- Issuing licenses and certificates to qualified applicants, including naturopathic physicians and, upon separate application, issuing certificates to dispense natural substances, drugs, and devices; certificates to conduct training programs (preceptorships) to licensed naturopathic physicians; and issuing certificates to practice in a specialty such as oncology and family medicine. The Board also certifies naturopathic medical assistants. Further, the Board issues certificates to students in a naturopathic clinical training program, and graduates of an approved college of naturopathic medicine to engage in a naturopathic preceptorship training program (see Appendix A, page a-i, for key requirements for the license and certificates). Table 1 provides the number of active Board-licensed and certified professionals as of February 2022.

Practice of naturopathic medicine—A medical system of diagnosing and treating diseases, injuries, ailments, infirmities and other conditions of the human mind and body, including by natural means, drugless methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic, and sanitary measures and all forms of physical agents and modalities.

Source: Arizona Revised Statutes (A.R.S.) §32-1501 (28).

Table 1
Number of active licensees and certificate holders by type
As of February 2022
 (Unaudited)

 Licensed and certified professionals	
Naturopathic physicians	1,111
Naturopathic medical assistants	14
 Licensed physician certificates¹	
Certificate to dispense natural substances, drugs, and devices	841
Certificate to conduct preceptorship training	10
Specialty certificate	13
 Physician training certificates²	
Certificate to engage in clinical training	255
Certificate to engage in preceptorship training	3

¹ Not every physician applies for a certificate, and some physicians may apply for and receive all 3 certificates.

² The certificates to engage in clinical training and preceptorship training are issued to prospective physicians while these individuals are in training prior to receiving a physician's license in Arizona.

Source: Board-prepared documentation.

- Investigating and resolving complaints against licensees and certificate holders. According to the Board’s complaint logs, the Board received 31 and 27 complaints in fiscal years 2020 and 2021, respectively.¹ See Finding 1, pages 5 through 8, and Sunset Factor 6, page 14, for more information on deficiencies we identified with the Board’s complaint handling, including not processing complaints in a timely manner.
- Providing information about licensees and certificate holders to the public, including licensees’ disciplinary and nondisciplinary histories. See Sunset Factor 5, pages 13 and 14, for more information on deficiencies we identified with the Board’s provision of public information.

Organization and staffing

As required by A.R.S. §32-1502, the Board consists of 7 Governor-appointed members, including 4 physician members and 3 public members. Board members serve 5-year terms. As of February 2022, all 7 Board member positions were filled. The Board was appropriated 2 full-time equivalent positions for fiscal year 2022. As of April 2022, the Board had a full-time executive director and a part-time administrative assistant. According to the Board, it began sharing an administrative assistant on an as-needed basis with the Arizona State Board of Optometry.

Budget

The Board does not receive any State General Fund appropriations. Rather, its revenues consist primarily of licensing and related fees (see Table 2, page 4). A.R.S. §32-1505 requires the Board to remit 10 percent of all monies received to the State General Fund and to deposit the remaining 90 percent of these revenues into the Naturopathic Physicians Medical Board Fund. A.R.S. §32-1553 also requires the Board to remit all monies collected from civil penalties to the State General Fund. In fiscal years 2020 through 2022, most of the Board’s expenditures were for personnel costs and other operating expenses, such as rent, accounting services, and information technology. Based on the Board’s fiscal year 2022 budgeted revenues and expenditures, it projects its fiscal year 2022 ending fund balance to be about \$1.8 million, more than 9 times its annual expenditures for the fiscal year.

¹ The Board’s fiscal year 2021 complaint log included 2 additional items that were originally listed as complaints but were related to allegations that had previously been investigated and resolved.

Table 2
Schedule of revenues, expenditures, and changes in fund balances
Fiscal years 2020 through 2022
(Unaudited)

	2020 (Actual)	2021 (Actual)	2022 (Budgeted)
Revenues			
Licensing and fees	\$280,740	\$381,520	\$371,556
Fines, forfeits, and penalties	17,073	6,391	17,333
Examination fees	5,820	7,140	6,000
Other	205	342	
Total gross revenues	303,838	395,393	394,889
Credit card fees	(3,421)	(4,572)	
Remittances to the State General Fund ¹	(30,042)	(38,998)	(39,489)
Total net revenues	270,375	351,823	355,400
Expenditures			
Payroll and related benefits	103,566	108,768	106,300
Professional and outside services ²	11,163	2,754	30,100
Travel	1,281		11,400
Other operating ³	42,906	42,646	46,500
Computer equipment		7,306	
Total expenditures	158,916	161,474	194,300
Net change in fund balances	111,459	190,349	161,100
Fund balances, beginning of year	1,340,021	1,451,480	1,641,829
Fund balances, end of year	\$1,451,480	\$1,641,829	\$1,802,929

¹ The Board is required to remit to the State General Fund all civil penalties and 10 percent of all its other revenues pursuant to A.R.S. §§32-1505 and 32-1553. According to the Board, it did not assess any civil penalties against licensees during fiscal years 2020 and 2021.

² Professional and outside services primarily consisted of costs related to temporary agency services.

³ Other operating expenditures consisted of various expenditures such as rent, accounting services, and information technology expenditures.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* and the State of Arizona *Annual Financial Report* for fiscal years 2020 and 2021, and Board- and Arizona Department of Administration-provided budget information for fiscal year 2022.

Board has not resolved some complaints in a timely manner, which may affect patient safety

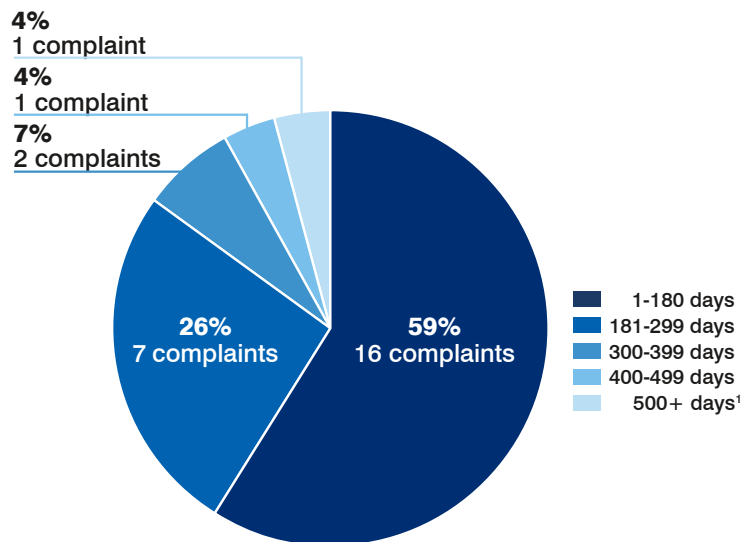
Board investigates and resolves complaints against licensees and certificate holders

Statute authorizes the Board to investigate and resolve complaints alleging violations of statute or rule by licensees and certificate holders and allegations of unlicensed practice (see Sunset Factor 6, page 14, for additional information).² Although the Board has not established time frames for investigating and resolving the complaints it receives, we have determined that Arizona health regulatory boards should investigate and resolve complaints within 180 days of receiving them.

Board did not resolve 11 of 27 complaints received in fiscal year 2021 within 180 days

We reviewed all 27 complaints the Board received in fiscal year 2021 and found that it did not resolve 11 of these complaints, or 41 percent, within 180 days.³ Specifically, the Board took between 182 and 476 days to investigate and resolve 10 of these complaints, and as of February 2022, 1 complaint received in September 2020 was still pending resolution and had been open for more than 500 days (see Figure 1). For the 10 closed complaints that exceeded the 180-day time frame, the Board issued disciplinary action to restrict the licensees' prescribing practices for 2 of these complaints, issued nondisciplinary letters of concern and/or orders for continuing medical education for 7 complaints, and dismissed the remaining complaint.⁴

Figure 1
Board resolved 16 of 27 complaints received in fiscal year 2021 in 180 days but took more than 180 days to resolve the other 11 complaints



¹ As of February 2022, 1 complaint received in September 2020 was still pending resolution.

Source: Auditor General staff analysis of Board documentation for the 27 complaints the Board received in fiscal year 2021.

² A.R.S. §§32-1551(A) through (G) and 32-1555(B).

³ The Board's fiscal year 2021 complaint log included 2 additional items that were originally listed as complaints but were related to allegations that had previously been investigated and resolved. We did not review these 2 items as part of our review of the other 27 complaints received.

⁴ The pending complaint received in September 2020 alleged that the licensee did not provide a patient with requested information about her treatment. In July 2021, or 302 days later, the Board voted to refer the complaint to the Arizona Administrative Office of Hearings for a formal hearing.

The 2 complaints that resulted in disciplinary action took 272 and 199 days to resolve, respectively, and involved licensed naturopathic physicians undertaking prescribing practices not authorized by statute, including:

- Prescribing controlled substances to a family member and other controlled substances beyond the approved scope of practice to 2 other patients.
- Unnecessarily prescribing steroids to a patient and failing to check the Controlled Substances Prescription Monitoring Program (CSPMP) database even though the patient had a history of opioid addiction.⁵

Five of the untimely complaints that resulted in nondisciplinary action were made by the Arizona Department of Health Services because it appeared the naturopathic physicians were authorizing patients to use medical marijuana without first checking the CSPMP database. For these 5 complaints, the Board's complaint investigations found evidence of inadequate medical charting and recordkeeping, such as failing to document their review of the patients' prescription history on the CSPMP database or patient medical records for the prior year. It took the Board between 201 and 476 days to resolve these complaints. The other 2 untimely complaints that resulted in nondisciplinary action involved allegations of inadequate recordkeeping and poor communication and took 182 and 332 days to resolve, respectively.

When Board is slow to resolve complaints, patient safety may be negatively affected

Untimely complaint resolution may negatively impact patient safety when delays allow licensees and certificate holders alleged to have violated Board statutes and rules to continue to practice while under investigation even though they may be unfit to do so. For example, as discussed previously, the 2 untimely complaints that resulted in disciplinary action alleged and the Board substantiated statutorily unallowed prescribing practices by 2 licensed naturopathic physicians. Although the Board disciplined both naturopathic physicians by restricting their prescribing practices for 1 year, it took the Board 272 and 199 days, respectively, to resolve these 2 complaints. During the complaint investigations, both naturopathic physicians maintained their prescribing privileges and thus may have continued to inappropriately prescribe controlled substances and/or medications.

Additionally, although the Board took action against 5 naturopathic physicians against whom the Arizona Department of Health Services made complaints for failing to check the CSPMP, the Board took between 201 and 476 days to resolve these 5 complaints. During this time these naturopathic physicians may have continued to inappropriately authorize medical marijuana certificates. As shown in the textbox, checking the CSPMP is a required step that Arizona-licensed physicians must perform to authorize a qualifying patient to use medical marijuana.

Example requirements for physicians to authorize medical marijuana use

- Make or confirm a diagnosis of a debilitating medical condition.
- Establish and maintain a medical record.
- Conduct an in-person physical examination within 90 calendar days.
- Check the CSPMP and medical records, including medical records from other treating physicians, from the previous 12 months.

Source: Arizona Department of Health Services, Medical Marijuana Physician Certification Physician Information for all Qualifying Patients form.

⁵ A.R.S. §36-2602 required the Arizona State Board of Pharmacy to establish a controlled substances prescription monitoring program that has a computerized central database tracking system to track the prescribing, dispensing, and consumption of Schedule II, III, IV, and V controlled substances in Arizona. Authorized persons may request information from this repository to assist them in treating patients and identifying and deterring drug diversion, consistent with A.R.S. §36-2604. According to the Centers for Disease Control and Prevention, prescription drug-monitoring programs, such as the CSPMP, continue to be among the most promising state-level interventions to improve opioid prescribing, inform clinical practice, and protect patients at risk. See Centers for Disease Control and Prevention. (2021). *Prescription drug monitoring programs (PDMP)s: What States Need to Know*. Atlanta, GA. Retrieved 12/8/21 from [Prescription Drug Monitoring Programs \(PDMPs\) | Drug Overdose | CDC Injury Center](#).

Board has not monitored complaint-handling process, sustained previous process improvements, or contracted for complaint investigation assistance

The Board has not monitored the timeliness of open complaints or sustained actions taken in response to our prior audit recommendations to improve its timeliness in investigating and resolving complaints. For example, in our 2014 performance audit and sunset review of the Board, we found and reported on the Board's untimely complaint resolution and made recommendations to improve it.⁶ Specifically, the Board took more than 180 days to resolve 15 of 19 complaints that we reviewed. We made several recommendations to the Board that, if fully implemented and sustained, should help the Board timely investigate and resolve complaints by ensuring complaint-handling proceeds according to established time frames, complaints are prioritized for investigation and Board review, and steps are taken to address complaints that are not progressing according to established time frames. Specifically, we recommended that the Board:

- Specify time frames for completing key steps in a complaint investigation, including how long it should take to open complaints after receipt and the additional time the Board may grant licensees to respond to complaint allegations.
- Include criteria for prioritizing complaints based on the nature of the alleged violations and the extent to which these alleged violations endanger the public's health and safety.
- Establish requirements for tracking and monitoring complaint processing, including establishing a mechanism to track key steps' completion in the complaint-handling process, ensuring that the Board records key information on complaint investigations in a timely manner, and identifying responsibilities for Board staff and the Board to actively monitor the progress of complaint investigations and address reasons for delay.
- Require staff to submit reports to the Board at defined intervals regarding the status of open complaints and the timeliness of closed complaints to help ensure the Board identifies and addresses factors in the complaint-handling process that may impact timeliness.

Finally, we recommended that the Board determine whether it needs additional investigative resources to help ensure it processes complaints in a timely manner.

At the time of our 42-month followup to the 2014 performance audit and sunset review of the Board, it had fully implemented some of these recommendations.⁷ However, the Board only partially implemented some of the recommendations, and it also has not sustained some of the changes it made to its complaint-handling policies and procedures in response to the recommendations. These include establishing time frames for all key steps in its complaint-handling process, monitoring the status of complaints, or submitting reports to Board members regarding the status of complaints to help ensure they are resolved in a timely manner. Specifically:

- Although the Board developed complaint-prioritization policies and procedures, it did not develop and implement an overall time frame for investigating and resolving complaints and specific time frames for several key steps in the complaint-handling process including completing the investigation and associated report, placing the complaint on the Board's meeting agenda, and time frames for the Board to review and resolve a complaint. Without this information, the Board and its staff do not have benchmarks against which to measure their performance and identify and mitigate factors contributing to untimely complaint investigations and lengthy Board review and resolution of complaints. According to Board officials, these factors can include the need to make multiple requests for records and information from licensees and complainants, and the Executive Director's and Board's workloads.

⁶ Arizona Auditor General Report 14-106, *State of Arizona Naturopathic Physicians Medical Board*.

⁷ Arizona Auditor General Report 14-106 *42-Month Follow-up Report*.

- The Executive Director also developed a complaint timeliness report to track the status of open complaints, and the Board included a program goal to timely resolve complaints in its November 2021 strategic plan and program information submission to the Arizona Governor's Office.⁸ However, according to the Executive Director, Board members were satisfied with the existing complaint-handling process and did not require that any additional procedures be put in place, including having the Executive Director report on complaint-handling timeliness during Board meetings. By not providing complaint-timeliness information to the Board members for their review and possible action, the Board would not have the information it needs to help ensure that it investigates and resolves complaints in a timely manner.

Finally, although statute authorizes the Executive Director to contract for complaint investigation services, she has not done so despite postponing complaint investigations when other competing priorities or responsibilities arise, such as issuing a license or preparing for a Board meeting.⁹ According to the Executive Director, she has determined not to contract for complaint investigation services because this is an unnecessary cost for the Board given that she can perform this function. However, she is also responsible for performing all Board operational functions, such as those indicated above, and has prioritized performing some of these other functions above investigating complaints. Contrary to this determination and as previously discussed in Table 2 (see page 4), the Board contracts for other professional services, such as temporary agency services. Additionally, the Board should have the funding available to contract for complaint investigation services as its projected fiscal year 2022 ending fund balance of \$1.8 million is more than 9 times its fiscal year 2022 budgeted expenditures.

Recommendations

The Board should:

1. Investigate and resolve complaints within 180 days.
2. Develop and implement time frames for completing all key steps in its complaint-handling process to help ensure it can investigate and resolve complaints within 180 days, including completing the investigation and associated report, placing the complaint on the Board's meeting agenda for its review, and time frames for the Board to review and resolve the complaint.
3. Develop and implement a process that requires the Executive Director to regularly report to the Board on the timeliness of closed complaints and status of open complaints to provide information the Board needs to monitor, review, discuss, and take action to address delays in the timeliness of complaint handling.
4. Contract for complaint investigation services on an as-needed basis and develop and implement written policies and procedures for when to use these contracted services.

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

⁸ Office of Strategic Planning and Budgeting. (2021). *Master list of state government programs*. Phoenix, AZ: Office of the Arizona Governor. Retrieved 3/28/22 from <https://www.azospb.gov/documents/2022/FY%202023%20Master%20List.pdf>.

⁹ A.R.S. §32-1509(C)(3).



Pursuant to A.R.S. §41-2954(D), the legislative committees of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of the Board. The sunset factor analysis includes additional findings and recommendations not discussed earlier in the report.

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

The Board was established in 1935, and its mission is to protect the public through regulating the practice of naturopathic medicine. The Board's responsibilities include issuing licenses and certificates to qualified applicants, investigating and resolving complaints against licensees and certificate holders, and providing information to the public.

We did not identify any states that met the Board's objective and purpose through private enterprise. According to the American Association of Naturopathic Physicians, 22 states, the District of Columbia, and 2 U.S. territories license or register naturopathic physicians.¹⁰ We contacted 7 states that regulate naturopathic physicians—California, Idaho, Montana, New Mexico, Oregon, Utah, and Washington—and found that none used private enterprises to license or handle complaints against licensed naturopathic physicians.

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

The Board met its statutory objective and purpose by issuing licenses and certificates to qualified applicants within required time frames for the license and certificate applications we reviewed. Specifically, the Board:

- **Generally verified that applicants met all licensure and certification requirements in statute and rule for license and certificate applications we reviewed**—The Board ensured that the stratified random sample of 27 initial license applications and 22 initial certificate to dispense applications we reviewed generally met licensure and certification requirements, such as graduating from an approved school of naturopathic medicine and submitting fingerprints for a criminal history records check.¹¹ However, we noted 2 minor exceptions. First, according to Board documentation, the Board processed and approved 1 license applicant under its licensure by examination process, for which the applicant did not qualify, instead of the universal recognition process for which the applicant did qualify. In addition, the Board did not receive a government-issued ID with a picture from 1 applicant although the applicant did provide a U.S. birth certificate, signed the Arizona Statement of Citizenship or Alien Status for State Public Benefits, and provided a picture with her signature on the back. According to the Board's Executive Director, an oversight contributed to these errors. See Appendix A, page a-i, for information on license and certificate requirements.
- **Issued license and certificate to dispense applications within required time frames**—The Board's rules and practice require it to approve or deny initial license applications and initial certificate to dispense applications within specific time frames (see textbox, page 10). The Board issued the licenses and

¹⁰ American Association of Naturopathic Physicians. (2022). *Regulated states and regulated authorities*. Retrieved 2/10/22 from [Regulated States and Regulatory Authorities \(naturopathic.org\)](https://www.naturopathic.org/Regulated%20States%20and%20Regulatory%20Authorities).

¹¹ We reviewed a stratified random sample of 20 of 108 initial applications for licensure by examination, 5 of 25 initial applications for licensure by endorsement, and both initial applications for licensure by universal recognition issued by the Board between July 2019 and April 2021. In addition, we reviewed all 22 initial applications for certificates to dispense that were included in the 27 naturopathic physician initial license files.

certificates within these required time frames for the 27 initial license applications and all 22 initial certificate to dispense applications issued by the Board between July 2019 and April 2021 that we reviewed.

We also identified some areas where the Board did not meet its statutory objective and purpose. Specifically, the Board:

- **Has not conducted statutorily required inspections**—As reported in our 2014 performance audit report, the Board does not perform statutorily required inspections of naturopathic physicians’ (1) dispensing and prescribing practices, (2) training programs, or (3) continuing medical education programs.^{12,13}

At the time of our 42-month followup in May 2018, the Board reported that it intended to seek statutory changes to eliminate these inspection requirements.¹⁴ However as of March 2022, the Board had not sought these statutory changes.

- **Has not evaluated its fees**—The Board’s license and certification application, renewal, and examination fees are set forth in rule.¹⁵ For example, the Board charges a \$225 application fee for initial licensure; a \$225 fee to licensed naturopathic physicians seeking a certificate to dispense natural substances, drugs, and devices; and a \$100 certificate fee to naturopathic physician medical school students to engage in clinical training. In addition, licensed physicians and certified medical school students must pay an annual renewal fee of \$165 and \$225, respectively. However, the Board has not reviewed or updated its fees since 2013, and it lacks fee-setting policies and procedures for periodically evaluating the appropriateness of its fees to help ensure they are commensurate with the costs of its regulatory activities (see Sunset Factor 11, pages 15 and 16, for additional information on the Board’s clinical training certificate and associated fees). As a result, the Board may be collecting more revenue than it needs to operate. For example, as shown in Table 2, page 4, the Board projects its fiscal year 2022 ending fund balance to be more than 9 times its fiscal year 2022 budgeted expenditures. Government fee-setting standards and guidance state that user fees should be based on the costs of providing a service and reviewed periodically to ensure they are based on these costs.¹⁶

Recommendations

The Board should:

5. Perform statutorily required inspections or work with the Legislature to modify statute related to these statutory requirements.

Board time frames to approve or deny initial naturopathic physician license and initial certificate to dispense applications

Type	Days
Naturopathic physician license	
By examination	180
By endorsement	120
By universal recognition	120
Certificate to dispense	90

Source: Arizona Administrative Code (AAC) R4-18-701 and Board practice related to universal recognition as there is no time frame established in Board rules.

¹² Auditor General Report 14-106 *State of Arizona Naturopathic Physicians Medical Board*.

¹³ A.R.S. §§32-1504(A)(6) and 32-1509(C)(20).

¹⁴ Auditor General Report 14-106 *42-Month Follow-up Report*.

¹⁵ AAC R4-18-107.

¹⁶ We reviewed fee-setting recommended practices from the Arizona State Agency Fee Commission, the Government Finance Officers Association, the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, and the U.S. Government Accountability Office (see Appendix B, pages b-i and b-ii, for more information).

6. Develop and implement policies and procedures for periodically reviewing the appropriateness of its fees that direct it to analyze the costs of its regulatory processes, compare these costs to the associated fees, determine the appropriate licensing fees, and then revise its fees as needed.

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

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

The Board serves the entire State by issuing licenses and certificates to qualified applicants, investigating and resolving complaints against licensees and certificate holders, and providing information to the public.

However, we found that although the Board had begun taking some steps to help ensure its decisions were free from conflicts of interest prior to our audit, it had not fully complied with statutory conflict-of-interest requirements or implemented recommended practices. Statute requires employees of public agencies and public officers, including Board members, to avoid conflicts of interest that might influence or affect their official conduct.¹⁷ These laws require employees/public officers to disclose substantial financial or decision-making interests in a public agency's official records, either through a signed document or the agency's official minutes. Statute further requires that employees/public officers who have disclosed conflicts refrain from participating in matters related to the disclosed interests. To help ensure compliance with these requirements, the Arizona Department of Administration's (ADOA) State Personnel System employee handbook and conflict-of-interest disclosure form (disclosure form) require State employees to disclose if they have any business or decision-making interests, secondary employment, and relatives employed by the State at the time of initial hire and any time there is a change. The ADOA disclosure form also requires State employees to attest that they do not have any of these potential conflicts, if applicable, also known as an "affirmative no." Finally, A.R.S. §38-509 requires public agencies to maintain a special file of all documents necessary to memorialize all disclosures of substantial interest and to make this file available for public inspection.

Additionally, in response to conflict-of-interest noncompliance and violations investigated in the course of our work, such as employees/public officers failing to disclose substantial interests and participating in matters related to these interests, we have recommended several practices and actions to various school districts, State agencies, and other public entities.¹⁸ Our recommendations are based on guidelines developed by public agencies to manage conflicts of interest in government and are designed to help ensure compliance with State conflict-of-interest requirements by reminding employees/public officers of the importance of complying with the State's conflict-of-interest laws.¹⁹ Specifically, conflict-of-interest recommended practices indicate that all public agency employees and public officers complete a disclosure form annually to help remind them to update their disclosure form if their circumstances change and that the form include a field for the employee/public officer to provide an "affirmative no," if applicable. These recommended practices also indicate that agencies should develop a formal remediation process and provide periodic training to ensure that identified conflicts are appropriately addressed and help ensure conflict-of-interest requirements are met.

The Board began taking some steps to ensure its decisions were free of conflicts of interest prior to our audit. Specifically, the Board's Assistant Attorney General has provided periodic training to Board members and staff on conflict-of-interest laws. In addition, our review of the Board's meeting minutes for January 2021 through

¹⁷ A.R.S. §38-501 et seq.

¹⁸ See, for example, Auditor General Reports 21-402 *Higley Unified School District—Criminal Indictment—Conspiracy, Procurement Fraud, Fraudulent Schemes, Misuse of Public Monies, False Return, and Conflict of Interest*, 19-105 *Arizona School Facilities Board—Building Renewal Grant Fund*, and 17-405 *Pine-Strawberry Water Improvement District—Theft and misuse of public monies*.

¹⁹ Recommended practices we reviewed included: Organization for Economic Cooperation and Development (OECD). (2021). *Recommendation of the council on OECD guidelines for managing conflict of interest in the public service*. Paris, France. Retrieved 11/18/2021 from <https://legalinstruments.oecd.org/public/doc/130/130.en.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 2/11/2022 from <https://www.ethics.org/wp-content/uploads/2021-ECI-WP-Conflicts-of-interest-Defining-Preventing-Identifying-Addressing.pdf>; and Controller and Auditor General of New Zealand. (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 3/4/2021 from <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>.

June 2021 identified instances where the Board documented members' verbal recusals for specific matters on the agenda, noting that the members refrained from participating in these matters. However, the Board did not always document the details of Board members' recusals in the official record and maintain a special file to store disclosures of substantial interest for public inspection, as required by statutes. Consequently, the Board could not ensure, or assure the public, that its decisions were free of conflict and/or undue influence.

During the audit, as of August 2021, all Board members and staff had completed a new annual disclosure statement that required disclosures of both financial and decision-making interests. In addition, Board members and staff received conflict-of-interest training from the Board's Assistant Attorney General at the Board's November 2021 meeting. Further, the Board's Executive Director drafted conflict-of-interest procedures to align with statutory requirements and recommended practices, including requiring Board members who verbally recuse themselves during a Board meeting to provide details of the recusal and requiring Board members and staff to sign an annual disclosure statement that also affirms if no conflicts exist. The Board approved the procedures at its March 2022 meeting. Finally, the Board began implementing the use of an electronic file containing all Board members' and staff's conflict-of-interest disclosure statements and Board meeting minutes that is available for public inspection.

Recommendation

7. The Board should continue to implement its conflict-of-interest procedures to help ensure compliance with State conflict-of-interest requirements, including:
 - a. Reminding employees/public officers at least annually to update their disclosure form when their circumstances change, including attesting that no conflicts exist, if applicable.
 - b. Documenting the details of Board members' verbal recusals in the official record.
 - c. Storing all substantial interest disclosures, including disclosure forms and applicable meeting minutes, in a special file available for public inspection.

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

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

Our review of the Board's statutes and rules found that the Board has not adopted all rules required by statute. Specifically, the Board has not adopted rules for naturopathic medical assistant training required by A.R.S. §32-1559(D) or rules for the labeling, recordkeeping, storage, and packaging of natural substances required by A.R.S. §32-1581(E). At the Board's March 2022 meeting, members discussed proposed rule changes that included the 2 topics mentioned above, and the Board decided to continue its discussion of the proposed rules at its April 2022 meeting. According to the Executive Director, once the Board has finalized and approved the draft rules, she will seek approval from the Governor's Office to conduct a rulemaking.²⁰

Recommendation

8. The Board should proceed with the rulemaking process to adopt rules for naturopathic medical assistant training, and for the labeling, recordkeeping, storage, and packaging of natural substances.

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

²⁰ Executive Order 2022-01 continues the moratorium on State agencies' rulemaking unless approval is received from the Governor's Office.

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

The Board did not initiate any rulemakings in calendar years 2016 through 2021 and therefore, has not needed to encourage public input for this purpose. Additionally, although we found that the Board consistently complied with open meeting law requirements we reviewed, it did not provide sufficient information to the public on its website for some licensees and certificate holders or for 2 anonymous phone calls we made. Specifically, the Board:

- **Complied with open meeting law requirements for meetings we reviewed**—The Board complied with the State’s open meeting law provisions we reviewed for the 4 monthly meetings held between May and August 2021. For example, the Board posted meeting notices and agendas at least 24 hours in advance and made available an audio recording of each meeting within 3 business days following the meetings. Additionally, the Board included statutorily required information in the meeting notices, including providing the date, time, and location of the meeting and listing agenda items.
- **Posted appropriate disciplinary and nondisciplinary orders on its website for naturopathic physicians we reviewed but did not always do so in a timely manner**—We reviewed a judgmental sample of 13 of 27 complaints the Board received in fiscal year 2021 that resulted in disciplinary or nondisciplinary action and found the Board complied with A.R.S. §32-3214(B) by posting on its website the disciplinary and applicable nondisciplinary orders for licensees and certificate holders. The Board also complied with A.R.S. §32-3214(B) by not posting nondisciplinary letters of concern on its website. Although statute and rule do not prescribe a time frame for posting disciplinary and applicable nondisciplinary orders on its website, the Board reported a goal of doing so within 36 days after the order is issued. However, the Board did not always meet this goal. Specifically, of the 13 complaints we reviewed, 10 had orders that required posting to its website, but 5 of the postings exceeded the 36-day goal, ranging from 42 to 215 days. The Board’s Executive Director could not explain the reason for the delay.
- **Did not comply with statutory requirement to remove disciplinary actions older than 5 years from its website**—Laws 2021, Ch. 247, §4, revised statute to require State agencies to post final disciplinary and applicable nondisciplinary orders and actions related to licensees and certificate holders to their websites for no more than 5 years. Based on our review of the Board’s website as of October 2021, we identified some disciplinary orders on the website that had been posted in 2010 and 2014 and should have been removed. During the audit, the Board removed these disciplinary orders from its website.
- **Did not respond to 2 of 3 anonymous phone calls requesting information on licensed naturopathic physicians**—We placed 3 anonymous phone calls using personal phone numbers during business hours in September 2021. In each instance, we left voicemail messages requesting a call back to the personal phone numbers. Although the Board’s policies and procedures indicate that the Board should return phone calls made by the public within 24 hours, if possible, the Board returned only 1 of our calls within 24 hours and provided information about the licensed naturopathic physician that was consistent with statute and the Board’s policies and procedures. Because Board staff did not answer or return our other 2 anonymous calls, we were unable to request, and the Board did not provide, public information about licensees over the phone as required by statute and the Board’s policies and procedures.

Recommendations

The Board should:

9. Adhere to its goal to post required disciplinary and nondisciplinary orders on its website within 36 days after the order is issued.
10. Post all final disciplinary and allowable nondisciplinary orders and actions on its website for no more than 5 years.

11. Comply with its policies and procedures for returning voicemail messages requesting information on licensees and certificate holders within 24 hours.

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

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

The Board has statutory authority to investigate and resolve complaints within its jurisdiction and has various disciplinary and nondisciplinary options available to address statute or rule violations (see textbox). According to the Board's complaint log, it received 27 complaints against licensees, certificate holders, and persons alleged to be unlawfully using the designation of naturopath in fiscal year 2021.²¹

We reviewed a judgmental sample of 16 of 27 complaints the Board received in fiscal year 2021 and found that the Board imposed consistent disciplinary or nondisciplinary actions to address similar violations of statutes and rules. In addition, the Board imposed disciplinary action to address complaints with substantiated violations and nondisciplinary action for complaints not serious enough to warrant disciplinary action, and dismissed complaints with alleged violations that were not substantiated.

Additionally, the Board's policies and procedures require it to notify complainants and respondents when a complaint is opened, when it will be heard by the Board, and the Board's decision on the complaint. Our review found that the Board did not comply with these notification requirements for 15 of 27 complaints the Board received in fiscal year 2021. The Board's Executive Director provided various reasons for not adhering to these notification requirements, including insufficient time to send out notifications due to other priorities, that the complainant or respondent can hear the complaint's outcome at a Board meeting, and that the notification requirement did not apply to certain complainants such as State agencies. However, if not notified, complainants may not be aware that the Board has acted on the complaint. Additionally, the report provided by the Arizona Department of Health Services to the Board that identifies licensees who may be violating Board requirements for certifying individuals to use medical marijuana requests that it be notified of any potential Board decisions or actions.

Further, as previously discussed in Finding 1 (see pages 5 through 8), the Board did not resolve some of these complaints within 180 days, which is an issue we had identified in a previous audit. We recommended that the Board investigate and resolve complaints in 180 days by developing and implementing a process to regularly report to the Board on the timeliness of handling complaints and contracting for complaint investigation services when needed.

Recommendation

12. The Board should comply with its policies and procedures for providing complaint opening, meeting, and outcome notices to complainants and respondents.

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

Examples of actions the Board may take based on complaint investigation outcomes

Disciplinary actions

- Civil penalty (not to exceed \$1,000 for each violation)
- Decree of censure
- Probation
- Practice restriction
- License suspension
- License revocation

Nondisciplinary actions

- Letter of concern
- Completion of continuing education hours

Dismissal

Source: Auditor General staff review of A.R.S. §§32-1551(D)(F) and 32-1553.

²¹ The Board's fiscal year 2021 complaint log included 2 additional items that were originally listed as complaints but were related to allegations that had previously been investigated and resolved. We did not review these 2 items as part of our review of the other 27 complaints received.

Sunset factor 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 statute.²² Additionally, the Board has statutory authority to refer cases to the county attorneys to prosecute persons charged with the unlawful practice of naturopathic medicine or to retain its own attorney to help with the prosecution.²³

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

According to the Board, there are no deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

Sunset factor 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.

As previously reported in Sunset Factor 2 (see pages 9 through 11), the Board does not perform statutorily required inspections of naturopathic physicians' (1) dispensing and prescribing practices, (2) training programs, or (3) continuing medical education programs and does not intend to do so. We recommended that the Board perform these statutorily required inspections or work with the Legislature to amend statute related to these statutory requirements.

In addition, A.R.S. §32-1560 requires naturopathic medical students to obtain a certificate to engage in clinical training as part of their course of study. However, as reported in Sunset Factor 11 (see pages 15 and 16), we contacted 7 other states that regulate naturopathic physicians—California, Idaho, Montana, New Mexico, Oregon, Utah, and Washington—and found that none of them require naturopathic medical students to obtain a certificate or license to engage in the clinical part of their training.²⁴ We also reviewed the statutory requirements of several Arizona health regulatory boards, including the Arizona Medical Board, Arizona Board of Osteopathic Examiners in Medicine and Surgery, and Arizona Regulatory Board of Physician Assistants, and found that these boards do not regulate medical school students. At the Board's February 2022 meeting, the Board's Executive Director recommended, and the Board approved, that the Board pursue a statutory change in the future to eliminate the certificate requirement, and we recommended that the Board work with the Legislature to do so.

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

Terminating the Board may affect public health, safety, and welfare if its regulatory responsibilities were not transferred to another entity. According to the Board, its regulations help protect public health through licensing and certifying qualified applicants. Additionally, the Board helps protect the public by reviewing and approving related educational and training programs and investigating and resolving complaints against licensees and certificate holders and taking disciplinary and nondisciplinary action to address substantiated complaints.

Sunset factor 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.

We compared Arizona's level of regulation to 7 other states that regulate naturopathic physicians—California, Idaho, Montana, New Mexico, Oregon, Utah, and Washington—and found that the level of regulation the Board exercises is generally similar to these states in 4 areas. Specifically:

²² A.R.S. §41-192 (A)(1).

²³ A.R.S. §32-1556.

²⁴ We judgmentally selected these states because they were western states that regulated naturopathic physicians.

- **Education**—Arizona, California, Idaho, New Mexico, Oregon, Utah, and Washington require an initial licensure applicant to graduate from an accredited naturopathic school, and Montana requires graduation from a state-approved naturopathic school.
- **National and state examinations**—Arizona and all 7 states require an initial licensure applicant to pass a national exam, and Arizona, New Mexico, Oregon, and Washington also require an initial licensure applicant to pass a state-specific jurisprudence exam.
- **Fingerprints**—Arizona, California, Idaho, New Mexico, Oregon, and Washington require an initial licensure applicant to provide a set of fingerprints or undergo a criminal history background check as part of the licensure process.
- **Continuing education**—Arizona and all 7 states require applicants renewing their license to complete some form of continuing education as part of license renewal, ranging from 15 to 32 hours annually.

However, Arizona’s level of regulation differs in 2 key areas. Specifically:

- None of the 7 states we contacted, including 3 states that have an accredited naturopathic physician medical school within their state, require naturopathic medical students to obtain a certificate or license from their state’s regulatory board and pay a fee to engage in the clinical part of their training, which is required for graduation. Further, we reviewed the statutory requirements of several Arizona health regulatory boards, including the Arizona Medical Board, Arizona Board of Osteopathic Examiners in Medicine and Surgery, and Arizona Regulatory Board of Physician Assistants, and found that these boards do not regulate medical school students. The statutory requirement for the Board’s certificate to engage in clinical training has been in place since 1995, and students are required to pay a fee each year they engage in the clinical training component of their course of study, which is typically 4 years.^{25,26} According to the Board, as of February 1, 2022, there were 255 naturopathic physician medical students engaged in clinical training actively certified by the Board. At the Board’s February 2022 meeting, the Board’s Executive Director recommended, and the Board approved, that the Board pursue a statutory change in the future to eliminate the certificate requirement.
- None of the 7 states require licensed naturopathic physicians to obtain a separate certificate or license from their state’s regulatory board and pay a fee to have the authority to prescribe and dispense natural substances, drugs, and devices. Specifically, the other 7 states we contacted include this authority within the approved scope of practice for licensed naturopathic physicians, whereas Arizona’s regulation of naturopathic physicians requires licensed naturopathic physicians to separately apply for and obtain certification for this authority.

Recommendation

13. The Board should, consistent with its reported plans, work with the Legislature to pursue a statutory change to eliminate the clinical training certification requirement.

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

Sunset factor 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 contracts for cell phone use, database services, and payroll and accounting services in the performance of its duties. We contacted 7 other states to obtain information regarding their naturopathic

²⁵ Laws 1995, Ch. 265.

²⁶ To obtain the certificate, students must complete an initial application and pay the \$100 initial application fee and a 1-time fingerprinting fee of \$22 to the Arizona Department of Public Safety so that the Board can obtain a criminal history records check. The certificate must be renewed each additional year the student engages in clinical training, which is typically 3 years, and the renewal fee is \$225. As a result, naturopathic medical students could potentially pay a total of \$797 to be certified over the course of their education.

regulatory entity's use of third-party contractors and found that 5 of them—Idaho, Montana, New Mexico, Utah, and Washington—do not use contractors. However, California and Oregon reported contracting with other agencies in their states for administrative, financial, and legal services.

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



SUMMARY OF RECOMMENDATIONS

Auditor General makes 13 recommendations to the Board

The Board should:

1. Investigate and resolve complaints within 180 days (see Finding 1, pages 5 through 8, for more information).
2. Develop and implement time frames for completing all key steps in its complaint-handling process to help ensure it can investigate and resolve complaints within 180 days, including completing the investigation and associated report, placing the complaint on the Board's meeting agenda for its review, and time frames for the Board to review and resolve the complaint (see Finding 1, pages 5 through 8, for more information).
3. Develop and implement a process that requires the Executive Director to regularly report to the Board on the timeliness of closed complaints and status of open complaints to provide information the Board needs to monitor, review, discuss, and take action to address delays in the timeliness of complaint handling (see Finding 1, pages 5 through 8, for more information).
4. Contract for complaint investigation services on an as-needed basis and develop and implement written policies and procedures for when to use these contracted services (see Finding 1, pages 5 through 8, for more information).
5. Perform statutorily required inspections or work with the Legislature to modify statute related to these statutory requirements (see Sunset Factor 2, pages 9 through 11, for more information).
6. Develop and implement policies and procedures for periodically reviewing the appropriateness of its fees that direct it to analyze the costs of its regulatory processes, compare these costs to the associated fees, determine the appropriate licensing fees, and then revise its fees as needed (see Sunset Factor 2, pages 9 through 11, for more information).
7. Continue to implement its conflict-of-interest procedures to help ensure compliance with State conflict-of-interest requirements, including:
 - a. Reminding employees/public officers at least annually to update their disclosure form when their circumstances change, including attesting that no conflicts exist, if applicable.
 - b. Documenting the details of Board members' verbal recusals in the official record.
 - c. Storing all substantial interest disclosures, including disclosure forms and applicable meeting minutes, in a special file available for public inspection (see Sunset Factor 3, pages 11 and 12, for more information).
8. Proceed with the rulemaking process to adopt rules for naturopathic medical assistant training, and for the labeling, recordkeeping, storage, and packaging of natural substances (see Sunset Factor 4, page 12, for more information).
9. Adhere to its goal to post required disciplinary and nondisciplinary orders on its website within 36 days after the order is issued (see Sunset Factor 5, pages 13 and 14, for more information).

10. Post all final disciplinary and allowable nondisciplinary orders and actions on its website for no more than 5 years (see Sunset Factor 5, pages 13 and 14, for more information).
11. Comply with its policies and procedures for returning voicemail messages requesting information on licensees and certificate holders within 24 hours (see Sunset Factor 5, pages 13 and 14, for more information).
12. Comply with its policies and procedures for providing complaint opening, meeting, and outcome notices to complainants and respondents (see Sunset Factor 6, page 14, for more information).
13. Consistent with its reported plans, work with the Legislature to pursue a statutory change to eliminate the clinical training certification requirement (see Sunset Factor 11, pages 15 and 16, for more information).



Key statute and rule requirements by license and certificate type

Type	Key requirements	Legal reference
License		
Naturopathic physician by examination	<ul style="list-style-type: none"> Graduate from a Board-approved school of naturopathic medicine. Pass the Naturopathic Physicians Licensing Examination. Pass the State jurisprudence examination. 	A.R.S. §32-1522(A) A.R.S. §32-1525(A) & (E)
Naturopathic physician by endorsement	<ul style="list-style-type: none"> In addition to meeting the key requirements listed above for licensure by examination, provide evidence of being continuously active in naturopathic medicine for at least 3 years immediately preceding the application submission date. 	A.R.S. 32-1523(A)
Naturopathic physician by universal recognition	<ul style="list-style-type: none"> Be licensed or certified as a naturopathic physician for at least 1 year in another state and at the same level of practice as in Arizona, and the license or certificate must be in good standing. Has established Arizona residence. 	A.R.S. §32-4302(A)
Certificates		
Medical assistant certificate	<ul style="list-style-type: none"> Complete an approved medical assistant program. 	AAC R4-18-602
Certificate to dispense natural substances, drugs, and devices	<ul style="list-style-type: none"> Graduate from a Board-approved school of naturopathic medicine where a portion of the training includes the safe administration of natural substances, drugs, or devices. 	AAC R4-18-902(B)
Specialty certificate	<ul style="list-style-type: none"> Hold a current valid Arizona naturopathic physician license. Satisfactorily complete an approved post-doctoral training program in the specialty. Be certified in the specialty by a specialty board of examiners. 	A.R.S. §32-1529(A)
Certificate to conduct preceptorship training	<ul style="list-style-type: none"> Chief medical officer must submit an application that includes the name and address of the training program and of each facility where training will be conducted; and the name, professional degree, license number, and licensing agency for each physician who will be providing supervision in the training program. 	AAC R4-18-503
Certificate to engage in preceptorship training	<ul style="list-style-type: none"> Graduate from an approved naturopathic medical school. Pass the State jurisprudence examination. 	AAC R4-18-501(E) & (F)
Certificate to engage in clinical training	<ul style="list-style-type: none"> Attend an approved naturopathic medical school. Pass the State jurisprudence examination. 	AAC R4-18-501(B) & (C)

Source: Auditor General staff review of A.R.S. Title 32, Ch. 14 & Ch. 43, and AAC Title 4, Ch. 18.



Objectives, scope, and methodology

The Arizona Auditor General has conducted this performance audit and sunset review of the Board pursuant to a December 17, 2020, 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.

We used various methods to address the audit's objectives. These methods included reviewing Board statutes, rules, and policies and procedures; interviewing the Board's Executive Director; and reviewing information from the Board's website. We also attended and reviewed minutes or audio recordings from 4 public Board meetings held between May 2021 and August 2021. In addition, we used the following specific methods to meet the audit objectives:

- To determine whether the Board issued initial licenses and initial certificates to dispense to qualified applicants in accordance with statute and rule requirements and in a timely manner, we reviewed a stratified random sample of 20 of 108 initial applications for licensure by examination, 5 of 25 initial applications for licensure by endorsement, and both initial applications for licensure by universal recognition issued by the Board between July 2019 and April 2021. In addition, we reviewed all 22 initial applications for certificates to dispense from the 27 files for naturopathic physician initial licensing.
- To determine whether the Board has established its fees based on costs, we interviewed the Board's Executive Director and reviewed Board meeting materials and rulemakings. Additionally, we analyzed unaudited information from the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2020 and 2021, the State of Arizona *Annual Financial Report* for fiscal years 2020 and 2021, and Board- and Arizona Department of Administration-provided budget information for fiscal year 2022. Finally, we reviewed recommended practices for fee setting developed by government and professional organizations.²⁷
- To determine whether the Board provided information to the public as required by statute, we placed 3 anonymous phone calls to Board staff in September 2021 requesting information about licensees and reviewed the Board's website. We also reviewed a judgmental sample of 13 of 27 complaints the Board received in 2021 that resulted in disciplinary or nondisciplinary action to assess whether the information on its website was accurate and consistent with statutory requirements. Additionally, we reviewed the Board's website to assess its compliance with the statutory requirement that disciplinary and applicable nondisciplinary actions and orders not be posted on a State health profession regulatory board's website for more than 5 years.

²⁷ We reviewed the following fee-setting recommended practices: U.S. Government Accountability Office. (2015). *Federal user fees: Key considerations for designing and implementing regulatory fees*. Washington, DC. Retrieved 11/2/2021 from <https://www.gao.gov/assets/680/672572.pdf>; Government Finance Officers Association. (2014). *Best practices: Establishing government charges and fees*. Chicago, IL. Retrieved 11/2/2021 from <http://www.gfoa.org/establishing-government-charges-and-fees>; Arizona State Agency Fee Commission. (2012). *Arizona State Agency Fee Commission report*. Phoenix, AZ; U.S. Government Accountability Office. (2008). *Federal user fees: A design guide*. Washington, DC. Retrieved 11/2/2021 from <https://www.gao.gov/assets/gao-08-386sp.pdf>; Michel, R.G. (2004). *Cost analysis and activity-based costing for government*. Chicago, IL: Government Finance Officers Association; Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review. (2002). *State agency fees: FY 2001 collections and potential new fee revenues*. Jackson, MS. Retrieved 11/2/2021 from <https://www.peer.ms.gov/reports/rpt442.pdf>; and U.S. Office of Management and Budget. (1993). *OMB Circular No. A 25, revised*. Washington, DC. Retrieved 11/2/2021 from <https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf>.

- To evaluate the Board’s complaint investigation and resolution processes, including the timeliness of complaint resolution, we reviewed all 27 complaints the Board received in fiscal year 2021.
- To obtain information for the Introduction, we reviewed Board-prepared information regarding Board member vacancies and the number of active licensees and certificate holders as of February 2022. In addition, we compiled and analyzed unaudited financial information from the AFIS *Accounting Event Transaction File* for fiscal years 2020 and 2021, the *State of Arizona Annual Financial Report* for fiscal years 2020 and 2021, and Board- and Arizona Department of Administration-provided budget information for fiscal year 2022.
- To obtain additional information for the Sunset Factors, we reviewed the Arizona Administrative Register regarding the Board’s rulemakings and assessed the Board’s compliance with various provisions of the State’s open meeting law for 4 Board meetings held between May 2021 and August 2021. Further, to assess the Board’s compliance with the State’s conflict-of-interest laws and alignment with recommended practices, we reviewed statutes, recommended practices, the Board’s conflict-of-interest procedures, the Board’s conflict-of-interest forms, and Board meeting minutes for January through July and October through December 2021.²⁸ Finally, we selected and contacted 7 western states that regulate naturopathic physicians—California, Idaho, Montana, New Mexico, Oregon, Utah, and Washington—and reviewed their level of regulation and use of private contractors.²⁹

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 requirements. We reported our conclusions on these internal controls in Finding 1 and the Sunset Factors (see Finding 1, pages 5 through 8, and the Sunset Factors, pages 9 through 17).

We selected our audit samples to provide sufficient evidence to support our findings, conclusions, and recommendations. Unless otherwise noted, the results of our testing using these samples were not intended to be projected to the entire population.

We conducted this performance audit and sunset review 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 for their cooperation and assistance throughout the audit.

²⁸ Recommended practices we reviewed included: Organization for Economic Cooperation and Development (OECD). (2021). *Recommendation of the council on OECD guidelines for managing conflict of interest in the public service*. Paris, France. Retrieved 11/18/2021 from <https://legalinstruments.oecd.org/public/doc/130/130.en.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 2/11/2022 from <https://www.ethics.org/wp-content/uploads/2021-ECI-WP-Conflicts-of-interest-Defining-Preventing-Identifying-Addressing.pdf>; and Controller and Auditor General of New Zealand (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 3/4/2021 from <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>.

²⁹ We judgmentally selected these states because they were western states that regulated naturopathic physicians.

BOARD RESPONSE



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Douglas A. Ducey - Governor

June 2, 2022

Ms. Lindsey Perry, Auditor General
2910 N. 44th Street, Suite 410
Phoenix, AZ. 85018

Re: 2022 State of Arizona Naturopathic Physicians Medical Board, Sunset Review Audit

Ms. Perry,

I am pleased to submit, on behalf of the State of Arizona Naturopathic Physicians Medical Board, the attached response to the audit findings.

I found the audit experience helpful and the assigned auditors a pleasure to work with.

Regards,

A handwritten signature in black ink that reads "Gail Anthony".

Gail Anthony, Executive Director
State of Arizona Naturopathic Physician Medical Board
Gail.anthony@nd.az.gov
602 542-8242

Finding 1: Board has not resolved some complaints in a timely manner, which may affect patient safety.

Recommendation 1: The Board should investigate and resolve complaints within 180 days.

Board response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: The Board will continue to focus its resources on complaints with the highest risk to public safety, while making every effort to resolve complaints within the Auditor's recommended 180 day timeframe.

Recommendation 2: The Board should develop and implement time frames for completing all key steps in its complaint-handling process to help ensure it can investigate and resolve complaints within 180 days, including completing the investigation and associated report, placing the complaint on the Board's meeting agenda for its review, and time frames for the Board to review and resolve the complaint.

Board response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: Policy and procedure recommend the following process. 1. Upon receipt of a complaint that includes complainant contact information, make contact confirming receipt of complaint. 2. Use the complaint screening document to confirm complaint is under jurisdiction. 3. Proceed appropriately as determined by the jurisdiction outcome. Once "key steps" have been determined, along with appropriate time frames, policy and procedure will be updated with recommended timeframes for "key steps".

Recommendation 3: The Board should develop and implement a process that requires the Executive Director to regularly report to the Board on the timeliness of closed complaints and status of open complaints to provide information the Board needs to monitor, review, discuss, and take action to address delays in the timeliness of complaint handling.

Board response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: The Executive Director already reports pending case status to the Board. Per Recommendation 2. Once "key steps" have been determined, policy and procedure will be updated to include these steps in the Executive Director's reports to the board.

Recommendation 4: Contract for complaint investigation services on an as-needed basis and develop and implement written policies and procedures for when to use these contracted services.

Board response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: The Board is currently working on establishing a list of physicians interested in participating in investigations on an as needed basis. Once the list has been established, policy and procedure will be updated.

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 5: The Board should perform statutorily required inspections or work with the Legislature to modify statute related to these statutory requirements.

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

Response explanation: [This recommendation is already in process.](#)

Recommendation 6: The Board should develop and implement policies and procedures for periodically reviewing the appropriateness of its fees that direct it to analyze the costs of its regulatory processes, compare these costs to the associated fees, determine the appropriate licensing fees, and then revise its fees as needed.

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

Response explanation: [The Board will work with OSPB to develop and implement a method to review the direct and indirect costs for its regulatory processes. Once this method is established, policies and procedures will be developed and implemented as necessary.](#)

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

Recommendation 7: The Board should continue to implement its conflict-of-interest procedures to help ensure compliance with State conflict-of-interest requirements, including:

Recommendation 7a: Reminding employees/public officers at least annually to update their disclosure form when their circumstances change, including attesting that no conflicts exist, if applicable.

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.](#)

Recommendation 7b: Documenting the details of Board members' verbal recusals in the official record.

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.](#)

Recommendation 7c: Storing all substantial interest disclosures, including disclosure forms and applicable meeting minutes, in a special file available for public inspection.

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.](#)

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

Recommendation 8: The Board should proceed with the rulemaking process to adopt rules for naturopathic medical assistant training, and for the labeling, recordkeeping, storage, and packaging of natural substances.

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

Response explanation: [This recommendation is already in process.](#)

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

Recommendation 9: The Board should adhere to its goal to post required disciplinary and nondisciplinary orders on its website within 36 days after the order is issued.

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

Response explanation: [The Board makes every effort to post actions in a timely manner. The Board will post whatever is required under the current statutes.](#)

Recommendation 10: The Board should post all final disciplinary and allowable nondisciplinary orders and actions on its website for no more than 5 years.

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

Response explanation: [The Board will post whatever is required under the current statutes.](#)

Recommendation 11: The Board should comply with its policies and procedures for returning voicemail messages requesting information on licensees and certificate holders within 24 hours.

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

Response explanation: [The Board makes every effort to return voicemail messages in a timely manner. The public has the ability to look up information on licensees and certificate holders 24 hours a day, 7 days a week by reviewing the directory on the Boards website.](#)

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

Recommendation 12: The Board should comply with its policies and procedures for providing complaint opening, meeting, and outcome notices to complainants and respondents.

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

Response explanation: [The Board will make every effort to supply written notices to complainants and respondents in a timely manner per policy and procedure.](#)

Sunset Factor 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.

Recommendation 13: The Board should, consistent with its reported plans, work with the Legislature to pursue a statutory change to eliminate the clinical training certification requirement.

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

Response explanation: [This recommendation is already in process.](#)

