



A REPORT  
TO THE  
ARIZONA LEGISLATURE

Performance Audit Division

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Performance Audit and Sunset Review

# Arizona State Board of Dental Examiners

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July • 2014  
REPORT NO. 14-103



**Debra K. Davenport**  
Auditor General

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**STATE OF ARIZONA**  
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DEPUTY AUDITOR GENERAL

July 1, 2014

Members of the Arizona Legislature

The Honorable Janice K. Brewer, Governor

Ms. Elaine Hugunin, Executive Director  
Arizona State Board of Dental Examiners

Transmitted herewith is a report of the Auditor General, *A Performance Audit and Sunset Review of the Arizona State Board of Dental Examiners*. This report is in response to an October 3, 2013, resolution of the Joint Legislative Audit Committee and was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights for this audit to provide a quick summary for your convenience.

As outlined in its response, the Arizona State Board of Dental Examiners agrees with all of the findings and plans to implement all of the recommendations.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Debbie Davenport  
Auditor General

Attachment

cc: Arizona State Board of Dental Examiners Members



## REPORT HIGHLIGHTS PERFORMANCE AUDIT

## Board appropriately issued licenses and permits, but should address continuing education noncompliance

### Our Conclusion

The Arizona State Board of Dental Examiners (Board) issues licenses to dentists, dental hygienists, and dental consultants; certificates to dental assistants to perform x-rays and polish teeth, denturists to practice denture technology, and to licensed dental hygienists to administer local anesthesia and nitrous oxide analgesia; and sedation permits to licensed dentists. Although the Board ensured that applicants met all statutory and rule requirements before it issued a license or permit and issued licenses and permits within the prescribed time frames, it should strengthen its oversight of licensees' compliance with continuing-education requirements. In addition, the Board adequately investigated complaints, but should consistently document the basis for its decisions, improve its approach for imposing discipline, and improve its tracking of complaint resolution timeliness. Finally, the Board should improve its procedures for providing accurate and complete public information about those it regulates.

**Licenses and permits issued to qualified applicants in a timely manner**—The Board has established policies and procedures to guide its license and permit application processing. Our review of the 990 dentist and dental hygienist license applications the Board approved in fiscal years 2012 and 2013 found that with one exception, the Board ensured applicants submitted the required documentation before it issued the licenses. When brought to its attention, the Board also addressed the one exception. Additionally, a review of a random sample of 10 of the 22 general anesthesia and deep sedation permits the Board approved in fiscal years 2012 and 2013 found that it issued these permits to qualified applicants. Finally, we found that the Board issued these licenses and permits within prescribed time frames.

**Board should address noncompliance with continuing-education requirements**—When licensees apply to renew their licenses, they must provide an affidavit verifying compliance with continuing-education requirements. To verify compliance, board staff conduct random audits of about 2 percent of the renewal applications annually. Board staff conducted 42 audits in fiscal year 2013, and 6 of these audits, or 14 percent, identified noncompliance. A similar percentage of noncompliance is also likely among the unaudited applications. Therefore, the Board should:

- **Improve the continuing-education affidavit**—Although licensees cannot take credit for more than 24 hours of self-study, the form does not require licensees to report self-study hours. Five of the six audits that identified noncompliance determined that licensees included more self-study hours than allowed.
- **Direct its committees to accurately report on noncompliance**—The Board has established two committees that review continuing-education audits and should report instances of noncompliance to the Board. However, in two instances, one of the committees allowed licensees to complete their continuing-education requirements and did not inform the Board of the noncompliance.
- **Take disciplinary action to address noncompliance or revise its rule**—Administrative rule requires the Board to take disciplinary action when a licensee falsifies the continuing-education affidavit. However, for three of the six cases of noncompliance, where the licensees' self-study hours exceeded the limit, the Board allowed the licensees to complete the appropriate number of nonself-study continuing-education hours and did not take disciplinary action. The Board may want to consider a rule similar to an Arizona State Board of Physical Therapy rule that allows licensees up to 6 months to come into compliance.

### Recommendations

The Board should:

- Revise its affidavit form to require licensees to report the number of self-study and nonself-study hours completed;
- Have its committees report to the Board on all noncompliance; and
- Take action against licensees to address noncompliance and/or revise its administrative rule to permit additional time for licensees to comply with the continuing-education requirements.



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## Board adequately investigated complaints, but can take steps to improve its complaint handling and discipline practices

**Complaints adequately investigated**—The Board has developed and implemented policies and procedures to guide its complaint resolution process, including policies and procedures for performing complaint investigations. The Board’s investigative review committee reviews complaint investigations to determine whether a complaint has merit, and if so, the complaint and associated investigation are forwarded to the Board for review and adjudication. The Board adequately investigated the five quality-of-care complaints closed in fiscal years 2012 and 2013 that we reviewed.

During the audit, the investigative review committee began to better document its rationale for its recommendations to the Board. The Board’s meeting minutes should also include sufficient information to advise the public of the reasons for its decisions for complaints it discusses and then adjudicates during its meetings.

**Board should improve its disciplinary action practices**—Our review of the five quality-of-care complaints found that the discipline imposed in three of the complaints may not have been consistent with the nature and severity of the violations that the Board substantiated. For example, the investigative report for one complaint indicated that the licensee’s actions involving the improper use of sedation contributed to the death of the patient and identified four deviations from the standard of care. The Board required 16 hours of hands-on continuing education in the area of sedation and suspended the licensee’s sedation permit for a minimum of 6 months. A second complaint alleged that a dental procedure resulted in the partial paralysis of the patient’s face, and the complaint investigation identified numerous deviations from the standard of care. The licensee was directed to complete 24 hours of continuing education, including 6 hours in treatment of surgically caused paralysis, and the licensee’s practice in oral surgery was restricted.

We also reviewed five licensees with multiple complaints that resulted in disciplinary action. However, the Board’s imposed discipline, consisting of additional continuing education sometimes combined with other discipline, may have been insufficient to address the licensees’ continued noncompliance with statutes.

### Recommendations

The Board should:

- Ensure that its investigative review committee continues to prepare a report that provides a rationale for its recommendations;
- Include sufficient information in its minutes to communicate the basis for its complaint decisions; and
- Develop and implement guidance, including maximum and minimum sanctions for each violation and when to consider nondisciplinary and disciplinary actions, to help direct its determination of discipline.

## Board should improve its provision of information to public

Although the Board provides appropriate public information on its Web site, it did not do so over the phone. We placed calls to the Board asking about complaint information for four licensees. Board staff provided some correct information, but did not provide information about the complaint description or resulting board action, as board policy requires. Although board management revised board policies and procedures during the audit, we made three additional phone calls, and board staff provided complete information in response to only one phone call.

### Recommendation

The Board should further revise and implement its public information policies and procedures to ensure complete and accurate information is provided to the public and train its staff on these policies and procedures.

# TABLE OF CONTENTS

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|   |    |
|---|----|
| Introduction  | 1  |
| Licensing and permitting  | 5  |
| Board ensured initial licensure applicants submitted required documents   | 5  |
| Board should address noncompliance with continuing-education requirements   | 6  |
| Board complies with time frames for issuing licenses and permits, but should also comply with board rules for incomplete applications | 8  |
| Recommendations   | 9  |
| Complaint resolution  | 11 |
| Board adequately investigated complaints reviewed, but should consistently document the basis for its decisions                       | 11 |
| Board should improve its disciplinary action practices  | 13 |
| Board resolved most complaints reviewed in a timely manner, but should use its database to better track timeliness                    | 18 |
| Recommendations   | 19 |
| Public Information  | 21 |
| Board should improve its provision of information to public   | 21 |
| Recommendation  | 22 |
| Sunset factor analysis  | 23 |

continued

# TABLE OF CONTENTS

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Appendix A: Methodology a-1

## Agency Response

### Tables

- |   |  |   |
|---|--|---|
| 1 | Number of licenses, permits, certifications, and registrations<br>As of March 21, 2014<br>(Unaudited)            | 2 |
| 2 | Schedule of revenues, expenditures, and changes in fund balance<br>Fiscal years 2011 through 2014<br>(Unaudited) | 3 |

### Figures

- |   |   |    |
|---|---|----|
| 1 | Outcome of reviewed complaint cases<br>Fiscal years 2012 and 2013 | 13 |
| 2 | Board-ordered disciplinary actions<br>Fiscal years 2012 and 2013  | 14 |

# Introduction

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## Audit scope and objectives

The Office of the Auditor General (Office) has conducted a performance audit and sunset review of the Arizona State Board of Dental Examiners (Board) pursuant to an October 3, 2013, resolution of the Joint Legislative Audit Committee. The Office conducted this audit as part of the sunset review process prescribed in Arizona Revised Statutes (A.R.S.) §41-2951 et seq and addresses the Board's licensing and permitting processes, complaint resolution process, and provision of information to the public. It also includes responses to the statutory sunset factors.

## Mission and responsibilities

The Board was established in 1935 to regulate the practice of dentistry. Its mission is to provide professional, courteous service and information to the dental profession and the general public through the examination, licensure, and complaint adjudication and enforcement processes to protect the oral health, safety, and welfare of Arizona citizens through a fair and impartial system. The Board's responsibilities include:

- **Issuing licenses, permits, certificates, and registrations**—The Board licenses dentists, dental hygienists, and dental consultants. According to board records, the Board issued 508 initial licenses during fiscal year 2013. In addition, the Board issues permits to licensed dentists to administer sedation and anesthesia. The Board issued 56 initial permits in fiscal year 2013. The Board also issues restricted practice permits to dentists and dental hygienists whose practice is limited to volunteer work for charitable organizations and permits to mobile dental units; certificates to dental assistants to perform x-rays and polish teeth, licensed dental hygienists to administer local anesthesia and nitrous oxide analgesia, and to denturists to practice denture technology; and registers business entities and licensed dentists to dispense controlled substances and prescription-only drugs and devices. As shown in Table 1 (see page 2), as of March 21, 2014, the Board had 8,875 licensees, 575 permit holders, 21,033 certificate holders, and 401 registrations.<sup>1</sup>

The Board renews licenses, denturist certificates, and dispensing registrations every 3 years, sedation permits every 5 years, and other permits and registrations annually. The Board does not require dental assistant certificate holders or dental hygienists who are certified to administer local anesthesia and nitrous oxide analgesia to renew their certifications. To renew a license, denturist certificate, or sedation permit, renewal applicants must submit an application, a renewal fee, and a current cardiopulmonary resuscitation certificate, and meet continuing-education requirements. Other permit and registration renewal applicants must only submit an application or an application with a fee.

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<sup>1</sup> Individuals may hold more than one license, permit, or certificate.

- Resolving complaints**—The Board investigates complaints against licensees, permittees, certificate holders, and registered business entities and can take statutorily authorized nondisciplinary or disciplinary action, as needed. According to the Board, in fiscal year 2013, the Board received 262 complaints and resolved 235 complaints. Additionally, to resolve some complaints involving substance abuse, the Board has established a confidential monitoring program, called the Monitored Aftercare Treatment Program, to assist licensees who are impaired by alcohol or drug use. The monitoring program includes education, intervention, therapeutic treatment, and post-treatment monitoring and support. The Board uses a private contractor to administer this program.
- Providing information to the public**—The Board provides information about licensees, permittees, certified denturists, and registered business entities, including disciplinary history information, on its Web site. In addition, the Board publishes agendas and minutes of its public meetings, a newsletter, and substantive policy statements on its Web site. Finally, board staff also respond to requests for public information.

**Table 1: Number of licenses, permits, certifications, and registrations  
As of March 21, 2014  
(Unaudited)**

|   |               |
|---|---------------|
| <b>Licenses</b>   |               |
| Dentist   | 4,746         |
| Dental hygienist  | 4,124         |
| Dental consultant   | <u>5</u>      |
| Total licenses  | <u>8,875</u>  |
| <b>Permits</b>  |               |
| Sedation permits:   |               |
| General anesthesia and deep sedation  | 130           |
| Parenteral sedation   | 100           |
| Oral sedation   | 303           |
| Permit to employ or work with an anesthesiologist or nurse anesthesiologist | 9             |
| Restricted practice permits:  |               |
| Dentist   | 7             |
| Dental hygienist  | 1             |
| Facility permits:   |               |
| Mobile dental unit  | <u>25</u>     |
| Total permits   | <u>575</u>    |
| <b>Certifications</b>   |               |
| Dental assistants X-ray   | 15,586        |
| Dental assistants coronal polishing   | 1,979         |
| Local anesthesia and nitrous oxide  | 3,455         |
| Denturist   | <u>13</u>     |
| Total certifications  | <u>21,033</u> |
| <b>Registrations</b>  |               |
| Business entity   | 320           |
| Dispensing—Controlled substances, prescription-only drugs and devices       | <u>81</u>     |
| Total registrations   | <u>401</u>    |

Source: Auditor General staff analysis of information from the Board's database and information provided by board staff as of March 21, 2014.

## Organization and staffing

The Board consists of the following 11 governor-appointed members: 6 licensed dentists, 2 licensed dental hygienists, 2 public members, and 1 business entity member. Board members are appointed for 4-year terms. The Board was authorized 11 full-time equivalent staff positions for fiscal year 2014, 9 of which were filled as of January 2014.

# Budget

The Board does not receive any State General Fund appropriations. Rather, its revenues consist primarily of license and permit fees. A.R.S. §32-1212 requires the Board to remit to the State General Fund 100 percent of all collected penalties, and 10 percent of all fees and other revenue, and deposit the remaining 90 percent in the dental board fund. As shown in Table 2, the Board's fiscal year 2014 net revenues are estimated to total more than \$1.5 million. Personnel costs account for the majority of the Board's expenditures, which are estimated to total more than \$1.2 million in fiscal year 2014. The Board's fiscal year 2014 ending fund balance is estimated to total nearly \$3.3 million.

**Table 2: Schedule of revenues, expenditures, and changes in fund balance  
Fiscal years 2011 through 2014  
(Unaudited)**

|  | 2011<br>(Actual) | 2012<br>(Actual) | 2013<br>(Actual) | 2014<br>(Estimate) <sup>1</sup> |
|--|------------------|------------------|------------------|---------------------------------|
| <b>Revenues</b>                                    |                  |                  |                  |                                 |
| Licenses and fees                                  | \$ 1,851,832     | \$ 1,924,483     | \$ 1,697,294     | \$ 1,584,550                    |
| Charges for goods and services                     | 110,127          | 125,068          | 125,401          | 113,300                         |
| Fines, forfeits, and penalties                     | 30,275           | 21,100           | 17,700           | 33,020                          |
| Other  | 86               | 6                |                  |                                 |
| Total gross revenues                               | 1,992,320        | 2,070,657        | 1,840,395        | 1,730,870                       |
| Remittances to the State General Fund <sup>2</sup> | (208,673)        | (213,366)        | (186,552)        | (183,000)                       |
| Net revenues                                       | 1,783,647        | 1,857,291        | 1,653,843        | 1,547,870                       |
| <b>Expenditures and transfers</b>                  |                  |                  |                  |                                 |
| Personal services and related benefits             | 567,501          | 674,625          | 658,508          | 701,000                         |
| Professional and outside services                  | 177,945          | 164,735          | 165,324          | 297,200                         |
| Travel   | 4,365            | 7,133            | 6,679            | 8,700                           |
| Other operating                                    | 172,048          | 185,778          | 167,044          | 182,200                         |
| Furniture, equipment, and software                 | 81,451           | 77,772           | 27,103           | 23,700                          |
| Total expenditures                                 | 1,003,310        | 1,110,043        | 1,024,658        | 1,212,800                       |
| Transfers to the State General Fund <sup>3</sup>   | 24,555           | 15,798           | 3,599            | 2,000                           |
| Total expenditures and transfers                   | 1,027,865        | 1,125,841        | 1,028,257        | 1,214,800                       |
| Net change in fund balance                         | 755,782          | 731,450          | 625,586          | 333,070                         |
| Fund balance, beginning of year                    | 842,596          | 1,598,378        | 2,329,828        | 2,955,414                       |
| Fund balance, end of year                          | \$ 1,598,378     | \$ 2,329,828     | \$ 2,955,414     | \$ 3,288,484                    |

<sup>1</sup> Fiscal year 2014 amount is the amount appropriated. In prior years the Board did not fully expend its appropriated amounts.

<sup>2</sup> As required by A.R.S. §32-1212, the Board remits to the State General Fund 100 percent of all collected penalties and 10 percent of all other revenues.

<sup>3</sup> Fiscal years 2011 and 2012 amounts primarily consist of transfers to the State General Fund in accordance with Laws 2010, 7th S.S., Ch. 1, §148 and Laws 2011, Ch. 24, §§108, 129, and 138, to provide support for state agencies. In addition, fiscal years 2011 through 2014 amounts also include transfers to the Office of Administrative Hearings.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2011 through 2013; the AFIS Management Information System *Status of General Ledger-Trial Balance* screen for fiscal years 2012 and 2013; and board-prepared estimates for fiscal year 2014.



# Licensing and permitting

Board ensured initial licensure applicants submitted required documents

*The Board ensured that applicants submitted required information to demonstrate qualifications for licensure and met its statutorily required time frames for processing applications. However, the Board should revise its policies and procedures to strengthen oversight of licensee compliance with continuing education requirements to ensure licensees remain qualified to practice dentistry.*

The Arizona State Board of Dental Examiners (Board) issues various licenses and permits to individuals and businesses in the dental industry. Board statutes and administrative rules outline the specific requirements for obtaining a license and/or permit. These requirements vary by license or permit type (see textbox for examples). The Board has established policies and procedures to guide its processing of license and permit applications to help ensure applicants meet all statutory and rule requirements before the Board issues a license or permit. Specifically, board staff use a checklist to ensure the applicant submits all required documents, and the Board also completes a supervisory review of submitted applications. Additionally, the Board's policies include guidance on when board staff should forward certain applications to the Board for approval instead of to the Board's executive director.<sup>1</sup> For example, the Board reviews all applications for licensure for applicants who have disclosed a criminal background.

To help ensure that license and permit applicants submit all required documentation, the Board maintains a database where board staff record documentation the applicants submit. This documentation includes the application, school transcripts, and exam result certificates.<sup>2</sup> Auditors reviewed the Board's application forms and found

## License and permit requirements

- **Dentist and dental hygienist**—Must submit a board-approved application, be of good moral character, graduate from an accredited dental or dental hygiene school, and pass the national and the western regional dental and dental hygiene exams, the Arizona dental jurisprudence exam, and other board-approved clinical exams. Applicants who do not hold a license in another state must submit a letter of endorsement from their school, while applicants who have previously held a license must submit a verification letter from the National Practitioners Databank and letter(s) of verification from the state(s) previously/currently licensed.
- **General anesthesia and sedation permit**—Must submit a board-approved application, possess a current Arizona dental license, hold a current permit to prescribe and administer controlled substances in Arizona issued by the United States Drug Enforcement Administration, hold a certificate in advanced airway management, complete advanced training in anesthesiology or sedation, and pass an on-site evaluation.

Source: Auditor General staff review of licensure and permit requirements as reflected in Arizona Revised Statutes (A.R.S.) §§32-1232, 32-1233, 32-1240, 32-1284, 32-1285, and 32-1292.01 and Arizona Administrative Code (AAC) R4-11-202, R4-11-203, R4-11-303, and R4-11-1301- 1304.

<sup>1</sup> A.R.S. §32-1207(C) allows the executive director or designee to issue licenses and permits to applicants who meet the Board's requirements.

<sup>2</sup> Auditors compared a random sample of the documentation from ten hard copy licensee files to information recorded in the Board's database and found that the database accurately reflected this documentation. As a result, auditors determined the database was sufficiently reliable for audit purposes.

that they require the information that statute and administrative rule mandate. Auditors also reviewed the Board's database for the 990 dentist and dental hygienist license applications the Board approved in fiscal years 2012 and 2013 and found that with one exception, the Board ensured applicants submitted the required documentation prior to issuing the licenses.<sup>1,2</sup> In addition, auditors reviewed a random sample of 10 of the 22 general anesthesia and deep sedation permits the Board approved in fiscal years 2012 and 2013 and found that the Board ensured that these applicants submitted the required documents and were qualified to receive a permit. The Board also conducted on-site evaluations of these permit applicants, as required, prior to approving the permits.

## Board should address noncompliance with continuing-education requirements

The Board's process for approving license renewals and taking action against licensees who do not comply with continuing-education requirements for renewing their licenses needs improvement. Board statutes require licensees to renew their licenses every 3 years. A.R.S. §§32-1236(A) and 32-1287(A) require licensees to pay a renewal fee and submit a board-approved application, a current cardiopulmonary resuscitation certificate, and a signed affidavit confirming they have met continuing-education requirements (see textbox for specific continuing-education requirements). The continuing-education affidavit requires licensees to report the total credit hours obtained in each subject area.

### Continuing-education renewal requirements for licensees

- **Dentists**—Must complete 72 hours of continuing education every 3 years. Dentists must obtain credit hours in subject areas including dental and medical health, diagnosis and treatment planning, and infectious disease control and are limited to 24 hours in self-study courses.
- **Dental hygienists**—Must complete 54 hours of continuing education every 3 years. Dental hygienists must obtain credit hours in subject areas including dental hygiene services, radiology safety and techniques, and infectious disease control and are limited to 24 hours in self-study courses.

Source: Auditor General staff review of AAC R4-11-1201-1209.

To help ensure compliance with the Board's continuing-education requirements, board staff randomly select and audit 2 percent of the licenses renewed annually. The licensees selected for audit must submit documentation supporting the continuing education that was reported on their affidavits. The Board has established two committees whose responsibilities include reviewing continuing-education audits. Specifically, the Board's continuing-education committee reviews completed audits for dentists, and its dental hygiene committee reviews completed audits for dental hygienists. The Board's substantive policy directs its committees to review audits and report to the Board on licensees' compliance with continuing-education requirements and recommendations for approval of the license-renewal application or further investigation.

However, auditors' review of continuing-education audits found several shortcomings in how the Board ensures compliance with continuing-education requirements.

<sup>1</sup> Auditors determined that the Board approved one dental hygienist application that did not include a letter of endorsement from the applicant's school as required by rule. The Board obtained this documentation in May 2014.

<sup>2</sup> In fiscal years 2012 and 2013, the Board denied three initial applications for licensure because of previous discipline in another state, malpractice history, and/or criminal background.

Specifically, 6 of the 42 continuing-education audits, or 14 percent, that the Board conducted in fiscal year 2013 identified noncompliance with the Board's continuing-education requirements. The noncompliance involved a deficient number of continuing-education hours ranging from ½ to 22 hours.<sup>1</sup> Based on the number of license renewal applicants board staff audited and the results of those audits, it is likely that a similar percentage of licensees who did not undergo an audit also may be deficient in meeting the continuing-education requirements. To ensure licensees comply with its continuing-education requirements, the Board should take the following steps:

- **Improve continuing-education affidavit form**—The affidavit form requires licensees to report the total hours obtained in each subject area, but does not require licensees to indicate which hours were self-study hours. Thus, the Board cannot ensure that licensees do not report more than 24 self-study hours. However, five of the six audits that identified hour deficiencies in fiscal year 2013 found that the licensees reported more self-study hours than allowed. Other Arizona state regulatory boards, such as the Arizona Board of Chiropractic Examiners and the Arizona State Board of Funeral Directors and Embalmers, require licensees to provide more information on the continuing education completed. For example, these boards require licensees to list the specific credit hours and courses taken on the affidavit, helping to ensure licensee compliance with all continuing-education requirements. Similarly, the Board should 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.
- **Committees should provide accurate information to the Board about licensees' compliance with continuing-education requirements**—As indicated earlier, the Board's substantive policy directs its committees to review continuing-education audits, report on compliance to the Board, and make recommendations to the Board for approval of the audit or further investigation regarding instances of noncompliance. However, one of the committees allowed two licensees to continue to work on completing the continuing-education requirements rather than informing the Board of the deficiencies. According to A.R.S. §32-1201(21)(I), it is unprofessional conduct for a licensee to make a false statement in connection with the practice of dentistry, which includes the affidavit certifying compliance with continuing-education requirements. By not informing the Board of audit deficiencies, the committee did not provide the Board an opportunity to review potential violations of statute and superseded the Board's authority to take action regarding potential violations. Therefore, the Board should ensure that its committees comply with its substantive policy by reporting to the Board the results of continuing-education audits and any recommendations regarding the approval of the audit or further investigation of noncompliance with continuing-education requirements.
- **Take action against licensees with identified continuing-education deficiencies or revise its administrative rules**—According to AAC R4-11-1202(H), the Board is required to take disciplinary action when a licensee makes a false statement on the continuing-education

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<sup>1</sup> As required by the Board, with the exception of the licensee who was deficient one-half hour of continuing education, the licensees with deficient continuing-education hours did come into compliance with the continuing-education requirements after the renewal period. For the licensee who was deficient by one-half credit hour, the Board did not require the licensee to complete the required continuing education because the licensee had also submitted an additional 7 hours completed through a continuing-education provider not recognized by the Board to provide continuing-education credit hours. According to the Board, this provider had falsely advertised that its courses were recognized by the Board. The Board reported that the licensee took the courses in good faith, and therefore it approved the audit with a letter reminding the licensee to ensure all continuing education meets the Board's definition of recognized continuing education. Additionally, board staff reported that the provider has since become a recognized continuing-education provider.

affidavit. The Board's substantive policy defines the sanctions the Board may consider for failing to comply with continuing-education requirements, including imposing either a letter of concern, a \$150 administrative penalty, and/or completion of all continuing-education requirements. The Board reported that it did not take action against three of the six licensees with continuing-education deficiencies because all three met the overall required number of continuing-education hours but exceeded the allowable self-study hours. However, the Board required these licensees to complete the appropriate number of nonself-study continuing-education hours. As previously mentioned, two of the six licensees with continuing-education deficiencies were not reported to the Board, while the Board allowed other continuing education to suffice for the licensee with the ½-hour deficiency that was identified in the audit.

The Board can consider other sanctions in order to help ensure licensees comply with continuing-education requirements. Other Arizona regulatory boards' administrative rules require different procedures when licensees do not comply with continuing-education requirements. For example, the Arizona State Board of Physical Therapy has similar rules limiting self-study credit hours. However, when the licensee meets the required number of continuing-education hours but does not comply with self-study limits, administrative rules require the Arizona State Board of Physical Therapy to allow licensees 6 months after deficiencies are found through the audits to comply with requirements prior to taking disciplinary action. In contrast, although the Arizona Medical Board does not limit the types of continuing-education hours that its licensees can take, it will open a complaint if a licensee has not complied with the continuing-education hour requirements. Similarly, the Board should take action against licensees who do not comply with its continuing-education requirements, and/or consider revising its administrative rules to allow licensees who have met the continuing-education hour requirements, but did not comply with self-study hour limits, a certain period of time to comply with its self-study continuing-education requirements.

## Board complies with time frames for issuing licenses and permits, but should also comply with board rules for incomplete applications

The Board complies with statutorily required time frames for issuing licenses and permits. Specifically, statute requires the Board to establish time frames in administrative rule for issuing licenses and permits. These time frames are important because they provide information and an assurance to applicants and the public about what to expect in regard to having a license or permit approved or denied, and increase the Board's accountability if time frames are not met. If the Board does not meet its time frames for processing licenses and permits, statute requires it to refund licensing or permitting fees to applicants and pay a penalty of 2.5 percent of the applicants' fees to the State General Fund for each month that licenses and permits are not issued or denied within the established time frames.

According to administrative rule, the Board must issue or deny initial license applications for dentists and dental hygienists in 114 days and general anesthesia and deep sedation permits in 144 days. Auditors reviewed the Board's database for all 990 approved initial license applications the Board received in fiscal years 2012 and 2013 and found that the Board issued all of these licenses within required time frames. Additionally, auditors reviewed a random sample of 10 approved general anesthesia and deep sedation permit applications that the Board received in fiscal years 2012 and 2013 and found that the Board issued these permits in a timely manner.

Although the Board issues licenses and permits in a timely manner, it can improve its compliance with one of its administrative rules regarding incomplete applications. Specifically, AAC R4-11-303(A) (2) requires the Board to notify the applicant if his/her application is incomplete and close the applicant's file if the applicant does not submit missing documents within 60 calendar days. If the applicant's file is closed, the applicant must submit a new application, including all applicable application fees.<sup>1</sup> Auditors reviewed 20 approved dentist and dental hygienist license applications the Board received in fiscal years 2012 and 2013 that had the longest time frames for approval. Auditors found that for 3 applications, the Board did not close the applicants' files when it did not receive all the required application materials within the 60-calendar-day time frame. Instead, the Board eventually approved these 3 license applications when all the application materials were received, but without requiring the applicant to reapply. According to board reports, in fiscal years 2012 and 2013, the Board closed 31 other applications because the applicants did not provide the missing materials within 60 days. However, because the Board did not always comply with its administrative rule, license applicants were treated inequitably—some license applicants were granted an extension to submit all required documentation and not required to pay additional fees, while others did not receive the same benefit.

Prior to the audit, the Board did not use its database to track its compliance with this requirement because the Board's database lacked the necessary information to do so. However, in February 2014, the Board added date fields to its database that allow board staff to generate a report to track the 60-day administrative completion period. The Board should continue to fully implement its new report for monitoring applicant compliance with the 60-calendar-day requirement for submitting all license application materials. The Board should also ensure that it closes all applications with deficient application information that are deemed administratively incomplete after 60 calendar days and notifies applicants that their applications are closed and the process for reapplying.

## Recommendations:

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;

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<sup>1</sup> According to the Board, prior to February 2014, the Board did not require applicants to submit applicable fees if an applicant reapplied after the Board closed his/her application. However, based on the Board's discussion with its Assistant Attorney General, the Board has since changed its process to require these fees.

- 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
  - 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.
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. Ensure that it closes all applications with deficient application information that are deemed administratively incomplete after 60 calendar days; and
  - c. Inform applicants of the closure of their applications and process for reapplying.

# Complaint resolution

Board adequately investigated complaints reviewed, but should consistently document the basis for its decisions

*Although the Board adequately investigated complaints auditors reviewed, it should consistently document the basis for its decisions. Additionally, the Board should improve its approach for imposing discipline to address violations of statute and/or rule. Finally, the Board processes most complaints in a timely manner, but should improve its tracking of complaint resolution timeliness.*

The Arizona State Board of Dental Examiners (Board) is responsible for investigating complaints against licensees, permittees, certificate holders, and registered business entities and for taking appropriate disciplinary action, as necessary. Statute authorizes the Board to investigate complaints for various reasons, including complaints that allege professional incompetence, unprofessional conduct, and unethical conduct (see textbox for complaint categories). Complaints may be submitted by the public or initiated by the Board.

The Board has developed and implemented policies and procedures to guide its complaint resolution process. For example, board procedures require its staff to determine if a submitted complaint is within its jurisdiction, as specified in statute. If board staff determine a complaint is within the Board's jurisdiction, it will open the complaint for investigation. According to board policies and procedures, as part of a complaint investigation, board staff should obtain patient records and written statements and/or other information from the complainant and licensee. An assigned contract investigator reviews this evidence and prepares a written investigative report summarizing the complaint allegation(s), evidence, and whether there were any deviations from the standard of care.

The Board has established an Internal Investigative Review Committee (Committee) composed of investigative staff that is responsible for reviewing the complaint investigation to determine if the complaint allegations have merit.<sup>1</sup> According to Arizona Revised Statutes (A.R.S) §32-1263.03 (A), if the allegations do not have merit, the executive director may dismiss the complaint with the Committee's agreement.<sup>2</sup> If the complaint allegations have merit, the Committee may develop nondisciplinary or disciplinary action recommendations for the Board's consideration, as appropriate

## Complaint categories:

- Misleading advertising
- Billing irregularities such as incorrectly charging an insurance company
- Fraud or misrepresentation
- Noncompliance with a board order
- Practice management such as patient communication or office management issues
- Improper prescribing of drugs
- Quality of care/patient treatment issues
- Substance abuse-allegations

Source: Board-supplied information.

<sup>1</sup> The Committee comprises the executive director, investigations supervisor, contracted chief investigative consultant, and assistant attorney general as needed.

<sup>2</sup> A.R.S. §32-1263.03(D) allows a complainant to appeal the executive director's dismissal to the Board for its review.

## Examples of the Board's nondisciplinary and disciplinary actions:

### Nondisciplinary actions

- Dismissal
- Issue a letter of concern
- Impose a civil penalty
- Order continued education

### Disciplinary actions

- Impose an administrative penalty
- Impose probation
- Order continuing education
- Order restitution to aggrieved party
- Restrict scope of practice
- Issue a decree of censure
- Suspend or revoke license

Source: Auditor General staff review of A.R.S. §§32-1263.02(E) and 32-1263.01(A).

(see textbox for information on nondisciplinary and disciplinary actions). In making these recommendations, the Committee may consider the licensee's nondisciplinary and/or disciplinary history. The Board then either accepts, modifies, or rejects the Committee's recommendation(s). According to board reports, in fiscal years 2012 and 2013, the Board opened 260 and 262 complaint investigations, respectively.

Auditors' review of 5 of the 399 quality of care complaints the Board closed in fiscal years 2012 through 2013 found that the Board adequately investigated these complaints. Specifically, consistent with its policies and procedures, all five complaint investigations included a review of applicable dental records, statements, and/or other information from the complainant and licensee, and a thorough investigative report.

However, although the Board has taken steps to better document the Committee's recommendations, additional steps are needed to adequately document and communicate the basis for the Board's complaint decisions. Specifically, during the audit, the Committee began to better document the rationale for its recommendations by developing and implementing a report that includes a summary of the complaint case and investigation, the licensee's response, deviations from the standard of care and/or statute and rule, aggravating and mitigating factors, and the rationale for committee recommendations to the Board. This report, which is similar to a

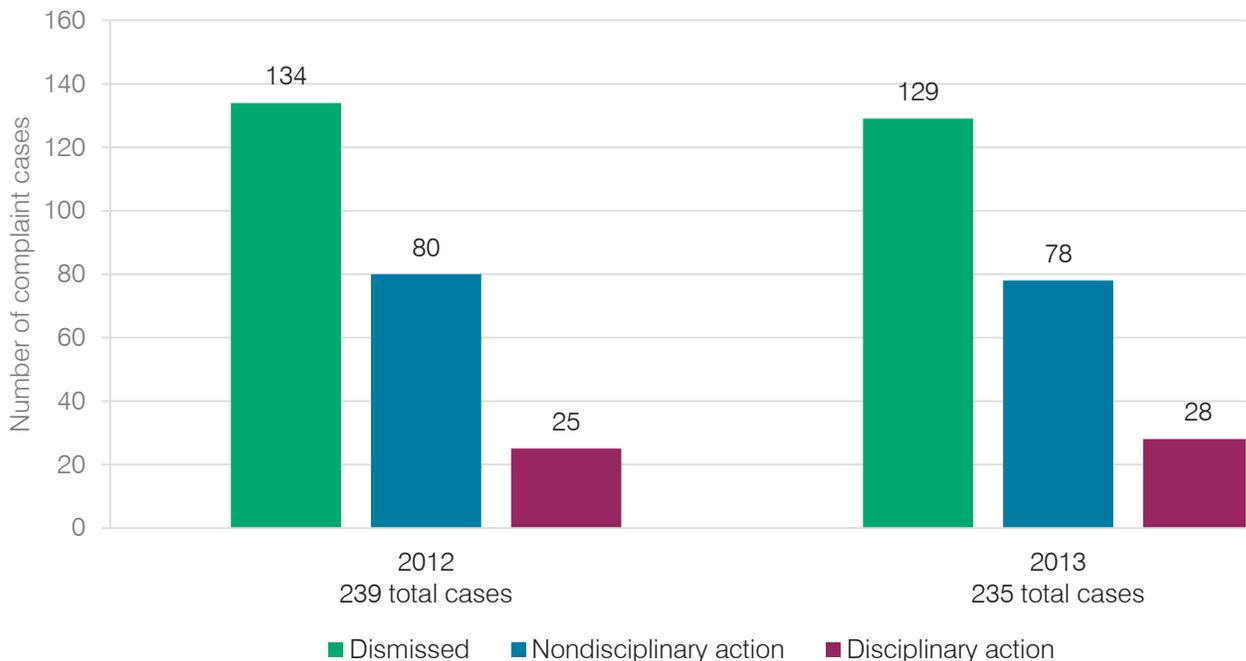
report the Arizona Medical Board uses, helps to ensure that the investigation addresses each complaint allegation and that the Committee has recommended appropriate action based on whether the complaint allegations have been substantiated. The Board should ensure that the Committee continues to prepare this report that documents the Committee's review of the complaint and rationale for its recommendation(s) to the Board.

Additionally, the Board should consistently document the basis for its decisions for complaints it discusses and then adjudicates during its meetings. For one of the five quality-of-care complaints reviewed, the Board considered mitigating factors before accepting the disciplinary action the Committee recommended. However, the Board's meeting minutes did not include sufficient information regarding its discussion of this complaint and the reasons for the adopted disciplinary action. Without sufficient information in the Board's meeting minutes, especially when it does not accept the Committee's recommendations, it is difficult for the public to understand the basis for the Board's complaint adjudication decisions. Therefore, 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. (See Sunset Factor 5, pages 24 through 25, for additional information on the Board's compliance with the State's open meeting law.)

## Board should improve its disciplinary action practices

The Board has various nondisciplinary and disciplinary actions it can take when it substantiates complaint allegations, including letters of concern, continuing education requirements, decree of censure, and/or license suspension or revocation (see textbox on page 12). According to the Board, it resolved 239 complaints in fiscal year 2012 and 235 complaints in fiscal year 2013. As shown in Figure 1, in both years, the executive director dismissed approximately 56 percent of these complaints, or 134 and 129 complaints, respectively. In fiscal years 2012 and 2013, the Board assigned nondisciplinary action for approximately 33 percent of complaints—80 and 78 complaints, respectively, and disciplinary action for approximately 11 percent of complaints—25 and 28 complaints, respectively, including revoking one license.<sup>1</sup> However, board-imposed discipline may not be consistent with the nature and severity of some complaints and substantiated violations, including cases where escalated discipline may be warranted. In addition, the Board has taken nondisciplinary action to address some instances where licensees deviated from the standard of care. Specifically:

**Figure 1: Outcome of reviewed complaint cases  
Fiscal years 2012 and 2013**



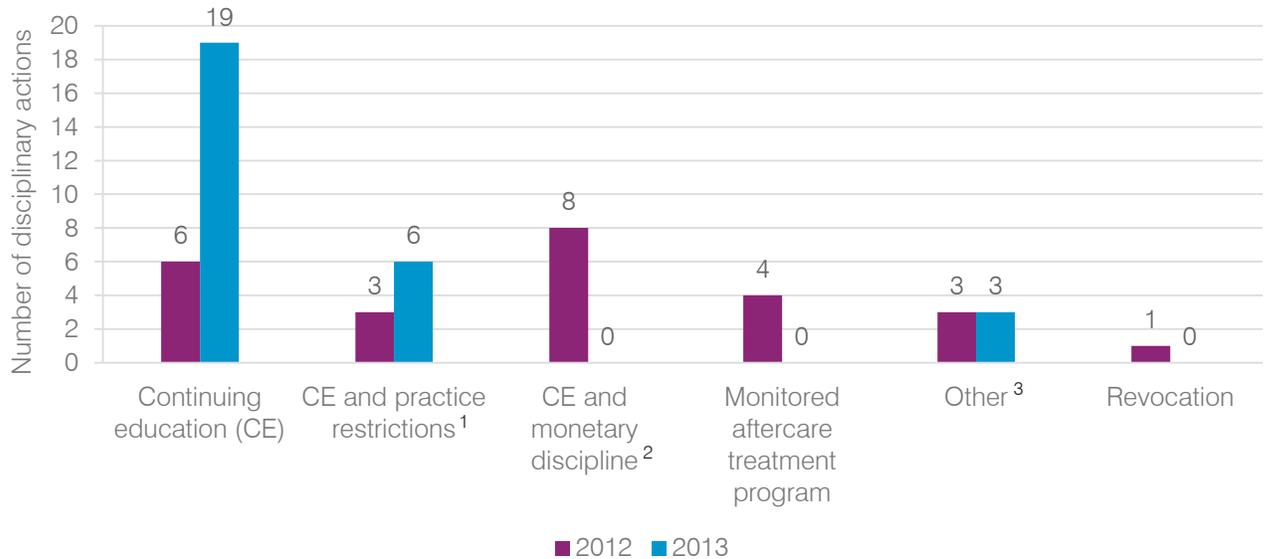
Source: Auditor General staff analysis of the Board's complaint reports.

- **Board discipline may not be appropriate to address some complaints and substantiated violations**—In fiscal years 2012 and 2013, the Board imposed a total of 25 and 28 disciplinary actions, respectively, to address statutory and/or rule violations. For example, as shown in

<sup>1</sup> According to the Board, it revoked a license in fiscal year 2012 because a licensee's renewal application fee payment was returned to the Board because of insufficient funds. The Board made several unsuccessful attempts to contact the licensee and decided to revoke the license for failure to comply with renewal requirements.

Figure 2, for 19 of the 28 disciplinary actions the Board took in fiscal year 2013, it required licensees to take continuing education to address violations. Another 6 disciplinary actions involved a requirement for continuing education combined with some form of a practice restriction. For the remaining 3 disciplinary actions, the Board imposed either an administrative penalty, restitution, practice restriction, and/or probation.

**Figure 2: Board-ordered disciplinary actions  
Fiscal years 2012 and 2013**



<sup>1</sup> Practice restrictions include restrictions placed on the licensee's ability to practice, probation, and/or practice assessments.

<sup>2</sup> Monetary disciplines include administrative penalties and/or restitution. In fiscal year 2012, the Board also required a licensee to retake the jurisprudence examination.

<sup>3</sup> Other includes certain disciplines assessed without continuing education. For example, the Board assigned administrative penalties, practice restriction, and restitution or practice assessment with probation.

Source: Auditor General staff analysis of the Board's complaint reports.

However, auditors' review of the five quality-of-care complaints closed in fiscal years 2012 and 2013 found that for three of the complaints, the Board may not have imposed disciplinary action that was consistent with the nature and severity of the complaints' substantiated violations, and any prior disciplinary history. Specifically:

- One complaint alleged that a patient's death resulted from the licensee's improper use of sedation during treatment. The investigative report indicated that the licensee's actions contributed to the patient's death and identified four deviations from the standard of care, such as inadequately performing the physical examination, the lack of proper monitoring skills, and using an inappropriate conscious sedation technique. However, according to a board official, because an autopsy was not performed, the patient's death could not be definitively linked to the licensee's actions. The Board substantiated the findings contained in the investigative report and determined that the

licensee's deviations from the standard of care constituted a violation of A.R.S. §32-1201(21)(n)—any conduct or practice that constitutes a danger to the health, welfare, or safety of the patient or the public.<sup>1</sup> The licensee had voluntarily taken 12 hours of continuing education observing sedation practices in a dental school setting before the Board reviewed the complaint and did not have any prior complaint cases. Taking these factors into consideration, the Board resolved the complaint by adopting the Committee's recommendations to require the licensee to take 16 hours of hands-on continuing education in the area of sedation protocol. Additionally, the Board suspended the licensee's sedation permit for a minimum of 6 months until he completed the continuing education.<sup>2</sup>

- A second complaint alleged that a dental procedure resulted in the partial paralysis of a patient's face. The investigative report indicated that the licensee had numerous deviations from the standard of care, including performing a complicated surgery instead of referring the patient to a specialist, using an improper surgical technique, and continuing a surgery even though the patient indicated they were in pain during the procedure. Similar to the previous complaint, the Board substantiated the findings contained in the investigative report and determined that the licensee's deviations from the standard of care constituted a violation of A.R.S. §32-1201(21)(n). Consistent with the Committee's recommendations, the Board resolved this complaint by directing the licensee to take 24 hours of continuing education, which included 12 hours of recordkeeping, 6 hours of medical prescribing, and 6 hours of treatment of surgically-caused paralysis. Additionally, the Board restricted the licensee's practice in oral surgery until the continuing education was completed. The licensee was able to continue the practice of dentistry in other areas. Prior to this complaint, the licensee had been the subject of five other complaints that were adjudicated between October 1984 and April 2004 where the Board imposed disciplinary action to address various deviations from the standard of care, all of which the Board determined violated A.R.S. §32-1201(21)(n).<sup>3</sup>
- A third complaint alleged that a licensee performed inadequate crown and bridge work on a patient that resulted in additional pain for the patient and the investigative report identified several deviations from the standard of care. The Board substantiated these deviations and, similar to the previous two complaints, found that the licensee violated A.R.S. §32-1201(21)(n). Consistent with the Committee's recommendations, the Board resolved this complaint by directing the licensee to take 6 hours of continuing education in diagnosis and treatment planning in the areas of crown and bridge and periodontal disease. No additional disciplinary action was imposed. This licensee also had been the subject of one prior complaint where the Board imposed discipline in December 1993 to address deviations from the standard of care including not taking x-rays prior to treatment and inadequate record-keeping that violated A.R.S. §32-1201(21)(n).

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<sup>1</sup> According to a board official and as suggested by complaints auditors reviewed, the Board typically determines that deviations from the standard of care constitute violations of A.R.S. §32-1201(21)(n).

<sup>2</sup> According to the Board, the licensee voluntarily completed 60 hours of continuing education, including the 12 hours of observing sedation practices, after the incident with the patient occurred and prior to the Board adjudicating the complaint. The Board took this into consideration when sanctioning the licensee.

<sup>3</sup> This licensee was also the subject of another complaint that the Board adjudicated in December 2013 by censuring the licensee and ordering restitution to address various deviations from the standard of care.

- **Escalated discipline may not effectively deter licensees from continuing to deviate from the standard of care**—A further review of some complaints involving licensees who had received prior discipline found that the discipline the Board ordered may not have served as an effective deterrent to continuing deviations from the standard of care. In addition to the two complaints involving licensees with prior discipline that were previously mentioned, auditors reviewed five licensees with multiple complaints that resulted in disciplinary action since calendar year 1985. These licensees had from 3 to 18 substantiated complaints each. For all five of the licensees, the Board's imposed discipline, consisting of additional continuing education, sometimes combined with other disciplinary action, may have been insufficient to address the licensee's continued noncompliance with statutes. For example, one licensee had seven complaints that resulted in disciplinary action between 1994 and 2010 for statutory violations. Specifically:
  - 1994 complaint—Decree of Censure and 12 hours of continuing education to address inadequate endodontics procedures and pain management, not answering patient phone calls, and inadequate recordkeeping;
  - 1994 complaint—Decree of Censure and 6 hours of continuing education to address inadequate X-rays, diagnosis and treatment of patient complaints, and pain management;
  - 1995 complaint—Decree of Censure for inadequate crown and bridge work;
  - 1999 complaint—A \$500 civil penalty and 30 hours of continuing education to address inadequate diagnosis and treatment planning;
  - 2001 complaint—A \$500 civil penalty for failure to comply with the Board's previous order to complete continuing education;
  - 2006 complaint—6 hours of hands-on continuing education for failure to refer a patient to a specialist for endodontic treatment; and
  - 2010 complaint—Decree of Censure, 22 hours of continuing education, and restricted practice in crown and bridge work until continuing education was completed to address inadequate records including medical history, X-rays, and diagnosis and treatment plans; and failure to refer a patient to a specialist.

Although the Board has taken various disciplinary actions, including requiring continuing education, to address this licensee's history of substantiated complaints and statutory violations for practicing below the standard of care, its enforcement approach has not effectively protected the public by ensuring this licensee follows the standard of care. In fact, for the 2010 complaint, the Board determined that the licensee's actions represented gross malpractice or repeated acts constituting malpractice, yet again imposed continuing education, a decree of censure, and restricting the licensee's practice until the continuing education was completed despite having the ability to impose stronger disciplinary action, such as license suspension or revocation.

- **Board has addressed deviations from the standard of care by imposing nondisciplinary action**—For two of the five quality-of-care complaints closed in fiscal years 2012 and 2013, the Board issued nondisciplinary letters of concern to address deviations from the standard of care. Although not precluded from doing so, imposing nondisciplinary action to address potential statutory violations that may result from deviating from the standard of care may not serve as an effective deterrent for violating statutes. For example, for one of these complaints, the allegations involved complications during or after treatment and that the patient was not adequately informed about the treatment plan. Although the investigative report indicated that the surgical procedure the licensee performed met the standard of care, the licensee did not document informed consent for the procedure. According to the Board, the standard of care, at a minimum, requires a dentist to document somewhere in the treatment record that he or she obtained informed consent and failure to do so may constitute unprofessional conduct under A.R.S. §32-1201(12)(n).

To ensure it takes appropriate and consistent nondisciplinary and disciplinary action to address statutory and/or rule violations, the Board should develop guidance to help direct its efforts. The Board does not have any formal guidance that specifies what actions are available to it and which actions it should take for specific statutory and/or rule violations, including deviations from the standard of care. Without formal guidance, it is unclear how the Board determines when nondisciplinary or disciplinary action is appropriate, including escalated disciplinary actions. Auditors' review of eight other states' dental boards found that California, Washington, and Texas use guidelines to determine appropriate disciplinary action. For example, California's disciplinary guidelines include minimum and maximum sanctions for each violation type in addition to facts to be considered when determining appropriate action. Additionally, according to the National State Auditors Association (NSAA), regulatory boards should develop an enforcement process that adequately protects the public by ensuring licensees comply with board requirements.<sup>1</sup> The NSAA suggests that the levels of action should be relevant to the number and severity of the violations. Finally, according to regulatory enforcement literature, effective regulatory strategies differentiate between licensees who voluntarily comply with regulations and those who do not and impose strong disciplinary action against licensees who continually violate regulations.<sup>2</sup>

However, the Board's enforcement approach may not deter licensees from actions that can pose harm to the health, safety, and welfare of the public, and potentially violate statute and/or administrative rule. In addition, without imposing strong actions when escalating discipline, the Board potentially lessens the effect of its disciplinary action. Therefore, 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 complaint allegations.

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<sup>1</sup> National State Auditors Association. (2004). *Carrying out a state regulatory program: A National State Auditors Association best practice document*. Lexington, KY: Author. The National State Auditors Association is an organization that provides information and best practices to auditors at the local, state, and federal government levels.

<sup>2</sup> Braithwaite, J., Walker, J., & Grabosky, P. (1987). An enforcement taxonomy of regulatory agencies. *Law & Policy*, 9(3), 323-351.

## Board resolved most complaints reviewed in a timely manner, but should use its database to better track timeliness

The Board investigated and adjudicated most of the complaints auditors reviewed in a timely manner, but should improve its complaint monitoring and tracking throughout the complaint investigation and resolution process. The Office of the Auditor General has found that Arizona regulatory boards should resolve complaints within 180 days of receiving them, which includes the time to both investigate and adjudicate the complaints. Auditors reviewed a random sample of 20 quality-of-care complaints that the Board closed in fiscal years 2012 through 2013 and found that the Board resolved 17 of these complaints within 180 days. However, for 2 of the complaints auditors reviewed, the Board took 200 and 243 days to resolve them.<sup>1</sup> Factors that contributed to the delays in resolving these complaints included extensions granted to licensees to respond to board requests for information and late responses from a licensee.

Although the Board resolved most of the complaints auditors reviewed in a timely manner, improvements to its database, including complaint reports the database generates, would enhance its ability to monitor and track complaint resolution timeliness. Specifically:

- **Board staff inconsistently enter complaint-opened-date information into the database—** Although board policy requires board staff to use the date a complaint was received as the open date, board staff have inconsistently followed this policy. Auditors' review of 30 open complaint dates in the database identified 24 complaints where the open date in the database differed from the complaint received date by 1 to 27 days. Additionally, auditors observed board staff entering the incorrect open date into the database. Instead of using the complaint received date, board staff used the data entry date as the open date.
- **Database does not generate a report that includes some key date information—** Board staff can generate a database report that includes the date the Board receives documents from the licensee, the date the complaint is received, and pending-complaint-status information. However, board staff cannot use this report to effectively monitor complaint timeliness and instead must export the data in this report to a spreadsheet to monitor complaints. Additionally, board staff record the date that the licensee completes required disciplinary action as the complaint-closed date, instead of the date the complaint was adjudicated.<sup>2</sup> Therefore, the Board cannot determine from the database the time it takes to process complaints from the date the complaint was opened to the date it was adjudicated. The Board has consulted with its contractor and in April 2014 added additional date fields to its database to record the received date and adjudication date.

To effectively monitor complaints and the timeliness of their resolution, the Board should develop policies and procedures to help ensure the consistent and accurate entry of complaint information into its database. Further, the Board should continue its efforts to enhance its

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<sup>1</sup> For 1 of the 20 quality of care complaints reviewed, the Board did not retain sufficient documentation to determine whether it resolved the complaint in a timely manner.

<sup>2</sup> According to the Board, this is the date the licensee completed all requirements in the board order, such as continuing education or paying restitution.

database's ability to monitor complaints by working with its contractor to generate a comprehensive report to monitor and track its complaints through the complaint process.

## Recommendations:

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.
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.
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.
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 complaint process.



# Public information

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*Although the Board provides appropriate information regarding disciplinary history on its Web site, it should implement revised procedures to respond to information requested by phone.*

## Board should improve its provision of information to public

The Arizona State Board of Dental Examiners (Board) provides appropriate public information on its Web site, but not over the phone. Specifically, auditors found that the Board's Web site provided accurate and appropriate information about all ten complaints auditors reviewed, including disciplinary history. The information also complied with Arizona Revised Statutes (A.R.S) §32-3214, which prohibits state agencies from providing information on their Web sites regarding dismissed complaints or complaints that resulted in nondisciplinary action.<sup>1</sup> In accordance with this statute, the Board's Web site includes a statement that members of the public may request information about complaints that resulted in nondisciplinary action by contacting the Board directly. Board policy directs board staff to provide complaint information over the phone that includes the complaint description and resulting board action. However, board staff did not adequately provide this information over the phone when requested. Specifically:

- Auditors placed four phone calls to board staff in November 2013 to request complaint history for four licensees/permittees. The Board provided an accurate count of complaints for each licensee, except for dismissed complaints in accordance with statute.<sup>2</sup> However, for all four phone calls, board staff did not provide information about the complaint description or resulting board action, as board policy requires.

In response to these findings, in December 2013, board management revised board policies and procedures to clarify what complaint and disciplinary history information board staff should share over the phone and to better direct board staff on how to obtain information from the Board's database. However, board staff still did not adequately provide information in line with these new policies and procedures. Specifically:

- Auditors placed three additional calls to request complaint history information for three licensees in December 2013 and January 2014, but board staff provided complaint description and board action information in response to only one of the three phone calls, and did not provide this information for the other two phone calls. For one call, board staff reported that the licensee had no complaint history when the licensee had one complaint that resulted in disciplinary action. For the second call, the board provided inaccurate information about the complaint description and did not provide complete information about the resulting board action.

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<sup>1</sup> Three of the ten complaints auditors reviewed resulted in disciplinary action. This information was reflected on the Board's Web site. The remaining seven complaints were either dismissed or resulted in nondisciplinary action and this information was not reflected on the Board's Web site.

<sup>2</sup> A.R.S §32-1207(A)(3) specifically prohibits the Board from disclosing dismissed complaints over the phone.

The public should have access to complete and timely information about licensees, permittees, certificate holders, and registered business entities to make informed decisions. In response to these findings, board management reported that it will need to further revise the new policies and procedures the Board adopted in December 2013 to ensure that its staff consistently provide complete and accurate information in response to public requests. For example, the Board can clarify its policies to help staff better locate all complaint information in its database. Therefore, 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.

## Recommendation:

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.

# Sunset factor analysis

In accordance with Arizona Revised Statutes (A.R.S.) §41-2954, the Legislature should consider the factors included in this report in determining whether the Arizona State Board of Dental Examiners (Board) should be continued or terminated.

- 1. The objective and purpose in establishing the Board and the extent to which the objective and purpose are met by private enterprises in other states.**

Established in 1935, the Board's mission is to provide professional, courteous service and information to the dental profession and the general public through the examination, licensure, and complaint adjudication and enforcement processes, and to protect the health, safety, and welfare of Arizona citizens through a fair and impartial system. It accomplishes this mission by licensing dental professionals, such as dentists and dental hygienists; issuing permits or certificates for the use of sedation and/or anesthesia or other analgesics; registering business entities; investigating and adjudicating complaints against licensees, permittees, certificate holders, and registered business entities and disciplining violators when necessary; providing information to the public; and promulgating administrative rules and regulations regarding the practice of dentistry (see Introduction, pages 1 through 3, for additional information regarding board responsibilities).

Auditors did not identify any states that met the Board's objective and purpose through private enterprises.

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

The Board has, in part, met its statutory objective and purpose by issuing licenses and permits to applicants who meet the Board's application requirements in a timely manner, adequately investigating complaints, and resolving most complaints auditors reviewed in a timely manner. However, as discussed in the report, the Board should take steps to address licensee noncompliance with continuing education requirements (see Licensing, pages 5 through 10), better document its complaint-resolution decisions, adopt formal guidelines for taking nondisciplinary and disciplinary action (see Complaint Resolution, pages 11 through 19), and provide complete and accurate information in response to public requests (see Public Information, pages 21 through 22).

*The analysis of the Sunset Factors includes three recommendations not discussed earlier in this report. First, as required by statute, the Board should establish a reasonable reproduction fee in its administrative rules for patient records that are transferred from one licensee to another at the patient's request (see Sunset Factor 4, page 24). Second, the Board should change its administrative rule to conform with A.R.S. §32-1240(A)(1) or propose legislation to change statute (see Sunset Factor 4, page 24). Finally, the Board should consider proposing legislation to require applicants for licensure to undergo criminal background checks similar to requirements in other states and Arizona state regulatory boards (see Sunset Factor 9, page 27).*

**3. The extent to which the Board serves the entire State rather than specific interests.**

The Board serves licensees, permittees, certificate holders, businesses, their clients, and the public throughout the State by issuing licenses, permits, and certificates to individuals, and registering businesses. In addition, it receives and investigates complaints filed by the public against licensees and permittees, and also disciplines licensees and permittees that violate board laws and rules. Further, the Board provides the public with information through its Web site regarding licensees, permittees, certified denturists, and registered business entities, including disciplinary history. Additionally, the Web site informs the public that it may contact the board office to obtain information about nondisciplinary actions the Board has taken. However, auditors found that the Board can do more to provide complete and accurate information to the public by phone (for more information, see Public Information, pages 21 through 22).

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

General Counsel for the Auditor General has analyzed the Board's rule-making statutes and believes the Board has established all administrative rules statute requires, with one exception. Specifically, the Board has not adopted rules to address A.R.S. §32-1264, which requires the Board to establish a reasonable cost for reproducing patient records when a patient requests that his/her records be copied and transferred to another licensee. Statute allows licensees to charge patients for the reasonable costs of copying and forwarding these records and requires the Board to prescribe the reasonable reproduction costs. Therefore, the Board should adopt rules that prescribe the reasonable costs for reproducing patient records when a patient requests his/her records be transferred to another licensee.

Additionally, the Board has established an administrative rule that it may not have had sufficient authority to establish. Specifically, Arizona Administrative Code R4-11-202(B) requires applicants applying for licensure by credential to submit a written affidavit confirming the dentist has practiced dentistry in the licensing state for a minimum of 5,000 hours during the 5 years immediately before applying for licensure by credential. In addition, the applicant must submit a written affidavit affirming that the applicant has complied with the continuing-dental-education requirement of the state in which the applicant is currently licensed. However, A.R.S. §32-1240(A)(1) requires only that the other state has a standard of licensure substantially equivalent to Arizona's or that the applicant has successfully completed a board-approved examination in the preceding 5 years. Consequently, the rule exceeds the Board's authority because its requirements are more stringent than the statute. Therefore, the Board should either change its administrative rule or propose legislation to change the statute to provide for the additional requirements.

**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.**

Auditors found that the Board has encouraged input from the public before adopting its rules. Specifically, in 2013, the Board revised its rules regarding anesthesia and sedation permits. As part of the process, the Board established a committee to review the proposed

rules, received oral and written comments from the public, and held a stakeholder input meeting. Additionally, the Board submitted the proposed rule changes for inclusion in the Arizona Administrative Registrar.

Auditors also assessed the Board's compliance with various provisions of the State's open meeting law for the 3 board meetings and 1 Dental Hygiene Committee meeting held between October 2013 and February 2014. For these meetings, as required by open meeting law, the Board posted meeting notices and agendas on its Web site at least 24 hours in advance and posted the notices and agendas at the physical location indicated on its Web site. In addition, the Board made audio recordings of meetings available within 3 business days following the board meetings and posted its written meeting minutes on its Web site when they were approved by the Board.

**6. The extent to which the Board has been able to investigate and resolve complaints that are within its jurisdiction.**

The Board has statutory authority to investigate and resolve complaints within its jurisdiction and has various nondisciplinary and disciplinary options available to use to address violations of statute and/or rule, such as issuing a letter of concern, ordering continuing education, imposing restrictions on the scope of practice, or suspending or revoking a license. Although auditors found that the Board appropriately investigates complaints and resolved most complaints reviewed in a timely manner, the Board should provide sufficient information in its meeting minutes to clearly communicate to the public the basis for its complaint adjudication decisions for complaints it discusses and then adjudicates in its meetings and develop and implement guidelines for taking nondisciplinary and disciplinary action (see Complaint Resolution, pages 11 through 19, for additional information).

**7. The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.**

The Attorney General is required to act for and provide the Board with the legal assistance and services it requires according to A.R.S. §§32-1266 and 41-192(A).

**8. The extent to which the Board has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.**

The Board reported that it has sought statutory changes to address deficiencies in statutes. These include the following:

- Laws 2013, Ch. 150, §4 amended A.R.S. §32-1263.02(A) by adding a 6-year limitation on making a complaint. This law also added subsections to require a licensee providing dental services for a business entity to first notify the entity of any alleged unethical conduct before filing a complaint with the Board and to submit such notice with the complaint, and prohibits the entity from taking any adverse action against the licensee.
- Laws 2012, Ch. 59, added A.R.S. §32-1207(C)(6)(7), which permits the executive director to refer cases to the Board for formal interview and to enter into agreements with regulated persons regarding substance abuse as the Board delegates.

- Laws 2011, Ch. 86, added A.R.S. §32-1207(C), which permits the executive director or designee to issue licenses, investigate complaints, and enter into consent agreements with board approval. This statutory change also added A.R.S. §§32-1236(B)(D), 32-1287(B)(D), and 32-1297.06(B)(D) to require a dentist, dental hygienist, and denturist, respectively, to submit with a renewal application an affidavit of compliance with continuing-education requirements and to permit reinstatement of a license or certificate within 24 months of expiration by filing a renewal application with a fee and a \$100 penalty. Finally, this legislation added A.R.S. §32-127, which requires dentures to be marked with the patient's name, and A.R.S. §32-1284(C)(D), which lists conduct that is grounds for denial of a dental hygienist license application.
- Laws 2011, Ch. 48, added A.R.S. §§32-1299.21 through 32-1299.36 regarding the licensing and regulation of mobile dental facilities or portable dental units.
- Laws 2011, Ch. 175, repealed and then added a new A.R.S. §32-1263.02 regarding the investigation and adjudication of complaints allowing the Board to:
  - Conduct investigations;
  - Summarily suspend a license in the interest of public health or safety;
  - Dismiss a complaint or take nondisciplinary action when there is insufficient information;
  - Conduct formal interviews after which it may dismiss or impose disciplinary or nondisciplinary action;
  - Issue subpoenas;
  - Keep patient records confidential;
  - Charge a licensee for the costs of formal hearings;
  - Accept the surrender of a license;
  - Consider former disciplinary and nondisciplinary actions in determining an appropriate sanction against a licensee; and
  - Delegate investigative authority to the executive director.
- Laws 2010, Ch. 46, added A.R.S. §32-1263.03, which authorizes the executive director to dismiss complaints that are without merit, as the Board delegates. A person who is aggrieved by the dismissal can ask for a board review.
- Laws 2010, Ch. 187, amended A.R.S. §32-1207(A) to require the Board to maintain a record of all disciplinary actions and dispositions of complaints, make dismissed complaints unavailable to the public, and make some nondisciplinary matters available to the public for only 5 years.

**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.**

To help protect public health, safety, and welfare, 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. For example, during the 2014 legislative session, the Legislature enacted laws requiring two additional regulatory boards to require license applicants to submit fingerprints for the purposes of conducting criminal background checks. Specifically, Laws 2014, Ch. 124, §6 and Ch. 102, §4 requires applicants for licensure from the Arizona Medical Board and the Arizona State Board of Pharmacy to submit a full set of fingerprints for the purposes of obtaining state and federal criminal records checks.

**10. The extent to which the termination of the Board would significantly affect the public health, safety, or welfare.**

Terminating the Board would affect the public's health, safety, and welfare if its regulatory responsibilities were not transferred to another entity. The Board's role is to protect the public by ensuring that dental professionals including dentists, dental hygienists, and denturists are qualified to provide dental care; receiving and investigating complaints against licensees alleging incompetence or unprofessional conduct; and taking action against licensees when allegations have been substantiated. The Board also provides information to the public about licensees, permittees, certificate holders, and registered business entities, including disciplinary history. These functions help protect the public from potential harm. For example, auditors reviewed complaints the Board investigated alleging actions by dental professionals that posed a threat to the public, including treatment that deviated from the standard of care for dental practitioners.

**11. 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.**

Although the audit found that the level of regulation the Board exercised varies as compared to the regulatory authority of other states' dental boards and other Arizona state regulatory boards, it appears to exercise the appropriate level of regulation. Auditors reviewed information from eight Arizona state regulatory boards and information compiled in a 2013 annual survey that the American Association of Dental Boards published.<sup>1,2</sup> The survey included responses from 38 states.<sup>3</sup> Based on the survey responses, auditors identified similarities in the levels of regulations, but differences in two key areas of regulation where the Board is less restrictive than in other states and other Arizona state regulatory boards. Specifically:

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<sup>1</sup> American Association of Dental Boards. (2013). *Composite (24th ed.)*. Chicago, IL: Author

<sup>2</sup> Auditors reviewed information from the Arizona Board of Chiropractic Examiners, State of Arizona Acupuncture Board of Examiners, Arizona State Board of Funeral Directors and Embalmers, State of Arizona Naturopathic Physicians Medical Board, Arizona Board of Occupational Therapy Examiners, Arizona State Board of Optometry, Arizona Board of Psychologist Examiners, and Arizona State Veterinary Medical Examining Board.

<sup>3</sup> Thirty-seven of the 38 states provided information about dentists and dental hygienists. One state, California, did not provide information about dental hygienists. The 12 states that did not submit information include Alabama, Colorado, Georgia, Indiana, Kentucky, Massachusetts, Michigan, Mississippi, North Carolina, Oklahoma, Pennsylvania, and Rhode Island.

- Similar to Arizona, most of the 38 states require dentists and dental hygienists to graduate from an accredited dental school and pass the national board, a clinical exam, and a jurisprudence exam to obtain a license to practice dentistry in the state.
- All 38 states, including Arizona, require continuing education to renew licenses. Continuing-education requirements for dentists ranged from 12 hours annually to 100 hours every 5 years, and for dental hygienists, ranged from 12 hours annually to 72 hours every 5 years.
- The Board does not issue specialty licenses to dentists who practice specialties recognized by the American Dental Association. However, 12 of the 38 states surveyed issue specialty licenses to dentists in areas the American Dental Association recognizes, such as endodontics, and oral and/or maxillofacial surgery.
- The Board does not conduct criminal background checks for applicants for licensure. However, 21 of the 38 states surveyed use criminal background checks as part of the license application process. Additionally, five of eight Arizona state regulatory boards auditors reviewed require valid fingerprints for conducting criminal background checks on the license applicant prior to licensure (see Sunset Factor 9, page 27, for more information).<sup>1</sup>

**12. The extent to which the Board has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.**

The Board uses private contractors for various services, including information technology services, contracts with dental consultants to investigate board complaints, and a contract with a private vendor for its Monitored Aftercare Treatment Program. In addition, the Board contracts with private vendors for its legislative services and coordinating its stakeholder meetings.

Auditors contacted eight other state dental boards—California, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Washington—and found that six of the eight states contract for services, some of which are similar to the Board, and include investigation, information technology services, and substance abuse programs.<sup>2</sup> In addition, these six states' dental boards contract for temporary employees, inspections, image scanning, and legal services.

The audit did not identify any additional areas where the Board should consider using private contractors.

<sup>1</sup> These regulatory boards are the Arizona Board of Chiropractic Examiners, Arizona State Board of Funeral Directors and Embalmers, State of Arizona Naturopathic Physicians Medical Board, Arizona Board of Occupational Therapy Examiners, and Arizona State Board of Optometry.

<sup>2</sup> Washington and California do not use private contractors or vendors for services provided by their boards.

# Appendix A

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## Methodology

*This appendix provides information on the methods auditors used to meet the audit objectives. The Auditor General and staff express appreciation to the Arizona State Board of Dental Examiners, its Executive Director, and staff for their cooperation and assistance throughout the audit.*

Auditors conducted this performance audit of the Arizona State Board of Dental Examiners (Board) in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Auditors used various methods to study the issues in this report. These methods included reviewing board statutes, rules, and policies and procedures; interviewing board members, staff, and stakeholders; and reviewing board meeting minutes and information from the Board's Web site.

In addition, auditors used the following specific methods to meet its audit objectives:

- To determine whether the Board issued licenses and permits to applicants who meet all licensing and permitting requirements in a timely manner, auditors analyzed the Board's database for 990 approved initial dentist and dental hygienist license applications the Board received in fiscal years 2012 and 2013. Auditors reviewed hard copy files for 20 of these applications with the longest time frames for approval. Further, auditors reviewed a random sample of 10 of the 22 approved general anesthesia and deep sedation permit applications that the Board received in fiscal years 2012 and 2013. Auditors also reviewed the Board's dentist and dental hygienist license and general anesthesia and deep sedation permit application materials and compared them to statutes and rules. Finally, auditors reviewed license-renewal continuing-education requirements and the Board's continuing-education audits completed in fiscal year 2013 and reviewed information from eight Arizona state regulatory boards.<sup>1</sup>
- To determine whether the Board appropriately processes complaints, auditors reviewed a judgmental sample of five complaints that the Board received in fiscal years 2012 through 2013. Auditors also reviewed a random sample of 20 quality-of-care complaints received in fiscal years 2012 and 2013 to assess timeliness. Additionally, auditors reviewed the history of complaints for a judgmental sample of five active licensees with repeat violations adjudicated after January 1, 2009; and analyzed a listing of board disciplinary actions taken in fiscal years 2012 and 2013. Finally, auditors also observed board meetings in October and December 2013 and Internal Investigative Review Committee meetings in November 2013 and January 2014; reviewed the National State Auditors Association's *Best Practices in Carrying Out a State Regulatory Program*, as well as literature regarding regulatory compliance and information from

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<sup>1</sup> Auditors reviewed information from the Arizona Board of Chiropractic Examiners, State of Arizona Acupuncture Board of Examiners, Arizona State Board of Funeral Directors and Embalmers, State of Arizona Naturopathic Physicians Medical Board, Arizona Board of Occupational Therapy Examiners, Arizona State Board of Optometry, Arizona Board of Psychologist Examiners, and Arizona State Veterinary Medical Examining Board.

the Arizona Medical Board; and contacted eight western states to obtain information about disciplinary action guidelines.<sup>1</sup>

- To assess whether the Board shares appropriate public information, auditors placed seven anonymous phone calls to board staff in November and December 2013 and January 2014 to request licensing information and complaint history for seven licensees and compared the information provided to information in the Board's database. Auditors also reviewed complaint information about specific licensees on the Board's Web site and assessed whether the information provided was consistent with statutory requirements.
- To obtain information used in the Introduction section of the report, auditors analyzed unaudited board data for the number of licenses and sedation permits issued in fiscal year 2013, and the total population of licenses, permits, certifications, and registrations as of March 2014, and reviewed unaudited board reports for the number of complaints the Board received and resolved in fiscal year 2013. In addition, auditors compiled and analyzed unaudited information from the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2011 through 2013, the AFIS Management Information System *Status of General Ledger—Trial Balance* screen for fiscal years 2012 and 2013, and board-prepared estimates for fiscal year 2014.
- To obtain information used in the sunset factors, auditors reviewed the Board's proposed rules in the Arizona Administrative Registrar in 2012 and 2013. To assess the Board's compliance with the State's open meeting law, auditors attended 3 board meetings and 1 Dental Hygiene Committee meeting held between October 2013 and February 2014 and reviewed associated public meeting notices, agendas, and meeting minutes. Further, auditors reviewed information compiled in a 2013 annual survey published by the American Association of Dental Boards and information from eight Arizona state regulatory boards, as previously mentioned.<sup>2</sup> Finally, to obtain information regarding other states' use of private contractors, auditors contacted eight western states, as previously mentioned.
- Auditors' work on internal controls included interviewing board staff and observing Internal Investigative Review Committee meetings to learn about their policies and procedures and, where applicable, testing the Board's compliance with its statutes and rules for licensing, complaint-handling, providing information to the public, and compliance with the State's open meeting law. Auditors' conclusions on these internal controls are reported in the report chapters and sunset factors. In addition, auditors conducted data validation work to assess the reliability of the Board's database in assessing licensing timeliness and whether the Board issued licenses only to applicants that submitted all the required application materials. Specifically, auditors selected a sample of ten approved initial dentist and dental hygienist applications the Board received in fiscal years 2012 and 2013 and compared information in the database against hard copy files. Additionally, auditors selected a random sample of 30 complaints opened in fiscal years 2012 and 2013 and compared them to hard copy files. Auditors determined that the Board's database was sufficiently reliable for the purpose of reviewing licensing information. However, the database needs improvements in

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<sup>1</sup> Auditors contacted state dental board management in eight other western states—California, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Washington.

<sup>2</sup> American Association of Dental Boards. (2013). *Composite* (24th ed.). Chicago, IL: Author

order to sufficiently monitor and track complaints. Therefore, auditors determined they would not use the Board's database to review complaint information.

# AGENCY RESPONSE

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**ARIZONA STATE BOARD OF DENTAL EXAMINERS**

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[www.azdentalboard.us](http://www.azdentalboard.us)

June 20, 2014

Debra K. Davenport, CPA  
Auditor General  
Office of the Auditor General  
State of Arizona  
2910 N. 44<sup>th</sup> Street, Ste. 410  
Phoenix, AZ 85018

Dear Ms. Davenport:

On behalf of the Arizona State Board of Dental Examiners, I have attached the agency's response to the Audit Report conducted by your office.

The Board and its staff sincerely appreciate the time and resources committed by the audit team to understand the complex nature of the procedures used to balance preserving the due process rights of licensees without compromising our core function of protecting the public. We would also like to take this opportunity to recognize the professionalism of your staff throughout the process.

The recommendations identified in the report, which have either been implemented or are in the process of being implemented, will allow the agency to continue in its ongoing commitment to excellence in the regulatory oversight of health professionals under the Board's jurisdiction and to better fulfill its legislative mandate to protect the public.

Sincerely,

Elaine Hugunin  
Executive Director

Attachment

Cc: Arizona State Board of Dental Examiners Members

**AUDIT RESPONSE**  
**Arizona State Board of Dental Examiners**

**Licensing and Permitting Recommendations**

To improve licensee compliance with continuing-education requirements, the Board should:

1a. Revise its continuing-education affidavit to include information on the number of continuing-education self-study hours.

**The finding of the Auditor General is agreed to and will be implemented.** In conjunction with the Auditor General, the Board will work to develop a system to achieve the desired improvements in a manner that will not impede the online renewal process.

1b. 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

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

1c. 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.

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

To help it comply with AACR4-11-303(A) (2) regarding incomplete licensee applications, the Board should:

2a. Continue to fully implement its new reports for monitoring applicant compliance with the 60-calendar-day requirement for submitting all licensee application materials;

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

2b. Ensure that it closes all applications with deficient application information that are deemed administratively incomplete after 60 calendar days;

**The finding of the Auditor General is agreed to and will be implemented.** The Board's database has been modified to include a field for the 60 day time period to ensure compliance. Additionally, the 60 day date is placed prominently on the application file and finally, the applicant is notified and the file is appropriately closed.

2c. Inform applicants of the closure of their applications and process for reapplying.

**The finding of the Auditor General is agreed to and will be implemented.** Board staff has updated the applicant letter to include more detailed information on the process to reapply.

### **Complaint Resolution Recommendations**

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 to the Board.

**The finding of the Auditor General is agreed to and will be implemented.** The Internal Investigative Review Committee (IIRC) continues to document its rationale for its complaint adjudication and recommendations which includes a licensee's complaint history.

2. The Board should include sufficient information in its meeting minutes to clearly communicate to the public the basis for its complaint-adjudication decisions.

**The finding of the Auditor General is agreed to and will be implemented.** While the Board believes its minutes comply with ARS 38-431.01, the Board recognizes improvement can always be made in documentation of minutes.

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 non-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.

**The finding of the Auditor General is agreed to and will be implemented.** The Board has obtained other state dental board guidelines referenced in the Auditor General report and will review these as well as any other appropriate documents regarding this matter and establish guidelines consistent with the Arizona Dental Practice Act.

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

**The finding of the Auditor General is agreed to and will be implemented.** Board staff has written a policy and procedure to address this and management will conduct reviews to ensure compliance with the policy and procedure.

- b. Work with its contractor to generate a comprehensive report to monitor and track its complaints through the complaint process.

**The finding of the Auditor General is agreed to and will be implemented.** Board staff is working with the contractor on an ongoing basis to enhance the reporting capability. The Board transitioned from a DOS platform to a Windows platform in 2010 and in that timeframe has made considerable improvements and continues to do so to enhance the ability to monitor licensing and complaint processes.

### **Public Information**

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.

**The finding of the Auditor General is agreed to and will be implemented.** Training will be conducted on an ongoing basis and management will conduct random call-ins to ensure appropriate information is being provided to the public. Additionally, Board staff is working to update a query from the database that will readily provide the required and accurate information for staff to give the public.

### **Sunset Factor Analysis**

2. The Board should take steps to address licensee noncompliance with continuing education requirements, better document its complaint-resolution decisions, adopt formal guidelines for taking non-disciplinary and disciplinary action and provide complete and accurate information in response to public requests.

**The finding of the Auditor General is agreed to and will be implemented.** As stated in the audit response, the Board has implemented steps to meet the recommendations.

3. The Board can do more to provide complete and accurate information to the public by phone.

**The finding of the Auditor General is agreed to and will be implemented.** As stated in the audit response, the Board has implemented steps to meet the recommendations.

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

The Board should either change its administrative rule (R4-11-202 B) or propose legislation to change the statute to provide for the additional requirements.

**The finding of the Auditor General is agreed to and will be implemented.** The Board will review and adopt and/or amend rules as required.

6. The Board should provide sufficient information in its minutes to clearly communicate to the public the basis for its complaint adjudication decisions and develop and implement guidelines for taking non-disciplinary and disciplinary action.

**The finding of the auditor General is agreed to and will be implemented.** As stated in the audit response, the Board strives to comply with ARS 38-431.01 in its documentation of minutes and will continue to do so. The Board will review and implement guidelines for taking non-disciplinary and disciplinary actions as stated in its audit response.

9. 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.

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

## Performance Audit Division reports issued within the last 24 months

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|                 |   |
|-----------------|---|
| <b>12-03</b>    | Arizona Board of Behavioral Health Examiners  |
| <b>12-04</b>    | Arizona State Parks Board   |
| <b>12-05</b>    | Arizona State Schools for the Deaf and the Blind  |
| <b>12-06</b>    | Arizona Health Care Cost Containment System—Medicaid Fraud and Abuse Prevention, Detection, Investigation, and Recovery Processes |
| <b>12-07</b>    | Arizona Health Care Cost Containment System—Sunset Factors  |
| <b>13-01</b>    | Department of Environmental Quality—Compliance Management   |
| <b>13-02</b>    | Arizona Board of Appraisal  |
| <b>13-03</b>    | Arizona State Board of Physical Therapy   |
| <b>13-04</b>    | Registrar of Contractors  |
| <b>13-05</b>    | Arizona Department of Financial Institutions  |
| <b>13-06</b>    | Department of Environmental Quality—Underground Storage Tanks Financial Responsibility  |
| <b>13-07</b>    | Arizona State Board of Pharmacy   |
| <b>13-08</b>    | Water Infrastructure Finance Authority  |
| <b>13-09</b>    | Arizona State Board of Cosmetology  |
| <b>13-10</b>    | Department of Environmental Quality—Sunset Factors  |
| <b>13-11</b>    | Arizona State Board of Funeral Directors and Embalmers  |
| <b>13-12</b>    | Arizona State Board for Charter Schools   |
| <b>13-13</b>    | Arizona Historical Society  |
| <b>CPS-1301</b> | Arizona Department of Economic Security—Children Support Services—Foster-Home Recruitment-Related Services Contracts              |
| <b>13-14</b>    | Review of Selected State Practices for Information Technology Procurement   |
| <b>13-15</b>    | Arizona Game and Fish Commission, Department, and Director  |
| <b>14-101</b>   | Arizona Department of Economic Security—Children Support Services—Transportation Services   |
| <b>14-102</b>   | Gila County Transportation Excise Tax   |

## Future Performance Audit Division reports

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Arizona Board of Executive Clemency