



**DEBRA K. DAVENPORT, CPA**  
AUDITOR GENERAL

**STATE OF ARIZONA**  
OFFICE OF THE  
**AUDITOR GENERAL**

**MELANIE M. CHESNEY**  
DEPUTY AUDITOR GENERAL

January 29, 2016

The Honorable John Allen, Chair  
Joint Legislative Audit Committee

The Honorable Judy Burges, Vice Chair  
Joint Legislative Audit Committee

Dear Representative Allen and Senator Burges:

Our Office has recently completed an initial followup of the Arizona State Board of Dental Examiners regarding the implementation status of the 15 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in July 2014 (Auditor General Report No. 14-103). As the attached grid indicates:

- 11 have been implemented;
- 3 are in the process of being implemented; and
- 1 is no longer applicable.

Our Office will conduct a 30-month followup with the Board on the status of those recommendations that have not yet been fully implemented.

Sincerely,

Dale Chapman, Director  
Performance Audit Division

DC:kf  
Attachment

cc: Michael Hauer, DDS, President  
Arizona State Board of Dental Examiners

Elaine Hugunin, Executive Director  
Arizona State Board of Dental Examiners

**Arizona State Board of Dental Examiners**  
**Auditor General Report No. 14-103**  
**Initial Follow-Up Report**

**Recommendation**

**Status/Additional Explanation**

**Licensing and Permitting: Board ensured initial licensure applicants submitted required documents**

- 
- |   |                                 |
|---|---------------------------------|
| 1. To improve licensee compliance with continuing-education requirements, the Board should:   |                                 |
| a. Revise its continuing-education affidavit form to include information on the number of self-study continuing-education hours that licensees can take to fulfill the continuing-education requirement and at a minimum, require licensees to report the number of self-study and nonself-study hours completed;                     | <b>Implemented at 12 months</b> |
| b. Ensure that its committees comply with its substantive policy by reporting to the Board on the results of continuing-education audits and any recommendations regarding the approval of the audit or further investigation of noncompliance with continuing-education requirements; and  | <b>Implemented at 12 months</b> |
| c. Take action against licensees who do not comply with its continuing-education requirements, and/or consider revising its administrative rules to allow licensees who meet overall continuing-education hour requirements a specified amount of time to come into compliance with its self-study continuing-education requirements. | <b>Implemented at 12 months</b> |
- 
- |   |                                 |
|---|---------------------------------|
| 2. To help it comply with AAC R4-11-303(A)(2) regarding incomplete license applications, the Board should:  |                                 |
| a. Continue to fully implement its new reports for monitoring applicant compliance with the 60-calendar-day requirement for submitting all license application materials; | <b>Implemented at 12 months</b> |
| b. Ensure that it closes all applications with deficient application information that are deemed administratively incomplete after 60 calendar days; and                  | <b>Implemented at 12 months</b> |
| c. Inform applicants of the closure of their applications and process for reapplying.   | <b>Implemented at 12 months</b> |
-

**Recommendation****Status/Additional Explanation**

**Complaint resolution: Board adequately investigated complaints reviewed, but should consistently document the basis for its decisions**

1. The Board should ensure that the Internal Investigative Review Committee continues to prepare a report that documents the Committee's review of the complaint and rationale for its recommendation(s) to the Board.

**Implementation in Process**

Although the Internal Investigational Review Committee (Committee) continues to provide the Board with reports that document its review of each complaint, the reports do not clearly explain the Committee's rationale for its recommendations to the Board. For example, in the 5 cases where the Committee recommended that the Board take disciplinary action in its December 2015 meeting, the reports did not provide the statutory basis for the recommendations. Similarly, in the 9 cases where the Committee recommended a nondisciplinary consent agreement, the committee reports did not clearly explain the reason for the recommendations. Board staff indicated that they plan to continue improving the reports to ensure that they adequately explain the Committee's recommendations.

2. The Board should include sufficient information in its meeting minutes for complaints it discusses and then adjudicates during its meetings to clearly communicate to the public the basis for its complaint-adjudication decisions.

**Implementation in Process**

Board minutes now appropriately reflect the Board's discussion of complaints, and the Board also posts the audio recording of the board meeting discussion on its Web site. However, the minutes still do not consistently and clearly communicate the basis for the Board's complaint-adjudication decisions in all cases because the Board does not always discuss the basis for its decisions during its board meetings. Auditors listened to board audio minutes for its December 5, 2014, and February 6, 2015, meetings and observed the December 4, 2015, meeting. The Board explained the reasons for its decisions in most of the cases discussed during these meetings, but for three cases the board discussed during the February 2015 meeting, the Board discussion was insufficient to understand the basis for the Board's complaint-adjudication decision. Auditors will assess the Board's continued implementation of this recommendation at the next followup.

## Recommendation

## Status/Additional Explanation

3. The Board should develop and implement guidance to help direct its enforcement efforts. This guidance should include minimum and maximum sanctions for each type of violation, when to consider using nondisciplinary and disciplinary actions, and how it will consider mitigating and aggravating factors in its determination of discipline, including its consideration of any prior discipline imposed to address previously substantiated complaints.

### Implementation in Process

In August 2014, the Board approved guidance to help direct its enforcement efforts. The guidance contains information to assist the Committee and the Board when making enforcement action recommendations and decisions. For example, it lists factors the Board may consider when determining the egregiousness of a violation and the types of discipline to impose; provides an example of how the Board may escalate sanctions based on a licensee's previous disciplinary history; and lists the statutory citations and definitions of unprofessional conduct with the potential dispositions for each type.

Consistent with the Board's approved guidance, it uses continuing education as its main form of discipline in complaints where the Board's investigation found deviations from the standard of care. Specifically, in the complaints considered during its December 2015 meeting, the Board took disciplinary action in 10 cases and entered into nondisciplinary consent agreements in 9 cases. All 19 licensees were required to attend from 3 to 22 hours of continuing education on topics such as dental implant treatment planning, crown and bridge work, and risk management, depending on the nature of the deviation from the standard of care. The most common type of continuing education ordered was recordkeeping, which was required in 8 cases to address deviations such as not documenting informed consent, procedures, materials used, or anesthesia. In addition to requiring continuing education, the Board ordered three licensees to pay restitution, one of whom was also required to pay an administrative penalty for failure to respond adequately to a board subpoena. Auditors will assess the Board's continued implementation of this recommendation at the next followup.

4. To better use its database to monitor complaint timeliness, the Board should:
  - a. Develop and implement policies and procedures to help ensure the consistent and accurate entry of complaint information into its database; and
  - b. Work with its contractor to generate a comprehensive report to monitor and track its complaints through the compliant process.

**Implemented at 12 months**

**Implemented at 12 months**

## Public information: Board should improve its provision of information to public

1. The Board should further revise and implement its public information policies and procedures to ensure that staff provide complete and accurate information in response to public requests and train its staff accordingly.

**Implemented at 12 months**

**Recommendation****Status/Additional Explanation****Sunset Factor #4: The extent to which rules adopted by the Board are consistent with the legislative mandate.**

1. The Board should adopt rules that prescribe the reasonable costs for reproducing patient records when a patient requests his/her records to be transferred to another licensee.

**No longer applicable**

During the 2015 legislative session, the Legislature passed Laws 2015, Ch. 315, removing this requirement from the Board's statutes.

2. The Board should either change Arizona Administrative Code R4-11-202(B) to be consistent with its statutory authority or propose legislation to change statute to provide for additional requirements for applicants applying for licensure by credential.

**Implemented at 12 months**

During the 2015 legislative session, the Legislature passed Laws 2015, Ch. 315, stating that for applicants applying for licensure by credential, the Board shall require by rule (1) a minimum number of active practice hours within a specified time period and (2) an affirmation that the applicant has completed the continuing education requirements of the jurisdiction where the applicant is licensed. As a result of this statutory change, board rules are consistent with its statutory authority.

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

1. The Board should propose legislation to require applicants for licensure to undergo criminal background checks similar to other Arizona state regulatory boards and other state dental boards.

**Implemented at 12 months**