State of Arizona Office of the Auditor General

PERFORMANCE AUDIT

BOARD OF MEDICAL EXAMINERS

Report to the Arizona Legislature
By Douglas R. Norton
Auditor General

September 1998
Report No. 98-16

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STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

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September 10, 1998

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Dr. Ram Krishna, Board Chairman

Board of Medical Examiners

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Board of Medical Examiners. This report is in response to a May 27, 1998, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957.

The report addresses several aspects of BOMEX's performance including adequacy of complaint investigations, extent of disciplinary action taken by BOMEX, timeliness of complaint processing, and public representation on the Board. Some of the areas addressed in this report, such as complaint investigations and physician discipline, are continual issues that have been raised in prior Auditor General reports. Regarding complaint investigations, a review of 117 complaints resolved by BOMEX in fiscal year 1997 revealed that investigators interviewed the complainant in only 4 cases and interviewed witnesses in only 5 cases. Moreover, investigators sometimes failed to obtain necessary records and medical consultants sometimes failed to address all complaint allegations or provided inadequate information on their complaint reports. This complaint review also revealed that BOMEX is still not taking action in cases where discipline may be warranted. Instead, as was noted in the 1994 audit (Auditor General Report No. 94-10) BOMEX continues to misuse letters of concern. Additionally, BOMEX has not used statutorily-mandated disciplinary guidelines nor is it ensuring that its disciplinary orders are enforced. Finally, regarding complaint processing, this audit found that BOMEX has decreased its complaint backlog by approximately 50 percent and has reduced the number of days to process complaints from an average of 355 days cited in the 1994 audit to an average of 200 days.

Until recently, some of the problems raised in this report were compounded by vacancies in Board membership, top management, and the investigation unit. Specifically, some Board member positions had been vacant for extended periods of time hindering the Board's ability to reach a quorum at meetings and thus, resolve cases in a timely manner. In addition, by January 1998, both the Board's executive director and deputy directory had resigned. Further, the chief investigator position was temporarily vacant for four months and two of six investigator positions were also vacant for an extended period of time. However, the Board appointed a new executive director in May 1998, who has, since that time, filled all key positions that had been vacated. Similarly, in July 1998, the Governor's Office appointed new members into the vacated Board positions.

As outlined in its response, the Board agrees with all of the report's findings and all but one of the recommendations. In particular, a majority of the Board does not agree with the recommendation that the Legislature consider changing the Board's statutory composition by increasing public membership by at least one public member and decreasing physician membership by an equal number. Citing that research published on the performance of public members on regulatory boards is decidedly mixed, the Board stated in its response that it relies heavily upon the physician's expertise in determining whether a licensee has violated the medical practice act.

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

This report will be released to the public on September 11, 1998.

Sincerely,

Douglas R. Norton
Auditor General

Enclosure

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SUMMARY

The Office of the Auditor General has conducted a performance audit and Sunset review of the Board of Medical Examiners (BOMEX), pursuant to a May 27, 1997, resolution of the Joint Legislative Audit Committee. The audit was conducted under the authority vested in the Auditor General by Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

The Board consists of 12 members: 8 physicians, 1 nurse, and 3 members of the general public. The Board appoints an executive director to oversee its 43.5 full-time equivalent employees and $2.7 million budget authorized for fiscal year 1997. The Board's primary responsibility is to protect the public. A.R.S. §32-1403(A) states:

> *"The primary duty of the Board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine through licensure, regulation and rehabilitation of the profession in the state."*

Continuing Problems Compounded by Key Vacancies

BOMEX continues to suffer from problems identified in previous audits, and until recently, the problems were compounded by vacancies in Board membership, top management, and the investigation unit. This audit is the Auditor General's third review of BOMEX in the last four years. Previous audits issued in both 1994 (Report No. 94-10) and 1996 (Report No. 96L-1) identified a number of problems. The current audit found that BOMEX still suffers from incomplete complaint investigations and continues to dismiss most complaints, although discipline may be warranted in some cases.

In addition, top management and investigation unit positions that were vacant while the audit was being conducted adversely impacted leadership at BOMEX. In December 1997, the deputy director resigned, and in January 1998, the Board requested that the executive director resign. The nurse ombudsman position became vacant in February 1998, when the nurse ombudsman was named as BOMEX's acting deputy director. Additionally, the chief investigator position was temporarily vacant from January through April 1998, and two of six staff investigator positions were vacated since May 1996 and February 1998. The Board recently appointed a new executive director who began work on May 11, 1998. Since her appointment, the new executive director has filled all key positions that had been vacated including the deputy director, the business manager, the Board's administrative assistant, and two attorney general representatives.

Complaint Investigation Needs Improvement
(See pages 7 through 10)

BOMEX's complaint investigation process continues to be inadequate. BOMEX investigators frequently do not obtain complete information during complaint investigations. Auditors reviewed a random sample of 117 complaints BOMEX resolved in fiscal year 1997. Of these, investigators interviewed the complainant in only 4 complaints, and interviewed witnesses in only 5 complaints. Additionally, investigators sometimes failed to obtain necessary records during the investigative process. Furthermore, BOMEX's medical consultants sometimes failed to address all complaint allegations, or they provided inadequate information in their complaint reports. A lack of written policies and procedures contributes to incomplete investigations and inadequate medical review.

BOMEX Needs to Discipline Physicians Who Commit Violations and Improve Monitoring of Disciplinary Orders
(See pages 11 through 16)

BOMEX needs to discipline physicians when warranted. Although BOMEX ranks favorably nationally regarding disciplinary actions imposed, the Board is still not taking action in a number of cases where discipline may be warranted. Instead, BOMEX continues to misuse letters of concern, as was found in the 1994 audit. A review of 34 complaints the Board resolved with nondisciplinary letters of concern found 25 that may have warranted discipline. For example,

- A woman went to the hospital complaining of sudden, severe abdominal pain. The physician ran some tests and, without determining the cause of the pain, sent the woman home. One-and a-half days later, the woman collapsed and died. An autopsy revealed that she died from an obstruction of blood flow to a portion of her intestine, causing the intestine to fail. BOMEX's medical consultant reported that, at the time the physician saw the woman, she showed obvious symptoms of the problem that caused her death. He further stated that the physician erred in not hospitalizing the woman for observation and surgical evaluation. BOMEX resolved the case with a nondisciplinary letter of concern.

We also found that BOMEX has not used statutorily mandated disciplinary guidelines created in 1995, and is not ensuring that the disciplinary orders it issues are enforced. The sample of complaints reviewed contained four cases which resulted in disciplinary orders that needed to be monitored to ensure compliance. In two of these four cases the physicians

were not in compliance with disciplinary orders, including one in which the disciplined doctor repeatedly tested positive for controlled substances and the Board had yet to take action.

BOMEX's Complaint Backlog and Processing Time Improved Between 1994 and 1997

(See pages 17 through 21)

BOMEX has decreased its complaint backlog by approximately 50 percent, reducing the backlog from 1,720 open complaints as of June 30, 1994, to 862 open complaints as of February 24, 1998. In addition, nonmalpractice complaints closed in fiscal year 1997 took an average of 200 days to process, compared to an average of 355 days as reported in the Auditor General's 1994 BOMEX audit report. However, although BOMEX is more efficiently closing and processing complaints, problems with complaint investigation thoroughness and appropriate adjudication of complaints temper these improvements.

Vacancies Impacted Board Function

(See pages 23 through 26)

Up until July 1998, vacant Board positions created difficulties for BOMEX. One public member position had been essentially vacant since 1995 and another physician position that had been vacant since May 1997 was filled in March 1998. A lack of a quorum due to Board vacancies hindered the timely resolution of some complaint cases. Although all Board member positions are currently filled, the Legislature may want to consider statutory amendments to prevent extended vacancies from occurring in the future.

In addition, although the Legislature increased the number of public members from two to three in 1995, it should consider adding at least one additional public member position to the Board. This would still fall below the 50 percent public membership recommended in the Auditor General's 1995 Special Study of The Health Regulatory System (Report No. 95-13), but would bring the Board in line with at least 15 other states that have 30 percent or more public representation.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset review of the Board of Medical Examiners (BOMEX), pursuant to a May 27, 1997, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

Continuing Problems Compounded by Key Vacancies

BOMEX continues to suffer from problems identified in previous audits, and until recently, the problems were compounded by vacancies in Board membership, top management, and the investigation unit. This audit is the Auditor General's third review of BOMEX in the last four years. Previous audits issued in both 1994 (Report No. 94-10) and 1996 (Report No. 96L-1) identified a number of problems. The current audit found that BOMEX continues to dismiss most complaints, although discipline may be warranted in some cases, and still suffers from incomplete complaint investigations. Although the Board has reduced both its backlog of complaints and the amount of time taken to investigate and resolve complaints, questions about the adequacy of investigations and the appropriateness of complaint resolutions temper these improvements. Insufficient public membership and vacancies also continue to hamper the Board's productivity and effectiveness.

In addition, top management and investigation unit positions that were vacant while the audit was being conducted adversely impacted leadership at BOMEX. In December 1997, the deputy director resigned, and in January 1998, the Board requested that the executive director resign. The nurse ombudsman position became vacant in February 1998, when the nurse ombudsman was named as BOMEX's acting deputy director. Additionally, the chief investigator position was temporarily vacant from January through April 1998 and two of six staff investigator positions were vacated since May 1996 and February 1998. The Board recently appointed a new executive director who began work on May 11, 1998. Since her appointment, the new executive director has filled all key positions that had been vacated, including the deputy director, the business manager, the Board's administrative assistant, and two attorney general representatives.

Board Responsibilities

According to A.R.S §32-1403(A), the Board of Medical Examiners' primary responsibility is to:

". . . .protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine through licensure, regulation and rehabilitation of the profession in this state."

The Board fulfills this responsibility by examining and licensing physicians, investigating and adjudicating complaints, disciplining and rehabilitating physicians, and developing and recommending standards governing the medical profession. In fiscal year 1997, the Board regulated over 13,000 physicians with active Arizona licenses.

Organization and Staffing

The Board consists of 12 members: 3 public members, 1 licensed professional nurse who is also a member of the state Board of Nursing, and 8 doctors in active medical practice. All Board members are appointed by the Governor except for the licensed professional nurse appointed by the State Board of Nursing. The Board meets six times a year to carry out its duties.

For fiscal year 1997, the Board was authorized 43.5 full-time equivalent employees (FTEs) who provide assistance and support to the Board and committees. An executive director oversees a staff comprising investigators, medical consultants, licensing, and other administrative staff. This staff is responsible for collecting application, license renewal, examination, and other fees; processing and reviewing applications of individuals who qualify for a license, permit, or certification; investigating complaints; and providing information to the public.

Budget

The Board was appropriated approximately $3.2 million for agency operations in fiscal year 1998. The Board receives its legislative appropriation from the Board of Medical Examiner's Fund. This fund contains revenues derived from the collection of license application and renewal fees, and examination fees. Ninety percent of the Board's revenues are deposited into this Fund and the remaining 10 percent is deposited into the General Fund. Table 1 (see page 3), summarizes the Board's actual revenues and expenditures for fiscal years 1996 and 1997, and the Board's appropriated budget for fiscal year 1998.

1994 Report and Follow-up

As part of the current audit, some concerns previously identified in the Auditor General's 1994 performance audit of BOMEX (Report No. 94-10) were reviewed.

Table 1

Arizona Board of Medical Examiners
Statement of Revenues, Expenditures, and Other Changes in Fund Balance
Years Ended or Ending June 30, 1996, 1997, and 1998
(Unaudited)

	1996 (Actual)	1997 (Actual)	1998 (Estimated)
Revenues:			
Licenses and fees	$2,798,856	$3,060,242	$2,852,500 [1]
Sales and charges for services	214,045	135,976	138,700
Fines and forfeits	21,500	19,850	20,200
Other [2]	361,068	407,238	415,400
Total revenues	3,395,469	3,623,306	3,426,800
Expenditures:			
Personal services	1,148,663	1,188,735	1,386,000
Employee related	263,980	276,891	310,900
Professional and outside services [3]	753,144	933,730	870,200
Travel, in-state	36,032	31,075	50,300
Travel, out-of-state	7,942	15,633	8,800
Aid to individuals		2,534	
Other operating	458,342	476,673	454,400
Capital outlay	19,850	45,502	93,000
Total expenditures	2,687,953	2,970,773	3,173,600
Remittances to the State General Fund [4]	331,310	343,479	324,900
Total expenditures and remittances to the State General Fund	3,019,263	3,314,252	3,498,500
Excess of revenues over (under) expenditures and remittances to the State General Fund	376,206	309,054	(71,700)
Fund balance, beginning of year	2,016,095	2,392,301	2,701,355
Fund balance, end of year [5]	$2,392,301	$2,701,355	$2,629,655

[1] Prior to June 30, 1997, the Board collected fees for the national physician's licensing exam and incurred the associated costs. Beginning in fiscal year 1998, the Board arranged for the exam to be given by an independent testing center. Consequently, an estimated $238,300 of revenues relating to the exams will be collected by the testing center rather than by the Board.

[2] Includes primarily collections from physicians in the Monitored Aftercare Program. Those physicians are responsible for reimbursing the Board for costs associated with random drug tests and group therapy.

[3] Includes payments to the Attorney General's Office for 2.5 full-time equivalent positions. The Board received expenditure authorizations of approximately $170,000 in fiscal years 1996 and 1997, respectively, and $200,000 in fiscal year 1998 to pay costs related to those positions.

[4] As a 90/10 agency, the Board remits 10 percent of its gross revenues to the General Fund.

[5] Fund balance is unreserved and undesignated; however, the amount is subject to legislative appropriation.

Source: The Uniform Statewide System *Revenues and Expenditures by Fund, Program, Organization, and Object* and *Trail Balance by Fund* reports, and the *State of Arizona Appropriations Report* for the years ended or ending June 30, 1996, 1997, and 1998. The Board estimated revenues and remittances to the State General Fund for the year ending June 30, 1998.

- **The Board had a large complaint backlog and was slow to resolve complaints—** BOMEX needed to reduce its backlog of complaints totaling 1,481 as of June 30, 1994. In addition, BOMEX needed to improve the timeliness of its complaint resolution process. It was taking the Board an average of 355 days to process complaints. To address these problems, the audit recommended that the Board prioritize complaints, better manage its complaint process, and adopt alternative adjudication methods.

  Follow-up: This audit found that BOMEX has significantly reduced its complaint backlog and improved complaint resolution time. BOMEX's complaint backlog as of February 24, 1998, was 862 complaints, a reduction of 858 since June 30, 1994 (see Finding III, pages 17 through 21). BOMEX's complaint resolution time has dropped from an average of 355 days as reported in the 1994 BOMEX audit to an average of 200 days in fiscal year 1997. BOMEX is now very close to the complaint resolution standard of 172 days recommended in the 1994 audit, and could reach that standard through some simple administrative process improvements. However, concerns about the adequacy of complaint investigations and adjudication temper these improvements.

- **The Board needed to improve discipline and complaint investigation—**BOMEX did not take sufficient action against doctors found to be in violation of professional conduct standards, nor did it fully investigate complaints. Doctors found in violation more often received warnings rather than discipline. In addition, complaint investigations typically entailed only a review of medical records. Thus, it was recommended that the Board should develop disciplinary guidelines for determining appropriate levels of action, that the Legislature should consider amending a statute to increase the number of public members serving on the Board, and that the investigation process should be revamped to ensure adequate investigations.

  Follow-up: This audit found that problems continue with the Board's investigation and discipline functions. Investigations continue to be incomplete and more supervision of the investigation function is needed (see Finding I, pages 7 through 10). Additionally, a review of a sample of 117 complaints handled in fiscal year 1997, found that the Board also continues to use nondisciplinary letters of concern in some cases when disciplinary action may be warranted (see Finding II, pages 11 through 16). In 1995 the Legislature did increase public member representation on the Board; however, this audit now recommends adding a fourth public member.

- **The Board needed to provide better management and oversight of operations—** BOMEX provided inadequate management and limited oversight. Numerous problems that management failed to recognize or address were found. To correct these problems, it was recommended that the Board provide more direction and oversight to the agency.

  Follow-up: Since the 1994 audit, the Board instituted an executive director's report at each board meeting to receive information about agency operations and provide feedback to the executive director.

Audit Scope and Methodology

This performance audit report presents findings and recommendations in four areas:

- Whether the Board is adequately investigating complaints against physicians;
- Whether the Board is sufficiently disciplining physicians with valid complaints against them;
- Whether the Board is processing complaints in a timely manner and has reduced the backlog of complaints; and
- Whether the Board has sufficient public member representation, and statutes governing Board membership need to be amended.

The audit used a variety of research methods to assess BOMEX's performance. Auditors reviewed a sample of 117 complaints BOMEX resolved in fiscal year 1997; analyzed complaint information from BOMEX's automated system; interviewed Board members, agency management, and staff, including investigators; interviewed the Board's Attorney General representative; and reviewed Board minutes. Auditors also obtained information concerning Arizona's disciplinary rates from two national organizations that gather and process this data. A literature search was used to identify related articles and reports.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Board of Medical Examiners and staff for their cooperation and assistance throughout the audit.

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FINDING I

COMPLAINT INVESTIGATION NEEDS IMPROVEMENT

BOMEX's complaint investigation process needs to be improved. Investigators often do not obtain complete information during the investigation. Additionally, medical consultants sometimes fail to address all complaint allegations during their complaint review, and sometimes do not provide adequate information in their complaint reports. A lack of written policies and procedures contributes to incomplete investigations and inadequate medical review.

Complaint Investigation Process

BOMEX's complaint investigation process contains a number of steps. The chief investigator reviews the complaint upon receipt, determines the investigation priority level, and assigns an investigator. The assigned investigator then obtains the doctor's response and all relevant records, and is supposed to interview the complainant and witnesses. After the investigator obtains all the information, the investigative file is given to the assigned medical consultant.[1] The medical consultant reviews the information gathered by the investigator, and may conduct additional interviews or request that the investigator gather additional information. The consultant then writes a report to summarize the complaint allegations and the doctor's response, and to analyze whether the medical care provided to the complainant was appropriate. The consultant presents the complaint summary at a Board meeting and may make a recommendation for how the complaint should be resolved.

Complaint Investigations Are Often Incomplete

BOMEX investigators frequently do not obtain complete information during complaint investigations. Until recently, investigators were not required to interview all complainants or witnesses during the investigation process. Auditors reviewed a random sample of 117 complaints resolved by the Board in fiscal year 1997. Of these, investigators interviewed the complainant in only 4 complaints, and interviewed witnesses in only 5 complaints. The Auditor

[1] BOMEX employs 6 physician medical consultants from different specialty practice areas. The consultants work part-time, between 4 and 20 hours each week. BOMEX also contracts with additional physicians as needed to review cases from specialty areas not represented by BOMEX's medical consultants.

General, in the 1994 performance audit of BOMEX (Report No. 94-10), recommended that investigators interview complainants and witnesses in all complaints. BOMEX management, however, did not establish a policy to implement this recommendation until April 1997. Additionally, investigators sometimes fail to obtain necessary records during the investigation process.

BOMEX's nurse ombudsman reviews complaints when the complainant expresses dissatisfaction with the complaint's resolution, and requests that the Board reconsider the decision. The nurse ombudsman analyzes the investigative file to determine if the investigation is complete, if the consultant's report addresses all the allegations in the complaint, and if the Board's decision is reasonably supported by the facts. The ombudsman summarizes the analysis as well as inadequacies in the investigation or medical review, and recommends whether the Board should or should not reconsider the complaint. In the first three weeks of January 1998, the nurse ombudsman reviewed 10 complaints for which complainants had requested reconsideration of the Board's decision. The nurse ombudsman documented inadequacies in the investigation in 7 of the 10 complaints. Following are 2 typical examples from the 10 complaints reviewed by the nurse ombudsman in which investigators did not conduct a complete investigation:

- In one complaint, the investigator failed to interview named witnesses. The complainant was scheduled to have surgery performed to repair a broken nose. She had arranged with the surgeon and anesthesiologist to have the surgery performed under a local anesthetic, since she had previously reacted adversely to a general anesthetic. In her complaint, she alleged that the surgeon performed a different, nonsurgical procedure that did not correct the problem, and that the anesthesiologist administered a general anesthetic to which she had an allergic reaction. The complainant listed a number of witnesses who were aware of what procedure was supposed to be performed, what procedure was actually performed, the general anesthetic that was used, and her reaction to the general anesthetic. The complainant also repeated conversations that she had had with the witnesses regarding the surgery and anesthesia. The investigator, however, did not contact any of the witnesses or attempt to verify the complainant's statements. Instead, the investigator encouraged the complainant to discuss her complaint with the Board during a Board meeting. Based on the information that the investigator gathered, BOMEX dismissed the complaint against the anesthesiologist and issued a letter of concern to the surgeon.

- In a second complaint, the investigator failed to obtain necessary documents and to interview important witnesses. The complainant alleged that the doctor tried to avoid responsibility for the patient's care by not conducting necessary tests, and by trying to transfer the patient to a different hospital. The doctor responded that he was not trying to avoid responsibility, but rather that he was following hospital and insurance company protocol in obtaining approval for the test prior to conducting it. He also denied any attempt or desire to transfer the patient to the named hospital. The doctor provided the in-

surance company's name and phone number for BOMEX to verify its pre-approval procedure for tests. The doctor also identified important witnesses, including other doctors, hospital staff, and the patient's family, who could testify regarding the doctor's treatment of the patient. The investigator, however, did not obtain the pre-approval procedure from the insurance company and did not interview any of the witnesses. The Board dismissed the complaint without verifying the insurance company's procedures or attempting to corroborate the doctor's statements.

Medical Review of Complaints Is Sometimes Inadequate

BOMEX's medical consultants sometimes fail to address all complaint allegations or to provide adequate information in their complaint reports. The medical consultants analyze the quality of medical care provided to the complainant, write a report that summarizes the allegations, the doctor's response, and the medical care that was provided, and make a recommendation regarding how the complaint should be resolved. This report is presented at the Board meeting, and helps establish whether or not the doctor committed a violation. However, the consultants' reports may not always address all the allegations in the complaint, or adequately analyze the relevant records. When this happens, Board members do not have complete and accurate information, and may resolve complaints inappropriately.

The nurse ombudsman's January 1998 review of 10 complaints documented inadequacies in the medical review of 5 of the 10 complaints. Following is 1 example from the 10 complaints reviewed.

- A doctor performed a biopsy on the wrong area, and provided incorrect information to the patient regarding the surgery and the biopsy results. BOMEX's medical consultant reported only on the biopsy of the wrong area, and recommended that the doctor receive a letter of concern or letter of reprimand for the error. According to the nurse ombudsman's analysis, however, the consultant's report did not include the following significant evidence: 1) the doctor misrepresented information to the complainant during two taped telephone conversations; and 2) there are many discrepancies between the doctor's narrative account of the events, and the documentation of the events in the medical records. Additionally, according to the nurse ombudsmen's analysis, the consultant did not address the following allegations: 1) the doctor did not return the complainant's multiple phone calls the day after surgery; 2) in performing a biopsy of the incorrect area, the doctor performed a procedure to which the complainant did not consent; and 3) the complainant had to have a second operation to biopsy the correct area. Further, the consultant's report did not address the standard of care for identifying an area to be biopsied. Based on the information provided in the consultant's report, BOMEX resolved the complaint with a nondisciplinary letter of concern for performing a biopsy of the incorrect area.

BOMEX's nurse ombudsman, however, recommended that the consultant's report be amended to address all the complaint allegations, analyze whether the doctor violated the standard of care, and provide testimony from witnesses. The nurse ombudsman also documented five potential statutory violations, and recommended that the Board reconsider its previous decision not to discipline the doctor.

No Policies and Procedures for Investigation and Medical Review Process

BOMEX has not established written policies or procedures for the investigation process. Investigators instead rely on individual judgment and experience to determine what is needed to investigate each complaint. Approximately one and a-half years ago, investigators drafted policies and procedures for the investigation process. The draft policies and procedures included investigative steps for each type of complaint, and proposed time frames for each step. BOMEX, however, never adopted the proposed investigative policies and procedures, and has not created any other written guidelines for the investigation process.

Recommendations

1. BOMEX should develop and implement written policies and procedures that describe the investigation process, including information that should be obtained and interviews that should be conducted.

2. BOMEX management should ensure that all complainants and witnesses are interviewed, and that all necessary records are obtained.

3. BOMEX management should establish a review procedure to help ensure that the medical review of complaints addresses all allegations and thoroughly analyzes the medical care provided to the patient.

FINDING II

BOMEX NEEDS TO DISCIPLINE PHYSICIANS WHO COMMIT VIOLATIONS AND IMPROVE MONITORING OF DISCIPLINARY ORDERS

The Board needs to discipline physicians when they commit violations of the Medical Practice Act. BOMEX does not discipline doctors in more than 90 percent of complaints. However, BOMEX also continues to use nondisciplinary letters of concern when disciplinary action could have been taken. Additionally, the Board has not been using the disciplinary guidelines mandated by the Legislature in 1995. Further, BOMEX staff often do not adequately monitor disciplinary orders to ensure that disciplined physicians comply with the orders.

In fiscal year 1997, BOMEX received complaints against 939 (about 7 percent) of Arizona's approximately 13,800 licensed physicians. BOMEX needs to ensure that each complaint is thoroughly investigated and appropriately adjudicated so that those physicians who commit violations of the Medical Practice Act are properly disciplined.

Complaint Adjudication Process

The Board receives complaints that involve both quality-of-care and non-quality-of-care issues, and resolves complaints in a variety of ways. Non-quality-of-care issues, such as inadequate medical records, excessive fees, or inappropriate behavior, generally do not cause harm to the patient or present a risk of harm to patients. Quality-of-care issues, however, such as improperly prescribing or dispensing drugs, or misdiagnosis or mistreatment, can cause patient harm or death. The Board may resolve both quality-of-care and non-quality-of-care complaints with a number of different actions, including dismissal, letter of reprimand, payment of a civil penalty between $300 and $10,000, decree of censure, probation, disciplinary or rehabilitative stipulations, suspension, or license revocation. In addition, the Board may issue a letter of concern, which is statutorily defined as "a non-disciplinary advisory letter to notify a physician that while there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that continuation of the activities which led to the information being submitted to the board may result in action against the physician's license."

Most Complaints Are Resolved with No Disciplinary Action

Most complaints filed with medical licensing boards, nationally and in Arizona, do not result in disciplinary action. In fiscal year 1997, the Board dismissed 72 percent of complaints, and issued a nondisciplinary letter of concern for 20 percent of complaints. The Board resolved the remaining 8 percent of complaints with disciplinary actions including probation, suspension, revocation, reprimand, and censure. Even though BOMEX dismisses most complaints, Public Citizen's Health Research Group (Public Citizen) ranked BOMEX number 5 nationally in 1996 for serious disciplinary actions imposed per 1,000 physicians licensed.[1] In addition, according to the Federation of State Medical Boards (Federation) BOMEX's 8 percent disciplinary rate gave it the highest disciplinary activity of all state boards nationally in 1996 based on disciplinary actions per 1,000 physicians licensed.

Continued Misuse of Letters of Concern

Although BOMEX ranks favorably nationally in terms of discipline imposed for all types of complaints, the Board's disciplinary rate for quality-of-care complaints is lower than other states. The Board's misuse of nondisciplinary letters of concern may help explain its low national ranking for serious discipline imposed in quality-of-care complaints.

BOMEX ranked lowest nationally for discipline in quality-of-care complaints—The Board's tendency to use nondisciplinary letters of concern for quality-of-care complaints is reflected in a national study that found that BOMEX's disciplinary rate for quality-of-care complaints is lower than other states. Although Arizona ranks high nationally in terms of discipline imposed for all types of complaints against physicians, it ranks lowest for discipline imposed for quality-of-care complaints. When Public Citizen analyzed disciplinary rates by type of complaint, it ranked Arizona last nationally in terms of imposing serious discipline for complaints that involve quality-of-care issues. Iowa's medical board, the highest ranked nationally according to Public Citizen's analysis, imposed serious disciplinary action in approximately 65 percent of quality-of-care complaints. BOMEX, in contrast, imposed serious disciplinary action in only approximately 3 percent of quality-of-care complaints.[2]

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[1] Serious disciplinary action, according to Public Citizen's Health Research Group, includes license revocation, surrender or suspension, probation, or license restriction or limitation.

[2] Public Citizen ranked BOMEX lowest nationally in 1995 for imposing serious discipline in complaints involving quality-of-care, negligence, or incompetence. Data from 1995 was the most recent year available for our review.

The Board uses letters of concern inappropriately—The Board used nondisciplinary letters of concern inappropriately in the past, and continues to use them inappropriately. The Auditor General, in the 1994 performance audit of BOMEX (Report No. 94-10) reported that the Board issued letters of concern when formal discipline was warranted. According to the 1994 report, 21 out of 30 complaints that resulted in letters of concern involved statutory violations for which the Board could have imposed discipline.

The current audit found that the Board continues to use letters of concern when disciplinary action could have been taken. Auditors reviewed a sample of 117 complaints resolved by the Board in fiscal year 1997, 34 of which the Board resolved with a letter of concern. BOMEX's medical consultants reported evidence of statutory violations for which the physician could have been disciplined in 25 of the 34 complaints that received a letter of concern. Twenty-two of the 25 complaints with reported evidence of statutory violations involved quality-of-care issues, while the other 3 complaints involved non-quality-of-care issues. The following examples were selected from the 34 complaints that the Board resolved with a letter of concern. These examples are typical of the quality-of-care complaints with reported evidence of statutory violations for which the Board could have disciplined the physician.

- A woman went to the hospital complaining of sudden, severe abdominal pain. The physician conducted blood tests and imaging studies, but did not determine the cause of the pain, and sent the woman home. One- and a-half days later, the woman collapsed and died. An autopsy revealed that she died from an obstruction of blood flow to a portion of her intestine, causing the intestine to fail. BOMEX's medical consultant reported the following evidence of statutory violations: 1) at the time the woman was seen by the physician, she had obvious symptoms of the problem that caused her death; and 2) the physician erred in not hospitalizing the woman for observation and surgical evaluation. The Board resolved the case with a nondisciplinary letter of concern.

- A woman was admitted to the hospital to deliver her baby. Although the fetal heart rate monitor used during labor indicated potential problems with the unborn child, the physician allowed labor to continue with only intermittent monitoring. The child was eventually delivered, but had brain damage and other complications. BOMEX's medical consultant reported the following evidence of a statutory violation: the physician failed to meet the standard of care by allowing the labor to continue without continuous monitoring, and by failing to either involve a specialist or to deliver the child immediately. The Board resolved the complaint with a nondisciplinary letter of concern.

Board members hesitate to impose discipline—Board members indicated that discipline is not used more frequently for several reasons. Board members reported that while public protection takes precedence in determining the Board's actions, they are concerned that any type of disciplinary action could negatively affect a physician's ability to earn a living. Board

members reported that even a letter of reprimand may follow a physician for the rest of his or her career. They stated that a physician may have great difficulty recovering from any disciplinary action.

Additionally, board members are less likely to discipline physicians for a single offense than for repeated complaints and/or violations. Board members stated that an isolated undesirable medical result does not always indicate poor quality of care, and does not necessarily warrant discipline. They further stated that the Board is more likely to discipline physicians for patterns of problematic behavior than for isolated incidents.

The Board Is Not Using Its Disciplinary Guidelines

Although BOMEX management created disciplinary guidelines prior to October 1, 1995, as mandated by the Legislature in Laws 1995, Chapter 213, §1, the Board has not used the guidelines. The disciplinary guidelines include a list and definitions of statutory violations, the usual range of penalties for each violation, and a list of aggravating and mitigating factors to be considered when imposing discipline. For example, the statutory violation "personal use of drugs or alcohol or impaired behavior" is defined as a) habitual intemperance in the use of alcohol or habitual substance abuse; or b) use of controlled substances except if prescribed by another physician for use during a prescribed course of treatment. The usual range of penalties is from a disciplinary stipulation to license revocation. Aggravating factors include multiple violations in the current complaint, prior disciplinary actions, magnitude and scope of harm or potential harm to the patient or public, other current complaints, and violation of a current Board order. Mitigating factors include lack of previous discipline, cooperation with the Board's investigation, potential for rehabilitation, the complaint was an isolated incidence, the physician limits the scope of his or her practice, and the physician is remorseful.

In July 1997, BOMEX management proposed that the disciplinary guidelines be used by incorporating them into the medical consultants' written report and summaries for each complaint. Under this proposal, the consultants' complaint reports would include a list of potential statutory violations, a summary of evidence that supports each listed violation, the mitigating and aggravating factors applicable to the complaint, and the range of usual penalties for each violation. The Board, however, has not used the disciplinary guidelines.

Some Disciplinary Orders Are Not Enforced

After the Board has imposed discipline, BOMEX staff do not always ensure that the order is enforced. Staff often do not adequately monitor disciplinary orders and ensure that physi-

cians comply with the orders. A lack of written policies and procedures contributes to poor monitoring.

After the Board resolves a complaint with discipline, it may order the physician to take actions such as paying a fine, obtaining additional education, taking and passing a specific test, attending therapy, or submitting to drug testing. BOMEX staff should then monitor these orders by reviewing each one, determining what the physician is required to do, and receiving and reviewing documentation that indicates the physician is complying with the order.

Some disciplinary orders are not enforced—BOMEX staff do not adequately monitor disciplinary orders and ensure that physicians comply with the orders. Once a physician has been placed under a disciplinary order, BOMEX investigators are responsible for monitoring that order and ensuring that the physician complies with its requirements. However, according to BOMEX staff, disciplinary orders are frequently not monitored, and compliance is not ensured. In December 1997, BOMEX created a compliance officer position that will be responsible for monitoring all disciplinary orders. However, as of July 1998, this position was not filled.

In reviewing a sample of 117 complaints resolved by the Board in fiscal year 1997, auditors discovered 4 cases that required monitoring to ensure compliance with a disciplinary order. Of these 4 cases, 2 contained evidence that the physician was in compliance with the order, while the other 2 contained evidence that the physician was not in compliance. Following is one of those cases in which the physician was not complying with the disciplinary order:

- A physician with a history of substance abuse was disciplined by the Board for improper prescribing of controlled substances. The Board disciplined the physician by placing him on probation for five years, requiring that he attend therapy and submit quarterly reports from the therapist, and requiring that he submit to random drug tests. During the two months after the discipline began, the physician tested positive for a controlled substance twice, and began to miss scheduled tests. He submitted to drug testing sporadically for the next five months. He then submitted to drug tests as scheduled, but tested positive for controlled substances four times during the following three months. The investigator contacted the physician after the first positive test, but did not contact the physician at any time during the next eight months regarding the numerous missed and positive drug tests. The investigator finally interviewed the physician in February 1998, and scheduled the physician for an informal interview with the Board at the March 1998 Board meeting.

  According to the acting chief investigator, the physician should have been interviewed, and the physician's noncompliance should have been reported to the Board following the first positive drug test. Board members then could have imposed stronger discipline, or ordered the physician to attend drug treatment, rather than allowing him to continue practicing and possibly endangering the public.

There are no written policies or procedures for monitoring disciplinary orders—In addition to not filling the compliance officer position, as mentioned previously, BOMEX management has not developed written policies and procedures for monitoring disciplinary orders. There are no written policies or procedures for notifying staff that a physician is subject to a disciplinary order, for monitoring the order to ensure the physician's compliance, or for notifying the Board when a physician fails to comply with a disciplinary order. Whether disciplinary orders are monitored by investigators or a compliance officer, BOMEX needs to develop written policies and procedures to ensure adequate and consistent monitoring and enforcement of disciplinary orders.

Recommendations

1. BOMEX should impose appropriate discipline when physicians violate the Medical Practice Act.

2. BOMEX should use its disciplinary guidelines to help establish whether a violation has occurred, assure that all necessary evidence has been collected, and make fair and consistent decisions.

3. BOMEX should establish and implement written policies and procedures for disciplinary order monitoring that include procedures for

    a) identifying which physicians are subject to a disciplinary order that requires monitoring;

    b) monitoring physicians that are subject to a disciplinary order; and

    c) reporting to the Board when a physician fails to comply with the disciplinary order.

4. BOMEX should fill the compliance office position that was created to monitor disciplinary orders.

FINDING III

BOMEX'S COMPLAINT BACKLOG AND PROCESSING TIME IMPROVED BETWEEN 1994 AND 1997

BOMEX has decreased its complaint backlog and has improved the timeliness of its complaint resolution process. The Board has decreased its complaint backlog by approximately 50 percent, reducing the backlog from 1,720 open complaints on June 30, 1994, to 862 open complaints as of February 24, 1998. Moreover, complaints closed in fiscal year 1997 took an average of 200 days to process compared to 355 days as reported in the 1994 BOMEX audit. These improvements can be largely attributed to recently adopted case management and adjudication methods. However, concerns about adequate complaint investigation and adjudication temper these improvements.

Board Has Reduced Backlog

BOMEX has significantly reduced its case backlog. Since fiscal year 1994 the Board has generally resolved more complaints than it has received, achieving an approximately 50 percent reduction in the complaint case backlog. As illustrated in Table 2 (see page 18), the Board decreased the backlog from 1,720 open complaints on June 30, 1994, to 862 open complaints as of February 24, 1998.

Although BOMEX has reduced its case backlog, fiscal year 1988 data, while incomplete, indicates that the case backlog may be increasing. As shown in Table 2, the case backlog has increased from 729 unresolved cases at the end of fiscal year 1997 to 862 unresolved cases as of February 24, 1998. This increase in the case backlog may be attributed to staffing problems at BOMEX. For example, since January 1998 the Board has lost its executive director, deputy director, and some investigative staff. In addition, vacant Board positions have impacted the timely resolution of complaint cases (see Finding IV, pages 23 through 26).

Case Resolution Time Has Improved

The Board is resolving complaints in a more timely manner. A review of complaints closed in fiscal year 1997 found that, excluding malpractice complaints, it took the Board an average of 200 days to resolve complaints. This is a significant improvement compared to an av-

erage of 355 days reported in the Auditor General's 1994 BOMEX audit report.[1] Despite these improvements, BOMEX still had cases that should have been processed in a more timely manner.

Table 2

Arizona Board of Medical Examiners
Complaints Received and Resolved
Years Ended or Ending June 30, 1994 through 1998[a]

Complaints	1994	1995	1996	1997	1998
Beginning of year	1,598	1,720	1,403	948	729
Received	1,008	1,002	921	983	610
Resolved	(886)	(1,319)	(1,376)	(1,202)	(477)
Unresolved at year-end	1,720	1,403	948	729	862

[a] The number of complaints reported as being received and resolved in fiscal years 1994 and 1995 differs from numbers reported in Auditor General Reports No. 94-10 and No. 96-L1. These changes are due to corrections to inaccurate client data previously reported. In addition, the fiscal year 1998 information is for the period July 1, 1997 through February 24, 1998.

Source: Auditor General staff analysis of unverified complaint data generated from the Board's computer system.

Timeliness has generally improved—Since fiscal year 1994 BOMEX has improved complaint resolution timeliness by shortening the time it takes for complaints to move through steps in the complaint resolution process. Auditor General staff reviewed 52 randomly selected nonmalpractice complaints closed in fiscal year 1997 to determine how much time the Board takes to complete steps in the complaint resolution process. By reducing time in most steps, BOMEX is taking an average of 200 days to resolve complaints, approaching the 172-day time frame suggested in the 1994 BOMEX Auditor General Report (Report No. 94-10). For example, as shown in Table 3 (see page 19), BOMEX now receives medical records more quickly and completes summary reports in a more timely manner. However, BOMEX could further improve its administrative processing to reach the suggested time frame goal. For example, if suggested time frames are met for requesting medical records and making assignments to a medical consultant and subsequently a Board member (steps 1, 3, and 5 in Table 3), BOMEX could save an additional 24 days in its complaint resolution process.

[1] In the 1994 BOMEX Auditor General Report (Report No. 94-10), cases were separated into two categories: nonmalpractice cases and malpractice cases. This report separates cases into the same classifications.

Some nonmalpractice complaints still very untimely—Although the Board has improved complaint resolution timeliness, some nonmalpractice complaints are still delayed. A review of 52 nonmalpractice complaints identified 15 complaints that took from 255 days to approximately 6 years to resolve. Many of these cases were waiting for the Board to take action, and other cases were waiting for a response from the doctor. Moreover, other cases

Table 3

Arizona Board of Medical Examiners
Average and Suggested Days to Complete
Complaint Resolution Process
for Years Ended June 30, 1994 and 1997

Step	Description of Interval	Average Number of Days 1994	Average Number of Days 1997[a]	Suggested Number of Days[b]
	Overall average and suggested number of days:	355	200	172
1	Receipt of complaint until medical records are requested	41	16	7
2	Request for medical records until medical records are received	48	16	20
3	Receipt of all medical records until the complaint is assigned to medical consultant	39	19	7
4	Assignment of complaint to medical consultant until the medical consultant's report and summary is complete	105	28	60
5	Completion of medical consultant's report and summary until the complaint is assigned to lead Board member	52	10	7
6	Assignment of complaint to lead Board member until the board member has completed the review.	11	24	11
7	Receipt of lead Board member's recommendation by Board staff until the Board takes final action on the complaint.	88	83	60

[a] Calculation for fiscal year 1997 excludes seven cases that took an abnormally long period of time to resolve. Including those cases would have overstated the time frames for typical cases.

[b] Suggested number of days developed and reported in the 1994 audit.

Source: Auditor General staff analysis of 52 nonmalpractice complaints.

remained inactive for several months. To help ensure timely complaint investigation, the Board needs to consistently generate reports to identify where backlogs may be occurring, how long it takes to move from one step to another in the complaint resolution process, and the current case status.

Board staff could investigate malpractice complaints sooner—An unnecessary BOMEX practice sometimes delays malpractice case investigation. When a malpractice case is settled against the doctor, statutes require the physician's insurance company and the plaintiff's attorney to notify BOMEX that the case has been resolved. Once BOMEX is notified of a settlement it then is required to investigate the case and determine whether the doctor should be disciplined. In some cases the insurance company is the first to notify BOMEX of the settlement. BOMEX, however, does not begin the investigation until it also receives notification and information from the plaintiff's attorney. A review of malpractice cases found that delays because of this practice averaged 36 days and ranged up to 80 days. These delays help explain why malpractice cases averaged 249 days to resolve as compared to 200 days for nonmalpractice cases in fiscal year 1997. However, one of BOMEX's attorney general representatives advised BOMEX's executive director that delaying investigation was unnecessary and cases should be opened immediately.

Reasons for Improvement

BOMEX has taken steps to reduce its significant complaint backlog and to improve the timeliness of its complaint resolution process as recommended in the 1994 performance audit completed by the Auditor General's Office (Report No. 94-10). For example, in 1994 the Auditor General's Office recommended that the Board divide into committees to review complaints. This action, as well as others, has helped reduce the complaint backlog. Specifically:

- As authorized by statute, the Board created committees to allow the Board to consider many more complaints at each meeting. The Board divided into two committees for the first time at the October 1995 meeting. These committees are able to dismiss complaints, issue letters of concern or reprimand, or refer the matter for the full Board's further review.

- In March 1995, the Board implemented a conference call consent-agenda designed to address complaints in which both a medical consultant and a lead Board member recommend dismissal. A 15-minute call in March eliminated 102 complaints from consideration at the April 1995 Board meeting. More recently, a phone call in October 1997 eliminated 76 complaints.

- When possible, physicians' consent agreements (stipulations) are developed prior to the informal interview with the entire Board. If the Board agrees with the stipulation, they need only approve it. This frees up valuable Board meeting time previously spent developing stipulations.

Additionally, BOMEX has reduced the time it takes to complete steps in the complaint resolution process and has approached the suggested time frames recommended in the 1994 BOMEX Auditor General Report (Report No. 94-10). For example, BOMEX reduced the time it takes from assignment of a complaint to a medical consultant until the medical consultant's report and summary is complete from 105 days to 28 days, thus saving 77 days (see Table 3, page 19).

Although the Board has become more efficient in processing and closing complaints, concerns about the quality and appropriateness of complaint investigation and adjudication temper these improvements. Efficiency improvements are less meaningful if the primary mission of appropriately investigating complaints and imposing discipline is not met.

Recommendations

1. To reduce time frames in the complaint resolution process, BOMEX needs to:

    a. Develop and use management information reports to better determine where backlogs may be occurring, how long it takes to move from one step to another in the complaint resolution process, and the current case status; and

    b. Request medical records and make assignments to a medical consultant and subsequently a Board member within the suggested time frames.

2. BOMEX needs to open malpractice cases as soon as notification of the case settlement is received.

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FINDING IV

VACANCIES IMPACTED BOARD FUNCTION

Vacant Board positions have created difficulties for the Board, including impacting the timely resolution of complaint cases. Additionally, to further protect the public, the Legislature should consider increasing public membership on the Board.

Vacancies Impact Case Resolution

Board vacancies have hindered the timely resolution of complaint cases and made it difficult at times for the Board to transact important Board business. Several factors have contributed to vacancies, primarily due to failure by the Governor to appoint members to the Board in a timely manner.

Board vacancies—For over two years, the Board operated with less than a full complement of 12 Board members, creating several problems. Until recent appointments to the Board were made in July 1998, the last time the Board was fully staffed was April 1995. As a result the Board encountered several problems that impacted its ability to conduct its business. Specifically:

- **No quorums for complaint committees—**The Board has lacked quorums when splitting into two complaint committees. The Board needs to have at least eight members present at its Board meetings to be able to split into two complaint committees, each consisting of at least four Board members, which constitutes a quorum according to statute. These two committees may vote to dismiss a complaint, issue a letter of concern, issue a letter of reprimand, or refer the matter for further review by the full Board. Convening two committees allows the Board to address more complaints because the workload is split between the two bodies. If the Board does not have enough members to obtain quorums for each of these two committees, then fewer complaints may be heard at each Board meeting.

- **No quorum for Board business—**The Board needs a quorum of seven or more members to transact Board business. Without a quorum, the Board is unable to transact business. The Board, in an October 1995 letter to the Governor, stated it had only 8 appointed members of the 12 Board members authorized by statute and, at times, because one or more members recused themselves from discussing or voting on a matter, or were un-

able to attend a Board meeting, the Board was unable to act. This problem occurred again as recently as the July 26, 1997, Board meeting where a Board member recused himself, and in the absence of a quorum a case was deferred until the Board's September 1997 meeting.

- **Public member position unfilled—**Public representation on the Board was limited. Until July 1998, a public member position had generally been vacant since 1995 despite three written Board requests to the Governor's Office for an appointment.

Legislature may want to consider statutory amendments—Although all Board positions are currently filled, the Legislature may want to consider statutory amendments to prevent extended vacancies from occurring in the future. First, the Legislature should consider amending A.R.S. §32-1402(C)(2)(e) to permit Board members who retire from the active practice of medicine during their term to remain on the board to the end of their terms. Currently, the statute states that a Board member's term automatically ends upon retirement from the active practice of medicine. Since this requirement took effect on July 1, 1995, three Board members have been forced to vacate their positions because of retirement. Two of these three Board members were close to completing their terms. However, the third Board member had served approximately one year of a five-year term. Other Arizona boards, such as the State Board of Nursing and the Arizona Board of Osteopathic Examiners in Medicine and Surgery, do not have this restriction.

Second, the Legislature should consider amending A.R.S. §32-1402 to permit Board members to serve two full terms in addition to a partial term. Currently, the statute states that a Board member's term is for five years and no more than two terms may be served. Board members appointed to fill vacated positions are considered to have served a full term regardless of how long they served in the vacated position. As a result, a member appointed to fill a vacated position is only permitted to serve one additional full term, rather than two full terms. Other Arizona boards do not have this restriction.

Public Membership Should Be Increased

The Legislature should consider adding at least one more public member to the Board, thus further improving the Board's ability to protect consumers. Although the Legislature did increase public membership from two to three in 1995, more recent research by the Auditor General suggests public membership should be further increased.

Public representation limited—Public representation on the Board is limited to three members, or 25 percent public membership. Currently, statutes require 9 of the Board's 12 members to represent the health care industry. Those 9 members include one licensed professional nurse, and 8 physician members who are actively practicing medicine in Arizona.

Prior to 1995, public representation was set at two members. However, following the 1994 audit, the Legislature increased the number of public members to three.

Increased public membership needed to protect consumers—Increased public membership may be needed to better protect consumers. The Auditor General's 1995 Special Study of The Health Regulatory System (Report No. 95-13) recommended increasing public membership to 50 percent on all state health regulatory boards. According to one study cited in the Auditor General's report, increased public membership is associated with stronger board disciplinary actions. In particular, the Auditor General noted that past audits of profession-dominated boards found insufficient investigation of consumer complaints, untimely resolution of consumer complaints, and a general disregard for consumers in the regulatory and disciplinary process.

Additionally, other states have increased or are seeking to increase the number of public members on their boards. Data provided by the Federation of State Medical Boards shows that 15 states have medical boards with 30 percent or more public membership, and Rhode Island's Board of Medical Licensure and Discipline has 50 percent public membership. Rhode Island's Board was created in 1987 in response to a highly publicized case in which a former profession-dominated Board failed to take appropriate disciplinary action. Moreover, California's Medical Board has approximately 37 percent public membership, and California's Board of Podiatric Medicine is seeking to increase public membership from 33 percent to approximately 56 percent on its Board. This Board conducted a consumer survey and found that 60 percent favor having a majority of public members and 54 percent said they would be more likely to file a complaint to a board comprised of a majority of public members. As a result, the California Board of Podiatric Medicine is currently trying to modify its membership, favoring a majority of public members.

The Legislature should consider increasing the Board's public membership—The Legislature should consider increasing public membership on the Board by at least one public member and decreasing physician membership by an equal number to maintain the Board's size, but change its composition. Increasing public membership by one would give the Board a total of four public members. This would raise the percentage of public members on the Board to 33 percent, comparable to 15 other states. Designating four public Board members would permit two public members to be represented on each of the Board's two complaint review committees and may encourage increased public protection.

Recommendations

1. The Legislature should consider amending A.R.S. §32-1402(C)(2)(e) to permit Board members who retire from the active practice of medicine during their terms to remain on the Board to the end of their terms.

2. The Legislature should consider amending A.R.S. §32-1402(C) to permit Board members to serve two full terms in addition to a partial term.

3. The Legislature should consider changing the Board's statutory composition by increasing public membership by at least one public member and decreasing physician membership by an equal number.

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Arizona Board of Medical Examiners should be continued or terminated.

1. The objective and purpose in establishing the Board.

A.R.S. §32-1403(A) states:

> "*The primary duty of the Board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine through licensure, regulation and rehabilitation of the profession in this state*."

To carry out this responsibility, a 12-member board is statutorily empowered to examine candidates for licensure as physicians, initiate and conduct investigations to determine whether a doctor has engaged in unprofessional conduct or provided incompetent medical care, or may be mentally or physically unable to safely engage in the practice of medicine; and discipline and rehabilitate physicians.

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

The Board can improve its effectiveness and efficiency in fulfilling its statutory responsibility to protect the public from incompetent allopathic physicians. This review found that some Board investigations are incomplete and untimely (see Finding I, pages 7 through 10, and Finding III, pages 17 through 21). In addition, a review of a sample of complaints handled by the Board in fiscal year 1997 found that the Board continues to use nondisciplinary letters of concern when disciplinary actions may be warranted. When the Board does impose discipline, doctors may not be adequately monitored to ensure their compliance (see Finding II, pages 11 through 16).

The Board has significantly reduced its case backlog. Since fiscal year 1994 the Board has generally resolved more complaints than it has received, achieving approximately a 50 percent reduction in the complaint case backlog. The Board decreased the backlog from 1,720 open complaints as of June 30, 1994, to 862 open complaints as of February 24, 1998.

Additionally, the Board has made some efficiency improvements. For example, a review of complaints closed in fiscal year 1997 found that the Board is resolving complaints in a more timely manner. The 1994 BOMEX performance audit found that it took 355 days to resolve a complaint (Report No. 94-10). This report found that complaints are now resolved in an average of 200 days, approaching the 172-day suggested time frame (see Finding III, pages 17 through 21). Although the Board has reduced its complaint backlog and complaint processing time, these improvements are tempered by continued problems with complaint investigation and adjudication.

Moreover, the Board, as required by the Legislature, developed a procedure for classifying complaints according to their severity. For example, priority one complaints have the strong possibility of harm or potential harm to the patient or the public, based on the physician's conduct. While this measure may not increase overall timeliness, the most serious cases should be addressed more quickly. According to BOMEX's policy, the average investigation time for a priority level one complaint should be as soon as possible but no longer than three months' duration, unless special circumstances arise. However, since priority level one complaints tend to be complex, the investigation process may take longer.

Finally, Board members have not completed recommended training provided by the Governor's Office. While Board members have received required ethics training, the Governor's Office invites public officers to also attend a Board and Commission Member Training Seminar. This training is intended to provide information on topics such as the open meeting law, understanding the legislative process, and the role of Board members. As of February 1998, seven of the nine current board members had not yet attended this training despite it being offered twice a year, in May and October.

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

The Board can do more to operate in the public interest. The Board's failure to adequately investigate complaints and take appropriate enforcement actions for some cases has limited its ability to properly protect the public from incompetent and potentially dangerous doctors (see Finding I, pages 7 through 10, and Finding II, pages 11 through 16).

The Board also needs increased public representation. Until recently, one of the Board's three public member positions had been generally vacant since 1995. This vacancy has limited public review and input during complaint reviews.

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

A.R.S. §32-1456(B) states that the Board, by rule, may prescribe other medical procedures that a medical assistant may perform under the direct supervision of a medical doctor. In 1997 the Board formed a committee to draft these rules for medical assistants. However, the committee felt that the statutes needed further clarification regarding tasks that may be performed without the direct supervision of a medical doctor. As a result, statutory changes are currently being sought. If these changes are adopted, the Board intends to prescribe rules regarding medical procedures that a medical assistant may perform under the direct supervision of a medical doctor.

Additionally, 1996 legislation requires the Board to promulgate rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. A.R.S. §41-1073(A) requires that these rules be in place no later than December 31, 1998. Currently, the Board has drafted these rules and they are being reviewed by the Governor's Regulatory Review Council.

Finally, the Governor's Regulatory Review Council identified several instances where it appears that BOMEX has not adopted all rules required by statute. For example:

- A.R.S. §32-1403(A)(3) requires that BOMEX develop and recommend standards governing the profession. Article 2 of BOMEX's Administrative Rules consists of 5 rules that deal with dispensing drugs in a physician's office. The Governor's Regulatory Review Council questions if this is all that is needed to regulate and develop standards for physicians.

- A.R.S. §32-1425.01(A)(3) requires that BOMEX prescribe an application form for applicants for step three of the U.S. medical licensing examination.

- A.R.S. §32-1427(A) requires that BOMEX prescribe an application form for general applicants.

- A.R.S. §32-1429(A)(2) requires that BOMEX prescribe an application form for locum tenens and pro-bono applicants.[1]

[1] A locum tenens registration authorizes an out-of-state doctor to temporarily assist or substitute for an Arizona physician. A pro-bono registration allows doctors who are not licensees to practice in Arizona for 60 days provided that they meet certain requirements, such as not being the subject of an unresolved complaint.

- A.R.S. §32-1434 requires that BOMEX establish continuing medical education requirements. While R4-16-101 addresses this issue, the rule needs to be amended to be consistent with current rule writing standards.

- A.R.S. §32-1456(D) requires BOMEX to prescribe medical assistant training requirements.

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 complied with open meeting law requirements. Meetings have been properly posted as required by law and the Board has provided at least 24 hours' notice for their meetings as required by law.

Moreover, Auditor General staff posing as members of the public made four phone calls to the Board office requesting information about various doctors. Board staff provided information regarding these doctors.

However, the Board does little to keep the public informed of its actions against physicians. Although the Board publishes a newsletter, it fails to identify the names of doctors it has disciplined.

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

The Board also needs to take steps to ensure that complaints are appropriately adjudicated and that orders are adequately monitored to ensure compliance (see Finding II, pages 11 through 16). The Board needs to ensure that complaints are investigated in a complete, timely, and reasonable manner (see Finding I, pages 7 through 10).

7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

A.R.S. §41-192 authorizes the Attorney General's Office to prosecute actions and represent the Board. BOMEX retains two Assistant Attorneys General in-house who represent and provide counsel to the Board at their meetings, and prosecute violators of Board statutes.

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

According to the BOMEX response to the Sunset Factors, numerous technical and administrative changes have been made to agency statutes over the years. For example, in 1995 legislation was passed defining a "Letter of Reprimand" and how these letters can be used and, in 1996, legislation was passed affecting licensure by endorsement. According to the BOMEX response to the Sunset Factors, current statutes compare favorably with ***"Elements of a Model Medical Practice Act"*** published by the Federation of State Medical Boards.

9. The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in this subsection.

The Legislature should consider modifying A.R.S. §32-1402(A) to increase the number of public members on the Board (see Finding IV, pages 23 through 26).

The Legislature should consider modifying A.R.S. §32-1402(C) to permit Board members to serve full terms in addition to a partial term (see Finding IV, page 23 through 26).

The Legislature should consider modifying A.R.S. §32-1402(C)(2)(e) to permit Board members who retire from the active practice of medicine during their terms to remain on the Board to the end of their terms (see Finding IV, pages 23 through 26).

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

Termination of state regulation of physicians would significantly endanger the public. This review found many cases handled by BOMEX that posed a threat to the public's health, safety, and welfare, including inadequate or inappropriate medical procedures, misdiagnosis, and mistreatment. Without a regulatory licensing function, there is less assurance that unqualified or incompetent physicians are excluded from practice. Without a regulatory complaint investigation and adjudication function, there are fewer mechanisms to discipline doctors who cause harm. Further, without regulation consumers would not have a source of information about physician qualifications and complaint history.

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

The current level of regulation is appropriate.

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

The Board has used private contractors for services it cannot provide in-house. Currently, the Board contracts for services such as aftercare monitoring, outside consultants, and transcription services.

Agency Response

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September 8, 1998

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2910 N. 44th St., Suite 410
Phoenix, AZ 85018

Re: The Arizona Board of Medical Examiners' Auditor General's Response and 1998 Action Plan

Dear Mr. Norton:

During a telephonic board meeting today, the Arizona Board of Medical Examiners (BOMEX) adopted the agency's response to each of the four recommendations contained in your August 24, 1998 draft performance audit of the agency. Our response and 1998 Action Plan are attached for your review and incorporation into the Final Auditor General's Report to the legislature.

As you requested, we have also e-mailed a copy of our response and 1998 Action Plan to you so that you can include it with any electronic dissemination of the report.

Please contact Claudia Foutz at 255-3751 x7504, if you require additional information or if you have any questions after you review our response.

Sincerely,

Ram Krishna, M.D.
Chairman

Claudia Foutz
Executive Director

THE BOARD OF MEDICAL EXAMINERS' RESPONSE TO THE AUDITOR GENERAL'S REPORT AND 1998 ACTION PLAN

In the interest of the public health, safety and welfare, and in the spirit of the State's Regulatory Reform movement, the Arizona Board of Medical Examiners (BOMEX) proposes the following Action Plan as a response to the 1998 Auditor General's Report. The Action Plan, a result of 75 days of staff meetings and input from all sections of the agency since May of 1998, puts the agency on target to meeting broader, more encompassing performance goals than those referenced in the Auditor General's work. Each Action Plan element, in addition, meets or exceeds all but one of the recommended changes from that report.

Each finding made by the Auditor General (and the agency's general policy response) is grouped before its relevant Action Plan element. Action Plan details follow in each of four sections.

❖ *Finding I of the Auditor General's report states that "Complaint Investigation Needs Improvement." The Auditor General recommends that*

1.) *BOMEX should develop and implement written policies and procedures that describe the investigation process, including information that should be obtained and interviews that should be conducted.*

2.) *BOMEX management should ensure that all complainants and witnesses are interviewed, and that all necessary records are obtained.*

3.) *BOMEX management should establish a review procedure to help ensure that the medical review of complaints addresses all allegations and thoroughly analyzes the medical care provided to the patient.*

BOMEX agrees with the Auditor General's finding and will implement the audit recommendations.

BOMEX ACTION PLAN

I. IMPROVING COMPLAINT INVESTIGATIONS

High quality investigations will come from an agency that can bring together three ingredients: expert trained staff, procedure manuals designed to achieve case consistency, and expert medical and legal consultation as needed. To help the Board put these elements into place, the new Executive Director and staff have restructured the agency to promote efficiency of function and facilitate workflow.

As part of the restructuring, the Board created the new position of Enforcement Administrator. This position will supervise a senior investigator, a senior medical consultant and a core of investigators and medical consultants, in addition to necessary support staff. The Enforcement Administrator will be responsible for the development, application and integrity of new procedures, policy, standards, training and staff performance.

The high level of confidentiality and expertise required for thorough investigation of medical complaints demand that the Board invest in training for its investigators and medical consultants. Investigators will receive national certification in witness interviewing, fact-finding, records management, and other methods they need to collect credible evidence for Board actions. In-house performance evaluations will educate investigators and give them professional investigative goals to achieve.

With Assistant Attorneys General in-house, the Board should also be able to incorporate their knowledge and expertise into the investigation process. Assistant Attorney Generals can become involved in investigations as soon as the Board receives a complaint that alleges medical practice act violations. Since they will prosecute these alleged violations, they can become part of the investigation team that determines the witnesses that should be interviewed and the necessary evidence that must be gathered and evaluated. This way, the Board will receive vital, timely, relevant evidence to properly determine whether a violation of the medical practice act exists and, if warranted, will take swift, proper action against the responsible doctor.

Supplementing the training given to investigators, the Board will draft an Investigation Handbook for investigators and medical consultants to provide them with firm policies, procedures and standards to follow that will ensure successful, thorough investigations, and consistent medical evaluations and reviews. This handbook will assist investigators in identifying relevant investigatory evidence and records. It will equip investigators to interview all relevant witnesses, and it will provide them with sample questions, sample investigative reports and

relevant forms for their use. Finally, it will ensure that medical consultants also address each potential violation of the law in their reports. The Handbook will tighten the Board's definition of and execution of medical investigations. Finally, the investigators and medical consultants will receive training through the BOMEX "training academy," a term used to describe a multi-year program of skills and knowledge base development in key employees (see next section for the Board member version of the academy).

❖ *Finding II of the Auditor General's Report states, "BOMEX Needs to Discipline Physicians Who Commit Violations And Improve Monitoring Of Disciplinary Orders." The Auditor General recommends that:*

1. *BOMEX should impose appropriate discipline when physicians violate the Medical Practice Act.*

2. *BOMEX should use its disciplinary guidelines to help establish whether a violation has occurred, assure that all necessary evidence has been collected, and make fair and consistent decisions.*

3. *BOMEX should establish and implement written policies and procedures for disciplinary order monitoring that include procedures for*

   a.) *identifying which physicians are subject to a disciplinary order that requires monitoring;*

   b.) *monitoring physicians that are subject to a disciplinary order; and*

   c.) *reporting to the Board when a physician fails to comply with the disciplinary order.*

4. *BOMEX should fill the compliance office position that was created to monitor disciplinary orders.*

The Board agrees with the Auditor General's four recommendations involving the imposition of appropriate discipline and has begun to implement them in the following way:

II. IMPOSING FAIR AND JUST DISCIPLINE

In order to properly impose fair and just discipline, the Board's members must learn and agree upon the types of violations of the medical practice act that justify certain types of discipline. The Board accepts this principle and has committed to training its members so that, collectively, the Board may impose fair and impartial discipline against the licensed community when warranted. To accomplish that end, Board members will attend training sponsored by the Governor's office, and will participate in pertinent, useful training programs sponsored around the country. Finally, the Board has recently hired staff to develop a Board Members' Handbook and Training Academy.

The Board Members' Handbook, essentially a series of staff designed manuals, will provide members with an understanding of the agency, its mission, its licensees, the open meeting law process; including ethics training and an understanding of Roberts Rules of Order.

Soon to be launched, the Board Training Academy will require participation from new and veteran Board members in a series of presentations from agency staff and the assigned Assistant Attorneys General. At minimum, the topics will range from open meeting law and consistent application of discipline. Board members will become intimately familiar with whether a letter of concern or a dismissal is warranted given the specific facts presented; whether to impose a civil penalty and whether probation standards are consistent with pre-established guidelines for discipline.

Furthermore, the Board reviewed, on average, 300 cases per meeting during 1997. Therefore, the Board will plan to engage an analyst who can quantify the disciplinary performance of the agency. Given the measurement of activity across disciplinary categories, the Board will be in good position to identify and iron out inconsistencies in the application of its orders.

Also on the post-investigation side of regulatory efforts, the Board has hired a compliance officer who is developing written compliance procedures and policies which will ensure that licensees comply with Board orders. Periodically, the compliance officer will inform the Board about licensees who fail to comply with its orders and submit for Board review the successful compliance status of licensees as well. The Board's Year 2000 budget includes a request for a second compliance officer to handle the growing workload more effectively.

The Board's mission to rehabilitate impaired physicians, known as MAP or the monitored aftercare program, is also undergoing review and fine tuning . Staff has been refining the program's services and the system of reporting impaired physicians' progress to the Board in an effort to promote the public's health, safety and welfare.

Last but no less important, the Board has temporarily increased funding levels in its Interagency Service Agreement with the Attorney General's Office to add an additional attorney and a paralegal to the staff. This augmentation in legal expertise will permit the agency to defend challenges to the Board's ordered discipline in the State's appellate courts. Both people will begin work by late September, 1998.

The additional attorney and paralegal will also help the Board diminish and eliminate the backlog of cases awaiting formal administrative hearing within this fiscal year to more effectively serve the public. The additional legal staff will also be in-house and available to become more involved in the investigation of complaints when the Board receives them.

❖ *Finding III of the Auditor General's Report states that "BOMEX's complaint backlog and processing time improved between 1994 and 1997. In order to further improve the agency's efficiency regarding complaint processing and closing, the Auditor General recommends:*

1.) To reduce time frames in the complaint resolution process, it needs to

a) Develop and use management information reports to better determine where backlogs may be occurring, how long it takes to move from one step to another in the complaint resolution process, and the current case status; and

b) Request medical records and make assignments to a medical consultant and subsequently a board member within suggested time frames.

2.) BOMEX needs to open malpractice cases as soon as notification of the case settlement is received.

The Board agrees with the Auditor General's third audit recommendation and will implement it. According to this Auditor General's finding, the backlog problem is 85% resolved. The Board will implement final improvements in complaint processing as follows:

III. ELIMINATING THE COMPLAINT BACKLOG

As mentioned before, the Board has restructured its staff, creating a new organizational chart that promotes effective use of agency resources by centralizing Board functions and moving skilled employees into understaffed

areas. The new organization will allow staff to work more efficiently and productively processing complaints faster and more judiciously.

Moreover, the Board has filled key vacancies which will assist it in eliminating the complaint backlog. In addition to hiring critical staff, such as the Deputy Director who is a former trial lawyer and Assistant Attorney General, the Board hired a Supervising Medical Consultant who is a former Board Chairman. His expertise and understanding of the disciplinary process will promote cohesive and comprehensive medical reports among the medical consultant staff.

The Board has hired two very experienced Assistant Attorneys General and a third, temporary Attorney General so that it can send more deserving cases to administrative hearing. Hiring these employees demonstrates the Board's most serious commitment to eliminating the backlog of its complaints. Administrative hearing cases often pose long term danger to public safety and occur immediately prior to most Board revocations, suspensions, and inactivation of licenses. To underscore our need for immediate action on these cases, the Executive Director met with the Director of the Office of Administrative Hearings to secure the necessary resources for an increased flow of BOMEX hearings and all corresponding workload impacts.

Within the agency, staff will begin "triaging" complaints as they arrive at the agency. Such complaint review will foster creative investigative approaches and promote thorough investigations. In line with that reasoning, the Board is seriously considering signing an interagency service contract with the Attorney General's conflict resolution section. This section of the Attorney General's office offers alternative dispute resolution services to state agencies such as BOMEX. The service would allow the Board to send complaints that do not allege violations of the medical practice act to the Attorney General's office for mediation.

Mediation offers BOMEX's complainants the opportunity to voluntarily air their dispute with the doctor before a trained mediator, by entering into a mutual agreement to resolve the complaint. A complaint could be mediated in approximately a month, which is much more timely than the standard Board review process. Mediation offers the Board a way to resolve its complaint backlog in a fair, timely fashion, while guaranteeing the quality of service to the public.

Guiding the entire complaint reengineering process is the Board's 1998 Strategic Plan. Inside the Strategic Plan are expanded agency performance measures. The Board intends to use those performance measures to develop "center" management reports, which will aid in tracking complaints and measuring the time spent processing complaints by type.

❖ *The Auditor General's fourth finding states that vacancies impacted Board function, and recommends that*

1. *The Legislature should consider amending A.R.S. § 32-1402.C.2.e to permit Board members who retire from the active practice of medicine during their terms to remain on the Board to the end of their terms.*

2. *The Legislature should consider amending A.R.S. § 32-1402.C to permit Board members to serve two full terms in addition to a partial term.*

3. *The Legislature should consider changing the Board's statutory composition by increasing public membership by at least one public member and decreasing physician membership by an equal number.*

IV. FILLING BOARD VACANCIES

The Board agrees with the Auditor General's first recommendation that the legislature should consider amending A.R.S. § 32-1402.C.2 to permit retired Board members to remain on the Board until the end of their terms and will attempt to implement it by supporting such legislation if introduced. Board member expertise develops over time. Retirement does not eliminate that expertise, and should not prohibit a qualified, trained member from finishing a term.

The Board agrees with the Auditor General's second recommendation that the legislature should consider amending A.R.S. § 32-1402.C to permit Board members to serve two full terms in addition to a partial term for the reasons explained above, and will implement it by supporting such legislation if introduced.

A majority of the Board[1] does not agree with the Auditor General's third recommendation that the legislature should consider changing the Board's statutory composition by increasing public membership by at least one public member and decreasing physician membership by an equal number. The Board relies heavily upon the physicians' expertise in determining whether a licensee has violated the medical practice act.

Research published on the performance of public members versus physician members on regulatory boards is decidedly mixed on the question. At least one national study indicates that physician members of medical boards are tougher on errant physicians when judging them individually than public members of the Board might be. In fact, for the top ten medical boards

[1] One public member agrees with the Auditor General and favors increasing the public membership of the Board by one member.

nationally, in terms of serious discipline per 1000 licensees in 1994, the average public member composition is 18% of Board members.[2] Nationally, although there may be fifteen states with 30% or more public membership, these boards are not well known for their tough stance on incompetent physicians. Therefore, the Auditor General's third recommendation will not be implemented.

The Governor's appointment of Ron Cox, Ph.D. to the Board in August, 1998, filled the last vacancy. The Board can now look forward to conducting its business in a timely and professional manner.

V. SUMMARY

BOMEX has settled on a series of transformations in the agency for the purpose of more effectively serving the public. The Action Plan will move through three phases in 1998-99. Phase One, Operations Reengineering or reallocation of staff resources, was accomplished on August 20, 1998. Staff identified five "centers" of regulatory function at the agency, each one, vital to the agency's role in maintaining healthcare quality for the people of Arizona.

Agency centers will include: Enforcement (discussed above); Board Operations (dedicated to the smooth operation of board meetings); Business Operations (internal agency functions, such as payroll); Licensing and Renewals; and Public Relations. The Public Relations center is headed by our Ombudsman and will include the compliance officer, rehabilitation compliance officer, media relations and public outreach coordinator, and the legislative/regulatory analyst positions. These employees answer all the public questions, serve as our press contacts and liaisons with the public and other state agencies. Given more centralized work assignments that avoid fragmentation of the regulatory workload, the staff is currently well positioned to systematically raise the quality and the quantity of the public safety it provides.

Phase Two of the Action Plan will entail the training of staff and board members as described above. Phase Three will be the expansion of public outreach and information. There may also be opportunities during Phases Two or Three to align state laws governing our agency with Arizona patient and professional expectations.

As part of the Board's commitment to providing the public, including the licensed population, with as much public information and healthcare educational materials as possible, Board staff has begun research into expanding the agency's website. By early 1999, the website will provide the public with the following information:

1.) Online verification of license certifications;

[2] *Health Letter*, The Public Citizen Health Research Group, May, 1995, pg. 9.

2.) Online renewal of licenses;
3.) Online information on progress of cases, such as when they are set for hearing, and case dispositions;
4.) Online disciplinary history disclosure; and
5.) Consumer information on agency services.

Above all else, the Board's Action Plan demonstrates its interest in protecting the public's health, safety, and welfare. Relying upon it, the Board has filled key vacancies, reorganized the agency and continued to invest in public education regarding the agency's functions. As the Year 2000 approaches, the Board's next transformative steps will demonstrate its commitment to its statutory mission.

Appendix

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Table 4

Arizona Board of Medical Examiners
Number and Percentage of Complaints Resolved by Type
Years Ended June 30, 1994 and 1997

Resolution Type	1994 Number	1994 Percentage	1997 Number	1997 Percentage
Nondisciplinary				
Dismissal	792	80%	937	72%
Letter of Concern	142	14	266	20
Total	934	94%	1,203	92%
Disciplinary				
Censure, civil penalty, or reprimand	3	<1%	24	2%
Loss or restriction of license	61	6	84	6
Total	64	6%	108	8%

Source: Auditor General staff analysis of unverified complaint data generated from the Board's computer system.