

Arizona State Board of Massage Therapy

Board did not investigate or timely investigate, document, or review all complaints it received; did not issue some initial licenses in accordance with statute and rule; and did not provide some public information in response to our anonymous requests or on its website

Performance Audit and
Sunset Review

August 2022
Report 22-106

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





The Arizona Auditor General's mission is to provide independent and impartial information and specific recommendations to improve the operations of State and local government entities. To this end, the Office provides financial audits and accounting services to the State and political subdivisions, investigates possible misuse of public monies, and conducts performance audits and special reviews of school districts, State agencies, and the programs they administer.

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Audit Staff

Dale Chapman, Director
Miguel Caro Mateus, Manager

Catherine Dahlquist, Team Leader
Robert Bannatz

Contact Information

Arizona Auditor General
2910 N. 44th St., Ste. 410
Phoenix, AZ 85018-7271

(602) 553-0333

contact@azauditor.gov

www.azauditor.gov



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

August 10, 2022

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Mr. Tom Augheron, Executive Director
Arizona State Board of Massage Therapy

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the Arizona State Board of Massage Therapy*. 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 Arizona State Board of Massage Therapy agrees with all the findings and plans to implement all 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

Arizona State Board of Massage Therapy

Board did not investigate or timely investigate, document, or review all complaints it received; did not issue some initial licenses in accordance with statute and rule; and did not provide some public information in response to our anonymous requests or on its website

Audit purpose

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

Key findings

The Board:

- Was established in 2003 to license and regulate massage therapists.
- Did not investigate 7 prostitution-related complaints for more than 2 years until we brought them to its attention, document key complaint information for 16 of 29 complaints we reviewed, and investigate and resolve 2 complaints within 180 days; and Board members did not review 20 of 29 complaints.
- Did not issue 6 of 22 initial licenses we reviewed in accordance with statutory and rule requirements, including issuing 1 license to an unqualified individual, issuing 2 licenses after required time frames, and lacking required documentation from 3 license applicants demonstrating they met all requirements.
- Has not provided its telephone number on its website, did not provide some public information in response to all 3 of our anonymous requests, and did not post copies of disciplinary and nondisciplinary actions/orders on its website.
- Renewed 5 licenses that we reviewed for time periods between 3 and 4 years—up to 2 years longer than the 2-year renewal time period allowed by statute.

Key recommendations

The Board should:

- Establish written policies and procedures for complaint handling that specify minimum documentation requirements, time frames for completing key complaint-handling steps and tasks, standards for prioritizing complaints, and complaint-screening protocols, including determining which complaints are within its jurisdiction.
- Investigate and resolve all complaints within 180 days.
- Issue licenses only to applicants who meet all statutory and rule requirements by developing and implementing licensing policies and procedures for processing initial licenses.
- Make its telephone number publicly available through its website and post copies of all statutorily required disciplinary and nondisciplinary actions/orders on its website.
- Issue renewal licenses for only 2 years, as required by statute.



TABLE OF CONTENTS

Board overview	1
Introduction	2
Finding 1: Board did not investigate or timely investigate, document, or review all complaints it received, increasing public safety risk	5
Board responsible for investigating and resolving complaints	
Board did not investigate or timely investigate, document, or review all complaints it received	
Board cannot demonstrate it fulfilled its statutory responsibility, allowing potentially unfit licensees or unlicensed individuals to practice, increasing public safety risk	
Board has not established critical complaint-handling and management processes to help ensure it investigates and resolves all complaints and does so in a timely manner	
Recommendations	
Finding 2: Board has not made its telephone number publicly available and did not provide some information in response to our anonymous requests or on its website, restricting access to information public needs to make informed decisions about massage therapists	10
Statute requires the Board to provide certain information regarding licensees to the public	
Board has not made its telephone number available to the public on its website, did not provide some information in response to our anonymous requests, and has not posted copies of disciplinary and nondisciplinary actions/orders on its website	
Board reported that it does not post its telephone number on its website due to limited staffing, it lacks some policies to ensure it provides public information in accordance with statutory requirements, and its staff have not followed some of its policies	
Recommendations	
Sunset factors	13
Summary of recommendations: Auditor General makes 19 recommendations to the Board	22
Appendix A: Scope and methodology	a-1
Board response	
Figures	
1 Board did not investigate 7 prostitution-related complaints received in January 2020 until we brought them to its attention during our audit in February 2022	6
2 Board did not document key complaint information in 16 complaint files	6



TABLE OF CONTENTS

Tables

1	Schedule of revenues, expenditures, and changes in fund balances Fiscal years 2020 through 2022 (Unaudited)	4
2	Public information statutory requirements for Arizona health profession regulatory boards related to complaints	10
3	Board's expenditures have exceeded and are estimated to exceed revenues, resulting in a projected 2-year declining fund balance Fiscal years 2020 through 2022	16

Board overview

The Arizona State Board of Massage Therapy (Board) regulates massage therapy practice in Arizona by issuing and renewing licenses to qualified applicants and investigating and resolving complaints against licensees. Statute requires the Board to consist of 5 members appointed by the Governor for 5-year terms. In September 2021, the Governor appointed 5 new Board members, replacing all prior Board members whose terms had expired and filling a Board member vacancy. As of May 2022, the Board had 4 filled and 1 vacant Board member positions. The Board was appropriated 5 full-time equivalent staff positions for fiscal year 2022. The Board does not receive any State General Fund appropriations. Rather, its revenues consist primarily of licensing and related fees.

Active licenses as of June 2022	Complaints received in calendar year 2021
9,937	106 ¹

Audit results summary

Key regulatory areas reviewed

Initial licenses —Process all initial license applications within required time frames and ensure all applicants meet license qualifications.	Issued timely ✗	Ensured qualifications met ✗
License renewals —Process renewal applications within required time frame and ensure licenses are renewed for 2 years, as specified in statute.	Issued timely ✓	Renewed for 2 years ✗
Complaint handling —Investigate and resolve all complaints received within 180 days.	Investigated all complaints ✗	Resolved complaints within 180 days ✗
Public information —Provide specific complaint and licensee information to the public upon request or on its website.	Provided public information on request ✗	Posted copies of disciplinary and nondisciplinary actions/orders on website ✗

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 ✓	Fees periodically reviewed ✗
Conflict of interest —Requirements and recommended practices include signing a disclosure form annually and maintaining substantial interest disclosures in a special file.	Board members and staff signed annual disclosure form ✓	Had a process to maintain substantial interest disclosures in a special file ✓
Open meeting law —Requirements include posting to its website meeting notices/agendas 24 hours in advance and a recording of Board meetings within 5 business days.	Posted notices/agendas 24 hours in advance ✓	Posted audio recordings within 5 business days ✓

¹ The number of complaints the Board received in calendar year 2021 may be inaccurate because the Board did not sufficiently track this information. See Finding 1, page 5, footnote 6, for additional information.



The Arizona Auditor General has completed a performance audit and sunset review of the Arizona State Board of Massage Therapy (Board). This performance audit and sunset review provides responses to the statutory sunset factors and determined whether the Board (1) issued licenses in accordance with statute and rule requirements, (2) investigated and resolved complaints within its jurisdiction, and (3) provided information to the public as required by statute.

Mission and responsibilities

The Board was established in 2003 to license and regulate massage therapists (see textbox). The Board's mission is to "protect the health, safety, and welfare of the citizens of Arizona by regulating and maintaining standards of practice in the practice of massage therapy." Its responsibilities include:

- Issuing licenses to qualified applicants to practice massage therapy in the State (see Sunset Factor 2, page 14, for more information on licensing requirements). Licensed massage therapists must renew their license biennially on or before their birthday. According to the Board's licensing database, as of June 2022, there were 9,937 actively licensed massage therapists in Arizona.
- Investigating and resolving complaints against licensees and investigating unlicensed individuals alleged to be practicing massage therapy (see Finding 1, pages 5 through 9, for more information on problems we identified with the Board's complaint handling).¹ According to Board records, during calendar year 2021, the Board received 106 complaints.²
- Maintaining a list of Board-recognized massage therapy schools. Board-recognized schools are massage therapy schools that meet certain statutory criteria, such as being licensed by the Arizona Board of Private Postsecondary Education, and provide the instruction necessary to help qualify individuals for a massage therapy license (see Sunset Factor 2, pages 15 through 17, for more information on Board-recognized schools and the Board's maintenance of this list).
- Providing information about licensees to the public, including licensees' disciplinary and nondisciplinary histories (see Finding 2, pages 10 through 12, for more information on problems we identified with the Board's provision of public information).

Massage therapists—Increase relaxation, stress reduction, pain relief, and postural improvement, or provide therapeutic benefits, by:

- Compressing, stretching, vibrating, or mobilizing the organs and tissues beneath the dermis by using forearms, elbows, knees, feet, or handheld mechanical or electrical devices.
- Applying water, heat, cold, wraps, essential oils, and similar applications of products to the skin.
- Performing directed, assisted, or passive movements of the joints.

Source: Arizona Revised Statutes (A.R.S.) §32-4201.

¹ According to A.R.S. §32-4255, it is unlawful for any person to practice or in any manner claim to practice massage therapy or to advertise massage therapy services unless that person is licensed by the Board.

² The number of complaints the Board received in calendar year 2021 may be inaccurate because the Board did not sufficiently track this information. See Finding 1, page 5, footnote 6, for additional information about the number of complaints the Board received in calendar year 2021.

Organization and staffing

As required by A.R.S. §32-4202, the Board consists of 5 Governor-appointed members who serve 5-year terms. Two members must be licensed massage therapists, and 3 members must represent the public. In September 2021, the Governor appointed 5 new Board members, replacing all prior Board members whose terms had expired and filling a Board member vacancy.³ As of May 2022, the Board had 4 filled and 1 vacant Board member positions.⁴

The Board was appropriated 5 full-time equivalent (FTE) positions for fiscal year 2022. The Board reported that as of June 2022, 4 of its 5 FTE were filled by an executive director, 2 licensing staff, and 1 investigator. One licensing staff position was vacant.

Budget

The Board does not receive any State General Fund appropriations. Instead, its revenues consist primarily of licensing and related fees. A.R.S. §32-4205 requires the Board to remit 10 percent of all monies received to the State General Fund and deposit the remaining 90 percent of these revenues into the Board of Massage Therapy Fund. As shown in Table 1, page 4, for fiscal year 2022, most of the Board's estimated revenues consisted of licensing and related fees, and most of its estimated expenditures were for personnel and other operating expenses, such as rent and information technology. The Board's projected fund balance was nearly \$1.3 million at the end of fiscal year 2022, which is nearly 3 times its estimated annual expenditures.

³ In a September 2021 news release, the Governor stated that it is critical that the Board protect massage clients, especially those in a vulnerable position, and that he is confident the new appointees will do that. Additionally, according to the news release, the appointments reflected 2020 legislative changes that required several regulatory boards' membership to be comprised of a majority of public members.

⁴ One Board member representing the public resigned effective November 2021.

Table 1
Schedule of revenues, expenditures, and changes in fund balances
Fiscal years 2020 through 2022
(Unaudited)

	2020 (Actual)	2021 (Actual)	2022 (Estimate)
Revenues			
Licensing and fees	\$445,737	\$406,789	\$453,609
Fines, forfeits, and penalties	29,069	23,505	27,458
Other ¹	5,413	8,727	1,364
Total gross revenues	480,219	439,021	482,431
Net credit card fees	(1,241)	6,813	(3,585)
Remittances to the State General Fund ²	(47,953)	(43,465)	(47,419)
Total net revenues	431,025	402,369	431,427
Expenditures			
Payroll and related benefits	344,414	353,291	350,854
Professional and outside services ³	20,921	18,867	18,992
Travel	1,454		
Other operating ⁴	98,499	96,120	106,003
Furniture and equipment	20,518	8,022	7,120
Total expenditures	485,806	476,300	482,969
Net change in fund balances	(54,781)	(73,931)	(51,542)
Fund balances, beginning of year	1,492,940	1,438,159	1,364,228
Fund balances, end of year	\$1,438,159	\$1,364,228	\$1,312,686

¹ Other revenues primarily consist of fees collected for issuing duplicate licenses.

² The Board is required to remit to the State General Fund all civil penalties and 10 percent of all its other revenues in accordance with A.R.S. §§32-4205 and 32-4254(M).

³ Professional and outside services expenditures were payments for various services such as legal and temporary staffing services.

⁴ Other operating expenditures were for various expenditures such as rent, telecommunication, financial services, printing, information technology, supplies, and postage costs.

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 estimated information for fiscal year 2022.

Board did not investigate or timely investigate, document, or review all complaints it received, increasing public safety risk

Board responsible for investigating and resolving complaints

Statute authorizes the Board to investigate and resolve complaints against licensed massage therapists and investigate unlicensed individuals alleged to be practicing massage therapy.⁵ Although the Board has not established time frames for investigating and resolving the complaints it receives, we have determined that Arizona health profession regulatory boards should investigate and resolve complaints within 180 days of receiving them.

Board did not investigate or timely investigate, document, or review all complaints it received

Based on our review of 36 complaints the Board received—consisting of 7 complaints associated with a prostitution-related police report the Board received in January 2020 and a random sample of 29 complaints the Board received in calendar year 2021—we identified several problems with its complaint handling (see textbox for examples of complaint allegations we reviewed).⁶ Specifically, the Board:

- **Did not investigate 7 complaints associated with a prostitution-related police report until we brought them to its attention**—

The Board received the 7 complaints in January 2020 but had not investigated them until we brought them to its attention in February 2022 (see Figure 1, page 6). During the more than 2-year time period that these complaints went uninvestigated, the Board renewed 4 of the individuals' licenses—specifically between May 2020 and May 2021. After we brought these complaints to the Board's attention:

- Board staff reported that they closed 3 of 7 complaints because the 3 individuals' licenses had expired. However, at the time Board staff received the complaints, all individuals had valid licenses that were set to expire between 450 and 752 days after the complaints were received.

Examples of complaint allegations we reviewed

- Patient harm
- Inappropriate touching
- Sexual behavior
- Practicing without a license

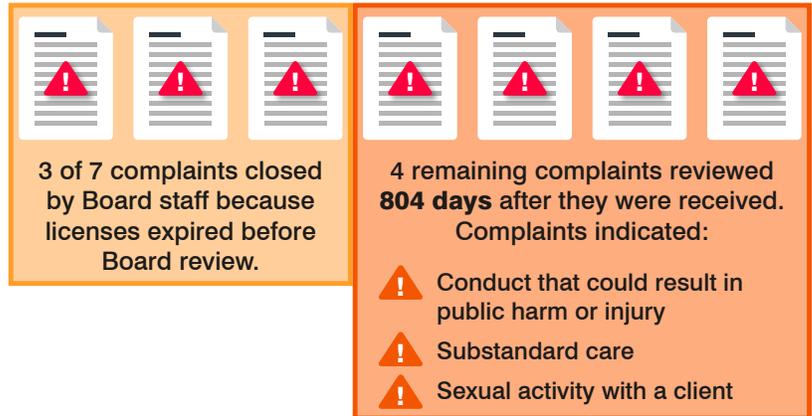
Source: Auditor General staff review of 36 complaints the Board received in calendar years 2020 and 2021.

⁵ A.R.S. §§32-4254 and 32-4255.

⁶ We reviewed all 7 complaints that the Board received in January 2020 associated with a prostitution-related police report. Additionally, we reviewed a random sample of 30 of the 106 complaints that the Board received in calendar year 2021. Although Board records showed that it received 106 complaints in calendar year 2021, this number may be inaccurate because the Board did not sufficiently track this information (see page 8 for more information about the Board's lack of a complaint-tracking mechanism). For example, 1 of the 30 complaint records we sampled for review was a duplicate complaint. Therefore, our review consisted of 29 complaints.

- The Board reviewed the remaining 4 complaints at its March 2022 Board meeting, 804 days after they were received.⁷ At the Board meeting and after Board staff had conducted an investigation, the Board summarily suspended 3 of the licensees pending a formal hearing and referred the remaining complaint to a formal interview before the Board.^{8,9} During a May 2022 Board meeting and 854 days after it received the complaints, the Board revoked 1 of the individual's licenses and accepted the voluntary surrender of another individual's license. As of May 2022, the Board had not resolved the remaining 2 complaints, including the complaint that was referred to a formal interview.

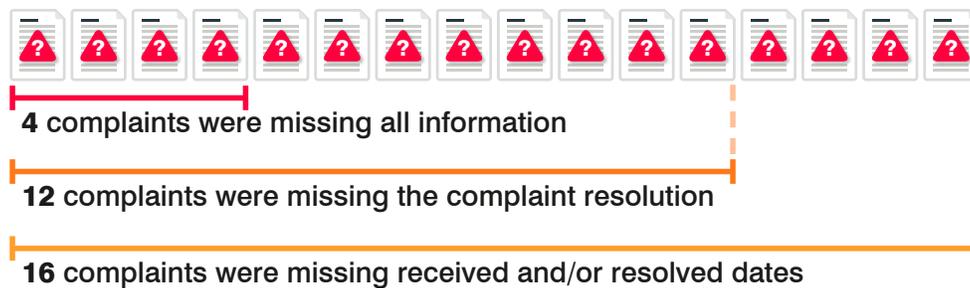
Figure 1
Board did not investigate 7 prostitution-related complaints received in January 2020 until we brought them to its attention during our audit in February 2022



Source: Auditor General staff review of 7 prostitution-related complaints the Board received in January 2020.

- **Did not document key complaint information for 16 of 29 complaints we reviewed**—Specifically, as shown in Figure 2, the Board did not document the date it received and/or resolved all 16 complaints and the complaint resolution for 12 of the complaints, while 4 complaint files did not contain any information other than the complaint number and the subject of the complaint. Absent this documentation, we could not assess the appropriateness of the Board's investigation and/or resolution of these complaints.

Figure 2
Board did not document key complaint information in 16 complaint files



Source: Auditor General staff review of 29 complaints the Board received in calendar year 2021.

⁷ This review was conducted by Board members appointed in September 2021.

⁸ The Board may summarily suspend a license if, after an investigation, it finds that public health, safety, or welfare requires emergency action.

⁹ Formal interviews and formal hearings are proceedings available to the Board during which it can consider evidence and take actions on complaints. The actions that the Board may take differ on the type of proceeding. For example, the Board must hold a formal hearing to revoke or suspend a license for more than 12 months. Additionally, the Board can take other less severe actions, such as issuing advisory letters and ordering continuing education or probation, after conducting a formal interview.

- **Did not timely investigate and resolve 2 complaints we reviewed for which we could assess timeliness**—Because the Board did not document the date it received and/or resolved 16 complaints, we were able to determine the timeliness of the Board’s complaint-resolution for only 13 of 29 complaints we reviewed. Eleven of these 13 complaints were resolved by the Board within 180 days or, as of May 2022, had been pending for less than 180 days. However, it took 238 days to resolve 1 complaint involving inappropriate sexual behavior, and as of May 2022, it had 1 complaint alleging inappropriate sexual behavior that had been pending for 206 days.
- **Did not review 20 of 29 complaints we reviewed**—Specifically, Board members did not review the 12 complaints that did not have a documented complaint resolution and did not review an additional 8 complaints that Board staff had closed. Although A.R.S. §32-4204 allows the Board’s executive director, at the request of the Board, to perform duties beyond those prescribed to the executive director in statute, he reported that the Board had not delegated him the responsibility or authority to close complaints. Board members had reviewed and resolved 6 complaints, and 3 were pending Board resolution as of May 2022.

Board cannot demonstrate it fulfilled its statutory responsibility, allowing potentially unfit licensees or unlicensed individuals to practice, increasing public safety risk

By not investigating and resolving all complaints that it receives and doing so in a timely manner, the Board has failed to fulfill its statutory responsibility by allowing unfit licensees or unlicensed individuals to continue practicing massage therapy, and thus placing public safety at risk. For example, as previously discussed, the Board:

- Summarily suspended 3 licensees with prostitution-related allegations, citing emergency action required to protect the public’s health, safety, or welfare 804 days after it had received complaints against the licensees and only after we brought the complaints to its attention. During this 804-day time frame, the 3 licensees were able to continue practicing massage therapy. Additionally, during a formal hearing for 1 of these complaints, a law enforcement officer’s testimony included evidence that an individual had admitted to paying the licensee to engage in sexual activities.
- Did not document whether it resolved 12 of 29 complaints we reviewed, including complaints alleging patient harm, inappropriate touching, sexual behavior, and unlawful practice by unlicensed individuals.
- Took 238 days to revoke an individual’s license for sexual behavior, among other allegations, citing the need to protect the public’s health, safety, or welfare. During this 238-day time frame, the individual was able to continue practicing massage therapy, and the Board received a second complaint with similar allegations against the licensee.

Board has not established critical complaint-handling and management processes to help ensure it investigates and resolves all complaints and does so in a timely manner

Complaints are an important source of information for determining whether the individuals operating within the regulated industry comply with all applicable requirements and standards.¹⁰ According to the National State Auditors Association, regulatory agencies such as the Board should have systematic processes and practices for complaint handling and management analysis and reporting (see textbox, page 8, for examples of recommended practices for complaint handling and management analysis and reporting). Establishing these processes and practices increases the likelihood that the State’s regulation will adequately protect its citizens.

¹⁰ National State Auditors Association (NSAA). (2004). *Carrying out a state regulatory program: A National State Auditors Association best practices document*. Lexington, KY. Retrieved 12/16/2021 from https://www.nasact.org/files/News_and_Publications/White_Papers_Reports/NSAA%20Best%20Practices%20Documents/2004_Carrying_Out_a_State_Regulatory_Program.pdf.

Further, the U.S. Government Accountability Office recommends that public agency management, with oversight from the applicable governing body, design, implement, and manage the agency's control activities.¹¹ Control activities include policies, procedures, and mechanisms to achieve the agency's key responsibilities.

However, the Board has not designed, implemented, and/or documented comprehensive policies, procedures, and mechanisms for complaint handling—1 of its key responsibilities. As part of our regulatory agency performance audits, we assess whether agencies comply with established complaint-handling policies and procedures. However, the Board's lack of comprehensive complaint-handling policies and procedures prevented us from performing this assessment. Specifically, the Board lacks the following important complaint-handling policies and procedures:

- Complaint file documentation requirements, including retaining complaint forms, correspondence with all parties and other investigative documents, final investigative reports, Board decisions, and dates associated with investigative steps and Board decisions.
- Standards for determining whether a complaint falls within the Board's jurisdiction and steps Board staff should take when it receives nonjurisdictional complaints.
- Time frames for completing key tasks such as opening complaints; completing complaint investigations, including requesting relevant documentation; and reviewing and resolving complaints.
- Standards for prioritizing complaints based on the severity of allegations.
- Notification requirements for parties involved, including when a complaint is opened, resolved, or when a complaint falls outside the Board's jurisdiction.

Additionally, the Board lacks mechanisms to help Board staff monitor complaints, including a system for tracking all complaints it receives to ensure that they are investigated and resolved in a timely manner. The Board also lacks a documented management analysis and reporting process to help Board members and the executive director oversee the complaint-handling process. For example, Board staff do not create complaint-related management reports on the volume and type of complaints, the timeliness of complaint processing, and the adequacy and consistency of enforcement actions.

Finally, although the Board has statutory authority to delegate responsibilities to its executive director, it has not delegated its authority to close complaints to its executive director. Other Arizona health profession regulatory boards, including the State of Arizona Naturopathic Physicians Medical Board and the Arizona State Board of Dental Examiners, have delegated their authority to dismiss or terminate complaints, such as those without merit, to their executive directors, and directed Board staff to inform board members of the dismissed or terminated complaints during board meetings.

Examples of recommended practices

Systematic complaint handling

- Setting guidelines/requirements for which complaints need action and how quickly complaints should be handled.
- Tracking and overseeing complaints to ensure that they are being addressed appropriately and that things do not slip through the cracks.
- Maintaining a record of the complaints received, the investigation results, and any actions taken.

Management analysis and reporting

- Evaluating the nature and volume of complaints.
- Evaluating the adequacy and consistency of enforcement actions and their effectiveness in protecting the State's citizens from harm.

Source: NSAA, 2004.

¹¹ U.S. Government Accountability Office (GAO). (2014). *Standards for internal control in the federal government*. Washington, DC. Retrieved 5/17/2022 from <https://www.gao.gov/assets/gao-14-704g.pdf>.

Recommendations

The Board should:

1. Investigate and resolve all complaints it receives within 180 days.
2. Establish written policies and procedures for complaint handling that include:
 - a. Minimum documentation requirements, such as retaining complaint forms, correspondence with all parties and other investigative documents, final investigative reports, Board decisions, and dates associated with investigative steps and Board decisions.
 - b. Time frames for completing key complaint-handling steps and tasks.
 - c. Standards for prioritizing complaints based on the severity of allegations.
 - d. Complaint-screening protocols, including determining which complaints are within its jurisdiction.
 - e. Notification requirements for parties involved, such as when a complaint is being opened or resolved, or when a complaint falls outside the Board's jurisdiction.
3. Develop a complaint-tracking process that allows Board staff to track all complaints it receives, monitor complaints it receives to ensure that they are investigated and resolved, and ensure that complaints are being resolved in a timely manner.
4. Develop and implement a formal management and analysis reporting process that includes Board staff routinely reporting to Board members and the executive director information on the nature and volume of complaints, its timeliness in investigating and resolving complaints, and the adequacy and consistency of its enforcement actions and their effectiveness in protecting the State's citizens from harm.
5. Determine whether it will delegate authority to its executive director to dismiss complaints, and if so, it should delegate this responsibility in writing, including the types of complaints the executive director may dismiss and how the Board wants to be informed of these dismissals.

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

Board has not made its telephone number publicly available and did not provide some information in response to our anonymous requests or on its website, restricting access to information public needs to make informed decisions about massage therapists

Statute requires the Board to provide certain information regarding licensees to the public

A.R.S. §32-3214 requires Arizona health profession regulatory boards to post disciplinary and some nondisciplinary actions/orders to their websites for no more than 5 years (see Table 2 for the types of complaint information that should be made available to the public).¹² Additionally, statute requires the Board to post a statement on its website informing the public that an individual may obtain additional public records related to any licensee, including dismissed complaints and nondisciplinary actions/orders, by contacting the Board directly.¹³ Providing accurate and complete information about licensees is important so the public can make informed decisions when choosing a massage therapist.

Table 2

Public information statutory requirements for Arizona health profession regulatory boards related to complaints

	Upon request	On website
Dismissed complaints	✓	✗
Pending complaints or investigations	✗	✗
Nondisciplinary actions/orders ¹	✓	✓
Disciplinary actions	✓	✓

¹ Although nondisciplinary actions and orders, such as orders to receive additional continuing education, are required to be available on Arizona health profession regulatory board websites, A.R.S. §32-3214(B) states that letters of concern and advisory letters may not be made available on the website but are available to the public upon request.

Source: Auditor General staff review of A.R.S. §32-3214 and Board documents.

Board has not made its telephone number available to the public on its website, did not provide some information in response to our anonymous requests, and has not posted copies of disciplinary and nondisciplinary actions/orders on its website

Board has not provided its telephone number to the public on its website, inconsistent with other Arizona health profession regulatory boards—The Board has not provided its telephone number to the public on its website. Instead, a statement on the Board’s website directs the public to use email to communicate with it. Board staff will then reply in an email. However, not all members of the public have

¹² A.R.S. §32-3201 establishes the Board as an Arizona health profession regulatory board.

¹³ A.R.S. §32-3214.

access to or prefer using email. In contrast, all other Arizona health profession regulatory boards provide a telephone number on their website.

Board did not provide some information in response to all 3 of our anonymous requests—

Because the Board has not made its telephone number available on its website, in February 2022, we sent 3 anonymous emails to the Board requesting complaint history information and licensing information for 3 different licensees. However, Board staff did not respond to our information requests by providing all statutorily allowed information.¹⁴ For 2 of these requests, Board staff responded to our emails directing us to its website rather than providing the information directly. However, the Board did not post copies of disciplinary and applicable nondisciplinary actions/orders on its website, such as consent agreements that explain the Board's findings related to complaint investigations (see next paragraph). Therefore, although we requested information about the nature of the complaint for 1 licensee who had received disciplinary action, the Board's website did not include this requested information. Additionally, regarding the second request, statute precludes the Board from making certain information available on its website, but still must be made available to the public upon request, such as dismissed complaints, and the licensee we inquired about had a dismissed complaint.¹⁵ In response to the third email request about a licensee who we determined had a pending complaint, although the Board did not provide information regarding the pending complaint, inconsistent with statute, Board staff stated "the Board has pending matters" with the licensee. Additionally, the Board did not provide information about the individual's license, such as license number and length of licensure, even though statute and its internal policies and procedures allow its staff to report this information.

Board did not post copies of disciplinary and nondisciplinary actions/orders on its website—

Prior to December 2021, the Board posted on its website copies of disciplinary and applicable nondisciplinary actions/orders, such as consent agreements that explain the Board's findings related to complaint investigations and details of the disciplinary or nondisciplinary actions. This practice was consistent with 3 Arizona health profession regulatory boards we reviewed.¹⁶ However, we reviewed the Board's website in November 2021 and identified copies of 111 disciplinary and nondisciplinary actions/orders that exceeded the 5-year statutory time frame for posting these actions/orders on its website and informed Board staff of this issue. Subsequently, Board staff removed all copies of disciplinary and nondisciplinary actions/orders from its website and reported that it would review them and post on its website only those that fell within the 5-year statutory time frame. However, as of June 2022, it had not done so, nor had it made available on its website copies of applicable actions/orders issued since December 2021.

Board reported that it does not post its telephone number on its website due to limited staffing, it lacks some policies to ensure it provides public information in accordance with statutory requirements, and its staff have not followed some of its policies

Board staff reported that the Board does not provide its telephone number on its website because it has limited staff availability to answer telephone calls. However, members of the public may prefer the ability to contact the Board by telephone and, as previously mentioned, all other Arizona health profession regulatory boards provide a telephone number on their website. Additionally, the Board does not have policies and procedures for updating its website to include public information related to disciplinary and applicable nondisciplinary actions/orders, including copies of the actions/orders it removed from its website, but were still within the statutory 5-year time frame. Therefore, if the Board does not provide or update this information on its website, the public

¹⁴ As part of our regulatory agency performance audits, we usually place anonymous telephone calls requesting information about licensees to assess agencies' compliance with public information requirements. Because the Board's telephone number is not listed on its website, we instead emailed our information requests to the Board.

¹⁵ A.R.S. §32-3214 states that dismissed complaints, letters of concern, and advisory letters may not be made available on the Board's website but are available to the public upon request.

¹⁶ We reviewed the websites for the State of Arizona Naturopathic Physicians Medical Board, the Arizona State Board of Podiatry Examiners, and the Arizona Board of Behavioral Health Examiners.

would need to contact the Board, such as by calling or emailing, to obtain it. Further, although the Board has implemented policies and procedures for responding to public information requests, its policy states that pending complaints are confidential unless deemed necessary for public safety and approved by the executive director. However, A.R.S. §32-3214 prohibits the Board from disclosing pending complaints or investigations to the public. Finally, Board staff did not follow Board policy when responding to our anonymous email requests. For example, Board policy requires its staff to provide a licensee's license number, initial and renewal licensure dates, and status of the license in response to public inquiries, which it failed to provide to us through our anonymous email requests.

Recommendations

The Board should:

6. Make its telephone number publicly available through its website, consistent with all other Arizona health profession regulatory boards.
7. Respond to all telephone and email inquiries it receives from the public by providing the requested information, as authorized by statute.
8. Update and implement its public information policies and procedures to include steps its staff should take for:
 - a. Responding to email inquiries and telephone calls for information on licensees, including time frames and a schedule for staff to respond to these inquiries, and identifying what information can be disclosed.
 - b. Posting disciplinary and applicable nondisciplinary actions/orders on its website, including identifying time frames for both posting and removing the actions/orders, identifying which actions/orders can be posted in compliance with statute, and monitoring the postings to ensure they are removed from the website in compliance with the 5-year statutory time frame.
9. Train existing and new staff on the updated public information policies and procedures.
10. Post copies of all statutorily required disciplinary and nondisciplinary actions/orders on its website that fall within the statutory 5-year time frame.

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



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 2003, and its mission is “to protect the health, safety, and welfare of the citizens of Arizona by regulating and maintaining standards of practice in the practice of massage therapy.” The Board is responsible for issuing massage therapy licenses to qualified individuals and investigating and resolving complaints against licensed massage therapists and investigating unlicensed individuals alleged to be practicing massage therapy. In addition, the Board is responsible for providing information about licensees to the public, including licensees’ disciplinary and nondisciplinary histories.

According to the Federation of State Massage Therapy Boards (FSMTB), as of August 2021, Arizona and 46 other states regulated massage therapy at the state level.^{17,18} We found that 1 of the states, California, certifies massage therapists through a private nonprofit corporation, the California Massage Therapy Council.¹⁹ We did not identify other states that met the Board’s objectives and purposes through private enterprise.

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 for 1 area that we reviewed. Specifically, Arizona Administrative Code (AAC) R4-15-207 establishes an overall time frame of 60 days for the Board to issue renewal licenses. Our review of a sample of 10 renewal applications found that the Board issued these license renewals within 60 days.²⁰

However, we identified several areas where the Board did not meet its statutory objective and purpose. Specifically:

- **Board did not issue 6 of 22 initial licenses we reviewed in accordance with statutory and rule requirements**—Our review of a random sample of 22 licenses that the Board issued in calendar year 2021 found that the Board:²¹
 - **Licensed 1 unqualified individual**—A.R.S. §32-4223 states that an applicant is eligible for a reciprocal massage therapy license if the applicant has been licensed as a massage therapist in another state for at least 2 of the immediately preceding 5 years or has a certification from the National

¹⁷ FSMTB is a nonprofit organization composed of state regulatory boards and agencies that regulate the massage therapy profession.

¹⁸ Kansas, Minnesota, and Wyoming do not regulate the massage therapy profession at the state level.

¹⁹ According to the California Massage Therapy Council, state certification is not required for an individual to practice massage therapy in California.

²⁰ We judgmentally selected 10 of 366 licenses that, as of April 2022, were set to expire in February of 2023 and reviewed the licensees’ 2021 renewal application.

²¹ We reviewed a random sample of 22 of 854 licenses that the Board issued in calendar year 2021 and were active as of January 2022.

Certification Board for Therapeutic Massage and Bodywork (NCBTMB) or similar agency (see textbox for more information on key licensing requirements). However, the Board issued a license to 1 reciprocity applicant who did not meet either of these requirements.

- **Did not issue 2 initial licenses in a timely manner**—AAC R4-15-207 establishes the Board’s overall time frame for issuing initial licenses as 120 days. However, the Board issued 2 of 22 licenses we reviewed in 164 and 194 days, respectively.
- **Lacked required documentation for 3 initial licenses**—A.R.S. §41-1080 requires the Board to obtain documentation from applicants to verify lawful presence. However, the Board did not have an applicant’s lawful presence documentation for 1 of 22 licenses we reviewed.

In addition, A.R.S. §32-4302 establishes requirements for issuing occupational licenses to individuals who establish residency in Arizona and are licensed in another state. However, for 1 of the licenses that we reviewed and that was issued pursuant to this statute, the Board did not have documentation demonstrating that the applicant was an Arizona resident.

Finally, A.R.S. §32-4224 requires applicants to file applications to the Board under oath or affirmation. As such, the Board’s application includes an affirmation statement that applicants must sign, declaring that the information in the application is true and correct. However, the Board did not have documentation of this affirmation and signature for 2 of 22 licenses we reviewed, including the licensee for whom the Board did not have lawful presence documentation.

The Board uses a database to process license applications, which helps it document key licensing requirements and dates. The Board reported that the database is outdated and does not easily allow it to create reports or query data collected. For example, Board staff are unable to use its licensing database to track the number of universal recognition licensure applicants. Instead, Board staff reported that the Board keeps track of this application type manually. The Legislature appropriated \$60,300 in fiscal year 2023 from the Board of Massage Therapy Fund for an electronic licensing software upgrade.²² According to the Governor’s fiscal year 2023 budget, the Arizona Department of Administration (ADOA), in partnership

²² Joint Legislative Budget Committee. (2022). *Budget bills*. Phoenix, AZ. Retrieved 7/8/2022 from <https://www.azjbc.gov/budget/h-splanasengrossed062322.pdf>.

Key message therapist licensure requirements¹

Regular licensure

- 700 classroom and clinical hours of supervised instruction at a Board-recognized school.²
- Passing score on a massage therapy examination.^{3,4}
- Lawful presence documentation.

Licensure by reciprocity

- Licensed as a massage therapist in another state for at least 2 of the immediately preceding 5 years or current certification from NCBTMB or similar agency.
- No pending disciplinary proceedings or complaints.

Licensure by universal recognition

- Currently hold a comparable license from another state and practiced for at least 1 year.
- Be in good standing in each state where a license is held.
- Arizona residency.

Licensure renewal

- 24 hours of continuing education biennially.

¹ Applicants for initial licensure must undergo a criminal background check. Applicants convicted of certain felony and misdemeanor offenses, such as sexual assault and prostitution, within 5 years prior to applying for licensure are precluded from obtaining a license.

² See textbox, page 15, for a definition of Board-recognized schools.

³ AAC R4-15-201 requires regular licensure applicants to provide written verification of a passing score on an examination administered by the NCBTMB or FSMTB.

⁴ Applicants who completed their education requirements at a Board-recognized massage therapy school in Arizona that is accredited by an agency recognized by the Secretary of the United States Department of Education are not required to pass a massage therapy examination.

Source: Auditor General staff review of A.R.S. §§32-4221 et seq., 32-4302, and 41-1080, and AAC R4-15-101 et seq.

with the Governor's Office, identified a vendor to implement electronic licensing software for several State boards and commissions, including the Board.

- **Board renewed licenses for a longer time period than allowed by statute**—According to A.R.S. §32-4225, a massage therapy license is subject to renewal every 2 years on a licensee's birthday. Our review of 5 license renewal applications found they were all erroneously renewed for more than 2 years.²³ Specifically, the Board received renewal applications for 2 of the licenses approximately 1 and 1.5 years prior to their expiration. The Board subsequently renewed these 2 licenses for an additional 2 years based on the prior licenses' expiration date, thus issuing renewal licenses for approximately 3 and 3.5 years, respectively. Further, the Board erroneously renewed the remaining 3 licenses 2 times, thus renewing these licenses for 4 years. Not only were these renewal periods contrary to statute, but by erroneously issuing renewal licenses for longer than 2 years, the Board cannot ensure that licensees continue to comply with statutory continuing-education requirements. The Board lacks licensing policies and procedures, including steps its staff should take to handle early license renewal applications.
- **Board did not ensure massage therapists met continuing-education requirements**—A.R.S. §32-4225 requires licensees renewing their license to affirm that they have completed at least 24 hours of Board-approved continuing education in the practice of massage therapy during the previous 2 years. Additionally, rule authorizes the Board to annually and randomly select a minimum of 10 percent of active licenses to audit their continuing education by requiring the selected licensees to provide documentation of their continuing education.²⁴ However, Board staff reported that it does not conduct continuing-education audits. Instead, the Board relies on an affirmation signed by renewal applicants that they have completed the required continuing education.²⁵ By not conducting these audits, the Board cannot ensure that licensees comply with continuing-education requirements, which are important for helping massage therapists maintain and further develop their knowledge and skills. Other Arizona health profession regulatory boards conduct continuing-education audits. For example, the State of Arizona Naturopathic Physicians Medical Board is required to annually audit at least 10 percent of its licensees, and the Arizona Regulatory Board of Physician Assistants is required to annually audit 10 percent of licensees renewing their license within the calendar year.²⁶
- **Board's list of recognized schools used for making licensing decisions includes errors**—As part of its licensing process, the Board must ensure that applicants are qualified for licensure, including determining whether an applicant attended a Board-recognized school (see textbox for definition of Board-recognized schools). In addition, A.R.S. §32-4228 requires the Board to

Board-recognized schools

Arizona schools that are:

- Approved by the Arizona State Board of Private Postsecondary Education, or
- Accredited to offer massage therapy education by an agency recognized by the secretary of the United States Department of Education, or
- A career technical education district program that is offered by a career technical education district.

Out-of-State schools that are:

- Located in another state or Canadian province if accredited or approved by an agency similar to the Arizona State Board for Private Postsecondary Education, or
- Accredited to offer massage therapy education by an agency recognized by the secretary of the United States Department of Education.

Source: Auditor General staff review of A.R.S. §32-4228.

²³ To assess whether the Board renewed licenses in accordance with statutory time frames, we identified and reviewed 5 licenses that the Board may have renewed for over 2 years based on their expiration date. Specifically, we reviewed the most recent renewal for all 5 licenses that as of April 2022, had previously been renewed and were set to expire in 2025.

²⁴ AAC R4-15-303 and R4-15-205.

²⁵ The Board's license renewal application requires applicants to affirm, under penalty of perjury, that they have completed at least 24 hours of Board-approved continuing education in the practice of massage therapy during the previous 2 years.

²⁶ The Regulatory Board of Physician Assistants is not required to audit licensees who hold a certification from an approved national certification organization.

maintain a list of Board-recognized massage therapy schools. However, Board staff reported that its list is not up to date or accurate. For example, the Board’s list contained schools that no longer exist. Further, the Board does not have policies and procedures to maintain and update its list of recognized schools, including steps its staff should take to add schools to the list and verify that schools continue to meet recognition requirements. As a result, the Board may not have up-to-date or accurate information to help ensure that applicants meet applicable licensure requirements and could potentially license unqualified applicants.

- Board has not evaluated the appropriateness of its fees, although it has established a fee analysis policy**—The Board is statutorily authorized to establish licensure fees, and although it has established these fees, it has not revised them since 2009. According to AAC R4-15-102, the 2-year initial license fee is \$195, and the 2-year license renewal fee is \$95. In July 2021, the Board established a fee analysis policy that requires Board staff to analyze program costs to determine the appropriateness of its fees every 5 years, which is consistent with Government fee-setting standards.²⁷ According to its policy, if Board staff determine that fee changes are needed, they will present recommendations to Board members for approval. As of April 2022, Board staff had not presented any recommended fee changes to the Board. However, in fiscal years 2020 and 2021, the Board’s expenditures exceeded its revenues, which consist mainly of licensing and related fees (see Table 3). Further, the Board’s fiscal year 2022 estimated revenues and expenditures indicate that this trend is expected to continue, and the Board’s ending fund balance is projected to decrease by \$125,473 between fiscal years 2020 and 2022.

Table 3
Board’s expenditures have exceeded and are estimated to exceed revenues, resulting in a projected 2-year declining fund balance
Fiscal years 2020 through 2022

Fiscal year	Revenues	Expenditures	Percent expenditures exceed revenues	Ending fund balance
2020	\$431,025	\$485,806	13%	\$1,438,159
2021	\$402,369	\$476,300	18%	\$1,364,228
2022 ¹	\$431,427	\$482,969	12%	\$1,312,686

¹ Fiscal year 2022 expenditures and revenues are estimates.

Source: Auditor General staff analysis of the Arizona Financial Information System 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 estimated information for fiscal year 2022.

The Board attributed some of the issues we identified under sunset factor 2 to lack of staffing. Despite this reported lack of staffing, the Board did not request additional FTE positions and associated appropriations in its fiscal year 2023 budget request. However, during a March 2022 Board meeting, Board members instructed staff to transmit a letter to the Joint Legislative Budget Committee and the Governor’s Office of Strategic Planning and Budgeting asking for access to the Board of Massage Therapy Fund’s available balance to pay for additional licensing staff. As of June 2022, Board staff reported that it had not transmitted this letter.

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>.

Recommendations

The Board should:

11. Issue licenses only to applicants who meet all statutory and rule requirements within the time frames established in rule.
12. Work with its electronic licensing software vendor to ensure that this software:
 - a. Collects all relevant data the Board needs to document and ensure license applicants comply with licensure requirements.
 - b. Allows Board staff to query or create reports to monitor its licensing process, including monitoring compliance with licensing time frames.
13. Issue renewal licenses for only 2 years, as required by statute.
14. Identify and review all renewed licenses that have an expiration date exceeding 2 years and work with its assistant attorney general to determine what action it should take to ensure these licenses comply with the 2-year renewal time period outlined in statute, such as modifying the license expiration date.
15. Conduct continuing-education audits of at least 10 percent of active licenses annually, as authorized by rule.
16. Develop and implement licensing policies and procedures for:
 - a. Processing initial licenses and license renewals, including procedures for handling early license renewal applications.
 - b. Conducting continuing-education audits of at least 10 percent of license renewal applicants.
 - c. Maintaining and updating the Board-recognized school list, including steps its staff should take to add schools to the list and verify that schools continue to meet recognition requirements to be included on the list.
17. Conduct a fee analysis as required by its policies and procedures and 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.

Although we did not identify instances where the Board served specific interests, we found that it has not always served the entire State because it has not effectively performed 1 of its key responsibilities—investigating and resolving complaints within its jurisdiction. Specifically, our review found that the Board did not investigate or timely investigate, document, review, and resolve all complaints it received (see Finding 1, pages 5 through 9).

Additionally, statute requires public officers and employees of public agencies to avoid conflicts of interest that might influence or affect their official conduct.²⁸ These laws require employees/public officers to disclose substantial financial or decision-making interests and then refrain from participating in matters related to the disclosed interests. To help ensure compliance with these statutory requirements, ADOA's *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, outside employment, and relatives employed by the State at the time of initial hire and anytime 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

²⁸ A.R.S. §38-501 et seq.

known as an “affirmative no.” In addition, 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.

Further, 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.²⁹ 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.³⁰ Specifically, conflict-of-interest recommended practices indicate that all public agency employees and public officers complete a disclosure form annually. Recommended practices also indicate that the form include a field for the individual to provide an “affirmative no,” if applicable.³¹ Finally, these recommended practices indicate that agencies 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.

To help comply with statute, the Board has established a policy and process for its staff and Board members to disclose conflicts of interest and to memorialize conflict-of-interest disclosures in a special file. Additionally, consistent with recommended practices, the Board’s conflict-of-interest policies and procedures require Board members and staff to complete a disclosure form annually, and the Board received conflict-of-interest training from its Assistant Attorney General during its October 2021 Board meeting.

However, the Board can further enhance its conflict-of-interest practices by adopting some additional recommended practices. Specifically, the Board’s conflict-of-interest disclosure forms do not include an “affirmative no” statement, and it has not established a process to review and remediate any disclosed conflicts.

Recommendations

The Board should:

18. Revise its conflict-of-interest disclosure form to include an “affirmative no” option when there is no conflict of interest.
19. Establish and implement a documented process for remediating disclosed conflicts of interest.

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.

A review of the Board’s statutes and rules found that the Board has adopted rules when statutorily required to do so.

²⁹ See, for example, Arizona 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*.

³⁰ 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 3/4/22 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 3/4/22 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 3/4/2022 from <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>.

³¹ As previously discussed, the ADOA disclosure form includes a field for the individual to provide an “affirmative no.”

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.

As of February 2022, the Board had not initiated any rulemaking in the previous 5 years. Therefore, it has not needed to encourage input from the public before adopting rules. Additionally, although we found that the Board generally complied with the open meeting law requirements that we reviewed for the 4 Board meetings held between December 2021 and March 2022, it has not sufficiently provided information to the public. Specifically, the Board has not provided its telephone number to the public, did not provide some information in response to our requests, and did not post copies of disciplinary and applicable nondisciplinary actions/orders on its website (see Finding 2, pages 10 through 12).

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

The Board has statutory authority to investigate and resolve complaints within its jurisdiction and may take various actions based on complaint investigation outcomes (see textbox). However, we found that the Board did not investigate or timely investigate, document, or review all complaints it received. For example, the Board did not investigate 7 complaints with prostitution-related allegations received in January 2020 until we brought them to its attention in February 2022. In addition, the Board did not document key complaint information for 16 of 29 complaints we reviewed, limiting our ability to assess the Board's handling of these complaints.

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

- Dismissal
- Nondisciplinary advisory letter
- Nondisciplinary order for continuing education
- Probation
- License suspension
- License revocation

Source: Auditor General staff review of A.R.S. §32-4254.

As a result, the Board cannot demonstrate that it fulfilled its statutory responsibility for investigating and resolving complaints within its jurisdiction, potentially allowing unfit licensees and unlicensed individuals to practice and increasing the risk to public safety (see Finding 1, pages 5 through 9).

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 A.R.S. §41-192(A)(1). In addition, A.R.S. §32-4255(C) authorizes the Attorney General, city attorney, or county attorney to represent the Board to enjoin a person who is committing any act in violation of Board statutes.

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

The Board did not identify any deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate and reported that it does not have plans to propose any statutory changes to its enabling statutes.

However, although not proposed by the Board, Laws 2022, Ch. 281, revised massage therapy licensure requirements. Specifically, effective January 2023, initial and renewal licensure applicants must possess a valid fingerprint clearance card to qualify for a massage therapy license. Initial licensure applicants will continue to be required to undergo a fingerprint-based background check (see textbox, page 20).

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.

We did not identify any statutory changes that are necessary to help the Board adequately comply with the factors listed in the sunset law.

Sunset factor 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 regulation should help protect the public through licensing massage therapists, investigating and resolving complaints against licensees, and investigating unlicensed individuals alleged to be practicing massage therapy. The Board receives complaints that include allegations of patient harm, inappropriate touching, and sexual behavior. However, we found that the Board cannot demonstrate that it has always investigated and resolved complaints it receives or done so in a timely manner, thereby allowing unfit licensees or unlicensed individuals to continue practicing massage therapy, and thus placing public health and safety at risk (see Finding 1, pages 5 through 9).

Differences between fingerprint clearance card and fingerprint-based background check

Fingerprint clearance card—An Arizona Department of Public Safety (DPS)-issued card indicating that the cardholder is not awaiting trial for or has not been convicted of committing certain precluding criminal offenses, such as sexual assault and forgery. DPS can deny or issue a fingerprint clearance card based on its review of an applicant's State and national criminal history record. If a cardholder is subsequently arrested for a precluding offense, DPS is required to suspend the card and notify the cardholder and the sponsoring agency of this action.

Fingerprint-based background check—Provides a point-in-time listing of an individual's criminal history. DPS uses individuals' fingerprints to compare them to State and national criminal history records. DPS then provides a report of the individual's criminal history to the requesting regulatory agency.

Source: Auditor General Report 21-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records* and Auditor General staff review of DPS documents.

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 46 other states that regulate the massage therapy profession by reviewing FSMTB-provided information and found that the level of regulation the Board exercises is generally similar to these states in the following 3 areas (see textbox on page 14 for licensure requirements in Arizona):³²

- **Education**—Similar to Arizona, 45 states require an initial licensure applicant to complete between 500 to 1,000 hours of massage therapy education.
- **Massage therapy examination**—Similar to Arizona, 43 states require an initial licensure applicant to pass a massage therapy examination.³³
- **Criminal history background checks**—Similar to Arizona, 30 states require an initial licensure applicant to undergo a criminal history background check as part of the licensure process.

However, Arizona's level of regulation differs from these states in 1 key area. Specifically, unlike Arizona, 14 states regulate massage establishments. For example, in Nevada, a person must hold a valid certificate of operation issued by the Nevada State Board of Massage Therapy to operate a massage establishment. Some

³² In California, the California Massage Therapy Council issues voluntary certifications to individuals who meet the California law requirements. However, California law does not require state certification for an individual to practice massage therapy. Additionally, Kansas, Minnesota, and Wyoming do not regulate the massage therapy profession at the state level.

³³ Applicants for an Arizona massage therapy license who completed their education requirements at a Board-recognized massage therapy school in Arizona that is accredited by an agency recognized by the Secretary of the United States Department of Education are not required to pass a massage therapy examination.

of Nevada's regulatory requirements related to massage establishments include certificate holders being responsible for sanitization and safety of the establishment and for ensuring that sexual or unlicensed activities do not occur within the establishment.

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 did not use private contractors in the performance of its mission-critical activities. We contacted 3 other states—Nevada, North Carolina, and Oregon—to obtain information regarding their state massage therapy regulatory entity's use of private contractors for mission critical activities.³⁴ North Carolina reported using private investigators to conduct undercover investigations and consultants to review massage and bodywork therapy schools. Oregon reported using private investigators to conduct investigations. Finally, Nevada reported that it did not use private contractors for mission critical activities.

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

³⁴ We judgmentally selected these states based on their state regulatory agency's organizational structure. Specifically, we selected states with regulatory agencies that exclusively regulate massage therapy.



SUMMARY OF RECOMMENDATIONS

Auditor General makes 19 recommendations to the Board

The Board should:

1. Investigate and resolve all complaints it receives within 180 days (see Finding 1, pages 5 through 9, for more information).
2. Establish written policies and procedures for complaint handling that include:
 - a. Minimum documentation requirements, such as retaining complaint forms, correspondence with all parties and other investigative documents, final investigative reports, Board decisions, and dates associated with investigative steps and Board decisions.
 - b. Time frames for completing key complaint-handling steps and tasks.
 - c. Standards for prioritizing complaints based on the severity of allegations.
 - d. Complaint-screening protocols, including determining which complaints are within its jurisdiction.
 - e. Notification requirements for parties involved, such as when a complaint is being opened or resolved, or when a complaint falls outside the Board's jurisdiction (see Finding 1, pages 5 through 9, for more information).
3. Develop a complaint-tracking process that allows Board staff to track all complaints it receives, monitor complaints it receives to ensure that they are investigated and resolved, and ensure that complaints are being resolved in a timely manner (see Finding 1, pages 5 through 9, for more information).
4. Develop and implement a formal management and analysis reporting process that includes Board staff routinely reporting to Board members and the executive director information on the nature and volume of complaints, its timeliness in investigating and resolving complaints, and the adequacy and consistency of its enforcement actions and their effectiveness in protecting the State's citizens from harm (see Finding 1, pages 5 through 9, for more information).
5. Determine whether it will delegate authority to its executive director to dismiss complaints, and if so, it should delegate this responsibility in writing, including the types of complaints the executive director may dismiss and how the Board wants to be informed of these dismissals (see Finding 1, pages 5 through 9, for more information).
6. Make its telephone number publicly available through its website, consistent with all other Arizona health profession regulatory boards (see Finding 2, pages 10 through 12, for more information).
7. Respond to all telephone and email inquiries it receives from the public by providing the requested information, as authorized by statute (see Finding 2, pages 10 through 12, for more information).
8. Update and implement its public information policies and procedures to include steps its staff should take for:
 - a. Responding to email inquiries and telephone calls for information on licensees, including time frames and a schedule for staff to respond to these inquiries, and identifying what information can be disclosed.

- b. Posting disciplinary and applicable nondisciplinary actions/orders on its website, including identifying time frames for both posting and removing the actions/orders, identifying which actions/orders can be posted in compliance with statute, and monitoring the postings to ensure they are removed from the website in compliance with the 5-year statutory time frame (see Finding 2, pages 10 through 12, for more information).
9. Train existing and new staff on the updated public information policies and procedures (see Finding 2, pages 10 through 12, for more information).
10. Post copies of all statutorily required disciplinary and nondisciplinary actions/orders on its website that fall within the statutory 5-year time frame (see Finding 2, pages 10 through 12, for more information).
11. Issue licenses only to applicants who meet all statutory and rule requirements within the time frames established in rule (see Sunset Factor 2, pages 13 through 17, for more information).
12. Work with its electronic licensing software vendor to ensure that this software:
 - a. Collects all relevant data the Board needs to document and ensure license applicants comply with licensure requirements.
 - b. Allows Board staff to query or create reports to monitor its licensing process, including monitoring compliance with licensing time frames (see Sunset Factor 2, pages 13 through 17, for more information).
13. Issue renewal licenses for only 2 years, as required by statute (see Sunset Factor 2, pages 13 through 17, for more information).
14. Identify and review all renewed licenses that have an expiration date exceeding 2 years and work with its assistant attorney general to determine what action it should take to ensure these licenses comply with the 2-year renewal time period outlined in statute, such as modifying the license expiration date (see Sunset Factor 2, pages 13 through 17, for more information).
15. Conduct continuing-education audits of at least 10 percent of active licenses annually, as authorized by rule (see Sunset Factor 2, pages 13 through 17, for more information).
16. Develop and implement licensing policies and procedures for:
 - a. Processing initial licenses and license renewals, including procedures for handling early license renewal applications.
 - b. Conducting continuing-education audits of at least 10 percent of license renewal applicants.
 - c. Maintaining and updating the Board-recognized school list, including steps its staff should take to add schools to the list and verify that schools continue to meet recognition requirements to be included on the list (see Sunset Factor 2, pages 13 through 17, for more information).
17. Conduct a fee analysis as required by its policies and procedures and revise its fees as needed (see Sunset Factor 2, pages 13 through 17, for more information).
18. Revise its conflict-of-interest disclosure form to include an “affirmative no” option when there is no conflict of interest (see Sunset Factor 3, pages 17 and 18, for more information).
19. Establish and implement a documented process for remediating disclosed conflicts of interest (see Sunset Factor 3, pages 17 and 18, for more information).

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 Board staff; and reviewing information from the Board's website. In addition, we used the following specific methods to meet the audit objectives:

- To assess whether the Board issued initial licenses to qualified applicants in accordance with statutory and rule requirements and in a timely manner, we reviewed a random sample of 22 of 854 licenses that it issued in calendar year 2021 and were active as of January 2022.³⁵ In addition, to assess whether the Board renewed licenses in a timely manner, we judgmentally selected 10 of 366 licenses that, as of April 2022, were set to expire in February of 2023 and reviewed the licensees' 2021 renewal application. Further, to assess whether the Board renewed licenses in accordance with statutory time frames, we identified and reviewed 5 licenses that the Board may have renewed for over 2 years based on their expiration date.³⁶ Specifically, we reviewed the most recent renewal for all 5 licenses that as of April 2022, had previously been renewed and were set to expire in 2025.
- To assess the Board's complaint investigation and resolution processes, including the timeliness of complaint resolution, we reviewed a random sample of 29 of 106 complaints the Board received in calendar year 2021 and reviewed all 7 complaints associated with a prostitution-related police report the Board received in calendar year 2020.³⁷ Further, we compared the Board's complaint-handling process to recommended practices.³⁸
- To assess whether the Board provided information to the public as required by statute and its policies and procedures, we sent 3 anonymous emails to the Board in February 2022. Additionally, we reviewed the Board's website to assess whether the Board provides information to the public on its website consistent with statutory requirements and reviewed the websites for 3 other Arizona health profession regulatory boards.³⁹

³⁵ During our audit, the Board was involved in a legal dispute with Allied Health Career Institute related to license applicants who attended this massage therapy school. Since the subject of a legal dispute, we did not assess the Board's licensure of individuals who attended Allied Health Career Institute.

³⁶ According to A.R.S. §32-4225, a massage therapy license is subject to renewal every 2 years.

³⁷ We selected a random sample of 30 of 106 complaints the Board received in calendar year 2021. Although Board records showed that it received 106 complaints in calendar year 2021, this number may be inaccurate because the Board did not sufficiently track this information. For example, 1 of the 30 complaints we sampled for review was a duplicate complaint. Therefore, our review consisted of 29 complaints.

³⁸ National State Auditors Association. (2004). *Carrying out a state regulatory program: A National State Auditors Association best practices document*. Lexington, KY. Retrieved 12/16/2021 from https://www.nasact.org/files/News_and_Publications/White_Papers_Reports/NSAA%20Best%20Practices%20Documents/2004_Carrying_Out_a_State_Regulatory_Program.pdf; U.S. Government Accountability Office (GAO). (2014). *Standards for internal control in the federal government*. Washington, DC. Retrieved 5/17/2022 from <https://www.gao.gov/assets/gao-14-704g.pdf>.

³⁹ We reviewed the websites for the State of Arizona Naturopathic Physicians Medical Board, the Arizona State Board of Podiatry Examiners, and the Arizona Board of Behavioral Health Examiners.

- To obtain information for the Introduction, we reviewed Board-prepared information regarding Board member vacancies and the number of active licenses as of June 2022. In addition, we compiled and analyzed unaudited financial information from the *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 estimated information for fiscal year 2022.
- To obtain additional information for the Sunset Factors, we reviewed the Arizona Administrative Register and assessed the Board's compliance with various provisions of the State's open meeting law for 4 Board meetings held between December 2021 and March 2022. To assess the Board's compliance with the State's conflict-of-interest laws and alignment with recommended practices, we reviewed statute, Board policy and disclosure forms, and recommended practices.⁴⁰ To assess the Board's fee-setting practices, we reviewed Board policy and fee-setting standards and guidance developed by government and professional organizations.⁴¹ We also used Federation of State Massage Therapy Boards-provided information to compare the Board's regulation of the massage therapy industry to other states. Finally, we judgmentally selected and contacted 3 states—Nevada, North Carolina, and Oregon—and reviewed their use of private contractors for mission-critical activities.⁴²
- Our work on internal controls included reviewing the Board's policies and procedures for ensuring compliance with Board statutes and rules, where applicable, testing its compliance with these policies and procedures, and assessing their appropriateness. We reported our conclusions on internal control deficiencies in Finding 1, Finding 2, and in our responses to the statutory Sunset Factors (see Finding 1, pages 5 through 9; Finding 2, pages 10 through 12; and Sunset Factors, pages 13 through 21).

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 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 Board staff for their cooperation and assistance throughout the audit.

⁴⁰ 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 3/4/22 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 3/4/2022 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 3/4/2022 from <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>.

⁴¹ 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>.

⁴² We judgmentally selected these states based on their state regulatory agency's organizational structure. Specifically, we selected states with regulatory agencies that exclusively regulate massage therapy.

BOARD RESPONSE



Douglas A. Ducey,
Arizona Governor

Arizona State Board of Massage Therapy

Tom Augherton, Executive Director
1740 W. Adams, Suite 3401
Phoenix, Arizona 85007
E: info@massageboard.az.gov
W: www.massageboard.az.gov

Board Members

Chair

Angela Reiter, LMT

Vice Chair

Myriah Moon

Board Member

Bailey DeRoest

Board Member

Michael Tapscott, LMT

Board Member

Vacant

August 1, 2022

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

RE: 2022 Arizona Board of Massage Therapy, Arizona Sunset Review Audit

Dear Ms. Perry:

Attached herein, please find the official response of the Arizona Board of Massage Therapy, to the summary findings of the Auditor General's Audit Team, assigned to this office for the 2022 Sunset & Performance Review.

The Board Chair, Board members, and staff, developed a good working relationship with the Audit Team, including after a replacement team leader, and intend to recalibrate identified State Board performance issues, before the upcoming post-audit visits, to achieve final Audit compliance.

The State Board looks forward to its appearance before the Senate and House committees of reference, (Heath & Human Services), and highlighting the unique relationship of this Board with Federal, State and local law enforcement.

The Board's statutory mission, reaffirmed by current Arizona Governor Doug Ducey, is to credibly protect the public, and respond to the ongoing regulatory challenge of criminal schemes and syndicates infiltrating this health industry.

Respectfully,

Tom Augherton
Executive Director
tom.augherton@massageboard.az.gov
602-542-8217

Finding 1: Board did not investigate or timely investigate, document, or review all complaints it received, increasing public safety risk

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

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

Recommendation 2: The Board should establish written policies and procedures for complaint handling that include:

Recommendation 2a: Minimum documentation requirements, such as retaining complaint forms, correspondence with all parties and other investigative documents, final investigative reports, Board decisions, and dates associated with investigative steps and Board decisions.

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

Recommendation 2b: Time frames for completing key complaint-handling steps and tasks.

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

Recommendation 2c: Standards for prioritizing complaints based on the severity of allegations.

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

Recommendation 2d: Complaint-screening protocols, including determining which complaints are within its jurisdiction.

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

Recommendation 2e: Notification requirements for parties involved, such as when a complaint is being opened or resolved, or when a complaint falls outside the Board's jurisdiction.

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

Recommendation 3: The Board should develop a complaint-tracking process that allows Board staff to track all complaints it receives, monitor complaints it receives to ensure that

they are investigated and resolved, and ensure that complaints are being resolved in a timely manner.

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

Recommendation 4: The Board should develop and implement a formal management and analysis reporting process that includes Board staff routinely reporting to Board members and the executive director information on the nature and volume of complaints, its timeliness in investigating and resolving complaints, and the adequacy and consistency of its enforcement actions and their effectiveness in protecting the State's citizens from harm.

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

Recommendation 5: The Board should determine whether it will delegate authority to its executive director to dismiss complaints, and if so, it should delegate this responsibility in writing, including the types of complaints the executive director may dismiss and how the Board wants to be informed of these dismissals.

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

Finding 2: Board has not made its telephone number publicly available and did not provide some information in response to our anonymous requests or on its website, restricting access to information public needs to make informed decisions about massage therapists

Recommendation 6: The Board should make its telephone number publicly available through its website, consistent with all other Arizona health profession regulatory boards.

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

Recommendation 7: The Board should respond to all telephone and email inquiries it receives from the public by providing the requested information, as authorized by statute.

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

Recommendation 8: The Board should update and implement its public information policies and procedures to include steps its staff should take for:

Recommendation 8a: Responding to email inquiries and telephone calls for information on licensees, including time frames and a schedule for staff to respond to these inquiries, and identifying what information can be disclosed.

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

Recommendation 8b: Posting disciplinary and applicable nondisciplinary actions/orders on its website, including identifying time frames for both posting and removing the actions/orders, identifying which actions/orders can be posted in compliance with statute, and monitoring the postings to ensure they are removed from the website in compliance with the 5-year statutory time frame.

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

Recommendation 9: The Board should train existing and new staff on the updated public information policies and procedures.

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

Recommendation 10: The Board should post copies of all statutorily required disciplinary and nondisciplinary actions/orders on its website that fall within the statutory 5-year time frame.

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

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 11: The Board should issue licenses only to applicants who meet all statutory and rule requirements within the time frames established in rule.

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

Recommendation 12: Work with its electronic licensing software vendor to ensure that this software:

- a. **Recommendation 12a:** Collects all relevant data the Board needs to document and ensure license applicants comply with licensure requirements.

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

- b. **Recommendation 12b:** Allows Board staff to query or create reports to monitor its licensing process, including monitoring compliance with licensing time frames.

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

Recommendation 13: The Board should issue renewal licenses for only 2 years, as required by statute.

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

Recommendation 14: The Board should identify and review all renewed licenses that have an expiration date exceeding 2 years and work with its assistant attorney general to determine what action it should take to ensure these licenses comply with the 2-year renewal time period outlined in statute, such as modifying the license expiration date.

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

Recommendation 15: The Board should conduct continuing-education audits of at least 10 percent of active licenses annually, as authorized by rule.

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

Recommendation 16: The Board should develop and implement licensing policies and procedures for:

Recommendation 16a: Processing initial licenses and license renewals, including procedures for handling early license renewal applications.

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

Recommendation 16b Conducting continuing-education audits of at least 10 percent of license renewal applicants.

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

Recommendation 16c: Maintaining and updating the Board-recognized school list, including steps its staff should take to add schools to the list and verify that schools continue to meet recognition requirements to be included on the list.

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

Recommendation 17: The Board should conduct a fee analysis as required by its policies and procedures and revise its fees as needed.

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

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

Recommendation 18: The Board should revise its conflict-of-interest disclosure form to include an “affirmative no” option when there is no conflict of interest.

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

Recommendation 19: The Board should establish and implement a documented process for remediating disclosed conflicts of interest.

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

