



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.