



A REPORT
TO THE
ARIZONA LEGISLATURE

Performance Audit Division

Performance Audit and Sunset Review

Arizona Medical Board

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Auditor General

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June 23, 2011

Members of the Arizona Legislature

The Honorable Janice K. Brewer, Governor

Douglas D. Lee, M.D., Chair
Arizona Medical Board

Ms. Lisa Wynn, Executive Director
Arizona Medical Board

Transmitted herewith is a report of the Auditor General, *A Performance Audit and Sunset Review of the Arizona Medical Board*. This report is in response to a November 3, 2009, resolution of the Joint Legislative Audit Committee. The performance audit 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 Medical Board agrees with all of the findings and reports that it has implemented or plans to implement all of the recommendations.

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

This report will be released to the public on June 24, 2011.

Sincerely,

Debbie Davenport
Auditor General

Attachment

cc: Arizona Medical Board Members

**REPORT
 HIGHLIGHTS
 PERFORMANCE AUDIT**

Our Conclusion

The Arizona Medical Board (Board) regulates medical doctors through licensing and investigating complaints against them. The Board should establish written guidance for executive director complaint dismissals and take steps to improve complaint-handling timeliness. The Board uses staff doctors and medical consultants to assist it in investigating complaints against doctors. The Board should improve the staff doctor/medical consultant selection process and ensure that consultants complete training. The Board should also develop guidance on using medical consultants whose previous work may have been inadequate.



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Board regulates medical doctors

The Board regulates medical doctors through licensing and by investigating complaints and taking appropriate disciplinary or nondisciplinary action. The Board also uses a private contractor to administer two integrated programs established to assist doctors who are impaired by drug or alcohol abuse, or who have medical, psychiatric,



psychological, or behavioral health disorders that may impact their ability to safely practice.

Board should enhance executive director complaint dismissal guidance and improve complaint-handling timeliness

Board lacks guidance for executive director dismissals—As authorized by statute, the Board has delegated authority to the Executive Director to dismiss complaints. Although the Board generally sustained the Executive Director’s calendar year 2010 decisions, it has not established policies and procedures to guide the Executive Director’s decision making, including what factors should be considered when deciding whether to dismiss a complaint.

Some complaints not resolved in a timely manner—We have found that health regulatory boards should generally process complaints within 180 days from the time the complaint is received to when the board resolves it. However, our analysis of board data showed that if the Executive Director did not dismiss a complaint, it generally took more than 180 days before it was resolved. To ensure that it processes more complaints within 180 days, the Board needs additional information that will allow it to determine its overall timeliness. For example, the Board has a report that provides information only about timeliness of

complaint investigations, but it should develop a report to capture additional complaint-handling steps, such as the date its Staff Investigational Review Committee reviews the complaint before forwarding the complaint to the Executive Director for dismissal or to the Board for review and/or final action. The Board should use this information to address factors within its control that cause delays in the complaint-handling process.

Recommendations:

The Board should:

- Adopt written policies and procedures its Executive Director can use in deciding whether to dismiss a complaint.
- Develop a report to capture additional complaint-handling timeliness information and use the information to address timeliness issues.

Board should formalize and enhance staff doctor and medical consultant processes

According to board management, in addition to staff investigators who review professional conduct complaints, the Board has one full-time and three part-time staff doctors who review quality-of-care and, in limited cases, professional conduct complaints. According to board staff, for complaints where these doctors do not have the time or needed expertise or have a conflict of interest, the Board will choose a medical consultant from among almost 1,500 doctors who have volunteered their services and meet certain qualifications established by the Board. A consultant receives \$150 to review a complaint and advise the Board whether the doctor under investigation deviated from the standard of care. According to board information, approximately 380 medical consultants reviewed about 870 complaints in fiscal year 2010.

Board lacks clear guidance on how to select a staff doctor or medical consultant—Based on our review of a sample of complaints, most assignments were made because the staff doctor's or consultant's expertise was the same as that of the doctor under investigation. However, in some cases, the reasons for selecting a staff doctor or consultant were not documented. Because a formalized process helps ensure that the Board's intentions are carried out, the Board should establish criteria in policies and procedures for selecting staff doctors or consultants with the appropriate expertise to review complaints.

Board should ensure that consultants complete training—The Board provides its consultants with training materials that provide guidance on how to identify the standard of care, how to determine whether the doctor deviated from the standard, and what information to include in the report that the consultant prepares. However, the Board does not require or verify that consultants complete the training before reviewing complaints.

Guidance is needed on what to do when a consultant's work is inadequate—Sometimes a consultant is not qualified to review a complaint or a consultant's report is inadequate.

For example, in one complaint, the consultant did not address all of a complainant's concerns, and in another complaint, a consultant provided inconsistent information on whether the doctor deviated from the standard of care.

Board staff and the Board have opportunities to review medical consultant reports, and these reviews have identified concerns. According to board staff, new consultants can be selected if concerns are identified. In addition, staff reported that licensees sometimes raise concerns about a consultant's conflict of interest or applying the appropriate standard of care. If these concerns have a sound basis, board staff will request that another consultant review the complaint.

However, when these instances occur, staff have no guidance on whether or not to use the same consultant again. Consequently, staff sometimes give consultants a second chance. This may be appropriate, such as when a report is late because of unforeseen circumstances; however, it may not be appropriate if the consultant failed to recuse himself/herself because of a conflict of interest. In addition to lacking guidance, the Board does not adequately document problems with consultants' work in its computer system. Without adequate information in the system, it may not be clear whether a medical consultant should be used again.

Recommendations:

The Board should:

- Formalize the staff doctor and medical consultant selection process in policies and procedures.
- Require that consultants complete the board training before reviewing complaints.
- Provide guidance on when consultants should not be used again and where this information should be documented.

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Introduction

Scope and Objectives

The Office of the Auditor General has conducted a performance audit and sunset review of the Arizona Medical Board (Board) pursuant to a November 3, 2009, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes (A.R.S.) §41-2951 et seq. This performance audit and sunset review of the Board focused on determining whether the Board's complaint-handling processes and practices helped ensure that complaints were appropriately investigated, adjudicated, sanctioned, and processed in a timely manner. This report also includes responses to the sunset factors specified in A.R.S. §41-2954.

Board responsible for regulating licensed medical doctors

Board mission

The Board regulates the practice of allopathic medicine in Arizona through licensure and complaint investigation and resolution related to medical doctors, or MDs. According to A.R.S. §32-1403(A), "The primary duty of the board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine through licensure, regulation and rehabilitation of the profession in this state."

Licensing requirements

The Board is responsible for issuing licenses to practice medicine to qualified applicants, and biennially issuing renewal licenses to qualified

Licensing requirements

According to A.R.S. §32-1422, applicants for licensure must meet ten basic requirements, including:

- Graduating from an approved school of medicine;
- Successfully completing an approved 12-month hospital internship, residency, or clinical fellowship program;
- Having the physical and mental capability to safely engage in the practice of medicine; and
- Paying all fees required by the Board.

Source: Auditor General staff analysis of A.R.S. §32-1422.

active license holders who seek renewal. During fiscal year 2010, the Board issued 1,275 initial licenses and 9,722 renewals. According to board documentation, as of February 2011, there were 21,110 actively licensed doctors in Arizona.¹ License applicants must successfully pass all three parts of the United States Medical Licensing Exam or other statutorily approved exams and meet ten statutory requirements (see textbox for examples of the

¹ According to a board official, this number does not include teaching licenses, educational teaching permits, training permits, dispensing registrations, locum tenens registrations, or pro bono registrations. A locum tenens registration authorizes an out-of-state doctor to temporarily assist or substitute for an Arizona doctor. A pro-bono registration allows doctors who are not licensees to practice in Arizona for 60 days provided that they meet certain requirements, such as not being the subject of an unresolved complaint.

requirements).¹ License applicants must pay a \$500 initial license application fee and, if the application is approved, a \$500 issuance fee, which may be prorated from date of issuance to date of license renewal.² Doctors renewing their license must attest that they have completed required continuing medical education and pay a \$500 renewal fee.³

Complaint-handling process

Board nondisciplinary and disciplinary options

Nondisciplinary options:

- Require continuing medical education.
- Issue an advisory letter.

Disciplinary options:

- Require continuing medical education.
- Enter into an agreement to restrict or limit the doctor's practice or professional activities or to rehabilitate, retrain, or assess the doctor.
- Issue a letter of reprimand.
- Issue a decree of censure. A decree of censure is an official action against the doctor's license and may include a requirement for restitution of fees to a patient resulting from violations of statutes or rules.
- Impose a civil penalty of not less than \$1,000 or more than \$10,000 for each violation of statute or rule.
- Fix a period and terms of probation.
- Suspend or revoke a license.

Source: Auditor General staff analysis of A.R.S. §32-1451.

The Board is also responsible for investigating and adjudicating complaints against licensed doctors and taking appropriate disciplinary or nondisciplinary action. A.R.S. §32-1451 states that the Board may investigate any evidence that may show that a doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct, or is or may be mentally or physically unable to safely engage in the practice of medicine. As outlined in Figure 1 (see page 3), the complaint-handling process involves several steps, including an investigation to determine whether it appears that the allegations in a complaint are supported and a review of the complaint and investigation material by board management before being sent to the Executive Director or Board for further review and action.

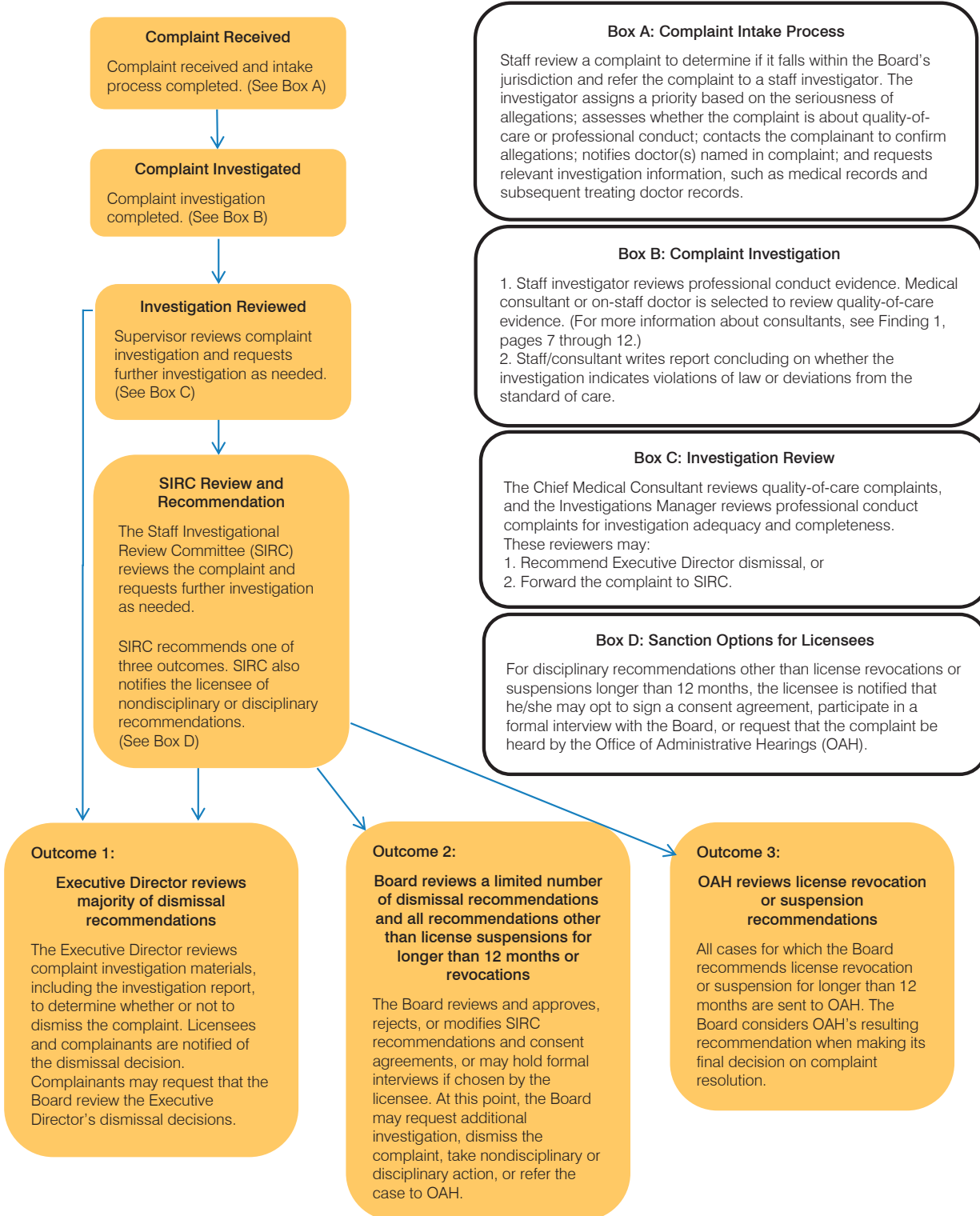
After completing an investigation, the Executive Director or Board may dismiss the complaint, or the Board may take several other nondisciplinary and disciplinary actions (see textbox). According to board data, the Board received approximately 1,035 complaints during fiscal year 2010 that were within its jurisdiction. Board data also

¹ According to the American Medical Association Web site, some medical students and doctors completed other national exams prior to the implementation of the United States Medical Licensing Exam in 1994. A.R.S. §32-1426 permits the Board to grant licenses to applicants who completed exams prior to implementation of the United States Medical License Exam.

² A.R.S. §32-1436 requires that the Board annually establish by a formal vote nonrefundable license issuance and renewal fees. Although a review of the *Attorney General Handbook* found that the Board should establish its fees in administrative rule, the Board has not done so due to a moratorium on rule making. As a result, the Board's rules have not been updated to reflect its changed fees.

³ According to board management, licensees are asked to attest whether or not they have completed required continuing medical education requirements. However, licensees are required to submit proof of completing the continuing medical education requirements if selected as part of an audit to determine compliance. Board policy establishes that 5 percent of licensees will be audited each year.

Figure 1: Summary of Complaint-Handling Process



Source: Auditor General staff analysis of the Board's complaint-handling process.

shows that the Board investigated and took action on 954 complaints. The Executive Director dismissed 650 of the 954 complaints, while the Board dismissed 19 of these complaints.¹ In addition, the Board issued 113 advisory letters; 12 orders for nondisciplinary continuing medical education; 44 disciplinary actions including letters of reprimand, decrees of censure, probation, or a combination of these options; and forwarded 1 complaint to formal hearing with the Office of Administrative Hearings.² Although the Board did not revoke or suspend a license, 8 licensees surrendered their licenses.³

Monitored Aftercare and Physician Health Programs

As authorized by statute, the Board has established confidential programs to assist doctors who are impaired by alcohol or drug abuse, called the Monitored Aftercare Program, or who have medical, psychiatric, psychological, or behavioral health disorders that may impact their ability to safely practice medicine or perform healthcare tasks, called the Physician Health Program. The Board established the Monitored Aftercare Program in 1987 and the Physician Health Program in 2004, and integrated the two programs in 2010. The Board uses a private contractor to administer the integrated programs. According to board staff, there are usually around 100 licensees enrolled and participating in the integrated programs, and as of April 15, 2011, 99 licensees were enrolled in the programs. Board management reported that the integrated programs are paid for by the licensees in the programs.

Board's role in monitoring medical marijuana

In November 2010, Arizona voters passed the Arizona Medical Marijuana Act. This citizen initiative—Proposition 203—required the Arizona Department of Health Services (Department) to create a medical marijuana program within 120 days from the official election results. According to board management, the program will not affect its licensing of qualified doctors, but it will affect complaint handling because the Department will send information to the Board about licensees who are not following the medical marijuana program rules. Board management reported that

¹ A.R.S. §32-1405(C)(21) allows the Board to authorize its Executive Director to dismiss complaints that are without merit.

² The Board may issue an advisory letter if there is insufficient evidence to support disciplinary action, but continuation of the licensees' activities could result in further board action; if the violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or if the licensee has demonstrated substantial compliance through rehabilitation or remediation that mitigates the need for disciplinary action.

³ The Board took other action on 107 complaints, such as limiting a licensee's practice or requiring licensee evaluations during the investigation of a complaint, and administratively closing complaints. Board management reported that the Board administratively closes complaints when there is insufficient evidence to support that a violation occurred, but the allegations are serious enough that the Board would need to reopen the complaint if additional information was later provided.

they have worked closely with the Department on the new rules for the program. Although board management reported that they anticipate some increase in the number of complaints referred to the Board for investigation, the Board should have the resources to handle a moderate workload increase. However, board management reported possible challenges in obtaining medical consultants to review complaints related to standard of care because medical marijuana is an emerging practice.

Organization and staffing

As prescribed in A.R.S. §32-1402(A), the Board consists of 12 governor-appointed members, including 8 who are actively practicing medicine and 4 who represent the public. One of the four public members is required to be a licensed practical or professional nurse. Board members serve 5-year terms. The Board is required to meet at least quarterly, but in practice it convenes every other month to hear information from the public, obtain updates from its Executive Director and legal advisor, and take action on complaints. The Board was appropriated 58.5 full-time equivalent (FTE) staff for fiscal year 2011. However, as of April 2011, it was assisted in its duties by 35.5 FTE staff, including an Executive Director, Deputy Executive Director, complaint investigators, licensing staff, and other support staff.

Budget

The Board does not receive any State General Fund monies. Rather, the Board's revenue mainly comes from license application and renewal fees. The Board is also required to remit 10 percent of all its revenues to the State General Fund. As shown in Table 1 (see page 6), during fiscal year 2010, the Board received approximately \$6.7 million in revenues and remitted approximately \$675,000 to the State General Fund. The Board's expenditures have declined from approximately \$5.9 million in fiscal year 2008 to less than \$5 million in fiscal year 2010. The Board estimates its expenditures will total a little more than \$5 million in fiscal year 2011. The Board spends nearly two-thirds of its monies for personnel costs, including employee-related costs. Table 1 also shows the Board was required to transfer approximately \$1.4 million of its available resources to the State General Fund during fiscal year 2008. Smaller transfers were also required in fiscal years 2009 through 2011 (see Table 1, footnote 3). The transfers significantly decreased the Board's fund balance; however, through increased revenues and expenditure reductions, the Board's fund balance at the end of fiscal year 2010 has nearly reached its pre-transfers level. The Board estimates that it will have an ending fund balance of nearly \$2.9 million in fiscal year 2011.

Table 1: Schedule of Revenues, Expenditures, and Changes in Fund Balance
Fiscal Years 2008 through 2011

	2008 (Actual)	2009 (Actual)	2010 (Actual)	2011 (Estimate)
Revenues:				
Licenses and fees	\$ 6,211,795	\$ 6,504,774	\$ 6,467,923	\$ 6,599,400
Fines, forfeits, and penalties	154,399	145,332	144,886	129,400
Charges for goods and services	61,300	47,153	50,232	50,500
Other	14,909	20,793	43,675	3,800
Gross revenues	6,442,403	6,718,052	6,706,716	6,783,100
Net credit card and on-line transaction fees ¹	(46,067)	(56,418)	(22,327)	(4,600)
Remittances to the State General Fund ²	(649,072)	(663,969)	(675,039)	(677,500)
Net revenues	5,747,264	5,997,665	6,009,350	6,101,000
Expenditures and transfers:				
Personal services and related benefits	3,789,988	3,547,357	3,250,324	3,200,000
Professional and outside services	1,119,061	1,028,717	629,545	700,000
Travel	31,216	35,121	35,870	35,000
Food	4,816	3,124	1,792	1,000
Other operating	685,194	798,996	851,715	800,000
Equipment	287,859	114,420	164,386	321,900
Total expenditures	5,918,134	5,527,735	4,933,632	5,057,900
Transfers to the State General Fund ³	1,401,800	52,100	4,700	122,100
Transfers to Office of Administrative Hearings	34,531	24,432	8,317	20,000
Total expenditures and transfers	7,354,465	5,604,267	4,946,649	5,200,000
Net change in fund balance	(1,607,201)	393,398	1,062,701	901,000
Fund balance, beginning of year	2,109,482	502,281	895,679	1,958,380
Fund balance, end of year	\$ 502,281	\$ 895,679	\$ 1,958,380	\$ 2,859,380

¹ Amount is net of approximately \$12,800, \$32,700, \$81,600, and \$100,900 for fiscal years 2008, 2009, 2010, and 2011, respectively, for convenience fees the Board collected for online and credit card payments.

² As required by A.R.S. §32-1406, the Board remits to the State General Fund 10 percent of all revenues.

³ Amount consists of transfers to the State General Fund in accordance with Laws 2008, Ch. 53, §2 and Ch. 285, §46 and Laws 2010, 7th S.S., Ch. 1, §148.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2008 through 2010; the AFIS Management Information System *Status of General Ledger-Trial Balance* screen for fiscal years 2009 and 2010; and board-provided information for fiscal year 2011 as of May 12, 2011.

FINDING 1

The Arizona Medical Board (Board) should take several steps to strengthen its practices for using staff doctors and medical consultants to review complaints against licensees. The Board uses both staff doctors and medical consultants—licensed doctors who have volunteered their services—to review complaints. However, auditors found that board staff were inconsistent in their explanation and application of board practices for selecting staff doctors and medical consultants. One underlying reason appears to be that many of these practices are not formally reflected in board policies and procedures, and in some cases, the practices themselves need to be enhanced. Issues needing further attention include criteria for selecting staff doctors and medical consultants, requirements for ensuring that medical consultants review training materials provided to them, and guidance for using medical consultants again if limitations in their work result in the need to obtain a review from a different medical consultant.

Board should improve staff doctor and medical consultant selection, medical consultant training, and problem resolution practices

Staff doctors and medical consultants review complaints

In addition to staff investigators who review professional conduct complaints, the Board uses both staff doctors and medical consultants to review quality-of-care complaints and, on a more limited basis, professional conduct complaints. According to board management, the Board has one full-time staff doctor and three part-time staff doctors who review complaints. The Board's staff doctors are specialized in cardiology, internal medicine, obstetrics and gynecology, anesthesiology, and pain management. Board management reported that if the Board's staff doctors do not have the expertise or time needed to review a complaint or have a conflict of interest with the licensee, a medical consultant will be chosen to review the complaint.

Based on information provided by the Board, almost 1,500 Arizona-licensed doctors have volunteered their services to the Board, but must meet certain qualifications in order to be selected as a medical consultant (see textbox, page 8). The Board pays medical consultants \$150 for each complaint they investigate. The Board requires medical consultants to provide an opinion on whether or not a licensee deviated from the standard of care within 4 weeks of sending the consultant information about how to access investigative information. This opinion is based on a review of investigative materials provided by board staff. According to information provided by board management, the Board used approximately 380 medical consultants to review approximately 870 complaints during fiscal year 2010.

Qualification and selection practices should be formalized

The Board has not established clear guidance regarding the process for assigning complaints to appropriate and qualified staff doctors or medical

Medical consultant qualifications and selection practices

Qualifications

- Possess an active Arizona medical license¹
- Have no prior or pending board disciplinary action
- Have no real or potential conflict of interest

Selection practices

- Board staff investigators review the complaint to identify the specialty needed
- A board staff member queries the Board's database for a qualified outside medical consultant

¹ According to board management, the Board may use an out-of-state medical consultant if there are so few people practicing within the State that any of them would have a conflict of interest in reviewing another licensee's complaint.

Source: Auditor General staff interview with board staff, and analysis of board Web site information posted at http://www.azmd.gov/Files/OMC/OMC-Orientation/OMC-Orientation_files/frame.htm

Board staff provided different and somewhat conflicting explanations of how they select a staff doctor or medical consultant to review a complaint.

consultants. When assigning a complaint to a staff doctor or medical consultant, staff must first determine what specialty is needed for review of a complaint in order to select a qualified staff doctor or consultant. However, when asked to describe how they determine what type of specialty is needed, board staff provided different—and somewhat conflicting—explanations. The absence of a clear and consistent explanation was also borne out in the sample of complaints that auditors reviewed. Specifically, staff doctors or medical consultants reviewed 15 of the 22 complaints in a sample of complaints resolved between August 2009 and February 2011.¹ For 12 of these 15 complaints, the staff doctor or medical consultant's specialty matched that of the licensee against whom the complaint had been filed. In the remaining 3 complaints, however, the specialty differed from the licensee's, and the reasons for choosing someone with a different specialty were not always apparent from the complaint file. There may be appropriate reasons—such as the particular nature of the complaint—for selecting a staff doctor or medical consultant with a different specialty, but the reasons for these selections were not documented. According to management, the staff doctor or medical consultants in these 3 complaints were selected based on the particular nature of the complaint or for convenience.²

Clarifying the steps to be followed for selecting a staff doctor or medical consultant and establishing them in written policies and procedures is important. Established internal control standards indicate that policies and procedures help ensure that

¹ See Appendix A, page a-i, for additional information about the sample of complaints auditors reviewed.

² For the complaint in which the selection was based on convenience, board management reported that they had only one on-staff doctor at its office at the time an investigative interview was held with a licensee and that they were assigned the complaint because they had attended the interview and identified medical documents needed to investigate the complaint. However, their specialty did not match that of the licensee or the nature of the complaint.

directives are carried out.¹ Such policies and procedures can help ensure consistent and appropriate staff doctor or medical consultant selection practices by clarifying the factors that should be considered when determining what type of specialty is needed. Therefore, the Board should formalize its staff doctor and medical consultant selection practices in written policies and procedures, including how board staff should consider the nature of the complaint and licensees' practice specialties in determining the selection of staff doctors or medical consultants. In addition, although the Board has established medical consultant qualifications, complaint review time frames, and requirements for medical consultant reports, these practices have not been formalized in policies and procedures. Therefore, the Board should establish and implement medical consultant qualifications, medical consultant complaint review time frames, and report requirements in formal policies and procedures.

Board should require and ensure medical consultants complete training

The Board provides its medical consultants with training materials, but it should ensure that consultants review these materials and verify they have done so. Once a qualified medical consultant is identified, board staff provide the consultant a link to training information located on its Web site. The training includes guidance on how to identify the standard of care and determine whether or not a deviation has occurred, what information should be included in the report that the consultant prepares, examples of appropriate reports, and when the consultant should recuse him/herself from reviewing the complaint. Reviewing this information can help ensure that consultants conduct a thorough review of all complaint investigative material, reach appropriate conclusions, and complete an appropriate and adequate investigative report. However, the Board neither requires consultants to read these materials nor has a process in place to determine whether they have done so. As a result, it has no assurance that consultants understand the medical complaint review requirements. Due to the importance of the training information provided, the Board should establish and implement a process for requiring and ensuring that its medical consultants complete the training before reviewing complaints, such as requesting the consultants' confirmation that they reviewed the training materials.

Reviewing medical consultant training can help medical consultants reach appropriate conclusions.

¹ United States General Accounting Office. (1999). *Standards for internal control in the federal government* [GAO/AIMD-00-21.3.1]. Washington, DC: Author.

Board should develop additional guidance for using medical consultants again after problems develop with their work

If problems develop with a medical consultant's work, the Board takes various actions such as requesting that a different consultant review the complaint, but it has not developed sufficient policies to consistently determine whether and how the consultant can be used again. Board policies or practices allow staff, licensees, or the Board to identify problems with medical consultants' work. For example:

- Board policy indicates that the Board's Chief Medical Consultant and its Staff Investigational Review Committee review all medical consultant reports for completeness and adequacy, and the three board members auditors interviewed reported that it is their practice to also review medical consultant reports. These reviews have identified medical consultant problems, including inadequate consultant reports and unqualified consultants. Board staff reported that the Board and its staff can obtain a new medical consultant review when it identifies these problems. The sample of complaints reviewed by the auditors contained two such examples where the Board or its staff identified consultant problems.¹ In one complaint, the medical consultant did not address all of the concerns identified by the complainant, and in the other complaint, the consultant provided inconsistent information on whether the licensee deviated from the standard of care. For both complaints, the Board or its staff requested that a second medical consultant review the complaint.
- Licensees have an opportunity to identify concerns with medical consultants when reviewing consultant reports. Specifically, according to board policy, licensees are offered an opportunity to review the medical consultant report if the consultant determines that there was a deviation from the standard of care. In response to their review of the medical consultant report, licensees are permitted to provide any new information about the complaint that they feel the Board should consider. According to board management, licensees will sometimes mention concerns about potential conflicts of interest or whether the consultant applied an inappropriate standard of care. Management reported that they will request a new consultant review of the complaint if it appears that the licensee's concerns about the consultant are sound.

Despite these policies and practices, when a review by licensees, the Board, or its staff establishes that problems exist with a medical consultant's work, staff do not have guidance on how to decide whether or not to use the consultant again to review other complaints. Board staff responsible for maintaining the Board's list of volunteer

¹ Auditors' review of whether problems were identified with the medical consultant's review of a complaint was limited to 6 of the 15 complaints in which a medical consultant had been involved. In the remaining complaints, the complaint was reviewed by a staff doctor or auditors limited their review to assessing the consultant's qualifications. See Appendix A, page a-i, for further discussion.

Board member and staff reviews of medical consultant reports have identified problems, including inadequate reports.

medical consultants reported generally making this determination without guidance, and sometimes giving consultants a second chance before determining not to use them again. This second-chance approach may be appropriate in some circumstances, but not in others. For example, if the consultant was late in submitting his/her report due to unforeseen circumstances, the Board may still be able to use this consultant on a subsequent complaint. However, the Board may not want to use a medical consultant who failed to appropriately recuse him/herself when a conflict of interest existed. To ensure appropriate medical consultant selection, the Board should establish and implement written policies and procedures that provide guidance on when consultants should not be used again, or should be used only for certain types of complaints.

Additionally, the Board does not adequately document problems identified with medical consultants and decisions made on whether or not to use consultants again. Specifically, the Board has not established policies and procedures on the steps to be taken in documenting such problems, and board staff reported inputting limited information about consultant-use decisions into the Board's computer system. Without adequate information in the system, it may not be clear whether a medical consultant should be used again. For the two complaints in the auditors' sample where the Board or its staff decided to obtain a second consultant's review, the entries in the computer system's field that staff review for information about concerns with medical consultants did not contain information about these concerns.¹ Although staff indicated that problems with consultants may be located in meeting minutes or in other parts of the computer system, the board staff responsible for maintaining the Board's list of volunteer consultants does not consistently review these other sources of information. Therefore, the Board should establish and implement policies and procedures on how and where medical consultant problems and decisions on their continuing use should be documented.

The Board does not adequately document consultant problems.

Recommendations:

- 1.1 The Board should formalize its staff doctor and medical consultant selection practices in written policies and procedures, including how board staff should consider the nature of the complaint and licensees' practice specialties in determining the selection of consultants.
- 1.2 The Board should establish and implement policies and procedures regarding medical consultant qualifications, and complaint review time frames and requirements.

¹ In board meeting minutes, auditors identified three other complaints in which concerns had surfaced about a consultant's work. As with the two complaints in the sample, the information in the computer system did not contain information about these concerns.

- 1.3 The Board should establish and implement a process for requiring and ensuring that its medical consultants complete board-provided training before they review complaints. One way to do this would be to request confirmation from the consultants that they had reviewed the training materials.
- 1.4 The Board should establish and implement written policies and procedures that provide guidance on when medical consultants should not be used or should be used only for certain types of complaints.
- 1.5 The Board should establish and implement policies and procedures on how and where problems with specific medical consultants' work and decisions regarding the continuing use of these consultants should be documented.

Sunset Factors

According to Arizona Revised Statutes (A.R.S.) §41-2954, the Legislature should consider several factors in determining whether the Arizona Medical Board (Board) should be continued or terminated. Auditors' analysis showed strong performance by the Board with regard to many of these factors, but it also showed a need to strengthen procedures in four areas, as follows:

- Formalizing policies for determining when the Executive Director can dismiss a complaint (see Sunset Factor 2, pages 14 through 15);
- Establishing complaint-monitoring procedures that encompass the entire complaint process, not just the limited portion addressed under current procedures, to help improve the timely processing of complaints (see Sunset Factor 2, pages 16 through 17);
- Tightening controls over sensitive information in computer systems (see Sunset Factor 2, page 17); and
- Ensuring it obtains additional licensee public information and provides it on the Web site as required by statute (see Sunset Factor 3, page 18).

Sunset factor analysis

1. The objective and purpose in establishing the Board.

The Board regulates the practice of allopathic medicine in Arizona through licensure and complaint investigation and resolution related to medical doctors, or MDs. According to A.R.S. §32-1403(A), "The primary duty of the board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine through licensure, regulation and rehabilitation of the profession in this state."

To accomplish this mission, the Board issues licenses to practice medicine to qualified applicants, investigates and adjudicates complaints against licensed doctors, takes disciplinary or nondisciplinary action as appropriate, and provides information to the public about licensees through various avenues, including its Web site and over the phone.

2. The effectiveness with which the Board has met its objective and purpose and the efficiency with which it has operated.

The Board has effectively met several of its prescribed purposes and objectives, but needs improvement in some other areas. Some examples in which the Board is effectively performing include:

- **Licensing processes meet requirements**—Statute requires that specific information be included on an application form provided to the Board, including whether any disciplinary action has ever been taken against the applicant by another licensing board, and medical college certification and postgraduate training. Auditors reviewed the Board's application form and found it complies with statute. In addition, the Board processed the initial license applications issued in fiscal year 2010 within the 120-day overall time frame required by administrative code. According to the Board's Administrative Rule R4-16-206, the Board must conduct an administrative review of a license application within 120 days of receipt to verify that the application is complete. Auditors reviewed licensing data for the 1,275 license applications issued in fiscal year 2010 and found that all but 3 licenses were processed within the 120-day time frame.¹

¹ For the three applications that the Board did not process within the 120-day time frame, two involved deficient applications and one applicant was sent for investigation.

Further, according to an April 2011 board report, the Board issued licenses in January and February 2011 within an average of 37 and 21 days, respectively.

- **Board has established processes to help ensure complaint investigations are complete and adequate**—Board policy requires several steps during the investigative process, including informing the licensee of the complaint and requesting his or her response. In addition, policy indicates that an investigative or medical consultant report documenting the investigation's outcome will be developed for each complaint. In February 2011, the Board revised its investigative policy to specify that its investigative manager must ensure that investigations are adequate and complete. Finally, to further ensure the appropriateness and adequacy of complaint investigation, board staff receive investigative training.¹

Auditors' reviewed a sample of 17 complaints and found that the Board followed the investigative steps outlined in its policies and procedures for each of these complaints. For example, board staff notified both the complainant and licensee of the receipt of the complaint, and conducted necessary supervisory reviews for the completeness and adequacy of the investigation. In addition, auditors reviewed board meeting minutes from calendar year 2010 containing more than 300 complaints and identified only 4 complaints where the Board requested additional investigation.

The Board has some sound practices in complaint handling and information technology, but it can improve the effectiveness of these practices by making various changes. Specifically:

- **Executive Director complaint dismissals appear appropriate, but additional guidance should be established in policy**—A.R.S. §32-1405(C)(21) permits the Executive Director, if delegated by the Board, to dismiss complaints that are without merit, and A.R.S. §32-1405(E) establishes that complainants can request the Board to review the Executive Director's decision to dismiss a complaint.² The Board has established various practices to help guide these dismissals. Specifically, board policy requires that the Board's investigations manager or chief medical consultant review investigations to check for adequacy and completeness of the investigation, and indicates that complaints with no

¹ Staff attend Council on Licensure Enforcement and Regulation basic and advanced training. In addition, three of the six staff investigators have taken the first part of a three-part training providing subject-specific education and training for state medical board investigators, provided by Administrators in Medicine and the Federation of State Medical Boards.

² For executive director dismissal reviews, board members are provided with the initial complaint, all complaint investigation materials, and any subsequent information submitted or obtained as part of or resulting from the complainant's request for board review. In addition, the licensee and complainant are permitted to address the Board at the Board meeting during the Board's Call to the Public and/or submit a written response for the Board's consideration.

violations will be submitted to the Executive Director for dismissal. Auditors reviewed a judgmental sample of five executive director dismissals that the Board reviewed in February 2011 and found that the investigative reports provided to the Executive Director indicated there were no violations. In addition, auditors' review of meeting minutes from calendar year 2010 identified that the Board generally sustained the Executive Director's decisions. Specifically, the Board sustained 65 of the 68 decisions it reviewed.¹

Although the Board has established good practices for executive director dismissal decisions, it lacks documented policy and procedures outlining the steps its Executive Director should take when deciding whether to dismiss a complaint. This was similarly discussed in the Auditor General's 2004 performance audit (see Report No. 04-L1). Specifically, that audit recommended that the Board implement policies to guide decision-making during the complaint review process, including what factors reviewers should consider when deciding whether to dismiss a complaint. The Board has established policies and procedures for its complaint reviewers, including its investigations manager, chief medical consultant, and its Staff Investigational Review Committee, when recommending the Executive Director dismiss a complaint or reviewing investigative staff's recommendations for the Executive Director's dismissals. However, the Board has not established policies and procedures guiding the Executive Director's decision-making process, such as what steps to take if there is a disagreement with staff's recommendation. Internal control standards indicate that policies and procedures help ensure that directives are carried out.² Therefore, the Board should develop and implement a written policy and procedures for the Executive Director to use in deciding whether to dismiss a complaint, including what factors should be considered when deciding whether a complaint should be dismissed and what to do when disagreeing with a staff recommendation for dismissal.

- **Board should enhance its medical consultant practices**—The Board should take several steps to strengthen its practices for using medical consultants and staff doctors to review complaints. The Board uses both staff doctors and medical consultants—licensed doctors who have volunteered their services—to review complaints. However, auditors found that board staff were inconsistent in explaining and applying board practices for selecting staff doctors and medical consultants. One underlying reason appears to be that many of these practices are not formally reflected in board policies and procedures, and in some cases, the practices themselves need to be enhanced. Issues needing further

¹ The Board requested additional investigation for two complaints and later dismissed those complaints after additional investigation was completed and the Board again reviewed the complaints. The Board issued an advisory letter for the third complaint.

² United States General Accounting Office (1999). *Standards for internal control in the federal government* [GAO/AIMD-00-21.3.1]. Washington, DC: Author.

attention include establishing guidance for selecting staff doctors and medical consultants, requirements for ensuring that consultants review training materials provided to them, and guidance for using consultants again if limitations in their work result in the need to obtain a review from a different consultant (see Finding 1, pages 7 through 12).

- **Changes needed to address complaint-handling timeliness**—The Board should take various steps to ensure that it is processing complaints in a timely manner. The Office of the Auditor General has found that Arizona health regulatory boards should generally process complaints within 180 days. Auditors' analysis showed that if the Executive Director does not dismiss a complaint, it will likely take more than 180 days before it is resolved (see textbox).

Complaint-Handling Timeliness¹ Fiscal Year 2010

Executive director dismissals—650 complaints

- 91% processed within 180 days
- 9% processed within 181 days to 512 days

Board actions—197 complaints

- 24% processed within 180 days
- 26% processed within 181 days to 224 days
- 25% processed within 225 days to 279 days
- 24% processed within 280 to 617 days

¹ This analysis does not include the 107 complaints where the Board took other action, such as limiting a licensee's practice during the investigation of a complaint (see footnote 3, page 4, for additional information).

Source: Auditor General staff analysis of the Board's complaint data for 847 complaints investigated and resolved during fiscal year 2010.

To ensure that it processes more complaints in a timely manner, the Board needs additional information that will allow it to determine not only overall timeliness, but also the timeliness of key steps in the complaint-handling process. The Board has a report that provides information about investigation timeliness for each complaint, but the report does not track other steps in the process, including the final board action date or the date the Staff Investigational Review Committee (SIRC) reviews the complaint before forwarding the complaint to the Executive Director for dismissal or to the Board for review and/or final action. In addition, the report does not include information on each complaint's priority level.¹

Board management reported that they thought the 180-day standard applied only to the investigative phase. However, because this standard applies to the entire complaint-handling process, the Board should develop a report to capture additional complaint-handling timeliness information to help identify and address factors in the

process that may impact timeliness. Also, since it is important to handle serious complaints in a timely manner to protect public safety, the Board should include the priority level in its report so that it can assess whether complaints are processed within required time frames according to assigned priority.² The Board may also need to modify its computer system to include additional date fields. For example, the Board may need an additional field to document the date the SIRC completes its complaint review. Once the Board has developed a report, it should use this

¹ Board policy requires staff investigators to assign complaint priority levels based on the allegations' severity. Policy also establishes time frames for completing investigations depending on the priority level.

² Board management has a report that tracks complaint investigation timeliness according to severity level to ensure timely investigations, but does not track the remaining parts of the complaint-handling process according to severity level.

information to address factors within its control that cause delays in the complaint-handling process.

- **Board needs to improve two IT processes**—Although the Board has addressed information security weaknesses, it should improve its information technology processes in two areas. According to board management, the Board’s Web site was compromised in 2008. In response, the Board obtained an external information technology security assessment and addressed identified weaknesses. However, to ensure that only appropriate individuals have access to confidential information, the Board should follow a standard developed by the state Government Information Technology Agency (GITA) that calls for classifying data and developing a plan to secure data based on its classification. For example, the Board receives patient records during complaint investigations and licensee social security numbers on license application forms. Due to the sensitive nature of this information, it is important that only those needing the information to perform their job functions have access to it. The GITA standard is intended to ensure that such data is protected within IT systems.

In addition, to ensure continuous information technology services, the Board should enhance its business continuity plan to address all the issues included in the GITA standard for such plans. The Board retains complaint investigation and license application information only electronically, so it does not have a way to recover the data in the event of a system failure; therefore, its ability to ensure continuity in its operations is compromised. The Board needs to ensure that the information will not be lost and can still be accessed should the Board’s information technology systems shut down.

3. **The extent to which the Board has operated within the public interest.**

The Board has generally operated within the public interest, including:

- **Web site provides extensive information and services**—The Board has a Web site that provides information to the public on licensees and board activities. The Web site includes information on choosing a doctor, including a specific guide to selecting a cosmetic surgeon, and information about licensed doctors such as their education and training, and past disciplinary information. The Web site also provides information about how to file a complaint, the complaint-handling process, scheduled public meetings, upcoming meeting agendas, and meeting minutes. For licensees, the Board’s Web site provides access to application forms and allows licensees to renew their application on-line.

- **Complainants' anonymity protected**—The Board is complying with statutory requirements to protect the identities of anonymous complainants. Specifically, board management reported that as of April 2010, the Board began providing copies of complaints where the complainant requests anonymity to licensees with any identifying information redacted. A.R.S. §32-1451(G) requires that the Board not disclose the name of any person who files a complaint if that person requests anonymity. Prior to April 2010, according to board staff, it sent a summary of any complaints to licensees where the complainant requested anonymity, and it may still send a summary if the original complaint contains an abundance of information identifying the complainant. However, board staff indicated that this rarely occurs.

Auditors did identify one way in which the Board's procedures could be changed to help it operate more effectively in the public interest:

- **Board needs to provide additional public information on its Web site**— Statute requires the Board to provide the public with information on licensees in response to a written request for information and on its Web site. Auditors found that the Board's procedures for responding to written requests are consistent with statute. Further, auditors placed four phone calls to the Board between August 23, 2010 and September 8, 2010, and found that board staff provided information about the status of a doctor's license, the doctor's education and training, and any disciplinary and nondisciplinary actions taken against the doctor. However, auditors' review of the Board's Web site found it did not meet the statutory requirement for providing licensee information related to malpractice or felony and misdemeanor charges and convictions for the past 5 years. To address this issue, the Board sought changes to its statutes. Laws 2011, Ch. 227, limits the Board's requirements to provide information about misdemeanors and malpractice actions to those resulting in board disciplinary actions. However, the law still requires that licensees notify the Board of all felony convictions and that the Board immediately update its Web site upon receiving this information. Laws 2011, Ch. 227, will go into effect in July 2011. The Board should ensure that it obtains required information from licensees and updates its Web site as required by statute.

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

General Counsel for the Auditor General has reviewed an analysis of the Board's rule-making statutes by the Governor's Regulatory Review Council staff, performed at auditors' request, and believes that the Board has fully established rules required by statute.

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.

The Board informs the public of proposed rules through Notices of Proposed Rule Making filed with the Secretary of State's Office and published in the Arizona Administrative Record. For example, in July 2008, the Board filed a Notice of Proposed Rule Making for changes it was making to its application and licensing fee rules. The Board also obtains input from professional associations and other stakeholders during the process of drafting rules and incorporates their feedback into its rules.

In addition to involving the public in the rule-making process, the audit also found that the Board involved the public in the process of revising its Pain Management Guidelines in 2006. These guidelines constitute the Board's policy for the treatment of chronic pain by doctors. Specifically, the Board held a public meeting in March 2006 to solicit feedback on the proposed adoption of the Federation of State Medical Board's model pain management guidelines and other pain management guidelines. Board documentation indicates that the Board incorporated feedback received from the public and stakeholders into its guidelines. The guidance was revised in an effort to encourage doctors to administer controlled substances in the course of treating pain without fear of disciplinary action from the Arizona Medical Board.

As required by open meeting law, the Board has posted meeting notices and board meeting agendas on its Web site at least 24 hours in advance and has provided meeting minutes within 3 working days after the meeting. In addition, the Board has posted a statement on its Web site stating where all its public meeting notices will be posted.

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

The Board has sufficient statutory authority to investigate and adjudicate complaints within its jurisdiction and has various nondisciplinary and disciplinary options available to use. However, as indicated in Sunset Factor 2 (see pages 16 and 17), the Board has not processed all complaints in a timely manner and should take steps to ensure that it processes complaints in a more timely manner, including developing a report to capture additional complaint-handling timeliness 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.

A.R.S. §41-192 authorizes the Attorney General's Office to prosecute actions and represent the Board. Board management reported that the Board retains two full-time Assistant Attorneys General as legal representatives. One acts as the Board's legal representative during board meetings and general counsel in day-to-day matters that come before the Board. The other represents the Board for cases that go to formal hearings.

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

The Board has sought statutory changes to address deficiencies in its statutes. Specifically:

- In 2006, A.R.S. §32-1451 was amended to allow the Board to issue nondisciplinary orders for continuing medical education (CME). Previously, a board requirement to obtain CME was considered a disciplinary action. According to board management, this resulted in reporting the action to the National Practitioner's Database and increased malpractice fees for some doctors. However, 2007 statutory amendments gave the Board more flexibility regarding the type of CME the Board could require and clarified that a CME requirement could be disciplinary or nondisciplinary.
- In 2011, various board statutes were revised by Laws 2011, Ch. 227. For example, the Legislature amended A.R.S. §32-1401 to allow doctors to write prescriptions or issue prescription medications to a member of a patient's household without first conducting a physical examination or establishing a doctor-patient relationship with the household member if the prescription or medication is for an immunization or vaccine. In addition, changes to A.R.S. §32-1401.03 modified the Board's responsibility to post on its Web site (or provide in writing when requested) felony, misdemeanor, and malpractice information about licensees (see Sunset Factor 3, page 18).

Additionally, Laws 2011, Ch. 227, eliminated a board requirement to provide nondisciplinary information on its Web site. This brought the Board's statutes into alignment with A.R.S. §32-3214, which prohibits health profession regulatory boards from providing nondisciplinary information on Web sites on or before January 1, 2012. According to board management, the Board is working to modify its computer system, which is used to populate information on its Web site, to ensure the Board is in

compliance with the new requirement. The Board anticipates the changes will be completed by the end of calendar year 2011.

- Also in 2011, the Legislature passed Laws 2011, Ch. 97, which modified A.R.S. §32-2842 by aligning state requirements for doctors who interpret mammographic images with federal requirements. Specifically, this statutory change will now require licensed doctors who interpret mammograms to meet the federal education and training requirements for doing so.

The Board also reported that it has frequently sought to address deficiencies in its statutes and taken action through the use of substantive policy statements to reinforce stakeholder awareness and understanding of the statutes. For example, in June 2008, the Board adopted the Duties of Hospitals and Physicians to Report Peer Review/Quality Assurance Information Substantive Policy Statement, which clarifies the statutory duties of hospitals and doctors to promptly report unprofessional conduct among doctors.

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

The audit did not identify any needed changes to board statutes.

10. The extent to which the termination of the Board would significantly harm the public's health, safety, or welfare.

Terminating the Board and its regulation of doctors would significantly endanger the public health, safety, and welfare if this regulatory responsibility were not transferred to another entity. Auditors reviewed complaints the Board handled that posed a threat to the public's health, safety, and welfare, including practice below the standard of care, substance abuse issues, and sexual misconduct. Without a regulatory licensing function of allopathic doctors in Arizona, there is less assurance that unqualified or incompetent doctors are excluded from practice. In addition, without a regulatory complaint investigation and adjudication function, there are fewer mechanisms to discipline doctors who cause harm. Finally, without regulation, consumers would not have a source of information about Arizona doctors' qualifications and their complaint and disciplinary history.

11. **The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate.**

The audit found that the current level of regulation the Board exercises is appropriate.

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

The Board has entered into contracts and agreements and used intergovernmental service agreements to perform activities beyond its staff resources and abilities. For example, the Board uses medical consultants to review complaints. Also, it contracts for some information technology services to provide technical support for its licensing and complaint-handling software. Additionally, as authorized by statute, the Board contracts with a third-party group to administer its Monitored Aftercare and Physician Health Programs. These integrated programs provide for the confidential treatment and rehabilitation of doctors who are impaired by alcohol or drug abuse, or who have medical, psychiatric, psychological or behavioral health disorders that may impact a licensee's ability to safely practice medicine or perform healthcare tasks. According to board staff, there are usually an estimated 100 licensees enrolled and participating in the integrated programs. As of April 15, 2011, there were 99 licensees participating.

This audit did not identify any additional opportunities for the Board to contract for services.

APPENDIX A

Methodology

This appendix provides information on the methods auditors used to meet the audit objectives.

This performance audit was conducted 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.

The Auditor General and staff express appreciation to the members of the Arizona Medical Board and its Executive Director and staff for their cooperation and assistance throughout the audit.

Auditors used the following specific methods to meet its audit objectives:

- To determine whether the Board's processes and practices helped ensure appropriate complaint handling, auditors interviewed board members, management, and staff; reviewed policies, procedures, and statutes; analyzed information from calendar year 2010's regular board meeting minutes; and obtained computerized information system data for complaints dismissed or sanctioned during fiscal year 2010, including dates for when the Board's investigation began and when the complaint was resolved. In addition, auditors reviewed a total of 22 complaints that were completed between August 2009 and February 2011. Seventeen of these 22 complaints were selected to review and assess the Board's entire complaint-handling process, including the medical consultant selection and review processes. These 17 complaints, which included 10 in which a consultant had been used, consisted of the following:
 - Five randomly selected complaints resulting in advisory letters, which are nondisciplinary.
 - Five randomly selected complaints resulting in less severe disciplinary action, such as a letter of reprimand and probation.
 - Five judgmentally selected complaints dismissed by the Executive Director where the complainant asked the Board to review the decision.
 - The two most recent complaints from the time period reviewed resulting in revocation.

Auditors reviewed another five complaints in addition to the 17 included in the sample. These five involved allegations regarding the appropriate prescribing of pain management medications and were examined solely to assess consultant selection. The five pain management complaints were identified by board staff because the Board's computer system could not be queried for this information, and were reviewed in response to concerns provided by the profession and Legislature regarding how the Board handles pain management complaints.

- Auditors' work on internal controls focused on the Board's policies, procedures, and practices established for the complaint-handling process including those related to timely processing of complaints. Information system data was used to determine complaint-handling timeliness, so auditors conducted data validation test work to ensure that the system information auditors used was sufficiently complete and accurate for the purpose of determining complaint-handling timeliness. Auditors interviewed staff who use the data, observed data entry procedures, and identified some specific controls over data accuracy and reliability. Also, auditors ensured that 17 complaints listed in board meeting minutes were contained in the computer system and that dates contained in the computer system for these same 17 complaints matched meeting minutes. In addition, board data was used to determine license-issuing timeliness, so auditors also conducted data validation test work to ensure that licensing data was reasonably complete and accurate. Specifically, auditors verified board license application timeliness report information against 10 randomly selected licensee's files to ensure accuracy. Also, to assess completeness, auditors randomly selected 20 licensee files from an April 2011 board computer system report and ensured that information from those 20 files was contained on the Board's license application timeliness report. In general, auditors concluded that the Board's complaint handling and licensing data was sufficiently reliable for audit purposes.
- Auditors also used some additional methods to obtain information used throughout the report, including the Introduction section and Sunset Factors. Specifically, auditors observed three board meetings held on June 9 and 30, 2010, and October 14, 2010. In addition, auditors compiled unaudited information from the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2008 through 2010 and the AFIS Management Information System *Status of General Ledger—Trial Balance* screen for fiscal years 2009 and 2010, and board estimates for fiscal year 2011 as of May 2011; placed four anonymous public information request phone calls to board staff between August 23, 2010 and September 8, 2010; and reviewed an analysis of the Board's administrative rules performed by the Governor's Regulatory Review Council staff and a board notice of proposed rulemaking filed with the Secretary of State's Office.

AGENCY RESPONSE



Janice K. Brewer
Governor

Douglas D. Lee, M.D.
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Arizona Medical Board

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Lisa S. Wynn, B.S.
Executive Director

June 14, 2011

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

Dear Ms. Davenport,

On behalf of the Arizona Medical Board, I have submitted the agency's response to the Audit Report conducted by your office.

The Arizona Medical 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.

I would also like to take this opportunity to recognize the professionalism of your staff throughout the audit 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 jurisdiction of the board.

Thank you, again, for your consideration.

Respectfully,

Lisa S. Wynn

cc: Arizona Medical Board Members

Final Audit Response
Arizona Medical Board
June 14, 2011

Finding 1: The Board should improve staff doctor and medical consultant selection, and medical consultant training and problem resolution practices.

The Board and its staff recognize the critical role played by staff doctors and medical consultants who conduct clinical reviews of cases. In response to this audit, the Board has developed written policies to enhance the quality of our pool of medical consultant volunteers, improve our process for selecting consultants for each case, and ensure that consultants receive adequate training,

Recommendations:

- 1.1 The Board should formalize its staff doctor and medical consultant selection practices in written policies and procedures, including how board staff should consider the nature of the complaint and licensees' practice specialties in determining the selection of consultants.

The finding of the Auditor General is agreed to and the audit recommendation has been implemented.

- 1.2 The Board should establish and implement policies and procedures regarding medical consultant qualifications, and complaint review time frames and requirements.

The finding of the Auditor General is agreed to and the audit recommendation has been implemented.

- 1.3 The Board should establish and implement a process for requiring and ensuring that its medical consultants complete board-provided training before they review complaints. One way to do this would be to request confirmation from the consultants that they had reviewed the training materials.

The finding of the Auditor General is agreed to and the audit recommendation will be implemented. Implementation will be complete by August 2011. The Board was recognized by the Federation of State Medical Boards in 2011 in its national bi-weekly publication for its best practice of on-line medical consultant training. In April 2010, Administrators in Medicine (AIM), a national association of medical board administrators, recognized the Board for its Outside Medical Consultant Recruitment and Education efforts as a Best of Boards honorable mention recipient.

- 1.4 The Board should establish and implement written policies and procedures that provide guidance on when medical consultants should not be used or should be used only for certain types of complaints.

The finding of the Auditor General is agreed to and the audit recommendation has been implemented.

- 1.5 The Board should establish and implement policies and procedures on how and where problems with specific medical consultants' work and decisions regarding the continuing use of these consultants should be documented.

The finding of the Auditor General is agreed to and the audit recommendation has been implemented. This information is being entered into our data system on the profile of the consultant. We are utilizing a comments field to document if a consultant should not be utilized, or should be utilized only in certain types of cases, and why.

Sunset Factors

- Executive Director complaint dismissals appear appropriate, but additional guidance should be established in policy.

The finding of the Auditor General is agreed to and the audit recommendation has been implemented. The Board has established a policy that identifies the steps its Executive Director takes when deciding whether to dismiss a complaint. The policy includes the steps taken when the Executive Director denies a staff recommendation for dismissal and sends the case for further investigation.

- Changes are needed to address complaint-handling timeliness.

The finding of the Auditor General is agreed to and the audit recommendation has been implemented. The Board has strived to maintain excellent response time, both in the issuance of licenses and the completion of complaint investigations. A portion of the complaint resolution timeframe is dependent on the provision of due process for the physician. Once a case has been referred to Formal Hearing, the Office of the Attorney General becomes responsible for preparing and scheduling it for hearing pursuant to timeframes established in A.R.S. § 41.1092.05. The Board has revised internal reports that track the timeliness of the handling of the complaint, including the priority level and post-investigation timeframes.

- Board needs to improve two IT processes.

The finding of the Auditor General is agreed to and the audit recommendation will be implemented. The Board Chief Information Officer developed the Board's first IT Strategic Plan in 2010, and has continually updated it as needs are prioritized and resources become available. Both processes identified here are on the current IT Strategic Plan (Data Loss Prevention/Identity and Access Management/Disaster Recovery) with Disaster Recovery projected to be completed by June 30, 2011 and the others projected to be completed in FY2012. The Board has significantly improved the security posture of the agency and in May 2011 was recognized by the International Data Group's Computerworld Honors Program as a 2011 Laureate for the Board's Security Awareness initiatives.

- Board needs to provide additional public information on its Web site.

The finding of the Auditor General is agreed to and the audit recommendation has been implemented. It would be extremely unusual for a physician to have a felony conviction and not have either a permanent or interim action on the physician profile as a result, but we have changed our policy and process to ensure that all felony convictions are posted as soon as they are reported.

Performance Audit Division reports issued within the last 24 months

09-06	Gila County Transportation Excise Tax	10-04	Department of Agriculture—Food Safety and Quality Assurance Inspection Programs
09-07	Department of Health Services, Division of Behavioral Health Services—Substance Abuse Treatment Programs	10-05	Arizona Department of Housing
09-08	Arizona Department of Liquor Licenses and Control	10-06	Board of Chiropractic Examiners
09-09	Arizona Department of Juvenile Corrections—Suicide Prevention and Violence and Abuse Reduction Efforts	10-07	Arizona Department of Agriculture—Sunset Factors
09-10	Arizona Department of Juvenile Corrections—Sunset Factors	10-08	Department of Corrections—Prison Population Growth
09-11	Department of Health Services—Sunset Factors	10-L1	Office of Pest Management—Regulation
10-01	Office of Pest Management—Restructuring	10-09	Arizona Sports and Tourism Authority
10-02	Department of Public Safety—Photo Enforcement Program	11-01	Department of Public Safety—Followup on Specific Recommendations from Previous Audits and Sunset Factors
10-03	Arizona State Lottery Commission and Arizona State Lottery	11-02	Arizona State Board of Nursing
		11-03	Arizona Department of Veterans' Services—Fiduciary Program

Future Performance Audit Division reports

Pinal County Transportation Excise Tax