

## REPORT HIGHLIGHTS PERFORMANCE AUDIT

### Subject

The Board was established in 1975 to license nursing care institution administrators in order to meet federal Medicaid requirements. In 1990, the Board also received authority to certify assisted living facility managers.

### Our Conclusion

The Board needs to investigate complaints in a timely manner. The Board should also ensure that its staff provide accurate and complete information to the public. Other operational improvements should also be made and the executive director should provide regular reports to the Board on its activities. The Board and its staff should also comply with state requirements for handling cash, procurement, and travel reimbursement.



# 2004

## The Board Needs To Improve Complaint Processing

The Board licenses nursing care institution administrators and issues certificates to assisted living facility managers. The Department of Health Services (DHS) licenses the facilities, which the administrators and managers operate. While the Board performs a necessary licensing and regulatory function, the State must also have such an agency to qualify for federal Medicaid monies.

### Key Numbers As of August and December 2004

138	Nursing Care Institutions
290+	Licensed Administrators
186	Assisted Living Centers
1,279	Assisted Living Homes
2,200+	Certified Managers

**Untimely investigations result in dismissals**—In fiscal years 2003 and 2004, the Board had to dismiss 53 complaints it had received in fiscal years 1999 through 2002. Twenty-one of these were dismissed because the person's license or certificate had expired and the Board no longer had jurisdiction. For several others, the complaint information was old and incomplete. Of greater concern is that administrators or managers named in these complaints could continue to operate while complaints against them languished.



### Case Example:

A complaint received from DHS in September 1999 alleged that the manager of an assisted living facility abused and neglected residents. DHS, which licensed the facility, substantiated the allegations in August 1999. However, the manager maintained her certificate until June 2001, when it expired, and therefore was eligible to manage another facility until that time. The Board did not consider the complaint until November 2003.

**Recent complaints are also resolved slowly**—It appears that over 100 of the 126 complaints received in fiscal years 2003 and 2004 remained open as of July 2004. A random sample of 25 of these complaints showed that they had been open between 260 and 680 days. Four of these alleged abuse and neglect and had been open for more than a year.

A concern with such extensive delays is that evidence becomes harder to obtain and witnesses become unavailable or forget details.

### Case Example:

In February 2003, the Board received a complaint accusing an administrator of neglect when a resident developed gangrene in an improperly cared-for wound. Information in the complaint file indicated that by May 2003, the Board had the resident's medical records, the administrator's response, and a DHS report substantiating one of the allegations. It appears from the file that no further investigation occurred. According to the executive director and the investigator, other, higher-priority complaints took precedence over this one.

## Several factors contribute to untimely investigations

- High turnover of investigators—the Board had five different investigators in fiscal years 2003 and 2004.
- A lack of adequate staff—the Board has two part-time investigators. Although the Legislature authorized another full-time investigator position, the executive director changed it to a business manager position.
- The Board lacks written guidelines for categorizing and prioritizing complaints based on seriousness.
- The Board does not have time frames for completing investigative steps.
- The Board lacks policies and procedures for obtaining all relevant information and determining what additional work should be performed on cases referred from DHS.

**Some changes needed in complaint adjudication process**—Of 19 complaints auditors reviewed that the Board received during fiscal years 2003 and 2004 and has resolved, it appears that the Board appropriately adjudicated all but one of these complaints based on the information developed in the

investigations. However, the adjudication process can be improved by:

- Issuing letters of concern only when insufficient evidence of a violation exists
- Giving the Board continuing jurisdiction over practitioners whose licenses/certificates expire before action is taken.

Statute permits the Board to issue letters of concern, which are not disciplinary actions. These letters can be issued when the Board has insufficient evidence of a violation but still wants to express a concern. However, in two additional cases auditors observed, managers admitted to violations and the Board still issued letters of concern.

Some licensees have avoided a disciplinary action on their record by letting their licenses or certificates lapse. Currently, the Board has jurisdiction only over licensed or certified individuals. Other licensing boards, such as the Arizona Medical Board and the Arizona Nursing Board, have authority to take disciplinary action against practitioners even after their licenses have expired.

## Recommendations

### The Legislature should consider:

- Revising statute to allow the Board to discipline administrators and managers whose licenses/certificates have expired.

### The Board should:

- Contract for an investigator or return the business manager position to that of an investigator.
- Develop policies and procedures for prioritizing complaints and investigating DHS-referred complaints.
- Establish investigation time frames.
- Monitor complaint investigations.
- Use letters of concern appropriately.

## Board Practices Restrict Access To Public Information

Board staff would not disclose some information that should be available to the public, such as information on complaints. It appears that staff is not aware of what information may be available to the public. Detailed written policies regarding what information is available and training would assist staff in

appropriately responding to public information requests.

The Board should also ensure the information on its Web site is accurate, and provide more information as resources permit, such as the number, nature, and resolution of complaints, and the Board's meeting minutes.

### Recommendations

The Board should:

- Establish detailed policies regarding public information and train its staff.
- Ensure its Web site is accurate and expand its content as resources allow.

## The Board Should Improve Oversight of Operations

The Board needs to address other operational problems, including:

**Ineffective use of resources**—Earlier, we described the executive director's reallocation of an investigator position to a business manager position. Five of six state boards of similar size do not have an employee strictly dedicated to administrative activities, and the need for a business manager at the expense of an investigator for this Board is not apparent. The duties performed by this position could potentially be shared among the executive director, administrative assistant, and licensing coordinator.

**Ineffectively managed financial resources**—The Board also has been spending more money than it receives. The Board's fund balance has dropped from over \$457,000 as of July 2002 to less than \$115,000 by the end of September 2004.

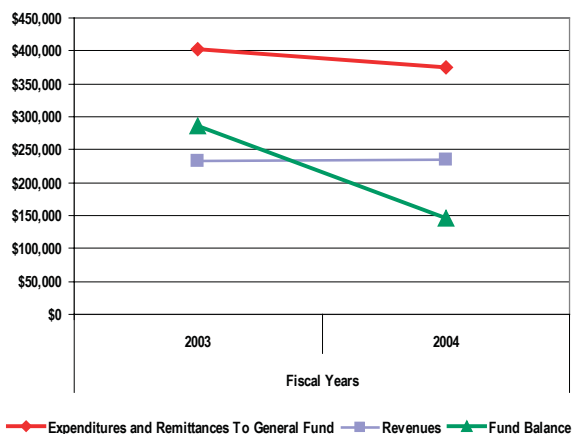
To resolve this situation, in April 2004 the Board raised all of its fees to the

maximum allowed.

The Board projected this would increase its fund balance by approximately \$83,000 in fiscal year 2005. However, in the first quarter of fiscal year 2005, the Board's expenditures exceeded revenues by over \$32,000.

**Cases not sent to hearings**—The Board sends complaints to the Office of Administrative Hearings (OAH) for a formal hearing when it appears the violations were knowingly committed and are serious. However, as of August 2004, six complaints the Board directed to formal hearing prior to March 2004 have not yet been sent to the OAH.

Expenditures, Revenues, and Fund Balance Through September 30, 2004



**Some inaccurate data**—The Board's database has some missing and inaccurate complaint information and some incomplete licensing information.

**Improved reporting needed**—Similar to other boards, the executive director should provide written reports to the Board on finances, initial applications received, investigation and complaint status, and other administrative activities.

### Recommendations

The Board should:

- Assess its financial situation and take actions to ensure it is financially stable.
- Improve the quality of information in its database.
- Ensure staff send complaints to the OAH as directed.
- Require the executive director to provide written reports regarding the agency's operations including status of complaints, hearings, licenses, and finances.

## State Requirements Not Always Followed

The Board has not always followed requirements regarding cash handling, procurement, and travel reimbursement.

**Cash handling**—The *State of Arizona Accounting Manual* establishes cash-handling requirements. For example, cash receipts totaling more than \$500 must be deposited daily. However, a review of the Board's receipt log for July 2004 indicated that the Board deposited receipts, on average, about every 6 days. These deposits ranged from \$2,300 to almost \$10,000, and included \$3,400 that was not deposited for over 10 days.

**Procurement violations**—According to a December 2004 Arizona Department of Administration (DOA) internal audit, a

contract for computer consulting services was entered into without prior approval from DOA and exceeded the Board's \$10,000 procurement limit. We found that in the following year, fiscal year 2005, the contract was split into two contracts, avoiding the procurement limit. The Board also did not competitively procure these contracts.

**Travel reimbursement policies not always followed**—According to the December 2004 DOA internal audit, some travel claims by the Board and staff exceeded the allowable amounts for food, lodging, and parking. For example, the executive director and a board member were reimbursed for meals when meals were included in the conference cost and also were reimbursed for an extra night's stay after the conference ended.

### Recommendations

The Board should:

- Strengthen its cash-handling procedures.
- Follow state procurement policies.
- Follow state travel policies and recover travel overpayments.

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Contact person for this report:  
Dale Chapman