



## ARIZONA STATE BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

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Janet Napolitano  
Governor

1400 West Washington, Suite 230  
Phoenix, Arizona 85007  
(602) 542-8154 phone • (602) 542-3093 fax  
email [chris.springer@azhomeopathbd.az.gov](mailto:chris.springer@azhomeopathbd.az.gov)  
web: <http://www.azhomeopathbd.az.gov>

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Charles Schwengel DO, MD(H)  
Chairman  
Todd Rowe, MD, MD(H)  
Vice-President  
Don Farris.  
Secretary-Treasurer

**August 15th, 2007**

Ms. Debbie Davenport, CPA  
Auditor General  
2910 N. 44th Street, Suite 410  
Phoenix AZ 85018

RE: Performance Audit Report and Sunset Review Findings

Dear Ms. Davenport:

Enclosed please find the Arizona Board of Homeopathic Medical Examiners response to the Performance Audit recently conducted by your Staff. We appreciate the opportunity to respond to the Audit Report and Sunset Findings. We also recognize the diligent effort put forth by your staff in their efforts to understand the Homeopathic medical profession and the Board's regulation of the profession. The Board is grateful for your work. The Board has addressed the findings as required by law.

Even though the report is lengthy, it indicates only four findings, which state the following:

- 1) The legislature should consider the best method of regulation of Homeopathic Medicine in the State of Arizona.
- 2) The Board can improve its regulation process.
- 3) The Board can improve its complaint processing.
- 4) The Board can improve its licensing process.

The Board agrees with the findings #2-4 and has already instituted numerous steps to implement the recommendations. The Board feels that the Legislature should consider the best method of regulation of Homeopathic Medicine in the State of Arizona, and make a truly informed choice. We believe that a separate Board of Homeopathic Medical Examiners is essential both to protect the public AND to provide continued availability of these forms of treatment for the public.

Board members do not agree with all of the remarks stated in the Report and recognize that perceptions regarding the regulated profession are oftentimes misleading. Hopefully, our Agency Response will allow persons reading the Report an opportunity to come to a reasonable conclusion regarding the Board and the difficulties faced by the agency and its staff.

Thank you again for the efforts of your staff to improve the performance of the Board.

Sincerely,

Arizona Board of Homeopathic Medical Examiners

Charles Schwengel DO, MD(H)  
President

Todd Rowe, MD, MD(H). CCH, DHt  
Vice-President

Don Farris  
Secretary and Treasurer

Garry Gordon, MD, DO, MD(H)  
Board Member

Martha M Grout, MD, MD(H)  
Board Member

Marie Stika  
Board Member

Enclosure: Agency Response to Performance Audit Report and Sunset Review Findings

# **ARIZONA BOARD OF HOMEOPATHIC MEDICAL EXAMINERS RESPONSE TO AUDITOR GENERAL'S PERFORMANCE AUDIT**

## **Overview**

The Arizona Board of Homeopathic Medical Examiners (hereinafter "Board") has issued the following response to the recent Performance Audit conducted by the Auditor General's Office as part of the Sunset Review set forth in A.R.S. § 41-2951 et seq. The Board has attached as part of its response an action plan to implement recommendations of the Auditor General's office as well as to enhance the management and investigative processes of the Board.

The Board has welcomed this performance audit and has seen it as an opportunity to improve Board policies and procedures and to perform some self-reflection on how we conduct our work. We have found the process to be helpful and are looking forward to implementing the recommendations. We feel that we do a good job in our work in fulfilling our legislative mandate to protect the public from unqualified and unfit Homeopathic practitioners, but feel that there is always room for improving the quality of what we do.

The Board agrees with nearly all of the recommendations of the Performance Audit and has moved to implement them, although some of these require statutory changes and implementation must wait until these statutory changes occur. In addition, the Board has created several recommendations of its own that require a statutory change (see #13 and #16-21 below).

The Performance Audit was requested by the Arizona State Legislature following concerns expressed by a small group of Arizona Homeopathic practitioners that the Board was acting unethically, immorally and with significant conflicts of interest. None of these issues was a finding of the Performance Audit. Our Board works hard to conduct its business ethically and within the legal parameters set forth by the State of Arizona.

Concerns were also expressed at the last hearing that the practice of Homeopathic Medicine is a spiritual practice and therefore exempt from regulation. Nowhere in the world is the practice of Homeopathic Medicine defined in this way. The practice of Homeopathic Medicine is the practice of Medicine. Homeopathic Medicine is a system of Medicine, just as Conventional Medicine and Traditional Chinese Medicine are systems of medicine.

We do find that the Performance Audit presents an inaccurate picture of the importance of the Arizona Board of Homeopathic Medical Examiners and the ongoing need for regulation of Homeopathic Medicine here in Arizona (see below). This section of the report contains inaccuracies and misperceptions about the Homeopathic community. The continuance of the Arizona Board of Homeopathic Medical Examiners is critical to providing public safety. The following are key reasons for the continuance of the Board:

- There is a very strong public demand for Homeopathic Medicine and a public perception of need for the Homeopathic licensing board.
- Unregulated Homeopathic practice represents a clear danger to the public.
- The allopathic (Conventional Medicine) community lacks sufficient knowledge of Homeopathic Medicine to adequately and safely regulate Homeopathic physicians.
- The allopathic community (conventional Medicine) has a strong bias against Homeopathic Medicine which would prevent them from fairly regulating the practice of Homeopathic Medicine.

- With the large projected growth in the Homeopathic community (establishment of a Homeopathic medical school here in Phoenix in 2009) there is a growing need for regulation to promote public safety.
- Homeopathic Medicine is not a specialty of conventional medicine.
- There are modalities of Homeopathic Medicine not practiced by any other medical licensing board.
- Many of the Homeopathic physicians licensed by this Board hold a single licensure.
- The Board promotes public access to non-traditional therapies by physicians.
- Homeopathic Medical Assistants will not be able to safely and legally practice without the Board.

Consumers have increasingly shown that they want freedom of choice, including access to Homeopathic Medicine. Homeopathic Medicine is the second most common form of alternative medicine (CAM) in North and South America and Europe<sup>30</sup>. It is also the second most common form of alternative medicine in the world today and the most common form of alternative medicine in industrialized countries<sup>30</sup>.

A 2005 World Health Organization (W.H.O.) Report found that the use of herbal, complementary and alternative medicine is increasing in industrialized countries. The W.H.O.'s definition of health promotes an emphasis on self-empowerment along with a holistic approach to life uniting the body, mind, soul and health in connection with disease prevention. The practices inherent in traditional, complementary and alternative medicine promote a more holistic approach. The WHO report went on to say that the relatively low cost of Homeopathic medicines as well as their accessibility contrasts with the ever rising cost and limited availability (in remote areas) of even the most essential modern medicines.<sup>30</sup>

***FINDING I: LEGISLATURE SHOULD CONSIDER BEST  
REGULATION METHOD OF HOMEOPATHIC MEDICINE***

***Recommendation 1:*** *The Legislature should consider the continued need for a separate Homeopathic licensing board.*

**Response:** The Board feels strongly that the best method of regulation is the continuation of the Arizona Board of Homeopathic Medical Examiners. The following sections express the key rationale which underlies the importance of the Board in fulfilling its mission of “protecting the health, safety and welfare of Arizona citizens by examining, licensing and regulating Homeopathic physicians”. Homeopathic Medicine is a unique, specialized and holistic approach to health and preventive health care and this should be recognized.

**A. There is A Strong Public Demand for Homeopathic Medicine and a Public Perception of Need For the Homeopathic Licensing Board**

There is a strong public demand for Homeopathic Medicine. Homeopathic Medicine is the second most common form of medicine in the world today.<sup>30</sup> It is also the fastest growing form of alternative medicine.<sup>30</sup> Alternative medicine has shown a steady growth in usage in recent years by the public. Recent studies have shown that over 67% of the American public now use alternative medicine.<sup>25, 26, 28</sup>

It is critical for Arizona citizens to have the freedom to choose their method of healthcare. Homeopathic Medicine provides an important alternative for those individuals who do not have success with allopathic medicine or who choose to seek alternative methods of care as their

primary system of healthcare. Therefore it is critical that these practitioners be regulated to ensure public safety.

Approximately 24 countries have laws which sanction Homeopathic practice by medical doctors, with specialty training and education established. Many countries are moving towards increased regulation of Homeopathic Medicine and practice.<sup>3</sup> A related issue concerns the credentials of the training bodies accrediting Homeopaths. Writers commenting on experience in the United States drew attention to the presence of “diploma peddlers” and “diploma mills”.<sup>20</sup> These so-called graduates represent a threat to public safety and undermine the credibility of legitimate practitioners. Legislators are responding by examining state regulation<sup>3</sup>. Currently approximately 81 countries demonstrate some degree of regulatory involvement in Homeopathic practice with a wide range of education and training, statutory regulation and voluntary self-regulation evident<sup>3</sup>. 48 countries belong to an international society known as LMHI( Liga Medicorum Homeopathica Internationalis) that seeks consistency in Homeopathic regulation<sup>3</sup>.

The Arizona Homeopathic and Integrative Medical Association is strongly supportive of the Board. In addition, the national Homeopathic community is strongly in support of the continuance and need for the Homeopathic licensing board.

## **B. Unregulated Homeopathic Practice Represents a Clear Danger to the Public. Protection of the Public Calls for Continued Regulation of Homeopathic Practice.**

Homeopathy is a system of medicine. As with any medical system, it has the potential to cause harm.<sup>3</sup> Many people use complementary and alternative medicines because they believe that treatments are natural and without side-effects. A literature review indicates that this is not always the case, particularly in the field of Homeopathic Medicine.<sup>3</sup> There is a serious, albeit indirect risk of harm, presented to the public by the practice of Homeopathic Medicine, especially by those who are not adequately or appropriately trained to act as Homeopaths. Like any other medical system, the likeliest cause of harm is indirect. Indirect harm such as misapplying Homeopathic principles due to lack of training, misdiagnosis or fraud, presents serious risk to the public.

Homeopathic treatment can specifically cause delay in delivery of other effective medical interventions.<sup>7,8</sup> Practitioners can misapply treatments, improperly compounding Homeopathic medicines or overstepping their qualifications<sup>9</sup> or failing to refer to conventional care while waiting for results from Homeopathy.<sup>10</sup> Adverse reactions can occur including allergic reactions to low potency Homeopathic preparations and misapplication of Homeopathic medicines. Direct harm can also result from compounding where treatments with potentially toxic concentrations of arsenic and cadmium are dispensed.<sup>12</sup> Examples cited in the literature include the Homeopathic medicines *Arnica montana* causing fatal hemorrhaging in individuals taking blood thinning agents, caulophyllum producing abortion<sup>7</sup>, Homeopathic medicines causing mercury poisoning<sup>13</sup> and arsenic toxicity.<sup>14</sup> A German pharmacologist writing about the attractions and dangers of Homeopathic Medicine observes that, in the case of toxic compounds, especially those with carcinogenic or allergic potentiation, Homeopathy bears significant risk for humans.<sup>15</sup>

Indirect risks include misdiagnosis, missed diagnoses, disregarding contraindications, discontinuation, prevention or delay of effective conventional therapy, potentially hazardous

diagnostic procedures<sup>16</sup> and interference of Homeopathic medicines with conventional treatments.<sup>17</sup> Harm in the form of prolonged suffering may result from Homeopathic “aggravations” or “healing crises” where symptoms become worse before improving.<sup>18</sup> An audit carried out in the Bristol Homeopathic Hospital Outpatient Department over a two month period in 2005 found that reactions were frequent. Twenty-four percent of patients experienced an aggravation. Eleven per cent reported an adverse event. Twenty-seven per cent of patients described new symptoms while 18 per cent reported a return of old symptoms.<sup>19</sup> Auditors concluded that remedy reactions are common in clinical practice and that recording side effects would facilitate broader understanding and enable standards to be set for information audits and patient care. Other studies of adverse side effects from Homeopathic medicines place the incidence rate between five per cent and 40 per cent.<sup>19</sup> Most Homeopaths feel that the risk of indirect harm from misdiagnosis, failure to refer and fraud are the greatest risk to consumers.

Improper dilutions of “mother tinctures” of Homeopathic medicines by unqualified practitioners also have the potential for serious harm. Administering Homeopathic medicines by injection or intravenous administration can also be quite dangerous in the hands of unlicensed practitioners. Homeopathic medicines that are more potent are traditionally subject to restricted access and are provided only after consultation with a Homeopathic practitioner. Retailers generally favor some form of regulation for Homeopathy, especially to control those who inappropriately represent themselves as Homeopaths, whether or not they have training in the field. To this end, regulation of the practice of Homeopathy is seen as desirable.<sup>3</sup> Homeopathic medicines are controlled by the United States Federal Drug Administration, which implies that supervision of a trained professional is needed for safe administration of Homeopathic treatments and that the prescription of Homeopathic medicines of a 200C potency and up (and its equivalent in other scales) and certain low dilutions as stated in the Homeopathic Pharmacopeia of the United States (HPUS) be the exclusive jurisdiction of Homeopathic Physicians and other health care professionals properly trained in Homeopathic Medicine.<sup>3</sup>

The consensus of the Homeopathic community is to see the education and training qualification for Homeopaths raised. There is general consensus in the Homeopathic profession towards codified entry to practice requirements, common practice standards and codes of conduct.<sup>3</sup> There is also a significant recognition of the need for accountability and transparency, and that the public interest needs to be served. The board is concerned that without regulation, anyone can represent themselves as a Homeopathic Physician and that this represents a risk to consumers, who may believe that the person providing Homeopathic care is trained and qualified to do so.

Some Homeopathic practitioners perform or communicate a diagnosis. Unlicensed practitioners do not. It is likely that the consumer is unaware of this distinction, even after having participated in an extensive interview and examination. Consumers may take false comfort in the apparent scientific basis of this lengthy interview. It could leave them vulnerable to mishaps from the Homeopath’s inability, due to lack of training, for example, to distinguish where Homeopathic medicines are appropriate, and where conventional medication and/or surgical treatment would be more appropriate (e.g. in diabetes with potential for development of keto-acidosis, or diabetic coma). Diagnosing is generally considered a controlled act in the United States.<sup>3</sup>

The suggestion has been made to make a two-tier system of practice where classical

Homeopaths would be unregulated while Homeopathic physicians would be regulated. The Board is open to this idea but feels strongly that Homeopathic physicians who have the capacity to diagnose should, by the same token, be subject to ongoing regulation. In June of 2007, Ontario, Canada created just such a two tiered system.

Clients often turn to Homeopaths after becoming disillusioned with conventional health care providers and treatments. Some states have chosen to have restrictions on non-conventional or complementary and alternative (CAM) therapies. Restrictive states include Georgia, New York and North Carolina. These states impose legal sanctions on Homeopathic diagnosis and treatment, and restrict scopes of practice. Where permitted, the use of CAM is frequently restricted to physicians.<sup>3</sup>

### **Public Safety in Arizona**

There have been two recent cases in Arizona which illustrated this public safety issue. Although these cases did not fall under the Board's jurisdiction, they clearly indicate a danger to public safety. The first involved an unlicensed Homeopathic practitioner who was treating a diabetic patient, and took the patient off of their insulin and treated the patient with Homeopathic Medicines and acupuncture. The patient went into diabetic coma and died within two days. In 2001, the unlicensed practitioner was found guilty of a class 5 felony for practicing medicine as a homeopathic physician without a license and a class 6 felony for endangerment.

The second case involved an unlicensed Homeopathic practitioner who discouraged her clients from seeing conventional practitioners while in treatment. These patients had serious diseases and the results of this action left them seriously ill.

Had these practitioners been practicing legally under the Board's jurisdiction, under supervision by a licensed homeopathic physician, these results could have been prevented.

There have been numerous recent cases around the nation that have involved Homeopathic practitioners who have been indicted for practicing medicine without a license. In addition, the intense nature of the relationship between the patient and the Homeopath can introduce the risk of sexual abuse.<sup>3</sup> Without enforceable practice standards and accountability mechanisms, clients are without recourse except through pursuing civil or criminal action before the courts at great personal cost.

### **C. The Allopathic (Conventional Medicine) Community Lacks Sufficient Knowledge of Homeopathic Medicine to Adequately and Safely Regulate Homeopathic Physicians**

Homeopathic training is not a required part of medical or osteopathic training at any of the medical schools in the United States. Many medical schools offer electives in alternative medicine but only 10% of these offer education in Homeopathic Medicine.<sup>21</sup> In addition, most CAM training for conventional doctors is survey based (designed to advise patients about use) and not designed towards practice.<sup>21</sup> The content and focus is when to refer a client for treatment and not how to engage in the treatment itself.

The Board believes that neither the Board of Medical Examiners nor the Board of Osteopathic Examiners is competent to sit in judgment on Homeopathic cases due to their lack of knowledge. According to a 2006 nationwide survey in which 1200 participants responded,

Homeopathic Physicians undertake extensive education and training regarding the nature and usage of the thousands of Homeopathic substances<sup>29</sup>. They have extensive comprehensive in-depth university level training and knowledge of anatomy, physiology, pathology, biochemistry, physical examination, differential diagnosis and related medical courses as well as over 400 hours of Homeopathic clinical internship.<sup>29</sup> In addition, we believe that Homeopathic Medicine involves radically different principles, philosophy, case taking and case analysis methodologies that would preclude any conventional medicine physicians from being able to competently judge cases pertaining to the practice of Homeopathic Medicine (see F below). In short, it is a question of apples and oranges.

The argument that auditors make that Homeopathic Medicine is regulated by other Arizona State Boards, begs the question. Although Homeopathic Medicine is included by other Boards in their scope of practice, none requires the extent of knowledge or training mandated by this Board (see also F below).

#### **D. The Allopathic Community (Conventional Medicine) Has a Strong Bias Against Homeopathic Medicine Which Would Prevent Them From Fairly Regulating the Practice of Homeopathic Medicine**

Although alternative medicine has grown tremendously in recent years, conventional medicine's acceptance and tolerance of it has not.<sup>31</sup> Homeopathic Medicine has a long history of antagonism and fighting with the allopathic (conventional medicine) community. The Board believes that both the Board of Medical Examiners and the Board of Osteopathic Medical Examiners have strong prejudices against Homeopathic Medicine which would preclude them from being able to competently and fairly judge cases pertaining to the practice of Homeopathic Medicine.

Some of the complaints filed against Homeopathic licensees in Arizona in the last several years have involved allegations expressed by conventional doctors that a Homeopathic physician was not practicing competently. By way of illustration, complaints ranged from concerns over the inappropriate use of a professional educational designation to complaints made by Allopathic consultants representing insurance companies that were not knowledgeable in assessing claims for alternative procedures or lab tests. When these cases were reviewed it was found that the Homeopathic Physician was indeed practicing according to the standards of Homeopathic practice but that the conventional physician may have had an apparent bias against Homeopathic Medicine and lacked the knowledge necessary to judge the adequacy of the Homeopathic treatment.

The following narrates some of this history:

- Homeopathic Medicine has been in opposition to Allopathic Medicine since its conception.<sup>22</sup>
- The American Medical Association was formed in 1847 partially in opposition to the American Institute of Homeopathy which was formed a few years earlier. Their charter contained a clause preventing any member from consulting with any practitioner "whose practice is based on an exclusive dogma [referring to Homeopathy] to the rejection of the accumulated experience of the profession." This clause prevented allopathic doctors at the risk of expulsion from the society, from talking to Homeopathic physicians.<sup>20</sup>
- The Flexner Report was written with the direct support of the AMA in 1910, in an effort partly to close down Homeopathic medical schools.<sup>20, 23, 28</sup> By 1900 there were 22 Homeopathic medical schools, at least 100 Homeopathic hospitals, and over 1000



Homeopathic pharmacies in the United States. In 1910 the Carnegie Foundation released the Flexner report, on the state of medical schools and medical education in the United States. This report is credited with the demise of all forms of medical education beyond the allopathic "scientific" model embraced by the Johns Hopkins medical school. Flexner's findings, not surprisingly, heavily favored the allopathic medical schools, and decried preceptorships and all other forms of medical education. Despite the clear bias against all forms of medical treatment other than allopathic, and despite Flexner's lack of knowledge concerning the field of medicine as a whole, and more specifically concerning the various modalities about which he pronounced judgment, his report, when published, was widely acclaimed by the allopathic medical community. In fact, it sent shock waves through the medical schools of the United States. Within several years, all twenty-five of the then active Homeopathic medical schools began to close. We believe that the country has still not recovered from the effects of this report. The medical community is still heavily influenced by the pharmaceutical industry.<sup>1,34-37</sup> There still are no Homeopathic medical schools, although one will be opening in Phoenix, Arizona in early 2009.

- The Arizona Board of Homeopathic Medical Examiners was formed in 1982, after much persecution and attacks on Homeopathic practitioners by the allopathic community.

This state of affairs has not changed in recent years and if anything, the situation has worsened. As Homeopathic Medicine has continued to rapidly grow around the world, it has been subject to increasing attacks from the allopathic community.<sup>1,2,28</sup> Dr. Benjamin Rush, a signer of the Declaration of Independence said:

*Unless we put medical freedom into the Constitution, the time will come when medicine will organize into an undercover dictatorship to restrict the art of healing to one class of men and deny equal privileges to others: The Constitution of this Republic should make a special privilege for medical freedom as well as religious freedom.*

## **E. With the Large Projected Growth in the Homeopathic Community in the Next Several Years There is a Growing Need for Regulation to Promote Public Safety**

Homeopathic Medicine was extensively regulated in the United States around the turn of the twentieth century. There were 25 Homeopathic medical schools and one in five of the physicians in the United States were Homeopathic. With the advent of the new Homeopathic medical school in Phoenix in February 2009, the Homeopathic community is anticipating a rapid growth of Homeopathic physicians to the State of Arizona. The Board is anticipating an influx of 50 doctoral level Homeopathic practitioners from this school per year. These individuals will be diagnosing patients and treating serious diseases such as cancer, heart disease, diabetes and other life threatening conditions. It is critical that these individuals be licensed and regulated to protect the public.

In addition, there is a growing trend towards regulation and licensure within the Homeopathic community. In June of 2007, Ontario Canada determined that the needs for public safety would best be served by the creation of Homeopathic regulation and licensure and created a licensing board of oversight.

## **F. Homeopathic Medicine is Not a Specialty of Conventional Medicine**

Homeopathic Medicine is not a specialty or subspecialty of conventional or allopathic medicine. Nowhere in the United States or the world today is it described in this way. Homeopathic Medicine has always been considered a distinct and separate branch of medicine.

Homeopathic Medicine is a radically different system of healing than conventional medicine. The following describe some of the essential differences:

- Homeopathic Medicine uses a **completely different set of principles and philosophy** than conventional medicine. Without grounding and training in this philosophy and principles it would be impossible for another physician to practice Homeopathic Medicine or stand in judgment of a Homeopathic physician. Homeopathic Medicine was founded in the late 1700's, by Dr. Samuel Hahnemann in direct opposition to conventional medicine of his day. That situation has not changed much since Dr. Hahnemann's time.
- Homeopathic Medicine uses **completely different methods of practice** than conventional medicine. Homeopathic Medicine uses empirical methods as opposed to the rationalistic methods on which conventional medicine is based. In practice, this means completely different methods of case taking, case analysis, case management, practice management, fee structures and ethics.
- Homeopathic Medicine uses a completely different formulary than conventional medicine. The usage of these Homeopathic medications is based on different principles than allopathic medicine. **The Homeopathic Pharmacopoeia of the United States regulates Homeopathic Medicines. This is a distinct and separate branch of the FDA.** Homeopathic Medicines are prepared in a radically different manner than conventional prescription medicines.

## **G. Aspects of Homeopathic Medicine Are Not Practiced By Any Other Medical Specialty With the Same Degree of Training and Knowledge**

Homeopathic Medicine in the State of Arizona includes two modalities which are not readily available to patients through conventional medicine. The Homeopathic Board provides the best means for the public to access this kind of quality care. Neither of these modalities is taught in either conventional or osteopathic medical schools.

Chelation therapy for elevated body burden of heavy metals, a newly recognized world-wide phenomenon, is being completely ignored by allopathic medicine.<sup>32</sup> Homeopathic Medicine recognizes that chronic low level toxicity is a significant factor in the development of chronic "unexplained" illness and provides effective and safe treatment for such "unexplained" illnesses. Conventional medicine denies that this issue even exists.

Orthomolecular medicine involves the use of substances which are normally present in the body (vitamins, minerals, etc) at pharmacologic doses, to replace depleted body stores, and to overcome genetic deficiencies. Conventional medicine tends to be virulent in its rejection of the validity of this form of therapy (for example, high dose Vitamin C given intravenously for treatment of chronic viral illness).

## **H. Many of the Homeopathic Physicians Licensed by the Board of Homeopathic Medical Examiners Hold Single Licensure.**

Nearly half of the licensees would not be able to practice if the Board were eliminated. It is likely that many of these physicians would be barred from practice by the Osteopathic Board and Board of Medical Examiners and would also not be grandfathered into those Boards. In a time of approaching physician shortage<sup>33</sup>, this would be most unfortunate.<sup>33</sup>

### **I. The Board Promotes Access to Non-Traditional Therapies by Physicians.**

The Board of Homeopathic Medical Examiners increases access to medical care by allowing patients to see one physician for their care rather than seeing several different practitioners. The board also promotes continuity of care because one physician is familiar with all aspects of the patient's treatments. Because of a greater depth of knowledge, Homeopathic physicians often have a better understanding of the best way to treat disease or dysfunction. Eliminating the Board would significantly restrict the public's access to nontraditional care by physicians.

### **J. Homeopathic Medical Assistants Registered by Board**

Homeopathic Medical Assistants invest significant time to obtain adequate training and in some cases expend significant financial resources in pursuit of their Homeopathic education. The report suggests three methods the Legislature may consider in lieu of the current method of registration should the Board not be continued. The *current system* promotes safety for our citizens by requiring *supervision* of the Homeopathic Medical Assistant. In addition the Board and all health care providers recognize the continuing need to develop affordable methods of health care delivery. Homeopathic Medical Assistants provide a vehicle by which to promote access to an affordable alternative in health care.

**Recommendation 2:** *If the Board is not continued, the Legislature would need to determine how to address the issue of registering homeopathic medical assistants.*

**Response:** The Board does not support this recommendation. If the Board were discontinued the Board recognizes that the legislature would determine the best method of implementation. However, we believe the Arizona Medical Board and the Arizona Osteopathic Board are unequipped to effectively assess the training and education homeopathic medical assistants possess. Since the majority of licensees at both boards have no training in homeopathic medicine they would be unable to safely and effectively supervise a homeopathic medical assistant. In addition, the training for a homeopathic medical assistant is completely different than the training for medical assistants recognized by the Allopathic Medical community and the Osteopathic Medical community.

**Recommendation 3a:** *The legislature should consider forming a study committee comprising, at a minimum, members of the Board, the AMB and the Osteopathic Board to determine the best way to help ensure that one board's actions do not negate or mitigate another board's actions.*

**Response:** We generally support this recommendation and plan to implement it in conjunction with the AMB and Osteopathic Board. We disagree however with the auditors' conclusion that the Board's actions have contradicted other Arizona regulatory board's actions. The Board takes this responsibility extremely seriously and works hard to fulfill its duty of protecting the public from unlawful, incompetent, unqualified, impaired and unprofessional practitioners of Homeopathic Medicine in the State of Arizona. It is significant that the auditors only found two cases where this was an issue; one involving an osteopathic physician licensed in 1991 and the second based on the board's 2004 licensing of a physician who had disciplinary action taken against his multiple state medical licenses for activities dating back twelve years ago. The

Board weighs the evidence and determines if there are any mitigating factors or circumstances before determining discipline. The Board is in the process of working with other licensing Boards to create mutual policies to work to avoid this for the future.

If another Board wishes to remove a practitioner's license for providing care that is recognized as appropriate by the Homeopathic Board, this would be considered a mitigating circumstance in considering Homeopathic licensure. This was what occurred in the case of the osteopathic physician cited by the auditor's report. In regards to the allopathic physician, his license had been reinstated by the states of Illinois and Pennsylvania by the time that his application was reviewed by the Board. He was judged to be competent to practice Homeopathic Medicine. This was also considered to be a mitigating circumstance in that he expressed no desire to be licensed by the Arizona Medical Board, noting that his full-time residence is in California, he already held allopathic licenses in Illinois and Pennsylvania, and continues to serve in a charitable capacity within the international medical community.

***Recommendation 3b:*** *Amending Board statutes to require Homeopathic physicians to obtain written informed consent from patients when they are providing nontraditional treatments.*

**Response:** The Board agrees with this recommendation. However, this recommendation requires a statutory change. The Board has prepared language and policies to require informed consent once this statutory change has occurred (see action plan).

***Recommendation 4a:*** *Work with the AMB and the Osteopathic Board to ensure that one board's actions do not negate or mitigate another board's actions.*

**Response:** The Board agrees with this recommendation and will implement it. See response to 3a.

***Recommendation 4b:*** *Determine what information a written informed patient consent should include and create a policy requiring their licensees to use the informed consent.*

**Response:** The Board agrees with this recommendation and will implement it. See response to 3b.

***Recommendation 4c:*** *Identify a more appropriate name to describe the scope of practice and request that the Legislature change the Board's name to more accurately reflect the therapies its statutes authorize.*

**Response:** The Board agrees with this recommendation and recommends changing the name to the **Arizona Board of Homeopathic and Integrated Medical Examiners**. This will require a statutory change by the legislature (see action plan).

## ***FINDING 2: THE BOARD CAN IMPROVE COMPLAINT-HANDLING PROCESSING.***

**Response:** The Board is in agreement with Finding 2. Much of the delay in complaint processing that the Board has faced has related to cases involving dual jurisdiction. The Board had been previously provided legal advice by its Assistant Attorney General that it could not review a complaint until primary jurisdiction had been mutually determined and agreed upon by both licensing boards. The current Assistant Attorney General has determined that this is no longer true. The Board takes this responsibility extremely seriously and fulfills its duty of protecting the public from unlawful, incompetent, unqualified, impaired and unprofessional practitioners of Homeopathic Medicine in the State of Arizona.

The Board, as recognized by the Auditor General, had been experiencing a lack of funds due to a lack of revenue and this had contributed to delays in complaint processing. With the recent fee increase, the Board believes the problem has been remedied and should improve timeliness of complaint processing.

***Recommendation 1a:*** *Immediately begin the complaint investigation upon the Board's decision that it has primary jurisdiction in a complaint.*

***Recommendation 1b:*** *Investigational interviews should not be conducted during the board meeting. Designate one board member to conduct investigative interviews outside of the board meeting.*

***Recommendation 1c:*** *Develop time frames for key steps in the complaint process to help ensure complaints are processed within 180 days.*

***Recommendation 1d:*** *Enhance the complaint-tracking spreadsheet to include key steps in the complaint process and ensure that complaints are processed in 180 days.*

***Recommendation 2:*** *The Board should develop a form it can use to ensure that it addresses and adjudicates every complaint allegation.*

**Response to Recommendations 1a through 1d and Recommendation 2**

The Board agrees with these recommendations and is implementing them.

***FINDING 3: LICENSURE DOES NOT ENSURE COMPETENCY IN AUTHORIZED THERAPIES.***

**Response:** The Board is in agreement with Finding 3 and a different method of dealing with the finding will be implemented to ensure competency.

***Recommendation 1:*** *The Legislature should consider amending A.R.S. 32-2912 to permit the Board to limit a physician's practice to the therapies a licensee is educated in.*

**Response:** The Board disagrees with this recommendation, but will implement in a different way by promulgating rules changes to provide certification in modalities that a licensee is educated in. The license of allopathic and osteopathic physicians permits physicians to practice all the modalities within their scope of practice. The license of the homeopathic physician is no different, and should be unrestricted, just like the licenses of their allopathic and osteopathic colleagues.

***Recommendation 2A:*** *The Board should take steps to ensure that the written and oral exams are adequate by developing comprehensive written and oral exams that include questions covering all of the therapies authorized by the license.*

**Response:** The Board agrees with this recommendation and is implementing it (see action plan). The Board has already created the questions covering all the therapies but has not yet implemented them into the exam.

***Recommendation 2B:*** *The Board should take steps to identify resources and ensure that a qualified person or organization evaluates the exams to determine that they sufficiently test an applicant's knowledge of the therapies the license authorizes.*

**Response:** The Board agrees with this recommendation and will begin to implement this (see action plan). The Board has already created the questions covering all the therapies but has not yet implemented them into the exams.

**Recommendation 3:** *To preserve the oral exam's integrity, the Board should seek a statutory change to classify the oral exam as a confidential record so it can be conducted in executive session.*

**Response:** The Board agrees with this recommendation but has an alternative method of implementation. The Board would like to discontinue its oral examination process, and instead require an in-person interview before licensure is granted. This is in keeping with other medical licensing boards which do not require an oral exam. This would require a rules change to Title 4, Chapter 38, Article 1, Section 107.

**Recommendation 4:** *To ensure its licensees are educated in their field's most recent developments, the Board should continue to develop continuing education requirements for its licensees and provide its recommendations to the Legislature.*

**Response;** The Board agrees with this recommendation. It has developed a committee to work on this and has developed suitable recommended legislative language. This recommendation will require a statutory change. The Board has already prepared a set of policies to implement this once that statutory change has occurred (see action plan).

**Recommendation 5:** *Once the Board has finalized its continuing education requirements, the Legislature should consider amending the Board's statutes to require continuing education for its licensees based on the Board's subcommittee's research results.*

**Response;** The Board agrees with this recommendation and has finalized its continuing education requirements. This recommendation requires a statutory change.

### ***OTHER PERTINENT INFORMATION***

**Response:** Although there were no additional recommendations in this section, the Board would like to respond to the findings and to make its own recommendations. The Arizona Board of Homeopathic Medical Examiners has licensed two physicians in the last three years who have had previous felony convictions. This is in keeping with other medical boards in this state and in accordance with A.R.S. §32-2912( C ) which states that:

*If the board finds that an applicant has committed an act or engaged in conduct that would constitute grounds for disciplinary action, the board shall determine to its satisfaction that the conduct has been corrected, monitored and resolved. If the matter has not been resolved, before it issues a license the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.*

We have worked hard to find a balance between protecting the public and facilitating physician rehabilitation. We believe that we have worked in the best interests of the public and the state in these cases. We also believe that lives and training should not be wasted in blind, retaliatory and punitive action. However, we would like to request the following statutory change, in an effort to better protect the public:

**Board Recommendation 1:** *The Board should require all applicants previously convicted of a felony, to have received an absolute discharge from the sentences for all felony convictions two or more years before the date of filing an application for licensure through the Arizona Board of Homeopathic Medical Examiners.*

**Discussion:** The Board is requesting a statutory change to help tighten up restrictions in this area. This change would require that anyone previously convicted of a felony would be required to wait at least a two-year period following completion (*i.e.* absolute discharge) of all sentencing requirements. This will require a statutory change.

### ***SUNSET FACTORS***

**Factor 3:** *The Board should ensure the Web site information is complete and accurate.*

**Response:** The Board agrees with this recommendation and will implement it. In addition, the Board will ensure that the application forms and disciplinary actions against licensees are available online.

**Factor 4:** *The Board should establish rules for A.R.S. 32-2912(D)4 which required the Board to approve internships but does not address the standards to be used by the Board in approving internships. In addition, A.R.S. 32-2951(G) required rules regarding the labeling recordkeeping, storage and packaging of drugs while the rules do not specifically address the recordkeeping or storage of drugs.*

**Response:** The Board agrees with this recommendation and will implement it.

**Factor 8:** *To better meet its mandates, the Board is requesting the following statutory changes in addition to the ones described above:*

**A.** *Remove statutory authority from Board responsibilities to accredit educational institutions that offer medical degrees in Homeopathic Medicine.*

**Discussion:** The Board has statutory authority to “Accredit educational institutions that offer medical degrees in Homeopathic Medicine.” The Board is not well suited to serve as an accrediting board. We have not developed standards for accreditation and do not feel that the Board is well set up for accrediting Homeopathic medical institutions. We recommend that this be removed from the statutes.

**B** *Raise the statutory maximum fee cap in A.R. S. 32-2914(A)(1) and (2) for the initial physician application and the issuance of an initial physician license to practice Homeopathy.*

**C.** *Repeal A.R.S. 32-2914(A)(14) which requires a re-registration fee for physicians who supervise medical assistants.*

**D.** *Align the unprofessional conduct description and language in A.R.S. 32-2933 with the AMB and the Osteopathic Board statutes, and include current standards on pain management and internet prescriptions.*

**E.** *Change the renewal time frame in A.R.S. 32-1915 (D) to an annual renewal consistent with initial date of licensure rather than renewing all licensees at the end of each year.*

**F.** *Establish standards and a registration/licensing process for mid-level Homeopathic practitioners.*

**G.** *Change the residency requirement for board members in A.R.S. 32-2902(C) from 3 to 2 consecutive years.*

## ARIZONA BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

### ACTION PLAN

Date: August 15, 2007

**GOAL:** To improve the functions and processes of the Board and ensure the public health, welfare and safety through the licensing and regulation of Homeopathic physicians.

**OBJECTIVE:** By September 1st, 2008 Board improve all areas as recommended by the Arizona Auditor General in their June, 2007 Performance Audit (many of the statutory changes will not be accomplished until September 2008).

**STRATEGY:** Implement improvements based on the recommendations of the Auditor General's office in their July 2007 Report.

| Action Steps                              | Persons Responsible                   | Due Dates                           | Resources Needed  |
|---|---------------------------------------|-------------------------------------|---|
| 1. Working with Other Boards              | Board Members/Staff /AMB/OB           | February 1 <sup>st</sup> , 2008     | Statutes/Rules  |
| 2. Requiring Informed Consent             | Legislature/Board Members/Staff       | ***Fall, 2008                       | Statutory Change  |
| 3. Name Change                            | Legislature/Staff                     | ***Fall, 2008                       | Statutory Change  |
| 4. Immediate Processing of Complaints     | Board Members/Staff                   | May 1 <sup>st</sup> , 2007          | Rules/Policies  |
| 5. Investigational Interviews             | Board Members/Staff                   | September 1 <sup>st</sup> , 2007    | Statutes/Rules  |
| 6. Monitoring of Complaints               | Board Members/Staff                   | ***September 1 <sup>st</sup> , 2007 | Statutes/Rules  |
| 7. Adjudicating Complaints                | Board Members/Staff                   | September 1 <sup>st</sup> , 2007    | Statutes/Rules  |
| 8. Limiting Licensure to Modalities       | Legislature/Board Members/Staff       | September 1 <sup>st</sup> , 2008    | Statutory Change/Rules/Fiscal Resources/Appropriation** |
| 9. Change Licensing Exam                  | Board Members/Staff                   | September 1 <sup>st</sup> , 2007    | Rules/Policies  |
| 10. Validate Exam                         | Board Members/Staff/Consultant        | October, 2008                       | Rules/Policies/Fiscal Resources/Appropriation**         |
| 11. Repeal Oral Exam                      | Legislature/Board Members/Staff       | ***Fall, 2008                       | Rules Change  |
| 12. Continuing Medical Education          | Legislature/Board Members/Staff       | ***Fall, 2008                       | Statutory Change/Rules                                  |
| 13. Felony Restriction                    | Legislature/Staff                     | ***Fall, 2008                       | Statutory Change  |
| 14. Web Site Enhancement                  | Staff/Consultant                      | December, 2009                      | Fiscal Resources/Appropriation*                         |
| 15. Amend Rules through GERC              | Staff/Board/Consultant                | September 1 <sup>st</sup> , 2008    | Rules/ Fiscal Resources/Appropriation*                  |
| 16. Statutory Maximum Fee Cap             | Legislature/Staff                     | ***Fall, 2008                       | Statutory Change/Rules                                  |
| 17. Re-registration Fees for Physicians   | Legislative                           | ***Fall, 2008                       | Statutory Change (Delete from Statute)                  |
| 18. Unprofessional Conduct and Pain Mgmt. | Legislative/Staff                     | ***Fall, 2008                       | Statutory Change  |
| 19. Update Renewal Time Frame             | Legislative/Staff/Computer Consultant | ***Fall, 2008                       | Statutory Change/Fiscal Resources/Appropriation*        |
| 20. Mid Level Homeopathic Practitioners   | Legislative/Staff/Board/Consultant    | ***Fall, 2008/December, 2009        | Statutory Change/Rules/Fiscal Resources/Appropriation** |
| 21. Residency Requirements                | Legislative/Staff                     | ***Fall, 2008                       | Statutory Change  |

\*\*\*Note that this requires a legislative change and is at the pleasure of the legislature.



\*Note: 2008 Budget included \$1700 for programming and web enhancement related to adding capability for medical assistants.

- The Board needs to seek a supplemental appropriation in 2009 FY budget to include costs to the change the rules related to Article 2: Labeling; validation of the written examination, and the cost of initiating the promulgation of rules for Internships.
- In 2010 budget, the Board will have to request funds to complete the internship rules, and include additional costs to implement a change in the renewal cycle (from year end to renewal based on issue date).
- The Board will have to consider the timing related to the implementation of CEU requirements (I suggest a future date certain for implementation of the CEU requirement) . You will also have to adjust the "grace period related to late renewal - ~~(delete the current four-month late renewal grace period and change to 30 or 45 days)~~ and determine how to time the implementation of ceu requirements in the first year of the change. The Board will have to give the licensees time to be aware of the new requirement and preferably a year to implement.

\*\* If a Mid Level Homeopathic Practitioner status is added a rules consultant will need to be hired to develop rules for this class of regulated entity (additional appropriation in 2010)

\*\*Validation of the examination would require a professional entity and monetary resources

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