

# Arizona State Board of Barbers

Board licensed applicants without ensuring they met all requirements, did not annually inspect all barber shops and schools and consider potential disciplinary actions for inspection violations, and did not timely open and investigate some complaints and accurately document complaint outcomes

Performance Audit and  
Sunset Review

August 2021  
Report 21-108

A Report to the Arizona Legislature

Lindsey A. Perry  
Auditor General





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August 4, 2021

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Mr. Bruce Bueno, Executive Director  
Arizona State Board of Barbers

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the Arizona State Board of Barbers*. This report is in response to a September 19, 2018, 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 to provide a quick summary for your convenience.

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

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

Sincerely,

*Lindsey A. Perry*

Lindsey A. Perry, CPA, CFE  
Auditor General

cc: Arizona State Board of Barbers members

## Arizona State Board of Barbers

**Board licensed applicants without ensuring they met all requirements, did not annually inspect all barber shops and schools and consider potential disciplinary actions for inspection violations, and did not timely open and investigate some complaints and accurately document complaint outcomes**

### Audit purpose

To determine whether the Board issued licenses in accordance with statute and rule requirements, conducted required inspections of barbering establishments and addressed inspection violations, and resolved complaints in a timely manner and in accordance with Board policy.

### Key findings

- Arizona began regulating barbering in 1929 when the Legislature created the State Board of Barbers and Cosmeticians, which was separated into 2 boards in 1935. Legislation passed in 2021 reconsolidates the 2 boards, creating the Barbering and Cosmetology Board effective January 1, 2022.
- The Board generally issued/renewed licenses within its established time frames but did not verify some licensure requirements for 21 of 33 initial and renewal applications we reviewed.
- Board staff did not inspect all barber shops and schools annually in calendar years 2019 and 2020, as required by rule; stopped presenting inspection violations to the Board for its consideration of potential disciplinary actions at Board meetings held between May 2020 and March 2021; and used an inspection form that did not address all statute and rule requirements.
- Although the Board resolved 8 of 9 complaints it received between July and December 2020 within 180 days, Board staff had not addressed 2 of these complaints for more than 130 days until we requested documentation about the complaints, did not enter 1 complaint in its e-licensing system, did not record an outcome for 2 complaints, and incorrectly recorded 3 complaints' outcomes.
- The Board has not adhered to several conflict-of-interest statutory requirements and recommended practices, including requiring Board members and staff to sign an annual disclosure form.

### Key recommendations

The Board should develop and implement:

- License application review and approval policies and procedures, including procedures to ensure all license requirements are met.
- A risk-based inspection approach to focus staff resources on high-risk establishments, and modify rules to no longer require annual inspections.
- Inspection policies and procedures for tracking and monitoring inspections and imposing disciplinary action against licensees to address inspection violations.
- Additional monitoring and review procedures to help ensure that complaints are timely opened, investigated, and resolved, and that complaint outcomes are accurately documented.
- Policies and procedures to help ensure it complies with statutory conflict-of-interest requirements and recommended practices.



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## Board overview

The Arizona State Board of Barbers (Board) regulates the barbering industry by issuing licenses to individuals and establishments, conducting inspections, resolving complaints, and providing information to the public about the status of licensees. Statute requires the Board to consist of 5 members appointed by the Governor for 5-year terms. In fiscal year 2021, the Board was allocated 4 full-time equivalent staff positions. The Board does not receive any State General Fund appropriations. Rather, the Board's revenues consist primarily of licensing fees.

<b>Active individual licenses as of June 1, 2021</b>	<b>Active establishment licenses as of June 1, 2021</b>
6,264	1,835
<b>Establishment inspections conducted in calendar years 2019 and 2020</b>	
At least 342	
<b>Complaints received between July 2019 and December 2020</b>	
32	

## Audit results summary

### Key regulatory areas reviewed

<b>Individual licenses</b> —Process initial applications within 28 days. Key qualifications include education, experience or passing examinations, and lawful presence documentation.	Issued timely ✗	Ensured qualifications met ✗
<b>Establishment licenses</b> —Process initial applications within 90 days. Key qualifications include passing an initial inspection of premises and submitting an equipment list.	Issued timely ✓	Ensured qualifications met ✗
<b>License renewals</b> —Process renewal applications within 28 days. Licensed applicants must provide evidence that work authorization documentation has not expired, if applicable.	Issued timely ✓	Ensured qualifications met ✗
<b>Licensed establishment inspections</b> —Inspect establishments at least once per year.	Met 1-year inspection requirement ✗	Conducted inspections State-wide ✗
<b>Complaint handling</b> —Investigate complaints it receives and take action to address violations.	Resolved complaints within 180 days ✗	Followed complaint-handling policy ✗

### Other responsibilities reviewed

<b>Public information</b> —Provide specific complaint and licensee information to the public upon request. During the audit, the Board finalized a new policy and procedures to guide responses to public information requests.	Had required website statement on how to obtain additional public records ✗	Had policy and procedures to guide responses ✓
<b>Fee setting</b> —Establish policies and procedures to ensure fees are based on costs of providing services and periodically reviewed.	Established fee-setting policies and procedures ✗	Periodically reviewed ✗
<b>Conflicts of interest</b> —Requirements and recommended practices include signing a disclosure form annually and maintaining a special file to document substantial interest disclosures.	Board members and staff signed annual disclosure form ✗	Maintained special file to document substantial interest disclosures ✗
<b>Cash handling</b> —Requirements include appropriate segregation of cash-handling and recording duties and limiting access to cash.	Segregated cash-handling duties ✗	Limited access to cash ✗
<b>Rulemaking and open meeting law</b> —Requirements include involving the public in rulemaking and accurately recording Board meeting actions in meeting minutes.	Involved public in rulemaking ✓	Accurately recorded meeting actions in meeting minutes ✗



The Arizona Auditor General has completed a performance audit and sunset review of the Arizona State Board of Barbers (Board). This performance audit and sunset review provides responses to the statutory sunset factors and determined whether the Board (1) issued licenses in accordance with statute and rule requirements, (2) conducted inspections of barbering establishments in accordance with rule and addressed inspection violations, and (3) resolved complaints in a timely manner and in accordance with Board policy.

## Mission and responsibilities

Arizona began regulating barbering in 1929 when the Legislature created the State Board of Barbers and Cosmeticians. The State separated the regulation of barbering and cosmetology into separate boards in 1935 but passed legislation during the 2021 legislative session that will reconsolidate the 2 boards effective January 1, 2022 (see pages 3 through 4 for more information). The Board's mission is to ensure that the public is protected from the incompetent practice of barbering. Its responsibilities include:

- Issuing licenses to qualified barbers, instructors, barber shops, and barber schools (see textbox). Table 1 (see page 3) shows the key statutory and rule requirements for these licenses. Barbers and instructors must renew their licenses biennially on their birthday, and barber shops and barber schools must renew their licenses annually by June 30. As of June 1, 2021, the Board reported active licenses for 6,162 barbers, 102 instructors, 1,804 barber shops, and 31 barber schools.
- Conducting inspections of barber shops and schools, both before and after initial licensure, to ensure compliance with statute and rule requirements. According to Board records, it conducted at least 280 inspections in calendar year 2019 and at least 62 inspections in calendar year 2020 (see pages 7 through 8 for additional information).
- Investigating and adjudicating complaints that allege violations of Board statutes or rules. According to its records, the Board received 32 complaints from July 2019 through December 2020.

### Key terms

**Barber**—A person who is licensed to practice barbering. Barbering includes various practices performed on a person's head, face, neck, or shoulders for cosmetic purposes, such as cutting, clipping, or trimming hair; styling or dyeing hair; and shaving or trimming a beard.

**Instructor**—A person who is licensed to teach barbering.

**Barber shop**—An establishment that is operating for the purpose of engaging in barbering.

**Barber school**—An establishment that is operated for the purpose of teaching barbering.

Source: Arizona Revised Statutes (A.R.S.) §32-301.

## Organization and staffing

As required by A.R.S. §32-302, the Board consists of 5 Governor-appointed members, including 2 members in the barbering industry and 3 public members. Board members serve 5-year terms and may serve 2 consecutive terms. As of July 2021, the Board reported having 4 filled and 1 vacant (a public member) member positions.

The Board was appropriated 4 full-time equivalent staff positions for fiscal year 2021 that are filled by an executive director, assistant director, and 2 administrative assistants. Board staff reported that its assistant director position became vacant in July 2021.

**Table 1**  
**Key statute and rule requirements by license type**

License	Key requirements	Legal reference
<b>Individuals</b>		
Barber by examination	<ul style="list-style-type: none"> <li>Be at least 16 years old.</li> <li>Complete and receive credits for 2 years of high school education.</li> <li>Graduate from a licensed barber school or complete an approved apprenticeship program.</li> <li>Pass the written and practical examination given by the Board.<sup>1</sup></li> </ul>	A.R.S. §32-322(A)&(B) A.R.S. §32-324(B)
Barber by reciprocity <sup>2</sup>	<ul style="list-style-type: none"> <li>Be at least 16 years old.</li> <li>Complete and receive credits for 2 years of high school education.</li> <li>Graduate from a licensed barber school or complete an approved apprenticeship program.</li> <li>Have 1 year of barbering experience.</li> </ul>	A.R.S. §32-322(A),(B)&(C)
Instructor by examination	<ul style="list-style-type: none"> <li>Be at least 19 years old.</li> <li>Graduate from high school.</li> <li>Have 2 years of barbering experience.</li> <li>Pass the written and practical examination given by the Board.<sup>3</sup></li> </ul>	A.R.S. §32-323(A)&(B) A.R.S. §32-324(B)
Instructor by reciprocity <sup>2</sup>	<ul style="list-style-type: none"> <li>Be at least 19 years old.</li> <li>Graduate from high school.</li> <li>Have 2 years of barbering experience.</li> <li>Have 1 year experience as a licensed instructor.</li> </ul>	A.R.S. §32-323(A),(B)&(C)
<b>Establishments</b>		
Barber shop	<ul style="list-style-type: none"> <li>Submit an equipment list.</li> <li>Pass a premises inspection.</li> </ul>	AAC R4-5-301(B) AAC R4-5-108(C)
Barber school	<ul style="list-style-type: none"> <li>Submit evidence of a \$25,000 bond.</li> <li>Submit an equipment list.</li> <li>Submit a school catalog and list of courses offered.</li> <li>Pass a premises inspection.</li> </ul>	A.R.S. §32-325(C) AAC R4-5-401(C)&(D) AAC R4-5-108(C)

<sup>1</sup> According to A.R.S. §32-324, barber examinations test an applicant’s knowledge of sanitary practices and safety and use of all instruments, equipment, or chemicals permitted in barbering.

<sup>2</sup> Applicants who apply for a license by reciprocity hold a valid license to practice or teach barbering issued by another state.

<sup>3</sup> According to A.R.S. §32-324, instructor examinations are limited to the subjects taught in courses that the applicant seeks to teach.

Source: Auditor General staff review of A.R.S. Title 32, Ch. 3, and Arizona Administrative Code (AAC) Title 4, Ch. 5.

## Budget

The Board does not receive any State General Fund appropriations. Rather, its revenues consist primarily of licensing and related fees (see Table 2, page 4). A.R.S. §32-305 requires the Board to remit 10 percent of all monies received to the State General Fund and to deposit the remaining 90 percent of these revenues into the Board of Barbers Fund. Statute also requires the Board to remit all monies collected from civil penalties to the State General Fund. Most of the Board’s expenditures are for personnel costs and other operating expenses, such as rent and information technology. The Board’s fund balance was estimated to be approximately \$686,000 at the end of fiscal year 2021.

## Consolidation with the Arizona State Board of Cosmetology

Laws 2021, Ch. 334, consolidates the Board with the Arizona State Board of Cosmetology and creates the Barbering and Cosmetology Board effective January 1, 2022. The new board composition will consist of 1 cosmetologist and 1 barber who have been licensed and practicing for 3 years, 1 cosmetology school owner,



1 barber school owner, and 5 public members.<sup>1</sup> The law also introduces other changes to barbering industry regulation, such as reducing the number of required instructional hours for barbers and allowing barber schools and cosmetology schools to offer both barbering and cosmetology courses if a licensed barber instructor teaches the barbering courses and a licensed cosmetology instructor teaches the cosmetology courses. Finally, the law repeals the Board of Barbers Fund and transfers unexpended and unencumbered monies remaining in this fund on January 1, 2022, to a newly established Barbering and Cosmetology Fund. The Board reported that it began meeting with the Arizona State Board of Cosmetology in May 2021, after the law's passage, to develop plans for the 2 boards' consolidation.

**Table 2**  
**Schedule of revenues, expenditures, and changes in fund balance**  
**Fiscal years 2019 through 2021**  
(Unaudited)

	2019 (Actual)	2020 (Actual)	2021 (Estimate)
<b>Revenues</b>			
Licensing and fees	\$336,837	\$293,554	\$276,194
Examination fees	56,870	60,480	75,565
Fines, forfeits, and penalties	58,099	53,433	47,355
Publications and reproductions	140	1,110	1,049
<b>Gross revenues</b>	<b>451,946</b>	<b>408,577</b>	<b>400,163</b>
Net credit card fees	(4,257)	(3,272)	(1,100)
Remittances to the State General Fund <sup>1</sup>	(42,548)	(39,858)	(39,580)
<b>Total net revenues</b>	<b>405,141</b>	<b>365,447</b>	<b>359,483</b>
<b>Expenditures</b>			
Payroll and related benefits	287,005	298,918	298,428
Professional and outside services	190		595
Travel	3,775	1,831	695
Other operating <sup>2</sup>	89,609	96,493	82,291
Furniture and equipment	1,017	602	50
<b>Total expenditures</b>	<b>381,596</b>	<b>397,844</b>	<b>382,059</b>
Net change in fund balance	23,545	(32,397)	(22,576)
Fund balance, beginning of year	717,737	741,282	708,885
<b>Fund balance, end of year</b>	<b>\$741,282</b>	<b>\$708,885</b>	<b>\$686,309</b>

<sup>1</sup> As previously discussed (see page 3), per A.R.S. §32-305, the Board is required to remit to the State General Fund 100 percent of civil penalties and 10 percent of its other revenues.

<sup>2</sup> Other operating expenditures comprised various expenditures, including building rent, information technology costs, and accounting services.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2019 and 2020, the State of Arizona *Annual Financial Report* for fiscal years 2019 and 2020, and Board-provided financial information for fiscal year 2021.

<sup>1</sup> According to the law, all persons serving as members of the Board and the Arizona State Board of Cosmetology on January 1, 2022, may continue to serve on the consolidated Barbering and Cosmetology Board until the expiration of their normal terms. The Governor shall make all subsequent appointments as prescribed by law.



As discussed in the Introduction (see pages 3 through 4), Laws 2021, Ch. 334, consolidates the Board with the Arizona State Board of Cosmetology and creates the Barbering and Cosmetology Board effective January 1, 2022. The law also repeals the Board's termination date of July 1, 2022, and establishes a new termination date of July 1, 2026, for the consolidated board. As a result, the Board will no longer exist as a separate entity, and the legislative committees of reference need not consider its continuation or termination. The consolidated Barbering and Cosmetology Board will undergo a sunset review prior to its July 1, 2026, termination date. This report presents our findings for the statutory sunset factors prescribed by A.R.S. §41-2954(D) and makes several recommendations to the Board. Although the Board is responsible for addressing these recommendations up until the consolidation, the Barbering and Cosmetology Board will be responsible for addressing them thereafter, including at the time we conduct our initial followup to the report in 2022 and any subsequent followups.

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

The Board was established in 1935, and its mission is to ensure the public is protected from the incompetent practice of barbering. To accomplish this mission, the Board licenses qualified barbers, instructors, and barbering establishments and investigates and adjudicates complaints that allege violations of Board statutes and rules. The Board also inspects barbering establishments for compliance with statute and rule requirements and provides information to the public regarding licensees' disciplinary history and license status.

We did not identify any states that met the Board's objectives and purpose through private enterprise. According to the U.S. Bureau of Labor Statistics website, all 50 states license barbers.<sup>2</sup> In addition, we judgmentally selected and reviewed the regulation of barbering in 3 states as part of our sunset factor work—California, Colorado, and Nebraska—and found that none used private enterprises to regulate barbering.

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

The Board has not fully met its statutory objective and purpose in several areas, including licensing, inspections, fee-setting, and cash handling. Specifically, the Board:

- **Generally issued/renewed licenses within established time frames but did not verify some licensure requirements for applications we reviewed**—The Board generally issued/renewed licenses within its established time frames for 33 initial and renewal license applications we reviewed.<sup>3</sup> AAC R4-5-108(E) requires the Board to approve or deny initial and renewal applications within 28 days for barbers and instructors and 90 days for barber shops and barber schools. The Board processed 31 applications within its time frames. For 1 barber application, the Board issued the license in 33 days, and Board staff could not explain the delay in issuing this license. Additionally, for the 1 instructor application we reviewed, although the Board processed the application within its review time frame, the applicant did not take the required practical

<sup>2</sup> Bureau of Labor Statistics. (2021). *Occupational outlook handbook: Barbers, hairstylists, and cosmetologists*. Washington, DC: U.S. Department of Labor. Retrieved 3/1/21 from <https://www.bls.gov/ooh/personal-care-and-service/barbers-hairstylists-and-cosmetologists.htm#tab-4>.

<sup>3</sup> We reviewed a stratified random sample of applications for licenses issued/renewed between July and December 2020, including 20 of 245 initial barber applications, 5 of 79 initial barber shop applications, and 5 of 270 renewal barber applications that required updated citizenship documentation. Four of 20 initial barber applicants applied by reciprocity, and 16 applied by examination. Additionally, we judgmentally selected and reviewed applications for licenses issued for 1 of 3 initial instructor applications and 2 of 4 initial barber school applications during the same time period.

examination for more than 4 years after initially applying. The Board kept the application open during this time and approved the application once the applicant completed the practical examination (see Sunset Factor 4, pages 11 through 12, for more information about this application).

However, the Board did not verify some licensure requirements for 21 of 33 initial and renewal applications we reviewed that the Board approved, as summarized in Table 3 (see page 7).<sup>4</sup> For example, Board staff:

- Did not require 5 applicants to provide necessary documentation for proof of barbering experience. A.R.S. §32-322(C) requires barber applicants who hold a valid license issued by another state and apply by reciprocity to submit proof of 1 year of barbering experience, and A.R.S. §32-323(B)(5) requires instructor license applicants to have practiced barbering for at least 2 years. AAC R4-5-202(C) and R4-5-203(A) further clarify that proof of this experience should be a notarized signature of the barber(s) where the work was performed. However, the 4 barber applicants who applied by reciprocity and the 1 instructor applicant we reviewed did not provide this proof of experience.
- Did not verify that 2 barber applicants who applied by reciprocity held licenses from a state that has a reciprocity agreement with Arizona. Specifically, AAC R4-5-202(C) requires barber applicants who apply by reciprocity to submit a copy of their barber license issued by a state with which Arizona has a reciprocity agreement. However, 2 of the 4 barber applicants who applied by reciprocity submitted licenses from states with which Arizona does not have a reciprocity agreement. According to the Board, these applicants should have been approved through universal licensing recognition despite Board staff approving them as license by reciprocity (see textbox for more information about universal licensing recognition).
- Did not require adequate pictures for barber shop inspections for initial licensure. AAC R4-5-108(C) requires barber shop applicants to receive an inspection prior to license issuance. According to the Board, this is accomplished through having the applicants submit pictures of the barber shop. Board staff reported that the main items they look for in reviewing the pictures are barber workstations, mirrors, chairs, disinfectant solution, and that sinks are within 6 feet of the workstations. However, for 3 of the 5 barber shop applications, not all these items could be seen in the pictures the applicants provided. For example, 2 applicants provided pictures that did not show any sinks, and 1 did not show disinfectant solution.
- Did not require the 2 barber school applicants we reviewed to provide a school catalog and course information. Specifically, AAC R4-5-401(D) requires barber school applicants to provide a current school catalog and a list of all courses offered, including the number of instructional hours devoted to each course. Further, A.R.S. §32-325(B) states that licensed barber schools are required to have at least 1,500 barbering hours as part of the course of instruction. Statute further outlines specific requirements for courses, such as requiring 1,250 hours to be devoted to practice and study of massaging and manipulating muscles of the scalp, face, and neck; hair cutting; shaving; and chemical work, such as coloring and beaching. Because the 2 barber school applicants we reviewed did not submit a school catalog for review, the Board was not able to verify whether the schools' course offerings aligned with the statutory requirements.









### Universal licensing recognition

Laws 2019, Ch. 55, known as the universal licensing recognition law, provides another avenue for individuals already licensed in another state to receive a license at the same level in Arizona. Individuals who obtain a license through universal licensing recognition must meet specific licensing requirements, such as Arizona residency requirements and having their licenses in good standing in all states where licensed.

Source: Auditor General staff review of Laws 2019, Ch. 55, and documentation from the Arizona Office of the Governor.

<sup>4</sup> Board staff reported that 1 of the 2 barber school applications we reviewed was mistakenly approved. During the audit, and in response to our inquiries, Board staff suspended the license.

**Table 3****Summary of key individual and establishment license requirements the Board did not verify before licensure**

Individual license type	Lawful presence <sup>1</sup> 	Barbering experience <sup>2</sup> 	Barber school graduation 		
Barber (initial)	11/20 not verified	4/4 not verified	3/20 not verified		
Barber (renewal)	1/3 not verified <sup>3</sup>	N/A	N/A		
Instructor (initial)	1/1 verified	1/1 not verified	N/A		
Establishment license type	Lawful presence <sup>1</sup> 	Equipment list 	Inspection requirements 	School courses 	Affirmation that everything is true and correct 
Barber shop (initial)	2/5 not verified	4/5 not verified	3/5 not verified	N/A	4/5 not verified
Barber school (initial)	1/1 not verified	1/2 not verified	1/2 not verified	2/2 not verified	2/2 not verified

<sup>1</sup> A.R.S. §41-1080 requires the Board to obtain documentation from applicants to verify lawful presence, which confirms that applicants are legally present in the State. The documentation should include a government-issued document that contains the individual's photograph. Additionally, AAC R4-5-109(A) requires renewal applicants to provide evidence that work authorization has not expired. One of the barber school applicants applied as a limited liability corporation and was, therefore, not required to provide lawful presence documentation.

<sup>2</sup> The Board is required to verify barbering experience only for barber applicants who apply by reciprocity and for instructor applicants.

<sup>3</sup> Three of 5 renewal applications we reviewed had expired work authorization documentation, and the Board did not require updated documentation from 1 of the 3 renewal applicants to verify lawful presence prior to issuing the renewal license.

Source: Auditor General staff review of Board statutes and rules and 33 initial and renewal license applications for licenses the Board issued/renewed between July and December 2020 (see footnote 3 on page 5).

The Board lacks written license application policies and procedures that could help ensure it receives and reviews the required documentation to verify applicants meet all licensure requirements. In addition, the Board's applications for each of the 4 license types are missing questions and/or requests for applicants to submit documentation demonstrating compliance with some statute and rule requirements, which also likely contributed to the Board not receiving all required documentation. For example, the barber-by-reciprocity and instructor applications do not require applicants to submit documentation with notarized signatures showing proof of barbering experience as required by rule, and the barber school application does not require applicants to submit the school catalog or the list of courses, as required by rule.

- **Did not inspect barber shops and schools annually in calendar years 2019 and 2020, as required by rule; did not consistently take disciplinary action to address statute and rule violations identified during inspections in those years; and used an inspection form that did not address all statute and rule requirements**—Specifically:
  - A.R.S. §32-304(B)(2) authorizes the Board to inspect the premises of any barber establishment during business hours, and AAC R4-5-107(B)(2) requires the Board to inspect each establishment's premises at least once per calendar year. These inspections help ensure licensed barber shops and schools comply with all statute and rule requirements, including requirements related to sanitation and licensure, and the Board reported that it conducts unannounced inspections. However, Board staff did not inspect most licensed establishments annually in calendar years 2019 and 2020. According to Board-provided documentation, staff inspected at least 280 barber establishments in calendar year 2019 and at least 62 barber establishments in calendar year 2020, although there were 1,850 licensed establishments as of February 2021. Additionally, staff conducted these inspections only within the greater Phoenix area and

not in other areas of the State. For example, as of February 2021, there were 266 licensed establishments in Tucson and 16 licensed establishments in Flagstaff, but staff did not inspect any of these establishments in calendar years 2019 and 2020.

Board staff cited 2 factors that contributed to their inability to complete more inspections—the lack of a dedicated inspector and, for calendar year 2020, the COVID-19 pandemic. Specifically, Board staff reported that the Board does not have a full-time inspector and that the Executive Director and Assistant Director complete inspections in addition to their other duties. Additionally, Board staff reported they stopped conducting routine inspections in April 2020 in response to the COVID-19 pandemic.

However, we also found that the Board lacks a systematic inspection process, supported by policies and procedures, such as a risk-based inspection approach, to determine when licensed establishments should be inspected and for tracking and monitoring completed inspections. Recommended practices indicate that implementing a risk-based approach to regulation helps regulators prioritize their limited resources to focus on high-risk entities to identify and address instances of noncompliance.<sup>5</sup> According to recommended practices, regulators should also monitor entities that are determined to be low risk, such as by conducting inspections of a random sample of lower-risk entities, to help ensure that all entities are subject to review. Using a risk-based inspection approach would allow the Board to focus its staff resources on establishments where there is some indication of risk, such as a complaint or historical violations, or establishments that have not been inspected in some time. If the Board adopted a risk-based approach, it would need to revise its rules to no longer require all barber establishments to be inspected annually.

- Board staff stopped presenting inspection violations to the Board for its consideration and determination of potential disciplinary actions at its bimonthly Board meetings held between May 2020 and March 2021. Although Board staff explained that they did not provide inspection violations to the Board because of the limited number of inspections performed in calendar year 2020, staff had still identified multiple violations in these inspections that could have been presented to the Board for potential disciplinary action. Board staff resumed presenting inspection violations to the Board for potential disciplinary action at the May 2021 Board meeting, which included violations from inspections performed after March 2021 and 1 inspection from calendar year 2020. Additionally, the Board lacks policies and procedures that direct staff when to present inspection violations to the Board for its review and consideration of potential disciplinary action.
- Board staff used an inspection form that is missing multiple areas that have statutory and rule requirements, and for several areas that are included, the form does not provide guidance to Board staff on what specifically should be reviewed during an inspection. For example, AAC R4-5-302(A) requires barber shops to have 2 separate covered receptacles—1 for garbage and hair and 1 for soiled reusable towels—but the inspection form does not list receptacles as items to inspect. Additionally, A.R.S. §32-325(C) and AAC R4-5-404(A) outline specific equipment that each barber school should provide to students or have to operate, such as instructional furnishings, locker spaces for students, and a student library, but the inspection form does not direct Board staff to inspect for these items.

Further, for some areas the Board’s inspection form includes, it does not provide guidance regarding the specific requirements to monitor and check during an inspection. For example, the inspection form has a checkbox to indicate that Board staff should review each barber’s workstation and sanitizer, but it does not specify the requirements for these items and what should be reviewed. According to Board staff, they should ensure the sanitizer is present and clean and that the workstation is clean and free of all nonbarbering items, such as food. However, without this guidance specified on the inspection form, compliance with statutory and rule requirements may not be properly assessed, especially by new or inexperienced inspectors.

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<sup>5</sup> Department of Finance, Services, & Innovation. (2016). *Guidance for regulators to implement outcomes and risk-based regulation*. State of New South Wales: Sydney, Australia. Retrieved on 5/17/21 from [https://www.productivity.nsw.gov.au/sites/default/files/2018-05/Guidance\\_for\\_regulators\\_to\\_implement\\_outcomes\\_and\\_risk-based\\_regulation-October\\_2016.pdf](https://www.productivity.nsw.gov.au/sites/default/files/2018-05/Guidance_for_regulators_to_implement_outcomes_and_risk-based_regulation-October_2016.pdf).

- **Has not evaluated the appropriateness of its fees**—The Board’s application, licensure, and examination fees are set forth in rule, and according to Board staff, the fees have not been revised since at least calendar year 2016 (see textbox). However, the Board lacks fee-setting policies and procedures for evaluating the appropriateness of its fees to help ensure they are commensurate with the costs of its regulatory activities. Government fee-setting standards and guidance state that user fees should be based on the costs of providing a service and reviewed periodically to ensure they are based on these costs.<sup>6</sup>

- **Has not adequately protected cash receipts, placing public monies at risk of loss or theft**—The *State of Arizona Accounting Manual* (SAAM) requires agencies to implement multiple cash-handling controls and safeguards, including segregating the cash-handling and cash-recording functions, such as opening the mail in the presence of another person, not authorizing staff who handle cash to also issue licenses, and limiting access to cash. Further, the SAAM requires bank accounts to be reconciled monthly. Because cash receipts are susceptible to loss or theft, it is critical that the Board adequately control and safeguard these monies.

## Board’s application, licensure, and examination fees<sup>1</sup>

### Barbers

Initial license: \$40  
 Examination: \$100  
 2-year renewal license fee: \$80

### Instructors

Initial license: \$50  
 Examination: \$100  
 2-year renewal license fee: \$60

### Barber shops

Application and initial inspection: \$150  
 1-year renewal license fee: \$50

### Barber schools

Application and initial inspection: \$1,000  
 1-year renewal license fee: \$400

<sup>1</sup> A.R.S. §32-328 outlines the amounts the individual fees cannot exceed, and AAC R4-5-102 establishes the specific fees charged. The above fees are below their statutory limits except for the barber school application and initial inspection fee, which is at the limit.

Source: Auditor General staff review of A.R.S. §32-328 and AAC R4-5-102.

Although the Board has an agreement with the Arizona Department of Administration Central Services Bureau to perform some cash-handling and accounting services on its behalf, Board staff also process a large amount of checks/money orders that the Board receives through the mail. We identified several areas where the Board’s cash-handling procedures do not align with the SAAM. Specifically, the Board reported that it:

- Has not appropriately segregated cash-handling duties. Specifically, the Board does not have 2 Board staff open the mail together, and the Board staff who open the mail also prepare the bank deposits and are authorized to issue renewal licenses.
- Has not limited access to cash because all Board staff have access to the safe.
- Has not monthly reconciled cash receipts to the number of licenses issued to help ensure all cash receipts are accounted for and match the number of licenses issued.

The Board’s inadequate procedures exposed it to an increased risk of loss or theft, although we did not identify any instances of loss or theft.

## Recommendations

The Board should:

1. Develop and implement license application review and approval policies and procedures, ensuring they include procedures for obtaining required documentation to verify that applicants meet all statute and rule requirements for all license types.

<sup>6</sup> We reviewed fee-setting guidelines from the Arizona State Agency Fee Commission, the Government Finance Officers Association, the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, the U.S. Government Accountability Office, and the U.S. Office of Management and Budget (see Appendix A, page a-1, for more information).



2. Review and modify its license applications to require applicants to submit documentation demonstrating they meet all statute and rule requirements for licensure.
3. Develop and implement a risk-based inspection approach to focus its staff resources on high-risk establishments. This should include identifying relevant risk factors, such as complaint allegations, historical violations, or the date of last inspection to help identify and select high-risk establishments for inspection. The Board should also develop procedures for selecting establishments for inspection in accordance with these risk factors, including the extent to which both high-risk and a random sample of low-risk establishments should be selected for inspection.
4. Modify its rules to no longer require annual inspections of all licensed barber establishments.
5. Develop and implement inspection policies and procedures for tracking and monitoring inspections and imposing disciplinary action against licensees to address statutory and rule violations identified during inspections.
6. Work with its Assistant Attorney General to determine whether it should review and consider potential disciplinary actions for calendar year 2020 inspection violations that its staff did not present to it for review.
7. Revise its inspection form to include all statutory and rule requirements that should be assessed during inspections and specific guidance for how Board staff should assess compliance with these statutory and rule requirements during both licensed barber shop and barber school inspections.
8. Develop and implement policies and procedures for periodically reviewing the appropriateness of its fees by analyzing the costs of its regulatory processes, comparing these costs to the associated fees, determining the appropriate licensing fees, and then revising its fees as needed.
9. Develop and implement cash-handling policies and procedures that adhere to SAAM requirements, including:
  - a. Opening mail with at least 2 Board staff present.
  - b. Separating the duties of logging cash receipts from licensing functions and preparing cash deposits.
  - c. Limiting the number of Board staff who have access to the safe.
  - d. Reconciling cash receipts to the number of licenses issued.

**Board response:** As outlined in its [response](#), the Board agrees with the findings and will implement the recommendations.

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

The Board serves the entire State through its responsibilities for licensing barbers and barber establishments, inspecting barber shops and schools, and investigating and adjudicating complaints that allege violations of Board statutes and rules throughout Arizona. However, as stated previously (see pages 7 through 8), the Board inspected barber establishments only within the greater Phoenix area in calendar years 2019 through 2020.

Additionally, the Board has not complied with conflict-of-interest requirements and recommended practices.<sup>7</sup> Arizona law requires public officers and employees of public agencies, including Board members, to avoid conflicts of interest that might influence or affect their official conduct.<sup>8</sup> These laws also require certain interests to be fully disclosed in a public agency's official records, either through a signed document or the agency's official minutes. Statute further requires that public officers/employees who have disclosed substantial financial or decision-making interests to refrain from participating in matters related to the disclosed interests. In addition,

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<sup>7</sup> See Appendix A, pages a-1 through a-2, for additional information on recommended practices we reviewed.

<sup>8</sup> A.R.S. §38-501 et seq.

recommended practices indicate that conflict-of-interest disclosure statements should be signed annually, which reminds public officers/employees of the importance of complying with conflict-of-interest laws and helps ensure that potential conflicts are disclosed if their circumstances change. Finally, statute requires public agencies to maintain a special file of all documents necessary to memorialize disclosures of substantial interests and to make this file available for public inspection.

We identified several areas where the Board did not adhere to conflict-of-interest statutory requirements and recommended practices. Specifically, although the Board has developed a conflict-of-interest disclosure form, it does not require its members or staff to sign it annually and did not have any signed forms. Further, although the Board has a disclosure form for members to sign if they recuse themselves during a meeting, the Board's Executive Director reported that during his tenure, no members had declared conflicts, and he was unsure if members had ever completed disclosure forms. The Board also did not have a special file containing conflict-of-interest documentation available for public review. Finally, the Board lacks policies and procedures for disclosing conflicts of interest, maintaining a special file to document disclosures of substantial interest as required by statute, and managing and remediating any disclosed potential conflicts of interest, and it does not provide any training to its staff or members regarding conflict of interest.

## Recommendations

The Board should:

10. Develop and implement written policies and procedures to help ensure it complies with statutory conflict-of-interest requirements and recommended practices, including:
  - a. Ensuring all Board members and staff complete an annual conflict-of-interest disclosure form, including having members and staff affirm if no conflict-of-interest exists.
  - b. Maintaining all substantial interest disclosures in a special file.
  - c. Establishing a process to review and remediate disclosed conflicts.
11. Develop and provide periodic training on statutory conflict-of-interest requirements and recommended practices, its conflict-of-interest process, and form to all Board members and staff.

**Board response:** As outlined in its [response](#), the Board agrees with the finding and will implement the recommendations.

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

A.R.S. §32-304(A)(1) provides the Board with general rulemaking authority, allowing it to adopt necessary rules, although no specific rules are required by statute. According to the Board, it has identified some rules that it believes need to be added or changed to reflect previous legislation, such as adding rules to establish minimum barber school curriculum requirements. Board staff reported that they will work with the Arizona State Board of Cosmetology to review its rules for potential changes as part of the 2 boards' consolidation.

Additionally, the Board should revise its rules to clarify its application time frames. As previously discussed in Sunset Factor 2 (see pages 5 through 6), the 1 barber school instructor applicant we reviewed did not take the required practical examination for over 4 years after initially applying, and the Board kept this application open rather than denying or closing the application. However, the Board's time frames in rule are unclear as to how long applicants have to take the required examinations or whether the examinations are part of its administrative or substantive review of applications. As a result, we could not conclude as to whether the Board should have denied or closed the application and required the applicant to reapply for licensure.



## Recommendations

The Board should:

12. Revise and/or adopt the rules it deems necessary as part of its consolidation with the Arizona State Board of Cosmetology.
13. Revise its rules to clarify its application time frames, including how long barber and instructor applicants have to take the required examinations and at which point applications should be considered denied or closed when applicants have not completed all license requirements or submitted all required documentation.

**Board response:** As outlined in its [response](#), the Board agrees with the findings and will implement the recommendations.

### Sunset factor 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 has encouraged input from the public and informed the public when adopting its rules. Specifically, during its most recent rulemaking in March 2017, the Board informed the public of the proposed rule changes and their expected impact and provided opportunities for public input.

However, we identified 2 areas where the Board should improve its processes to ensure it provides appropriate information to the public. Specifically:

- **Board generally complied with open meeting law requirements we reviewed, but had inaccurate meeting minutes for 2 of 3 meetings and has not posted a statement on its website about its physical meeting notice posting location**—We reviewed the Board’s compliance with open meeting law requirements for 3 Board meetings held between December 2020 and March 2021 and found that the Board generally complied with requirements we reviewed. For example, it posted meeting minutes and agendas on its website at least 24 hours prior to meetings and made meeting minutes available for inspection within 3 working days following meetings. However, the Board’s written meeting minutes for 2 of the 3 meetings inaccurately described which Board members made and seconded motions for approving prior minutes and adjourning meetings, likely because of human error. A.R.S. §38-431.01(B) requires written meeting minutes to include an accurate description of all legal actions proposed, discussed, or taken, including a record of how each member voted.

Additionally, A.R.S. §38-431.02(A) requires all public bodies to conspicuously post a statement on their websites stating where all public notices of their meetings will be posted, including the physical and electronic posting locations. However, although the Board has a statement on its website as to where electronic meeting notices will be posted, the statement does not indicate where the physical meeting notices will be posted.

- **Board established new policies and procedures for public information requests but should ensure it trains staff**—A.R.S. §32-4404 prohibits the Board from posting information about dismissed complaints and nondisciplinary actions and orders on its website but requires the Board to include a statement on its website that a person may obtain additional public records related to any licensee, including dismissed complaints and nondisciplinary actions and orders, by contacting the Board directly. However, the Board’s website does not include this statement. Additionally, the Board lacked policies and procedures to guide staff responses to public inquiries. Although Board staff reported that they do not receive many public inquiries about complaints or licensees’ status, during the audit in April 2021, the Board developed a policy and procedures to guide responses to public information requests but had not trained staff on the new policy and procedures.

## Recommendations

The Board should:

14. Comply with all open meeting law requirements by:
  - Ensuring its meeting minutes accurately reflect Board member actions.
  - Modifying the statement on its website to include where the physical meeting notices will be posted.
15. Update its website to include the required statement to inform the public that additional public records can be obtained by contacting the Board directly.
16. Continue to implement its new public information policies and procedures and train staff on the policies and procedures.

**Board response:** As outlined in its [response](#), the Board agrees with the findings and will implement the recommendations.

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

The Board has statutory authority to investigate and adjudicate complaints within its jurisdiction and has various disciplinary and nondisciplinary options available to address statute or rule violations (see textbox). According to its complaint-handling policy, upon receiving a complaint, Board staff should contact the complainant and respondent and conduct an inspection of the barber shop or school involved in the complaint if needed. If Board staff's investigation confirms a violation, the complaint should be placed on a Board-meeting agenda for the Board to determine appropriate disciplinary or nondisciplinary action.

We reviewed all 9 complaints the Board received between July and December 2020—8 of which were closed and 1 that was open as of June 2021.

The 8 closed complaints were resolved within 180 days and generally involved limited action by Board staff.<sup>9</sup> Specifically, 4 of the complaints were appropriately determined to be outside the Board's jurisdiction, and 3 complaints involved individuals having challenges with the Board's licensure process. Board staff reported contacting these individuals to assist with the licensure process, and we confirmed they have active licenses. The final closed complaint was investigated (i.e., Board staff obtained written statements and inspected the barber shop), presented to the Board for its review, and dismissed because the Board concluded that the complaint had no merit. The 1 open complaint was received in September 2020 and alleged that multiple barber shops in a city outside the greater Phoenix area advertised themselves as barber shops but employed only licensed cosmetologists. Board staff reported that they planned to conduct inspections to investigate this complaint but that it had temporarily ceased performing inspections outside the greater Phoenix area because of the COVID-19 pandemic. Board staff reported contacting the barber shops to inform them of the complaint but not implementing any alternative procedures to further investigate the complaint despite ceasing inspections, such as requiring barber shops to report employee names and licenses.

#### Board options for disciplinary and nondisciplinary actions

Disciplinary actions:

- Civil penalty (not to exceed \$500)
- Probation, including restitution
- Suspension of license
- Revocation of license
- Public reproof

Nondisciplinary action:

- Letter of concern

Source: Auditor General staff analysis of A.R.S. §32-352 and Arizona Office of the Attorney General. (2018). *Arizona agency handbook*. Phoenix, AZ. Retrieved 5/28/2021 from <https://www.azag.gov/outreach/publications/agency-handbook>.

<sup>9</sup> We have determined that Arizona regulatory agencies should investigate and adjudicate complaints within 180 days of receiving them.

We also identified issues with Board staff's timeliness in opening and investigating some complaints and the accuracy of its documentation. Specifically, Board staff had not taken steps to address 2 of the 9 complaints for more than 130 days until we requested documentation about the complaints. Board staff subsequently determined that 1 of these complaints was not in the Board's jurisdiction, and the other complaint is the open complaint previously discussed. In addition, Board staff did not enter 1 complaint in its e-licensing system, did not record an outcome for 2 complaints, and incorrectly recorded 3 complaints' outcomes as resulting in nondisciplinary orders when in fact they were closed without Board action.

The Board's complaint-handling policy lacks procedures for ensuring that complaints are adequately and timely opened, investigated, and resolved, and that complaints/outcomes are accurately documented in its e-licensing system.

## Recommendation

17. The Board should develop and implement additional complaint-handling procedures, such as monitoring and review procedures, to help ensure that complaints are adequately and timely opened, investigated, and resolved, and that complaints/outcomes are accurately documented in its e-licensing system.

**Board response:** As outlined in its [response](#), the Board agrees with the finding and will implement the recommendation.

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

The Attorney General serves as the Board's legal advisor and provides legal services as the Board requires, according to A.R.S. §41-192(A)(1). In addition, A.R.S. §32-356 authorizes the attorney general or county attorney to represent the Board to enjoin a person who is practicing barbering without a license.

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

According to the Board, it has identified several deficiencies in its enabling statutes. For example, the Board reported that it would like statute to define "barber pole" and clarify that only licensed barber shops or schools can display the barber pole, which would help ensure that only licensed barber establishments advertise barbering services. The Board also reported that it wants language added to statute to indicate that a person cannot practice barbering while intoxicated or under the influence of drugs.

Additionally, the Board reported that it wants statutory authority to deny issuing or renewing a license based on criminal history. Specifically, A.R.S. §32-353, which outlines the reasons that the Board can refuse to issue or renew a license, does not include criminal convictions. In contrast, a similar statute for the Arizona State Board of Cosmetology, A.R.S. §32-572, allows it to refuse to issue or renew a license based on an applicant's criminal convictions if the crime or act is substantially related to the qualifications, functions, or duties of the license applied for. Additionally, all 3 other states we reviewed for our sunset factor work—California, Colorado, and Nebraska—can consider criminal history as part of the licensing process and may deny an applicant, as authorized by applicable statutes and regulations, based on an applicant's criminal history (see Sunset Factor 11, pages 15 through 16).

Board staff reported that they will work with the Arizona State Board of Cosmetology to review its statutes for potential changes as part of the 2 boards' consolidation.

## Recommendation

18. The Board should work with the Legislature to pursue statutory changes that it deems necessary, such as legislation that would allow it to consider criminal history as part of the qualifications for licensure and refuse to issue or renew a license if the crime or act is related to the qualifications, functions, or duties of the license applied for.

**Board response:** As outlined in its [response](#), the Board agrees with the finding and will implement the recommendation.

**Sunset factor 9: The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in this sunset law.**

We did not identify any additional statutory changes necessary to comply with the factors listed in this sunset law.

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

As stated on pages 3 through 4, Laws 2021, Ch. 334, consolidates the Board with the Arizona State Board of Cosmetology into the Barbering and Cosmetology Board effective January 1, 2022. The law also repeals the Board's termination date of July 1, 2022, and establishes a new termination date of July 1, 2026, for the consolidated board. As a result, the Board will no longer exist as a separate entity, and the legislative committees of reference need not consider its continuation or termination. However, the Board reported that termination of its regulatory functions would place public health, safety, and welfare at risk. The Board ensures that barbers obtain a minimum level of professional knowledge by requiring applicants to graduate from a licensed barber school and pass written and practical examinations. In addition, the Board's authority to inspect barber establishments can help it detect unlicensed barbering and poor sanitation practices.

However, the practicing of barbering does not appear to present substantial risk to the public health, safety, and welfare. For example, despite licensing over 5,800 barbers and 1,700 barber establishments as of December 2020, Board records indicate the Board received only 32 complaints between July 2019 and December 2020. The complaints generally alleged unlicensed barbering or other low-risk issues, such as complainants not satisfied with their haircuts or licensees having difficulty renewing their licenses online. Additionally, the Board disciplined only 22 licensees in calendar year 2019 for inspection violations that generally involved unlicensed barbering. As reported previously, Board staff conducted fewer inspections in calendar year 2020 and did not present inspection violations to the Board for its consideration and determination of potential disciplinary actions at meetings held between May 2020 and March 2021 (see pages 7 through 8).

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

We compared Arizona's level of regulation to a judgmental sample of 3 other states—California, Colorado, and Nebraska—and found that the level of regulation the Board exercises is generally similar to these states with the exception of criminal history review and license duration (see textbox for the licenses each state issues). For example:

- **Examinations**—Arizona and all 3 states require both written and practical examinations for a barber license. Similar to Arizona, Nebraska also requires both written and practical examinations for an instructor license.
- **Education**—Arizona and California require barber license applicants to have a minimum of a 10th grade education or its equivalent, while Nebraska requires barber license applicants to have a minimum of a high school diploma or its equivalent. Nebraska requires instructor and assistant instructor license applicants to have 18 and 9 college credits, respectively, while Arizona requires instructor license applicants to have a minimum of a high school diploma or its equivalent. We did not identify any high school education requirements for Colorado barbers.

**Licenses issued by California, Colorado, and Nebraska**

- **California**—Barbers, apprentices, establishments, and mobile units.
- **Colorado**—Barbers and barber shops.
- **Nebraska**—Barbers, instructors, assistant instructors, barber shops, and barber schools.

Source: Auditor General staff review of statutes and regulations from California, Colorado, and Nebraska.

- **Barber school training**—Similar to Arizona, all 3 states require barber license applicants to graduate from an approved/licensed barber school. Specifically, Arizona, California, and Colorado require barber license applicants to demonstrate industry knowledge by providing evidence of 1,500 hours of training through a state-approved barber program, and Nebraska requires 1,800 hours of training through a state-approved barber program. Nebraska also requires instructor license applicants to demonstrate industry knowledge by providing a notarized affidavit of employment. Similarly, Arizona requires instructor license applicants to demonstrate industry knowledge by providing evidence of 2 years of employment as a barber. Neither Arizona nor any of the 3 states require continuing education to maintain licensure.
- **Criminal history review**—Neither Arizona nor any of the 3 states require applicants to submit fingerprints for a criminal history background check. However, California, Colorado, and Nebraska require applicants to disclose certain charges, arrests, and convictions and will ask for further details if an applicant reports a felony conviction. These states can deny an application because of criminal history based on specific provisions in their statutes and regulations. In contrast, the Board does not have the ability to review criminal history, nor does it have the ability to deny an applicant licensure based on criminal history.
- **License length**—All 3 states issue 2-year licenses for each license type, while Arizona issues 1-year licenses for barber establishments and 2-year licenses for barbers and instructors.

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

The Board does not generally use private contractors in performing its duties. However, in fiscal year 2019, it used a State contract for interpretation services, which it reported was requested at a Board meeting.

We also obtained information regarding the use of contractors for regulatory activities in California, Colorado, and Nebraska. California indicated that it uses private contractors for interpretation and examination services, and Colorado indicated it also uses private contractors for examination services.<sup>10</sup> In Arizona, the Board administers the written and practical examinations for a barber or instructor license, although Laws 2021, Ch. 334, §10, modified the Board’s statutes to also allow a national professional organization to do so. This will allow the Board to contract for examination services similar to California and Colorado.

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

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<sup>10</sup> Nebraska reported that it does not use private contractors.



# SUMMARY OF RECOMMENDATIONS

## Auditor General makes 18 recommendations to the Board

The Board should:

1. Develop and implement license application review and approval policies and procedures, ensuring they include procedures for obtaining required documentation to verify that applicants meet all statute and rule requirements for all license types (see Sunset Factor 2, pages 5 through 10, for more information).
2. Review and modify its license applications to require applicants to submit documentation demonstrating they meet all statute and rule requirements for licensure (see Sunset Factor 2, pages 5 through 10, for more information).
3. Develop and implement a risk-based inspection approach to focus its staff resources on high-risk establishments. This should include identifying relevant risk factors, such as complaint allegations, historical violations, or the date of last inspection to help identify and select high-risk establishments for inspection. The Board should also develop procedures for selecting establishments for inspection in accordance with these risk factors, including the extent to which both high-risk and a random sample of low-risk establishments should be selected for inspection (see Sunset Factor 2, pages 5 through 10, for more information).
4. Modify its rules to no longer require annual inspections of all licensed barber establishments (see Sunset Factor 2, pages 5 through 10, for more information).
5. Develop and implement inspection policies and procedures for tracking and monitoring inspections and imposing disciplinary action against licensees to address statutory and rule violations identified during inspections (see Sunset Factor 2, pages 5 through 10, for more information).
6. Work with its Assistant Attorney General to determine whether it should review and consider potential disciplinary actions for calendar year 2020 inspection violations that its staff did not present to it for review (see Sunset Factor 2, pages 5 through 10, for more information).
7. Revise its inspection form to include all statutory and rule requirements that should be assessed during inspections and specific guidance for how Board staff should assess compliance with these statutory and rule requirements during both licensed barber shop and barber school inspections (see Sunset Factor 2, pages 5 through 10, for more information).
8. Develop and implement policies and procedures for periodically reviewing the appropriateness of its fees by analyzing the costs of its regulatory processes, comparing these costs to the associated fees, determining the appropriate licensing fees, and then revising its fees as needed (see Sunset Factor 2, pages 5 through 10, for more information).
9. Develop and implement cash-handling policies and procedures that adhere to SAAM requirements, including:
  - a. Opening mail with at least 2 Board staff present.
  - b. Separating the duties of logging cash receipts from licensing functions and preparing cash deposits.



- c. Limiting the number of Board staff who have access to the safe.
  - d. Reconciling cash receipts to the number of licenses issued (see Sunset Factor 2, pages 5 through 10, for more information).
10. Develop and implement written policies and procedures to help ensure it complies with statutory conflict-of-interest requirements and recommended practices, including:
  - a. Ensuring all Board members and staff complete an annual conflict-of-interest disclosure form, including having members and staff affirm if no conflict-of-interest exists.
  - b. Maintaining all substantial interest disclosures in a special file.
  - c. Establishing a process to review and remediate disclosed conflicts (see Sunset Factor 3, pages 10 through 11, for more information).
11. Develop and provide periodic training on statutory conflict-of-interest requirements and recommended practices, its conflict-of-interest process, and form to all Board members and staff (see Sunset Factor 3, pages 10 through 11, for more information).
12. Revise and/or adopt the rules it deems necessary as part of its consolidation with the Arizona State Board of Cosmetology (see Sunset Factor 4, pages 11 through 12, for more information).
13. Revise its rules to clarify its application time frames, including how long barber and instructor applicants have to take the required examinations and at which point applications should be considered denied or closed when applicants have not completed all license requirements or submitted all required documentation (see Sunset Factor 4, pages 11 through 12, for more information).
14. Comply with all open meeting law requirements by:
  - Ensuring its meeting minutes accurately reflect Board member actions.
  - Modifying the statement on its website to include where the physical meeting notices will be posted (see Sunset Factor 5, pages 12 through 13, for more information).
15. Update its website to include the required statement to inform the public that additional public records can be obtained by contacting the Board directly (see Sunset Factor 5, pages 12 through 13, for more information).
16. Continue to implement its new public information policies and procedures and train staff on the policies and procedures (see Sunset Factor 5, pages 12 through 13 for more information).
17. Develop and implement additional complaint-handling procedures, such as monitoring and review procedures, to help ensure that complaints are adequately and timely opened, investigated, and resolved, and that complaints/outcomes are accurately documented in its e-licensing system (see Sunset Factor 6, pages 13 through 14, for more information).
18. Work with the Legislature to pursue statutory changes that it deems necessary, such as legislation that would allow it to consider criminal history as part of the qualifications for licensure and refuse to issue or renew a license if the crime or act is related to the qualifications, functions, or duties of the license applied for (see Sunset Factor 8, page 14, for more information).



## Scope and methodology

The Arizona Auditor General has conducted a performance audit and sunset review of the Board pursuant to a September 19, 2018, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq.

We used various methods to address the audit's objectives. These methods included reviewing Board statutes, rules, and policies and procedures; interviewing Board staff; and reviewing information from the Board's website. We also attended and reviewed minutes from 3 public Board meetings held between December 2020 and March 2021. In addition, we used the following specific methods to meet the audit objectives:

- To determine whether the Board issued initial and renewal licenses to qualified applicants in accordance with statute and rule requirements and in a timely manner, we reviewed a stratified random sample of applications for licenses issued from July through December 2020, including 20 of 245 initial barber applications, 5 of 79 initial barber shop applications, and 5 of 270 renewal barber applications that required updated citizenship documentation. Additionally, we judgmentally selected and reviewed applications for licenses issued for 1 of 3 initial instructor applications and 2 of 4 initial barber school applications during the same time period.
- To determine whether the Board adequately conducted inspections in a timely manner and sought disciplinary action consistently, we reviewed completed inspection reports from calendar years 2019 and 2020, observed 3 inspections Board staff conducted in April 2021, reviewed Board meeting minutes from calendar years 2019 and 2020, and observed 2 Board meetings in January and May 2021. In addition, we reviewed best practices for risk-based regulation.<sup>11</sup>
- To assess the Board's complaint-resolution process, including timeliness of complaint resolution, we reviewed all 9 complaints the Board received between July and December 2020.
- To obtain information for the Introduction, we reviewed Board-provided information regarding a Board member vacancy and the number of active licensees as of June 1, 2021. We also reviewed the Board's fiscal year 2021 appropriations report and fiscal year 2022 budget request for information regarding the Board's FTE staff positions. In addition, we compiled and analyzed unaudited financial information from the *AFIS Accounting Event Transaction File* for fiscal years 2019 and 2020, the *State of Arizona Annual Financial Report* for fiscal years 2019 and 2020, and Board-provided financial information for fiscal year 2021. Further, we reviewed Laws 2021, Ch. 334, for information regarding the Board's consolidation with the Arizona State Board of Cosmetology.
- To obtain additional information for the Sunset Factors, we reviewed the Arizona Administrative Register regarding the Board's rulemaking finalized in April 2017 and assessed the Board's compliance with various provisions of the State's open meeting law for 3 Board meetings held from December 2020 through March 2021. In addition, to determine whether the Board appropriately established fees, we interviewed Board staff and reviewed the applicable statutes that establish the Board's licensing fees. Additionally, we reviewed best

<sup>11</sup> Department of Finance, Services, & Innovation. (2016). *Guidance for regulators to implement outcomes and risk-based regulation*. State of New South Wales: Sydney, Australia. Retrieved on 5/17/21 from [https://www.productivity.nsw.gov.au/sites/default/files/2018-05/Guidance\\_for\\_regulators\\_to\\_implement\\_outcomes\\_and\\_risk-based\\_regulation-October\\_2016.pdf](https://www.productivity.nsw.gov.au/sites/default/files/2018-05/Guidance_for_regulators_to_implement_outcomes_and_risk-based_regulation-October_2016.pdf).



practices for fee setting developed by government and professional organizations.<sup>12</sup> Further, to assess the Board's compliance with the State's conflict-of-interest laws and recommended practices, we reviewed statute, the Board's conflict-of-interest disclosure forms, the Board's conflict-of-interest practices, and applicable recommended practices.<sup>13</sup> Finally, we judgmentally selected and contacted 3 states—California, Colorado, and Nebraska—and reviewed their regulation of the barbering industry and use of private contractors.

- Our work on internal controls included reviewing the Board's policies and procedures for ensuring compliance with Board statutes and rules and, where applicable, testing its compliance with these policies and procedures. Our internal control work was limited to control activities, including the design and implementation of control activities, and internal control system monitoring, which were significant to our objectives. We reported our conclusions on these internal controls in the Sunset Factors and, where applicable, made recommendations for improvement.

We selected the previously indicated audit samples to provide sufficient evidence to support our findings, conclusions, and recommendations. Unless otherwise noted, the results of our testing using these samples were not intended to be projected to the entire population.

We conducted this performance audit and sunset review 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.

We express our appreciation to the Board and its Executive Director and staff for their cooperation and assistance throughout the audit.

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<sup>12</sup> We reviewed the following fee-setting best practices: Arizona State Agency Fee Commission. (2012). *Arizona State Agency Fee Commission report*. Phoenix, AZ; U.S. Government Accountability Office. (2008). *Federal user fees: A design guide*. Washington, DC; Michel, R.G. (2004). *Cost analysis and activity-based costing for government*. Chicago, IL: Government Finance Officers Association; Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review. (2002). *State agency fees: FY 2001 collections and potential new fee revenues*. Jackson, MS; and U.S. Office of Management and Budget. (1993). *OMB Circular No. A 25, revised*. Washington, D.C.

<sup>13</sup> Recommended practices we reviewed included the following: Organization for Economic Co-operation and Development (OECD). (2003). *Recommendation of the council on guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 7/6/2021 from <https://legalinstruments.oecd.org/public/doc/130/130.en.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of Interest*. Retrieved 7/6/2021 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; and Controller and Auditor General of New Zealand. (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 7/6/2021 from <https://oag.parliament.nz/2020/conflicts>.

# BOARD RESPONSE



**Arizona State Board of Barbers  
1740 West Adams Street, Suite 3011  
Phoenix, Arizona 85007  
(602) 542 4498  
Barberboard.az.gov**

Ms. Lindsey Perry  
Auditor General  
29010 N. 44th Street, Suite 410  
Phoenix, Arizona 85018

Re: Arizona State Board of Barbers Sunset Review

On behalf of the Arizona Board of Barbers, I am pleased to respond to the audit report. We appreciate your audit team for their utmost professionalism and integrity in reviewing our practices. The findings are agreed to, and the audit recommendations will be implemented.

Sincerely,

Bruce Bueno

A handwritten signature in black ink, appearing to be "B Bueno", with a long horizontal flourish extending to the right.

8-3-2021

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

**Recommendation 1:** The Board should develop and implement license application review and approval policies and procedures, ensuring they include procedures for obtaining required documentation to verify that applicants meet all statute and rule requirements for all license types.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 2:** The Board should review and modify its license applications to require applicants to submit documentation demonstrating they meet all statute and rule requirements for licensure.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 3:** The Board should develop and implement a risk-based inspection approach to focus its staff resources on high-risk establishments. This should include identifying relevant risk factors, such as complaint allegations, historical violations, or the date of last inspection to help identify and select high-risk establishments for inspection. The Board should also develop procedures for selecting establishments for inspection in accordance with these risk factors, including the extent to which both high-risk and a random sample of low-risk establishments should be selected for inspection.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 4:** The Board should modify its rules to no longer require annual inspections of all licensed barber establishments.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 5:** The Board should develop and implement inspection policies and procedures for tracking and monitoring inspections and imposing disciplinary action against licensees to address statutory and rule violations identified during inspections.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 6:** The Board should work with its Assistant Attorney General to determine whether it should review and consider potential disciplinary actions for calendar year 2020 inspection violations that its staff did not present to it for review.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 7:** The Board should revise its inspection form to include all statutory and rule requirements that should be assessed during inspections and specific guidance for how Board staff should assess compliance with these statutory and rule requirements during both licensed barber shop and barber school inspections.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 8:** The Board should develop and implement policies and procedures for periodically reviewing the appropriateness of its fees by analyzing the costs of its regulatory processes, comparing these costs to the associated fees, determining the appropriate licensing fees, and then revising its fees as needed.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 9:** The Board should develop and implement cash-handling policies and procedures that adhere to SAAM requirements, including:

**Recommendation 9a:** Opening mail with at least 2 Board staff present.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 9b:** Separating the duties of logging cash receipts from licensing functions and preparing cash deposits.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 9c:** Limiting the number of Board staff who have access to the safe.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 9d:** Reconciling cash receipts to the number of licenses issued.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

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

**Recommendation 10:** The Board should develop and implement written policies and procedures to help ensure it complies with statutory conflict-of-interest requirements and recommended practices, including:

**Recommendation 10a:** Ensuring all Board members and staff complete an annual conflict-of-interest disclosure form, including having members and staff affirm if no conflict-of-interest exists.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 10b:** Maintaining all substantial interest disclosures in a special file.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 10c:** Establishing a process to review and remediate disclosed conflicts.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 11:** The Board should develop and provide periodic training on statutory conflict-of-interest requirements and recommended practices, its conflict-of-interest process, and form to all Board members and staff.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

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

**Recommendation 12:** The Board should revise and/or adopt the rules it deems necessary as part of its consolidation with the Arizona State Board of Cosmetology.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 13:** The Board should revise its rules to clarify its application time frames, including how long barber and instructor applicants have to take the required examinations and at which point applications should be considered denied or closed when applicants have not completed all license requirements or submitted all required documentation.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Sunset Factor 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.

**Recommendation 14:** The Board should comply with all open meeting law requirements by:

- Ensuring its meeting minutes accurately reflect Board member actions.
- Modifying the statement on its website to include where the physical meeting notices will be posted.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 15:** The Board should update its website to include the required statement to inform the public that additional public records can be obtained by contacting the Board directly.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 16:** The Board should continue to implement its new public information policies and procedures and train staff on the policies and procedures.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

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

**Recommendation 17:** The Board should develop and implement additional complaint-handling procedures, such as monitoring and review procedures, to help ensure that complaints are adequately and timely opened, investigated, and resolved, and that complaints/outcomes are accurately documented in its e-licensing system.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

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

**Recommendation 18:** The Board should work with the Legislature to pursue statutory changes that it deems necessary, such as legislation that would allow it to consider criminal history as part of the qualifications for licensure and refuse to issue or renew a license if the crime or act is related to the qualifications, functions, or duties of the license applied for.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

