

The April 2022 Arizona State Board of Optometry performance audit and sunset review found that the Board did not comply with some State conflict-of-interest requirements, did not answer or respond to our anonymous phone calls or provide some required information on its website, and licensed some applicants without ensuring they met all requirements. We made 19 recommendations to the Board, and its status in implementing the recommendations is as follows:

Status of 19 recommendations

Implemented	4
Partially implemented	1
In process	7
Not implemented	7

We will conduct an 18-month followup with the Board on the status of the recommendations that have not yet been implemented.

Finding 1: Board did not comply with some State conflict-of-interest requirements, increasing risk that employees and public officers had not disclosed substantial interests that might influence or could affect their official conduct

1. The Board should revise its internal conflict-of-interest policies and procedures to help ensure compliance with State conflict-of-interest requirements, including:
 - a. Requiring all employees and Board members to complete a conflict-of-interest disclosure form upon hire/appointment, and reminding them at least annually to update their form when their circumstances change, including attesting that no conflicts exist, if applicable, consistent with State requirements and recommended practices.

Implementation in process—The Board has developed a conflict-of-interest policy that requires Board employees and members to complete a conflict-of-interest disclosure form annually and upon hire/appointment, and establishes a process to review and remediate disclosed employee conflicts, consistent with recommended practices. Additionally, the Board’s conflict-of-interest disclosure form requires Board employees and members to attest that no conflict exists, if applicable. We will further assess the Board’s implementation of its conflict-of-interest policy during our 18-month followup.

- b. Using a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest, as required by statute.

Implemented at 6 months

- c. Storing all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection, as required by statute.

Implementation in process—The Board has created a special file to store substantial interest disclosures. However, we found that at least 1 Board member conflict-of-interest disclosure from August 2022 that should have been in the file was not placed in the file until we notified Board staff. We will further assess the Board’s implementation of this recommendation during our 18-month followup.

- d. Establishing a process to review and remediate disclosed employee conflicts, consistent with recommended practices.

Implementation in process—See explanation for Recommendation 1a.

- 2. The Board should provide periodic training on its conflict-of-interest requirements, process, and form, including providing training to all employees and Board members on how the State’s conflict-of-interest requirements relate to their unique program, function, or responsibilities.

Not implemented—The Board has not provided conflict-of-interest training to its employees or members but reported planning to do so in the first half of calendar year 2023. We will further assess the Board’s implementation of this recommendation during our 18-month followup.

Finding 2: Board did not answer or respond to any of our anonymous phone calls or provide some required information on its website, restricting access to information public needs to make informed decisions about eye care

- 3. The Board should comply with all statutory requirements for providing public information, including:

- a. Providing public records and information to the public; ensuring that its staff answer phone calls and timely return voicemail messages; and determining whether its staff need to respond to any prior voicemail messages.

Partially implemented at 6 months—We placed 2 anonymous phone calls to the Board requesting information about 2 different licensed optometrists. Board staff promptly answered the phone calls and provided requested information as authorized by statute. However, the Board reported it did not determine whether any prior voicemail messages needed to be returned and does not plan to do so.

- b. Posting nondisciplinary actions and orders required by statute, such as nondisciplinary orders for continuing education hours, to the Board’s website, and maintaining these records on its website for not more than 5 years.

Not implemented—The Board has not posted nondisciplinary actions and orders on its website as required by statute. According to the Board, it is transitioning to a new website, and once the new website is operational, it plans to post these actions as required by statute. However, although the Board provided various expected dates for implementing its new website, as of December 13, 2022, these dates have passed, and the new website has yet to be implemented. We will further assess the Board’s implementation of this recommendation during our 18-month followup.

- 4. The Board should develop and implement written internal policies and procedures to help ensure staff comply with public information requirements that include:

- a. Providing complete and accurate public records and information to the public in a timely manner, during business hours and over the phone, including establishing required time frames for returning phone calls requesting public records and information and processes for reviewing public requests for information to ensure Board staff respond to all requests.

Implementation in process—Although the Board has developed and implemented a policy for answering telephone calls that includes required time frames for when voicemail messages should be returned, the policy does not reference all information that can be provided to the public upon request, such as information related to nondisciplinary actions. The policy also does not include processes for reviewing public requests for information to ensure Board staff respond to all requests. We will further assess the Board’s implementation of this recommendation during our 18-month followup.

- b. Ensuring required disciplinary and nondisciplinary actions and orders are posted to the Board’s website as allowed and required by statute and are maintained for not more than 5 years.

Not implemented—The Board has not developed written internal policies and procedures to help ensure required disciplinary and nondisciplinary actions and orders are posted to the Board’s website as allowed and required by statute.

- c. Requiring the Board’s executive director to review Board staff’s compliance with the policies and procedures, including time frames for doing so.

Not implemented—The Board has not developed written internal policies and procedures that require the Board’s executive director to review Board staff’s compliance with the policies and procedures recommended in 4a and 4b.

- 5. The Board should post records of disciplinary actions to its website, such as copies of Board orders or agreements, consistent with other health profession regulatory Boards, and maintaining these records on its website for not more than 5 years.

Not implemented—The Board has not posted records of disciplinary actions to its website, such as copies of Board orders or agreements. As explained in Recommendation 3b, the Board reported it has been transitioning to a new website where it will post records of disciplinary actions, but as of December 13, 2022, it had yet to implement its new website.

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

- 6. The Board should ensure that applicants meet all statute and rule requirements for initial and renewal licensure, including:

- a. Submitting a government-issued photograph to help verify lawful presence.

Implemented at 6 months.

- b. Working with its Assistant Attorney General to determine whether and when it can make rule changes to modify its CPR requirements. These rule changes should ensure that the Board can assess license applicant compliance with and enforce all CPR requirements as specified in rule.

Implementation in process—The Board reported that it is working with its Assistant Attorney General to determine whether and when it can make rule changes to modify its CPR requirements. We will further assess the Board’s implementation of this recommendation during our 18-month followup.

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

Not implemented—The Board has not developed internal policies and procedures for periodically reviewing the appropriateness of its fees that direct it to analyze the costs of its regulatory processes, compare these costs to the associated fees, determine the appropriate licensing fees, and then revise its fees as needed. Although the Board reported that it may pursue a statutory change that would authorize it to develop and implement internal policies and procedures for reviewing the appropriateness of its fees against its regulatory costs, a statutory change would not be needed to do so.

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.

8. The Board should comply with all open meeting law requirements, including:
 - a. Ensuring meeting minutes, or digital recordings, are available upon request within 3 working days of Board meetings, and that digital recordings, or a notice of the availability of digital recordings, are posted to the website within 5 working days of Board meetings.

Implemented at 6 months.

- b. Ensuring a digital recording is made of all open meetings and maintained for 3 years.

Implemented at 6 months.

9. The Board should develop and implement internal policies and procedures to ensure staff comply with all open meeting law requirements.

Not implemented—Board staff reported that it uses the Arizona Attorney General Handbook (Handbook) to guide its compliance with open meeting law requirements and does not have its own policies. According to the Board’s Executive Director, any other policy written by an agency may be redundant of or conflict with the Handbook. The Handbook, Ch. 7, Section 1, states that the Handbook “is intended to serve as a reference for public officials who must comply with the Open Meeting Law.” The Handbook does not preclude State agencies from developing and implementing internal policies and procedures to help ensure staff comply with all open meeting law requirements.

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 agency to timely investigate and resolve complaints within its jurisdiction.

10. The Board should continue to develop and implement internal policies and procedures for handling complaints, including internal policies and procedures for:
 - a. Tracking licensee responses to complaints to ensure that licensees provide a response to the notification of a complaint within 20 days, and, if needed, sending a reminder notification to licensees.

Implementation in process—Although the Board has revised its internal policies and procedures to track licensee notification of complaints and the receipt of licensee responses within 20 days, we found that it did not send reminders to licensees who do not respond within 20 days. Specifically, our review of 7 complaints the Board received in fiscal year 2023 and Board documentation showed 2 of the licensees did not provide a response within 20 days, and the Board did not send a reminder notice to these licensees. We will further assess the Board’s implementation of this recommendation during our 18-month followup.

- b. Documenting complaint investigation activities and notifying complainants regarding the resolution of their complaint.

Implementation in process—The Board has developed some draft complaint investigation procedures and a complaint log. Although both the draft procedures and complaint log address some steps of the Board’s complaint investigation and resolution process, including documenting some complaint investigation activities, neither document specifies requirements for notifying complainants regarding the resolution of their complaint. We will further assess the Board’s implementation of this recommendation during our 18-month followup.