



DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

November 6, 2009

The Honorable Thayer Verschoor, Chair
Joint Legislative Audit Committee

The Honorable Judy Burges, Vice Chair
Joint Legislative Audit Committee

Dear Senator Verschoor and Representative Burges:

Our Office has recently completed a 24-month followup of the Board of Homeopathic Medical Examiners (Board) regarding the implementation status of the 20 audit recommendations (including sub-parts of the recommendations) presented in the performance audit and sunset review report released in August 2007 (Auditor General Report No. 07-07). As the attached grid indicates:

- 14 have been implemented;
- 4 are in the process of being implemented; and
- 2 are no longer applicable.

Unless otherwise directed by the Joint Legislative Audit Committee, this concludes our follow-up work on the Board's efforts to implement the recommendations from the August 2007 performance audit report.

Sincerely,

Melanie M. Chesney, Director
Performance Audit Division

MMC:Mcv
Attachment

cc: Christine Springer, Executive Director
Board of Homeopathic Medical Examiners

BOARD OF HOMEOPATHIC MEDICAL EXAMINERS
Auditor General Report No. 07-07
24-Month Follow-Up Report

Recommendation

Status/Additional Explanation

Finding 1: Legislature should consider best regulation method

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 1.1 The Legislature should consider whether there is a need to continue the Board. If the Board is not continued, the Legislature would need to determine how to address the issue of those homeopathic physicians left without a license to practice. For example, the Legislature could require them to obtain either an allopathic or osteopathic license to continue to practice, or allow them to be grandfathered in to the respective board that previously licensed them if their licenses are or were in good standing. | Implemented at 12 Months |
| 1.2 If the Board is not continued, the Legislature would need to determine how to address the issue of registering homeopathic medical assistants. For example, the Legislature could permit homeopathic medical assistants to continue as such without requiring the training prescribed by rule or allopathic and osteopathic medical assistants, authorize the AMB or Osteopathic Board to set up a registration system for such assistants as currently exists for the Homeopathic Board, or take no action, which would require homeopathic medical assistants to qualify under the existing AMB or Osteopathic Board rules. | No Longer Applicable
The Legislature continued the Board until 2010, so this recommendation is no longer applicable. |
| 1.3 If the Board is continued, the Legislature should consider: | |

Recommendation

Status/Additional Explanation

- a. Forming a study committee comprising, at a minimum, members of the Board, the AMB, and the Osteopathic Board to determine the best way to help ensure that one board's actions do not negate or mitigate another board's actions, including any recommended statutory changes; and

Implemented at 24 Months

Although no legislation has been introduced to address this recommendation, the Board has taken other steps to address it. As of October 2009, representatives of the Board, the Arizona Medical Board, and the Board of Osteopathic Medical Examiners had met multiple times over the past 2 years to discuss this issue. In February 2009, the boards discussed and proposed a policy to help ensure that one board's actions do not negate or mitigate another board's actions. According to the executive directors of all three boards, although no formal written policy was adopted, all three have agreed to follow an ad hoc method of handling dual jurisdiction complaints. According to the directors, the method has thus far worked well for their respective boards, and no further modifications to the current method are planned.

- b. Amending board statutes to require homeopathic physicians to obtain written, informed consent from patients when they are providing nontraditional treatments.

Implemented at 6 Months

1.4 If the Board is continued, it should:

- a. Work with the AMB and the Osteopathic Board to ensure that one board's actions do not negate or mitigate another board's actions;
- b. Determine what information a written, informed patient consent should include and create a policy requiring their licensees to use the informed consent; and

Implemented at 18 Months

Implemented at 18 Months

This recommendation has been implemented in a different way. In the 2008 legislative session, the Legislature amended A.R.S. §32-2933(41) to require written, informed consent to make it clear to patients that the physician is providing homeopathic treatment. According to the Executive Director, the Board plans to initiate an informational campaign designed to inform licensees that the intent of the informed consent law is to ensure the public is aware of the treatment being provided.

- c. Identify a more appropriate name to describe its scope of practice and request that the Legislature change the Board's name to more accurately reflect the therapies its statutes authorize.

Implemented at 6 Months

Recommendation**Status/Additional Explanation****FINDING 2: Board needs to improve its complaint-handling practices**

- 2.1 The Board should take several steps to help ensure that its complaint process protects the public. These steps should include:
- a. Immediately beginning the complaint investigation upon the Board's decision that it has primary jurisdiction in a complaint; **Implemented at 18 Months**
 - b. Designating one board member or a designee to conduct investigative interviews outside of the board meeting. The assigned board member should then recuse him- or herself from complaint adjudication; **Implemented at 6 Months**
 - c. Developing time frames for key steps in the complaint process to help ensure complaints are processed within 180 days; and **Implemented at 12 Months**
 - d. Enhancing the complaint-tracking spreadsheet to include key steps in the complaint process and continuing to use the complaint-tracking spreadsheet to monitor complaint status and ensure that they are processed within 180 days. **Implemented at 6 Months**
-
- 2.2 The Board should develop a form it can use to ensure that it addresses and adjudicates every complaint allegation. The form should include information such as all allegations involved in the complaint, the Board's available options, and proposed wording for complaint motions. **Implemented at 6 Months**
-

Recommendation**Status/Additional Explanation****FINDING 3: Licensure does not ensure competency in authorized therapies**

3.1 To ensure that homeopathic physicians are sufficiently trained in the therapies they are licensed to practice, the Legislature should consider amending A.R.S. §32-2912 to permit the Board to limit a physician's practice to the therapies a licensee is educated in.

Implementation in Process

Although no legislation has been introduced to address this recommendation, the Board has taken some other steps to address it. The Board drafted new language to amend A.A.C. R4-38-103 clarifying that licensees may practice the therapies they indicate in their application, but must submit evidence of training in a specific therapy to expand their scope of practice beyond what was stated in their original application. A Notice of Rulemaking Docket Opening was published in the Administrative Register on January 16, 2009. However, on January 23, 2009, all state agencies were directed to withdraw all proposed rulemaking filings until further notice. The Board requested an exemption from the moratorium on July 28, 2009, and in October 2009, the Governor's Office approved the request. Thus, according to the Board, it will proceed with the rulemaking process.

3.2 The Board should take steps to ensure that its written and oral exams are adequate by:

- a. Developing comprehensive written and oral exams that include questions covering all of the therapies authorized by the license, and

Implementation in Process

The Board has developed a bank of written exam questions for six of the eight therapies. This new exam has been used for new applicants since November 2008. According to the Executive Director, the Board does not intend to develop questions for the remaining two therapies, minor surgery and pharmaceutical medicine, because applicants are tested in these areas when they apply for their allopathic or osteopathic licenses.

The Board plans to discontinue the oral exam and has proposed a rule change to A.A.C. R4-38-106 to delete the oral exam requirement. A Notice of Rulemaking Docket Opening was published in the Administrative Register on January 16, 2009. However, on January 23, 2009, all state agencies were directed to withdraw all filings until further notice. The Board requested an exemption from the moratorium on July 28, 2009, and in October 2009, the Governor's Office approved the request. Thus, according to the Board, it will proceed with the rulemaking process.

Recommendation**Status/Additional Explanation**

- b. Identifying resources and ensuring that a qualified person or organization evaluates the exams to ensure that they sufficiently test an applicant's knowledge of the therapies the license authorizes.

Implementation in Process

The Board requested and received a supplemental appropriation for fiscal year 2009 to hire an exam validation service to validate its written exam. An RFQ was issued on November 14, 2008, and in March 2009 a candidate was selected. On May 13, 2009, the Board hired a consultant to provide professional exam validation consultation services for the written licensing exam. As of September 2009, the exam validation project is still in process. The Board estimates that the final exam validation should be completed in June 2010.

- 3.3 To preserve the oral exam's integrity, the Board should seek a statutory change to classify the oral exam as a confidential record so it can be conducted in executive session.

No Longer Applicable

See explanation for 3.2a.

- 3.4 To ensure its licensees are educated on their field's most recent developments, the Board should continue to develop continuing education requirements for its licensees and provide its recommendations to the Legislature.

Implemented at 12 Months

- 3.5 Once the Board finalizes its continuing education requirements, the Legislature should consider amending the Board's statutes to require continuing education for its licensees based on the Board's subcommittee's research results.

Implemented at 12 Months**Sunset factor #3: The extent to which the Board has operated within the public interest**

- The Board should ensure its Web site information is complete and accurate.

Implemented at 6 Months

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

The Board has not promulgated all rules required by statute. The Board should establish rules for A.R.S. §32-2912(D)(4) relating to the approval of internships and A.R.S. §32-2951(G) relating to rules about labeling, recordkeeping, storage, and packaging of drugs.

Implementation in Process

According to the Executive Director, the Board planned to open a rulemaking docket to propose rules for labeling, recordkeeping, storage, and packaging of drugs. (According to information received from the Attorney General's Office, the Board does not require a rulemaking for A.R.S. §32-2912 for internships.) However, in January 2009, all state agency rulemaking was placed on hold. Although the Board requested an exemption from the moratorium on July 28, 2009, as of October 2009, the Governor's Office is still considering this request. The Board plans to continue the rulemaking process as soon as allowed to do so.