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December 17, 2015

The Honorable Judy Burges, Chair
Joint Legislative Audit Committee

The Honorable John Allen, Vice Chair
Joint Legislative Audit Committee

Dear Senator Burges and Representative Allen:

Our Office has recently completed an initial followup of the State of Arizona Naturopathic Physicians Medical Board (Board) regarding the implementation status of the 30 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in September 2014 (Auditor General Report No. 14-106). As the attached grid indicates:

- 3 have been implemented;
- 14 are in the process of being implemented;
- 12 have not been implemented; and
- 1 is not yet applicable.

Our Office will conduct a 24-month followup with the Board on the status of those recommendations that have not yet been fully implemented.

Sincerely,

Dale Chapman, Director
Performance Audit Division

DC:ss
Attachment

cc: Dr. Bruce Sadilek, Chair
Arizona Naturopathic Physicians Medical Board

Gail Anthony, Executive Director
Arizona Naturopathic Physicians Medical Board

State of Arizona Naturopathic Physicians Medical Board

Auditor General Report No. 14-106

Initial Follow-Up Report

Recommendation

Status/Additional Explanation

Licensing: Board should strengthen its policies and procedures for reviewing and approving licenses and certificates

1. The Board should develop and implement policies and procedures:

a. To ensure that board staff place all completed license applications on its agenda for approval; and

Implementation in process

The Board has developed policies and procedures to ensure that board staff place all completed license applications on its agenda for approval. However, because these policies and procedures had only been finalized in March 2015, auditors could not fully assess the Board's implementation of these new policies and procedures. Auditors will assess the Board's continued implementation of this recommendation at the next followup.

b. To ensure that board staff place all applicants with criminal history information, whether self-reported or resulting from the background check, on a board agenda for special consideration and approval or disapproval.

Implementation in process

The Board has created policies and procedures to ensure that board staff place all applicants with criminal history information, whether self-reported or resulting from the background check, on a board agenda for special consideration and approval or disapproval. Auditors will assess the Board's continued implementation of this recommendation at the next followup.

2. The Board should strengthen its policies and procedures, including its application and checklist, to help ensure that applicants applying for licensure by endorsement meet all statutory and rule requirement. These policies and procedures, including the application and checklist, should specify the documentation applicants must submit to demonstrate meeting all license requirements, including requirements for actively practicing naturopathic medicine for 3 years immediately preceding the application and graduating from an approved school.

Implementation in process

The Board has revised its license application and checklist to help ensure that applicants for licensure by endorsement submit information required by statutes and rules, but additional revisions are needed and planned. Specifically, board staff reported that they plan to make further changes to require endorsement applicants to submit documentation showing how they meet the statutory requirement to have practiced naturopathic medicine for 3 years immediately preceding the application.

3. The Board should develop and implement policies and procedures, including a checklist, to guide board staff in obtaining and documenting the information necessary for the Board to determine whether applicants for certificates to conduct preceptorship training programs meet the certificate requirements.

Implementation in process

The Board has started to develop an application, policies, and procedures, including a checklist, to guide board staff in obtaining and documenting the information necessary for the Board to determine whether applicants for certificates to conduct preceptorship training programs meet the certificate requirements. However, the Board's application does not include all of the requirements that are outlined in Arizona Administrative Code R4-18-503. Board staff indicated they would modify the application to include all of the required elements.

Recommendation

Status/Additional Explanation

- | | |
|---|--|
| 4. The Board should develop and implement policies and procedures to ensure it continues to audit 10 percent of all license renewal applications. | Implementation in process
The Board has developed policies and procedures that instruct staff on how to perform continuing medical education audits on individuals who renew either online or on paper. However, auditors found that board staff did not include 18 applicants who renewed on paper on the list from which they selected those to be audited in 2015. Auditors will assess the Board's continued implementation of this recommendation at the next followup. |
| 5. The Board should develop and implement policies and procedures setting forth how to perform continuing medical education audits. These policies and procedures should specify what documentation is acceptable for proving licensees have completed continuing medical education and how board staff document and report these audits' results to the Board. | Implementation in process
The Board has started to develop policies and procedures that direct staff on how to perform continuing medical education audits. However, the policies do not specify the acceptable documentation for proving that licensees have completed continuing medical education or how board staff should report licensees who are found to be in compliance with continuing medical education to the Board. |
| 6. The Board should develop and implement policies and procedures to track compliance with all licensing and certification time frames and train board staff on them. These policies and procedures should also specify the documentation that the Board should retain to allow it to track compliance with its time frames and what information board staff should periodically report to the Board. | Not implemented
The Board has not yet developed policies and procedures to track compliance with all licensing and certification time frames. Board staff indicated that they plan on developing these policies and procedures once its new timeliness reports are developed. |
| 7. To effectively track and report licensing time frame information, the Board should develop and implement an electronic mechanism for doing so. | Implementation in process
The Board is working to create reports on its database that will be able to show how many licenses within a given time period were issued within the licensing time frames; however, these reports have not yet been finalized. The Board is in the processes of testing these reports to ensure that the reports provide accurate information and reported that it plans to fully implement these reports by December 2016. |

Complaint resolution: Board should strengthen its process for handling complaints

1. The Board should develop and implement policies and procedures that:

- a. Establish when it is appropriate for the executive director to dismiss a complaint, such as when the executive director is not also the investigator and there is no evidence to support the complaint allegations;

Not implemented

Despite the risk of inappropriately dismissing complaints when the same person investigates, reviews, and decides on complaints, the Board voted at its September 11, 2014, meeting to continue allowing the executive director to dismiss complaints, including complaints that the executive director has investigated. The Executive Director modified the Board's policies and procedures to reflect this vote, which specify that after investigating the complaint, if the executive director finds no evidence to support the allegation of unprofessional conduct the Executive Director may either dismiss the complaint or make a recommendation to the Board to dismiss the complaint.

- b. Establish when it is appropriate for the executive director to recommend that the Board dismiss a complaint, such as when the executive director is the investigator and there is no evidence to support the complaint allegation; and

Not implemented

See explanation for complaint resolution recommendation 1a.

- c. Require that the executive director provide the Board with a summary of each complaint dismissal and the basis for the dismissal. This policy should pertain to both complaints the executive director dismisses and those referred for board dismissal.

Implementation in process

The Board has modified its policies and procedures to indicate that executive director dismissals should be reported to the Board. However, the policies and procedures do not specify how the executive director will report dismissals to the Board, including the level of detail the executive director needs to report. According to the Executive Director, she has not dismissed any cases or referred any cases to the Board for dismissal since the Board voted to continue her authority to dismiss complaints.

2. The Board should continue to develop and implement complaint discipline policies and procedures that:

- a. Ensure that complaints with similar statutory and/or rule violations receive consistent discipline; and

Implementation in process

The Board has started to develop policies and procedures to group similar violations together and list the disciplinary options available to the Board. For example, according to the draft policy, a violation for substance abuse and chemical dependency may result in discipline ranging from summary suspension pending a hearing to a consent agreement for suspension/probation with ordered treatment. Auditors will assess the finalization and implementation of these policies and procedures at the next followup.

Recommendation

Status/Additional Explanation

- b. Escalate discipline when appropriate, such as for licensees with multiple or prior complaints.

Implementation in process

The Board has started to develop policies and procedures stating when it is appropriate to increase the severity of sanctions for repeated violations. However, the draft policy does not include the recommended sanctions for repeated violations. Auditors will assess the finalization and implementation of these policies and procedures at the next followup.

- 3. The Board should develop and implement policies and procedures that:

- a. Specify time frames for completing an investigation's key steps, including how long it should take to open complaints after receipt and the additional time the Board may grant licensees to respond to complaint allegations;

Not implemented

Board staff reported that they have not had time to implement this recommendation but plan to implement it by the next followup.

- b. Include criteria for prioritizing complaints based on the nature of the alleged violations and the extent to which these alleged violations endanger the public's health and safety.

Implementation in process

The Board has started to develop policies and procedures for prioritizing complaints based on the nature of the alleged violation and the extent to which these alleged violations endanger the public's health and safety. For example, according to the Board's draft policy, complaints regarding actions that pose substantial danger to public safety and represent a potential for imminent threat, such as allegations of drug or alcohol impairment while treating patients, should be assigned high priority. Auditors will assess the finalization and implementation of these policies and procedures at the next followup.

- c. Establish requirements for tracking and monitoring complaint processing, including establishing a mechanism to track key steps' completion in the complaint-handling process, ensuring that board staff record key information on complaint investigations in a timely manner, and identifying responsibilities for board staff and the Board to actively monitor the progress of complaint investigations and address reasons for delay; and

Not implemented

See explanation for complaint resolution recommendation 3a.

- d. Require staff to submit reports to the Board at defined intervals regarding the status of open complaints and the timeliness of closed complaints to help the Board identify and address factors in the complaint-handling process that may impact timeliness.

Not implemented

See explanation for complaint resolution recommendation 3a.

Recommendation

Status/Additional Explanation

4. The Board should develop and implement policies and procedures that indicate under what circumstances it will investigate complaints that originate in another state.

Implemented at 12 months

Although auditors recommended that the Board develop and implement policies and procedures that indicate when it will or will not investigate complaints that originate in another state, in March 2015, the Executive Director developed policies and procedures that specify that the Board will always investigate allegations of unprofessional conduct that originate in another state. The Executive Director explained that the policy specifies that the Board will always investigate allegations of unprofessional conduct that originate in another state because the statute defining unprofessional conduct, A.R.S. §32-1501(31), indicates it applies whether the conduct occurs in Arizona or elsewhere.

5. The Board should determine whether it needs additional investigative resources to help ensure it processes complaints in a timely manner. Specifically, the Board should:

- a. Assess the efficiency of its complaint investigation process, and other processes, tasks, and responsibilities that its executive director performs. This would help determine if these processes are as efficient as possible and whether the complaint investigation process can be streamlined, or other processes and tasks can be streamlined and/or eliminated. As part of this assessment, the Board should also determine whether its executive director has sufficient time to investigate complaints and perform the other required executive director tasks and responsibilities. The Board should document the results of these assessments, including how much time the executive director must spend to perform the various processes, tasks and responsibilities assigned to her, including complaint investigations;

Not Implemented

Board staff reported that they have not had time to implement this recommendation but plan to do so before the next followup.

- b. Determine its complaint investigative workload, including an estimate of its future investigative workload and document the results;

Not Implemented

See explanation for complaint resolution recommendation 5a.

- c. Determine investigative staffing needs and document the results; and

Not Implemented

See explanation for complaint resolution recommendation 5a.

- d. If after completing these assessments the Board determines that it needs additional investigative resources, it may be able to request additional appropriations to use some of its end-of-year fund balance to contract for investigative assistance on an as-needed basis.

Not yet applicable

See explanation for complaint resolution recommendation 5a.

Recommendation**Status/Additional Explanation****Public Information: Board should improve its provision of public information**

1. The Board should develop policies and procedures for ensuring that board staff update the database with the correct certificate statuses in a timely manner.

Implemented at 12 months

2. The Board should develop and implement public information policies and procedures to guide staff on what information to provide about licensees and certificate holders over the phone and how quickly to return phone calls, and train its staff accordingly.

Implementation in process

The Board has developed policies and procedures for what information should be provided over the phone and how quickly to return phone calls. For example, the policy and procedures specify that staff are to provide callers with the licensee's license number, license standing, and whether there are any disciplinary actions against the licensee. However, when auditors placed an anonymous phone call to the Board to obtain information about a licensee, auditors were not provided with all of the information that the policies and procedures specify staff are to provide callers. Auditors will assess the Board's continued implementation of this recommendation at the next followup.

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

1. To ensure that training programs are effectively preparing individuals to practice naturopathic medicine and that physicians' dispensing and prescribing practices are appropriate the Board should:

a. Develop and implement an inspection process including policies and procedures, training, and oversight, to ensure it conducts all required inspections and conducts them in a timely manner.

Not implemented

The Board has decided to seek legislation to remove the statutes that require it to perform periodic inspections. According to the Board, A.R.S. §32-1504(A)(6) regarding inspection of naturopathic training programs are outdated because these training programs are overseen by other entities, such as the medical colleges that conduct the training. Additionally, the Board believes that A.R.S. §32-1509(C)(20) regarding inspection of naturopathic doctors' dispensing and prescribing practices is unnecessary because other entities oversee doctors dispensing and prescribing practices. Auditors will review the Board's progress in seeking these statutory changes at the next followup.

b. In developing and implementing this recommendation, the Board will also need to assess its staff workload and determine whether it needs additional staff, whether it could contract for this function, and it will need to seek an increase in appropriations to cover these inspections' cost.

Not implemented

The Board intends to seek legislation to remove the statutes that require it to perform periodic inspections (see explanation for Sunset Factor recommendation 1a). If the statutory requirements are eliminated, this recommendation will no longer be applicable. Auditors will assess the status of this recommendation at the next followup.

Recommendation

Status/Additional Explanation

2. The Board should develop and implement policies and procedures for approving schools of naturopathic medicine and renewing approved schools annually.

Not implemented

The Board has not implemented this recommendation. According to the Executive Director, she will propose to the Board that they vote annually to approve a list of approved schools based on a list the Council of Naturopathic Medical Education issues.

3. The Board should develop and implement policies, procedures, and an application form for processing license reinstatement requests:

- a. The procedures and form should outline the type of information applicants with a suspended or revoked license must submit in order for the Board to determine whether to reinstate their licenses.

Implementation in process

The Board has developed an application for requesting the reinstatement of a license that has been retired, expired, or revoked. This new application requires those applying for reinstatement of a revoked medical license to list the evidence they are submitting with the application to show that the basis for revocation has been removed. The Board has also developed a checklist for processing reinstatements, but has not developed policies and procedures to guide staff in processing reinstatement applications. According to board staff, no one has applied for reinstatement since the Board developed the new application form. Auditors will assess the finalization and implementation of the policies and procedures at the next followup.

- b. The Board should also work with its Assistant Attorney General to determine whether it should specify the requirements for reinstatement in administrative rules.

Implementation in process

The Board is in the process of amending its administrative rules to specify what information must be provided by applicants applying for reinstatement of a license. Under these proposed rules, applicants would have to provide documentation showing that the basis for the suspension or revocation has been removed and that the reinstatement of a license or certificate does not constitute a threat to the public health and safety.

Sunset Factor #9:

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

1. The Board should seek an amendment to A.R.S. 32-1523 to require applicants for licensure by endorsement to take and pass the elective exams for acupuncture and minor surgery or restrict them from practicing in these areas if they have not passed these elective exams.

Implemented at 12 months

The Legislature amended A.R.S. §32-1523 in the 2015 legislative session to require applicants for licensure by endorsement to take and pass the elective exams for acupuncture and minor surgery. If an applicant is otherwise qualified but does not take or pass the elective exams, the applicant will be issued a license that does not include these practice areas.