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Ms. Debra K Davenport CPA
Auditor General
Office of the Auditor General
2910 North 44th Street, Suite 410
Phoenix Arizona 85018

September 12, 2013

Re: Auditor General's Report for the Arizona State Board of Cosmetology

Dear Ms. Davenport:

The Arizona State Board of Cosmetology (BOC) would like to thank you for the opportunity to respond to the preliminary report draft performance and sunset review audit, dated September 5, 2013. The BOC, overall, is in agreement with the findings of the Auditor General, and each recommendation is addressed as required.

Licensing and Permitting:

Recommendation 1: The Board should develop and implement policies and procedures that direct its staff to obtain and review all necessary documentation to ensure that applicants meet all statutory and rule requirements prior to issuing a license. Once the policies and procedures are developed and implemented, the Board should ensure all appropriate staff is trained on them.

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

In 2008, the BOC contracted with PCS (Professional Credential Services) to administer both the written and practical exams, and at that time, the former Executive Director delegated the responsibility to the applicant's school and PCS to ensure that documentation was complete for all applicants. The audit report recognizes that the BOC has since revised its license application review and approval process and effective August 2012, has required staff to obtain all required documentation to determine an applicant's qualifications for licensure.

The BOC will develop and implement written policies and procedures, and direct staff to obtain and review all necessary documentation to ensure applicants meet all statutory and rule requirements prior to issuing a license. In addition, the BOC will provide training on these policies and procedures and this will be accomplished within the next 12 months.

Recommendation 2: The Board should develop and implement policies and procedures that require its staff to track the Board's compliance with all licensing time frames. These policies and procedures should specify the documentation that board staff should retain to allow the Board to track compliance with its time frames. The Board should also consider using its database to track its compliance with the licensing time frames and request its data base vendor to add this functionality. Once the policies and procedures are developed and implemented, the Board should ensure all appropriate staff are trained on them.

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

The BOC will develop and implement written policies and procedures, and direct staff to obtain and review all necessary documentation to ensure time frame compliance that meet all statutory and rule requirements prior to issuing a license. In addition, the BOC will provide training on these policies and procedures.

Again, as the audit recognizes in Recommendation 1, since August 2012, the application process has been revised. All required documents are being retained and candidates are approved according to statute and rule. The BOC is already working with PCS for documentation notification of all candidates that fail the exam so the time frames can be tracked appropriately.

The BOC computer system is known as VERSA/IRON DATA. The BOC has had difficulty in retrieving data from VERSA/IRON DATA and has attempted on numerous occasions to resolve these issues with little to no success. In 2010, BOC attempted to change its database vendor but was not allowed to do so by State Procurement. Presently, the BOC is researching a possible system upgrade of the current system or a new system. The BOC will work with the database vendor to add "alerts" and tracking of time frames.

Recommendation 3: The Board should ensure that the information it reports is sufficiently detailed and supported so it can be used to evaluate the Board's performance and any staffing and resource adjustments it may need.

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

The BOC's Strategic Plan and proposed Budget for FY 2013, the BOC reported that it "provides services" to approximately 118,000 licenses; this number is correct. The audit report shows approximately 58,000 active licenses with approximately 5,600 initial licenses issued in FY 13. This number is far less than the number reported on the BOC's Strategic Plan because the number does not include the delinquent and inactive license count, and those numbers change on a daily basis. The delinquent and inactive licenses are numbers the BOC counts because staff provides services to all licensees no matter what status they are in, by reactivating an inactive license, renewing a delinquent license or certifying information for a licensee that is requesting a history of their license for another state or country, even if that license is over 10 years inactive. Therefore, the BOC is accurate when it states that it provides services in FY 2013 to 118,000 licenses. Going forward, the BOC will ensure that all reported information is reported in a clear and detailed manner.

The BOC has had difficulty in retrieving data from VERSA/IRON DATA and has attempted on numerous occasions to resolve these issues with little to no success. The BOC is researching a possible system upgrade of the current system or a new system.

Recommendation 4: The Board should work with its stakeholders to develop and propose legislation to:

- a. Require licensees to complete continuing education courses in health and safety as a condition of license renewal and consider requiring additional hours of continuing education for instructors; and**
- b. Change the license renewal frequency to every 2 years.**

4 (a): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The BOC agrees that requiring continuing education (CE) will help to protect the public. The BOC will refer this issue to its Legislative Committee that will study how best to implement CE requirements and make a recommendation to the full Board. The BOC has a concern with the lack of staff and the additional work required to monitor CE for the number of licenses issued. The BOC is also concerned about the burden this places on its licensees because this is an industry where time away from work means less income. The BOC already offers an Infection Protection and Law Review Class. In fact the audit recognizes that in FY 2013, 2,177 individuals took the class. This class has been

offered for approximately 25 years which illustrates the BOC's long running support of consumer protection through CE.

4(b): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The BOC will pursue license renewal frequency to 2 years instead of annually. This proposal will also be referred to the Legislative Committee, and the BOC will likely seek appropriate legislation in FY 2016.

Inspections:

Recommendation 1: To ensure that the Board conducts initial inspections as required by statute, and to shift inspections of existing facilities to more of a risk-based approach, the Board should:

- a. Establish factors it will use to assess individual salon risk. Potential risk factors could include prior health and safety violations, substantiated public complaints, whether the salon recently opened or was delinquent in renewing its license, and types of services performed;**
- b. Use its data base to generate inspection reports that provide inspection history information of each licensed salon to ensure initial inspections are completed as required. These inspection reports can also be used to help the Board prioritize salons for subsequent inspections based on these salons' identified risks;**
- c. Work with its database contractor to ensure that all required information, such as inspection dates and salon risk factors, can be entered into the data base, and develop management reports that will help board management assign inspection priorities based on historical inspection information and a salon's risk; and**
- d. Develop and implement policies and procedures to govern its risk-based inspection approach and to guide its staff in performing initial inspections as required and regular inspections based on a salon's risk.**

1 (a-d): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The BOC will develop and implement written policies and procedures, and direct staff to obtain and review all necessary documentation to ensure a more risk-based approach is taken in deciding inspection procedures. In addition, the BOC will provide training on these policies and procedures.

The BOC in FY 2013 had approximately 7,865 licensed salons and 75 licensed schools. The BOC is allocated 24.5 full-time employees and at this time has only 17, (which is allowed by the "State Human Resource Head Count" derived from July 1, 2011 headcount plus 5%). The BOC has indicated in its Strategic Plan the desperate need for more full-time staff. Although the BOC had a goal to inspect salons on an annual basis during the audit, it now has an ongoing goal of inspecting salons every 2 years. However, this goal is impossible to meet due to staff deficiencies. The BOC Compliance Department will also work to conduct a more risk-based approach to deciding inspections.

Recommendation 2: To help ensure inspections are adequately performed and to assess salon compliance with all statutory and rule requirements, the Board should:

- a. Update its inspection checklist to include all statute and rule compliance requirements, remove any outdated requirements, and clarify any vague requirements; and**
- b. Update and, where necessary, develop and implement new policies and procedures that direct the performance of inspections. The revised policies and procedures should include specific steps for performing inspections including how board inspectors should use the checklist.**

2 (a-b): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The inspection checklist is currently being updated, changing vague requirements, and removing outdated information, and the BOC will train inspectors and investigators on the new updated form, within the next 6 months. The BOC has written procedures on inspections and will use them as a guideline to develop and implement new policies and procedures.

The BOC will develop and implement written policies and procedures, and direct staff to use the inspection checklist for all inspection and investigation procedures. In addition, the BOC will provide training on these policies and procedures and this will be accomplished within the next 3 months.

Recommendation 3: The Board should develop and implement an inspector training on the inspections rights outlined in statute and ensure that inspectors comply with them.

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

Training will be complete within the next 3 months.

Inspection rights have always been important to the BOC. Inspectors are instructed to read to salon representatives all inspections rights when entering the establishment and such rights are also explained on the back of the inspection report. When signing the inspection sheet, the salon representative acknowledges that they have received and agree with the inspection rights.

Complaint Resolution

Recommendation 1: The Board should develop and implement written policies and procedures that:

- a. Direct its staff on the steps they need to perform to conduct adequate complaint investigations and appropriately document these investigations;**
- b. Specify the investigative activities that should be conducted, such as contacting and interviewing both the complainant and licensee, obtaining all relevant documentation, scheduling an appointment with a potentially unlicensed operator, and performing an inspection if necessary;**
- c. Provide direction on how to thoroughly document complaint investigations and prepare investigation reports, including the information that should be included in the report; and**
- d. Require a supervisory review process and outline the steps the investigative supervisors should take to review complaint investigations.**

1 (a-d): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The BOC will conduct updated staff training regarding conducting investigations and drafting for investigation reports.

Most board investigators have been trained by the following:

- 1. Supervisory staff;*
- 2. CLEAR (Council on Licensure Enforcement and Regulation);*
- 3. FARB (Federation of American Regulatory Boards); and*
- 4. State of Arizona Investigator Training.*

In addition, the BOC has written procedures on investigations and will use them as a guideline to develop new policies and procedures on compliance resolution.

Recommendation 2: Once these policies and procedures have been developed and implemented, all applicable staff should be trained on the complaint investigation policies and procedures.

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

The BOC will develop and implement written policies and procedures and provide training on these policies and procedures. In addition the BOC will send new staff for investigative training provided by CLEAR.

Recommendation 3: The Board should revise its guidance document to include the verbal guidance given to staff to help ensure that board staff and supervisors provide consistent disciplinary recommendations to the Board.

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

The BOC has provided disciplinary parameters for staff to use, and whenever Board directs staff to change parameters they are revised. This "guidance document", as it is referred to in the audit, is frequently put on the board meeting agenda for Board discussion and revision. The BOC has no problem with continuing to revise the verbal guidance given by the Board.

The BOC already has established a supervisory review procedure to ensure that recommendations are consistently provided to the Board. The Board's parameters are used in making recommendations to the Board.

The disciplinary parameters will be revised to include any verbal guidance given by the Board and implemented within the next 3 months.

Recommendation 4: To improve its procedures for reviewing and adjudicating complaints, the Board should:

- a. Develop and implement written policies and procedures to ensure that a licensee's disciplinary history is not provided, either on the investigation reports or by e-mail, to board members prior to determining that a licensee has violated statutes and rules and that this information is instead provided to the Board after it makes this determination;**
- b. Develop and implement written policies and procedures that require its staff to provide board members with investigation reports for all complaints to ensure board members receive enough information to take appropriate action; and**
- c. First determine whether each complaint allegation constitutes a violation, and then take appropriate adjudicative action.**

4 (a-c): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The BOC will develop and implement written policies and a procedure making sure that disciplinary history is not provided to board members prior to the Board members determining that a licensee has violated statutes and rules. In addition the BOC will develop and implement policies and procedures that ensure that written reports contain enough information to take appropriate action. In addition, the BOC will provide training on these policies and procedures and this will be accomplished within the next 12 months.

The prior history of a licensee will no longer be entered on Complaint Summaries which are provided to Board members, and this will begin as early as the September, 2013 Board Meeting.

Recommendation 5: To ensure timely resolution of complaints, the Board should:

- a. Develop and implement written policies and procedures for monitoring the complaint resolution process, including policies and procedures that identify the steps board staff should take when licensees do not attend the informal interview and the time frames for completing these steps; and**
- b. Use its database to monitor complaints as they proceed through complaint resolution process by developing and implementing a report that provides information to both board management and members regarding the timeliness of its complaint resolution to help identify and address factors in the process that may impact timeliness.**

5 (a-b): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The BOC will develop and implement written policies and procedures for monitoring the complaint resolution process and steps staff should take when licensees do not attend the informal interview. In addition, the BOC will provide training on these policies and procedures.

The BOC has already implemented and greatly improved the time between Informal Interview and referral to the Attorney General's Office for the purpose of drafting a formal complaint. The BOC will also research and work with its database vendor to develop case time tracking reports to ensure timely resolution of complaints. Again, the BOC attempted to change database vendors in 2010 due to difficulty in retrieving data but were prohibited from doing so by State Procurement. The BOC is presently researching a possible upgrade of the current system or a new system.

Public Information:

Recommendation 1: To help ensure that the Board provides timely and complete complaint and disciplinary action information to the public, it should

- a. Develop and implement written policies and procedures to ensure that designated staff can provide complete and accurate information over the phone during business hours, and if a message is left after hours, that the board staff can return the message requesting information in a timely manner; and**
- b. Train appropriate staff on the new policies and procedures.**

1 (a-b): The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

The BOC will develop and implement written policies and procedures to ensure staff recognizes the importance of giving accurate information over the phone and returning messages in a timely manner. In addition, the BOC will provide training to staff on these policies and procedures and this will be accomplished within the next 12 months.

Recommendation 2: The Board should consult with its online database contractor to provide complaint and disciplinary history information on its website.

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

The BOC is working with the ADOA- Arizona Strategic Enterprise Technology (ASET) in developing a new website and data base system. With the new website, BOC will be able to display complaint and disciplinary history information.

Recommendation 3: The Board should comply with A.R.S. §32-4404 (C) by posting notice on its Web site stating that the public may contact the Board to request any licensee's public records, including dismissed complaints, non-disciplinary actions, and board orders.

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

The posting of notice as required by A.R.S. §32-4404 has been implemented as of August 9, 2013.

Sunset Factor Analysis:

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

Bullet Point 1: Recommendation: The Board should discuss the capabilities with its online database contractor and use it to better meet its objective and purpose.

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

Bullet Point 3: Recommendation: The Board should strengthen controls over payroll processing by separating its personnel and payroll duties, ensuring the same employee cannot update personnel information and process payroll, and maintaining appropriate personnel records to support employee pay rates.

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

Bullet Point 4: Recommendation: The Board should strengthen controls over cash receipts and comply with the State of Arizona Accounting Manual by updating and maintaining detailed written cash receipt policies and procedures and appropriately separating cash receipt responsibilities.

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

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

Recommendation: Therefore the Board should fully comply with the State's open meeting law by posting its agendas on its Web site, at least 24 hours in advance of its meeting, posting all of its board meetings minutes on its Web site, and by continuing to ensure that its written minutes are more descriptive.

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

#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.

Recommendation: The Board should propose legislation to lower the age requirement for licensure to be in line with other state cosmetology and Arizona regulatory boards.

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

The BOC concurs that the requirement of age 23 is unnecessary, and will refer the matter to the BOC Legislative Committee to pursue legislation, reducing the age requirement to 18 years within the next 2 years.

The BOC will study the auditors' comments regarding A.R.S. §32-515, and refer to the BOC Legislative Committee to possibly pursue legislation within the next 2 years.

Recommendation: The Board should also propose legislation to ensure that its process for approving license applicants to take examinations is consistent with statute. The Board allows applicants who fail licensing examinations to retake the examination by reapplying with the testing company, without having to reapply to the Board. However, according to statute, applicants who want to retake the examination must reapply to the Board. Although the Board's process is more efficient because it reduces the amount of paperwork it receives and does not require applicants to resubmit applications before retaking the examinations, this process does not comply with statute. Based on auditors' review of licensing requirements, requiring the applicant to reapply would not provide the Board with any new or updated information that it would need to consider prior to authorizing an applicant to retake the examinations. If statute is revised to change this requirement, the Board will need to ensure that it makes corresponding rule changes to reflect its process. However, until then the Board should adjust its process to be in compliance with statute and rule.

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

At this time the BOC is working with the testing company PCS and will receive fail notices on all candidates that have failed the exam. The BOC will then send a letter officially notifying the candidate of their failure.

#11, bullet point 2: 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.

Bullet point 2 refers to an apprenticeship program. The BOC has never been in favor of allowing unlicensed individuals to practice cosmetology services on the public. The BOC has always maintained that students should practice in a school environment under supervision of licensed instructors, learning infection control and safety standards, before working in a salon. Apprenticeship programs have been often abused as cheap labor, and the BOC believes that such programs are not in the best interest of the public.

The BOC express its gratitude for the Auditor General's consideration during this audit. The BOC looks forward to the implementation of the Auditor General's recommendations that will be set forth according to the response.

Yours Truly,

Donna Aune, Executive Director