



AUDITOR GENERAL LETTER REPORT

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

September 20, 1991

Letter Report No. 91-L1

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Dr. Nicholas J. Soldo, Chairman
Board of Medical Examiners

SUBJECT:

Board of Medical Examiners
Performance Audit/Sunset Review

This letter presents the results of our review of the Board of Medical Examiners (BOMEX). This review was conducted in response to the requirements of a June 14, 1989, resolution of the Joint Legislative Oversight Committee. The audit was conducted under the authority vested in the Auditor General by A.R.S. §§41-2351 through 41-2379.

Because of problems we encountered in conducting the audit and changes in recordkeeping and automation the Board is currently implementing, the audit work we were able to perform at this time was limited. Therefore, we are summarizing the results of our work in this letter.

Background

The Board of Medical Examiners, established in 1913, is responsible for examining and licensing medical doctors in Arizona and protecting the public from incompetent and harmful practitioners. The Board consists of 12 members: 9 licensed physicians, 2 lay members, and a licensed professional nurse from the Arizona State Board of Nursing.

The Board is responsible for regulating more than 10,000 licensees. During fiscal year 1990-91, the Board issued 562 new licenses, and received 856 complaints and malpractice claims. The Board's standard operating procedures require them to take formal action on every complaint

they receive. Board actions can include dismissal, suspension, license revocation, a decree of censure, a letter of concern, a stipulation agreement, probation, or an administrative penalty.

Scope And Methodology

The audit was conducted as a Sunset Review as defined by A.R.S. §41-2352. The purpose of the audit was to determine whether the Board of Medical Examiners is needed and the extent to which it has accomplished its statutory goals.

BOMEX is the State's largest medical licensing board and has two principal statutory functions: to ensure applicants for licensure meet all specified requirements and to enforce the standards of practice. We reviewed the Board's activities in the area of licensing and found no significant problems. However, since we were unable to adequately review the Board's enforcement activities (as noted on pages 3 and 4), which are central to its mission, we could not respond as to whether the Board has accomplished one of its major statutory goals – the enforcement of medical practice law and standards.

Further, during our preliminary survey, our Office received several complaints from doctors regarding what was termed as questionable actions by the Board or its Executive Director regarding complaint handling. Our preliminary review did not uncover any inappropriate actions by the Board or its Executive Director. In addition, some allegations dated back several years. For example, three complaints we reviewed were more than five years old. These complaints had already been investigated by BOMEX and a formal disposition had occurred. While the doctors involved in these cases were not satisfied with the results, they did not provide any additional, up-to-date information to permit us to pursue these cases.

BOMEX's Regulatory Responsibilities

BOMEX has two primary responsibilities: licensing and enforcement. We were able to review the Board's licensing functions, and its activities

appear adequate. However, because we encountered significant problems in the enforcement area, we could not complete the necessary audit work.

Licensing activities - The Board appears to be performing well in the licensing area. We reviewed 46 license application files for the period March 1990 through June 1991 to determine whether licensing requirements were being met and documented. All 46 applicants met statutory requirements for licensure and files contained adequate documentation. For example, files contained copies of all applicant test scores, records of medical training certification, school education transcripts, employment history, and personal data. In performing our review, we also noted that the Board appears to be processing applications for licensure in a timely manner.

Enforcement function - The Board's manual complaint tracking and filing system is in such disarray at this time that the enforcement function cannot be audited. BOMEX has been aware of the problem for some time and is in the process of implementing a new automated system that is intended to remedy many of the problems of the manual system.

When we last audited the Board in 1982, a complaint logging system was being used, and the Board's files were in good order. This is no longer the case. According to the Board's Executive Director, personnel changes and a dramatic increase in the volume of complaints received annually accounts for poor condition of the filing system.

We encountered several problems that precluded us from performing an adequate review of the Board's complaint files. For example, the Board does not maintain a comprehensive log for recording incoming complaints and indicating the date of receipt, nor does it assign complaints a unique case number. As a result, it is impossible to determine how many complaints are received in a given period for audit sampling purposes.

In our efforts to perform an analysis of the Board's complaint and enforcement function, we considered alternate sampling methods, but

determined that none of the alternatives provide a means of accounting for all complaints received. Further, compounding this problem, the Board has no formal written guidelines or procedures for handling complaints. As a result, it was difficult to determine how the Board handled complaints, whether all complaints were processed in the same manner, and whether the Board or its staff used standardized methods or procedures for handling all complaints.

In addition, once a complaint is identified, files are difficult to locate. Files may be in any one of four separate sets of file cabinets. Further, the files in the cabinets do not necessarily contain all information pertaining to a complaint. Adding to the difficulty, many complaint files are not in the file cabinets. We identified file drawers where there were more "outcards" than files. Worse yet, it appears that outcards are frequently not used at all.

To determine whether files would be accessible for review, we attempted to locate fourteen complaint files. Of the fourteen, only five could be located.

BOMEX is automating its complaint handling function - BOMEX is automating its complaint handling function. Due to the increased volume and complexity of its complaint handling process, BOMEX recognized the need for system automation in 1989. With the assistance of the Department of Administration, BOMEX staff identified and purchased a computer and software system to address its automation needs. As a result, some of the problems we encountered in identifying complaints and locating files will be remedied if this effort is successful. For example, the automated system will provide for the logging and tracking of complaints. In addition, a major effort to organize and improve the manual file system will be initiated in the next few months. According to BOMEX, both the automated system and the new manual file system should be fully implemented by April 1, 1992.

It is important to note that the new automated system will not be a panacea for all of the Board's current problems, nor will it fully enable


us to audit the Board's enforcement activities. BOMEX has an extensive backlog of complaint and malpractice investigations, and it is our understanding that only new cases will be entered on the system. Older cases may still be quite difficult to locate and track. Ideally, there will need to be some period of time for complaints to be handled under the new system before an audit would be feasible. We estimate that at least one year of complaint processing under the new system would be needed.

If delays in the implementation of the automated system are anticipated, BOMEX will need, at the very least, to institute a manual logging system that will assign each incoming complaint a unique case number or identifier. A logging and tracking system, whether automated or manual, is needed to manage and control BOMEX's enforcement function effectively.

The Board of Medical Examiners has reviewed this report and their response is attached.

My staff and I will be pleased to discuss and clarify any items in this report.

This report will be released to the public on September 23, 1991.


Douglas R. Norton
Auditor General

cc: Douglas N. Cerf, Executive Director
Board of Medical Examiners



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Fife Symington

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Nicholas J. Soldo, M.D.

Vice Chairman
Barry A. Friedman, M.D.

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September 17, 1991

Douglas R. Norton
Office of the Auditor General
State of Arizona
2700 North Central Avenue, Suite 700
Phoenix, Arizona 85004

Re: **Board of Medical Examiners**
Performance Audit/Sunset Review

Dear Mr. Norton:

This letter serves as the formal response of the Board of Medical Examiners to the letter report of the Auditor General's Office regarding the Performance Audit/Sunset Review of the Arizona Board of Medical Examiners.

The letter report indicates that the changes in recordkeeping and automation that the Board is currently implementing prevented an audit of the enforcement activities of the Board. We believe that one additional factor leading to the inability to accomplish an audit of the enforcement area (please see below) is the fact that the time the auditors spent at the offices of the Board of Medical Examiners was limited to a period of four weeks (June 11, 1991 through July 8, 1991), the fact that the Board held a five day meeting from June 18 through June 22, 1991 in Tucson, Arizona, which required the presence of all the Board's executive and medical consultant staff, and the fact that the auditors did not spend their full time on the days that they were in the office of the Board of Medical Examiners on the BOMEX audit, as they were concluding the sunset audit of the Board of Regents which required a great deal of time.

Under the section "Scope and Methodology," it is indicated that the Office of the Auditor General received "several complaints" regarding questionable actions by the Board or its executive director, from physicians, evidently regarding whom these actions had been taken. Your report does not clarify that the Board of Medical Examiners never received a list of physicians presenting these questions or a list of cases to which we could respond; we have no idea even to the number of complaints, as the office of the Auditor General was previously informed. Additionally, the report indicates

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"some allegations" dated back several years. The Board had acted on these particular cases already and the doctors were not satisfied with the results. The Board does not know, from the "several" complaints from doctors received by the Auditor General's office, how many allegations dated back several years, nor how many were made by the same physician.

The Auditor General's office is aware that there is an individual physician who misrepresented himself as the head of a group of physicians unhappy with the activities of the Board. When the Auditor General's staff contacted a physician named in this group by the complaining physician, he disallowed any membership in the group. The failure of the Auditor General's office to provide any specifics regarding the allegations from "several" physicians, prevents the Board or its staff the opportunity to respond in any fashion. In fact, one could wonder what purpose is even served by bringing these matters up if we cannot be provided the basic facts necessary to address the complaints.

Under the section "Regulatory Responsibilities", the Board would like to specifically address the following points:

You indicate that the filing system is in such poor condition that it cannot be audited. Our filing system clearly suffers from an overload of complaint files, and you have recognized that we began taking the necessary steps in 1989 to correct this problem. Prior to 1989, the Board had requested in 3 different annual budget requests, funds and authorization for a records librarian since we process more patient records than most hospitals in the state. It should be clarified that none of the files reviewed were found to have been investigated improperly, or to have been incomplete.

Additionally, you indicate that the complaint log "does not exist". There is a log kept of each and every incoming complaint before that complaint is acknowledged and investigated. Copies of the patient complaint summary sheets were made available to the auditors. Clearly it would have been possible to count the summary sheets on the complaints and balanced them with the number of complaints the Board reports in its annual report each year as having been received.

Your staff balked at counting the summary sheets as a valid approach to determine an actual tally of cases to be

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investigated. They advised the Board's staff during a meeting to discuss the preliminary letter report draft that folders with each months' summary sheets had a number written on the folder which was 3 to 5 cases more than the actual number of summary sheets. Your staff, therefore, concluded it could not adequately audit the Board's investigation process. In reality the difference in these numbers was a result of cases being set up which were already malpractice claims being investigated, where the patient also wrote us a complaint letter because his/her attorney withdrew from the case or it was dismissed in court. (The patient did not understand that we investigate a malpractice claim independent of decisions made by the judicial system or the patient's lawyer to terminate representation). In addition, summary sheets are routinely set up on Board-ordered office practice or pharmacy surveys. After a case has been resolved, these surveys allow the Board to determine if the physician was in compliance with the Board's previous concerns or directives.

The summary sheets on the above two types of cases are created to make sure nothing is overlooked and then removed and filed in the current active investigative files. To leave them in the file of summary sheets would distort the activities and statistics of the Board while creating double files on the same cases.

Additionally, as an alternative, the license files of the physicians are clearly delineated as to which license files contain references to a complaint file (i.e. which physicians have ever had a complaint filed against them), and those that do not contain references to complaint files. Certainly in order to find each open complaint, the physician files so designated to indicate that a reference to a complaint file was within, could have been pulled and reviewed in order to determine whether or not an open complaint existed, as all the complaint resolutions are also recorded on this same page in the physicians' license files. Each and every malpractice claim and complaint received is tagged in the respective physician's license file.

While there is no written procedure in place, the Board does investigate each and every complaint and malpractice claim it receives; additionally, each complaint or malpractice is investigated in the same way. The case comes in, is acknowledged, the physician is notified of the case and a response and records are requested from the physician, the case is reviewed by a medical consultant to the Board and

then by a lead Board member, following which the case is reviewed by the full Board. Certain types of cases go through other steps which may include investigational interviews, subpoena of records from physicians or hospitals, interviews of patient, evaluations of the physician, etc. and these are all delineated on the summary sheet of the complaint, and the records for each of these activities are in the complaint file. While no written procedure exists for this system, the system was discussed in detail with the Auditor General's staff and the procedures do not appear to be too difficult to comprehend.

It is certainly true that some files in the office of the Board of Medical Examiners are difficult to locate. For example, files could be in a file cabinet for an upcoming agenda, with an attorney, with a staff physician, or with an investigator. They could also be with the executive director or the assistant director or the verification clerk responding to other states, lawyers, hospitals, HMO's, insurance companies and citizens. However, it is possible to find files in our office, and the Board of Medical Examiners' clerical staff has a great deal of expertise in locating such files. It was the decision of the staff of the Auditor General's office not to use the Board's clerical staff in order to locate the 15 files for which they identified in their letter report. No doubt if a BOMEX staff member walked into the Auditor General's office, they would have difficulty locating some files without a solid knowledge of the intricacies of the filing system. Following the Auditor General's verbal comments after the audit, and in preparation for the conversion of the current paper filing system to a new, end tab system (which was begun in April 1991), the BOMEX staff made a list of every file inside the BOMEX office. This was done in a period of approximately three days.

Additionally, it is no doubt true that in some cases someone takes a file out of the file room without leaving an outguide. However, if this were true in most cases, the Auditor General would not have found that "some file drawers contained more outguides than files."

As the Auditor General indicated, the Board of Medical Examiners has, since 1989, been attempting to computerize its physician data base and document management system. The computerization of the office, included a 4 year phase-in effort as represented in the Board's annual budget and appropriation as a "below the line" expenditure. In fact, a

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request for a Request for Proposals from DOA for a physician data base and complaint tracking system was made in 1990, and then again in April of 1991. The Department of Administration was able to go out to bid on this matter in June of 1991, and the bid was awarded in July of 1991. The successful bidder has met with the BOMEX staff and has begun development of this system.

As outlined above, in April of 1991 we determined funds were available to convert our current filing system to a new, end tabbed color-coded filing system on shelves in order to increase the capacity of our current file room. A request was made in April of 1991, and the Department of Administration developed an RFP in July of 1991.

As you can see from the above, our time tables for the installation of these two systems were severely impacted by the ability of the Department of Administration to develop our requests and specifications into a Request for Proposals.

Obviously, no state agency operates independently from the Department of Administration including BOMEX, and, unfortunately, agencies sometimes encounter difficulties which can hold up important system improvements.

The Board and its staff believe that the new automated system will allow the state to audit the Board's activities completely. While only new cases will be entered onto the document management system from the beginning, each physician in the data base who has ever had a complaint or malpractice claim filed against him will be so tagged, and we will have a list of all previous cases (by patient name or complainant name and type), the disposition of those cases (if closed), and the date of disposition, kept as confidential information in the electronic file. Information which is currently in the paper license file which corresponds to this electronic information was viewed by the representatives of the Auditor General's office. This means that every case received by the Board will be entered into the computer system.

What will not be entered into the computer system regarding previous cases will be the detail (i.e. each document generated during the investigation) on the cases. However, the above-referenced information clearly will allow the Auditor General's office to obtain an appropriate sample of complaints both open and closed.

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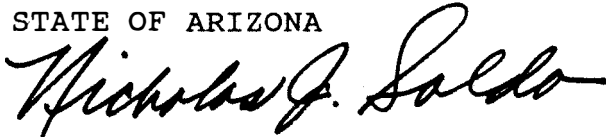
We do, of course, concur with the Auditor General's indication that if a re-audit is to be done, giving this agency the chance to operate with our new filing system and our new computer system in place for one year will clearly enable us to "get the bugs out" so that we may ensure that we are able to fully cooperate with the Auditor General's office during the next audit.

And, finally, no mention was made in your report of an attempt to audit the Board's rehabilitation program for physicians with drug or alcohol problems. However, files in this area were reviewed by individuals of the Auditor General's office. It is the Board's view that these files are in good order, that they are complete, and that they demonstrate that the Board has a rehabilitation program which protects the public and supports physician compliance with a stringent monitoring program and with participating physicians maintaining a chemical free lifestyle that has a proven success rate of over 90%.

The Board and its staff appreciate the opportunity you have provided us to respond to your draft report. We also wish to note our recognition of your staff's efforts in reducing all the information they gathered to a concise summary. We hope our suggestions and clarifications will add to the validity of their report.

Sincerely,

BOARD OF MEDICAL EXAMINERS
STATE OF ARIZONA

A handwritten signature in black ink, reading "Nicholas J. Soldo". The signature is fluid and cursive, with the first name "Nicholas" and last name "Soldo" clearly legible.

Nicholas J. Soldo, M.D., Chairman

NJS:dls

cc: Douglas N. Cerf, Executive Director
Mark Speicher, Assistant Director, Administration, BOMEX