

The September 2016 Arizona Acupuncture Board of Examiners (Board) performance audit and sunset review found that the Board should strengthen its license and certification processes, revise its complaint resolution process, and improve its provision of public information. The Board's status in implementing the recommendations is as follows:

Status of 34 recommendations

Implemented:	14
In process of being implemented:	19
Not yet applicable:	1

Unless otherwise directed by the Joint Legislative Audit Committee, this report concludes our follow-up work on the Board's efforts to implement the recommendations from the September 2016 report.

Chapter 1: Licensing and certification

1.1 The Board should continue to develop and implement policies and procedures for reviewing and approving initial and renewal applications that direct staff to obtain and assess the appropriateness of all documentation required by statute and rule.

Implemented at 48 months

In addition, the policies and procedures should:

- a. Direct staff to obtain and assess the appropriateness of both initial citizenship documentation and updated citizenship documentation from non-U.S. citizens whose documentation has expired; and

Implemented at 24 months

- b. Direct staff on how to conduct continuing education audits, including how many licensees to review, how to determine the appropriateness of continuing education hours submitted, and how to verify that the continuing education was completed during the audit period.

Implemented at 48 months

1.2 The Board should develop a more reliable system for tracking when licensees' citizenship documentation expires, such as tracking licensees' documentation in its electronic licensing database.

Implemented at 24 months

1.3 The Board should work with its Assistant Attorney General to update its citizenship form to reflect current statutory requirements.

Implemented at 12 months

1.4 The Board should improve its timeliness tracking by including in its database a field for recording the date when it receives missing application items.

Implemented at 24 months

- 1.5 The Board should finalize and implement its draft checklist to help ensure it correctly notifies applicants that their applications are complete only after all required elements of an application have been received.

Implemented at 12 months

Chapter 2: Complaint resolution

- 2.1 The Board should remove its complaint resolution process from rule, including the 90-day filing limitation.

Implementation in process—The Board has proposed rule changes that remove some aspects of its complaint resolution process from rule, including the 90-day complaint filing limitation. The Board most recently filed its notice of proposed rulemaking with the Arizona Secretary of State's Office in September 2019. However, the Board reported that the rulemaking process was postponed because of the COVID-19 pandemic and the Board plans to make additional rule changes to address anticipated legislation from the 2021 legislative session that would change some licensing and Board composition requirements.

- 2.2 The Board should develop and implement policies and procedures for its complaint resolution process. The Board's policies and procedures should address the following:

- a. Determining the jurisdiction of a complaint. Specifically, the policies and procedures should identify who should determine whether a complaint is within the Board's jurisdiction, and when this determination should be made, and provide guidance for how to properly determine if a complaint is within the Board's jurisdiction.

Implementation in process— The Board revised its complaint resolution policies and procedures in May 2019. The revised policies and procedures and their implementation should satisfy Recommendations 2.2a through 2.2o; however, implementation of some of the policies and procedures are contingent on the Governor's Regulatory Review Council's approval of the Board's proposed rule changes. Because various steps of the Board's complaint resolution process are outlined in its rules, the Board cannot finalize changes to its complaint resolution process, as reflected in its revised policies and procedures, until those rules are modified. As explained in Recommendation 2.1, the rulemaking process has been postponed because of the COVID-19 pandemic and anticipated legislation from the 2021 legislative session.

- b. Responding to complaints that fall outside of its jurisdiction, such as referring them to the appropriate regulatory board for review, and how this will be documented.

Implementation in process—See the explanation for Recommendation 2.2a.

- c. Prioritizing the complaints it receives that are within its jurisdiction for investigation based upon the nature of the complaint allegations, such as assigning a higher investigation priority to complaints with allegations that pose a potential danger to public health and safety.

Implementation in process—See the explanation for Recommendation 2.2a.

- d. Identifying the information the Board needs to obtain from the complainant in order to initiate an investigation.

Implementation in process—See the explanation for Recommendation 2.2a.

- e. Components of an adequate complaint investigation, such as interviewing the complainant, licensee, and all applicable witnesses; obtaining and reviewing all necessary responses and medical documentation; and ensuring that all complaint allegations are adequately investigated.

Implementation in process—See the explanation for Recommendation 2.2a.

- f. Directing that staff fully investigate complaints and prepare investigative reports that summarize complaints and the results of the investigations before forwarding complaints to the Board for review and adjudication.

Implementation in process—See the explanation for Recommendation 2.2a.

- g. Requiring the Board to proceed with the investigation and adjudication of a complaint, even if a complainant wishes to withdraw a complaint or settle with the licensee.

Implementation in process—See the explanation for Recommendation 2.2a.

- h. Developing, reviewing, and executing consent agreements. Specifically:

- Ensuring consent agreements terms are reviewed and adopted by the Board at a board meeting
- Ensuring that all appropriate parties, including the licensee and executive director, sign the consent agreement; and
- Including guidance for how the Board should proceed if the licensee fails to sign the consent agreement.

Implementation in process—See the explanation for Recommendation 2.2a.

- i. Requiring staff to track when the Board sends consent agreements to licensees and when the licensees should return the signed consent agreements to the Board.

Implementation in process—See the explanation for Recommendation 2.2a.

- j. Notifying employers of disciplinary action, including how staff should notify the employer.

Implementation in process—See the explanation for Recommendation 2.2a.

- k. Determining how to proceed if a licensee does not submit a response to the complaint within 20 days, such as continuing with the complaint investigation and/or adding an additional violation of statute to the complaint.

Implementation in process—See the explanation for Recommendation 2.2a.

- l. Requiring staff to send all notices of complaints to licensees using certified mail or personal delivery.

Implementation in process—See the explanation for Recommendation 2.2a.

- m. Developing time frames for key steps of its complaint resolution process, such as when the licensee received the notice of complaint, when the licensee's response is due to the Board, when the Board should send the licensee's response to the complainant, and when the complainant's rebuttal should be received by the Board.

Implementation in process—See the explanation for Recommendation 2.2a.

- n. Requiring staff to use an electronic tracking mechanism, such as its complaint log, to track these time frames so that the Board can ensure that complaints continue to move through the complaint process in a timely manner; and

Implementation in process—See the explanation for Recommendation 2.2a.

- o. Requiring staff to submit reports to the Board regarding complaint-processing timeliness to help the Board identify and address factors in the complaint resolution process that may affect timeliness.

Implementation in process—See the explanation for Recommendation 2.2a.

- 2.3 Once the Board has developed its policies and procedures for resolving complaints, the Board should train all board members and staff on these policies and procedures.

Not yet applicable—See the explanation for Recommendation 2.2a.

- 2.4 The Board should modify its initial and renewal application forms to include questions about whether licensees are self-employed, have an employer, and the name of the employer, if employed.

Implemented at 24 months

Chapter 3: Public Information

- 3.1 The Board should implement the new policies and procedures staff developed for providing information to the public.

Implemented at 12 months

- 3.2 The Board should develop and implement a mechanism to ensure that the information in its licensing database is accurate, such as periodically comparing information in a random sample of complaint files to information in the Board's licensing database.

Implemented at 48 months

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

1. The Board should modify its license and certificate applications to more clearly direct applicants on the documentation they are required to submit and the information that should be included in this documentation.

Implemented at 48 months

2. The Board should develop and implement policies and procedures directing staff to obtain all required documentation, such as the documentation applicants must submit if they answer yes to any of the Board's disclosure questions.

Implemented at 36 months

3. The Board should identify licensing, certification, and continuing education requirements that have been established in rule that are not needed to protect the public health and safety or are not within the Board's ability to enforce and work to remove these unnecessary requirements from its rules.

Implementation in process—The Board has proposed rule changes that would remove unnecessary requirements. These proposed rule changes include removing the requirements for auricular acupuncture certificate applicants to sign the photograph submitted with their applications and to provide the dates when their certificates expire, and requirements for continuing education that the Board cannot enforce. However, the Board reported that the rulemaking process for these proposed changes will be delayed until 2021 (see the explanation for Recommendation 2.2a).

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

4. The Board should seek the following statutory and/or rule changes to ensure that the Board's rules are consistent with its statutory authority:

- a. Requiring only non-U.S. citizens whose documentation of lawful presence in the U.S. has expired to provide updated documentation upon renewal of a license or certificate; and

Implementation in process—The Board has proposed rule changes that will require non-U.S. citizens to submit evidence that their work authorization has not expired when they apply for a renewal license or certificate. However, the Board reported that the rulemaking process for these proposed changes will be delayed until 2021 (see the explanation for Recommendation 2.2a).

- b. Reconciling the differences between statutory and rule renewal application submission deadlines for certificate holders.

Implemented at 24 months

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.

5. The Board should ensure that its board meeting minutes accurately reflect what occurred during the meeting and include sufficient information to clearly communicate to the public the basis for its complaint-adjudication decisions.

Implementation in process—We reviewed the Board’s February and August 2020 Board meeting minutes and although the February 2020 Board meeting minutes accurately reflected what occurred during the meeting, the August 2020 meeting minutes did not accurately reflect the voting record of one board member. Additionally, in May 2019, the Board revised its policy and procedure to require the Board to include a general description of the reason for its determination on each complaint in the meeting minutes as allowed by law or rule. However, the Board’s February 2020 Board meeting minutes (the only Board meeting minutes we reviewed where the Board adjudicated a complaint) did not explain the Board’s reasoning for offering a consent agreement to a licensee for unprofessional conduct.

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

6. The Board should seek statutory changes to allow it to inquire about all other active and past professional healthcare licenses or certificates for auricular acupuncture certificate applicants and request license or certificate verification directly from the jurisdiction that issued the license or certificate.

Implemented at 24 months