



# AUDITOR GENERAL'S COMMENTS ON BOARD RESPONSE

We appreciate the Board's response, including its agreement with all but 1 of the findings and its plan to implement or implement in a different manner all but 1 of the recommendations. However, the Board has included certain statements in its response that necessitate the following clarifications:

1. In its response to Recommendation 3, the Board reported "...that staff, by direction from the previous administration, was dismissing complaints without prejudice when a licensee, under investigation, let his/her license expire."

**As reported in Finding 1 (see pages 6 through 10), the Board resolved 2 complaints we reviewed by dismissing them without prejudice, an action that statute does not authorize the Board to take. Although the Board attributed this action to its staff, as reported in footnote 20 (see page 9), at its January 29, 2021, meeting, the Board discussed these 2 complaints and voted to dismiss both complaints without prejudice.**

2. In its response to Recommendation 10b, the Board reported it did not agree with the finding and will not implement the recommendation, explaining that it "...believes that members are currently disclosing all conflicts of interest at every board meeting" and that "[t]he Board's current process fulfills State and Board requirements. The Board believes that it closely follows A.R.S. § 38-503(B), which reads, "*Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision*". There is no reference to the terms "fully disclose the nature" nor are those defined terms in statute, and therefore, the Board believes this finding is without merit and will not be implemented."

**As discussed in Finding 3 (pages 16 through 20), in addition to A.R.S. §38-503, A.R.S. §38-502(3) defines "make known" as the "filing of a paper which is signed by a public officer...and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest." However, our review of Board meeting minutes for 8 meetings held between January 2021 and December 2021 found that 3 Board members declared conflicts of interest but did not provide any details whatsoever related to what the conflict of interest was, thereby failing to fully disclose the interest as required by statute.**

3. In its response to recommendation 13, although the Board has agreed to the finding and agrees to implement this recommendation using a different method, it explained that "from the Board's understanding, the Auditor's [sic] only reviewed records in 2021. During that year, and the year prior, the Board lifted many of its restrictions and CE requirements due to the Governor's exercised executive powers through his Executive Order 2020-17 (EO), and therefore, no audits were conducted to determine the compliance of the CE requirements. In light of the EO and the Board's CE requirements, most, if not all, licensees would have failed an audit since one of the requirements limits the licensees to a minimum number of self-study courses. The EO allowed for licensees to complete as many self-study courses as desired to maintain physical distance. The EO was lifted December 2021."

**However, as reported in Sunset factor 2 (see page 23), in response to our inquiries, the Board reported it has not conducted continuing education audits since 2019.**