



ARIZONA AUDITOR GENERAL

Lindsey A. Perry, Auditor General

Melanie M. Chesney, Deputy Auditor General

September 29, 2025

Members of the Arizona Legislature

The Honorable Katie Hobbs, Governor

Executive Director Ganatra
Arizona Board of Occupational Therapy Examiners

Transmitted herewith is the report *A Performance Audit and Sunset Review of the Arizona Board of Occupational Therapy Examiners*. This audit was conducted by the independent firm Sjoberg Evashenk Consulting, Inc. under contract with the Arizona Auditor General and was in response to a November 21, 2022, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona Board of Occupational Therapy Examiners agrees with 12 of the findings and disagrees with 4 of the findings, but plans to implement all the recommendations. My Office has contracted with Sjoberg Evashenk Consulting, Inc. to follow up with the Arizona Board of Occupational Therapy Examiners in 6 months to assess its progress in implementing the recommendations. I express my appreciation to the Board's members, Executive Director Ganatra, and Board staff for their cooperation and assistance throughout the audit.

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

Sincerely,

Lindsey A. Perry

Lindsey A. Perry, CPA, CFE
Auditor General

cc: Arizona Board of Occupational Therapy Examiners members



September 29, 2025

Lindsey A. Perry, CPA, CFE
Arizona Auditor General
2910 N. 44th Street, Ste. 410
Phoenix, AZ 85018

Dear Ms. Perry:

Sjoberg Evashenk Consulting is pleased to submit our report containing the results of the 2025 Performance Audit and Sunset Review of the Arizona Board of Occupational Therapy Examiners (Board). We conducted this audit on behalf of the Arizona Office of the Auditor General pursuant to a November 21, 2022, resolution of the Joint Legislative Audit Committee.

The objectives of this audit were to determine whether the Board (1) issued licenses to qualified applicants in a timely manner, (2) investigated and resolved complaints in a timely manner, and (3) provided information to the public as required by statute. This report also provides responses to the statutory sunset factors and our recommendations for improvement.

We appreciate the professionalism and cooperation exhibited throughout the course of this audit by the Board and Board management and staff. Also, we thank you for the opportunity to serve the Arizona Auditor General, and it has been our pleasure to work with you and your staff.

Respectfully submitted,

A handwritten signature in blue ink, reading "George J. Skiles".

George Skiles, Partner
Sjoberg Evashenk Consulting, Inc.

Arizona Auditor General

Performance Audit and Sunset Review of the Arizona Board of Occupational Therapy Examiners

September 2025



Arizona Board of Occupational Therapy Examiners (Board)

Performance Audit and Sunset Review

Board timely issued initial licenses in calendar year 2024, but allowed licensees to practice after their licenses had expired, could not demonstrate that it verified some applicants it approved for initial and renewal licenses possessed a valid fingerprint clearance card or a fingerprint-based criminal history records check, and did not resolve some complaints in a timely manner, putting public safety at risk

Audit purpose

To determine whether the Board issued licenses to qualified applicants in a timely manner, resolved complaints timely, and provided information to the public as statutorily required, and to respond to the 10 statutory sunset factors.

Key findings

- Board timely issued initial licenses in calendar year 2024.
- Board could not demonstrate it obtained fingerprint clearance cards or fingerprint-based criminal history records checks for 9 of 30 initial and renewal applicants we reviewed, and lacked documentation that it verified that 8 of 21 applicants possessed a valid fingerprint clearance card when it did obtain the fingerprint clearance cards from the applicants.
- Board did not resolve within 180 days 4 of 11 complaints it investigated in fiscal year 2024.
- Board failed to initiate rulemakings to align its rules with statute despite identifying inconsistencies in rules since 2008, increasing the risk of regulatory ambiguity and non-compliance.
- Board issued renewal licenses for 14 licensees we reviewed after their license expiration date in calendar year 2024, allowing these licensees to continue to practice after their license expired. The Board's statutes and rules do not: (1) require licensees to submit a renewal application within a specific time frame prior to the expiration date or outline the consequences for licenses if they fail to do so; or (2) outline a specific period of time that licensees have to resolve deficiencies in incomplete applications.

Key recommendations to the Board

- Issue licenses only to applicants who possess a valid fingerprint clearance card and continue to develop and implement written procedures for verifying and documenting that all applicants possess a valid fingerprint clearance card.
- Investigate and resolve complaints within 180 days, and track and monitor timeliness of overall duration as well as incremental goals defined in board policy and procedure.
- Develop and implement a rulemaking plan to address all inconsistencies between its rules and statutes, including developing timeframes for initiating and completing rulemakings and assigning responsibility for overseeing the rulemaking process.
- Consult with its Assistant Attorney General to determine if a statutory change is needed to address the lack of a renewal application submittal deadline and time frame for addressing renewal application deficiencies.

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BOARD OVERVIEW

Arizona Board of Occupational Therapy Examiners (Board)

The Board regulates the practice of occupational therapy in Arizona by issuing licenses to qualified applicants, investigating and resolving complaints against licensees, and providing information to the public about the status of licensees. Statute requires the Board to consist of 5 Governor-appointed members who serve 3-year terms. As of September 2025, all 5 Board member positions were filled. In fiscal year 2025, the Board was authorized 2.0 full-time equivalent staff positions. The Board does not receive any State General Fund monies. Rather, its revenues consist primarily of licensing fees.

Active Occupational Therapists as of June 2025	Active Occupational Therapy Assistants as of June 2025	Complaints Received/Opened in Fiscal Year 2024
3,302	1,457	11

Audit results summary

Key regulatory areas reviewed	Results	
Initial licenses —Process initial license applications within 120 days as required by rule. Key qualifications include education, training, and a fingerprint clearance card.	Issued timely? ✓	Ensured qualifications met? ✗
Renewal licenses —Process license renewal applications within 120 days and licensees must complete 20 continuing education hours every 2 years.	Issued before expiration date? ✗	Ensured continuing education met? ✓
Complaint handling —Investigate complaints it receives / opens and take action to address violations within 180 days.	Investigated all complaints? ✓	Resolved within 180 days? ✗
Public information —Provide specific complaint and licensee information to the public on request and on its website.	Provided via website? ✗	Provided via phone? ✗
Other responsibilities reviewed	Results	
Fee setting —Establish fees based on the actual cost of providing services consistent with recommended practices.	Assessed actual costs? ✗	Fees based on costs? ✗
Conflicts of interest —Board members/staff sign a disclosure form, Board maintains substantial interest disclosures in a special file, and Board members recuse selves from decisions involving substantial interests.	Board members & staff signed disclosure forms and maintained special file? ✗	Board members with conflicts recused selves during board meetings? ✓
Public records requests and open meeting law —Requirements include responding to public records requests and posting Board meeting recordings on website within 5 working days.	Responded to public records requests? ✓	Meeting recordings posted on website within 5 working days? ✗

Introduction

On behalf of the Arizona Auditor General, Sjoberg Evashenk Consulting has completed a performance audit and sunset review of the Arizona Board of Occupational Therapy Examiners (Board). This performance audit and sunset review determined whether the Board (1) issued licenses to qualified applicants in a timely manner, (2) investigated and resolved complaints in a timely manner, and (3) provided information to the public as required by statute. This report also provides responses to the 10 statutory sunset factors.

Board mission and responsibilities include ensuring regulated persons are competent to safely practice

The Board was established in 1989 to regulate the practice of occupational therapy in Arizona (see textbox). The Board's mission is to "ensure the public's health, safety, and welfare by licensing and regulating individuals who provide Occupational Therapy services."¹

The Board's key responsibilities include:

- Issuing licenses to qualified applicants to practice occupational therapy in the State.² Licensees must renew their license every 2 years. According to the Board's database, as of June 2025, there were 3,302 actively licensed occupational therapists and 1,457 actively licensed occupational therapist assistants in Arizona. See Finding 1, pages 5 through 8, for more information on problems we identified with the Board's processing of license applications.
- Investigating and resolving complaints against licensees.³ According to Board records, during fiscal year 2024, the Board received/opened and investigated 11 complaints. See Finding 2, pages 9 through 12, and Sunset Factor 6, pages 27 through 28, for more information on problems we identified with the Board's complaint handling.

Key Terms

Occupational therapy—The use of therapeutic activities or modalities with individuals who are limited by physical or cognitive injury or illness, psychosocial dysfunction, developmental or learning disabilities, sensory processing or modulation deficits, or the aging process to promote optimum functional performance, maximize independence, prevent disability, and maintain health.

Occupational therapist—A person licensed to practice occupational therapy and who has graduated from an accredited occupational therapy education program, completed approved fieldwork, and passed the National Board for Certification in Occupational Therapy, Inc. examination.

Occupational therapist assistant—A person licensed to assist in the practice of occupational therapy by performing delegated procedures commensurate with their education and training and who has graduated from an accredited occupational therapy assistant education program.

Source: Auditor review of Arizona Revised Statutes (A.R.S.) §§32-3401 and 32-3424, and the Board's website, as of May 29, 2025.

¹ Governor's Office of Strategic Planning & Budget. (November 2024). *State of Arizona Master List of State Government Programs, State Agencies' Five Year Strategic Plans, and Cabinet Agencies' Strategic Plan Summaries*. Retrieved 06/04/2025 from <https://www.azospb.gov/documents/2025/FY%202026%20Master%20List.pdf>.

² A.R.S. §32-3404.

³ A.R.S. §§32-3442 – 32-3446.

- Providing information about licensees to the public, including licensees' disciplinary and non-disciplinary histories.⁴ See Sunset Factor 5, pages 24 through 27, for more information on problems we identified with the Board's provision of public information.

Board is comprised of 5 members supported by 2 staff positions

A.R.S. §32-3402 requires the Board to consist of 5 Governor-appointed members who serve 3-year terms. Three members must be licensed occupational therapists, and 2 members must represent the public. As of September 2025, all 5 board member positions were filled.

The Board was appropriated 2 full-time equivalent (FTE) positions for fiscal year 2025 and, as of September 2025, the 2 positions were filled by a part-time Executive Director, part-time Licensing Specialist, and a part-time Licensing Administrator.⁵

The Executive Director and Licensing Administrator reported working 3 days per week in-office and 2 days remotely, while the Licensing Specialist works full-time in-office. The Board has sufficient in-office workstations to accommodate its staff.

Board's revenues are primarily from regulated community and its expenditures are mostly for staffing

The Board does not receive any State General Fund monies. Instead, its revenues consist primarily of licensing and related fees, a portion of which are appropriated to the Board for operations as part of the State budget process. A.R.S. §32-3405 requires the Board to remit 15% of all monies received to the State General Fund and to deposit the remaining 85% of these revenues into the Board of Occupational Therapy Examiners Fund.⁶ As shown in Exhibit 1, page 4, for fiscal year 2025, most of the Board's revenues consisted of licensing fees, and most of its expenditures were for payroll and related benefits and other operating expenses, such as rent, information technology, and shared services. The Board's fund balance was \$246,769 at the end of fiscal year 2025.

⁴ A.R.S. §§32-3214, 32-4304, and 32-4801.

⁵ The Board shares its staff with the Arizona Board of Athletic Training.

⁶ Laws 2024, Ch. 222, §43, requires the Board to remit 15% of the monies collected to the State General Fund until July 1, 2028, when Laws 2024, Ch. 222, §44, will take effect, requiring the Board to remit 10% of monies collected to the State General Fund.

EXHIBIT 1: SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
FISCAL YEARS 2023 THROUGH 2025 (UNAUDITED)

	2023 (Actual)	2024 (Actual)	2025 (Estimated)
Fund balances, beginning of year	\$1,019,267	\$1,101,372	\$263,739
Revenues			
License and application fees ^A	\$344,002	\$339,136	\$359,601
Fines, forfeitures, penalties	2,495	5,712	4,154
Other revenue ^B	(750)	1,629	855
Total gross revenues	345,747	346,476	364,610
Remittances to the State General Fund ^C	29,530	33,718	51,943
Total net revenues	\$316,217	\$312,758	\$312,667
Expenditures			
Payroll and related benefits	\$165,296	\$163,829	\$188,744
Professional and outside services ^D	2,316	18,559	45,097
Other operating ^E	44,246	63,808	82,181
Travel	-	1,276	302
Equipment ^F	22,254	2,918	13,314
Total expenditures	\$234,112	\$250,391	\$329,638
Transfers to State General Fund ^G	-	\$900,000	-
Net change in fund balances	82,105	(837,633)	(16,970)
Fund balances, end of year	\$1,101,372	\$263,739	\$246,769

Source: Auditor staff analysis of AZ 360's June Financial Reports for fiscal years 2023 and 2024 and Board- and Arizona Department of Administration (ADOA)-provided fiscal year 2025 revenue and expenditure data as of June 2025.

^A Includes licensing and application fees.

^B Includes credit card convenience fees collected from applicants and licensees to pay for electronic payment processing costs.

^C Prior to September 14, 2024, the Board was required to remit to the State General Fund 10% of all monies received by the Board in accordance with A.R.S. §32-3405. However, effective September 14, 2024, Laws 2024, Ch. 222, required the Board to remit to the State General Fund 15% of all monies it receives through June 30, 2028.

^D The Board reported no professional and outside services expenditures in fiscal year 2023. In fiscal 2024, the Board began contracting with a vendor to support the implementation of the Board's new licensing system.

^E Includes operating expenses such as telecommunication charges, office supplies, postage and delivery, internal service charges (e.g., ADOA Arizona Strategic Enterprise Technology (ASET), Arizona Financial Information System (AFIS) billing), risk management, document shredding services, and rent.

^F Represents technology costs—primarily computer hardware, peripherals, and software licensing/maintenance tied to the Board's new e-licensing system.

^G Laws 2024, Ch. 209, Sec. 133, required \$900,000 of the Board's fund balance to be transferred to the State General Fund in fiscal year 2024 for the purpose of providing adequate support and maintenance for State agencies.

Finding 1. Board could not demonstrate it verified that some applicants it approved for initial and renewal licenses possessed a valid fingerprint clearance card or fingerprint-based criminal history records check, putting patient safety at risk

Statute requires Board licensees to possess a valid fingerprint clearance card

Effective January 1, 2022, Laws 2021, Ch. 323, required Board licensees and applicants for Board licensure to possess a valid standard fingerprint clearance card issued by the Arizona Department of Public Safety (DPS) to obtain or renew a license (see textbox for more information about fingerprint clearance cards).⁷ Prior to this change, the Board was statutorily required to obtain a fingerprint-based criminal history records check for all applicants for licensure.⁸

Fingerprint clearance card

A fingerprint clearance card indicates that the cardholder is not awaiting trial for or has not been convicted of committing certain precluding criminal offenses, such as sexual assault, forgery, and concealed weapon violations. DPS is authorized to issue fingerprint clearance cards to individuals based on its review of their criminal history record from the State's central repository of criminal history records and the Federal Bureau of Investigation's (FBI) database of criminal history records from all 50 states. To receive a fingerprint clearance card, an applicant must list the organization—called the sponsoring agency—that is requiring the individual to obtain a card. A sponsoring agency could be an employer, such as a school district, or a state agency, such as a licensing board. The card is valid for 6 years; however, if a cardholder is subsequently arrested for a precluding offense during this 6-year period, the Department is required to suspend the card and notify the cardholder and the sponsoring agency that the card is suspended pending the outcome of the arrest.² An agency must first be authorized by the FBI to receive these notifications before DPS can approve it as a sponsoring agency.

DPS issues 2 types of fingerprint clearance cards—a Level-1 fingerprint clearance card and a standard fingerprint clearance card. A Level-1 fingerprint card requires the applicant to not have been arrested or convicted of more precluding offenses than the standard fingerprint clearance card.

¹ If a fingerprint clearance card holder leaves the sponsoring agency's employment or licensure and accepts a position or obtains a license with another agency that requires a fingerprint clearance card, there is no requirement for the cardholder or the new agency to notify the Department of the change. Therefore, should the cardholder be arrested for a precluding offense, the Department will only notify the original sponsoring agency.

Source: Audit staff analysis of A.R.S. §§41-1701, 41-1750, 41-1758 et seq., and Arizona Department of Public Safety (DPS), *Fingerprint Clearance Card* (n.d.). Retrieved on 7/15/2025 from <https://www.azdps.gov/services/public-services-center/fingerprint-clearance-card>.

⁷ Laws 2021, Ch. 323, amended A.R.S. §32-3430 to require a valid fingerprint clearance card to be held by the applicant of the Board of Occupational Therapist Examiners.

⁸ A.R.S. §41-1758.04(F).

During fiscal year 2024, the Board had not yet received FBI authorization to become a sponsoring agency and reported it used 3 different methods for assessing criminal history for license and renewal applicants. Specifically, as of July 2023, the Board required applicants to submit the previously-required fingerprint-based criminal history records check, but in August 2023 learned that DPS ceased processing fingerprint-based criminal history records checks submitted by the Board because it was no longer authorized to obtain them. In September 2023, DPS informed the Board that it obtained approval to temporarily allow the Board access to state-level fingerprint-based criminal history records checks until the FBI approved the Board to become a sponsoring agency. As a result, beginning in September 2023, the Board had access to 2 forms of criminal history records checks: (1) a fingerprint clearance card for applicants who were able to obtain one through a separate sponsoring agency or (2) a state-level fingerprint-based criminal history records check submitted to DPS. In January 2025, DPS informed the Board that the FBI approved the Board as a sponsoring agency, allowing the Board to direct its applicants to request fingerprint clearance cards from DPS with the Board as the sponsoring agency.

Board could not demonstrate that it verified some applicants it approved for initial and renewal licenses possessed a statutorily required valid fingerprint clearance card or fingerprint-based criminal history records check

Our review of a random sample of 20 initial license applications and 10 license renewal applications the Board received in fiscal year 2024 found that the Board could not demonstrate that it verified some applicants it approved for initial and renewal licenses possessed a valid fingerprint clearance card or fingerprint-based criminal history records check.⁹ Specifically, the Board:

- Lacked evidence that it obtained either a fingerprint clearance card or the state-level fingerprint-based criminal history records check for 7 of 20 initial license applicants and 2 of 10 renewal applicants we reviewed. For these 9 applicants, the Board did not obtain the applicant's fingerprint clearance card number. Although for 3 of the 9 applicants, the Executive Director stated that the individuals submitted the alternative state-level fingerprint-based criminal history records check, the Board did not have sufficient record of these individuals doing so. As of August 2025, the Board was able to locate fingerprint clearance card information for 2 of the 9 licensees and verified the validity of the cards; the Board reported that it will require the remaining 7 licensees to report this information during their next renewal.
- Lacked documentation, when fingerprint clearance card information was submitted, that it had verified that the applicants' card was valid using information available on DPS' website for 6 of 13 initial licenses and 2 of 8 renewal licensees that submitted fingerprint clearance card information. Auditors conducted a verification of these applicants' fingerprint clearance cards and, as of July 2, 2025, found that all were valid.

⁹ We selected a random sample of 15 of 210 occupational therapist initial applications and 5 of 71 occupational therapy assistant initial applications that were issued in fiscal year 2024. We also selected a random sample of 10 of 1,882 renewals issued in fiscal year 2024.

Issuing and renewing licenses without verifying applicants or licensees possess a valid fingerprint clearance card or completed a state-level fingerprint-based criminal history records check puts patient safety at risk

The Board's failure to obtain, verify, and/or document that all licensees possessed a valid fingerprint clearance card or had completed a state-level fingerprint-based criminal history records check puts the safety of patients, many of whom are vulnerable individuals, at risk. Specifically, this could allow individuals with criminal histories, such as individuals who have been arrested or convicted for sexual assault and other sexual or violent crimes, access to vulnerable individuals in settings with little to no supervision, such as their homes. For example, occupational therapists often work with vulnerable individuals, such as children, pregnant women, older adults, people with disabilities, and people with chronic health conditions. Further, occupational therapists work with patients in a wide variety of settings with varying levels of supervision, such as people's homes, schools, hospitals, rehabilitation centers, nursing homes, and mental health facilities.

In addition, as previously discussed, prior to January 2025, DPS was not authorized to notify the Board if a licensee was arrested for a precluding offense. Further, if a licensee obtains a fingerprint clearance card using a different sponsoring organization, such as an employer, and is arrested for a precluding offense, the Board would not receive notification from DPS. Absent these notifications, verifying the validity of applicants' fingerprint clearance cards using the DPS website is imperative for ensuring that applicants have not committed any precluding offenses. For example, our review of the Department's complaint handling processes identified a Board licensee who was charged with child sex trafficking, luring a minor for sex, and attempted sexual contact with a minor. According to the Board, the Board did not receive notification of the arrest or criminal charges because the Board was not the sponsoring agency. Instead, the licensee self-disclosed the charges when applying for license renewal in June 2024, which was also prior to the Board being authorized to receive notifications from DPS. For more information on the Board's handling of this complaint, see Finding 2, pages 9 through 12, and Sunset Factor 2, pages 17 through 23.

The Board transitioned licensing systems which impacted the Board's record keeping, did not have written policies, procedures, or guidance in place to sufficiently document alternative fingerprint-based criminal history records checks, and staff did not always follow the policies and procedures to verify that the fingerprint clearance cards it received were valid

Prior to January 2024, the Board's application was not changed to reflect the requirement for applicants to submit a fingerprint clearance card if they had one. The Executive Director reported that the Board did not update its application until January 2024 because it was waiting to transition to a new licensing system. Further, after January 2024, the application, in alignment with statute, only asked applicants to provide their fingerprint clearance card number. Therefore, applicants without a fingerprint clearance card had no way of indicating on the application that they needed a state-level fingerprint-based criminal history records check. As a result, the Board cannot always tell from its licensing records whether applicants had a fingerprint clearance card or a state-level fingerprint-based criminal history records check.

In addition, the Board had no written policies, procedures, or guidance in place to document that it verified applicants without fingerprint clearance cards did not have a criminal history. While the Executive Director stated that the Board received both comprehensive and state-level fingerprint-based criminal history

records checks during fiscal year 2024, it did not retain adequate documentation, such as a log to track that the Board received the results of a fingerprint-based criminal history records check, and therefore could not demonstrate that the Board verified applicants did not have a criminal history.

Finally, although the Board developed guidance in February 2024 for staff to look up the clearance card on DPS' website and save a screenshot showing the card was valid, staff did not always save the screenshot showing the card was valid. Specifically, as discussed above, the Board did not have evidence for 8 of 21 applications reviewed that it had verified the validity of the fingerprint clearance card applicants that submitted necessary card information, and 5 of these 8 applications that lacked appropriate documentation were submitted after the Executive Director had provided direction to staff regarding the Board's updated policy.

Recommendations to the Board:

1. Issue initial and renewal licenses only to applicants who possess a valid fingerprint clearance card.
2. Continue to develop and implement written procedures for verifying and documenting that all applicants possess a valid fingerprint clearance card.
3. Train staff on procedures for verifying and documenting that all applicants possess a valid fingerprint clearance card.
4. Verify possession of fingerprint clearance cards for all licensees for whom the Board lacks evidence in its licensing system that the licensee possesses a valid fingerprint clearance card, including the 7 licensees identified during this audit for whom the Board lacks evidence that it completed background checks.

Board Response:

As outlined in its [response](#), the Board disagrees with the finding, but will implement the recommendations.

Finding 2. Board has not resolved some complaints in a timely manner, which could affect patient safety and may cause undue burden for licensees

Board is responsible for investigating and resolving complaints against licensees

The Board is statutorily responsible for investigating and resolving complaints alleging violations of statute or rule by licensees.¹⁰ Specifically, the Board may investigate complaints against a licensee filed by a member of the public, or conduct an investigation at any time on its own initiative without a written complaint if the Board has reason to believe there may be a violation of statute, rule, or a written Board order, or that the licensee may be incompetent, guilty of unprofessional conduct, or acting outside the scope of practice.¹¹ The Auditor General has determined that Arizona health regulatory boards should investigate and resolve complaints within 180 days of receiving them. Based on the findings of an investigation, the Board may dismiss the complaint, issue a decree of censure, issue a letter of concern, establish terms of probation, impose a civil penalty, and/or suspend or revoke the license.¹²

Board did not resolve within 180 days 4 of 11 complaints it investigated in fiscal year 2024

The Board did not investigate and resolve 4 of 11 complaints the Board reported it investigated in fiscal year 2024 within 180 days, including 2 of 3 complaints that it received from members of the public.¹³ For 2 of these 4 complaints, the Board took 378 and 511 days to investigate and resolve the complaints.¹⁴ These complaints included allegations that licensees had committed misdemeanors, such as domestic violence or practicing occupational therapy without a license. The Board issued a final decision after 691 days for a third case involving felony allegations of child sex trafficking.¹⁵ The fourth complaint was unresolved and had been open for a year as of April 2025.

Board's failure to timely resolve complaints may negatively affect patient safety and may cause undue burden for licensees under investigation for lengthy periods of time

When the Board does not investigate complaints or is slow to resolve complaints it may negatively impact patient safety when delays allow unfit licensees, alleged to have violated Board statutes and rules, to continue to practice. For example, a licensee who was charged with child sex trafficking, luring a minor for

¹⁰ A.R.S. §§32-3404(A)(1), 32-3442(A), and 32-3445.

¹¹ A.R.S. §32-3442(A)(1) and (2).

¹² A.R.S. §32-3442(H) and (J).

¹³ These 11 complaints include 3 complaints received from members of the public, 2 complaints the Board opened when licensees self-reported acts of unprofessional conduct, and 6 complaints the Board opened based on information the Board received during the licensing process suggesting the licensee had engaged in unprofessional conduct.

¹⁴ In one case, the Board voted to authorize staff to offer a consent agreement after 340 days, which the executive director signed 38 days later for 378 total days to resolution. In the second, the Board voted to authorize the consent agreement after 310 days, and the executive director signed it 201 days later for 511 total days to close.

¹⁵ The Board entered into an interim consent agreement for license suspension after 187 days.

sex, and attempted sexual contact with a minor retained an active license for 6 months after the Board became aware of these charges.¹⁶

In addition, even when the Board does not substantiate and dismisses complaints, untimely complaint handling subjects licensees to unproven allegations of professional or harmful conduct for longer than necessary. Untimely complaint handling may also create an undue burden for licensees who are under investigation, as they may be required to be responsive to Board requests for information or documentation for a lengthy period of time. Finally, while licensees are under investigation, statute does not permit the Board to make information available to the public regarding complaints involving a licensee.¹⁷

Board did not develop standard protocols documented in written policies and procedures for tracking, conducting, and monitoring complaint investigations, including issuing subpoenas, and used consent agreements for disciplinary actions rather than issuing Board orders, which further delayed resolution of some complaints

Four complaints were not resolved timely because the Board lacked standard protocols for opening, tracking, conducting, and monitoring investigations, including issuing subpoenas. Specifically, the Board:

- **Lacked mechanism for tracking complaints.** Two of the 4 untimely complaints were not timely resolved because staff did not adequately track complaints, nor did the Board have management reports to identify complaints at risk of being resolved untimely. In one case, the Board's licensing system did not notify the Board when a complaint was uploaded to the system, and the Board did not identify the complaint for 9 months after it was submitted. As of April 2025, the complaint remained unresolved 357 days after it was submitted. According to the Board's Executive Director, in this case, access to the old licensing system was to be shut down when the new licensing system went online in January 2024, but it was not shut down and individuals continued to have the ability to submit complaints through the old system for several months after the new system was implemented. In the second case, Board staff acknowledged receipt of a licensee's self-disclosure of a domestic violence misdemeanor charge, but the Board lost track of the self-disclosure and only uncovered it nearly a year later when the licensee was late in renewing their license—340 days after the licensee originally notified the Board. The Board's Executive Director reported working toward developing an automated process for complaint submittal and tracking with its information system provider.¹⁸ Although the Board's new licensing system will have a module for complaint handling, the module has not yet been developed, and the Board does not have another centralized mechanism for tracking complaints it received/opened.

¹⁶ The licensee disclosed the charge on a license renewal application in June 2023. The Board voted to enter into an interim consent agreement to suspend the license at a September 2023 board meeting during which the licensee disclosed their employer had put them on leave due to an inactive fingerprint clearance card. The consent agreement with the Board was not executed until December 2023, meaning the Board took no action against the licensee for 3 months after learning that a requirement for licensure (the fingerprint clearance card) was inactive.

¹⁷ A.R.S. §32-3214(A).

¹⁸ The Board's licensing system module for complaint handling was still in development as of May 2025.

- Did not establish procedures prescribing when and under what circumstances the Board should issue a subpoena to obtain information from unresponsive parties.** In 1 of the 4 untimely investigations, the Board continued a case to a second meeting to have staff obtain additional information from a school that had employed an unlicensed individual as an occupational therapist for about 10 years. In this case, the Board determined that it was necessary to continue the matter to obtain records from the school's human resources department and former supervisors concerning the individual's disciplinary history, performance evaluations, scope of practice, and whether the individual had misrepresented their credentials to the school. The Board directed staff to issue subpoenas to compel attendance of any key individuals who were reluctant to participate at the Board meeting, but not for the purpose of acquiring the required documentation. Although the Executive Director reported considering issuing a subpoena to the school when it did not timely reply to the requests, expressing concerns that the school may be hesitant to provide information to the Board because of a perceived liability in hiring an unlicensed practitioner, the Executive Director did not issue the subpoena due to an understanding that only the Board can issue subpoenas through a Board motion. The Executive Director did not seek such a motion, instead opting to seek the cooperation of the school, did not issue subpoenas to compel attendance at the Board meeting as requested, and did not bring the case back before the Board for 8 months after the first Board meeting. In all, it took 252 days to obtain the information needed for the Board to make a decision on this case.
- Did not establish adequate policies and procedures related to complaint handling.** The Board's complaint handling process—including key procedures, time lines, or prioritization criteria—was not fully documented in Board policy or procedure, which likely contributed to the Board's failure to adequately track complaints received and key notification dates as the Board experienced staff turnover between 2022 and 2024. The Board's Executive Director established a complaint handling procedures in 2024, but these procedures do not outline detailed complaint-handling steps and associated timeframes, including steps and timeframes for priority-setting, complaint resolution, and conducting Board-initiated investigations, and also do not include documentation requirements. Further, the procedures do not address how the Board will use its web-based licensing system for complaint intake and tracking, partly because the complaint module of the licensing system has not been fully implemented.
- Over-relied on consent agreements.** In some cases, the Board's reliance on consent agreements instead of issuing disciplinary orders added significant time to closing out these complaints. Board orders are effective on the date of issuance while consent agreements are not effective until both the Executive Director and licensee sign the agreement. All disciplinary actions issued by the Board in fiscal year 2024 were issued via a consent agreement, not a board order. Of the 3 untimely investigations that had been resolved, the consent agreements were executed between 38 and 201 days after the Board authorized its Executive Director to execute the agreements. In one case in which an individual had been practicing unlicensed at a public elementary school for about 10 years, Board staff did not send the consent agreement to the licensee for 168 days after the Board approved the terms of the agreement. Board staff attributed

this delay to difficulty drafting the consent agreement and establishing a time frame within which it should have been executed.

Recommendations to the Board:

5. Investigate and resolve complaints within 180 days.
6. Develop mechanisms to investigate and resolve public complaints within 180 days. Track and monitor timeliness of overall duration as well as incremental goals defined in board policy and procedure.
7. Revise, finalize, and implement its draft policies and procedures for investigations and complaint handling to outline each step of the complaint handling process, including timeframes for notification, investigation, and resolution; priority-setting; documentation requirements; and how complaint handling will be administered in the licensing system.
8. Minimize the effects of delayed complaint resolution resulting from consent agreements by establishing required time frames for licensees to return signed consent agreements.
9. Provide comprehensive training to staff on complaint handling procedures and system tools to ensure consistency, compliance, and continuity in the event of staff turnover.
10. Regularly review management reports for all in-process complaints and track compliance with its timeframes for investigating and resolving complaints.

Board Response:

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

Finding 3. Board failed to initiate rulemakings to align its rules with statute despite identifying inconsistencies in rules since 2008, increasing risk of regulatory ambiguity and noncompliance

Statute requires State agencies to regularly review and revise rules to ensure consistency with statute and regulatory clarity

Arizona law directs State agencies, including regulatory boards, to ensure their rules align with their statutory mandates and to periodically review and update those rules to ensure consistency with statute.¹⁹ In particular, A.R.S. §41-1056(A) requires State agencies to review their rules at least once every 5 years to determine whether any rules should be amended or repealed. As part of this review, agencies must assess whether each rule is necessary, effective in achieving its objective, authorized by statute, and consistent with other applicable laws and rules. This rulemaking authority is intended to ensure the Board can implement and enforce its statutory responsibilities through clear, comprehensive, and up-to-date rules (see textbox for an overview of statutory rulemaking and 5-year review requirements).

Rulemaking and 5-Year Review Requirements for Arizona Agencies

- **Rulemaking authority**—Agencies must have statutory authority to adopt rules that implement or clarify laws. For example, A.R.S. §32-3404(A)(4) authorizes the Board to adopt rules necessary to carry out its duties.
- **5-year review reports**—A.R.S. §41-1056(A) requires agencies to review their rules at least once every 5 years and determine if any rules should be amended or repealed to remain consistent with statute.

Source: Auditor staff review of A.R.S. §32-3404(A)(4), A.R.S. §41-1056, and the Arizona Administrative Procedure Act.

Once an agency completes its review, it must submit a 5-year review report to the Governor's Regulatory Review Council (Council) summarizing its findings and determinations.²⁰ Council staff are required to review the report to assess the agency's analysis of rule necessity, legal authority, and economic, small business, and consumer impacts. The Council then considers the report and votes to either approve it or return it for revision. If the Council determines, based on the agency's analysis, that a rule is materially flawed—for example, if it is inconsistent with statute or imposes unjustified burdens—it may require the agency to propose an amendment or repeal the rule by a specified date no earlier than 6 months after the Council's review meeting. If the agency fails to submit the required 5-year review report or to amend or repeal the rule by the specified date, the rule automatically expires and must be formally repealed by the Council.²¹

Board did not update its rules to address known inconsistencies between its rules and statutes

Although the Board identified inconsistencies between its rules and statutes in the 5-year review reports submitted to the Council in 2008, 2013, 2018, and 2023, it did not initiate any rulemakings to resolve these inconsistencies, despite reporting it would return to the Council with rulemaking packages in 2008, 2014,

¹⁹ A.R.S. §§41-1039 and 41-1056.

²⁰ A.R.S. §41-1056(A).

²¹ A.R.S. §41-1056.

2019, and 2024. In each of these 4 reports, the Board acknowledged areas where its rules were outdated, inconsistent with statute, or otherwise in need of revision.²² Exhibit 2 provides several examples of Board rules that are inconsistent with statute.

EXHIBIT 2. EXAMPLES OF BOARD RULES INCONSISTENT WITH OR DO NOT ADDRESS STATUTORY REQUIREMENTS

Statute	Inconsistent Rule(s)	Inconsistency	5-Year Review Reports Inconsistency Identified In
A.R.S. §32-3208. Criminal charges; mandatory reporting requirements; civil penalty; exceptions	Arizona Administrative Code (A.A.C.) R4-43-202 (Renewal Application)	This rule does not include the statutory requirement for licensees to notify the Board in writing within 10 working days after being charged with a misdemeanor involving conduct that may affect patient safety or a felony.	2018 2023
A.R.S. §32-3423. Application for licensure; qualifications	A.A.C. R4-43-201 (Initial Application)	This rule does not reflect a 2022 statutory change removing the requirement for applicants for licensure being of good moral character. Instead, the rule still requires applicants to submit recommendations of good moral character from 2 health care professionals.	2023
A.R.S. §32-3441. Proper use of title or designation of occupational therapists; license display; supervision; responsibilities	A.A.C. R4-43-402 (Supervision of Occupational Therapy Aides and Other Unlicensed Personnel) A.A.C. R4-43-405 (Display of License Certificate)	These rules do not reflect a 2013 statutory change from non-licensed employees and volunteers to unlicensed personnel and students, nor the requirement for licensees to carry a wallet-sized license card during working hours.	2018 2023

Source: Auditor analysis of the Board's 2018 and 2023 5-year review reports and the Governor's Regulatory Review Council staff's analysis.

Although the Board identified these inconsistencies and acknowledged the need for action, as of April 2025, it had not submitted any proposed rulemaking packages to the Council, nor completed a rulemaking, since 2000. This prolonged inaction reflects a broader failure to maintain rules that are consistent with statutory requirements, even when inconsistencies are known and longstanding.

In addition to these inconsistencies identified by the Board, the Board failed to identify in its 5-year reviews other inconsistencies between statute and rule, which we identified during this audit. Specifically:

- **Board's telehealth registration fees not established in rule, as required by statute**—In 2021, the Legislature revised A.R.S. §36-3606 to authorize out-of-state health care practitioners to provide telehealth services to persons within Arizona by registering with the appropriate licensing board, including submitting an application and paying a fee.²³ State agencies are prohibited from

²² Arizona Board of Occupational Therapy Examiners, *Five-Year Rule Review Report*, submitted to the Governor's Regulatory Review Council, 2008, 2013, 2018, and 2023.

²³ Laws 2021, Ch. 320 (HB 2454); A.R.S. §36-3606(A)(1)(3).

charging or receiving a fee unless the fee for the specific activity is expressly authorized by statute and the fee was established through a formal rulemaking process.²⁴ However, the Board established a \$300 telehealth registration fee in Board policy, but not in Board rule, as required by statute (see Sunset Factor 2, pages 17 through 23, for more information).

- **License renewals**—Although statute states that the Board’s licenses expire unless renewed within 2 years of the issuance date, Board rule allows indefinite extension of a license if the licensee submits an incomplete renewal application.^{25,26} This rule conflicts with statute and with other provisions of Board rule (see Sunset Factor 2, pages 17 through 23, and Sunset Factor 4, page 24, for more information). Although Board management became aware of this problem in August 2022, the Board did not disclose this issue in its 2024 5-year review report.

Board’s failure to update rules increases risk of confusion, weakens enforcement, and reduces regulatory transparency

Regular review and revision of agency rules is critical to maintaining a regulatory framework that is legally sound, clearly articulated, and responsive to statutory changes and stakeholder needs. The Board’s failure to initiate rulemakings to address known inconsistencies between its rules and statutes increases the risk of regulatory ambiguity, limits its ability to enforce statutory requirements, and undermines public confidence in its operations. Licensees, applicants, and the public rely on the Arizona Administrative Code to understand their rights and responsibilities. When rules are outdated or conflict with statute, stakeholders may inadvertently fail to comply, and the Board may be constrained in its ability to take disciplinary action or defend enforcement decisions.

For example, despite a 2008 law requiring licensees to report certain criminal charges within 10 days, the Board’s rules do not reflect this obligation. Similarly, the Board’s rules continue to require evidence of good moral character for licensure, even though statute eliminated that requirement in 2022. Further, some rules fail to incorporate newer statutory provisions, such as the requirement that licensees carry a wallet-sized license card. These types of inconsistencies create confusion for licensees and other stakeholders, hinder understanding of the Board’s processes, and diminish the clarity of its regulatory framework.

Board attributed its failure to initiate rulemakings to a lack of resources

The Board’s Executive Director joined the Board in August 2022 and stated that she was not aware of the historic reasons why previous Board management had not initiated rulemakings to address these discrepancies when they were first identified, but reported that the Board hired a consultant in 2023 to assist in the process of developing a rulemaking package. However, these efforts stopped in fiscal year 2024 when the Board ran out of funding. The Executive Director stated that the Board will continue these efforts and, as of July 2025, reported that the Board had rehired the consultant to restart the rulemaking process.

²⁴ A.R.S. §41-1008(A).

²⁵ A.R.S. §32-3426.

²⁶ A.A.C. R4-43-205.

Recommendations to the Board:

11. Develop and implement a rulemaking plan to address all inconsistencies between its rules and statutes identified in its 2008, 2013, 2018, and 2023 5-year review reports and the additional inconsistencies identified during this audit. The plan should include timeframes for initiating and completing rulemakings and assign responsibility for overseeing the rulemaking process.
12. Submit a request to the Governor's Office for approval to initiate rulemaking for all proposed rulemakings needed to align Board rules with statute.
13. Train Board staff and leadership on rulemaking requirements under the Arizona Administrative Procedure Act, including the process for requesting rulemaking exceptions from the Governor's Office.

Board Response:

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

Sunset factors

Pursuant to A.R.S. §41-2954(D), the legislative committees of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of the agency. The sunset factor analysis includes additional findings and recommendations not discussed earlier in the report.

Sunset factor 1: The key statutory objectives and purposes in establishing the Board.

The Board was established in 1989 to ensure the public's health, safety, and welfare by licensing and regulating individuals who provide occupational therapy services.²⁷ Specifically, the Board is responsible for:

- Issuing licenses to qualified occupational therapists and occupational therapy assistants;²⁸
- Investigating and adjudicating complaints against licensees, including authorization to deny, revoke, or suspend a license and take disciplinary action as needed;²⁹ and,
- Providing information to the public.³⁰

Sunset factor 2: The Board's effectiveness and efficiency in fulfilling its key statutory objectives and purposes.

The Board has developed processes and/or taken steps to fulfill its statutory objectives and purposes for 2 areas we reviewed. Specifically, the Board:

- **Issued initial licenses in a timely manner.** Our review of all 535 initial licenses issued in calendar year 2024 found that the Board issued all 535 licenses within 120 days, as required by Board rule.³¹
- **Established a process to review licensee compliance with continuing education requirements.** The Board has established a process for reviewing continuing education information licensees submit during the renewal process. Our review of a sample of 10 of 1,882 renewal applications submitted in fiscal year 2024 found that Board staff reviewed continuing education credit submittals and Board staff recorded their review within the Board's licensing system, consistent with its process.

²⁷ Governor's Office of Strategic Planning & Budget. (November 2024). *State of Arizona Master List of State Government Programs, State Agencies' Five Year Strategic Plans, and Cabinet Agencies' Strategic Plan Summaries*. Retrieved 06/04/2025 from <https://www.azospb.gov/documents/2025/FY%202026%20Master%20List.pdf>.

²⁸ A.R.S. §32-3404.

²⁹ A.R.S. §§32-3442 – 32-3446.

³⁰ A.R.S. §§32-3214, 32-4304, and 32-4801.

³¹ A.A.C. R4-43-205(A)(B) requires the Board to complete its administrative review of applications within 60 days of receipt and to complete its substantive review within 60 days, for a total of 120 days. If the Board determines that an initial application is deficient, it may grant the applicant up to 2 extensions of 60 days each to submit all required documentation.

However, we identified deficiencies in several Board processes related to its key statutory objectives and purposes. Specifically, the Board:

- **Allowed licensees to continue to practice after their licenses expired.** According to statute and rule, the Board's licenses expire 2 years after issuance unless renewed.³² However, our review of 1,940 renewal applications the Board received in calendar year 2024 found 14 renewal applications that the Board issued after the license expired. Specifically, the Board approved these 14 renewal applications between 60 and 297 days after the license expiration date, during which it allowed the licensees to continue practicing. We identified 2 potential causes for this issue:
 - The Board's statutes and rules do not require licensees to submit a renewal application within a specific timeframe prior to the expiration date or outline consequences for licensees if they fail to do so.³³ As a result, although the Board's rules require it to issue renewal licenses within 120 days of receiving a complete application, the Board does not always receive renewal applications with sufficient time to issue a renewal before the license expires.³⁴ For example, 1 renewal applicant with a license expiring April 16, 2024, submitted the renewal application on April 11, 2024, leaving the Board 5 days before the license expiration date to complete the renewal. Conversely, statutes for the Arizona Board of Chiropractic Examiners and the Arizona Board of Physical Therapy require (a) their respective licensees to submit a complete renewal application before the statutory license expiration date and (b) these boards to administratively suspend a license if the licensee does not do so.^{35,36,37}
 - The Board's statutes and rules do not outline a specific period of time that licensees have to resolve deficiencies in incomplete applications, which contributed to some of the untimely renewals we observed.³⁸ For example, on March 17, 2024, the Board received 1 renewal application for a license expiring May 5, 2024; however, due to deficient information within the renewal application, the Board did not process the renewal until January 7, 2025, 296 days later, yet this applicant was still able to practice since they had started the renewal process prior to the expiration date of their license. Conversely, similar to the Board's statutes, the Arizona Board of Respiratory Care Examiners' statutes state that its

³² A.R.S. §32-3426(A) and A.A.C. R4-43-202(A)(C).

³³ A.R.S. §32-3426 and A.A.C. R4-43-202(A)(C).

³⁴ A.A.C. R4-43-205(C)(3).

³⁵ A.R.S. §32-923(B) and (C) requires the Board of Chiropractic Examiners to administratively suspend a license if the licensee does not submit a complete application for renewal and pay the renewal fee pursuant to board rules.

³⁶ A.R.S. §32-2027(A) and (B) requires the Board of Physical Therapy to administratively suspend a license if the licensee does not submit a complete application for renewal and pay the renewal fee pursuant to board rules.

³⁷ A.A.C. R4-7-503(D), (E), and (F) requires the Board of Chiropractic Examiners to automatically suspend the licenses and notify the licensee of the suspension within 20 days, prohibiting the licensee from practicing within the State. A licensee seeking to renew their license within 3 months must pay an additional \$200 fee, and those seeking to renew within 6 months must submit an application for reinstatement.

³⁸ A.R.S. §32-3426 and A.A.C. R4-43-205(C)(3).

licenses expire after 2 years unless renewed; however, the Board of Respiratory Care Examiners has established rules that require its licensees to correct a notice of deficiency related to a renewal application within 7 days or risk the license becoming inactive.³⁹

In July 2024, the Board adopted a policy to limit the time available to licensees to correct notices of deficiencies in renewal applications to 45 days. However, this policy was not adopted in rule and therefore is not likely enforceable. Additionally, this timeframe could potentially allow licensees to practice after their license had expired if a licensee submits an incomplete renewal application to the Board less than 45 days prior to their license expiration date.

- **Did not timely take measures available to protect the public when considering 1 renewal application with child sex trafficking charges.** In one case, a licensee had disclosed in his renewal application that he had been charged with child sex trafficking, luring a minor for sex, and attempted sexual contact with a minor. The Board did not take measures available to it to protect the public, including:
 - Statute authorized the Board to deny the application for renewal because the licensee failed to timely disclose this matter, but the Board did not do so. In this instance, the licensee informed the Board of the August 2022 criminal charge and arrest in the license renewal application submitted in June 2023—188 days after statute required the licensee to report the violation to the Board.⁴⁰ The Board may deny the application of an applicant who does not comply with this notification requirement.⁴¹
 - Statute authorized the Board to open an investigation. The criminal charges reported to the Board allege that the licensee may have engaged in unprofessional conduct, specifically conduct that posed a risk to public safety (see Sunset Factor 6, pages 27 through 28, for more information). Statute authorizes the Board to investigate conduct that is considered unprofessional, including conduct that poses a threat to public safety.⁴²

Instead, the Board considered the renewal application and agendized the application for the June, July, and August 2023 Board meetings, postponing the item during each meeting to allow the court to resolve the matter. This also allowed the licensee to continue to practice. At the September 2023 Board Meeting, the licensee disclosed that his employer had put him on leave because DPS suspended his fingerprint clearance card earlier that

³⁹ A.A.C R4-45-216(3) states that an applicant with an incomplete license renewal application who supplies the missing information more than 7 days after the date the applicant's license expires, or an applicant who submits a complete license renewal application package more than 7 days but less than 2 years after the date the applicant's license expires, is considered an applicant for reinstatement, indicating that their license is no longer active and has been administratively suspended.

⁴⁰ Pursuant to A.R.S. §32-3208(A), health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within 10 working days after the charge is filed.

⁴¹ A.R.S. §32-3208(E).

⁴² A.R.S. §§32-3401(10)(o), 32-3442(A)(2)(b).

month. The Board did not independently verify that the fingerprint clearance card was denied, which would have disqualified the licensee from maintaining a license to practice, and it did not deny the renewal application on this basis. Instead of denying the license renewal application for failure to meet minimum licensing standards, the Board then moved to open an investigation and enter into an interim consent agreement for a temporary license suspension in the same meeting.⁴³ The Executive Director signed a consent agreement temporarily suspending the license in December 2023, 187 days after the Board received information regarding the licensee's unprofessional conduct.⁴⁴ In April 2025, 691 days after becoming aware of the violation, the Board denied the licensee's renewal application.

- **Did not collect all license fees as required.** The Board is statutorily required to waive licensing fees under certain circumstances, including when an applicant's income is below the 200% poverty threshold, the applicant is an active-duty military spouse, or the applicant is a veteran who was honorably discharged not more than 2 years before the application.⁴⁵ To accomplish this, the Board implemented a process that involves applicants submitting a paper fee waiver application that specifies acceptable forms of supporting documentation, such as federal tax returns, marriage certificates, and/or certificates of release or discharge from active duty.⁴⁶ However, our review of fees paid between January 2024 and December 2024 found that the Board did not collect 1 applicant's license fee, \$135, without documenting an approved fee waiver. Specifically, the applicant paid the application fee of \$100 but did not pay the \$135 license fee. The Board provided no evidence that the applicant submitted necessary fee waiver documentation, such as IRS tax forms, to demonstrate eligibility for the waiver. Additionally, there was no indication that the Board reviewed or approved a waiver request in accordance with its established waiver process, which requires applicants to submit documentation and staff to review and approve the waiver before a license is issued.

According to Board staff, they believe this issue was caused by deficiencies in its licensing system, such as the ability of users to self-select waiver options and the inability of the system to identify instances in which appropriate fees were not paid. The Board reported identifying and correcting some of these fee waiver instances through a manual review process and by following up with the licensee to require payment; yet, the Board's manual review did not identify all instances. Further, although the Board reported it had implemented a fix in its licensing system test environment, it had not yet corrected the user-facing system at the time of the audit.

⁴³ Pursuant to A.R.S. §32-3430(A), beginning January 1, 2022, an applicant for original licensure, license renewal, license reinstatement or a limited license shall possess a valid fingerprint clearance card issued pursuant to A.R.S. §41-1758.

⁴⁴ The consent agreement provides for an interim order suspending the license for "a minimum period of 120 days, or until such time as the Board lifts the suspension or enters a final order."

⁴⁵ A.R.S. §41-1080.01.

⁴⁶ Statute does not specify acceptable forms of documentation necessary to prove eligibility for fee waivers. To validate applicants' eligibility for fee waivers, the Board established a fee waiver application that specifies documentation necessary for the Board to determine eligibility for the fee waiver.

- **Did not refer evidence of criminal wrongdoing.** An individual was accused of practicing occupational therapy at a school for approximately 10 years without a license—conduct that, under statute, constitutes a misdemeanor offense.⁴⁷ Although the Board lacked jurisdiction to conduct a criminal investigation, it also failed to refer the matter to a law enforcement agency with jurisdiction, such as the Attorney General’s Office, for consideration of potential criminal charges. Instead, the Board voted to grant the individual a license 310 days after receiving the complaint, following the approval of a consent agreement that imposed disciplinary action, including 5 years of probation and a \$10,000 civil penalty. The consent agreement became effective 511 days after complaint receipt.
- **Charged a fee not authorized by rule.** Statute requires the Board to establish these fees in Board rule.⁴⁸ On May 5, 2021, the Legislature enacted legislation authorizing out-of-state health care practitioners to provide telehealth services within Arizona by registering with the appropriate licensing board, including paying a registration fee.⁴⁹ In fiscal year 2024, the Board established a telehealth fee in Board policy and charged a \$300 fee to 3 telehealth occupational therapists and a \$225 fee to 1 telehealth occupational therapy assistant. However, the Board could not provide documentation that it had completed a fee analysis to determine whether these amounts were appropriate. Further, the Executive Director stated that the previous Executive Director created the fee in policy to allow for the registration of telehealth professionals while the Board began the rulemaking process, but as of June 2025, the Board had not proposed a rulemaking to add this fee to rule because it lacked funding to hire a consultant to draft new rule language. By establishing this fee through policy rather than through a statutorily authorized rule, the Board limited transparency and accountability by subverting the rulemaking process, which requires public notice, solicitation and consideration of public and stakeholder input, and oversight by the Council (see Finding 3, pages 13 through 16, and Sunset Factor 4, page 24, for more information). According to the Executive Director, the Board ceased charging this fee and hired a consultant in July 2025 to assist with resolving this matter through the rulemaking process.
- **Has not evaluated the appropriateness of its fees.** The Board is statutorily authorized to establish fees, and although it has established these fees, it has not appropriately analyzed any of its fees in Board rule since 1999.⁵⁰ In 2023, the Board analyzed how potential fee adjustments would impact its overall revenue, but the potential fee adjustments it analyzed were not based on actual or projected operating costs of the Board.

⁴⁷ A.R.S. §32-3445(A)(2): A person is guilty of a class 1 misdemeanor who practices or assists in the practice of occupational therapy and is not licensed or exempt from the requirements of licensure pursuant to this chapter.

⁴⁸ A.R.S. §41-1008(A)(1) stipulates that agencies shall not charge or receive a fee or make a rule establishing a fee unless the fee for the specific activity is expressly authorized by statute or tribal state gaming compact. A.R.S. §32-3427 requires the Board, by rule, to establish and collect fees for license applications, initial licenses, license renewals, applications for reinstatement, limited licenses, duplicate licenses, and the renewal of inactive status licenses.

⁴⁹ Laws 2021, Ch. 320; A.R.S. §36-3606(A)(1)(3).

⁵⁰ A.R.S. §32-3427, 41-1056 and A.A.C. R4-43-102.

Further, the Board has not established policies and procedures for periodically reviewing fees and performing a cost analysis to determine if it should adjust fees. Although statute does not specifically direct the Board to review fees periodically, it does not expressly prohibit the Board from reviewing them, and government fee-setting standards and guidance state that fees should be based on the cost of providing a service and reviewed and adjusted periodically to ensure they are based on these costs.⁵¹

By not evaluating the appropriateness of its fees to help ensure they are commensurate with the cost of their regulatory activities, the Board may be collecting more or less revenue than it needs to operate. In fiscal years 2022 through 2024, the Board's year-end fund balances averaged \$1 million while its annual operating expenditures averaged \$224,313, or only 17% of the total available resources (the beginning fund balance plus annual revenues). This pattern suggests the Board was accumulating significantly more than required to fund its operations. Although the legislature transferred approximately \$900,000 of the Board's \$1 million fund balance to the General Fund in fiscal year 2024, absent changes to its fees, the Board is still at risk of collecting more or less revenues than it needs to pay for its operations.⁵² See Exhibit 3 for the Board's revenues, expenditures, and fund balances for fiscal years 2022 through 2024.

EXHIBIT 3. BOARD REVENUES, EXPENDITURES, AND FUND BALANCES, FISCAL YEARS 2022 THROUGH 2024^A

	FY 2022	FY 2023	FY 2024
Revenues / Transfers In	\$309,825	\$316,217	\$312,758
Expenditures / Transfers Out	\$188,436	\$234,112	\$1,150,391 ^B
Ending Fund Balance	\$1,019,267	\$1,101,372	\$263,739

Source: Audit staff analysis of fiscal year 2022 through fiscal year 2024 Annual Financial Reports developed by the Arizona General Accounting Office.

Notes:

^A All values were rounded to the nearest dollar.

^B Laws 2024, Ch. 209, Sec. 133, required \$900,000 of the Board's fund balance to be transferred to the State General Fund in fiscal year 2024 for the purpose of providing adequate support and maintenance for State agencies.

- **Could not demonstrate it verified that some applicants it approved for initial and renewal licenses possessed a valid fingerprint clearance card or fingerprint-based criminal history records check.** As reported in Finding 1, see pages 5 through 8, the Board lacked evidence that it obtained either a fingerprint clearance card or state-level fingerprint-based criminal history records check for 9 applicants. In addition, it lacked documentation when fingerprint clearance card information was submitted that it verified that the applicant's card was valid using information available on DPS' website for 8 applicants. Issuing and renewing licenses without verifying applicants or licensees possess a valid fingerprint clearance card or completed a state-level

⁵¹ Audit staff reviewed fee-setting recommended practices from the Arizona State Agency Fee Commission, the Government Finance Officers Association, the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, and the U.S. Government Accountability Office.

⁵² Laws 2024, Ch. 209, Sec. 133, required \$900,000 of the Board's fund balance be transferred to the State General Fund in fiscal year 2024 for the purpose of providing adequate support and maintenance for State agencies.

fingerprint-based criminal history records check puts patient safety at risk. The Board transitioned licensing systems which impacted the Board's record keeping, did not have written policies, procedures, or guidance in place to document alternative fingerprint-based criminal history records checks, and staff did not always follow policies and procedures to verify that the fingerprint clearance cards the Board received were valid.

Recommendations to the Board:

14. Consult with its Assistant Attorney General to determine if a statutory change is needed to address the lack of a renewal application submittal deadline and timeframe for addressing renewal application deficiencies.
15. Based on the determination made in Recommendation 14, work with the Legislature to revise statute or adopt rules to address the lack of a renewal application submittal deadline and timeframe for addressing renewal application deficiencies.
16. Revise and implement procedures to ensure it promptly investigates and takes appropriate enforcement action, including denying renewal applications, when licensees fail to timely disclose serious criminal charges or other potential unprofessional conduct.
17. Correct system deficiencies that allow applicants to waive their own fees, ensure that all required licensing fees are paid or formally waived before issuing a license, and maintain supporting documentation for all fee payments and waivers in applicant files.
18. Develop and implement procedures to refer allegations of unlicensed practice or other potential criminal violations to the appropriate law enforcement agency for investigation and potential prosecution.
19. Cease charging the telehealth registration fee until it has been established in rule pursuant to statutory requirements.
20. Consult with its Assistant Attorney General to determine how to address the unauthorized telehealth registration fees it charged, such as refunding the fees, and take action to address them as determined.
21. Develop and implement formal procedures to review and evaluate its fee structure on a periodic basis, including cost analyses to assess whether fees are aligned with the cost of providing regulatory services and revise accordingly.

Board Response:

As outlined in its [response](#), the Board disagrees with the findings, but will implement recommendations 16 and 17, and agrees with the findings and will implement recommendations 14, 15, 18, 19, 20, and 21.

Sunset factor 3: The extent to which the Board's key statutory objectives and purposes duplicate the objectives and purposes of other governmental agencies or private enterprises.

Our review did not identify any other governmental agencies or private enterprises that duplicate the Board's key statutory objectives and purposes.

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

State law requires agencies to adopt rules consistent with statute and periodically review and revise them to ensure continued alignment. We found that the Board established several rules required by statute, such as rules regarding certain fees. However, as discussed in Finding 3 (see pages 13 through 16), we also found that the Board's rules were not always consistent with statute. Although the Board has identified multiple rule inconsistencies in its 2008, 2013, 2018, and 2023 5-year review reports, it failed to initiate rulemakings to address them. These unresolved inconsistencies result in rules that are not aligned with the Board's legislative mandate. In addition, the Board established 1 fee in policy rather than in rule, as required by statute, and has not amended rules to comply with statutory requirements that licenses expire 2 years after issuance unless renewed by the Board.⁵³ We made 5 recommendations to the Board to address these issues (see pages 16 and 24 for our recommendations).

Sunset factor 5: The extent to which the Board has provided appropriate public access to records, meetings and rulemakings, including soliciting public input in making rules and decisions.

As of January 2025, the Board has not initiated any rulemaking in the previous 5 years. Therefore, it has not needed to encourage input from the public before adopting rules.

The Board provided public information as required in some instances we reviewed, but not in other instances. Specifically, the Board:

- **Did not comply with statutory requirements related to disclosing disciplinary and non-disciplinary actions on its website.** Statutory requirements relating to public disclosure of Board actions against licensees specify that the Board must post all disciplinary and non-disciplinary actions taken by the Board, that these actions may not appear on its website for more than 5 years, and that pending investigations, dismissed complaints, and letters of concern and advisory letters may not be disclosed on the Board's website.⁵⁴ We noted the following 2 deficiencies related to these requirements:
 - As of March 2025, the Board's website included 6 disciplinary actions and 7 non-disciplinary actions taken against licensees between 2018 and 2019, more than 5 years ago. One of these included a consent agreement for a Letter of Concern, even though statute prohibits disclosure of Letters of Concern on the Board's website.⁵⁵
 - Our analysis of the 11 complaints filed with the Board in fiscal year 2024 found that 1 disciplinary action related to these complaints was missing from the public list of licensees subject to disciplinary action on the Board's website, and from the searchable database of all licensees.

⁵³ A.R.S. §§41-1008 and 32-3426.

⁵⁴ A.R.S. §32-3214(B).

⁵⁵ A.R.S. §32-3214(B).

- **Did not comply with open meeting law by posting all required public information in 10 instances observed.** We reviewed the Board’s compliance with open meeting law requirements for all meetings held during the course of audit fieldwork (January to March 2025). We also reviewed Board meeting records made available to the public on its website. We found that the Board complied with some open meeting law requirements we reviewed, such as posting meeting notices at least 24 hours in advance of the meeting time, incorporating into agendas complete information, and properly administering the call to the public. However, the Board did not:
 - Post the digital recordings of the meetings that occurred between January and March 2025, or any Board meeting held in calendar year 2024, as required by statute, despite having full recordings of all meetings during this time.⁵⁶ Instead, the Board typically posted written meeting minutes on its website. According to the Board’s Executive Director, Board management had been posting recordings for all meetings, including as recently as 2023, and was unaware that recordings were no longer being posted. Staff turnover, the loss of institutional knowledge, and the lack of close monitoring contributed to this problem being undetected for more than a year.
 - Make available minutes or a recording of 3 of 16 meetings held during fiscal year 2024, as required by statute. In March 2025, we requested meeting minutes or recordings, and the Board was unable to provide minutes or recordings for these three meetings. According to the Board’s Executive Director, because these 3 meetings were Board subcommittee meetings, there was some uncertainty regarding whether minutes were required for these meetings. The Board is statutorily required to make written minutes or recordings of meetings available to the public.⁵⁷
 - Provide notice of the possibility of executive sessions in its January through March 2025 Board meeting agendas consistent with the Arizona Attorney General’s State Agency Handbook. The Board’s agendas for January through March 2025 included a notice that “...the Board may vote to hold an executive session for legal advice or...to discuss confidential information...for any matter on the agenda.” Although the Arizona Attorney General’s *Arizona Agency Handbook* indicates that general ad hoc exemptions are permissible for unanticipated needs for obtaining legal advice, this exemption does not

⁵⁶ A.R.S. §32-4801(1)(2) requires licensing authorities to post digital recordings of each meeting within 5 days after the meeting.

⁵⁷ A.R.S. §38-431.01(C)(E); Dates of the public meetings were: August 18, 2023; March 29, 2024; July 19, 2024.

permit ad hoc executive sessions for the purpose of discussing confidential information related to any item on the agenda.^{58,59}

Failing to timely post complete digital recordings of public meetings, as required in statute, limits the public's access to information regarding Board actions, such as actions related to licensees, and potentially violates State law.

- **Did not maintain a complete log of public records requests received during fiscal year 2024 and lacked policies and procedures for how to respond to requests.** Although the Board developed and implemented a digital tracking sheet for public records requests at the beginning of 2024, the Board was unable to provide evidence of a log of public records requests prior to January 2024, counter to the statutory requirement to maintain adequate documentation of official activities.⁶⁰ Furthermore, the implemented log did not track the date the Board acknowledged public records requests to demonstrate compliance with the statutory requirement to acknowledge a public records request received via email within 5 business days.⁶¹

Although we did not note any deficiencies in the Board's response to public records requests, failing to adequately track the Board's receipt of and response to public requests for information is a risk to the Board being able to adequately account for its official activities and duties, and to the public having statutorily-granted access to public information that may inform personal health and safety decisions.

Recommendations to the Board:

22. Remove disciplinary and non-disciplinary actions more than 5 years old from the website.
23. Ensure that Letters of Concern or Advisory Letters are not publicly posted.
24. Post all required digital recordings of Board meetings from January 2024 forward, as required by statute.
25. Make available minutes of all Board or committee meetings within 3 days following the meeting, as required by statute.

⁵⁸ The Attorney General has opined that public bodies may prepare for unanticipated needs for legal advice by providing "with their notices and agendas a statement that matters on the public meeting agenda may be discussed in executive session for the purpose of obtaining legal advice thereon, pursuant to A.R.S. §38-431.03(A)(3)...[and that] similar statements are not sufficient for other types of executive sessions" (Arizona Agency Handbook (2018), Chapter 7, section 7.6.7, issued by the Arizona Office of the Attorney General (AAG) (Retrieved on 1/2/2025 from <https://www.azag.gov/outreach/publications/agency-handbook>).

⁵⁹ The Board did not enter executive session in this manner to discuss confidential information during its Board meetings held in January through March of 2025.

⁶⁰ Pursuant to A.R.S. §39-121.01(B), all officers and public bodies shall maintain all records, including records as defined in A.R.S. §41-151, reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities that are supported by State monies.

⁶¹ A.R.S. §39-171(B).

26. Revise its approach to noticing executive sessions to fully comply with statute and rule by ensuring that agendas provide clear, general descriptions of executive session topics to maintain transparency without compromising confidentiality.
27. Revise and implement its tracking mechanism for receiving and responding to requests for public information to ensure the Board complies with statutory requirements regarding timeliness, methods of disclosure, and types of information to provide upon request.
28. Develop and implement policies and procedures for responding to public records requests in compliance with statutes.

Board Response:

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

Sunset factor 6: The extent to which the Board timely investigated and resolved complaints that are within its jurisdiction.

As reported in Finding 2, pages 9 through 12, the Board has not resolved some complaints in a timely manner. For example, the Board did not always resolve complaints within 180 days, with 3 of 11 complaints the Board investigated in fiscal year 2024 taking between 378 and 691 days to resolve, and 1 complaint unresolved and having been open for 357 days as of April 2025. The Board's failure to timely resolve complaints may negatively affect patient safety and may cause an undue burden for licensees under investigation for lengthy periods of time. We recommended that the Board investigate and resolve complaints within 180 days; develop mechanisms to track and monitor the overall duration of complaint investigations as well as incremental goals defined in board policy; revise, finalize, and implement its complaint handling procedures to clearly define each step, including time frames and documentation requirements; establish required time frames for licensees to return signed consent agreements; provide staff training to ensure consistent and compliant complaint handlings; and regularly review management reports to monitor compliance with complaint handling timeframes.

In addition, we found that the Board did not consistently notify licensees of investigations or hearings, as required by statute. Specifically, the Board:

- **Did not notify/timely notify licensees that they were under investigation, as required by statute, potentially impacting their right to due process.** Statute requires the Board to notify licensees within 60 days when the Board receives a written complaint against a licensee or information that a licensee may have violated statute, engaged in unprofessional conduct, or may be incompetent to practice.⁶² Of the 11 complaints the Board investigated in fiscal year 2024, it did not notice 8 licensees at all, and of the 3 that it did notice, the Board did not timely notice 2 licensees (after 72 and 339 days). In all, the Board provided adequate and timely notice in 1 of 11 cases. Failure to notify a licensee of an investigation jeopardizes due process and may impede licensees' ability to defend themselves when facing disciplinary action.

⁶² A.R.S. §32-3442(D).

- **Did not timely or properly notice licensees of Board reviews involving their cases, as required by statute.** As of May 2025, of the 11 complaints the Board investigated, 10 had been heard before the Board. For 7 of the 10 licensees, the Board did not provide notice at least 10 business days prior to the Board meeting at which their case was scheduled to be discussed, as required in statute.⁶³ In these instances, the Board gave licensees between 0 and 6 days' notice that the Board would be reviewing their matter at a public meeting. Additionally, the 3 notices that the Board sent 10 days in advance lacked a statement that the licensees could request a copy of the investigative report prior to the meeting, as required by statute. These failures to properly and timely notify licensees may impact licensees' due process right by impacting their ability to attend hearings and/or review investigative files prior to reviews involving their conduct.

Recommendations to the Board:

29. Notify licensees within 60 days when they receive a written complaint against a licensee or information that a licensee may have violated statute, engaged in unprofessional conduct, or may be incompetent to practice, as required by statute.
30. Notify licensees at least 10 days prior to hearings involving their cases, including informing licensees of their right to request a copy of the investigative report prior to the hearing, as required by statute.

Board Response:

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

Sunset factor 7: The extent to which the level of regulation exercised by the agency is appropriate as compared to other states or best practices, or both.

The level of regulation the Board exercises is similar to the level of regulation in other states. Specifically, we conducted a comparison between Arizona and the other 49 states and found that licensure regulatory requirements across these states closely align with those in Arizona.⁶⁴ For example:

- **Licensing and education requirements**—Arizona, like all states, mandates that occupational therapy applicants graduate from a program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) or the American Occupational Therapy Association (AOTA). Applicants must also and pass the national certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT). Only 8 of the 50 states—such as Alaska and Kentucky—require an additional jurisprudence questionnaire or exam, and Arizona is not among them.

⁶³ A.R.S. §32-3206(A).

⁶⁴ This analysis is based on the following reports published by the American Occupational Therapy Association (AOTA): AOTA State Affairs Group: *OT Qualifications and Licensure Requirements* (2024). Retrieved on 3/17/2025 from [https://www.aota.org/member-login?redirectURL=https://www.aota.org/career/state-licensure;Occupational Therapy Profession—Continuing Competence Requirements](https://www.aota.org/member-login?redirectURL=https://www.aota.org/career/state-licensure;Occupational%20Therapy%20Profession—Continuing%20Competence%20Requirements) (2025). Retrieved 3/17/2025 from <https://www.aota.org/-/media/corporate/files/advocacy/licensure/stateregs/contcomp/continuing-competence-chart-short.pdf>.

- **Experience requirements**—Arizona requires 928 hours of fieldwork for occupational therapists, which aligns with the requirements in 27 other states, including Idaho and Oregon, that mandate about 6 or more months of fieldwork. At least 2 states require less than 6 months of supervised fieldwork.⁶⁵

- **Continuing education and renewal requirements**—Arizona’s continuing education requirement of 20 hours every 2 years is consistent with the requirements of many states but falls on the lower end of the range. As shown in the table, most states require between 21 and 29 hours biennially, with 6 states requiring 30 or more hours every 2 years. In contrast, Arizona is among 16 states that require 20 or fewer hours biennially. Four states either reported no fixed hour total or use alternative competence models, such as professional development frameworks or self-assessments.⁶⁶ While a handful of jurisdictions prescribe annual or triennial cycles, the predominant pattern—and the one Arizona follows—is a 2-year renewal period.

Comparison of Continuing Education Requirements

Total Continuing Education Requirements Over 2 Years	Number of States within Range
20 hours or less	16, including Arizona
21 to 29 hours	24
30 hours or more	6
Other ^A	4

Notes:

^A “Other” includes states that do not specify the number of required hours or the corresponding board requires alternative professional development activities, such as the completion of self-assessments.⁶⁷

Source: Audit staff review of Occupational Therapy Association (OTA), Occupational Therapy Profession—Continuing Competence Requirements (2025). Retrieved 3/17/25 from <https://www.ota.org/-/media/corporate/files/advocacy/licensure/stateregs/contcomp/continuing-competence-chart-short.pdf>.

- **Fingerprinting and background checks**—Arizona requires initial license applicants to apply for a fingerprint clearance card as part of its licensing requirements. Seven other states also require some sort of criminal background check for licensure that may involve a fingerprint-based criminal history records check or a fingerprint clearance card. While the remaining 42 states either did not specify fingerprint-based background check requirements or required applicants to self-report criminal history information, the OTA notes that many states require a state and/or federal background check.⁶⁷ The additional layer of scrutiny in Arizona, along with states like Delaware and Missouri, may enhance public safety by providing a more thorough and ongoing review of an applicant’s criminal history, reducing the risk of licensing and renewing licenses for individuals that have committed precluding offenses. However, as described in Finding 1 (pages 5 through 8), the Board could not demonstrate it verified that some applicants it approved for initial and renewal

⁶⁵ Twenty-one states did not have information about how many hours of fieldwork are required.

⁶⁶ States such as Colorado require completion of the Reflective Self-Assessment Tool, which is a tool used by occupational therapists to evaluate their professional knowledge and skills and to set learning goals for their continuing competence.

⁶⁷ American Occupational Therapy Association (2020). *Occupational Therapy Initial Licensure Application Checklist*. Retrieved on 5/27/2025 from <https://www.ota.org/-/media/corporate/files/advocacy/state/ot-initial-licensure-application-checklist.pdf>

licenses possessed a valid fingerprint clearance card or fingerprint-based criminal history records check.

- **License portability and reciprocity**—Like some states, Arizona permits licensure by endorsement for out-of-state licensees. In fact, 6 other states permit professionals licensed in another state to obtain a license through endorsement or reciprocity, provided they meet all applicable eligibility requirements. This means that a state will grant a license if the applicant's original license is issued under similar or more stringent standards in another state. However, states may require additional documentation or impose additional requirements, such as passing the NBCOT exam, undergoing a background check, or successfully completing a jurisprudence exam to ensure compliance with state-specific regulations. Notably, Arizona requires applicants to both pass the NBCOT exam and obtain a fingerprint clearance card but does not mandate an additional jurisprudence examination.

Sunset factor 8: The extent to which the Board has established safeguards against possible conflicts of interest.

The State's conflict-of-interest requirements exist to remove or limit the possibility of personal influence impacting a decision of a public agency employee or public officer. Specifically, statute requires employees of public agencies and public officers, including Board members, to avoid conflicts of interest that might influence or affect their official conduct.⁶⁸ These laws require employees/public officers to disclose substantial financial or decision-making interests in a public agency's official records, either through a signed document or the agency's official minutes. Statute further requires that employees/public officers who have disclosed conflicts refrain from participating in matters related to the disclosed interests.⁶⁹ To help ensure compliance with these requirements, the ADOA's State Personnel System employee handbook and conflict-of-interest disclosure form (disclosure form) require State employees to disclose if they have any business or decision-making interests, secondary employment, and relatives employed by the State at the time of initial hire and anytime there is a change. The ADOA disclosure form also requires State employees to attest that they do not have any of these potential conflicts, if applicable, also known as an "affirmative no."⁷⁰ Finally, A.R.S. §38-509 requires public agencies to maintain a special file of all documents necessary to memorialize all disclosures of substantial interest and to make this file available for public inspection.

Additionally, in response to conflict-of-interest noncompliance and violations investigated in the course of the Arizona Auditor General's work, such as employees/public officers failing to disclose substantial interests and participating in matters related to these interests, they have recommended several practices

⁶⁸ A.R.S. §38-503; Arizona Attorney General. (2018). *Attorney General's Agency Handbook* 8.2.1. Retrieved 4/10/2025 from <https://www.azag.gov/office/publications/agency-handbook>.

⁶⁹ A.R.S. §38-503.

⁷⁰ Arizona Department of Administration. (2024). *State personnel system employee handbook*. Retrieved 4/10/2025 from https://drive.google.com/file/d/12uumNZLSBkfp33AaL9uHym0K9e6I9_II/view.

and actions to various school districts, State agencies, and other public entities.⁷¹ These recommendations are based on recommended practices for managing conflicts of interest in government and are designed to help ensure compliance with State conflict-of-interest requirements by reminding employees/public officers of the importance of complying with the State's conflict-of-interest laws. Specifically, conflict-of-interest recommended practices indicate that all public agency employees and public officers complete a disclosure form annually.⁷² Recommended practices also indicate that the form include a field for the individual to provide an "affirmative no," if applicable.⁷³ These recommended practices also indicate that agencies develop a formal remediation process and provide periodic training to ensure that identified conflicts are appropriately addressed and help ensure conflict-of-interest requirements are met. Finally, recommended practices indicate that publicly disclosing board members' interests as the reason for refraining from participating in decisions is important for fully disclosing and memorializing the disclosure of interest as they relate to those decisions.

Although the Board's conflict-of-interest policy and processes align with some State conflict-of-interest requirements and recommended practices, the Board:

- **Used a disclosure form for Board members that did not address all required disclosures.** The Board's disclosure form for Board members did not require Board members to specify secondary employment that could result in a substantial interest nor require Board members to disclose whether or not relatives had business interests—matters that could produce substantial interests—increasing the risk that Board members' conflicts were not properly documented or addressed.⁷⁴
- **Lacked a special disclosure file as required by statute.** The Board did not maintain a statutorily required special file specifically designated for storing disclosures of substantial interest for public inspection.⁷⁵ Instead, Board member recusal disclosures made during meetings were recorded in the Board's meeting file, which includes agendas and minutes, but were not maintained in a separate, dedicated file. Additionally, while employee and Board member disclosure forms were

⁷¹ See, for example, Auditor General Reports 24-211 *Concho Elementary School District*, 21-404 *Wickenburg Unified School District—Criminal indictment—Conflict of interest, fraudulent schemes, and forgery*, 19-105 *Arizona School Facilities Board—Building Renewal Grant Fund*, and 17-405 *Pine-Strawberry Water Improvement District—Theft and misuse of public monies*.

⁷² Recommended practices we reviewed included: The World Bank, Organization for Economic Cooperation and Development (OECD), & United Nations Office on Drugs and Crime (UNODC). (2020). *Preventing and managing conflicts of interest in the public sector: Good practices guide*. Retrieved 4/10/2025 from <https://www.unodc.org/documents/corruption/Publications/2020/Preventing-and-Managing-Conflicts-of-Interest-in-the-Public-Sector-Good-Practices-Guide.pdf>; Ethics & Compliance Initiative (ECI). (2021). *Conflicts of interest: An ECI benchmarking group resource*. Retrieved 4/10/2025 from <https://www.ethics.org/wp-content/uploads/mdocs/2021-ECI-WP-Conflicts-of-Interest-Defining-Preventing-Identifying-Addressing.pdf>; and New York State Authorities Budget Office (NYS ABO). (n.d.). *Conflict of interest policy for public authorities*. Retrieved 4/10/2025 from <https://www.abo.ny.gov/recommendedpractices/ConflictofInterestPolicy.pdf>.

⁷³ As previously discussed, the ADOA disclosure includes a field for the individual to provide an "affirmative no."

⁷⁴ The Board utilized 2 disclosure forms, 1 for Board members and 1 for Board staff, in fiscal year 2024.

⁷⁵ A.R.S. §38-509.

kept separate from meeting documentation, they were also not organized into a unified special disclosure file.

During the audit, the Board implemented a conflict-of-interest policy to align with statutory requirements and recommended practices, including revising its disclosure form to align with statutory requirements and recommended practices, and establishing a special disclosure file to organize and publicly maintain all employee and Board member disclosures. As of May 2025, the Board provided evidence of an electronic file containing conflict-of-interest documentation that is available to the public.

Recommendations to the Board

31. Use a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest.
32. Continue to store all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection.

Board Response:

As outlined in its [response](#), the Board disagrees with the finding, but will implement recommendation 32, and agrees with the finding and will implement recommendation 31.

Sunset factor 9: The extent to which changes are necessary for the Board to more efficiently and effectively fulfill its key statutory objectives and purposes or to eliminate statutory responsibilities that are no longer necessary.

We identified one potential statutory change that may be needed to help the Board fulfill its statutory objective and purposes. Specifically, the Board's statutes lack of a renewal application submittal deadline and timeframe for addressing renewal application deficiencies, which has led to the Board allowing licensees to practice with expired licenses while they are waiting for their licenses to be renewed. Our review of 1,940 renewal applications in calendar year 2024 revealed 14 licenses were renewed between 60 and 297 days after the licenses' expiration date. We recommended that the Board work with its Assistant Attorney General to determine if statutory changes are needed to address these issues and to work with the Legislature as needed to revise statute to make these changes. See Sunset Factor 2, pages 17 through 23, for more information and our recommendations.

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

Terminating the Board would impact public health, safety, and welfare if its responsibilities were not transferred to another agency because it would remove oversight that regulates occupational therapists and occupational therapy assistants. Occupational therapists work closely with vulnerable populations, including stroke survivors, brain injury patients, disabled children, and the elderly, increasing the need for professional accountability in the application of therapy activities—such as splint fabrication, ultrasound therapy, electrical stimulation and others—which could cause serious injury if improperly administered. Since no other state agency or board matches the Board's statutory authority and purpose, its termination could have significant consequences, unless the legislature reassigns this authority and purpose to another

regulatory board or agency. Without Board oversight, private practitioners—who lack institutional supervision—would not be subject to any external regulatory accountability, and the public would have fewer protections against unethical or incompetent practitioners.

Sjoberg Evashenk Consulting makes 32 recommendations to the Board

Recommendations to the Board

1. Issue initial and renewal licenses only to applicants who possess a valid fingerprint clearance card.
2. Continue to develop and implement written procedures for verifying and documenting that all applicants possess a valid fingerprint clearance card.
3. Train staff on procedures for verifying and documenting that all applicants possess a valid fingerprint clearance card.
4. Verify possession of fingerprint clearance cards for all licensees for whom the Board lacks evidence in its licensing system that the licensee possesses a valid fingerprint clearance card, including the 7 licensees identified during this audit for whom the Board lacks evidence that it completed background checks.
5. Investigate and resolve complaints within 180 days.
6. Develop mechanisms to investigate and resolve public complaints within 180 days. Track and monitor timeliness of overall duration as well as incremental goals defined in board policy and procedure.
7. Revise, finalize, and implement its draft policies and procedures for investigations and complaint handling to outline each step of the complaint handling process, including timeframes for notification, investigation, and resolution; priority-setting; documentation requirements; and how complaint handling will be administered in the licensing system.
8. Minimize the effects of delayed complaint resolution resulting from consent agreements by establishing required time frames for licensees to return signed consent agreements.
9. Provide comprehensive training to staff on complaint handling procedures and system tools to ensure consistency, compliance, and continuity in the event of staff turnover.
10. Regularly review management reports for all in-process complaints and track compliance with its timeframes for investigating and resolving complaints.
11. Develop and implement a rulemaking plan to address all inconsistencies between its rules and statutes identified in its 2008, 2013, 2018, and 2023 5-year review reports and the additional inconsistencies identified during this audit. The plan should include timeframes for initiating and completing rulemakings and assign responsibility for overseeing the rulemaking process.
12. Submit a request to the Governor's Office for approval to initiate rulemaking for all proposed rulemakings needed to align Board rules with statute.
13. Train Board staff and leadership on rulemaking requirements under the Arizona Administrative Procedure Act, including the process for requesting rulemaking exceptions from the Governor's Office.

14. Consult with its Assistant Attorney General to determine if a statutory change is needed to address the lack of a renewal application submittal deadline and timeframe for addressing renewal application deficiencies.
15. Based on the determination made in Recommendation 14, work with the Legislature to revise statute or adopt rules to address the lack of a renewal application submittal deadline and timeframe for addressing renewal application deficiencies.
16. Revise and implement procedures to ensure it promptly investigates and takes appropriate enforcement action, including denying renewal applications, when licensees fail to timely disclose serious criminal charges or other potential unprofessional conduct.
17. Correct system deficiencies that allow applicants to waive their own fees, ensure that all required licensing fees are paid or formally waived before issuing a license, and maintain supporting documentation for all fee payments and waivers in applicant files.
18. Develop and implement procedures to refer allegations of unlicensed practice or other potential criminal violations to the appropriate law enforcement agency for investigation and potential prosecution.
19. Cease charging the telehealth registration fee until it has been established in rule pursuant to statutory requirements.
20. Consult with its Assistant Attorney General to determine how to address the unauthorized telehealth registration fees it charged, such as refunding the fees, and take action to address them as determined.
21. Develop and implement formal procedures to review and evaluate its fee structure on a periodic basis, including cost analyses to assess whether fees are aligned with the cost of providing regulatory services and revise accordingly.
22. Remove disciplinary and non-disciplinary actions more than 5 years old from the website.
23. Ensure that Letters of Concern or Advisory Letters are not publicly posted.
24. Post all required digital recordings of Board meetings from January 2024 forward, as required by statute.
25. Make available minutes of all Board or committee meetings within 3 days following the meeting, as required by statute.
26. Revise its approach to noticing executive sessions to fully comply with statute and rule by ensuring that agendas provide clear, general descriptions of executive session topics to maintain transparency without compromising confidentiality.
27. Revise and implement its tracking mechanism for receiving and responding to requests for public information to ensure the Board complies with statutory requirements regarding timeliness, methods of disclosure, and types of information to provide upon request.
28. Develop and implement policies and procedures for responding to public records requests in compliance with statutes.

29. Notify licensees within 60 days when it receives a written complaint against a licensee or information that a licensee may have violated statute, engaged in unprofessional conduct, or may be incompetent to practice, as required by statute.
30. Notify licensees at least 10 days prior to hearings involving their cases, including informing licensees of their right to request a copy of the investigative report prior to the hearing, as required by statute.
31. Use a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest.
32. Continue to store all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection.

Appendix A. Scope and methodology

Sjoberg Evashenk Consulting conducted a performance audit and sunset review of the Board on behalf of the Arizona Auditor General pursuant to a November 21, 2022, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq.

We used various methods to address the objectives of this performance audit and sunset review of the Board. These methods included reviewing applicable State statutes and rules; evaluating Board policies and procedures; interviewing Board staff and Board members; reviewing Board records and information, the Board's annual reports, and website; and reviewing guidance and reports from the Arizona Ombudsman - Citizens' Aide Office, Arizona Governor's Office, Arizona Attorney General's Office, and Arizona Department of Administration. In addition, we used the following specific methods to meet the audit objectives:

- To evaluate if the Board reviews applications for and issues and/or denies initial and renewal licenses/certificates based on applicant qualifications as required by statute and rule and in accordance with statutory timeframes, we selected a random sample of 15 of 210 occupational therapist initial applications and 5 of 71 occupational therapy assistant initial applications that were issued in fiscal year 2024. We also selected a random sample of 10 of 1,882 renewals issued in fiscal year 2024. In addition, to assess whether licenses were issued within required timeframes after the Board's implementation of its new licensing system, we examined 535 initial license applications issued in calendar year 2024 and 1,940 renewal applications received in calendar year 2024.
- To assess the Board's complaint investigation and resolution processes, including the timeliness of complaint resolution, we reviewed all 11 complaints the Board received in fiscal year 2024.
- To assess whether the Board provided information to the public as required by statute and its policies and procedures, we placed 8 anonymous calls to the Board in March 2025, filed 3 public records requests through the online portal, and requested public records via 3 emails. Additionally, we reviewed the Board's website to assess whether the Board provides information to the public on its website consistent with statutory requirements.
- To obtain information for the Introduction, we reviewed the Governor's Budget and Agency Detail for the Board, Board-prepared information regarding budgets, information about Board members and vacancies, and statistics for the number of active licenses as of June 2025, initial and renewal applications for fiscal year 2024, and complaints received during fiscal year 2024. In addition, we compiled and analyzed unaudited financial information from the *AZ360 June Financial Reports* for fiscal years 2023, 2024, and projections for fiscal year 2025, and the *State of Arizona Annual Financial Report* for fiscal years 2022, 2023, 2024.
- To obtain additional information for the Sunset Factors, we reviewed the Arizona Administrative Register and assessed the Board's compliance with various provisions of the State's open meeting law for all Board meetings held between January 2025 and March 2025. To assess the Board's compliance with the State's conflict-of-interest laws and alignment with recommended practices, we reviewed

statute, Board policy and disclosure forms, and recommended practices. To determine the Board's fee-setting practices and authority, we interviewed Board staff and reviewed Board statutes, fee-setting standards, and guidance developed by government and professional organizations. We also reviewed information from various national organizations for occupational therapists to compare the level of regulation exercised by the Board as compared to other states or determine best practices in the profession.

Our work on internal controls included reviewing relevant policies and procedures, statutes, and recommended practices and, where applicable, testing compliance and/or alignments with these requirements and recommended practices. We reported our conclusions on applicable internal controls in Sunset Factors 2, 5, 6, and 8.

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

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We express our appreciation to the Board's members, Executive Director, and staff for their cooperation and assistance throughout the audit.

Sjoberg Evashenk Consulting's comments on the Board's response

The Joint Legislative Audit Committee requires all agencies to respond to whether they agree with the findings and plan to implement the recommendations. We appreciate the Board's response, including its agreement to implement all recommendations. However, the Board has included certain statements in its response that necessitate the following clarification.

- In its response to the audit finding that the Board could not demonstrate that it verified that some applicants possessed a valid fingerprint clearance card or fingerprint-based criminal history records check, the Board stated that the Board verifies that all applicants possess valid fingerprint clearance cards and the Board maintains that information in its licensing system, and that the Board experienced significant data losses when it transitioned from its old licensing system to a new system. The Board states that it experienced data loss as a direct result of the implementation of the new licensing system and that this was corroborated by the audit. This statement is inaccurate. Although auditors informed the Board that they had found evidence that some licensee information, such as contact information, was recorded in and subsequently deleted from the Board's IT system, auditors could not verify whether any information related to the Board's verification of fingerprint clearance cards had been recorded and subsequently deleted.

Additionally, although the transition to a new IT system may have contributed to the problem, the audit identified 3 main factors that contributed to the specific issues identified in the audit. Two of these 3 factors were present both before and after the Board's transition to its new IT system, and include both licensing systems lacking fields necessary to capture information for both fingerprint clearance cards or state-level fingerprint-based criminal history records checks and the Board not retaining adequate documentation. The third factor we identified, staff not always following Board guidance, occurred after the Board completed its transition to its new IT system.

- In its response to the audit finding that the Board did not timely take measures available to it to protect the public when considering 1 renewal application with child sex trafficking charges, the Board stated that although statute authorizes the Board to deny a renewal application for unprofessional conduct, the Board's temporary assistant attorney general representative advised the Board to instead enter into an interim consent agreement with the licensee for the voluntary suspension of their license until the charges could be substantiated. This response is misleading because it disregards the fact that the Board took 187 days, or more than 6 months, after learning that the licensee had been accused of child sex trafficking to suspend the licensee's license—during which time the licensee remained able to practice without restriction.
- In its response to the audit finding that the Board did not collect all license fees, the Board stated that its current licensing system previously allowed applicants to initially waive their own fees, but that the Board reconciles all waivers to ensure that fees are collected or are properly waived. Although the Board was aware that deficiencies in its licensing system existed and reported identifying and correcting some of these few waiver instances through a manual review process, this audit identified an

instance in which an applicant did not pay the full license fee that the Board's reconciliation process did not identify.

- In its response to the audit finding that the Board lacked a special disclosure file as required by statute, the Board stated that upon secondary review, staff demonstrated to auditors the location of a special file that contained all conflict-of-interest disclosures as required by statute. This statement is misleading because it wasn't until May 2025, after auditors informed the Board of this finding, that the Board provided evidence that it had established a single special disclosure file. During the audit, the Board kept Board member disclosures made during Board meetings with its Board meeting minutes and materials, which were stored in a separate file from employee and Board member disclosure forms, contrary to statute.

Board's response

The subsequent pages were written by the Board to provide a response to each of the findings and to indicate its intention regarding implementation of each of the recommendations resulting from the audit conducted by Sjoberg Evashenk Consulting, Inc.



ARIZONA BOARD OF OCCUPATIONAL THERAPY EXAMINERS

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September 22, 2025

George Skiles
Sjoberg Evashenk Consulting, Inc.
455 Capitol Mall, Suite 700
Sacramento, CA 95814

Re: Arizona Board of Occupational Therapy Examiners – Sunset Review: A.R.S. § 41-3026.09

Dear Mr. Skiles,

The Arizona Board of Occupational Therapy Examiners ("Board") has reviewed and provided responses to the Performance Audit and Sunset Review.

The Board's staff, as well as the Board itself, appreciated the courtesy and thoroughness of the staff of Sjoberg Evashenk Consulting, Inc. as well as the Auditor General's staff.

The Board has already begun addressing the findings and implementing the recommendations. The Board looks forward to meeting with the Committees of Reference in both chambers of the Arizona Legislature with positive changes already made.

Kind Regards,

A handwritten signature in black ink, appearing to read "Shaina Ganatra".

Shaina Ganatra
Executive Director

Enclosure: Board's Response

Cc: Mr. Christopher Daly, Board Chair

Finding 1: Board could not demonstrate it verified that some applicants it approved for initial and renewal licenses possessed a valid fingerprint clearance card or fingerprint-based criminal history records check, putting patient safety at risk.

Board response: The finding is not agreed to.

Response explanation: As discussed with the auditors, prior to issuing or renewing licenses, the Board verifies that all applicants possess valid fingerprint clearance cards, and the Board maintains that information in its Thentia (previously Salesforce) system. However, many state licensing Boards experienced significant data losses when the Arizona Department of Administration (ADOA) migrated professional licensing data from the Salesforce platform to the Thentia platform, and ADOA has not been able to recover many of the records dated prior to January 2024. Furthermore, it was determined that this Board experienced data loss as a direct result of the Thentia platform, an issue later confirmed by the auditors in their findings.

Recommendation 1: Issue initial and renewal licenses only to applicants who possess a valid fingerprint clearance card.

Board response: The audit recommendation will be implemented.

Response explanation: The Board intends to update its rules to ensure they are consistent with statutes requiring licensees to possess a valid fingerprint clearance card.

Recommendation 2: Continue to develop and implement written procedures for verifying and documenting that all applicants possess a valid fingerprint clearance card.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has implemented a mandatory checklist for all staff processing applications to ensure the verification and documentation of a valid fingerprint clearance card in the Thentia system prior to issuance or renewal.

Recommendation 3: Train staff on procedures for verifying and documenting that all applicants possess a valid fingerprint clearance card.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has established enhanced procedures to ensure that all fingerprint clearance cards are accurately and comprehensively documented. As cited in the audit findings, a previous transition in the organization's information systems resulted in the loss of certain records, some of which now reside in a legacy system the Board no longer has access to. To prevent such issues from recurring, the Board has implemented new controls to ensure that all relevant information is properly recorded and securely retained within the current system. The Board will continue to strengthen its policies and procedures to ensure the continued verification of all fingerprint clearance cards.

Recommendation 4: Verify possession of fingerprint clearance cards for all licensees for whom the Board lacks evidence in its licensing system that the licensee possesses a valid

fingerprint clearance card, including the 7 licensees identified during this audit for whom the Board lacks evidence that it completed background checks.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will verify that all current licensees have a current fingerprint clearance card on file with the Board.

Finding 2: Board has not resolved some complaints in a timely manner, which could affect patient safety and may cause undue burden for licensees.

Board response: The finding is agreed to.

Response explanation: The auditors identified four complaints that were not processed within 180 days. The first case was submitted through the outdated Salesforce system. Unfortunately, ADOA did not notify the Board that members of the public would still be able to submit complaints to the Salesforce system after ADOA required the Board to utilize the Thentia system and the Salesforce system did not notify the Board when a new complaint was submitted. As such, the Board was not aware that the complaint had been submitted until nine months later, at which time, the Board began processing the complaint. The second case was a licensee that disclosed a misdemeanor charge to staff, but which staff did not process until the licensee applied for renewal nearly a year later. With regard to the third case involving allegations of sex trafficking, the Board initially heard the case and voted to continue the case until the allegations were determined by a court of law. When the case was brought before the board after being resolved by a court of law, the Board's temporary assistant attorney general advised the Board to enter into an interim consent agreement to resolve the case and the Board misunderstood that it would need to finalize the consent agreement to close the case at a later date. With regard to the fourth case, the licensee has signed a consent agreement and the Board simply needs to post the agreement in order to close the case.

Recommendation 5: Investigate and resolve complaints within 180 days.

Board response: The audit recommendation will be implemented.

Response explanation: The Board continually strives to investigate and resolve complaints in a timely manner. On July 1, 2024, the Board received funding for an additional 0.5 FTE—a part-time investigator shared with the Arizona Athletic Training Board. This position has recently been filled and training is underway. The investigator will continue to process the increasingly complex workload of complaints as quickly as possible, but the Board believes that adding an additional 1.0 FTE would significantly improve its ability to meet the 180-day timeframe.

Recommendation 6: Develop mechanisms to investigate and resolve public complaints within 180 days. Track and monitor timeliness of overall duration as well as incremental goals defined in board policy and procedure.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has recently implemented several mechanisms to improve the timeliness and effectiveness of its complaint investigation and resolution

process. The Board has developed a procedure to prioritize complaints based on severity and potential risk to public safety, ensuring that high-risk complaints are addressed promptly. The Board actively tracks complaint timelines using Excel spreadsheets and continues to work with its current licensing system vendor to ensure the system will meet the Board's tracking and reporting needs. Staff have also received training to support more efficient investigation and resolution practices. The Board will draft policies to ensure staff track complaints and notify the Board of the status of complaints regularly.

Recommendation 7: Revise, finalize, and implement its draft policies and procedures for investigations and complaint handling to outline each step of the complaint handling process, including timeframes for notification, investigation, and resolution; priority-setting; documentation requirements; and how complaint handling will be administered in the licensing system.

Board response: The audit recommendation will be implemented.

Response explanation: In response to this audit, the Board has finalized and implemented formal policies and procedures for investigations and complaint resolution that clearly outline each step of the complaint handling process, including timeframes for notification, investigation, and resolution; documentation requirements; and how complaint handling will be administered in the licensing system.

Recommendation 8: Minimize the effects of delayed complaint resolution resulting from consent agreements by establishing required time frames for licensees to return signed consent agreements.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will use disciplinary and non-disciplinary orders as a primary tool to resolve complaints more efficiently. The Board will also establish time frames to require licensees to respond to consent agreements in a timely manner.

Recommendation 9: Provide comprehensive training to staff on complaint handling procedures and system tools to ensure consistency, compliance, and continuity in the event of staff turnover.

Board response: The audit recommendation will be implemented.

Response explanation: As of January 2024, the Board implemented comprehensive training for staff on its policies and procedures for processing complaints to ensure consistency and compliance. This training covered each step of the complaint process, prioritization, documentation, notification, timelines, investigation procedures, and resolution benchmarks as outlined in Board policy. Staff were also trained on the use of complaint tracking tools, including the Excel spreadsheets currently used to monitor progress and case milestones. Additionally, the Board has actively been working with its licensing system vendor to develop integrated complaint tracking features. As these system tools are finalized and implemented, staff will receive further training to ensure consistency in system use and data entry. By formalizing both procedural and system-based training, the Board has established institutional knowledge and supports continuity in complaint handling.

Recommendation 10: Regularly review management reports for all in-process complaints and track compliance with its timeframes for investigating and resolving complaints.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has implemented policies and procedures to regularly review and monitor all in-process complaints to ensure compliance with established timeframes for investigation and resolution.

Finding 3: Board failed to initiate rulemakings to align its rules with statute despite identifying inconsistencies in rules since 2008, increasing risk of regulatory ambiguity and noncompliance.

Board response: The finding is agreed to.

Response explanation: The Board does not have a dedicated rulewriter on staff. The Board has actively worked to secure the resources needed to fill this gap and is continuing efforts to collaborate with a rulewriter to complete the identified rule revisions.

Recommendation 11: Develop and implement a rulemaking plan to address all inconsistencies between its rules and statutes identified in its 2008, 2013, 2018, and 2023 5-year review reports and the additional inconsistencies identified during this audit. The plan should include timeframes for initiating and completing rulemakings and assign responsibility for overseeing the rulemaking process.

Board response: The audit recommendation will be implemented.

Response explanation: The Board acknowledges the need to address rule and statute inconsistencies identified in past five-year review reports and the current audit. The Board is actively working with a rulewriter to revise and align its rules with statutory requirements, with the goal of completing the rulemaking process by the end of calendar year 2026. The Board will develop and publish a Regulatory Agenda.

Recommendation 12: Submit a request to the Governor's Office for approval to initiate rulemaking for all proposed rulemakings needed to align Board rules with statute.

Board response: The audit recommendation will be implemented.

Response explanation: The Board is currently in the process of preparing a request to the Governor's Office to initiate rulemaking needed to align its rules with statute.

Recommendation 13: Train Board staff and leadership on rulemaking requirements under the Arizona Administrative Procedure Act, including the process for requesting rulemaking exceptions from the Governor's Office.

Board response: The audit recommendation will be implemented.

Response explanation: Board staff will participate in the training sessions offered by the Governor's Regulatory Review Council, including seminars on rulemaking requirements under the Arizona Administrative Procedure Act. These efforts will enhance staff and leadership understanding of rulemaking procedures and the process for requesting

exceptions from the Governor's Office, ensuring compliance and supporting the Board's rulemaking initiatives.

Sunset factor 2: The Board's effectiveness and efficiency in fulfilling its key statutory objectives and purposes.

Board allowed licensees to continue to practice after their licenses expired.

Board response: The finding is agreed to.

Response explanation: The Board remains committed to effectively and efficiently fulfilling its key statutory objectives and purposes. Ongoing efforts include enhancing staff training, improving complaint resolution timelines, and pursuing rulemaking updates to ensure regulatory compliance and public protection. The Board continues to seek additional resources and support to further improve its operational capacity and better serve the public.

Recommendation 14: Consult with its Assistant Attorney General to determine if a statutory change is needed to address the lack of a renewal application submittal deadline and timeframe for addressing renewal application deficiencies.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will consult with its Assistant Attorney General to assess whether a statutory change is necessary to establish a renewal application submission deadline and a timeframe for addressing renewal application deficiencies.

Recommendation 15: Based on the determination made in Recommendation 14, work with the Legislature to revise statute or adopt rules to address the lack of a renewal application submittal deadline and timeframe for addressing renewal application deficiencies.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will work with the Legislature to revise statutes or adopt rules to establish a renewal application submission deadline and a timeframe for addressing renewal application deficiencies.

Did not timely take measures available to protect the public when considering 1 renewal application with child sex trafficking charges.

Board response: The finding is not agreed to.

Response explanation: Statute indicates that the Board may deny a license renewal application for unprofessional conduct. In this case, a licensee had disclosed in his renewal application that he had been charged with child sex trafficking, luring a minor for sex, and attempted sexual contact with a minor. At the time, the licensee had not been convicted of these crimes and the Board's temporary assistant attorney general advised the Board to issue an interim consent agreement for the voluntary suspension of the licensee's license until the charges could be substantiated and the Board could take final action based on the licensee's conviction.

Recommendation 16: Revise and implement procedures to ensure it promptly investigates and takes appropriate enforcement action, including denying renewal applications, when licensees fail to timely disclose serious criminal charges or other potential unprofessional conduct.

Board response: The audit recommendation will be implemented.

Response explanation: The Board is revising and implementing procedures to ensure prompt investigation and appropriate enforcement actions, including denial of renewal applications when licensees fail to timely disclose serious criminal charges or other potential unprofessional conduct.

Board did not collect all license fees as required.

Board response: The finding is not agreed to.

Response explanation: The current licensing system previously allowed applicants to initially waive their own fees. However, the Board reconciles all waivers to ensure that fees are collected or are properly waived.

Recommendation 17: Correct system deficiencies that allow applicants to waive their own fees, ensure that all required licensing fees are paid or formally waived before issuing a license, and maintain supporting documentation for all fee payments and waivers in applicant files.

Board response: The audit recommendation will be implemented.

Response explanation: The Board worked with the licensing system to fix deficiencies that allow applicants to waive their own fees. Through ongoing reconciliation efforts, the Board ensures all fees are paid or properly waived before issuing a license, while maintaining supporting documentation.

Board did not refer evidence of criminal wrongdoing.

Board response: The finding is agreed to.

Response explanation: While the Board has developed and implemented procedures to ensure allegations of unlicensed practice or other potential criminal violations are referred to the appropriate law enforcement agencies, the Board did not refer every allegation of potential criminal violation to appropriate law enforcement agencies.

Recommendation 18: Develop and implement procedures to refer allegations of unlicensed practice or other potential criminal violations to the appropriate law enforcement agency for investigation and potential prosecution.

Board response: The audit recommendation will be implemented.

Response explanation: While the Board has developed and implemented procedures to ensure allegations of unlicensed practice or other potential criminal violations are referred to the appropriate law enforcement agencies, the Board will strengthen these

procedures by incorporating a mandatory referral step in its complaint processing checklist for all cases involving potential criminal violations.

Board charged a fee not authorized by rule.

Board response: The finding is agreed to.

Response explanation: The Board continued to charge a fee based on previous practice without realizing it had not been authorized to do so in statute or rule.

Recommendation 19: Cease charging the telehealth registration fee until it has been established in rule pursuant to statutory requirements.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has ceased charging the telehealth registration fee pending its establishment in rule pursuant to statutory requirements, ensuring compliance with applicable laws before fee implementation.

Recommendation 20: Consult with its Assistant Attorney General to determine how to address the unauthorized telehealth registration fees it charged, such as refunding the fees, and take action to address them as determined.

Board response: The audit recommendation will be implemented.

Response explanation: The Board is currently consulting with its Assistant Attorney General to determine the appropriate course of action regarding the unauthorized telehealth registration fees previously charged, including the possibility of refunding those fees.

Board has not evaluated the appropriateness of its fees.

Board response: The finding is agreed to.

Response explanation: The Board has not developed a formal procedure for regularly evaluating or revising its fees.

Recommendation 21: Develop and implement formal procedures to review and evaluate its fee structure on a periodic basis, including cost analyses to assess whether fees are aligned with the cost of providing regulatory services and revise accordingly.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will continue its efforts to develop and implement formal procedures for periodically reviewing and evaluating its fee structure, including conducting cost analyses to ensure fees align with the costs of providing regulatory services.

Sunset factor 5: The extent to which the Board has provided appropriate public access to records, meetings and rulemakings, including soliciting public input in making rules and decisions.

Board did not comply with statutory requirements related to disclosing disciplinary and non-disciplinary actions on its website.

Board response: The finding is agreed to.

Response explanation: The Board mistakenly posted a consent agreement related to a letter of concern on its website, and upon discovering the mistake, immediately removed the non-disciplinary action from its website.

Recommendation 22: Remove disciplinary and non-disciplinary actions more than 5 years old from the website.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has worked with its licensing database to address this recommendation through an automated process that removes disciplinary and non-disciplinary actions more than 5 years old from the website. The Board will continue its efforts to monitor and maintain this process to ensure ongoing compliance.

Recommendation 23: Ensure that Letters of Concern or Advisory Letters are not publicly posted.

Board response: The audit recommendation will be implemented.

Response explanation: The Board does not have any Letters of Concern or Advisory Letters posted on its website, and will continue to ensure that such non-disciplinary actions are not made publicly available, in accordance with applicable laws and policies.

Board did not comply with open meeting law by posting all required public information in 10 instances observed.

Board response: The finding is agreed to.

Response explanation: The Board is in the process of ensuring that all public meeting minutes and recordings are available on its website as required by law.

Recommendation 24: Post all required digital recordings of Board meetings from January 2024 forward, as required by statute.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will continue its efforts to post all required digital recordings of Board meetings from January 2024 forward.

Recommendation 25: Make available minutes of all Board or committee meetings within 3 days following the meeting, as required by statute.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has implemented this recommendation by streamlining the process and continuing Board staff training to ensure meeting minutes are available within 3 days, as required by statute.

Recommendation 26: Revise its approach to noticing executive sessions to fully comply with statute and rule by ensuring that agendas provide clear, general descriptions of executive session topics to maintain transparency without compromising confidentiality.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will continue its efforts to work with the Attorney General's Office to revise its approach to noticing executive sessions, ensuring that agendas include clear, general descriptions of executive session topics in compliance with statute and rule, while maintaining necessary confidentiality.

Board did not maintain a complete log of public records requests received during fiscal year 2024 and lacked policies and procedures for how to respond to requests.

Board response: The finding is agreed to.

Response explanation: Prior to 2024, the Board did not maintain a digital log of public records requests. As of 2024, the Board has maintained a log of public records requests; however, the log did not include the number of days it took staff to process the records request.

Recommendation 27: Revise and implement its tracking mechanism for receiving and responding to requests for public information to ensure the Board complies with statutory requirements regarding timeliness, methods of disclosure, and types of information to provide upon request.

Board response: The audit recommendation will be implemented.

Response explanation: The Board is in the process of currently revising its tracking mechanism for public information requests to ensure full compliance with statutory requirements regarding timeliness, disclosure methods, and information provided.

Recommendation 28: Develop and implement policies and procedures for responding to public records requests in compliance with statutes.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has implemented policies and procedures for responding to public records requests in compliance with statutes and has scheduled an annual review to revise and improve them as needed.

Sunset factor 6: The extent to which the Board timely investigated and resolved complaints that are within its jurisdiction.

Board did not notify/timely notify licensees that they were under investigation, as required by statute, potentially impacting their right to due process.

Board response: The finding is agreed to.

Response explanation: The Board continues to strive for timely investigation and resolution of complaints within its jurisdiction, actively working to improve processes and meet established timeframes.

Recommendation 29: Notify licensees within 60 days when they receive a written complaint against a licensee or information that a licensee may have violated statute, engaged in unprofessional conduct, or may be incompetent to practice, as required by statute.

Board response: The audit recommendation will be implemented.

Response explanation: The Board will notify a licensee of a complaint within 60 days of receiving a complaint.

Board did not timely or properly notice licensees of Board reviews involving their cases, as required by statute.

Board response: The finding is agreed to.

Response explanation: The Board did not have a formal process in place to ensure staff notified licensees of Board reviews as required by statute.

Recommendation 30: Notify licensees at least 10 days prior to hearings involving their cases, including informing licensees of their right to request a copy of the investigative report prior to the hearing, as required by statute.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has implemented this recommendation and will continue to ensure that timely notification and rights information are provided as required by statute.

Sunset factor 8: The extent to which the Board has established safeguards against possible conflicts of interest.

Board used a disclosure form for Board members that did not address all required disclosures.

Board response: The finding is agreed to.

Response explanation: The Board's conflict of interest form was not as comprehensive as it should have been.

Recommendation 31: Use a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has already implemented this recommendation. New conflict-of-interest disclosure forms that address both financial and decision-making conflicts are now in use, ensuring full compliance.

Board lacked a special disclosure file as required by statute.

Board response: The finding is not agreed to.

Response explanation: Upon secondary review, staff demonstrated to auditors the location of a special file that contained all conflict-of-interest disclosures as required by statute.

Recommendation 32: Continue to store all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection.

Board response: The audit recommendation will be implemented.

Response explanation: The Board has implemented the recommendation of continuing to store all substantial interest disclosures, including disclosure forms and meeting minutes, in a special file available for public inspection.