

<p><b>Douglas A. Ducey</b> Governor</p> <p><b>Kelly Moffat, O.D.</b> President</p> <p><b>Stephanie Mastores, O.D.</b> Vice President</p>	 <b>Arizona State Board of Optometry</b> 1740 West Adams St., Suite 3003 Phoenix, AZ 85007	<p><b>Margaret Whelan</b> Executive Director</p>
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April 19, 2022

Ms. Lindsey Perry, Auditor General  
2910 N. 44th Street, Suite 410  
Phoenix, Arizona 85018

Re: 2022 Arizona State Board of Optometry; Sunset Review Audit

Dear Ms. Perry,

I am pleased to submit, on behalf of the Arizona State Board of Optometry, the attached response to the audit findings.

As a note, the Board values the audit team for their utmost professionalism and integrity in reviewing the Board's performance. The findings are thorough, thoughtful, and relevant.

The audit recommendations are valuable and will be implemented.

Sincerely,



Margaret Whelan  
Executive Director

**Finding 1:** Board did not comply with some State conflict-of-interest requirements, increasing risk that employees and public officers had not disclosed substantial interests that might influence or could affect their official conduct

**Recommendation 1:** Revise its internal conflict-of-interest policies and procedures to help ensure compliance with State conflict-of-interest requirements, including:

**Recommendation 1a:** Requiring all employees and Board members to complete a conflict-of-interest disclosure form upon hire/appointment and reminding them at least annually to update their form when their circumstances change, including attesting that no conflicts exist, if applicable, consistent with State requirements and recommended practices.

Board response: The finding of the Auditor General is not agreed to, but the recommendation will be implemented.

Response explanation: The Human Resources Division of the Arizona Dept. of Administration sets forth the policy for Conflicts of Interest for Employees. As such, a response to this inquiry was made on November 18, 2021: "Thank you for your inquiry regarding conflict of interest notice requirements. Employees are required to complete the Disclosure Statement upon hire with the State and any time there is a change. The Disclosure Statement is part of the New Hire packet, so it is likely you completed the form when you first began your employment with the State. There is no statute or policy that requires employees to complete the Disclosure Statement annually. We are aware that the Office of the Auditor General's recent audits of State agencies include a review of how well agencies are complying with State conflict of interest requirements. In several audits, the Auditor General's report identified that conflict-of-interest recommended practices indicate that all public agency employees and public officers complete a disclosure form annually; however, this is a recommendation, not a requirement. While there seems to be inherent disagreement between the Governing Agency (ADOA) and the Auditor General office, the Board will implement the Auditor General recommendation as it is not burdensome to the Agency.

**Recommendation 1b:** Using a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest, as required by statute.

Board response: The finding of the Auditor General is not agreed to, but the recommendation will be implemented.

Response explanation: Pursuant to the State Procurement requirements, policies and laws of the State, the Board (staff and Members) does not go into financial interests in contracts, sales, purchases, and services that would be in conflict with any party serving on the Board. However, as the Auditor General feels it more prudent a practice, the Board will implement the Auditor General recommendation as it is not burdensome to the Agency.

**Recommendation 1c:** Storing all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection, as required by statute.

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

Response explanation: The Board created a dedicated file in November 2021 and will continue to utilize the file for all Conflict of Interest disclosures by Board members or staff.

**Recommendation 1d:** Establishing a process to review and remediate disclosed employee conflicts, consistent with recommended practices.

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

Response explanation: The Board, in conjunction with the Governing Agency (ADOA) will create a policy to address disclosed employee conflicts.

**Recommendation 2:** Provide periodic training on its conflict-of-interest requirements, process, and form, including providing training to all employees and Board members on how the State's conflict-of-interest requirements relate to their unique program, function, or responsibilities.

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

Response explanation: While the Board already provides training as the Office of the Attorney General provides annual training on Conflict of Interest as part of the 13 hours of Board member training required for all Boards, the Board will consider outside vendors such as CLEAR or FARB, etc. to address the COI training.

**Finding 2:** Board did not answer or respond to any of our anonymous phone calls or provide some required information on its website, restricting access to information public needs to make informed decisions about eye care

**Recommendation 3:** Comply with all statutory requirements for providing public information, including:

**Recommendation 3a:** Providing public records and information to the public; ensuring that its staff answer phone calls and timely return voicemail messages; and determining whether its staff need to respond to any prior voicemail messages.

Board response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: The current policy of the Board is to answer all phone calls when the phone rings or to return a voicemail the same day unless received at the end of the day, then early the next day. All e-mails are required to be responded to within the same day or early next day if received at or after 5 p.m. The Board has a call log it utilizes but will review ways to implement a stronger tracking system for phone calls and e-mails.

**Recommendation 3b:** Posting nondisciplinary actions and orders required by statute, such as nondisciplinary orders for continuing education hours, to the Board's website, and maintaining these records on its website for not more than 5 years.

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

Response explanation: The Board will post whatever is required under the current law for both disciplinary and non-disciplinary actions.

**Recommendation 4:** Develop and implement written internal policies and procedures to help ensure staff comply with public information requirements that include:

**Recommendation 4a:** Providing complete and accurate public records and information to the public in a timely manner, during business hours and over the phone, including establishing required time frames for returning phone calls requesting public records and information and processes for reviewing public requests for information to ensure Board staff respond to all requests.

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

Response explanation: The Board currently responds to each and every public information request and has a policy that may need to be updated. The Board will continually update the policy based on the recommendation

**Recommendation 4b:** Ensuring required disciplinary and nondisciplinary actions and orders are posted to the Board's website as allowed and required by statute and are maintained for not more than 5 years.

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

Response explanation: The Board will post whatever is required under the current law for both disciplinary and non-disciplinary actions.

**Recommendation 4c:** Requiring the Board's executive director to review Board staff's compliance with the policies and procedures, including time frames for doing so.

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

Response explanation: I will manage staff to the best of my ability to ensure that policies and procedures are being followed. I will work with HR on this issue should problems arise from staff non-compliance.

**Recommendation 5:** Post records of disciplinary actions to its website, such as copies of Board orders or agreements, consistent with other health profession regulatory boards, and maintaining these records on its website for not more than 5 years.

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

Response explanation: The Board will post whatever is required under the current law for both disciplinary and non-disciplinary actions

**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 6:** Ensure that applicants meet all statute and rule requirements for initial and renewal licensure, including:

**Recommendation 6a:** Submitting a government-issued photograph to help verify lawful presence.

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

Response explanation: On October 17, 2021, the Citizenship Verification Form was updated and the change requiring a photo ID as proof of citizenship pursuant to Federal law was implemented.

**Recommendation 6b:** Working with its Assistant Attorney General to determine whether and when it can make rule changes to modify its CPR requirements. These rule changes should ensure that the Board can assess license applicant compliance with and enforce all CPR requirements as specified in rule.

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

Response explanation: Rule may need to be amended in order for Board to be able to more that substantially comply with the rule. Currently written, it ostensibly does not allow for an expiration date to be written as “two years from issue date” causing dissention of the rule from the Auditor General.

**Recommendation 7:** Develop and implement internal policies and procedures for periodically reviewing the appropriateness of its fees that direct it to analyze the costs of its regulatory processes, compare these costs to the associated fees, determine the appropriate licensing fees, and then revise its fees as needed.

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

Response explanation: The Board will work with OSPB to develop and implement a method to review the direct and indirect costs for its regulatory processes. Once this method is established, policies and procedures will be developed and implemented as necessary.

**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 8:** Comply with all open meeting law requirements, including:

**Recommendation 8a:** Ensuring meeting minutes, or digital recordings, are available upon request within 3 working days of Board meetings, and that digital recordings, or a notice of the availability of digital recordings, are posted to the website within 5 working days of Board meetings.

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

Response explanation: The law is currently 3 days. The Board will post whatever is required under the current statutes to comply with all open meeting laws.

**Recommendation 8b:** Ensuring a digital recording is made of all open meetings and maintained for 3 years.

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

Response explanation: The Board will post whatever is required under the current statutes to comply with all open meeting laws.

**Recommendation 9:** Develop and implement internal policies and procedures to ensure staff comply with all open meeting law requirements.

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

Response explanation: Internal policies and procedures are outlined in the Attorney General Handbook and are used as policy by staff to comply with all open meeting law requirements.

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

**Recommendation 10:** Continue to develop and implement internal policies and procedures for handling complaints, including internal policies and procedures for:

**Recommendation 10a:** Tracking licensee responses to complaints to ensure that licensees provide a response to the notification of a complaint within 20 days, and, if needed, sending a reminder notification to licensees.

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

Response explanation: Already implemented by adding a column on Complaint Log of "Date Response Received" to track when licensee has responded. Also added a task in Salesforce to alert staff when 20 day time frame to respond is approaching.

**Recommendation 10b:** Documenting complaint investigation activities and notifying complainants regarding the resolution of their complaint.

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

Response explanation: The Board has a process for complaint investigation and notification in statute as outlined in A.R.S. 32-1744(B). All complainants are notified in writing of the final disposition of their complaint.