

Joint Legislative Audit Committee
June 12, 2024—1:00 p.m.



Lindsey A. Perry
Auditor General



Interim agendas can be obtained via the Internet at <http://www.azleg.gov/Interim-Committees>

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

JOINT LEGISLATIVE AUDIT COMMITTEE

Date: Wednesday, June 12, 2024

Time: 1:00 P.M. or upon recess or adjournment of Floor
9:00 A.M. (note time change)

Place: HHR 1

Members of the public may access a livestream of the meeting here:

<https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2024061000>

AGENDA

Call to order - opening remarks

1. Arizona Auditor General’s (Office) fiscal years 2024 and 2025 financial and compliance audit schedule and consideration of approval to bill entities for audit work
2. Arizona State Board of Nursing Performance Audit and Sunset Review, September 2021 report and 30-month follow-up report:
 - Presentation by Office
 - Presentation by Board of Nursing
3. Arizona State Board of Pharmacy Performance Audit and Sunset Review, September 2020 report and 36-month follow-up report:
 - Presentation by Office
 - Presentation by Board of Pharmacy
4. State of Arizona fiscal year 2023 financial statement and federal compliance audits’ updates
 - Presentation by Office
 - Presentation by Arizona Department of Administration
 - Presentation by Arizona Health Care Cost Containment System
 - Presentation by Arizona Governor’s Office
 - Presentation by Arizona Department of Economic Security

5. Office updates regarding JLAC-directed school district performance audit follow-up reports:
 - Hackberry Elementary School District Performance Audit, 36-month follow-up report
 - Presentation by Office
 - Peach Springs Unified School District Performance Audit, 60-month follow-up report
 - Presentation by Office
 - Presentation by Peach Springs Unified School District
6. Office presentation regarding the Arizona School District Spending Analysis – Fiscal Year 2023

Adjournment

Members:

Senator Sonny Borrelli, Chair
Senator David C. Farnsworth
Senator Anthony Kern
Senator Juan Mendez
Senator Catherine Miranda
Senator Warren Petersen, Ex-officio

Representative Matt Gress, Chair
Representative Timothy M Dunn
Representative Nancy Gutierrez
Representative Alma Hernandez
Representative Beverly Pingerelli
Representative Ben Toma, Ex-officio

05/23/2024
06/05/2024
VC

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032 or through Arizona Relay Service 7-1-1.



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

DATE: June 7, 2024

TO: Representative Matt Gress, Chair
Senator Sonny Borrelli, Vice-Chair
Members, Joint Legislative Audit Committee (JLAC)

FROM: Lindsey Perry, Auditor General

SUBJECT: Arizona Auditor General's (Office) Fiscal years 2024 and 2025 financial and compliance audit schedule and consideration of approval to bill entities for audit work

Background

Under A.R.S. §§41-1279.03 and 41-1279.21, the Office conducts annual financial and compliance audits of all State agencies, including the State universities, counties, and community college districts. These audits are conducted under the federally mandated single audit requirements established by the U.S. Office of Management and Budget. In addition, the Office conducts other financial audits and reviews at the Legislature's request and as mandated in statute.

Attachment A, titled *Financial and Compliance Audit Schedule*, provides a complete list of the Office's scheduled financial and compliance audits for fiscal years 2024 and 2025. This schedule has been included as a courtesy and does not require any action.

Under A.R.S. §41-1279.03(C), with JLAC approval, the Office may charge auditees a reasonable fee for performing specific audit work or providing other accounting services. For example, this would include audits of federal grants required by the federal government for which auditees can ultimately recover the audit costs from the federal grantor(s).

Attachment B, titled *List of Entities to Bill for Audit Work*, includes those auditees the Office plans to bill for specific audit work for fiscal years 2024 and 2025. See action required below.

Action required

JLAC needs to consider and approve the Office's plan to bill the entities in Attachment B for audit work or other accounting services we perform.

Attachment A
Financial and compliance audit schedule
Fiscal years 2024 and 2025

Financial and compliance audits

State of Arizona

1.	State of Arizona as a whole
2.	Department of Economic Security—Arizona Long-Term Care System
3.	Office of the State Treasurer
4.	Arizona State University
5.	Northern Arizona University
6.	University of Arizona

Arizona counties

1.	Apache County
2.	Cochise County
3.	Coconino County
4.	Gila County
5.	Graham County
6.	Greenlee County
7.	La Paz County
8.	Maricopa County
9.	Mohave County
10.	Navajo County
11.	Pima County
12.	Pinal County
13.	Santa Cruz County
14.	Yavapai County
15.	Yuma County

Arizona college districts

1.	Cochise County Community College District
2.	Coconino County Community College District
3.	Gila County Provisional Community College District
4.	Graham County Community College District
5.	Maricopa County Community College District
6.	Mohave County Community College District
7.	Navajo County Community College District
8.	Pima County Community College District
9.	Pinal County Community College District
10.	Santa Cruz County Provisional Community College District
11.	Yavapai County Community College District
12.	Yuma/La Paz Counties Community College District

Other statutorily required financial and accountability audits/special reviews¹

1.	Annual Expenditure Limitation Reports for Counties and Annual Budgeted Expenditure Limitation Reports for College Districts
2.	Arizona Attorney General Colorado River Revolving Fund Revenues and Expenses (only issued for years with fund activity)
3.	Arizona Attorney General Use of Anti-racketeering Revolving Fund Monies (issued every 2 years)
4.	Arizona Citizens Clean Elections Commission Revenues and Expenses (issued every 4 years)
5.	Arizona County Community College Districts and Colleges of Qualifying Indian Tribes Full-Time Equivalent Student Enrollment Report
6.	Arizona State Board Member Per Diem Compensation and Expense Reimbursements
7.	Arizona State Procurement Office—Compliance Review
8.	Arizona University System Full-Time Equivalent Student Enrollment Report
9.	Diné College Funding Compact
10.	Navajo Technical University Funding Compact
11.	Tohono O’odham College Funding Compact

¹ Reports issued annually unless otherwise noted.

Attachment B
List of entities to bill for audit work
Fiscal years 2024 and 2025

Pursuant to A.R.S. §41-1279.03(C), with JLAC’s approval, the Office may bill the following entities for audit work

State of Arizona	
State agencies and universities	
Arizona counties	
1.	Apache County
2.	Cochise County
3.	Coconino County
4.	Gila County
5.	Graham County
6.	Greenlee County
7.	La Paz County
8.	Maricopa County
9.	Mohave County
10.	Navajo County
11.	Pima County
12.	Pinal County
13.	Santa Cruz County
14.	Yavapai County
15.	Yuma County
Arizona college districts	
1.	Cochise County Community College District
2.	Coconino County Community College District
3.	Gila County Provisional Community College District
4.	Graham County Community College District
5.	Maricopa County Community College District
6.	Mohave County Community College District
7.	Navajo County Community College District
8.	Pima County Community College District
9.	Pinal County Community College District
10.	Santa Cruz County Provisional Community College District
11.	Yavapai County Community College District
12.	Yuma/La Paz Counties Community College District
Arizona school districts	
Assess whether a school district is no longer in noncompliance with the <i>Uniform System of Financial Records for Arizona School Districts</i> and whether school district contracted audits meet minimum standards	



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

DATE: June 7, 2024

TO: Representative Matt Gress, Chair
Senator Sonny Borrelli, Vice Chair
Members, JLAC

FROM: Lindsey Perry, Auditor General

SUBJECT: Arizona State Board of Nursing Performance Audit and Sunset Review, September 2021 report and 30-month follow-up report

Background

JLAC is charged with (1) overseeing audit functions of the Legislature and State agencies, including sunset, performance, special, and financial audits, special research requests, and preparing and introducing legislation resulting from audit report findings; (2) requiring State agencies to comply with its findings and directions regarding sunset, performance, special, and financial audits; and (3) receiving reports from the Arizona Auditor General regarding each audit's results (A.R.S. §§41-1279 and 41-1279.03). Additionally, my Office is responsible for conducting sunset reviews of State agencies, boards, and commissions under Arizona's sunset law and as assigned by JLAC. In 2021, my Office conducted and released a performance audit and sunset review report on the Arizona State Board of Nursing (Nursing Board) as part of the Nursing Board's sunset review.

The Nursing Board is responsible for regulating nursing practice in Arizona by issuing and renewing licenses and certificates to qualified applicants, investigating complaints, administering disciplinary actions against regulated parties who violate the Nursing Board's statutes and rules, and providing information to the public about license and certificate holders. Our September 2021 performance audit and sunset review made 11 recommendations to the Nursing Board, 7 of which the Nursing Board had either implemented or implemented in a different manner at the time of our initial follow-up review.

However, during our 30-month follow-up review, similar to our initial follow-up findings, we found the Nursing Board had not implemented our recommendation to resolve public complaints within 180 days. Additionally, we identified additional deficiencies in its processes, and we made 4 new recommendations to the Nursing Board to address these areas. Both the previous and new deficiencies we found potentially put patient safety at risk. Specifically:

- The Nursing Board did not resolve within 180 days approximately 75 percent of the more than 2,000 public complaints we reviewed, including 78 high-risk complaints involving allegations such as prescribing a 233 percent increase in a patient's opioid dosage and sexually

harassing patients. Additionally, the Nursing Board's practice of combining multiple complaints involving an individual licensee into a single investigation led to complaint resolution delays of multiple years, sometimes up to 6.5 years, during which licensees continued to practice but whom the Nursing Board eventually determined had engaged in unprofessional and/or unsafe conduct.

- The Nursing Board did not document if or when it referred some complaints to the Arizona Attorney General to pursue a settlement of formal hearing with the Arizona Office of Administrative Hearings.
- We identified 2 new deficiencies in the Nursing Board's complaint-handling processes including:
 - Nursing Board staff closed 200 public complaints without recording a closure date. Without documented information regarding a complaint's closure, the Nursing Board potentially cannot ensure these closures' timeliness and appropriateness.
 - The Nursing Board did not initially investigate some complaints that alleged licensees engaged in unprofessional conduct, including allegations they stole medication from their workplaces.
- Although contracting with vendors to provide investigative assistance could help mitigate the previous deficiencies we reported and the new deficiencies we found, the Nursing Board has not done so because it stated it does not have sufficient monies. The Nursing Board had a fiscal year 2023 ending fund balance of nearly \$12.7 million, which it has not been authorized to spend, and although the Nursing Board conducted a preliminary analysis of contracting for investigators, it should continue to assess the cost and feasibility of doing so.

Finally, on November 21, 2022, JLAC assigned our Office to conduct the Nursing Board's next performance audit and sunset review, and we plan to initiate this review later in calendar year 2024. During this upcoming audit, we will follow up with the Nursing Board on the status of the recommendations from our September 2021 audit report that have not yet been implemented and the 4 new recommendations we made in this 30-month follow-up review, and further review the impact of the Nursing Board's practice of combining multiple complaints involving an individual licensee into a single investigation.

We were asked to present the Nursing Board's September 2021 performance audit and sunset review report and the 30-month follow-up report issued in April 2024. Jeff Gove, Performance Audit Division Director, will provide an overview of the initial and follow-up reports.

Attachment A includes the Nursing Board's performance audit and sunset report issued in September 2021, and **Attachment B** includes the Nursing Board's 30-month follow-up report issued in April 2024.

Action required

None. Presented for JLAC's information only.

Attachment A

Report

Arizona State Board of Nursing

Arizona State Board of Nursing

Board generally issued licenses/certificates we reviewed in accordance with statute and rule but did not resolve some complaints in a timely manner, which may affect patient safety; remit all required revenues to the State General Fund; and provide sufficient public information

Performance Audit and
Sunset Review

September 2021
Report 21-111

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





The Arizona Auditor General's mission is to provide independent and impartial information and specific recommendations to improve the operations of State and local government entities. To this end, the Office provides financial audits and accounting services to the State and political subdivisions, investigates possible misuse of public monies, and conducts performance audits and special reviews of school districts, State agencies, and the programs they administer.

The Joint Legislative Audit Committee

Senator **Nancy Barto**, Chair
Senator **Rosanna Gabaldon**
Senator **David Livingston**
Senator **Juan Mendez**
Senator **Kelly Townsend**
Senator **Karen Fann** (ex officio)

Representative **Joanne Osborne**, Vice Chair
Representative **Tim Dunn**
Representative **Steve Kaiser**
Representative **Jennifer L. Longdon**
Representative **Pamela Powers Hannley**
Representative **Rusty Bowers** (ex officio)

Audit Staff

Dale Chapman, Director
Jeremy Weber, Manager

Ashley Bjurstrom, Team Leader
Richard Flenory
Liam VanPelt

Contact Information

Arizona Auditor General
2910 N. 44th St., Ste. 410
Phoenix, AZ 85018-7271

(602) 553-0333

contact@azauditor.gov

www.azauditor.gov



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

September 22, 2021

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Ms. Joey Ridenour, Executive Director
Arizona State Board of Nursing

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the Arizona State Board of Nursing*. This report is in response to a September 19, 2018, 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 State Board of Nursing agrees with all the findings and plans to implement all the recommendations.

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

Arizona State Board of Nursing

Board generally issued licenses/certificates we reviewed in accordance with statute and rule but did not resolve some complaints in a timely manner, which may affect patient safety; remit all required revenues to the State General Fund; and provide sufficient public information

Audit purpose

To determine whether the Board issued and renewed licenses/certificates in accordance with statute and rule requirements, resolved complaints in a timely manner and in accordance with Board policy, and provided information to the public as required by statute, and to provide responses to the statutory sunset factors.

Key findings

The Board:

- Was established in 1921 to regulate nursing practices in Arizona, including investigating and adjudicating complaints against licensees and certificate holders.
- Did not resolve 12 of 25 complaints we reviewed within 180 days—taking between 186 and 435 days to investigate and adjudicate these complaints. Untimely complaint resolution may negatively affect patient safety when delays allow licensees and certificate holders to continue to practice while under investigation even though they may be unfit to do so.
- Attributed untimely complaint resolution to high investigative caseloads. The Board requested and received an additional 3.5 FTE investigative positions for fiscal year 2022, which it expects will help lower its caseloads.
- Issued all 75 initial and renewal licenses/certificates we reviewed in a timely manner and ensured 73 applicants met applicable requirements. The Board did not ensure that 2 initial applicants provided all documentation required to verify lawful presence prior to licensure but later obtained this documentation.
- Has not remitted all required revenues to the State General Fund, including 100 percent of civil and administrative penalties.
- Did not consistently comply with open meeting law requirements we reviewed and did not provide sufficient public information in response to anonymous phone calls we made.

Key recommendations

The Board should:

- Investigate and adjudicate complaints within 180 days and determine if it needs additional resources to do so.
- Determine the correct amount that should be remitted to the State General Fund as soon as possible and ensure it remits 100 percent of future civil and administrative penalties to the State General Fund.
- Continue to implement its new open meeting law policies and procedures and its new and revised public information policies and procedures.



TABLE OF CONTENTS

Board overview	1
Introduction	2
Finding 1: Board has not resolved some complaints in a timely manner, which may affect patient safety	8
Board investigates and adjudicates complaints against licensees and certificate holders	
Board did not resolve some complaints we reviewed within 180 days	
When Board is slow to resolve complaints, patient safety may be negatively affected	
Board has addressed prior audit recommendations regarding complaint-resolution timeliness and attributed untimely complaint resolution to high investigative caseloads	
Recommendations	
Sunset factors	13
Summary of recommendations: Auditor General makes 11 recommendations to the Board	26
Appendix A: Licensure and certification requirements	a-1
Appendix B: Scope and methodology	b-1
Board response	
Figures	
1 Board resolved 13 of 25 complaints we reviewed in 180 days but took more than 180 days to resolve the other 12 complaints	9
2 Number of (1) complaints received or opened and (2) licensees and certificate holders Fiscal years 2011 through 2021 (Unaudited)	11
Tables	
1 Number of active licensees and certificate holders by type As of June 2021 (Unaudited)	3
2 Schedule of revenues, expenditures, and changes in fund balances Fiscal years 2019 through 2021 (Unaudited)	7



TABLE OF CONTENTS

3	Summary of Board's key licensure/certification requirements we reviewed	14
4	Key statute and rule requirements by license and certificate type	a-1

Board overview

The Arizona State Board of Nursing (Board) regulates nursing practice in Arizona by issuing and renewing licenses and certificates to qualified applicants, investigating complaints, administering disciplinary actions against regulated parties who violate Board statutes and rules, and providing information to the public about licensees and certificate holders. Statute requires the Board to consist of 11 members appointed by the Governor for 5-year terms. The Board was appropriated 52 full-time equivalent (FTE) staff positions for fiscal year 2022 and received federal grant funding for an additional 5.5 FTE positions. The Board does not receive any State General Fund appropriations. Rather, the Board's revenues consist primarily of licensing and related fees.

Active licenses and certificates as of June 2021	Complaints received or opened in fiscal year 2021
153,880	3,286

Audit results summary

Key regulatory areas reviewed

Initial licenses/certificates —Process initial license/certificate applications within 150 days if the Board does not open an investigation during the licensure process and 270 days if the Board opens an investigation. Key license/certificate qualifications include education, practice hours, passing an examination, lawful presence documentation, and/or passing a fingerprint-based criminal history check.	Issued timely ✓	Ensured qualifications met ✗
License/certificate renewals —Process renewal license/certificate applications within 120 or 150 days (depending on license/certificate type) if the Board does not open an investigation during the renewal and 270 days if the Board opens an investigation. Licensees/certificate holders must attest to completing practice hours, disclose pending investigations and/or disciplinary action, provide information about criminal activity, and provide evidence of continuing education, if applicable.	Issued timely ✓	Ensured qualifications met ✓
Complaint handling —Investigate complaints it receives and take action to address violations.	Resolved complaints within 180 days ✗	Followed complaint-handling policies ✓
Public Information —Provide specific complaint and licensee/certificate holder information to the public upon request. During the audit, the Board revised its public information policy and procedures.	Provided accurate or sufficient information via phone ✗	Provided required disciplinary information on website ✗

Other responsibilities reviewed

Fee setting —Establish policies and procedures to ensure fees are based on costs of providing services and periodically review fees. During the audit, the Board established fee-setting policies and procedures.	Established fee-setting policies and procedures ✓	Periodically reviewed fees ✗
Conflicts of interest —Requirements and recommended practices include signing a disclosure form annually and maintaining a special file to document substantial interest disclosures. During the audit, the Board revised its conflict-of-interest policy.	Board members and staff signed annual disclosure form ✓	Maintained special file to document substantial interest disclosures ✗
Rulemaking and open meeting law —Requirements include involving the public in rulemaking and making meeting minutes or a recording of the meeting available in 3 working days.	Involved public in rulemaking ✓	Meeting minutes available in 3 working days ✗



The Arizona Auditor General has completed a performance audit and sunset review of the Arizona State Board of Nursing (Board). This performance audit and sunset review provides responses to the statutory sunset factors and determined whether the Board (1) issued and renewed licenses/certificates in accordance with statute and rule requirements, (2) resolved complaints in a timely manner and in accordance with Board policy, and (3) provided information to the public as required by statute.

Mission and responsibilities

The Board was established in 1921 to regulate nursing practices in Arizona. The Board regulates multiple types of licensees and certificate holders, including registered nurses, practical nurses, advanced practice registered nurses, and nursing assistants (see textbox for each type of professional's scope of practice).¹ The Board's mission is "to protect and promote the welfare of the public by ensuring that each person holding a nursing license or certificate is competent to practice safely." Its responsibilities include:

- Issuing and renewing licenses and certificates to qualified applicants. Table 1 (see page 3) shows the number of active licensees and certificate holders as of June 2021. For additional information on licensure and certification requirements, see Appendix A, page a-1.
- Investigating complaints against licensees and certificate holders. During fiscal year 2021, the Board received or opened 3,286 complaints against licensees or certificate holders.
- Administering appropriate disciplinary actions against regulated parties who have violated the Board's statutes or rules.
- Approving prelicensure nursing education programs, APRN programs, and nursing assistant training programs.
- Maintaining a registry of all licensees and certificate holders in the State.

Scope of practice

Registered nurse (RN)—Assess healthcare needs, plan and implement nursing interventions to meet identified needs, and supervise licensed practical nurses and nursing assistants.

Advanced practice registered nurse (APRN)—RNs with an expanded scope of practice based on a specialty area.¹ APRNs may order diagnostic tests, such as laboratory tests, or manage patient care.²

Licensed practical nurse (LPN)—Perform nursing services under an RN's or physician's supervision, such as contributing to the assessment of healthcare needs and administering medications and treatments.

Licensed or certified nursing assistant (LNA or CNA)—Provide or assist in nursing-related services, such as bathing, dressing, and feeding patients, under a licensed nurse's supervision.³

¹ APRNs include registered nurse practitioners, certified nurse midwives, clinical nurse specialists, and certified registered nurse anesthetists.

² APRNs may also be granted authority to prescribe and dispense drugs and devices within their scope of practice. Certified registered nurse anesthetists can be granted only prescribing authority.

³ The Board both licenses and certifies nursing assistants. LNAs and CNAs have the same scope of practice. However, LNAs are required to meet additional requirements for licensure, including submitting fingerprints for a criminal records check.

Source: Auditor General staff review of Arizona Revised Statutes (A.R.S.) §§32-1601 and 32-1645; Arizona Administrative Code (AAC) Title 4, Ch. 19; and information from the Board's website.

¹ According to the Board, it does not have jurisdiction over tribal and federal healthcare facilities but has jurisdiction over all Arizona licensees.

- Administering the Alternative to Discipline (ATD) Program, which is a nondisciplinary program for licensed nurses with, or at risk for, substance use disorders, medical conditions, and/or mental health conditions (see pages 5 through 6 for additional information).

Table 1
Number of active licensees and certificate holders by type
As of June 2021
(Unaudited)

Nursing professional type	Number actively licensed/certificated
RN	101,395
LPN	11,099
APRN (must also hold an active RN license):	
a. Registered nurse practitioner	10,829
b. Clinical nurse specialist	148
c. Certified nurse midwife	300
d. Certified registered nurse anesthetist	1,048
LNA	9,133
CNA	19,928

Source: Auditor General staff review of information from the Board’s website.

Organization and staffing

As required by A.R.S. §32-1602, the Board consists of 11 Governor-appointed members who serve 5-year terms. Six members must be RNs, including at least 1 APRN (excluding certified nurse midwives); 2 members must be LPNs; 1 member must be a nursing assistant or nursing assistant educator; and 2 members must represent the public. As of June 2021, the Board reported that it had 10 filled and 1 vacant Board member positions.²

According to the State’s fiscal year 2022 appropriations report, the Board was approved for 52 full-time equivalent (FTE) staff positions for fiscal year 2022. According to the Board, it also received federal grant funding for an additional 5.5 FTE positions. The Board reported that as of August 2021, 56.5 of its total 57.5 FTE positions were filled by 68 staff members, including 51 full-time and 17 part-time staff. Board staff included an executive director, 3 associate directors, chief counsel and 4 legal support staff, as well as investigators, licensing, accounting, and other administrative staff. For example, according to the Board, it had 19 investigators, 8 licensing staff, and 4 staff who had dual roles as both customer service representatives and licensing staff.

According to the Board’s website, it has established 3 committees to help fulfill its mission (see textbox on page 4). Meetings of these 3 committees are open to the public.

² The Board also reported that as of June 2021, 1 Board member served without an appointment. According to the Board, this member has continuously served since initially being appointed in 2009 and reappointed in 2013; however, based on the 2-consecutive-term limit in statute, the member is not eligible for reappointment. Board staff stated this position is an LPN position, which staff explained is difficult to fill based on the time commitment required.

Committees

Advanced Practice Committee—Has established goals, such as clarifying regulatory sufficiency of the 4 advanced practice roles and recommending changes to the Board's statutes and rules, as applicable, and provides recommendations to the Board.

Education Committee—Provides recommendations to the Board on matters related to regulating nursing education programs. The committee has established goals, such as assisting Arizona nursing programs to meet the Board's regulatory requirements to prepare graduates for safe nursing practice.

Scope of Practice Committee—Brings together a diverse membership that represents various healthcare settings throughout the State, including staff nurses, administrators, and faculty members. This committee has established goals, such as responding to the changing healthcare environment by addressing scope of practice issues and developing advisory opinions for nurses, as appropriate, to guide nursing practice.

Source: Auditor General staff review of information from the Board's website.

Nurse Licensure Compact

A.R.S. §32-1660 et seq. establishes Arizona's participation in the Nurse Licensure Compact (Compact). Arizona and 32 other states have implemented the Compact as of June 2021.³ The Compact ensures and encourages cooperation and reduces redundancies in nurse licensure and regulation between party states. Under the Compact, a party state can issue a multistate nursing license to an applicant who declares that state as the applicant's home state, also referred to as the applicant's primary state of residence (PSOR). This multistate license allows the licensee to practice nursing in any party state. Thus, as a party state, Arizona can issue a multistate nursing license to qualified applicants who declare Arizona as their PSOR and recognizes the multistate licenses issued by other party states. If nurses change their PSOR by moving to another party state, they must apply for licensure in the new home state, and the multistate license issued by the previous home state will be deactivated.

The Compact is coordinated by NCSBN.⁴ NCSBN also administers nursing licensure examinations and maintains a verification database. Specifically:

- **National Council Licensure Exams (NCLEX)**—NCSBN has developed 2 standardized exams—1 for registered nurses and 1 for practical nurses—referred to as the NCLEX-RN and NCLEX-PN. The exams are used to determine whether a nursing applicant meets the requirements to practice entry-level nursing. The exams are used by every state in the U.S.; however, each state may develop its own requirements for determining who is eligible to take these exams.
- **Nursys database**—Nursys is a national database used to verify the licensure, discipline, and practice privileges for RNs, LPNs, and APRNs for participating boards of nursing, including all states in the Compact.⁵

³ According to the National Council of State Boards of Nursing (NCSBN), as of June 2021, New Jersey and Guam had partially implemented the Compact, allowing nurses with multistate licenses issued by other compact states to practice in their jurisdiction; however, nurses living in New Jersey and Guam will not be able to apply for a multistate license until the second half of 2021 and 2022, respectively. Additionally, NCSBN reported that Vermont will implement the Compact by February 2022.

⁴ According to its website, NCSBN is an independent not-for-profit organization founded in 1978 whose mission is to empower and support nursing regulators in their mandate to protect the public. NCSBN's membership includes the nursing regulatory bodies in all 50 states; Washington, D.C.; and 4 U.S. territories in addition to 27 associate members across the globe that are nursing regulatory authorities.

⁵ According to NCSBN, Michigan is the only state in the U.S. that does not participate in providing any information through the Nursys database. Additionally, 19 states and Washington D.C. provide information about only RNs and LPNs and do not provide information about APRNs to Nursys.

Alternative to Discipline (ATD) Program

According to the Board's website, the ATD Program is the Board's nondisciplinary, confidential monitoring program for RNs, LPNs, and APRNs. The program is designed for nurses with substance use disorders, medical, or mental health conditions; nurses at risk for these disorders/conditions; or nurses with a combination of these disorders/conditions (see textbox for additional information). Nurses who are interested in the ATD Program must voluntarily request program enrollment and must meet additional eligibility criteria. The ATD Program consists of 5 pathways—4 of these require individuals to have a current diagnosis or disorder, such as substance abuse, a mental health disorder, or a medical condition. The 5th pathway is an "at-risk" pathway for individuals with a history of substance abuse but without active substance use, with medical conditions requiring mind-altering medications, or who do not meet the criteria for the other pathways.

ATD Program

The ATD Program's purpose is to ensure the public's safety through early detection, treatment, and monitoring of nurses who have, or are at risk of, conditions that could potentially impact their nursing practice and to provide the opportunity for rehabilitation for nurses who acknowledge they have, or are at risk of, a condition that may impact their nursing practice and wish to obtain the treatment and/or support needed to maintain safe nursing practice.

Nurses must meet eligibility criteria to enter the ATD Program. For example, the nurse must acknowledge having a substance use disorder or a mental health or medical condition that may affect the nurse's ability to safely practice or be at risk for these conditions. Additionally, the nurse must agree in writing to comply with the terms of the ATD Program agreement and must not have a history of causing death or significant harm to a patient. Finally, the nurse must not have engaged in behavior with a high potential to cause harm to a patient, such as diverting drugs by substituting medications, and must not have engaged in high-risk criminal behavior that includes crimes involving sexual misconduct or violence or threatening behavior, which can impact safety to practice.

Source: Auditor General staff review of information from the Board's website.

Nurses who participate in the ATD Program must be evaluated to determine eligibility, including determining the appropriate program pathway, and sign an agreement that includes general terms such as limiting the nurse's compact license to an Arizona-only license and restricting the nurse's work schedule. ATD Program agreements may also include requirements specific to the program pathway and be individualized to a participant's needs. Nurses admitted into the ATD Program pay all costs associated with the eligibility process and participation in the program.

Board staff explained that ATD Program compliance monitoring is done through a combination of Board staff and RecoveryTrek services.⁶ RecoveryTrek is a third-party administrator and treatment-monitoring provider that uses a secure HIPAA-compliant, cloud-based case management system to provide services such as tracking participant compliance with drug testing and attendance at substance use recovery groups.⁷ ATD Program participants are also required to provide self-reports every 2 months through RecoveryTrek.⁸ The Board explained that RecoveryTrek alerts participants when a report is 15 days late and if the report remains outstanding over 30 days, RecoveryTrek includes this information in a noncompliance report for the Board. Additionally, the Board worked with RecoveryTrek to develop a tracking system to ensure participant compliance, which requires Board staff's daily review of noncompliance reports generated by the Board and through RecoveryTrek.

⁶ The Board entered into an agreement with RecoveryTrek to provide services in 2014. The Board does not compensate RecoveryTrek for its services as participants in the ATD Program are responsible for all costs associated with the program.

⁷ According to the Board, if a participant does not have access to electronic resources to track attendance in substance abuse recovery groups, paper forms are available to manually track attendance.

⁸ The Board explained that self-reports are a form of therapeutic journaling that allow participants an opportunity to discuss strengths and challenges and provide feedback to Board staff.

As of May 25, 2021, the Board reported 186 participants in the ATD Program, with 87 percent of these participants demonstrating compliance with the terms of their agreements.⁹ Additionally, the Board reported that 262 nurses successfully completed the ATD Program between July 1, 2018 and June 14, 2021.

Response to the COVID-19 pandemic

The Board created processes allowing temporary waivers of certain professional licensure requirements in response to the state of emergency declared during the COVID-19 pandemic, which remained in effect as of July 2021. For example, the Board may:

- Grant temporary 90-day renewal licenses for nursing and nursing assistant renewal applicants who have not met required practice hours if the last license/certificate renewal period was within 5 years and the individual does not have a prior history of probation, revocation, application denial, or surrender.
- Grant a temporary 90-day nursing assistant certificate to prelicensure nursing students who can prove they successfully completed at least 1 semester of instruction in a Board-approved, prelicensure nursing program or a program approved by another state board of nursing, and who pass the State nursing assistant examination.
- Temporarily waive specific teaching requirements for educational programs, including substituting online teaching for in-person teaching and substituting direct patient care clinicals and instruction with simulations and similar nondirect patient contact.
- Permit nurses who previously held a nursing license in any state to obtain a temporary, 180-day limited license for the sole purpose of administering COVID-19 vaccinations if they have no previous history of license probation, revocation, application denial, or surrender.

Budget

The Board does not receive any State General Fund appropriations. Rather, its revenues consist primarily of licensing and related fees (see Table 2, page 7). A.R.S. §32-1611 requires the Board to remit 10 percent of all monies received from fees to the State General Fund and to deposit the remaining 90 percent of these revenues into the Board of Nursing Fund. This statute and A.R.S. §32-1663.01 also require the Board to remit 100 percent of civil and administrative penalties to the State General Fund; however, the Board has not remitted 100 percent of these penalties as required (see Sunset Factor 2, page 17, for additional information). Most of the Board's expenditures are for personnel costs and other operating expenses, such as rent and information technology. The Board's fund balance was nearly \$9.1 million at the end of fiscal year 2021.

⁹ Noncompliance with the ATD Program agreement may result in the participant's discharge from the program. When participants are discharged from the ATD Program, pursuant to the standard stipulated agreement, their licenses are suspended pending a final resolution of the discharge action.

Table 2
Schedule of revenues, expenditures, and changes in fund balances¹
Fiscal years 2019 through 2021
(Unaudited)

	2019	2020	2021
Revenues			
Licensing and fees	\$7,089,119	\$6,400,015	\$6,979,931
Federal ²	414,699	414,700	412,350
Charges for goods and services ³	405,143	365,245	428,089
Fines, forfeits, and penalties	59,280	85,736	70,668
Other	7,745	6,177	494
Total gross revenues	7,975,986	7,271,873	7,891,532
Net credit card fees ⁴	52,596	10,223	(49,106)
Remittances to the State General Fund ⁵	(109,331)	(1,328,393)	(812,570)
Total net revenues	7,919,251	5,953,703	7,029,856
Expenditures and transfers			
Payroll and related benefits	4,443,194	4,294,314	4,576,312
Professional and outside services	259,897	268,097	280,710
Travel	15,372	9,092	4,947
Other operating ⁶	353,266	404,762	401,343
Furniture and equipment	11,529	67,505	26,293
Total expenditures	5,083,258	5,043,770	5,289,605
Transfers to the other agencies ⁷	27,205	27,144	23,667
Total expenditures and transfers out	5,110,463	5,070,914	5,313,272
Net change in fund balances	2,808,788	882,789	1,716,584
Fund balances, beginning of year	3,689,282	6,498,070	7,380,859
Fund balances, end of year	\$6,498,070	\$7,380,859	\$9,097,443

¹ Fiscal years 2019 and 2020 revenues were actual revenues recorded on the State's accounting system; however, the revenue sources, such as licensing and fees, were adjusted based on Board estimates for each revenue source, and the total amount of revenues received in fiscal years 2019 and 2020 may not be correct because of an accounting error stemming from fiscal year 2018 (see Sunset Factor 2, page 17, for additional information).

² Federal revenues consist of monies received from the Arizona Department of Health Services and Arizona Health Care Cost Containment System that were used for the administrative and testing costs of a federal program to regulate CNAs.

³ According to the Board, charges for goods and services consisted of fingerprint and copying fees.

⁴ Net credit card fees were the difference between the convenience fees charged for credit card purchases and the related fees paid for the acceptance of credit cards. Timing differences occurred between the collection and payment of these fees.

⁵ The Board is required to remit to the State General Fund 100 percent of civil and administrative penalties and 10 percent of all other revenues (except federal revenues) in accordance with A.R.S. §§32-1611 and 32-1663.01. However, an accounting error stemming from fiscal year 2018 impacted the amounts remitted to the State General Fund in fiscal years 2018 through 2020, and the Board estimated it owed approximately \$348,000 to the State General Fund as of July 2021. Additionally, the Board has not remitted 100 percent of civil and administrative penalties as required. See Sunset Factor 2, page 17, for additional information.

⁶ Other operating expenditures consisted of various expenditures such as rental, telecommunication, insurance, software support and maintenance, information technology, repair and maintenance, and office supplies expenditures.

⁷ Transfers to other agencies primarily consisted of transfers to the Arizona Office of Administrative Hearings.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2019 through 2021, the State of Arizona *Annual Financial Report* for fiscal years 2019 and 2020, and Board-provided estimates for revenue sources in fiscal years 2019 and 2020.



Board has not resolved some complaints in a timely manner, which may affect patient safety

Board investigates and adjudicates complaints against licensees and certificate holders

Statute authorizes the Board to investigate and adjudicate complaints alleging violations of statute or rule by licensees and certificate holders (see Sunset Factor 6, pages 22 through 23, for additional information).¹⁰ According to Board policy, complaint investigations should be completed within an overall average of 180 days of receiving a complaint. Additionally, the Board classifies its complaints into 3 priorities, and Board policy specifies that complaints categorized as priority 1, which are complaints with high-risk allegations such as sexual conduct with a patient, should be investigated and presented to the Board within 180 days of receiving the complaint or reclassifying a complaint as priority 1.^{11,12} Further we have determined that Arizona health regulatory boards should investigate and adjudicate complaints within 180 days of receiving them.

Board did not resolve some complaints we reviewed within 180 days

Our review of 25 randomly selected closed complaints the Board received in fiscal year 2020 found that it did not resolve 12 of these complaints within 180 days.¹³ Specifically, the Board took between 186 and 435 calendar days to investigate and adjudicate these complaints (see Figure 1, page 9). The Board dismissed 4 of these 12 complaints, issued a letter of concern for a 5th complaint, and substantiated the alleged statute or rule violations in the other 7 complaints. Of these 7 complaints, 4 resulted in the licensees voluntarily surrendering their licenses, 2 resulted in consent agreements involving probation, and 1 resulted in the Board issuing a decree of censure to the licensee.

The Board categorized 4 complaints we reviewed as priority 1 complaints and resolved 3 of these complaints within 180 days. The priority 1 complaint that it did not resolve within 180 days, which was 1 of the 12 untimely closed complaints, alleged that the licensed nurse failed to recognize and manage postpartum complications, including hemorrhaging, and delayed presenting the patient for a higher level of care. For this complaint, the Board explained that the investigation was delayed because the allegations required an investigator with specialized knowledge, and the Board's investigator with this knowledge was on extended personal leave for

¹⁰ A.R.S. §32-1606(C). For this finding, we define complaints as allegations the Board received against a licensee or certificate holder and, upon review of the allegations, for which the Board opened a complaint investigation. We did not include instances of investigations related to the initial licensure and/or certification processes.

¹¹ Board policy clarifies that as Board staff conduct complaint investigations and obtain additional information, the priority level may change.

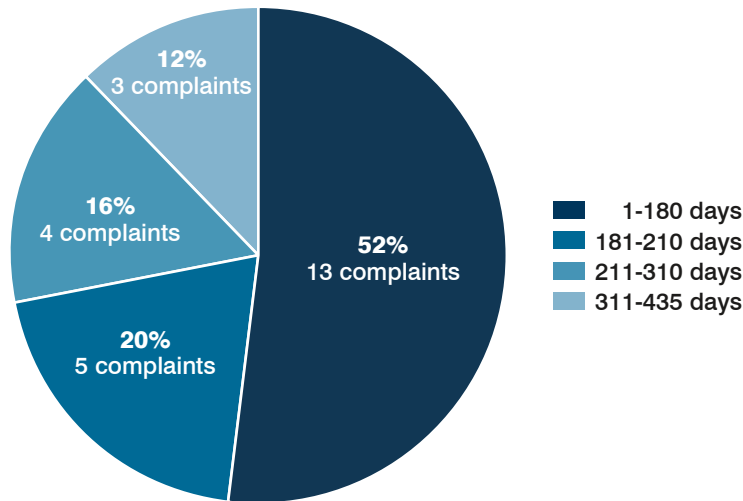
¹² Priority 2 complaints are moderate risk and include allegations such as medication or treatment errors, and priority 3 complaints are low risk and include allegations such as an isolated event or documentation errors.

¹³ To assess the Board's timeliness in investigating and adjudicating complaints, we reviewed 2 random samples of closed complaints the Board received in fiscal year 2020, including 20 of the 194 complaints that the Board closed and 5 of the 131 complaints that the Executive Director closed either through dismissal or by issuing a letter of concern.

longer than the Board anticipated during the time this complaint was being investigated.¹⁴ As a result, the Board took 301 days to substantiate the complaint's allegations and resolve the complaint. The licensee agreed to a consent agreement that required a period of suspension followed by a period of probation (see the next section for additional information). For the remaining 11 complaints we reviewed that the Board took more than 180 days to resolve, it had categorized 4 of these complaints as priority 2 and 7 complaints as priority 3.

Figure 1

Board resolved 13 of 25 complaints we reviewed in 180 days but took more than 180 days to resolve the other 12 complaints



Source: Auditor General staff analysis of Board documentation for 25 randomly selected closed complaints we reviewed that the Board received in fiscal year 2020.

Additionally, we reviewed a random sample of 10 open complaints as of December 18, 2020, that the Board received in fiscal year 2020, and at that time, all 10 complaints had exceeded the 180-day time frame.¹⁵ Since that time, the Board resolved 2 of the 10 complaints—1 complaint took 337 days to resolve and resulted in a letter of concern and the other complaint took the Board 621 days to dismiss. As of July 7, 2021, the other 8 complaints remained open between 391 and 681 days.

When Board is slow to resolve complaints, patient safety may be negatively affected

Untimely complaint resolution may negatively impact patient safety when delays allow licensees and certificate holders alleged to have violated Board statutes and rules to continue to practice while under investigation even though they may be unfit to do so. For example, as discussed previously, the untimely priority 1 complaint alleged that the nurse failed to recognize and manage postpartum complications, including hemorrhaging, and delayed presenting the patient for a higher level of care. The Board entered into a consent agreement with the nurse to revoke her license and agreed to postpone the revocation pending the nurse fulfilling specific requirements. This included suspending her RN license and APRN certificate until she completed required continuing education, followed by a probation period for a minimum of 24 months during which time the nurse can practice only

¹⁴ The Board explained that although it has contracted with outside specialists to assist with investigations, because the staff investigator was able to continue with the investigation—working when she was able to do so during her leave, although at a slower pace than expected—the Board made the decision to allow the investigator to continue the complaint investigation rather than contracting with an outside specialist who would need time to learn about the complaint and current status of the investigation to continue the process.

¹⁵ We reviewed a random sample of 10 of 534 complaints the Board received in fiscal year 2020 that had an open status as of December 18, 2020. Of the 10 open complaints, the Board categorized 4 complaints as priority 2 and 6 complaints as priority 3.

in Arizona.¹⁶ While on probation, the nurse is required to notify the Board when employed as an RN or nurse midwife, notify her employer of the terms of the Board's order, and request all nursing employers to provide monthly performance evaluations to the Board. Despite this action, the Board took 301 days to resolve this complaint, during which time the nurse continued to practice without restriction.

Board has addressed prior audit recommendations regarding complaint-resolution timeliness and attributed untimely complaint resolution to high investigative caseloads

Board has addressed prior audit recommendations regarding complaint-resolution timeliness—In both our 2001 and 2011 performance audits and sunset reviews of the Board, we found and reported on the Board's untimely complaint resolution and made recommendations to improve it.¹⁷ For example:

- In 2001, we found the Board had excessive investigation time frames and many open investigations. Although the Board had procedures with steps to conduct investigations, the steps did not include time frames for completing them. We recommended that the Board establish internal time frames for each phase of its complaint investigation process to resolve complaints within 180 days and that it resolve all priority 1 complaints within these time frames while working to clear its open investigations. Additionally, although the Board had a computer system to capture complaint investigation data, it did not provide management with accurate and complete information on the status of complaint investigations. We recommended that the Board resolve its computer system issues to generate accurate reports for management to track the status of its open investigations. Based on our follow-up work, the Board implemented these recommendations.¹⁸
- In 2011, we found that although the Board had taken steps to improve complaint-resolution timeliness, over half the complaints we reviewed took more than 180 days to resolve. We recommended the Board expand its practice, as appropriate, of drafting, negotiating, and having licensees/certificate holders sign consent agreements prior to investigations going to the Board for initial review to reduce delays; modify procedures and controls to address missing and inconsistent data in its database for tracking and monitoring timeliness; and implement a process for reviewing inactive complaints. Based on our follow-up work, the Board implemented these recommendations.¹⁹

The Board has continued to implement policies, procedures, and/or guidance consistent with our prior audit recommendations. For example, the Board has implemented the following:

- An investigative guidelines policy that states complaint investigations should be completed within an overall average of 180 days of receiving a complaint and provides time frames for various phases of the complaint investigation process. For example, this policy requires staff to:
 - Notify the licensee or certificate holder of the complaint and request additional information from him/her within 30 days of complaint receipt.
 - Issue any required initial subpoenas within 30 days of complaint receipt and continue to subpoena documents, as necessary, in the following 90 days.²⁰
 - Research and draft information for the consent agreement, including Board options, before the Board meeting when the complaint is scheduled for the Board's initial review.

¹⁶ The nurse's RN license and APRN certificate remained on probation status as of July 2021.

¹⁷ See Arizona Auditor General Reports 01-21 *Board of Nursing* and 11-02 *Arizona State Board of Nursing*.

¹⁸ See Arizona Auditor General Report 01-21 *18-Month Follow-up Report*.

¹⁹ See Arizona Auditor General Report 11-02 *18-Month Follow-up Report*.

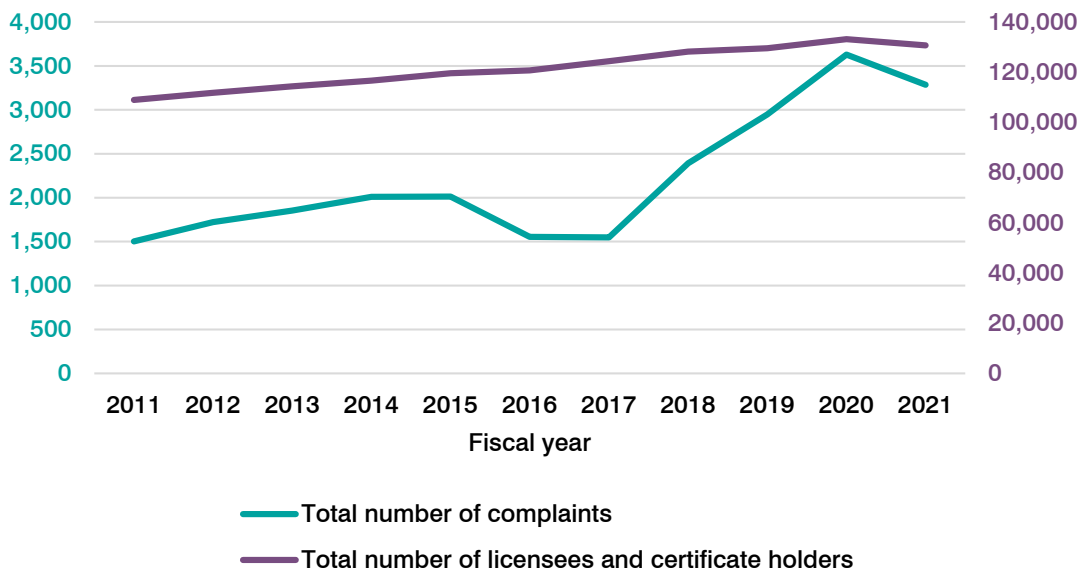
²⁰ The Board may issue subpoenas to obtain information relevant to the investigation, such as the licensee's or certificate holder's employment information or patient medical records.

- Procedures for tracking and monitoring complaint investigations to identify when complaints experience delays in the investigation process. For example, managers can generate a report showing each investigator's caseload and how long a complaint investigation has been open. Board staff explained that during regular meetings with Board investigators, managers review this report with individual investigators and discuss the priority levels of open complaints to help ensure priority 1 complaint investigations proceed in a timely manner.

Board attributed untimely complaint resolution to high investigative caseloads—The Board reported high investigative caseloads as the primary reason for untimely complaint resolution, which it attributed to an increase in the combined number of complaints and licensure investigations opened each fiscal year. Specifically, the Board reported a 119 percent increase between fiscal years 2011 and 2021 in the number of complaints it received or opened, from 1,503 in fiscal year 2011 to 3,286 in fiscal year 2021. As shown in Figure 2, this increase coincides with a 20 percent increase in the number of Arizona licensees and certificate holders during the same time period, from 108,944 in fiscal year 2011 to 130,690 in fiscal year 2021. According to the Board, the increase in investigations has resulted in average caseloads that are above its reported caseload goal of 60 cases per investigator that it believes would enable staff to resolve complaints within 180 days.²¹ For example, on July 29, 2021, the average caseload was approximately 87 cases per investigator.

To help address its high caseloads, the Board requested and received an additional 3.5 FTE investigative positions for fiscal year 2022, which it expects will help lower its caseloads.²²

Figure 2
Number of (1) complaints received or opened and (2) licensees and certificate holders
Fiscal years 2011 through 2021
(Unaudited)



Source: Auditor General staff review of Board documents.

²¹ The Board calculated its caseload goal of 60 cases per investigator by taking the average number of hours an investigator works annually divided by the average number of hours to investigate a complaint. Additionally, a 2020 NCSBN survey of 26 state nursing regulatory bodies found that the majority of the states reported 50 cases or less per investigator as an ideal caseload for completing investigations within 6 months.

²² The Board reported it discussed the need for additional investigative staff with State budget staff in prior years but did not receive support for a staffing increase until preparing its fiscal year 2022 budget request.

Recommendations

The Board should:

1. Investigate and adjudicate complaints within 180 days and, as necessary, use its complaint-prioritization categories to focus its resources on resolving the highest-risk complaints first.
2. Assess the impact of the requested investigator positions on its complaint-resolution timeliness and determine if it needs to request additional resources to resolve complaints within 180 days. If the Board determines that it needs additional resources, it should work with the Legislature to obtain these resources.

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



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 Board. The sunset factor analysis includes additional findings and recommendations not discussed earlier in the report.

Sunset factor 1: The objective and purpose in establishing the Board and the extent to which the objective and purpose are met by private enterprises in other states.

The Board's mission is to protect and promote the welfare of the public by ensuring that each person holding a nursing license or certificate is competent to practice safely. The Board's responsibilities include issuing licenses and certificates to qualified individuals; approving prelicensure nursing education programs, APRN programs, and nursing assistant training programs; and investigating complaints against licensees and certificate holders.

We did not identify any states that met the Board's objectives and purpose through private enterprise. According to NCSBN, all 50 states, the District of Columbia, and 4 U.S. territories have a jurisdictional governmental body responsible for regulating nursing. Additionally, we contacted 5 states that regulate licensees and certificate holders—California, Colorado, Nevada, New Jersey, and Utah—and found that none used private enterprises to regulate nursing professionals.

Sunset factor 2: The extent to which the Board has met its statutory objective and purpose and the efficiency with which it has operated.

The Board generally met its statutory objective and purpose for several areas we reviewed. Specifically, the Board:

- **Ensured licensure and certification applicants met applicable initial licensure or certification requirements for the applications we reviewed except for ensuring 2 applicants provided adequate documentation to verify lawful presence**—Our review of random samples of 60 applications for initial licensure or certification, including 30 endorsement applications (an application based on valid licensure or certification in another state), found that the Board ensured applicants met education, examination, experience/training, and fingerprint requirements, as required by statute and rule, prior to issuing an Arizona license or certificate (see Table 3, page 14, for a summary of our review and Table 4 in Appendix A, page a-1, for a summary of key statutory and rule requirements for each license/certificate type).²³ Additionally, we reviewed a random sample of 5 of the 28 applications the Board received in fiscal year 2020 requesting prescribing and dispensing authority and found that the Board approved prescribing and dispensing authority for APRNs who met rule requirements.²⁴






However, the Board did not ensure that 2 applicants provided all documentation required to verify lawful presence. Specifically, A.R.S. §41-1080 requires the Board to obtain documentation from applicants to verify lawful presence, such as a foreign passport with a U.S. visa for non-U.S. citizens. Although the Board accepted a U.S. visa from 2 applicants, it did not also ensure these applicants submitted their foreign passports. After we discovered these deficiencies, the Board contacted the licensees and obtained copies of their foreign passports, and upon the provision of passports, the licensees then fully met the statutory documentation

²³ We reviewed the following random samples of initial licensure or certification applications the Board received in fiscal year 2020: 25 of the 7,405 RN licensure applications; 5 of the 270 RN international education licensure applications; 10 of the 877 LPN licensure applications; 10 of the 1,864 LNA licensure applications; and 10 of the 4,133 CNA certification applications.

²⁴ The Board grants prescribing and dispensing authority to APRNs to order a medication, medical device, or appliance for a patient and to dispense a controlled substance or legend drug to an ultimate user.

requirement for lawful presence. The Board explained that staff error caused the deficiency in both instances and provided its policy and a separate document that includes guidance for Board staff to ensure applicants submit the required documentation to verify lawful presence. Additionally, during the audit and in response to our identifying this deficiency, the Board reported that it provided training to its licensing staff to ensure staff understand the statutory requirement to verify lawful presence.

Table 3
Summary of Board’s key licensure/certification requirements we reviewed

License or certificate type	Education 	Examination 	Practice Requirement ¹ 	Lawful presence 	Fingerprint-based criminal history check 
Registered nurse	All 25 verified	All 25 verified	All 15 endorsement applications verified	All 25 verified	All 25 verified
Registered nurse with international education	All 5 verified	All 5 verified	All 4 endorsement applications verified	2/5 partially verified	All 5 verified
Licensed practical nurse	All 10 verified	All 10 verified	All 5 endorsement applications verified	All 10 verified	All 10 verified
Licensed nursing assistant	All 10 verified	All 10 verified	Both endorsement applications verified	All 10 verified	All 10 verified
Certified nursing assistant	All 10 verified	All 10 verified	All 3 endorsement applications verified	All 10 verified	N/A

¹ LNA endorsement applicants who have completed their nursing assistant training program and passed the required examination within 2 years of application are not required to also meet the practice requirement. One of the 3 LNA endorsement applicants we reviewed completed a training program and passed the required examination within 2 years of applying for licensure.

Source: Auditor General staff review of 60 applications for initial licensure or certification the Board received in fiscal year 2020.

- Ensured all renewal licensure or certification applications we reviewed met statute and rule requirements**—Rule requires RN, LPN, LNA, and CNA licensure or certification renewal applicants to attest to completing practice hours (see Sunset Factor 11, page 24, for additional information on the practice requirement). RN and LPN applicants must attest to completing a minimum of 960 practice hours within the 5 years prior to renewal, LNA applicants must attest to completing 160 practice hours every 2 years since the last license issuance date, and CNA applicants must attest to completing a least 8 practice hours within the past 24 consecutive months. Based on our review of a random sample of 10 renewal applications, the Board ensured that all 10 applicants either attested to meeting the applicable practice requirement or provided additional information to verify meeting the practice requirement when the database flagged the application for manual review because the applicant did not attest to meeting this requirement.^{25,26}

Rule also requires RN, LPN, and LNA license renewal applicants to disclose pending investigations and/or disciplinary action taken against the applicant’s license and to also provide information about criminal activity

²⁵ The Board has an automated process for renewal applications, and all licenses/certificates are automatically renewed unless there is an issue with a renewal application, in which case the application is sent to Board staff for manual review. For example, a renewal application may be forwarded to staff for manual review because the applicant did not attest to meeting the practice-hour requirement or disclosed disciplinary action against their license since the last renewal, or for administrative matters such as a change of name or address.

²⁶ We reviewed a random sample of 10 of the 1,147 renewal applications the Board received in fiscal year 2020 that we worked with Board staff to identify as flagged because these applications reflected a deficiency connected to a key statutory or rule requirement, such as not meeting the practice requirement or indicating criminal activity.

since initial issuance or last renewal of the license.²⁷ Of the 10 renewal applications we reviewed, the database flagged 5 for manual review—3 applications because the applicant indicated a pending investigation and/or disciplinary action and 2 applications because the applicant indicated criminal activity. We found that Board staff ensured all 5 applicants provided sufficient details about the matters to determine the disclosures did not prohibit license renewal.

Finally, A.R.S. §32-3248.02 requires APRNs who are authorized to prescribe schedule II controlled substances and have a valid U.S. Drug Enforcement Administration (DEA) registration number to complete a minimum of 3 hours of opioid-related, substance use disorder-related, or addiction-related continuing education each license renewal cycle. Our review of a random sample of 5 APRN certification renewal applications found that Board staff ensured all 3 applicants required to submit documentation verifying completion of 3 hours of continuing education did so.²⁸

- **Issued and renewed licenses or certificates in a timely manner for the applications we reviewed—**The Board issued and renewed licenses and certificates we reviewed within its established time frames. Specifically, AAC R4-19-102 requires the Board to review individual licensure and certification applications and issue/deny or renew the license or certificate within the following time frames:
 - Initial RN, LPN, LNA, and CNA applications within 150 days if the Board does not open an investigation during the licensure process and 270 days if the Board opens an investigation.
 - Renewal RN, LPN, LNA, and CNA applications within 120 days if the Board does not open an investigation during the renewal and 270 days if the Board opens an investigation.
 - Initial and renewal APRN applications within 150 days if the Board does not open an investigation and 270 days if the Board opens an investigation.
- **Denied licenses to RN and LPN applicants who did not meet requirements for the applications we reviewed—**Our review of a random sample of 5 initial RN and 3 initial LPN applications the Board denied found that it appropriately denied all 8 applications.²⁹ Specifically, 2 of the 5 RN applicants self-declared to the Board an inability to safely practice nursing; a 3rd RN applicant failed to meet standards of patient documentation and refused to enter into a consent agreement to obtain licensure; a 4th RN applicant failed to disclose criminal activity; and the 5th RN applicant failed to meet the statutory requirement for absolute discharge from all felony convictions 3 years prior to the application submission date. Two of the 3 initial LPN applicants violated multiple statutes, including failure to disclose criminal activity. The 3rd initial LPN applicant failed to respond to the Board's request for additional information about criminal activity the applicant did not disclose on the licensure application.
- **Denied all but 1 application we reviewed in a timely manner—**Of the 8 denied licensure applications we reviewed, the Board denied all but 1 in a timely manner. Specifically, AAC R4-19-102 requires the Board to deny all initial licensure applications within an overall time frame of 270 days if the Board opens an investigation during the licensure process. For the 1 application, the Board exceeded this overall time frame to deny the

²⁷ Although rule does not include these requirements for CNA renewal applicants, the Board's CNA renewal application requires applicants to provide this information.

²⁸ We reviewed a stratified random sample of 5 of 16 APRN certification renewal applications the Board received in fiscal year 2020 and that the database flagged for manual review when the applicant indicated they had a DEA registration number and did not complete 3 hours of continuing education hours for renewal.

²⁹ We reviewed a random sample of 5 of the 13 initial RN licensure applications and all 3 LPN applications the Board denied between May 2019 and May 2020. We did not review denials of other license/certificate application types because the process to deny a license/certificate is the same regardless of license/certificate type, and our review of RN and LPN licensure denials sufficiently tested the Board's process to deny licensure/certification applications.

license by 412 days.³⁰ The Board explained that various unique circumstances contributed to the delay in processing this application, including transitioning to a new computer system, staff-caused delays, and the lack of timely responses from the applicant to multiple requests for information during the investigation. When the Board received this application in 2017, it reported that it was using a manual process to track licensure investigations. The Board has since implemented a database that allows Board staff to track investigations and generate a report for each investigator that indicates how long an investigation has been opened for each pending license application. Board staff explained that these licensure investigation monitoring reports are provided to investigative staff each month. Board staff further confirmed that since implementing the new database, the Board has not experienced timeliness delays with investigations during the licensure process.

However, we identified deficiencies in 3 Board processes. Specifically, the Board:

- **Allowed an APRN certificate to remain active after the RN license expired**—Rule requires initial APRN certification applicants to hold a current Arizona RN license in good standing or an RN license in good standing from another compact state with multistate privileges.³¹ According to rule, APRN certificates should expire no later than when the RN license expires.³² However, we identified an APRN certificate that remained active after the nurse's multistate RN license issued by another compact state had expired. The nurse's RN license expired on April 30, 2021, and on Monday, May 3, 2021, the Board's database reflected that the APRN certificate remained active. Based on our inquiry, Board staff reviewed the status of the certificate and changed it to "expired." Board staff explained that its database is not able to link an Arizona APRN certificate to a multistate RN license issued by another compact state but that NCSBN notified the Board that this will be a future upgrade to the database. Until this change is made, Board staff reported that staff generate a monthly report that is used to compare the Arizona APRN certificate expiration date to the multistate RN license expiration date. When the APRN certificate expiration date is a later date than the expiration date of the RN license expiration date, staff manually adjust the APRN expiration date in the database to align with the RN license expiration date.

Based on our inquiry, the Board discovered that after recent staff turnover, a miscommunication about which staff person should run the report resulted in no one running the report, which resulted in the error discussed above. In May 2021, the Board developed a new policy that documented its practice to generate the monthly report and make the changes to the APRN certificate expiration date, as necessary, and requires supervisory review of the process. The Board began implementing this new policy in June 2021 and reported that, as of August 2021, staff were working to manually change the APRN certificate expiration dates to match the RN license expiration dates for all active APRN certificate holders.

- **Had not developed policies and procedures to periodically review fees**—A.R.S. §32-1643 establishes the maximum amounts the Board may charge for all license and application fees except CNA certification fees for applicants who apply by endorsement. The Board has charged the maximum statutory amount for all its fees since 2002. Although the Board performed an analysis comparing its regulatory costs to fee revenues in January 2021, the Board had not developed policies and procedures to regularly review the appropriateness of its fees as recommended by best practices. Specifically, government fee-setting standards and guidance state that user fees should be based on the costs of providing a service and reviewed periodically to ensure

³⁰ The Board opened an investigation during the licensure process because the applicant did not provide information to the Board about criminal activity that occurred 2 days after he submitted his application for licensure to the Board. Because the Board did not deny the applicant's request for licensure within established time frames, A.R.S. §41-1077 requires the Board to refund all application fees to the applicant within 30 days after the overall time frame expires and pay a penalty to the State General Fund. Board staff confirmed in July 2021 that they did not refund the application fees or pay the penalty; however, based on our work, the Board agreed that it is subject to this statutory requirement and will refund the fees and pay the penalty to the State General Fund. As of July 9, 2021, the Board reported it had been unable to locate the applicant to refund the fees.

³¹ AAC R4-19-505.

³² AAC R4-19-506.

they are based on the costs of providing a service.³³ During the audit, in July 2021, the Board developed a new policy and procedures that require Board staff to review the appropriateness of its fees every 5 years by analyzing the costs of its regulatory processes, comparing these costs to the associated fees, determining the appropriate licensing fees, and then revising its fees as needed.

- **Has not remitted all required revenues to the State General Fund**—A.R.S. §§32-1611 and 32-1663.01 require the Board to remit 100 percent of civil and administrative penalties and 10 percent of all other revenues (except federal monies) to the State General Fund. However, the Board did not properly classify its credit card revenues in fiscal year 2018, which resulted in the Board remitting less of its nonpenalty revenues than required to the State General Fund. The Board attributed this error to an outdated cashiering system and manual accounting processes that have since changed. Further, although the Board made accounting adjustments in fiscal years 2019 and 2020 to help correct this error and remitted additional monies to the State General Fund, the Board estimated that it still needed to remit approximately \$348,000 in nonpenalty revenues to the State General Fund as of July 2021.

Additionally, the Board has not remitted 100 percent of both civil and administrative penalties to the State General Fund, which also impacts this estimate. Specifically, Board staff remitted 100 percent of civil penalties but reported remitting only 10 percent of administrative penalties prior to November 2019. In November 2019, Board staff began remitting 100 percent of administrative penalties but only 10 percent of civil penalties. The Board will need to research how long it has not remitted 100 percent of both penalties to determine the correct amount owed to the State General Fund and reported that it plans to remit all monies owed once it determines the correct amount it must remit.

Recommendations

The Board should:

3. Continue to implement its new policy to review and align Arizona APRN certificate expiration dates with the expiration date of the multistate RN license issued by another state when the RN license expiration date is before the APRN certificate expiration date to ensure Arizona APRN certificate holders have an active RN license.
4. Implement its new policy and procedures to periodically review the appropriateness of its fees.
5. As soon as possible, determine the correct amount that should be remitted to the State General Fund due to its misclassification of fiscal year 2018 credit card revenues and unremitted civil and administrative penalties, including researching how long it has not remitted 100 percent of both penalties, and remit these monies to the State General Fund.
6. Ensure it remits 100 percent of future civil and administrative penalties to the State General Fund.

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

Sunset factor 3: The extent to which the Board serves the entire State rather than specific interests.

The Board serves the entire State by licensing and certifying individuals and approving prelicensure nursing education programs and nursing assistant training programs. However, we found that the Board had not complied with some conflict-of-interest requirements prior to our audit and could further enhance its conflict-of-interest practices by implementing some recommended practices.³⁴ Arizona law requires employees of public agencies and public officers, including Board members, to avoid conflicts of interest that might influence or

³³ We reviewed fee-setting guidelines from the Arizona State Agency Fee Commission, Government Finance Officers Association, Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, U.S. Government Accountability Office, and U.S. Office of Management and Budget (see Appendix B, pages b-1 through b-3, for more information).

³⁴ See Appendix B, page b-2, for additional information on recommended practices we reviewed.

affect their official conduct.³⁵ These laws also require certain interests to be fully disclosed in a public agency's official records, either through a signed document or the agency's official minutes. Statute further requires that public officers/employees who have disclosed conflicts to refrain from participating in matters related to the disclosed interests. To help ensure compliance with these statutory requirements, the Arizona Department of Administration's (ADOA) 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." Finally, statute 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.

In addition, recommended practices indicate that conflict-of-interest disclosure statements should affirm no conflict exists and be signed annually, which reminds public officers/employees of the importance of complying with conflict-of-interest laws and helps ensure that potential conflicts are disclosed if their circumstances change. 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.

The Board was taking some steps to ensure its decisions were free of conflicts of interest prior to our audit. Specifically, we reviewed the Board's meeting minutes between September 2019 and July 2020 and found instances where Board members verbally recused themselves during Board meetings for specific matters on the agenda, and the Board's official minutes documented members' verbal recusals. Additionally, Board members who verbally recused themselves refrained from voting in matters when they declared having a conflict. However, the Board did not adhere to all conflict-of-interest statutory requirements prior to our audit, including documenting the details of Board members' recusals in the official record and maintaining a special file containing conflict-of-interest documentation available for public review. Consequently, the Board could not ensure, or assure the public, that its decisions were free of conflict and/or undue influence.

During the audit, the Board implemented a conflict-of-interest policy to align with statutory requirements and recommended practices, including requiring Board members who verbally recuse themselves during a Board meeting to complete a conflict-of-interest form that includes details of the recusal and requiring Board members and staff to sign an annual disclosure statement that also affirms if no conflicts exist. The policy also includes a process for addressing disclosed conflicts, and Board members received conflict-of-interest training at the November 2020 Board meeting. As of January 2021, all Board members and staff had completed an annual disclosure statement. Additionally, the Board provided evidence of an electronic file containing conflict-of-interest documentation that is available to the public.

Recommendation

7. The Board should continue to implement its new conflict-of-interest policy.

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

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

A review of the Board's statutes and rules found that it has adopted rules when statutorily required to do so. According to A.R.S. §32-1606(A), the Board has authority to adopt rules to carry out its statutory duties, which include licensing and certifying individuals and approving prelicensure nursing programs and nursing assistant training programs. The Board has revised its rules 3 times since 2017. The Board most recently revised its rules in 2020, which included (1) several administrative revisions, such as eliminating the requirement for prelicensure nursing programs seeking Board approval to submit paper copies of documents and (2) public health benefit

³⁵ A.R.S. §38-501 et seq.

revisions, such as allowing the Board to issue temporary licenses to applicants while waiting for the results of criminal history records checks, which can cause licensing delays, so that applicants may begin working.

Sunset factor 5: The extent to which the Board has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

The Board has encouraged input from the public and informed the public of its actions and expected impact by involving the public in adopting rules and providing disciplinary information about licensees on its website. Specifically, the Board:

- **Involved the public in adopting rules**—The Board informed the public of its recent rulemakings, including providing opportunities for public input and documenting the expected impact of the changes as part of the rules it finalized in July 2017, June 2019, and December 2020. Specifically, the Board published notices of rulemaking docket opening in the Arizona Administrative Register that included contact information for Board staff who would receive public input about the proposed rulemaking, informed the public when it would accept written comments on proposed rule changes that extended at least 30 days after it published the notice, and included a meeting date when the public could provide input. Additionally, the Board published notices of its proposed rulemakings and included a statement detailing these proposed rules' impact on the public.
- **Provided accurate and appropriate disciplinary information on its website for the RN and LPN licensees we reviewed**—We compared the Board's online licensing information for 13 RNs and LPNs when the Board took disciplinary action and 1 LPN when it took nondisciplinary action from the random sample of 20 complaints closed by the Board that we reviewed in our complaint sample (see Finding 1, pages 8 through 12, and Sunset Factor 6, pages 22 through 23, for additional information about our complaints review).³⁶ We found the Board's website appropriately included disciplinary information for the 13 licensees when it substantiated the complaint allegations and appropriately did not include information about nondisciplinary action taken against 1 licensee, as required by A.R.S. §32-3214.

However, we found that the Board did not consistently comply with open meeting law requirements we reviewed and did not provide sufficient information for anonymous phone calls we made or on its website for some licensees and certificate holders. Specifically, the Board:

- **Did not consistently comply with open meeting law requirements we reviewed**—We attended 6 public meetings held between November 2020 and March 2021, including 3 Board meetings (which occur over 2 days), 2 Education Committee meetings, and 1 Scope of Practice Committee meeting. Although the Board complied with some provisions of open meeting law we reviewed for these meetings, we also found instances of noncompliance.³⁷ For example:
 - The Board posted meeting notices and agendas on its website at least 24 hours in advance for 5 of the 6 meetings, although for 1 of these meetings, the Board posted an incorrect notice and agenda (see next bullet). For the 6th meeting, although the Board posted the notice and agenda for the November 2020 Board meeting on its website 24 hours in advance, it should have posted it 48 hours in advance because a State holiday preceded the meeting date. Statute requires a 24-hour notice of public meetings to the public and specifies that State holidays are excluded from this 24-hour period. The Board reported it was not aware that State holidays should be excluded when considering the 24-hour posting requirement, and it ratified all legal action taken at its next Board meeting.
 - The Board included statutorily required information in the notices and agendas for 5 of the 6 meetings we tested, including providing the date and time of the meeting and listing agenda items. For the sixth

³⁶ We also reviewed an additional 5 complaints the Board's Executive Director either dismissed or responded to by issuing a letter of concern to the nurse. For each of these 5, the dismissal and the letter of concern would not appear in the nurses' online records per statutory requirements.

³⁷ A.R.S. §38-431 et seq.

meeting—the February 5, 2021, Education Committee meeting—the Board did not post the correct notice and agenda and, thus, held the meeting in violation of open meeting law. The Board discovered its mistake during the meeting and abruptly adjourned then rescheduled the meeting for February 12, 2021. The Board explained that technical difficulties with its website caused the error.

- The Board did not provide meeting minutes within 3 working days for 1 of the 3 meetings where we tested for this requirement. The Board explained that the delay resulted from a staff misunderstanding concerning the process to provide written minutes.

Arizona has enacted open meeting laws to protect both the public and the Board. These laws are designed to maintain integrity of government, to inform the public, and to build trust between the government and the people of Arizona. When the Board does not comply with open meeting law requirements, it may be viewed as a lack of transparency and may negatively impact the public's trust in the Board. Additionally, the lack of adequate public notice of a meeting may limit public participation/prevent people from attending the Board's meeting who may want to attend and/or participate in these public meetings.

During the audit, the Board developed 2 new open meeting law policies. The first policy provides guidance for staff to ensure the correct meeting notice and agenda for its public meetings is posted and available to the public as required by open meeting laws, including information on holiday exclusions for the 24-hour posting time frame, and requires multiple Board staff reviews of public meeting notices and agendas before and after posting to the Board's website. The second policy requires staff to post a digital recording or the draft minutes for all public meetings to its website within 3 days to avoid confusion with providing written minutes and to ensure compliance with open meeting laws. Finally, the Board added a statement to its website informing the public that it records all public meetings and also included links to obtain audio recordings for all public meetings.

- **Did not provide sufficient public information in response to anonymous phone calls we made**—We placed a total of 3 anonymous phone calls to the Board in March and April 2021 and requested information about licensees with varying disciplinary histories to test the Board's compliance with statutory requirements and to determine whether the Board provided helpful, accurate, and appropriate information to the public.³⁸ A.R.S. §32-3214 indicates the Board should provide public records related to any licensee or certificate holder, including dismissed complaints and nondisciplinary actions, when contacted directly, such as contacting the Board by phone. For all 3 phone calls, the Board provided some accurate information about the licensees, including confirming license status and referring the callers to Nursys for disciplinary information about the licensees, and appropriately did not disclose a pending investigation against 1 licensee.³⁹ However, the Board also provided insufficient information in our calls. For example:
 - For 2 calls, Board staff did not disclose to either caller that both nurses had a dismissed complaint or inform the callers that the Board could provide general information about the nurse, such as license status and any nondisciplinary actions. Although the staff person referred the callers to Nursys in both instances, statute prohibits the Board from including dismissed complaints on the website.
 - For all 3 calls, when the callers asked how they may obtain additional information about the licensee, Board staff referred all 3 to Nursys but did not inform callers that the Board could provide additional information over the phone about a nurse, such as dismissed complaints or nondisciplinary actions.

During the audit, the Board revised an existing policy and procedure and developed a new policy and procedure to address issues we encountered. The revised policy indicates that requests for public information may be made in person, in writing, by phone, or by email and identifies the types of documentation that must

³⁸ We judgmentally selected 3 licensees from our random samples of closed and open complaints, including 2 RNs who both have an APRN certificate—1 RN with a dismissed complaint and 1 RN with a substantiated complaint whose license is on probation as of June 2021—and 1 LPN with an ongoing complaint investigation as of May 2021 (See Appendix B, pages b-1 through b-3, for additional information about our samples).

³⁹ See the Introduction, page 4, for additional information about Nursys.

be disclosed in response to information requests, including letters of dismissal, consent agreements, and letters of concern. The Board also developed a new policy that includes guidance specifically for providing information over the phone. The new policy directs Board staff to refer callers to the website to obtain license/certificate and disciplinary information about a licensee or certificate holder.⁴⁰ The new policy also requires staff to inquire whether the caller would like additional information, such as for dismissed complaints, and to offer to provide this information. Finally, the policy also confirms that all Board staff will release information as required by A.R.S. §32-3214, including disciplinary and nondisciplinary information and dismissed complaints. Additionally, the Board reported it provided a training for its staff to clarify the information that should be provided to ensure all staff comply with statutory requirements to provide publicly available information.

- **Did not provide all required public information on its website for some LNA licensees and CNA certificate holders we reviewed**—We compared the Board’s online licensing information to random samples of 6 of the 25 instances where the Board took disciplinary action against LNAs and 5 of the 9 instances where the Board substantiated complaints against CNAs in fiscal year 2020 to ensure its website provided information as required by statute.⁴¹ We found that the Board’s website did not reflect disciplinary information for 4 of the 6 LNAs or substantiated complaint information for all 5 CNAs. According to the Board, the database that supports the website contained the information for 2 of the 4 LNAs; however, technical issues resulted in the information being visible on the website to only some users but not to others. Additionally, the Board reported that the website did not display the information for the remaining 2 LNAs and all 5 CNAs because the former staff member responsible for this process did not follow the Board’s procedures for ensuring the information is available on the Board’s website.⁴²

In response to and during the audit, the Board reported that it provided guidance to the new staff person responsible for this process on its procedures for ensuring that disciplinary information for LNAs and substantiated complaint information for CNAs is accurately uploaded to its database and displayed on its website. The Board also reported that it will update its written policies and procedures to reflect these procedures after its database undergoes a substantial upgrade, which will change how the database functions and should be completed by August 2021.

Finally, statute requires health profession regulatory boards to display a statement on their website that a person may obtain public records related to any licensee or certificate holder, including dismissed complaints or nondisciplinary actions, by contacting the Board directly. Although the Board had included this statement on its website prior to the audit, it was located only in the LNA/CNA directory. During the audit, the Board added the statement to its more accessible “Contact Us” webpage.

Recommendations

The Board should:

8. Continue to implement its new open meeting law policies and procedures.
9. Continue to implement its new and revised public information policies and procedures.
10. Continue to follow its procedures for ensuring that disciplinary information for LNAs and substantiated complaint information for CNAs is accurately uploaded to its database and displayed on its website, and update its written policies and procedures to reflect these procedures after its database is upgraded.

⁴⁰ The new policy also specifies that if an individual would prefer to have information provided over the phone that staff should direct the call to the appropriate staff person to provide this information.

⁴¹ A.R.S. §32-1646 limits the Board’s regulation of CNAs to investigating allegations of abuse, neglect, or misappropriation of property and does not give the Board the authority to take disciplinary action against CNAs. If complaint allegations are made against a CNA, the Board follows its investigative process, and if it finds a CNA has violated statute and/or rule, it substantiates the complaint and reports this information on its website.

⁴² We confirmed that as of July 2021, the Board updated the online records for all 4 LNAs and all 5 CNAs to include accurate public information.

11. Conduct a risk-based review of its online information for LNAs and CNAs to ensure the information on its website is complete and accurate.

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 has been able to investigate and resolve complaints that are within its jurisdiction.

The Board has statutory authority to investigate and adjudicate complaints within its jurisdiction and may take various actions based on the complaint investigation outcomes (see textbox).⁴³ The Board reported that it received 2,036 complaints against licensees and certificate holders in fiscal year 2020 (excluding complaints the Board opened as part of the licensure/certification process). Our review of random samples of 37 complaints found that the Board followed its policies and procedures for handling these complaints.⁴⁴ For example, the Board/Board staff:

- Followed the Board's investigative process as documented in policy when it investigated and adjudicated the 25 closed complaints we reviewed, including notifying the licensee/certificate holder, interviewing witnesses, and issuing subpoenas, as applicable.⁴⁵
- Complied with statutory requirements to promptly hold a hearing after summarily suspending a license for the 2 summary suspensions we reviewed.⁴⁶
- Followed the Board's process for determining whether licensees are eligible for the ATD Program and completed the required documentation to enroll them in the program within 180 days of making this determination during the complaint-resolution process.⁴⁷ Specifically, for the 5 complaints we reviewed that the Board transferred to the ATD program, it ensured that licensees completed an initial screening or provided

Actions Board may take based on complaint investigation outcomes

- Disciplinary actions:
 - Civil penalty (not to exceed \$1,000 per violation)
 - Decree of censure
 - Limited licensure
 - Probation
 - Restitution
 - Revocation
 - Suspension
 - Voluntary surrender
- Nondisciplinary actions:
 - Letter of concern
 - Administrative penalty
- Dismissal

Source: Auditor General staff analysis of A.R.S. §§32-1601, 32-1663.01, and 32-1664, and the *Arizona agency handbook*. Arizona Office of the Attorney General. (2018). *Arizona agency handbook*. Phoenix, AZ. Retrieved 12/16/2020 from <https://www.azag.gov/outreach/publications/agency-handbook>.

⁴³ If the Board determines that the public's health, safety, or welfare imperatively require emergency action, A.R.S. §41-1064(C) authorizes the Board to immediately suspend the license or certificate.

⁴⁴ We reviewed a total of 37 complaints the Board received in fiscal year 2020, including random samples of 20 of 194 complaints the Board closed; 5 of 131 complaints the Executive Director closed through dismissal or by issuing a letter of concern; 5 of 823 complaints the Board determined it did not need to investigate; 5 of 48 complaints transferred to the ATD Program; and 2 of 7 complaints that resulted in summary suspension.

⁴⁵ A.R.S. §32-1605.01(C) authorizes the Board's Executive Director to dismiss complaints in specific circumstances or issue letters of concern, and requires these actions to be reported to the Board at the next regular Board meeting. Five of the 25 closed complaints we reviewed were closed by the Executive Director under this authority, and we found the Executive Director reported these actions to the Board at the next regular Board meeting as required.

⁴⁶ Although statute does not indicate a time frame to hold a hearing after a summary suspension, the Arizona Attorney General's *Arizona agency handbook* indicates that the hearing should generally be held less than 60 days after the summary suspension. The Board complied with this time frame for both summary suspensions we reviewed.

⁴⁷ The Board completed its process to determine eligibility and prepare the documentation for all 5 ATD transfers we reviewed within 180 days of making the determination that the ATD program was a viable option for the nurse; however, in 1 instance, the overall time frame to finalize the nurse's participation took 203 days because the next regularly scheduled Board meeting to get the Board's approval was scheduled 28 days after the Board completed the process.

the required documentation to determine eligibility for the ATD Program and signed the stipulated agreement, as required by Board policy, within 180 days of determining that the ATD Program may be a viable option for the licensee.

- Ensured the 5 complaints we reviewed for which the Board did not open an investigation met the criteria. Board policy states that it does not need to open an investigation for complaints that meet certain criteria. For example, complaints with allegations that do not violate its statutes and rules, such as billing disputes or staffing issues, and complaints submitted with insufficient information to enable the Board to conduct an investigation can be closed by the Board without opening an investigation. The Board made the determination not to open an investigation between 0 and 33 days after receipt of the 5 complaints we reviewed.

Finally, as discussed in Finding 1 (see pages 8 through 12), the Board had not resolved some complaints in a timely manner, which is an issue we had identified in previous audits. The Board has implemented recommendations from these past audits and attributed the untimely complaint resolution identified in this current audit to high investigative caseloads. To help address its high caseloads, the Board requested and received an additional 3.5 FTE investigative positions for fiscal year 2022. We recommended that the Board assess the impact of the additional investigator positions on its complaint-resolution timeliness and determine if it needs to request additional resources to resolve complaints within 180 days.

Sunset factor 7: The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under the enabling legislation.

According to A.R.S. §41-192, the Attorney General serves as the Board's legal advisor and provides legal services as the Board requires. Additionally, various enabling statutes authorize criminal and civil legal actions for violations of specified Board statutes.

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

The Board reported that it addressed deficiencies in its enabling statutes when it sought statutory changes in 2017 to revise the scope of practice and prescribing authority for certified registered nurse anesthetists (CRNAs) and exempting physicians or surgeons from liability concerning CRNA malpractice. Specifically, Laws 2017, Ch. 182, §2, amended A.R.S. §32-1634.04 to allow CRNAs to include controlled substances in medication orders for drugs or medications to be administered as specified in statute. The law also gave CRNAs prescribing authority to administer anesthetics or issue medication orders within specific settings. Further, it added language to specify that physicians or surgeons are not liable for the professional actions of CRNAs. According to the Board, these revisions clarified the scope of practice for CRNAs to promote accessible and cost-effective surgical care and removed any perception of physician or surgeon liability for CRNA malpractice.

Sunset factor 9: The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in this sunset law.

We did not identify any needed changes to the Board's statutes.

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

Terminating the Board would affect the public's health, safety, and welfare if its regulatory responsibilities were not transferred to another entity. The Board's regulations help protect the public through licensing and certifying qualified individuals and reviewing and approving related educational and training programs. According to the Board, the public relies on nurses for a broad range of critical services requiring professional judgment and complex, technical skills that, if performed incompetently, could cause harm or death. Additionally, the Board helps protect the public by receiving and investigating complaints against licensees, certificate holders, and educational and training programs, and taking appropriate disciplinary action upon substantiating complaints. For example, the Board facilitated a voluntary surrender of a license within 6 days of receiving a complaint notifying the Board of the nurse's arrest on child exploitation charges. Finally, federal law requires states to

establish a registry of nursing assistants that includes information such as the individual's name and details of any substantiated complaints.

Sunset factor 11: The extent to which the level of regulation exercised by the Board compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.

We judgmentally selected 5 states—California, Colorado, Nevada, New Jersey, and Utah—to compare their level of regulation with the Board and found the regulatory structure for licensees and certificate holders varies among the states.⁴⁸ For example, in California, 2 boards and 1 state agency regulate nurses and nursing assistants. Colorado and Nevada are similar to Arizona in that both states have a board of nursing that regulates nurses and nursing assistants. New Jersey and Utah both have a board of nursing that regulates nurses and a separate agency that regulates nursing assistants. Additionally, as mentioned in the Introduction (see page 2), Arizona both licenses and certifies nursing assistants, whereas the other 5 states only certify nursing assistants.

Despite these differences in regulatory structure, we found the level of regulation the Board exercises for licensees and certificate holders is similar to the level of regulation in the 5 states we reviewed. For example:

- **Education requirements**—Arizona and all 5 states require nursing applicants to complete an approved educational program and nursing assistant applicants to complete an approved training program. Additionally, Arizona and all 5 states require APRN applicants to have a graduate degree in nursing.
- **Examination requirements**—Arizona and all 5 states require nursing applicants to take the NCLEX to be licensed as an RN or LPN. Additionally, Arizona and all 5 states require APRNs to be nationally certified in their specialty area and require nursing assistant applicants to pass examinations for certification.
- **Continuing education**—Arizona and Colorado do not have continuing education requirements for nurses but instead have practice-hour requirements. However, California, Nevada, and New Jersey require nurses to complete at least 30 hours of continuing education every 2 years, and Utah requires nurses to meet a certain number of practice and/or continuing education hours.

Additionally, Arizona, Colorado, and Utah do not have continuing education requirements for nursing assistants but instead have practice-hour requirements. However, Nevada requires nursing assistants to complete both continuing education and practice hours every 2 years, whereas California and New Jersey require nursing assistants to complete in-service training or education.

- **Fingerprint requirements**—Arizona and all 5 other states require nursing applicants to submit fingerprints for criminal history records checks. Additionally, California, Nevada, New Jersey, and Utah have a fingerprint requirement for certified nursing assistants, while Colorado does not. Arizona does not have a fingerprint requirement for certified nursing assistants, although it does have a fingerprint requirement for licensed nursing assistants.

Sunset factor 12: The extent to which the Board has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.

The Board uses third-party vendors to assist in the performance of some of its duties. For example, in fiscal year 2019, the Board entered into a participation agreement with NCSBN to use its cloud-based electronic records management system for licensing and certifying applicants and managing complaint investigations.⁴⁹ Additionally, in fiscal year 2020, the Board contracted with consultants to provide expert review of investigative records, as necessary. The Board also paid for information technology services in fiscal year 2020 to assist with migrating existing web applications to the Google Cloud. Finally, as discussed in the Introduction (see pages 5 through 6), the Board uses RecoveryTrek, a third-party administrator and treatment-monitoring provider, to assist

⁴⁸ LPNs are also referred to as licensed vocational nurses, and nursing assistants as nurse aides. For consistency, we use the terms LPN and nursing assistant in our report.

⁴⁹ The Board entered into this agreement as part of the Compact, and the agreement is automatically renewed every 2 years unless terminated by either party.

in monitoring participants' compliance with ATD Program requirements, although the participants bear the cost of this service.

We compared the Board's use of contractors for these services to those used by 5 states—California, Colorado, Nevada, New Jersey, and Utah. Three states—California, New Jersey, and Utah—reported they did not use contractors in performing their duties. Colorado reported it contracts with a peer assistance provider to assist nurses with substance abuse and mental health disorders affecting their ability to practice with reasonable skill and safety. Additionally, Nevada reported it uses a contractor to provide information technology and database services.

We did not identify any additional areas where the Board should consider using private contractors.



SUMMARY OF RECOMMENDATIONS

Auditor General makes 11 recommendations to the Board

The Board should:

1. Investigate and adjudicate complaints within 180 days and, as necessary, use its complaint-prioritization categories to focus its resources on resolving the highest-risk complaints first (see Finding 1, pages 8 through 12, for more information).
2. Assess the impact of the requested investigator positions on its complaint-resolution timeliness and determine if it needs to request additional resources to resolve complaints within 180 days. If the Board determines that it needs additional resources, it should work with the Legislature to obtain these resources (see Finding 1, pages 8 through 12, for more information).
3. Continue to implement its new policy to review and align Arizona APRN certificate expiration dates with the expiration date of the multistate RN license issued by another state when the RN license expiration date is before the APRN certificate expiration date to ensure Arizona APRN certificate holders have an active RN license (see Sunset Factor 2, pages 13 through 17, for more information).
4. Implement its new policy and procedures to periodically review the appropriateness of its fees (see Sunset Factor 2, pages 13 through 17, for more information).
5. As soon as possible, determine the correct amount that should be remitted to the State General Fund due to its misclassification of fiscal year 2018 credit card revenues and unremitted civil and administrative penalties, including researching how long it has not remitted 100 percent of both penalties, and remit these monies to the State General Fund (see Sunset Factor 2, pages 13 through 17, for more information).
6. Ensure it remits 100 percent of future civil and administrative penalties to the State General Fund (see Sunset Factor 2, pages 13 through 17, for more information).
7. Continue to implement its new conflict-of-interest policy (see Sunset Factor 3, pages 17 through 18, for more information).
8. Continue to implement its new open meeting law policies and procedures (see Sunset Factor 5, pages 19 through 22, for more information).
9. Continue to implement its new and revised public information policies and procedures (see Sunset Factor 5, pages 19 through 22, for more information).
10. Continue to follow its procedures for ensuring that disciplinary information for LNAs and substantiated complaint information for CNAs is accurately uploaded to its database and displayed on its website, and update its written policies and procedures to reflect these procedures after its database is upgraded (see Sunset Factor 5, pages 19 through 22, for more information).
11. Conduct a risk-based review of its online information for LNAs and CNAs to ensure the information on its website is complete and accurate (see Sunset Factor 5, pages 19 through 22, for more information).



Licensure and certification requirements

The Board issues multiple types of licenses and certificates. Applicants must meet key requirements in statute or rule as shown in Table 4.

Table 4
Key statute and rule requirements by license and certificate type

License/Certificate	Key requirements	Legal reference
Registered nurse (RN)	<ul style="list-style-type: none"> Graduate from a Board-approved prelicensure nursing education program. Pass national NCLEX examination. Attest to experience requirement (endorsement applicants). Submit fingerprints for a criminal history records check. Provide lawful presence documentation. Provide documentation to verify graduation from an international nursing program that met standards equivalent to U.S. programs and evidence of English language proficiency (applicants with international education). 	A.R.S. §32-1632 A.R.S. §32-1633 A.R.S. §32-1634.01 A.R.S. §32-1634.02 A.R.S. §41-1080 AAC R4-19-301 AAC R4-19-302 AAC R4-19-312
Licensed practical nurse (LPN)	<ul style="list-style-type: none"> Graduate from a Board-approved prelicensure nursing education program. Pass national NCLEX examination. Attest to experience requirement (endorsement applicants). Submit fingerprints for a criminal history records check. Provide lawful presence documentation. Provide documentation to verify graduation from an international nursing program that met standards equivalent to U.S. programs and evidence of English language proficiency (applicants with international education). 	A.R.S. §32-1637 A.R.S. §32-1638 A.R.S. §32-1639.01 A.R.S. §32-1639.02 A.R.S. §41-1080 AAC R4-19-301 AAC R4-19-302 AAC R4-19-312
Licensed nursing assistant (LNA)	<ul style="list-style-type: none"> Complete Board-approved nursing assistant training program. Pass Board-approved written and skills examinations. Attest to experience requirement (endorsement applicants). Submit fingerprints for a criminal history records check. Provide lawful presence documentation. 	A.R.S. §32-1645 A.R.S. §32-1647 A.R.S. §41-1080 AAC R4-19-806 AAC R4-19-807
Certified nursing assistant (CNA)	<ul style="list-style-type: none"> Complete Board-approved nursing assistant training program. Pass Board-approved written and skills examinations. Submit evidence of being listed on another state's nursing assistant registry (endorsement applicants). Provide lawful presence documentation. 	A.R.S. §32-1645 A.R.S. §32-1647 A.R.S. §41-1080 AAC R4-19-810
Advanced practice registered nurse (APRN)	<ul style="list-style-type: none"> Hold an active RN license in good standing. Complete a Board-approved graduate program in role and population focus. Provide documentation to verify graduation from an international graduate nursing or APRN program that met standards equivalent to U.S. programs (applicants with international education). Evidence of national certification in the role and population focus. Submit fingerprints for a criminal history records check. 	A.R.S. §32-1601 A.R.S. §32-1634.03 AAC R4-19-505
Prescribing & Dispensing (P&D) authority	Key requirements	Legal reference
APRN P&D	<ul style="list-style-type: none"> Be certified by the Board as an APRN. Submit evidence of completing a minimum of 45 contact education hours in the topics of pharmacology and/or clinical management of drug therapy. 	A.R.S. §32-1651 AAC R4-19-511

Source: Auditor General staff review of statute and rule.



Scope and methodology

The Arizona Auditor General has conducted this performance audit and sunset review of the Board pursuant to a September 19, 2018, 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 study the issues in this performance audit and sunset review of the Board. These methods included reviewing Board statutes, rules, and policies and procedures; interviewing Board staff; and reviewing information from the Board's website. In addition, we used the following specific methods to meet the audit objectives:

- To evaluate whether the Board issued initial licenses and certificates to qualified applicants in accordance with statute and rule requirements and in a timely manner, we selected and reviewed random samples of licensure and certification applications the Board received in fiscal year 2020. Specifically, we reviewed random samples of 25 of 7,405 RN license applications; 5 of 270 RN license applications for applicants with international education; 10 of 877 LPN license applications; 10 of 1,864 LNA license applications; and 10 of 4,133 CNA certification applications. To determine if the Board approved prescribing and dispensing authority for APRNs in accordance with rule, we reviewed a random sample of 5 of 28 applications the Board received in fiscal year 2020 requesting this authority. Additionally, to determine whether the Board denied licenses to individuals according to its statutes and rules, we selected and reviewed a random sample of 5 of 13 RN license applications and all 3 LPN license applications the Board denied between May 2019 and May 2020. Finally, to determine whether the Board renewed licenses and certificates according to its statutes and rules, we selected and reviewed a random sample of 10 of the 1,147 licensure and certification renewal applications submitted in fiscal year 2020 that we worked with the Board to identify as automatically flagged by the database for manual review by Board staff because these applications reflected a deficiency connected to a key statutory or rule requirement, such as not meeting the practice requirement or indicating criminal activity.⁵⁰ Additionally, we reviewed a random sample of 5 of 16 APRN certification renewal applications for APRNs that were flagged by the Board's database for manual review because the applicant indicated they had a DEA number and did not complete continuing education hours.
- To evaluate the Board's complaint investigation and adjudication processes, including the timeliness of complaint resolution, we reviewed a total of 37 complaints the Board received in fiscal year 2020, including random samples of 20 of 194 complaints the Board closed; 5 of 131 complaints the Executive Director closed through dismissal or by issuing a letter of concern; 5 of 823 complaints the Board determined it did not need to investigate; 5 of 48 complaints transferred to the Alternative To Discipline Program; and 2 of 7 complaints that resulted in summary suspension. Finally, we selected and reviewed a random sample of 10 of 534 complaints the Board received in fiscal year 2020 that had an open status as of December 18, 2020.

⁵⁰ The Board explained that license and certificate renewal is automatically processed by its database unless a renewal application is flagged by the database for manual review. An application may be flagged because an applicant answered "yes" to a background question, such as reporting disciplinary action against their license since the last renewal period, or for administrative reasons, such as a name change.

- To determine whether the Board has established its fees based on costs, we reviewed Board documentation and best practices for fee setting developed by government and professional organizations.⁵¹
- To assess whether the Board provided information to the public as required by statute, we judgmentally selected 3 licensees from our random samples of 25 closed complaints and 10 open complaints, including 2 RNs who both have an APRN certificate—1 RN with a dismissed complaint and 1 RN with a substantiated complaint whose license is on probation as of March 2021—and 1 LPN with an ongoing complaint investigation as of March 2021. We placed 3 anonymous phone calls to Board staff in March and April 2021 requesting information about the nurses and evaluated the information the Board provided to us against statutory requirements. Additionally, we reviewed information on the Board’s website for 13 of the 20 licensees with complaints closed by the Board from our complaint file review that resulted in disciplinary action and 1 licensee where the Board took nondisciplinary action to assess whether the information on its website was accurate and consistent with statutory requirements. Finally, we selected random samples of 6 of the 25 instances where the Board took disciplinary action against LNAs and 5 of the 9 instances where the Board substantiated complaints against CNAs in fiscal year 2020 and reviewed the online records to determine whether the information on the website was accurate and consistent with statutory requirements.
- To obtain additional information for the Introduction, we reviewed statute, rule, and Board-provided information regarding Board member vacancies and the number of active licensees and certificate holders as of June 2021. In addition, we compiled and analyzed unaudited information from the AFIS *Accounting Event Transaction File* for fiscal years 2019 through 2021, the State of Arizona *Annual Financial Report* for fiscal years 2019 and 2020, and Board-provided estimates for revenue sources in fiscal years 2019 and 2020.
- To obtain additional information for the Sunset Factors, we reviewed information in the Arizona Administrative Register regarding the Board’s most recent rulemakings from July 2017, June 2019, and December 2020 and assessed the Board’s compliance with various provisions of the State’s open meeting law for 6 Board and committee meetings held between November 2020 and March 2021. In addition, 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.⁵² Finally, we judgmentally selected and contacted 5 states—California, Colorado, Nevada, New Jersey, and Utah—and reviewed their regulation of licensees and certificate holders and use of private contractors.⁵³
- Our review on internal controls included reviewing the Board’s policies and procedures for ensuring compliance with Board statutes and rules and, where applicable, testing its compliance with these policies and procedures. Our internal control work was limited to reviewing the control activities component of internal control and its related principles, which were significant to our objectives. We reported our conclusions on these internal controls and, where applicable, Board efforts to improve its controls in Finding 1 and the Sunset Factors.

We selected the previously indicated 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.

⁵¹ We reviewed the following fee-setting best practices: Arizona State Agency Fee Commission. (2012). *Arizona State Agency Fee Commission report*. Phoenix, AZ; U.S. Government Accountability Office. (2008). *Federal user fees: A design guide*. Washington, DC. Retrieved 9/15/2021 from <https://www.gao.gov/assets/gao-08-386sp.pdf>; Michel, R.G. (2004). *Cost analysis and activity-based costing for government*. Chicago, IL: Government Finance Officers Association; Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review. (2002). *State agency fees: FY 2001 collections and potential new fee revenues*. Jackson, MS. Retrieved 9/15/2021 from <https://www.peer.ms.gov/reports/rpt442.pdf>; and U.S. Office of Management and Budget. (1993). *OMB Circular No. A 25, revised*. Washington, DC. Retrieved 9/15/2021 from <https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf>.

⁵² Organization for Economic Cooperation and Development (OECD). (2003). *Recommendation of the council on OECD guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 9/13/2021 from <https://www.oecd.org/gov/ethics/2957360.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 9/13/2021 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; Controller and Auditor General of New Zealand. (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 9/13/2021 from <https://oag.parliament.nz/2020/conflicts>.

⁵³ We selected these states based on nurse population and membership in the Nurse Licensure Compact. Specifically, we picked 2 states that are compact members, 2 states that are not compact members, and 1 state in the process of entering the compact.

We conducted this performance audit and sunset review of the Board 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 and its Executive Director and staff for their cooperation and assistance throughout the audit.

BOARD RESPONSE

Doug Ducey
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

1740 West Adams Street, Suite 2000

Phoenix, AZ 85007-2607

Phone: (602) 771-7800

Homepage: <http://www.azbn.gov>

September 20, 2021

Ms. Lindsey Perry, Auditor General
2910 N. 44th Street, Suite 410
Phoenix, Arizona 85018

Regarding: 2021 Arizona State Board of Nursing Sunset Review

Dear Ms. Perry,

On behalf of the Arizona Board of Nursing, I am pleased to respond to the audit report. We value your audit team for their utmost professionalism and integrity in reviewing our performance. The findings are thorough, thoughtful, and represent many years of collaborative work. The findings are agreed to and the audit recommendations will be implemented.

Sincerely,

A handwritten signature in cursive script that reads "Joey Ridenour RN MN FAAN".

Joey Ridenour, RN, MN, FAAN
Executive Director
Arizona State Board of Nursing

Finding 1: Board has not resolved some complaints in a timely manner, which may affect patient safety

Recommendation 1: The Board should investigate and adjudicate complaints within 180 days and, as necessary, use its complaint prioritization categories to focus its resources on resolving the highest-risk complaints first.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board is strongly committed to continue to focus resources on those complaints having the highest- risk complaints.

Recommendation 2: The Board should assess the impact of the requested investigator positions on its complaint-resolution timeliness and determine if it needs to request additional resources to resolve complaints within 180 days. If the Board determines that it needs additional resources, it should work with the Legislature to obtain these resources.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will assess impact of 3.5 new FTE's for FY 2022. Currently working with OSPB regarding potential additional resources needed and the Board will work with the legislature to request additional resources.

Sunset Factor 2: The extent to which the Board has met its statutory objective and purpose and the efficiency with which it has operated.

Recommendation 3: The Board should continue to implement its new policy to review and align Arizona APRN certificate expiration dates with the expiration date of the multistate RN license issued by another state when the RN license expiration date is before the APRN certificate expiration date to ensure Arizona APRN certificate holders have an active RN license.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The new policy implemented includes a monthly report that will identify future expiration dates to remind out of state APRN's with a multistate license to renew their APRN certificate.

Recommendation 4: The Board should implement its new policy and procedures to periodically review the appropriateness of its fees.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has periodically reviewed the fee structure and has not increased overall fees since 1999. The new model of determining actual cost of

Board Programs and fees charged for fiscal year 2022 was presented to the Board Members and did not result in a recommendation to increase fees.

Recommendation 5: The Board should, as soon as possible, determine the correct amount that should be remitted to the State General Fund due to its misclassification of fiscal year 2018 credit card revenues and unremitted civil and administrative penalties, including researching how long it has not remitted 100 percent of both penalties, and remit these monies to the State General Fund.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board's new Fiscal Officer has updated the Accounting monthly close checklist to include the transfer to the State General Fund of 100% of future civil and administrative penalties and the 10% of all other revenues (except federal monies). Once the monthly transfer to the State General Fund has been prepared, the Accountant I will notify the Fiscal Officer that it is ready for review. The Fiscal Officer will review the calculation and ensure that all civil and administrative penalties are being transferred. Both the Accountant I and the Fiscal Officer will sign and date the monthly close checklist to indicate when the transfer was prepared, reviewed, approved and processed.

Recommendation 6: The Board should ensure it remits 100 percent of future civil and administrative penalties to the State General Fund.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board's new Fiscal Officer has ensured that 100% of civil and administrative penalties are being remitted to the general fund. An audit of the prior fiscal years will be done by November 1, 2021 to ensure all funds are correctly remitted as required.

Sunset Factor 3: The extent to which the Board serves the entire State rather than specific interests.

Recommendation 7: The Board should continue to implement its new conflict-of-interest policy.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Each January the board members and staff are now required to sign the conflict of interest form and not just upon appointment to the position. Also, when Board or Staff members recuse themselves due to a conflict of interest, a signed form will be required for uploading into the electronic file as well as continuing to enter into the Board Minutes the declaration of the conflict of interest.

Sunset Factor 5: The extent to which the Board has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Recommendation 8: The Board should continue to implement its new open meeting law policies and procedures.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: New policy was implemented in January 2021 regarding posting of the agenda within 24 hours of not only the Board Meetings but also any advisory committee or subcommittee meetings. Recordings of all meeting will be posted on the website within three days of the meeting,

Recommendation 9: The Board should continue to implement its new and revised public information policies and procedures.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: New policy states board staff will also provide information to the public if the person requesting the licensee or certificate holder information, also requests if there was ever a complaint submitted against the person.

Recommendation 10: The Board should continue to follow its procedures for ensuring that disciplinary information for LNAs and substantiated complaint information for CNAs is accurately uploaded to its database and displayed on its website, and update its written policies and procedures to reflect these procedures after its database is upgraded.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Certified and Licensed Nursing Assistant information is on website and to enable a better search option, upgrade to data base has been requested.

Recommendation 11: The Board should conduct a risk-based review of its online information for LNAs and CNAs to ensure the information on its website is complete and accurate.

Board response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Complete review will be done no later than January 2, 2022.



Attachment B

Followup

Arizona State Board of Nursing



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

April 29, 2024

Members of the Arizona Legislature

The Honorable Katie Hobbs, Governor

Ms. Joey Ridenour, Executive Director
Arizona Board of Nursing

We have issued a 30-month follow-up report on the Arizona State Board of Nursing (Board) regarding the implementation status of the recommendations from our September 2021 performance audit and sunset review (see Report 21-111). The Board is responsible for regulating nursing practice in Arizona by issuing and renewing licenses and certificates to qualified applicants, investigating complaints, administering disciplinary actions against regulated parties who violate Board statutes and rules, and providing information to the public about license and certificate holders. Our September 2021 performance audit and sunset review made 11 recommendations to the Board, 7 of which the Board had either implemented or implemented in a different manner at the time of our initial followup.

However, during this 30-month followup, similar to our initial follow-up findings, we found the Board has not implemented our recommendation to resolve public complaints within 180 days. Additionally, we identified additional deficiencies in its processes, and we made 4 new recommendations to the Board to address these areas. Both the previous and new deficiencies we found potentially put patient safety at risk. Specifically:

- The Board did not resolve within 180 days approximately 75 percent of the more than 2,000 public complaints we reviewed, including 78 high-risk complaints involving allegations such as prescribing a 233 percent increase in a patient's opioid dosage and sexually harassing patients. Additionally, the Board's practice of combining multiple complaints involving an individual licensee into a single investigation led to complaint resolution delays of multiple years, sometimes up to 6.5 years, during which licensees the Board eventually determined had engaged in unprofessional and/or unsafe conduct continued to practice.
- The Board did not document if or when it referred some complaints to the Arizona Attorney General to pursue a settlement of formal hearing with the Arizona Office of Administrative Hearings.

April 29, 2024

Page 2

- We identified 2 new deficiencies in the Board's complaint-handling processes that may impact public safety:
 - Board staff closed 200 public complaints without recording a closure date. Without documented information regarding a complaint's closure, the Board potentially cannot ensure the timeliness and appropriateness of these closures.
 - The Board did not initially investigate some complaints that alleged licensees engaged in unprofessional conduct, including allegations they stole medication from their workplaces.
- Although contracting with vendors to provide investigative assistance could help mitigate the previous deficiencies we reported and the new deficiencies we found, the Board has not done so because it stated it does not have sufficient monies. The Board had a fiscal year 2023 ending fund balance of nearly \$12.7 million, which it has not been authorized to spend, and although the Board conducted a preliminary analysis of contracting for investigators, it should continue to assess the cost and feasibility of doing so.

This 30-month follow-up review also found the Board has not implemented new and revised public information policies and procedures as recommended in our September 2021 audit. Additionally, although the Board has developed policies and procedures for periodically reviewing the appropriateness of its fees, it is not scheduled to do so until 2026, so our recommendation to periodically review the appropriateness of its fees is not yet applicable.

We plan to initiate the Board's next performance audit and sunset review later in calendar year 2024. During this upcoming audit, we will follow up with the Board on the status of the recommendations from our September 2021 audit report that have not yet been implemented and the 4 new recommendations we made in this followup, and further review the impact of the Board's practice of combining multiple complaints involving an individual licensee into a single investigation.

Sincerely,

Lindsey A. Perry

Lindsey A. Perry, CPA, CFE
Auditor General

Cc: Arizona State Board of Nursing members

Conclusion

The September 2021 Arizona State Board of Nursing (Board) performance audit and sunset review found that the Board generally issued licenses/certificates we reviewed in accordance with statute and rule but did not resolve some complaints in a timely manner, which may affect patient safety; remit all required revenues to the State General Fund; and provide sufficient public information. In our September 2022 followup, we reported the Board had implemented 7 of our 10 applicable recommendations.¹

However, during this 30-month followup, we found the Board has not made progress toward implementing the 3 remaining recommendations, including our recommendation to resolve complaints it received from the public (public complaints) within 180 days.² Specifically, the Board did not resolve within 180 days 1,559 of 2,077 public complaints (approximately 75 percent) it either closed between March 1, 2022 and March 17, 2023, or were open as of March 17, 2023, including 78 high-risk public complaints, potentially putting patient safety at risk (see pages 2 through 5 for more information). We also found that the Board's practice of combining multiple complaints involving an individual licensee into a single investigation led to delays of multiple years in resolving some complaints (see pages 5 through 7).

The Board requested and the Governor included in her fiscal year 2025 budget proposal additional staff to help the Board more timely resolve complaints (see pages 7 through 8). However, if approved, it will take time for these additional investigation staff to positively impact the Board's ability to timely resolve complaints because it would not be able to start hiring these additional staff until July 2024. Additionally, the Board reported that new staff will require months of training before handling a full complaint investigation workload, and the Board has and may again experience attrition among its complaint investigation staff in the meantime.

Based on our continued review of the Board's complaint handling, we made 2 new recommendations to the Board related to improving its documentation of complaints referred to the Arizona Attorney General and further assessing the cost and feasibility of contracting for investigators.

Additionally, during this 30-month followup, we identified 2 new deficiencies in the Board's complaint-handling processes that may impact public safety. First, Board staff closed 200 public complaints without recording a closure date (see page 8). Second, the Board did not initially investigate some public complaints that alleged licensees engaged in unprofessional conduct, including allegations they stole medication from their workplaces (see page 9). We made 2 new recommendations to address these deficiencies.

We plan to initiate the Board's next performance audit and sunset review later in calendar year 2024.³ During this upcoming audit, we will follow up with the Board on the status of the recommendations from our initial September 2021 report that have not yet been implemented and the 4 new recommendations we made in this followup, and further review the impact of the Board's practice of combining multiple complaints involving an individual licensee into a single investigation.

¹ Our September 2021 recommendation that the Board implement its policies and procedures for periodically reviewing the appropriateness of its fees is not yet applicable because the Board is not scheduled to review its fees until 2026.

² The Board has also not implemented its new and revised public information policies and procedures. Specifically, we placed 1 anonymous call to the Board in June 2023 and found that it did not provide some required public information over the phone, including information related to the licensee's disciplinary actions and basic licensing information such as where the licensee attended school, contrary to Board policy.

³ The Board's next performance audit and sunset review is statutorily required to be published by October 1, 2025.

Board continues to take more than 180 days to resolve most public complaints, including most high-risk complaints, potentially putting patient safety at risk

Board did not resolve within 180 days approximately 75 percent of 2,077 public complaints we reviewed—Our review of 2,077 public complaints the Board either closed between March 1, 2022 and March 17, 2023, or were open and unresolved as of March 17, 2023, found that it did not resolve 1,559 of these complaints, or approximately 75 percent, within 180 days.^{1,2} Specifically:

- **Board took more than 180 days to resolve approximately 82 percent of public complaints it closed, including 44 high-risk public complaints**—Our review of all 910 public complaints the Board closed between March 1, 2022 and March 17, 2023, found that it did not resolve 749 complaints within 180 days (see Figure 1, page 3). The Board took more than 3 years to resolve 133 of these complaints, some of which included unprofessional and/or unsafe conduct that the Board eventually substantiated. For example, the Board received a public complaint in January 2019 alleging that a licensee administered intravenous (IV) fluids to someone not registered as a patient and without the authorized provider’s knowledge, order, or consent or other triage process. The Board substantiated the allegations and issued a decree of censure to the licensee in June 2022, more than 3 years after receiving the complaint.

Further, although the Board reported it prioritizes high-risk complaints for investigation, the Board took more than 180 days to resolve most of the public complaints it classified as high-risk within the complaints we reviewed.³ Specifically, the Board untimely resolved 44 of 60 high-risk public complaints, including taking more than 3 years to resolve 5 of these high-risk complaints.⁴ For example, the Board received a public complaint in April 2019 it classified as high-risk that alleged a licensee sexually harassed a patient. While investigating this allegation, the Board received subsequent public complaints with similar sexual harassment allegations. The Board substantiated the allegations and accepted the licensee’s voluntary surrender of their license and ordered the licensee can apply for reissuance after a period of 3 years in May 2022, more than 3 years after receiving the initial complaint.⁵

¹ The Board provided a complaint database consisting of 24,240 complaints it received between January 1, 2017 and June 30, 2023, for our review. However, we excluded 22,163 complaints for the following reasons: 15,638 complaints were resolved by the Board before or after the March 1, 2022 through March 17, 2023, follow-up review time frame; 4,385 complaints pertained to background checks/license application concerns that were not the result of a public complaint (see footnote 2 for more information); 1,163 complaints were combined with other complaints (see pages 5 through 7 for more information); 200 complaints were closed with no recorded closure date (see page 8 for more information); and 777 complaints were triaged and closed without an investigation (see page 9 for more information on the Board’s closure of some of these complaints contrary to Board policy). We reviewed the 2,077 remaining complaints, which consisted of 910 closed complaints and 1,167 open complaints as of March 17, 2023.

² As noted in footnote 1, in addition to the 2,077 public complaints the Board either closed between March 1, 2022 and March 17, 2023, or were open and unresolved as of March 17, 2023, the Board initiated 4,385 complaints that pertained to a background check or license application concern. Similar to a public complaint, according to the Board, staff are required to triage these complaints and determine whether to conduct an investigation. Our review of these 4,385 complaints found that the Board closed 3,572 without conducting an investigation, the majority of which were closed within 2 weeks. For the remaining 813 complaints, the Board resolved 165 within 180 days, did not close or had yet to resolve 622 within 180 days, and investigated and resolved but did not have a recorded closure date for the remaining 26 complaints.

³ Although the Board classifies some complaints as high-risk upon receipt, in some cases, it may reclassify complaints as high-risk during its review and investigation of the complaint. As a result, complaints may not be classified as high-risk for the entire time they are open.

⁴ The Board classifies a complaint as high-risk if the allegation includes an act that is a substantial danger to public safety and represents a potential for an imminent threat. For example, high-risk complaints include allegations of significant physical abuse of a patient resulting in injury, sexual conduct involving a patient, and criminal conduct with significant injury to another person.

⁵ According to Arizona Administrative Code (AAC) R4-19-404, a person whose nursing license has been voluntarily surrendered may apply to the Board for reissuance subject to conditions including evidence that the basis for surrendering the license has been removed and a Board investigation that determines the licensee’s ability to safely practice. The Board may approve the reissuance of a license with or without limitations or with additional conditions, or it may deny reissuance of the license.

Figure 1

Board took more than 180 days to resolve 82 percent of public complaints it closed between March 1, 2022 and March 17, 2023, including high-risk complaints

(Unaudited)



¹ 145 of the 149 complaints were closed before the 180-day deadline. The remaining 4 complaints were closed after the 180-day deadline but prior to the end of the 6-month period.

Source: Auditor General staff review of Board complaint database.

- Approximately 69 percent of Board’s open public complaints had been open at least 180 days, including 34 high-risk public complaints**—Our review of all 1,167 open public complaints as of March 17, 2023, found that 810 complaints had been open and unresolved for at least 180 days (see Figure 2, page 4 and footnote 1, page 2 for information on complaints reviewed).⁶ Additionally, 60 of these 810 open public complaints had been open and unresolved for at least 3 years, including allegations of unprofessional and potentially harmful conduct. For example, in August 2017, the Board received 1 public complaint alleging verbal abuse of a patient that had been open for more than 5.5 years at the time of our review (see pages 6 through 7 for additional information on this complaint’s allegations and status).

Further, despite the Board reporting that it prioritizes high-risk public complaints for investigation, we found that most of these complaints had been open and unresolved for at least 180 days. Specifically, 34 of 43 open high-risk public complaints had been open for at least 180 days, including 8 complaints that had been open for at least 3 years. For example, in November 2019, the Board received a public complaint it classified as high-risk that included an allegation the licensee inappropriately prescribed a 233 percent increase in a patient’s opioid dosage. In July 2020, the Board substantiated the allegations and voted to issue a Notice of Hearing, which according to Board staff, involved referring the complaint to the Arizona Attorney General to pursue a settlement or formal hearing with the Arizona Office of Administrative Hearings. However, the Board’s complaint database did not contain documentation of if or when it referred

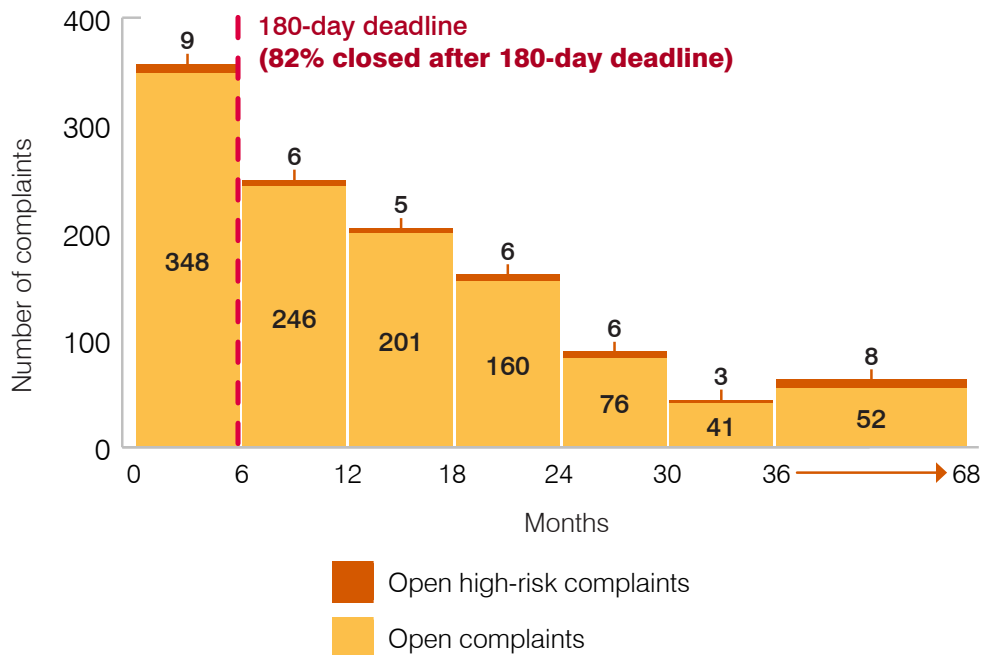
⁶ Our review of the Board’s complaint database found that 68 of 810 complaints that had been open and unresolved for at least 180 days were reported to have been referred to the Arizona Attorney General to pursue a settlement or formal hearing with the Arizona Office of Administrative Hearings.

the complaint to the Arizona Attorney General. In August 2023, the licensee voluntarily surrendered their license but can apply for reissuance after 2 years.⁷

Figure 2

Board had not resolved approximately 69 percent of complaints that were open as of March 17, 2023, within 180 days, including high-risk complaints

(Unaudited)



Source: Auditor General staff review of Board complaint database and complaint log.

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

As reported in our September 2021 performance audit and sunset review of the Board, untimely complaint resolution may negatively impact patient safety when delays allow licensees alleged to have engaged in unprofessional conduct as defined by Board statutes and rules to continue to practice while under investigation even though they may be unfit to do so.⁸ For example, our review of 2 complaints the Board resolved in February 2023 and February 2024 found that the Board’s untimely investigation and resolution of these complaints allowed the licensees to continue practicing unrestricted for nearly 4 years and approximately 5 years, respectively, during which the Board renewed both licenses 1 time until the Board eventually suspended their licenses. One complaint alleged the licensee failed a random drug test during their work shift that resulted in their termination from the employer that requested the drug test. However, according to Board documentation, the licensee continued to work for another employer while the Board investigated the complaint for nearly 4 years. The other complaint alleged the licensee diverted medication at their workplace and, in some cases, administered medication to patients ahead of schedule. Although the licensee was terminated from the employer that submitted the complaint, the licensee was hired by and continued to practice with 2 other employers while the Board investigated the complaint for approximately 5 years. The Board substantiated both of these complaints and entered into consent agreements with the licensees that suspended their licenses for 1 year, required a comprehensive psychological evaluation, completion of identified treatment, drug testing, and, contingent on receiving confirmation that the licensee was safe to return to practice, placing the licensee on probation for at least 36 months.

⁷ As of March 17, 2023, this complaint was open and unresolved and therefore part of our open complaint sample.

⁸ Arizona Revised Statutes (A.R.S.) §§32-1601(27) and 32-1663, and AAC R4-19-403.

In addition, even when the Board does not substantiate and dismisses complaints, untimely complaint handling subjects licensees to unproven allegations of unprofessional 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. For example, the Board took nearly 5.5 years to investigate a complaint it dismissed because it did not substantiate the allegations (see page 2 and Figure 1, page 3). Although the Board eventually determined that the licensee did not violate statute or rule or engage in an unsafe practice, it cannot make this determination until after it completes its investigation. Further, while licensees are under investigation, statute does not permit the Board to make information available to the public regarding complaints involving a licensee.⁹ Similarly, the Board cannot provide this information on Nursys, a national online database that state nursing boards, employers, and the public use to verify the licensure, discipline, and practice privileges of licensed nursing professionals, until it resolves the complaint.¹⁰

Board’s practice of combining multiple complaints it receives involving a licensee into a single, ongoing investigation has further affected its ability to timely resolve complaints, exacerbating patient safety risks—According to the Board’s complaint database, it combined the allegations from 1,163 complaints it received between January 1, 2017 and June 30, 2023, into ongoing complaint investigations it had already initiated related to the same licensees.¹¹ Board staff reported that this practice improves the quality of its investigations by allowing it to identify patterns in licensee behavior and may improve complaint-handling efficiencies. However, our review of a sample of 7 of these complaints, which the Board combined into 7 separate ongoing licensee complaint investigations, found that as of March 1, 2024, it had yet to complete 6 of these investigations and resolve the associated complaints, exacerbating patient safety risks.¹² Specifically, these 6 open and combined complaint investigations had been open for between 283 days and approximately 6.5 years. For example:

- The Board received a complaint in August 2020 involving a licensee withholding care and medications and, while conducting an investigation, subsequently received 3 additional complaints involving the licensee that it combined into its existing investigation—the last received in May 2023, more than 2.5 years after it received the initial complaint.¹³ The subsequent complaints alleged that the licensee inappropriately prescribed medication, including a schedule 2 narcotic. As of March 2024, the Board’s investigation had been open and unresolved for more than 3.5 years, and the licensee has continued to practice without restriction (see Figure 3, Licensee 1, page 6).¹⁴

⁹ A.R.S. §32-3214.

¹⁰ According to the National Council of State Boards of Nursing, all 50 states plus Washington D.C. and 4 U.S. territories provide information on Nursys regarding licensed nursing professionals.

¹¹ These 1,163 combined complaints were listed on the Board’s complaint database, which consists of 24,240 complaints the Board received between January 1, 2017 and June 30, 2023, and do not include combined complaints pertaining to background checks/license application concerns (see footnote 1, page 2). However, the 1,163 combined complaints do not include the initial complaints and the associated investigations into which they were combined. Therefore, we are unable to identify how many complaint investigations involved multiple complaints against a single licensee. Additionally, we were unable to determine when 14 of 1,163 complaints were combined as there was no date recorded in the complaint database.

¹² We sampled 7 complaints for review among 1,163 complaints, categorized as combined complaints by the Board, by randomly selecting 6 complaints and judgmentally selecting 1 additional combined complaint classified as high-risk and open for more than a year. Of the 7 cases sampled, all involved 7 different ongoing licensee complaint investigations.

¹³ Our review of the Board’s complaint database found an October 2022 Board note stating there is an additional complaint involving this licensee that was not entered into the Board’s database as an official complaint, and therefore, this complaint’s status is unknown and not included in our analysis. Further, in October 2022, the Board elevated this investigation to a high-risk status.

¹⁴ The Board reported this investigation, like many of its complaint investigations, included coordination with other agencies, including law enforcement, which contributed to investigative delays. Specifically, the Board reported it paused its investigation of this licensee in October 2022 after receiving information about a federal investigation into this licensee but that it did not have documentation of a request to pause its investigation. In December 2022, the licensee voluntarily surrendered for cause their Drug Enforcement Administration Certificate of Registration, prohibiting them from prescribing controlled substances and which ended the federal investigation. The Board reported that it again paused its investigation at the request of the Arizona Attorney General in December 2022 but that it did not have documentation of the request. The Board further reported it resumed the investigation in February 2024 after a discussion with the Arizona Attorney General and also indicated that the federal investigation has been completed.

- The Board received a complaint involving a second licensee in August 2017 that alleged verbal abuse toward a patient, including profanity, disrespectful statements, and statements that could be perceived as a threat. In July 2020, nearly 3 years after receiving this complaint, the Board offered a consent agreement to the licensee to address substantiated allegations of patient abuse. The licensee did not return a signed consent agreement and Board staff reported that, in October 2020, it subsequently referred this complaint to the Arizona Attorney General. However, the Board’s complaint database did not contain any documentation demonstrating if or when it referred the complaint to the Arizona Attorney General. Six months later, in April 2021, the Board received a second complaint against this licensee alleging patient abuse, withdrew the unsigned consent agreement, and combined this second complaint into its investigation of the licensee, despite the fact it had substantiated the original allegations of patient abuse. In March 2023, the initial complaint was scheduled for a formal hearing with the Arizona Office of Administrative Hearings, and Board staff reported that the scheduling had been delayed because of the reassignment of multiple Board-assigned Assistant Attorney Generals. However, again, the Board’s complaint database did not contain documentation demonstrating if or when it referred the complaint to the Arizona Attorney General prior to the hearing being scheduled. In July 2023, the scheduled hearing was cancelled because the Board had yet to complete its investigation of the second complaint. As of March 2024, a formal hearing has not occurred. Therefore, these complaints have been open and unresolved for approximately 6.5 years and nearly 3 years, respectively, and the licensee has continued to practice without restriction (see Figure 3, Licensee 2, page 7).

Figure 3
2 examples of complaints alleging unprofessional conduct that the Board has combined into a single investigation that have exceeded 180 days and remain unresolved as of March 2024

(Unaudited)

Licensee 1

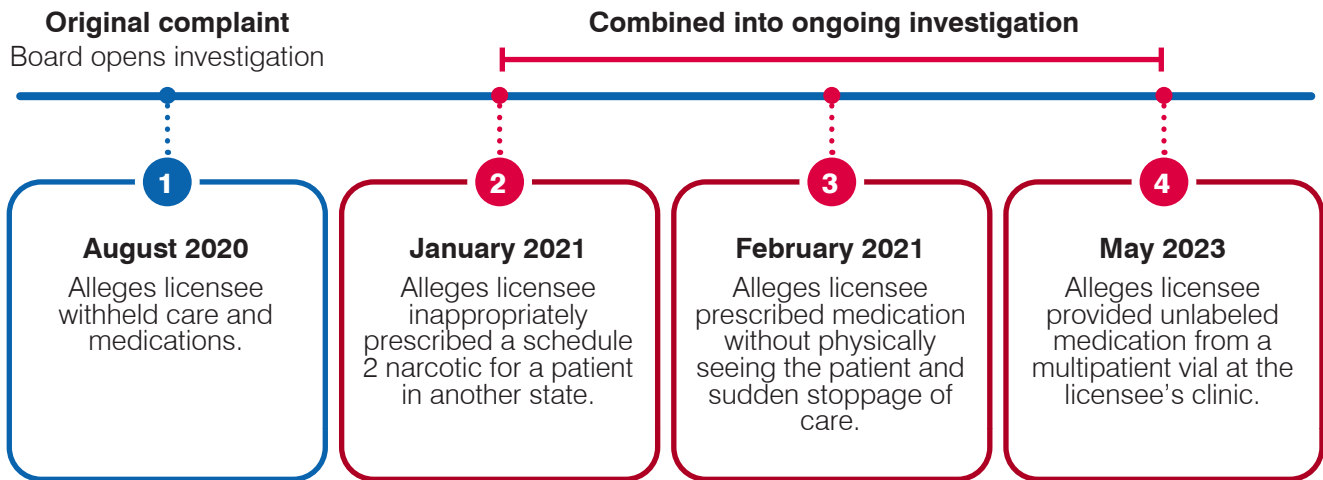
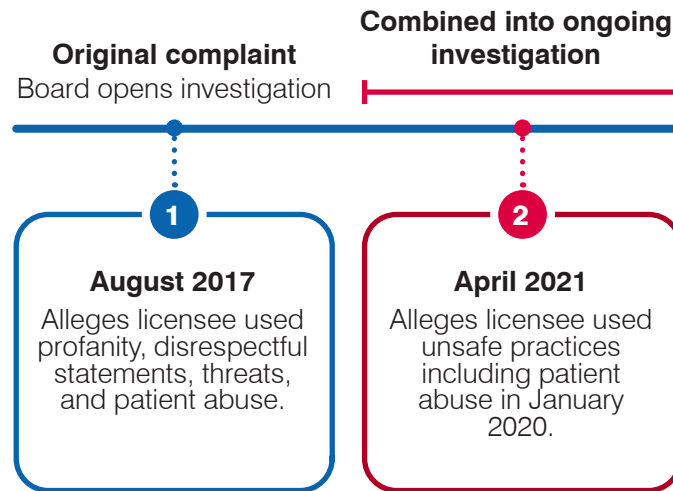


Figure 3 continued

Licensee 2



Source: Auditor General staff review of Board complaint database and complaint log.

Board has requested additional complaint investigation staff for fiscal year 2025 to help it resolve complaints within 180 days, but additional investigation staff will take time to positively impact the Board’s complaint-handling timeliness

As of August 2023, the Board reported it had more than 1,800 open complaints either under investigation or awaiting investigation, yielding an average complaint investigation caseload of 84 cases for each of its 7 Advanced Practice Consultants (APC) staff and 102 cases for each of its 12 Senior Investigators (SI) staff.¹⁵ See textbox for more information on APC and SI positions. Based on this number of open complaints and according to its fiscal year 2025 budget request, the Board reported that adding 8 combined APC and SI investigative staff positions will allow it to achieve complaint investigation caseload goals of 60 cases per APC and 75 cases per SI, and increase its ability

¹⁵ Our review of the Board’s complaint database found that for fiscal years 2020 through 2022, the Board annually opened an average of 1,153 investigations. These investigations may include background checks/application concerns and public complaints, and investigations may involve multiple complaints that the Board has combined into a single investigation (see pages 5 through 7 for more information on combined cases). Therefore, the number of complaints received will be higher than the number of investigations opened.

Board investigative staff

The Board has 2 types of staff positions that investigate complaints. Various factors determine the assignment of a complaint to 1 of these staff positions, including the type of license the licensee holds:

Advanced Practice Consultant (APC) and Nurse Practice Consultants (NPC)—APCs and NPCs must be certified advanced practice registered nurses (APRNs) or Registered Nurses for at least 5 years and investigate complaints related to clinical standards regarding alleged violations of Board statutes and rules involving nurse practitioners, certified nurse midwives, clinical nurse specialists, certified nurse anesthetists, and licensed practical nurses.

Senior Investigator (SI)—SIs are nonnurse investigators and investigate complaints regarding nonclinical issues such as legal issues, fraud and deceit, criminal histories, professional misconduct, and alleged violations of Board statutes and rules involving licensees without advanced licenses.

Source: Auditor General staff review of Board website and Board-provided documentation.

to resolve complaints within 180 days.¹⁶ As a result, the Board requested and the Governor has included in her fiscal year 2025 budget proposal 8 additional investigative staff consisting of 3 APC and 5 SI.¹⁷

However, if approved, it will take time for these additional investigative staff positions to positively impact the Board's ability to timely resolve complaints. First, because the Board made its request for additional staffing and the associated funding as part of its fiscal year 2025 budget request, if approved, the Board would not receive this funding and then have the opportunity to start hiring these additional staff until July 2024. Additionally, the Board reported new investigative staff may not reach optimal caseloads until they are fully trained and experienced, which it estimated can take up to 18 months. Finally, the Board reported it continues to experience investigative staff turnover. Specifically, in its fiscal year 2025 budget request, the Board reported that 11 investigative staff have either resigned or retired between September 2022 and August 2023 because of high caseloads and stress. Our September 2022 initial followup similarly reported that the Board had 7.5 vacancies out of 21 investigative staff positions listed on the Board's August 2022 organization chart. Although additional investigative staff should result in lower caseloads, which in turn could reduce staff stress and associated turnover, continued turnover among its investigative staff and the time required to fill vacant positions and train new investigative staff may lessen the impact of the new investigative staff positions the Board hopes to achieve. Although contracting with vendors to provide investigative assistance could help mitigate these issues, the Board reported it conducted a preliminary analysis of contracting for investigators and determined it does not have sufficient monies, including staff vacancy savings, to do so. Additionally, although the Board had a fiscal year 2023 ending fund balance of nearly \$12.7 million, which represents more than a \$3.5 million increase in its ending fund balance since fiscal year 2021, it has not been authorized to spend these monies.¹⁸ We will continue to assess the Board's efforts to increase its investigative staff and timely resolve complaints during the Board's next performance audit and sunset review, which we plan to initiate in calendar year 2024.

Our follow-up review identified new deficiencies in Board's complaint-handling processes resulting in some complaints missing a recorded closure date or not being investigated

Board closed some complaints without a recorded closure date and thus potentially cannot ensure the timeliness and appropriateness of these closures—The Board's complaint database included 200 complaints the Board received between January 1, 2017 and February 3, 2023, that had a status indicating the complaints have been closed but with no recorded closure date, which the Board attributed to clerical errors (footnote 1, see page 2). Our review of information in the Board's database for a random sample of 5 of these complaints identified sufficient information to confirm that 3 of these complaints should be reflected as closed, even though the closure dates were missing.¹⁹ However, there was insufficient information in the Board's database to confirm whether the other 2 complaints should be reflected as closed. Without documented information regarding a complaint's closure and the reasons for closing the complaint, the Board potentially cannot ensure the timeliness and appropriateness of these closures. According to the Board, complaints without a recorded closure date are the result of errors from transferring files from its old database to its new database or staff data entry errors. The Board reported that it is reviewing some of the complaints without a recorded closure date to determine whether it can manually correct the information or if it needs to take additional steps if necessary, such as a Board review of the complaint.

¹⁶ The Board reported that APCs have a lower caseload expectation than SIs because they handle more complex complaint investigations and work with licensees' legal counsel.

¹⁷ During the 2024 legislative session, the Legislature introduced House Bill 2686, which if enacted would establish complaint-handling procedures and time frames for health profession regulatory boards, including this Board. Additionally, this bill includes a fiscal note that outlines the Board's estimated costs for an additional 5 APCs and 5 SIs.

¹⁸ State of Arizona *Annual Financial Report* for fiscal years 2021 and 2023.

¹⁹ The Board received the 5 complaints in our random sample between March 2017 and February 2021.

Board did not appropriately triage, review, and investigate 2 complaints alleging unprofessional conduct, potentially jeopardizing public safety—Our review of a sample of 18 complaints the Board received, triaged, and determined not to investigate found 2 complaints that, according to Board policy, Board staff should have investigated because of allegations involving unprofessional conduct, including allegations that licensees stole medication from their workplace for either personal use or to distribute to children (see textbox below for more information on these 2 complaints).^{20,21} These 2 complaints were open for 54 and 83 days, respectively, before Board staff determined not to investigate them. By determining not to investigate these complaints, the Board did not protect the public by ensuring these licensees were qualified to practice. After we brought these 2 complaints to Board staff’s attention, they confirmed that the 2 complaints should have been investigated and reopened them for investigation in September 2023. Board staff further explained that the former Board employee responsible for triaging complaints and determining not to investigate them did not adhere to the Board’s policies and procedures.

Board did not investigate 2 complaints alleging licensees engaged in unprofessional conduct, in accordance with its policies and procedures

Complaint 1—The Board received a complaint in January 2023 alleging unprofessional conduct, including child abuse, theft of medication from the workplace, and distribution of medication to the licensee’s children.¹ Two months later, in March 2023, Board staff closed this complaint without an investigation, stating it should be closed because it was a duplicate complaint and a family issue and therefore should be resolved in family court. However, even though the Board received a subsequent complaint a month later with similar allegations, Board staff closed both the January 2023 complaint and the subsequent complaint it received.² Additionally, although the complainant self-identified as the licensee’s family member, Board policy does not identify such a relationship as a valid reason for closing a complaint without an investigation. Therefore, Board staff should have opened an investigation for this complaint. After we informed the Board, it opened an investigation in September 2023. The Board reviewed and dismissed the complaint in January 2024 after it did not substantiate the allegations. Specifically, according to the Board’s investigative report, Board investigators spoke with the licensee’s employer, who researched the matter and did not substantiate the medication theft allegations. Additionally, the investigative report notes that the Arizona Department of Child Safety did not substantiate the allegations of suspected child abuse.

Complaint 2—The Board received a complaint in May 2022 alleging unprofessional conduct, including theft of medication from the licensee’s workplace for personal use or to sell to other individuals, and providing sufficient information to open a complaint investigation. However, 3 months later in August 2022, Board staff closed this complaint without an investigation. Because the staff person who closed this complaint is no longer with the Board, current Board staff were unable to explain the reason for closing this complaint without an investigation. Furthermore, a second complaint against the same licensee was received by the Board in August 2022, 1 day prior to Board staff closing both complaints, which included the same allegations as the initial complaint. After we informed the Board, it opened an investigation in September 2023 but does not have an expected date for Board review.

¹ According to Board documentation, the complainant also referred this complaint to the Arizona Department of Child Safety.

² Our review of the licensee’s disciplinary history identified another complaint the Board received in February 2023 that included similar allegations from a different complainant that the Board received, triaged, and closed without an investigation, stating it was a family law matter.

Source: Auditor General staff review of Board policies, complaint database, and A.R.S. §§32-1601 and 32-1660.

²⁰ We originally generated a random sample of 45 complaints from a population of 3,708 complaints that were closed without a Board investigation between March 1, 2022 and March 17, 2023, for review. However, based on our initial review of the sample and clarification the Board provided, we determined the Board categorized and grouped background checks/application concerns with public complaints. Consequently, the random sample of 45 complaints consisted of 18 public complaints and 27 application background check/application concerns. Additionally, the 18 public complaints we reviewed were open between 15 and 106 days before the Board triaged and determined not to investigate them.

²¹ A.R.S. §§32-1601(27), 32-1660(A)(2), and 32-1663, and AAC R4-19-403(16).

Additionally, the Board's policies and procedures do not require a secondary review of staff determinations to not investigate complaints. A secondary review would help ensure the appropriateness of complaint triage decisions, including investigating all complaints that include allegations that licensees engaged in unprofessional conduct. Board staff reported that supervisors now review all public complaints that Board staff initially determine not to investigate.

Board should implement recommendations from 2021 audit and address additional deficiencies identified in this followup

To better protect the public's health, safety, and welfare, the Board should implement the 3 remaining applicable and 1 not yet applicable recommendation from the 2021 performance audit and sunset review and also address the additional deficiencies we identified in this follow-up report. Specifically, the Board should:

- Consistently document all investigative activities and time frames, such as if and when it refers complaints to the Arizona Attorney General to pursue a settlement or formal hearing with the Arizona Office of Administrative Hearings. If necessary, the Board should revise its policies and procedures to include this requirement.
- Continue to assess the cost and feasibility of contracting for investigators, including determining whether it has any staff vacancy savings it can redirect for this purpose.
- Perform a risk-based review of complaints Board staff failed to investigate to determine if Board policies and procedures require the allegations to be investigated, and complete complaint investigations for any complaints it identifies that should have been investigated. Risk factors for identifying complaints for Board review should include the time period during which the former employee incorrectly triaged complaints and the length of time a complaint was open before a determination was made not to open an investigation.
- Revise and implement its complaint triage policies and procedures to require a supervisory review of complaints that are initially determined not to require an investigation to help ensure the appropriateness of complaint triage decisions.



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

DATE: June 7, 2024

TO: Representative Matt Gress, Chair
Senator Sonny Borrelli, Vice Chair
Members, JLAC

FROM: Lindsey Perry, Auditor General

SUBJECT: Arizona State Board of Pharmacy Performance Audit and Sunset Review,
September 2020 report and 36-month follow-up report

Background

JLAC is charged with (1) overseeing audit functions of the Legislature and State agencies, including sunset, performance, special, and financial audits, special research requests, and preparing and introducing legislation resulting from audit report findings; (2) requiring State agencies to comply with its findings and directions regarding sunset, performance, special, and financial audits; and (3) receiving reports from the Arizona Auditor General regarding each audit's results (A.R.S. §§41-1279 and 41-1279.03). Additionally, my Office is responsible for conducting sunset reviews of State agencies, boards, and commissions under Arizona's sunset law and as assigned by JLAC. In 2020, my Office conducted and released a performance audit and sunset review report on the Arizona State Board of Pharmacy (Pharmacy Board) as part of the Pharmacy Board's sunset review.

The Pharmacy Board is responsible for regulating pharmacy practice in Arizona by issuing and renewing licenses and permits to qualified applicants, investigating complaints, inspecting permitted facilities, administering disciplinary actions against regulated parties who violate the Pharmacy Board's statutes and rules, and providing information to the public about license and certificate holders. The Pharmacy Board is also responsible for operating, monitoring, maintaining, and staffing the Controlled Substances Prescription Monitoring Program (CSPMP), which was established in 2007.

Our September 2020 performance audit and sunset review found that the Pharmacy Board did not fulfill several regulatory responsibilities that are important for protecting public safety and providing information to the public, including:

- Not verifying the validity of fingerprint clearance cards for all but 1 of the pharmacist license applicants we reviewed.
- Not ensuring that licensees met continuing education requirements.
- Not always investigating complaints with similar allegations.
- Not meeting required inspection time frames.
- Not providing accurate and complete information to the public.

We also found that the Pharmacy Board had not taken the steps needed to ensure that all permitted pharmacies that can dispense controlled substances are reporting information into the CSPMP database or that licensed prescribers and dispensers use CSPMP database information as required by statute. These requirements are important to support access to and legitimate medical use of controlled substances; identify and deter or prevent drug abuse and diversion; facilitate the identification, intervention with, and treatment of persons addicted to prescription drugs; and inform public health initiatives through outlining of prescription drug use and abuse trends. Finally, we found that the Pharmacy Board did not base its fees on the cost of providing services, resulting in a large and growing fund balance.

We made 42 recommendations to the Pharmacy Board. As of our 36-month follow-up review issued in April 2024, the Pharmacy Board had not yet fully implemented 18 of these recommendations.

On November 21, 2022, JLAC assigned our Office to conduct the Pharmacy Board's next performance audit and sunset review, and we plan to initiate this review later in calendar year 2024. During this upcoming audit, we will follow up with the Pharmacy Board on the status of the recommendations from our September 2020 audit report that have not yet been implemented.

We were asked to present the Pharmacy Board's September 2020 performance audit and sunset review report and the 36-month follow-up report. Patrick Jennett, Performance Audit Division Deputy Manager, will provide an overview of the initial and follow-up reports.

Attachment A includes the Pharmacy Board's performance audit and sunset report issued in September 2020, and **Attachment B** includes the Pharmacy Board's 36-month follow-up report issued in April 2024.

Action required

None. Presented for JLAC's information only.

Attachment A

Report

Arizona State Board of Pharmacy

Arizona State Board of Pharmacy

Board did not fulfill several regulatory responsibilities, base its fees on the cost of providing services, enforce compliance with State Controlled Substances Prescription Monitoring Program (CSPMP) requirements, and provide accurate and complete information to the public

Performance Audit and
Sunset Review

September 2020
Report 20-106

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





The Arizona Office of the Auditor General's mission is to provide independent and impartial information and specific recommendations to improve the operations of State and local government entities. To this end, the Office provides financial audits and accounting services to the State and political subdivisions, investigates possible misuse of public monies, and conducts performance audits and special reviews of school districts, State agencies, and the programs they administer.

The Joint Legislative Audit Committee

Representative **Anthony T. Kern**, Chair
Representative **John Allen**
Representative **Timothy M. Dunn**
Representative **Mitzi Epstein**
Representative **Jennifer Pawlik**
Representative **Rusty Bowers** (ex officio)

Senator **Rick Gray**, Vice Chair
Senator **Lupe Contreras**
Senator **Andrea Dalessandro**
Senator **David C. Farnsworth**
Senator **David Livingston**
Senator **Karen Fann** (ex officio)

Audit Staff

Dale Chapman, Director
Cheya Wilson, Manager
Kaylee Arteaga, Graphics Coordinator

Stephanie Hamilton, Team Leader
Kristel Nielsen
Tanner Weigel

Contact Information

Arizona Office of the Auditor General
2910 N. 44th St., Ste. 410
Phoenix, AZ 85018-7271

(602) 553-0333

contact@azauditor.gov

www.azauditor.gov



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

September 16, 2020

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Dr. Kam Gandhi, Executive Director
Arizona State Board of Pharmacy

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the Arizona State Board of Pharmacy*. This report is in response to a September 19, 2018, 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 State Board of Pharmacy agrees with all the findings and plans to implement or implement in a different manner all the recommendations.

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

Sincerely,

Lindsey Perry, CPA, CFE
Auditor General

cc: Arizona State Board of Pharmacy members

Arizona State Board of Pharmacy

Board did not fulfill several regulatory responsibilities, base its fees on the cost of providing services, enforce compliance with State Controlled Substances Prescription Monitoring Program (CSPMP) requirements, and provide accurate and complete information to the public

Audit purpose

To determine if the Board issued licenses and permits to qualified applicants in a timely manner, followed its procedures for investigating and resolving complaints and doing so in a timely manner, based its license and permit fees on the cost of providing services, enforced compliance with State CSPMP requirements, and provided required information to the public about licensees and permit holders.

Key findings

- Board did not verify the validity of fingerprint clearance cards for all but 1 of the pharmacist license applicants we reviewed; did not ensure that licensees met continuing education requirements; has not always investigated complaints with similar allegations; and did not meet required inspection time frames.
- Board's license and permit fees are not based on the cost of providing services, resulting in a large and growing fund balance.
- State may not be receiving the full benefits of the CSPMP because the Board has not enforced or helped to enforce compliance with CSPMP requirements.
- Board did not provide required public information on its website or in response to our anonymous phone calls.

Key recommendations

The Board should:

- Ensure that initial pharmacist license applicants possess valid fingerprint clearance cards before issuing licenses.
- Ensure license renewal applicants meet continuing education requirements by conducting continuing education audits.
- Consistently determine complaint jurisdiction and document these determinations.
- Consistently meet established inspection time frames by developing and implementing processes for tracking and monitoring the completion of facility inspections.
- Conduct a review of its license and permit fees consistent with government fee-setting standards and guidelines and adjust its fees accordingly.
- Ensure that its licensees and permit holders follow State CSPMP requirements and provide other Arizona professional licensing boards with the information they need to investigate and enforce noncompliance with these requirements.
- Provide complete and accurate information to the public on its website and over the phone.



TABLE OF CONTENTS

Board overview	1
Introduction	2
Finding 1: Board did not ensure licensees and facilities we reviewed were qualified to practice and operating safely	8
Recommendations	
Finding 2: Board’s license and permit fees are not based on cost of providing services, resulting in large and growing fund balance	12
Board has not based licensing and permit fees on actual costs of providing services	
Board’s fund balance is large and growing	
Recommendations	
Finding 3: State may not be receiving full benefits of the CSPMP because Board has not enforced or helped to enforce compliance with CSPMP requirements	15
Board has not ensured its licensees/permit holders use the CSPMP database when required or provided information to other Arizona professional licensing boards to help them identify noncompliance among their licensees	
Board has taken educational rather than enforcement approach to CSPMP compliance and does not think other boards would want to enforce licensee compliance with State CSPMP statutes	
Recommendations	
Finding 4: Board did not provide required public information on its website or in response to our anonymous phone calls	19
Board did not provide required complaint information on its website and provided inaccurate and incomplete complaint information over the phone	
Board’s policies lack guidance to help staff with provision of accurate and complete public information	
Recommendations	
Sunset factors	21
Summary of recommendations: Auditor General makes 31 recommendations to the Board	30
Appendix A: Objectives, scope, and methodology	a-1
Board response	



TABLE OF CONTENTS

Figure

1	Key users of State's CSPMP database	16
---	-------------------------------------	----

Tables

1	Licenses and permits issued by the Board	3
2	CSPMP data requests received by Board Fiscal year 2019	5
3	Schedule of revenues, expenditures, transfers, and changes in fund balances Fiscal years 2017 through 2020 (Unaudited)	7
4	Initial pharmacist license application fees as of March 2020	12
5	Board of Pharmacy Fund Summary of revenues, expenditures, transfers, and fund balance Fiscal years 2017 through 2019 (Unaudited)	14
6	Statutorily required/allowed ways Board should provide public information about complaints	19
7	Number and types of state agencies administering a PDMP	28

Board overview

The Arizona State Board of Pharmacy (Board) regulates the practice of pharmacy through issuing licenses and permits, investigating and resolving complaints, and providing information to the public about the status of licenses and permit holders. The Board consists of 9 members appointed by the Governor for 5-year terms, and it was appropriated 22.4 full-time equivalent positions for fiscal year 2020. The Board does not receive any State General Fund appropriations. Instead, the Board's revenues consist primarily of license and permit fees and revenues to operate the Controlled Substances Prescription Monitoring Program.

Active licenses as of January 2020	Active permits as of January 2020
32,546	5,251
Facility inspections conducted in fiscal year 2019	
2,193	
Complaints received in fiscal year 2019	
Approximately 570	

Audit results summary

Key regulatory areas reviewed		
Pharmacist licenses —Key qualifications include a pharmacy degree, passing score on a national exam, and a valid fingerprint clearance card.	Ensured qualifications met ✓	Verified fingerprint clearance card ✗
Pharmacy technician licenses —Key qualifications include passing a national exam, proof of training completion, and a valid fingerprint clearance card.	Ensured qualifications met ✗	Verified fingerprint clearance card ✓
Pharmacy and manufacturer permits —Board must process permits within 180 days. Permit applicant must provide information on their facility and activities.	Issued timely ✓	Assessed adequacy of submitted documentation ✗
Continuing education audits —Audits help ensure compliance with statutory and rule continuing education requirements.	Performed regularly ✗	Disciplined licensees ✓
Facility inspections —Facilities should be inspected at least once every 18 months.	Conducted every 18 months ✗	Followed up on violations ✗
Complaint handling —Complaints should be investigated and adjudicated within 180 days. Board should consistently determine complaint jurisdiction.	Investigated and adjudicated in 180 days ✗	Consistently determined jurisdiction ✗
Public information —Statute specifies the complaint and license status information that should be provided to the public.	Correctly provided on website ✗	Correctly provided via phone ✗
Fee setting —Board should establish fees based on the actual costs of providing services.	Based fees on actual costs ✗	Periodically reviewed ✗
Other responsibilities reviewed		
Controlled Substances Prescription Monitoring Program (CSPMP) —Statute requires prescribers and dispensers to review CSPMP information.	Ensured licensee or permit holder compliance ✗	Provided information to other licensing boards ✗
Cash handling —Requirements include appropriate segregation of cash-handling and recording duties and depositing cash as soon as practical.	Adequately protected cash receipts ✗	Followed State cash-handling policies ✗
Conflicts of interest —Requirements and best practices include signing a statement annually and recusing from decisions involving substantial interests.	Recused Board members refrained from participating in decision ✗	Board members and staff signed annual conflict-of-interest statement ✗
Open meeting law —Requirements include citing reasons for executive session and making meeting minutes publicly available within 3 working days.	Correctly cited reasons for executive sessions ✗	Meeting minutes available within required time frame ✗



The Office of the Auditor General has completed a performance audit and sunset review of the Arizona State Board of Pharmacy (Board). This report addresses the Board's processes for issuing initial pharmacist and pharmacy technician licenses in accordance with statute and rule, ensuring renewal applicants meet continuing education requirements, consistently determining its complaint jurisdiction, and inspecting permitted facilities within established time frames. It also addresses the Board's processes for ensuring that its license and permit fees are consistent with the cost of its regulatory activities, its responsibilities for ensuring compliance with the Controlled Substances Prescription Monitoring Program (CSPMP) statutory requirements, and providing information to the public in accordance with statute. Finally, the report provides responses to the statutory sunset factors.

Mission and regulatory responsibilities

The Board's mission is to oversee the practice of pharmacy (see textbox) and includes the following regulatory responsibilities:

- Issuing licenses to pharmacists and pharmacy technicians that must be renewed every 2 years and one-time nonrenewable licenses to pharmacy technician trainees and pharmacy interns (see Table 1, page 3, for more information on these professions).¹ As of January 2020, the Board reported that it had more than 32,000 licensees.
- Permitting pharmacies and drug-related facilities, such as manufacturers and wholesalers, both in and out of the State, and renewing these permits every 2 years (see Table 1, page 3, for more information on these facilities). As of January 2020, the Board reported it had more than 5,200 permit holders.
- Inspecting permitted facilities at the time of initial application and periodically throughout the life of the permit.² According to Board records, it inspected 2,193 permit holders in fiscal year 2019.
- Investigating and adjudicating complaints against licensees and permit holders. According to Board records, it received approximately 570 complaints against licensees and permit holders in fiscal year 2019 (see Appendix A, page a-1, footnote 58, for more information about the number of complaints the Board received).
- Providing information about licensed individuals and permitted facilities to the public.
- Operating, monitoring, maintaining, and staffing the CSPMP, which was established in 2007.

Board's mission statement

To protect the health, safety, and welfare of Arizona citizens by regulating the practice of pharmacy and the manufacturing, distribution, sale, and storage of prescription medications and devices, and nonprescription medications.

¹ Pursuant to Arizona Administrative Code (AAC) R4-23-1103(C)(5), pharmacy technician trainee licenses are valid for 2 years and are not renewable, unless the Board allows for re-application. As established in Arizona Revised Statutes (A.R.S.) §32-1923(E), pharmacy intern licenses are valid for 6 years and are not renewable, unless the Board grants an exception.

² The Board issues permits to facilities located out-of-state that distribute or sell prescription-only drugs/devices or nonprescription drugs in Arizona. The Board does not inspect these facilities.

Table 1
Licenses and permits issued by the Board

License type	General description of responsibilities and examples of qualifications ¹	Licenses issued fiscal year 2019	Total active licenses as of January 2020
Pharmacist	<ul style="list-style-type: none"> Dispense prescription medication and counsel patients about the use of their medication. Must graduate from a college of pharmacy recognized by the Board. 	699	11,848
Pharmacy intern	<ul style="list-style-type: none"> Work under a pharmacist's supervision. Must be enrolled in a Board-approved college of pharmacy. 	555	1,768
Pharmacy technician	<ul style="list-style-type: none"> Fill prescriptions and complete administrative tasks under a pharmacist's supervision. Must complete a training program in a pharmacy. Must pass a national examination. 	1,167	11,772
Pharmacy technician trainee	<ul style="list-style-type: none"> Fill prescriptions and complete administrative tasks under a pharmacist's supervision. Must have at least a high school diploma or equivalent. Must be completing a technician training program. 	2,858	7,158
Total		5,279	32,546

Permit type	General description of responsibilities and examples of qualifications	Permits issued fiscal year 2019 ²	Total active permits as of January 2020
Compressed medical gas distributor/Durable medical equipment and compressed medical gas supplier	Manufacture, distribute and/or sell: <ul style="list-style-type: none"> Compressed gases, such as liquid oxygen. Prescription-only medical devices, such as electronic wheelchairs, blood glucose monitors, and hospital beds. 	152	689
Drug manufacturer	Manufacture, compound, produce, or package any drug in a facility other than a pharmacy.	209	797
Drug wholesaler	Possess and distribute drug products to manufacturers, medical practitioners, pharmacies, and other wholesalers.	187	1,066
Pharmacy	<ul style="list-style-type: none"> Dispense medication and devices for retail sale under a pharmacist's supervision. May compound and dispense prescriptions. 	520	2,473
Remote dispensing site pharmacy/Automated prescription-dispensing kiosk	<ul style="list-style-type: none"> Dispense medication with pharmacy technician onsite and pharmacist supervising remotely. Dispense medication from a machine that operates as an extension of a pharmacy. Must be owned/operated by a pharmacy with an active Arizona pharmacy permit. 	9	15
Third-party logistics provider	Store and ship drug products on behalf of facilities such as wholesalers and manufacturers.	88	211
Total		1,165	5,251

¹ The description of responsibilities and qualifications does not include all qualifications required or allowed by statute and rule.

² Reported numbers may be higher than the number of permits actually issued because some permit applications were still in process but were considered "issued" by the Board's licensing database when we compiled this data.

Source: Auditor General staff analysis of A.R.S. Title 32, AAC Title 4, Ch. 23, Board licensing data, Board-provided information, and explanations from Board staff.

CSPMP helps support access to legitimate uses of controlled substances

Statute requires licensed prescribers and dispensers to register with the CSPMP and review a patient's profile in the CSPMP database prior to prescribing or dispensing certain controlled substances.^{3,4} Statute also requires pharmacies and dispensing medical practitioners to report information to the CSPMP about certain controlled substances dispensed to individuals.⁵ According to the U.S. Drug Enforcement Administration (DEA), state prescription drug monitoring programs, such as the CSPMP, benefit states by supporting access to legitimate medical use of controlled substances; identifying and deterring or preventing drug abuse and diversion; facilitating the identification, intervention with, and treatment of persons addicted to prescription drugs; and informing public health initiatives through outlining of use and abuse trends.⁶ Additionally, a Johns Hopkins Bloomberg School of Public Health report on the opioid epidemic makes several recommendations for effectively using prescription drug monitoring programs as a tool for combating the epidemic.⁷ In June 2017, Governor Doug Ducey declared a State-wide emergency in response to the opioid overdose epidemic and according to an Arizona Department of Health Services report, CSPMP data showed opioid prescriptions filled per month in Arizona declined by 23 percent between July 2017 and November 2019.

Pursuant to A.R.S. §36-2603, the Board must appoint a task force of public and private stakeholders to help administer the CSPMP database. The CSPMP task force is required to identify educational, outreach, and support services to medical practitioners and to consult and recommend exceptions to electronic prescribing requirements. The task force met annually in calendar years 2017 through 2019 and has discussed topics such as updates and enhancements to the CSPMP, including prescriber reporting improvements and updates on CSPMP compliance by prescribers and dispensers.

To operate the CSPMP, the Board contracts with a vendor to provide the State with a centralized database tracking system (CSPMP database) to track the prescribing, dispensing, and consumption of certain controlled substances. The Board grants licensed medical practitioners (prescribers) and licensed pharmacists (dispensers) and their delegates, such as medical assistants and pharmacy technicians, access to the CSPMP database so they may review information for patients who receive certain dispensed controlled substances, such as narcotics like hydrocodone, depressants like diazepam, and stimulants like methylphenidate. The Board is also responsible for providing patient information related to the CSPMP to authorized individuals and organizations, such as other Arizona professional licensing boards. Specifically, Board CSPMP responsibilities include:

- **Providing access to the CSPMP database**—Prior to accessing the CSPMP database directly, prescribers and dispensers who are licensed under applicable Arizona professional licensing boards (see textbox, page 5) must register with the CSPMP. Registration may be requested at no cost by submitting required information to the Board through its CSPMP webpage, such as their professional license number and license type. The Board reviews registration submissions for qualifications before authorizing the registration and allowing access to the CSPMP database. Statute specifies that patient data in the CSPMP database is confidential

³ A.R.S. §36-2606(A)(F)(G).

⁴ Statute requires prescribers to obtain a patient utilization report prior to prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule II, III, or IV at the beginning of a new course of treatment and at least quarterly while the prescription remains part of treatment. Drugs are assigned to a schedule based on their potential for abuse. For example, schedule II drugs, such as Vicodin or oxycodone, have a high potential for abuse whereas schedule IV drugs, such as Valium, have a low potential for abuse. Dispensers are required to obtain a patient utilization report at the beginning of each new course of treatment prior to dispensing a schedule II controlled substance and must also submit information about all dispensed controlled substances that are listed in schedules II through V.

⁵ A.R.S. §36-2608(A).

⁶ Drug Enforcement Administration. (2016). *State prescription drug monitoring programs*. Washington, DC: U.S. Department of Justice. Retrieved 3/31/2020 from https://www.deadiversion.usdoj.gov/faq/rx_monitor.htm.

⁷ Alexander, G.C., Frattaroli, S., & Gielen, A.C., eds. (2017). *The opioid epidemic: From evidence to impact*. Baltimore, MD: Johns Hopkins Bloomberg School of Public Health. Retrieved 6/29/2020 from <https://www.jhsph.edu/events/2017/americas-opioid-epidemic/report/2017-JohnsHopkins-Opioid-digital.pdf>.

and unauthorized use of the information is a class 6 felony.⁸ Registration applicants must agree to use the CSPMP data only for evaluating or providing medical treatment to a patient and acknowledge that any other use may result in disciplinary action, civil penalties, or criminal action.

- Providing information from the CSPMP database**—The Board is required to notify other Arizona professional licensing boards if a licensed or permitted prescriber fails to comply with the CSPMP requirements.⁹ Additionally, the Board is allowed to process requests for CSPMP database information when allowed by statute. For example, when law enforcement agencies subpoena information as part of an ongoing case, the Board will review the request and provide information, as appropriate (see Table 2 for more information on data requests). In addition, the Board produces a monthly scorecard report containing aggregate information about the number of controlled substance prescriptions dispensed and the number of lookups performed by registered prescribers. The Board provides this scorecard to the Arizona Department of Health Services to be published on its Opioid Epidemic website, which includes information about Arizona’s opioid crisis. The Board also provides a quarterly prescriber report to each registered prescriber showing them how their prescribing behavior compares to other prescribers with the same medical specialty.

Arizona professional licensing boards whose licensees are statutorily required to register with and access the CSPMP database if prescribing or dispensing certain controlled substances

- Arizona Board of Homeopathic and Integrated Medicine Examiners
- Arizona Board of Osteopathic Examiners in Medicine and Surgery
- Arizona Medical Board
- Arizona Naturopathic Physicians Medical Board
- Arizona Regulatory Board of Physician Assistants
- Arizona State Board of Dental Examiners
- Arizona State Board of Nursing
- Arizona State Board of Optometry
- Arizona State Board of Pharmacy
- Arizona State Board of Podiatry Examiners

Source: Auditor General staff review of A.R.S. §36-2606 and A.R.S. Title 32.

Table 2
CSPMP data requests received by Board
Fiscal year 2019

Requesting agency	Number of requests
Law enforcement	1,722
Court orders	204
Licensing boards	70
Arizona Health Care Cost Containment System	34
Total	2,030

Source: Board-provided information.

The Board also encourages CSPMP database use by reminding new pharmacists to register with the CSPMP database and by providing online training videos and in-person training.

Organization and staffing

As required by A.R.S. §32-1902, the Board consists of 9 members appointed by the Governor for 5-year terms. Membership includes 6 pharmacists, with at least 1 employed by a licensed hospital and another employed as a practicing pharmacist in a community pharmacy; 1 pharmacy technician; and 2 public members. As of January 2020, 3 Board members were serving without reappointment because the Governor had not yet appointed new Board members since these 3 members’ terms had expired in January 2020.

The Board was appropriated 22.4 full-time equivalent (FTE) positions for fiscal year 2020, and as of June 2020, had the following 17 positions filled: 6 compliance officers, 5 administration/operations staff, including the executive

⁸ A.R.S. §§36-2604 and 36-2610.

⁹ A.R.S. §36-2607.

director, 4 licensing staff, 1 inspector, and 1 CSPMP director. In addition, the Board reported that as of March 2020, it had hired 7 additional staff to operate the CSPMP, which it pays for using nonappropriated monies from a federal grant and an agreement with the Arizona Department of Health Services. These 7 staff are not included in its appropriation of 22.4 FTE positions.

Budget

The Board does not receive any State General Fund appropriations. Instead, the Board's revenues consist primarily of license and permit fees, which it deposits into the Board of Pharmacy Fund (Pharmacy Fund). Statute requires the Board to remit all monies collected from civil penalties and 10 percent of other monies, including license and permit fees, to the State General Fund, with the Board retaining the remaining 90 percent of these monies. The Board also receives revenues to operate the CSPMP consisting of grants, gifts, or donations and up to \$500,000 annually transferred from the Board's operating monies, which are deposited into the Board's CSPMP Fund.¹⁰ Additionally, in fiscal year 2019, the CSPMP Fund received more than \$2 million in revenues from other sources, including from the Arizona Department of Health Services Medical Marijuana Fund, which paid for more than 80 percent of the CSPMP expenditures (see Table 3, page 7). The Board estimated that in fiscal year 2020, it would receive more than \$5.3 million in net revenues.

In fiscal years 2017 through 2020, most of the Board's expenditures were or are estimated to be for Board staffing and maintenance and support of the CSPMP database (see Table 3 for additional information).

¹⁰ A.R.S. §36-2605 allows the CSPMP Fund to receive legislative appropriations, but it has not received any legislative appropriations between fiscal years 2017 and 2019. In addition, the Board transferred nearly \$400,000 in fiscal year 2017 and \$500,000 in each of fiscal years 2018 and 2019 from the Pharmacy Fund to the CSPMP Fund. However, these transfers are not reflected in Table 3 because it would overstate the Board's revenues and expenditures.

Table 3¹
Schedule of revenues, expenditures, transfers, and changes in fund balances
Fiscal years 2017 through 2020
(Unaudited)

	2017 Actual	2018 Actual	2019 Actual	2020 Estimate
Revenues				
Licensing and related fees ²	\$3,748,074	\$4,174,489	\$4,374,629	\$3,713,181
Intergovernmental revenue				
Arizona Department of Health Services – Medical Marijuana Fund ³	644,849	802,527	1,359,944	1,497,173
Arizona Department of Health Services – Prescription Drug Overdose Prevention Program ⁴	213,705	116,902	154,470	229,106
Other		209,469	122,280	152,520
Examination fees	123,154	108,850	126,900	100,980
Fines, forfeits, and penalties	68,404	147,748	63,872	51,283
Other ⁵	168,850	33,063	550,959	32,162
Total gross revenues	4,967,036	5,593,048	6,753,054	5,776,405
Net credit card transaction fees	(66,208)	(67,771)	(123,890)	(61,463)
Remittances to the State General Fund ⁶	(546,354)	(472,546)	(576,372)	(389,760)
Total net revenues	4,354,474	5,052,731	6,052,792	5,325,182
Expenditures and transfers				
Payroll and related benefits	2,039,951	2,101,661	2,137,295	2,279,857
Professional and outside services	97,461	91,933	103,131	240,469
Travel	62,399	69,301	49,244	74,132
Aid to organizations ⁷	292,600	292,600	207,717	200,000
Other operating				
Database access, support, and maintenance ⁸	602,998	1,103,380	1,084,913	1,138,289
Other ⁹	331,692	311,080	337,580	506,513
Furniture, equipment, and software	3,953	26,800	24,253	108,801
Total expenditures	3,431,054	3,996,755	3,944,133	4,548,061
Transfers out to the Arizona Department of Administration ¹⁰	500		38,608	
Total expenditures	3,431,554	3,996,755	3,982,741	4,548,061
Net change in combined fund balances	922,920	1,055,976	2,070,051	777,121
Combined fund balances, beginning of year	4,693,000	5,615,920	6,671,896	8,741,947
Combined fund balances, end of year	\$5,615,920	\$6,671,896	\$8,741,947	\$9,519,068

¹ Table 3 includes financial activity related to the Pharmacy and CSPMP Funds.

² Beginning in August 2019, statutory changes discontinued the Board's regulation of nonprescription retailers which, according to the Board, decreased the amount of revenue received.

³ Revenues received from the Arizona Department of Health Services Medical Marijuana Fund were used to pay for access to the CSPMP database (see footnote 8).

⁴ The Arizona Department of Health Services provided these revenues pursuant to an agreement with the Board for enhancing and maximizing the CSPMP.

⁵ In fiscal year 2019, the Board received a one-time payment of more than \$380,000 of unclaimed licensing fees from the Treasurer's Office. These monies were a result of online application fees from previous years that were not recorded to the Pharmacy Fund.

⁶ As required by A.R.S. §32-1907(A), the Board is required to remit 100 percent of civil penalties and 10 percent of all its other monies to the State General Fund, except monies related to the CSPMP Fund.

⁷ Aid to organizations includes \$200,000 in each fiscal year that was paid to the University of Arizona for the Arizona Poison Control and Drug Information Center as allowed by A.R.S. §32-1907(D). In fiscal years 2017 and 2018, aid to organizations also included \$92,600 to a program for substance abuse treatment for pharmacists.

⁸ The database access, support, and maintenance expenditures are payments to the CSPMP database vendor to allow prescribers and dispensers across the State to more easily access the CSPMP database and to provide support and maintenance of this access.

⁹ Other operating expenditures include rent, insurance, telecommunications, postage, software and computer-related maintenance and support, data processing, and office supplies.

¹⁰ Transfers to the Arizona Department of Administration in fiscal year 2019 are primarily for tenant improvements to the Board's offices.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2017 through 2019, the State of Arizona Annual Financial Report for fiscal years 2017 through 2019, and Board-provided estimates for fiscal year 2020.



Board did not ensure licensees and facilities we reviewed were qualified to practice and operating safely

The Board performs several regulatory activities that are meant to help ensure the safe and qualified practice of pharmacy (see textbox). However, we identified several instances in which the Board did not adequately fulfill its regulatory responsibilities, which may put the public’s health and safety at risk. Specifically:

- **Board did not verify the validity of fingerprint clearance cards for all but 1 of the pharmacist license applicants we reviewed, nor do they have the statutory authority to require a valid fingerprint clearance card at renewal**—The Board did not confirm the validity of fingerprint clearance cards for 29 of 30 randomly selected initial pharmacist licenses issued by the Board in fiscal year 2019 that we reviewed (see textbox, page 9, for information about fingerprint clearance cards).¹¹ According to DPS, fingerprint clearance card validity can only be confirmed by checking the DPS website or contacting DPS directly. Although statute requires applicants to submit fingerprint clearance cards to the Board, according to the Board, it did not confirm the validity of these applicants’ fingerprint clearance cards because many of the applicants were recent graduates from pharmacy schools and possessed a pharmacy intern license, which also requires a fingerprint clearance card. The Board further reported that it assumed pharmacy schools would notify it of any problems with the fingerprint clearance card, despite the Board having the responsibility to ensure applicants meet this requirement.

Confirming the validity of the fingerprint clearance card is important because a fingerprint clearance card may become suspended if a cardholder is arrested for a precluding offense. We used the DPS website to determine whether the fingerprint clearance cards were valid for all 30 pharmacist applicants and were able to confirm that as of August 2019, all but 1 of the 30 had a valid fingerprint clearance card.¹² However, by not confirming the validity of these applicants’ fingerprint

Key Board regulatory activities¹

-  **Licensing**—Review applicant qualifications, such as education, training, and fingerprint clearance card validity.
-  **Continuing education**—Audit a sample of renewed licenses to ensure compliance with continuing education requirements.
-  **Complaint handling**—Investigate and adjudicate complaints against its licensees and permit holders.
-  **Inspecting facilities**—Conduct periodic inspections at pharmacies and manufacturers to help ensure continued compliance with statute and rule.

¹ See Sunset Factors, pages 21 through 23, for additional regulatory responsibilities we reviewed.



¹¹ The sample was selected from the 699 initial pharmacist licenses the Board issued to applicants in fiscal year 2019.

¹² We could not confirm whether the remaining fingerprint clearance card was valid when the applicant applied for a pharmacist license because it expired approximately 8 months after the Board issued the license and had not been renewed at the time of our review. Although statute requires a valid fingerprint clearance card for licensure, it does not require licensees to maintain a valid fingerprint clearance card (see page 9 for more information).

clearance cards, the Board did not ensure that it was issuing licenses to only qualified applicants as required by statute.¹³

Further, the Board does not require any of its applicants to maintain a valid fingerprint clearance card at license renewal because it lacks the statutory authority to do so. Absent this authority, the Board instead requires that renewal applicants self-disclose whether they have been arrested for, charged with, or convicted of a misdemeanor or felony since their last renewal, including those arrests or convictions that have been expunged or dismissed. However, fingerprint clearance cards rely on information from law enforcement agencies, which provides better assurance that an applicant has not been arrested for or convicted of a criminal offense that would preclude their ability to have their license renewed.

Fingerprint clearance card—A card that the Arizona Department of Public Safety (DPS) issues indicating that the cardholder is not awaiting trial for or has not been convicted of committing only certain precluding criminal offenses, such as sexual assault, forgery, and concealed weapon violations. DPS issues this card based on its review of an applicant's criminal history record information. The card is valid for 6 years; however, if a cardholder is arrested for a precluding offense during this time period, DPS is authorized to suspend the card. DPS is also required to notify the cardholder and the entity if the cardholder is employed or licensed by an entity that is statutorily authorized to receive notification that the card is suspended pending the outcome of the arrest.

Source: Auditor General staff review of A.R.S. §41-1758 et seq and communication with DPS staff.

- **Board did not ensure that licensees met continuing education requirements**—Despite statutory and rule requirements that pharmacy technicians and pharmacists complete 20 and 30 hours, respectively, of continuing education biennially prior to renewing their license, the Board did not ensure that these requirements were met. Although the Board's renewal application requires licensees to attest to completing required continuing education hours, the Board did not regularly verify that licensees met these requirements. Further, even when the Board conducted a continuing education audit after its 2018 renewal cycle that identified a substantial amount of licensee noncompliance with continuing education requirements, it did not establish a regular continuing education verification process.¹⁴ Specifically, the Board audited the continuing education for 50 randomly selected licensees it renewed in calendar year 2018.¹⁵ Seven of the 50 licensees, or 14 percent, had not complied with the continuing education requirements despite these licensees asserting their compliance. For example, the Board determined that 2 licensees had not completed any continuing education hours in the 2-year renewal cycle, while the other 5 licensees were deficient in the number of continuing education hours they obtained.¹⁶ Because the Board selected the renewal applicants at random for its continuing education audit, it is likely that this identified noncompliance was not isolated to the audited population.

The Board renewing licenses without taking steps to ensure applicants have completed the required continuing education puts public safety at risk because licensees may not be aware of the newest research and best practices in the pharmacy profession. The National Association of Boards of Pharmacy (NABP) recommends that state boards of pharmacy require license renewal applicants to complete continuing education as a requirement for license renewal, enforce this requirement, and ensure the continued competence of its regulated licensees. Additionally, other Arizona regulatory boards are required by statute or rule to conduct continuing education audits. For example, the Arizona Medical Board and the Arizona Naturopathic Physicians Medical Board are required to audit at least 10 percent of physicians to verify compliance with continuing

¹³ A.R.S. §32-1904(A)(6).

¹⁴ According to the Board, as of March 2020, it was in the process of conducting a continuing education audit of 50 licensees who renewed their license during the 2017 or 2019 renewal cycle, which represents less than 1 percent of license renewal applications it received during those 2 years.

¹⁵ The Board audited 25 pharmacy technicians and 25 pharmacists, which comprised less than 1 percent of the 7,815 licenses it renewed in calendar year 2018.

¹⁶ The Board took action to address the noncompliance by issuing consent agreements to all 7 licensees. The consent agreements included a civil monetary penalty based on the number of hours missing and a requirement to complete 1.5 times the continuing education hours in the next renewal cycle. One of the 7 licensees agreed to voluntarily surrender her license rather than sign the consent agreement.

education requirements on an annual or biennial basis, respectively.¹⁷ According to Board staff, conducting the continuing education audits was time-consuming and overwhelming and as such, the Board had not required its staff to regularly perform these audits. As of April 2020, the Board had begun to establish policies and procedures for auditing continuing education compliance after each renewal cycle.

- **Board has not always investigated complaints alleging prescriptions were not filled**—We reviewed 7 complaints from the March and May 2019 Board meeting agendas that alleged a prescription was not filled by a pharmacy.¹⁸ These complaints were placed on the Board meeting agendas for the Board to determine whether these complaints were within its jurisdiction and if it should open the complaints for investigation. Although the Board opened 1 of these complaints for investigation, it determined that the other 6 complaints were outside of its jurisdiction. The Board did not explain its rationale for opening the 1 complaint for investigation but not the other 6 complaints despite all 7 complaints containing similar allegations. In addition, our review of a random sample of 30 complaints against licensees/permit holders that the Board received in fiscal year 2019 identified 3 complaints with allegations that prescriptions were not being filled.¹⁹ The Board opened and investigated these 3 complaints. Although Board members determine whether or not to open some complaints for investigation, the Board had not established guidance for Board staff to ensure it received sufficient complaint information on which to base its decisions and had not documented the rationale of its decisions.

During the audit, the Board revised its complaint-handling process to require its lead compliance officer to review all complaints and assess whether the complaint is within the Board's jurisdiction and, for those that are not, forward a recommendation to the Board's executive director to close the complaint. The Board has delegated authority to its executive director to close complaints that are not within the Board's jurisdiction.²⁰ However, the Board has not developed guidance, such as types of violations that would not be within the Board's jurisdiction, to help ensure its lead compliance officer and executive director consistently and appropriately determine complaint jurisdiction.

- **Board did not meet required inspection time frames**—Our review of a sample of inspections performed at 13 of the Board's 1,373 permitted pharmacies and manufacturers (facilities) with an active permit as of September 2019 found that the Board did not meet its time frame to conduct an inspection once every 18 months for 9 of the 13 permitted facilities, including 2 sterile compounding facilities.²¹ The Board is also required to conduct inspections of sterile compounding facilities once every 18 months as a member of the NABP Multistate Pharmacy Inspection Blueprint Program (Blueprint Program) because these facilities may perform tasks that are higher risk (see textbox, page 11, for risks associated with compounding).²² Further,

¹⁷ A.R.S. §32-1434(D) and AAC R4-18-205(E).

¹⁸ We judgmentally selected 10 complaints for review—5 of the 7 complaints that were placed on the meeting agenda for Board members to determine jurisdiction in the March 2019 Board meeting agenda and all 5 complaints that were placed on the meeting agenda for Board members to determine jurisdiction in the May 2019 Board meeting agenda. Seven of these complaints had similar allegations.

¹⁹ We reviewed a random sample of 30 of the 570 complaints against licensees/permit holders that the Board received in fiscal year 2019. Although the Board's data showed that it received 570 complaints in fiscal year 2019, this number is likely inaccurate because the Board did not sufficiently track this data. For example, the Board's data included complaint allegations that were not in the Board's jurisdiction and were not opened for investigation and the Board did not differentiate these complaints from complaints that it determined were within its jurisdiction. In addition, when the Board opens complaints against several licensees/permit holders for the same allegation, the Board assigns each complaint the same complaint number.

²⁰ Laws 2019, Ch. 257, allows the Board to delegate authority to its executive director to take no action or dismiss a complaint that has insufficient evidence that a violation has occurred. It also requires the executive director to provide Board members with a list of these actions at each regularly scheduled Board meeting.

²¹ We reviewed a random sample of 7 of the 1,323 pharmacies and 3 of the 50 manufacturers that had an active permit as of September 2019. Because none of the 7 pharmacies initially reviewed engaged in sterile compounding, we judgmentally selected an additional 3 pharmacies that would be more likely to engage in sterile compounding and found 2 of these 3 did so.

²² According to NABP, the Blueprint Program provides pharmacy boards with the tools to inspect sterile compounding pharmacies that ship across state lines. States that participate in the Blueprint Program can rely on other states' inspections, rather than performing their own inspections.

as of February 2020, 2 of the 13 facilities had operated nearly 3 and more than 5 years, respectively, without an inspection.

Risks of compounding

Compounding is the process of combining, mixing, or altering ingredients to create a medication tailored to the needs of an individual patient. Some of the risks associated with compounding include:

- FDA does not verify the safety, effectiveness, or quality of compounded drugs and poor compounding practices can result in serious drug quality issues.
- Sterile compounding requires the maintenance of sterile conditions, such as air quality, disinfected surfaces, and use of protective clothing because the contamination of sterile compounds poses the greatest probability of risk to patients.
- Contaminated sterile products are potentially the most harmful when administered into body cavities, central nervous and vascular systems, eyes, and joints, and when used as baths for live organs and tissues.
- In 2012, a Massachusetts pharmacy shipped contaminated compounded drugs that were ultimately used by 14,000 patients, leading to more than 750 fungal infections and 60 patient deaths.

Source: U.S. Food and Drug Administration (FDA) website and U.S. Pharmacopeia and the National Formulary. (2008). *USP general chapter <797> pharmaceutical compounding—sterile preparations*. Rockville, MD.

Although each of the Board's compliance officers separately track the inspections they perform, Board management does not centrally track or monitor inspection frequency. Therefore, Board management is not aware when inspection time frames are not met and this inadequate oversight has contributed to some permitted facilities operating more than 18 months without an inspection.

Recommendations

The Board should:

1. Ensure that initial pharmacist license applicants possess a valid fingerprint clearance card before it issues a license by developing and implementing policies and procedures requiring Board staff to check the validity of fingerprint clearance cards on the DPS website.
2. Work with the Legislature to amend statute to require licensees to maintain a valid fingerprint clearance card and submit them at renewal.
3. After statute is amended (see Recommendation 2), develop and implement written policies and procedures that require Board staff to check the DPS website to ensure the validity of fingerprint clearance cards submitted by all renewal licensure applicants.
4. Ensure that renewal applicants meet continuing education requirements by continuing to develop and implement written policies and procedures for conducting continuing education audits after each renewal cycle.
5. Consistently determine complaint jurisdiction by developing and implementing guidance, such as types of violations that would not be within the Board's jurisdiction, to help ensure its lead compliance officer and executive director consistently and appropriately determine complaint jurisdiction.
6. Document the rationale for its complaint jurisdiction determinations.
7. Consistently meet established inspection time frames by developing and implementing processes for tracking and monitoring the completion of facility inspections.

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



Board’s license and permit fees are not based on cost of providing services, resulting in large and growing fund balance

Board has not based licensing and permit fees on actual costs of providing services

The Board’s primary revenue source is its licensing and permit fees, but it has not established these fees based on the costs to perform its regulatory processes, and it reported that it does not know when it last reviewed its fees. For the most part, the Board’s fees have remained unchanged since 2009. For example:

- As allowed by statute, in 2019, the Board established 2 new permit types and their associated permit application fees—a \$480 application fee for an automated prescription-dispensing kiosk permit and a \$1,000 application fee for a third-party logistics provider permit (see Table 1, page 3, for more information about the purposes of these permits).²³ According to a Board official, the Board did not perform a cost analysis of its process to review and approve these permits or any other related regulatory processes to determine the application fees for these new permits. Instead, because these permits are a type of pharmacy and wholesaler, respectively, the Board established the fees based on the fee amount that it was already charging for existing pharmacy and wholesaler permits.
- The Board charges the same \$480 pharmacy permit application fee to both in-state and out-of-state applicants even though it does not inspect out-of-state pharmacy permit applicants prior to issuing the permit.²⁴
- The Board charges pharmacists who apply for licensure by reciprocity a \$300 “reciprocity fee” (see Table 4).²⁵ According to statute, the reciprocity fee is to cover the expense of investigating the applicant’s character, general reputation, and pharmaceutical standing in the jurisdictions in which the applicant is licensed.²⁶ The Board relies on NABP’s license transfer application, which provides information on the applicant’s disciplinary history and license status in other states and according

Table 4
Initial pharmacist license application fees as of March 2020

Application and fee type	Fee amount
Licensure by exam	
Licensure fee	\$180
Application fee	50
Wall license	20
Total	\$250
Licensure by reciprocity	
Reciprocity fee	\$300
Licensure fee	180
Wall license	20
Total	\$500

Source: AAC R4-23-205.

²³ A.R.S. §32-1931.

²⁴ The Board requires out-of-state permit applicants to possess a valid license or permit in their home state and relies on this to ensure the applicant is in good standing.


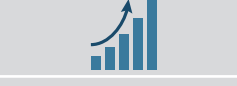

²⁵ AAC R4-23-205.

²⁶ A.R.S. §32-1924(D) requires that the Board charge a fee for reciprocal licensure that is not more than \$500.

to the Board, it has done so since 1998. If the license transfer application does not reveal any concerns, the Board does not conduct an investigation. However, if an applicant has disciplinary or criminal history, the Board requests and reviews the information, regardless of whether they are seeking licensure by reciprocity or by exam. Therefore, the Board’s investigative costs for reviewing and issuing reciprocity licenses may not justify the \$300 fee because it is the same investigative work that it conducts for all applicants.

The Board has approved nearly 7,000 pharmacist licenses by reciprocity between 1998 and March 2020.²⁷ As a result, the Board received nearly \$2.1 million in revenue for work that may have cost it less to perform.

Standards and guidelines for government fee setting developed by several government and professional organizations state that user fees should be set and reviewed periodically to ensure they are based on the costs of providing a service.²⁸ When an agency sets fees that are not based on the cost of providing a service, there is an increased risk that the agency’s fee revenues may be greater or less than the costs of the services it provides. Standards and guidelines for fee setting also indicate that when setting fees to cover the cost of operations, agencies should ensure that their operations are as efficient as possible. Further, agencies should develop a method to identify both direct and indirect costs to help accurately determine their costs for providing a service or good and then set their fees accordingly. Finally, the guidelines indicate that agencies should consider the effect the proposed fee changes may have on stakeholders and obtain their input when reviewing and setting the fees.

Fee-setting standards and guidelines for user fees: ¹	
	Based on the cost of providing a service.
	Reviewed periodically to align with actual cost and adjust for inflation.
	Considered impact on stakeholders and obtained input for fee changes.

¹ See Appendix A, page a-2, for more information on the sources reviewed.

According to the Board, it has not established its fees based on the direct and indirect costs of its regulatory activities or periodically reviewed the appropriateness of its fees based on changes to these costs because it was not aware of these fee-setting guidelines or that fees should align with its actual costs.

Board’s fund balance is large and growing

As shown in Table 5, page 14, from fiscal years 2017 to 2019, the Board’s Pharmacy Fund balance—which represents the accumulated difference between revenues and expenditures—increased by more than \$2.7 million. As of fiscal year 2019, the Board’s more than \$8 million Pharmacy Fund balance was nearly 3 times its expenditures for that year. The Board projects its Pharmacy Fund balance will continue to increase as its revenues exceed its expenditures and reach approximately \$8.4 million at the end of fiscal year 2020.

²⁷ Although Laws 2019, Ch. 55, requires Arizona State regulating entities to issue reciprocal occupational or professional licenses under certain circumstances to individuals that establish Arizona residency, according to the Board, it was already providing out-of-state pharmacists the ability to reciprocate their license in compliance with these requirements and therefore, it has not changed its process.

²⁸ We reviewed fee-setting guidelines from the Arizona State Agency Fee Commission, the Government Finance Officers Association, the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, the U.S. Government Accountability Office, and the U.S. Office of Management and Budget (see Appendix A, page a-2, for more information).

Table 5
Board of Pharmacy Fund
Summary of revenues, expenditures, transfers, and fund balance
Fiscal years 2017 through 2019
(Unaudited)

	2017	2018	2019 ¹	Increase between 2017 and 2019
Revenues and transfers in	\$3,495,920	\$3,923,832	\$4,436,830	\$ 940,910
Expenditures and transfers out ²	2,679,295	2,785,977	2,846,042	166,747
Fund balance	\$5,428,258	\$6,566,113	\$8,156,902	\$2,728,644

¹ In fiscal year 2019, the Board received a one-time payment for unclaimed license fees. See Table 3, footnote 5, on page 7 for more information.

² Expenditures and transfers out for all fiscal years include transfers to the CSPMP Fund. Specifically, the Board transferred nearly \$400,000 in fiscal year 2017 and \$500,000 in each of fiscal years 2018 and 2019 from the Pharmacy Fund to the CSPMP Fund.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* and the State of Arizona *Annual Financial Report* for fiscal years 2017 through 2019.

Recommendations

The Board should:

8. Conduct a review of its license and permit fees consistent with government fee-setting standards and guidelines, including ensuring the fees are based on actual costs and promote service efficiency, and then adjust its fees accordingly. Specifically, the Board should:
 - a. Develop and implement a method for determining and tracking the direct and indirect costs for its regulatory processes and establish policies and procedures for using this method. The policies and procedures should also require the periodic review of the Board's fees, including tracking and reassessing actual costs and assessing if costs are necessary for providing services.
 - b. After implementing this cost methodology, determine the appropriate license and permit fees.
 - c. Consider the effect of proposed fee changes on applicants, licensees, and permit holders and obtain their input when reviewing the fees.
 - d. Adjust its fees in its rules, as necessary.
9. Work with the Legislature, as needed, to revise statute to eliminate the reciprocity fee and charge the same application fee to all initial pharmacist applicants.

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



State may not be receiving full benefits of the CSPMP because Board has not enforced or helped to enforce compliance with CSPMP requirements

Board has not ensured its licensees/permit holders use the CSPMP database when required or provided information to other Arizona professional licensing boards to help them identify noncompliance among their licensees

As discussed in the Introduction (see pages 4 through 5), prescribers' and dispensers' use of the CSPMP is important to support access to and legitimate medical use of controlled substances; identify and deter or prevent drug abuse and diversion; facilitate the identification, intervention with, and treatment of persons addicted to prescription drugs; and inform public health initiatives through outlining of use and abuse trends.²⁹ Figure 1 (see page 16), shows how prescribers, dispensers, and pharmacies should use the CSPMP database to help achieve these purposes. For example, the CSPMP database works most effectively as a tool for prescribers and dispensers when pharmacies have submitted complete information on controlled substances they dispensed so it is available in the CSPMP database. In addition, according to the Arizona Department of Health Services 2018 Arizona Opioid Prescribing Guidelines, using the CSPMP database helps prescribers develop a plan of care for a patient and avoid fatal drug-to-drug interactions by identifying harmful medical interactions and can provide evidence of multiple providers prescribing controlled substances. Finally, because pharmacists are not required to dispense a controlled substance if it would be potentially harmful to the patient's health, CSPMP database information can help them exercise professional judgment to determine whether or not to dispense a controlled substance.

However, the Board has not taken the steps needed to ensure that all permitted pharmacies that can dispense controlled substances are reporting information into the CSPMP database vendor's clearinghouse or that licensed prescribers and dispensers use CSPMP database information as required by statute to help the State and Arizona residents realize these benefits.³⁰ Specifically, the Board:

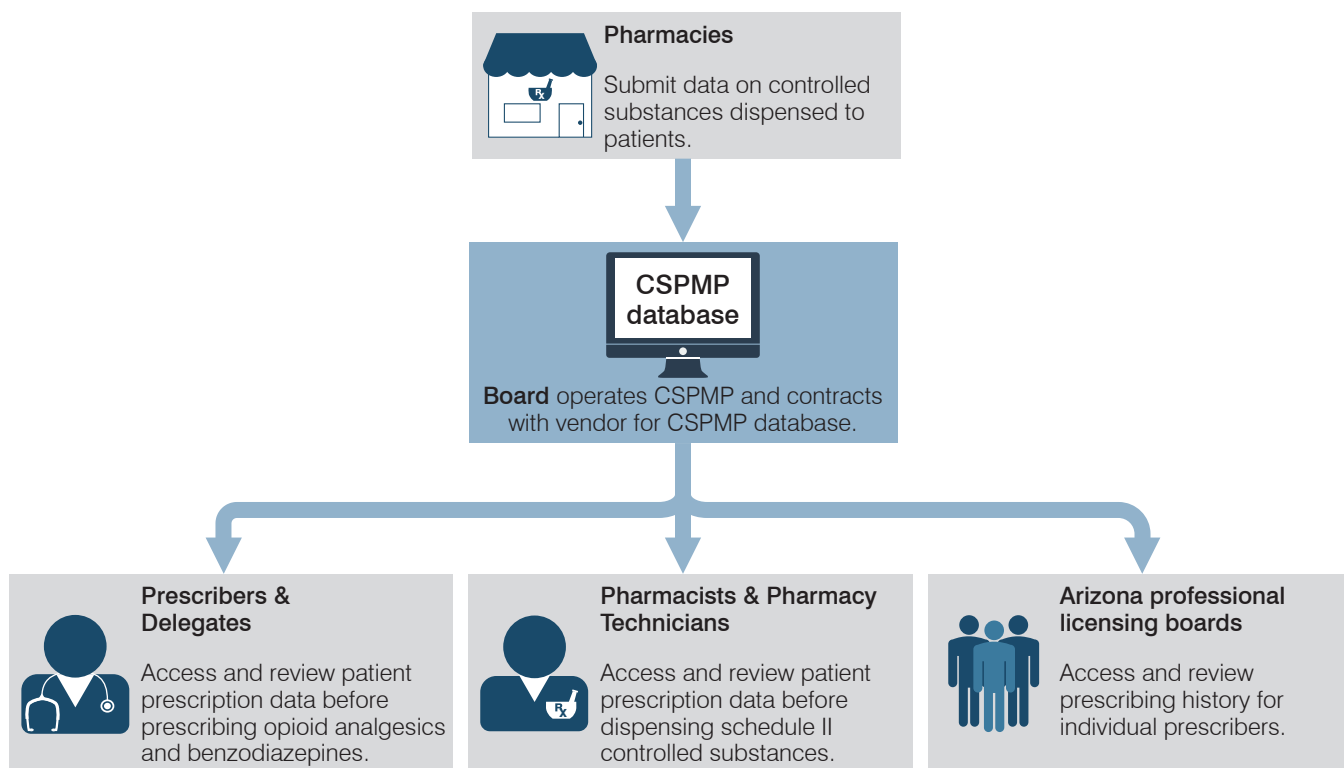
- **Has not assessed whether all permitted pharmacies that can dispense controlled substances are submitting dispensing information to the CSPMP database vendor's clearinghouse to help ensure that the CSPMP database includes complete information for prescribers and dispensers who are required to review it**—The Board reviews a bi-weekly report generated by the CSPMP database that identifies pharmacies that did not submit dispensing information to the CSPMP as required so that the Board can notify those pharmacies that they are delinquent in reporting; however, the Board does not know

²⁹ Drug Enforcement Administration. (2016). *State prescription drug monitoring programs*. Washington, DC: U.S. Department of Justice. Retrieved 3/31/2020 from https://www.deadiversion.usdoj.gov/faq/rx_monitor.htm.

³⁰ Pharmacies and medical practitioners who dispense controlled substances register with the CSPMP database vendor's clearinghouse to submit information about dispensed controlled substances. This information then becomes available to search in the CSPMP database.

whether all permitted pharmacies that can dispense controlled substances are included in this report.³¹ Therefore, the CSPMP database may be missing key information about controlled substances that were dispensed to patients, which potentially places those who rely on CSPMP database information at risk of making misinformed prescribing and dispensing decisions. After we inquired about the Board’s practices for assessing whether all permitted pharmacies were reporting information as required, the Board reported that it took action to improve its process.

Figure 1
Key users of State’s CSPMP database



Source: Auditor General staff review and summary of A.R.S. §§36-2601 et seq and interviews with Board staff.

Specifically, it reported that it began comparing the pharmacies that were submitting dispensing information to the CSPMP database vendor’s clearinghouse to the list of all permitted pharmacies with an Arizona address that can dispense controlled substances to determine if any of those pharmacies were not submitting dispensing information as required.³² The Board found that the CSPMP database did not include 177 of the 1,230 permitted pharmacies with Arizona addresses that can dispense controlled substances. The Board reported that, although it could not determine whether or not these pharmacies had previously submitted the required information, as of March 2020, it had added 137 of those 177 pharmacies to the CSPMP database so that it could begin tracking these pharmacies.³³ In addition, the Board reported that it planned to develop a similar process for identifying and tracking permitted pharmacies that have a non-Arizona address.

³¹ A.R.S. §36-2608(A) requires pharmacies to report to the CSPMP controlled substance dispensation information, such as the prescriber’s DEA number and patient’s name.

³² Similar to licensed pharmacists, if a permitted pharmacy does not dispense controlled substances, it does not have to submit information to the CSPMP database vendor’s clearinghouse. According to the Board, it can make this determination by searching its permitted pharmacies for those with a DEA number—an identifier assigned by the DEA that allows them to dispense controlled substances.

³³ The remaining 40 permitted pharmacies were closed as of March 2020.

- Has not assessed whether licensed pharmacists are registered for and check patient information in the CSPMP database prior to dispensing controlled substances to help deter or prevent drug abuse**—The Board has not identified which of its licensed pharmacists are registered for and check patient information in the CSPMP database prior to dispensing schedule II controlled substances when required by statute.³⁴ Licensed pharmacists that are not registered for the CSPMP are unable to check patient information to determine whether a prescription could be potentially harmful and should not be dispensed. According to Board information, as of March 2020, it had nearly 8,000 licensed pharmacists with a physical address in Arizona but only 5,005 were registered for the CSPMP database, which provides them with access to conduct required checks in the database.³⁵ Although not all licensed pharmacists must register for the CSPMP database, such as pharmacists working in pharmacies that do not dispense controlled substances, without any assessment of whether licensed pharmacists have registered for and are checking the CSPMP database as required, the Board cannot determine which of its licensees have complied with these statutory requirements and take necessary action to address any instances of noncompliance. According to the Board, during the audit, it began identifying Arizona pharmacists who were not registered for the CSPMP database and notifying them that they need to register if they are employed by a facility that dispenses controlled substances.
- Has not provided information to other Arizona professional licensing boards to enable them to enforce licensee compliance with State CSPMP statutes**—The Board has not provided other Arizona professional licensing boards with the information they would need to help identify and address which of their licensees did not obtain a patient utilization report from the CSPMP database prior to prescribing an opioid analgesic or benzodiazepine as required by statute (see the Introduction, page 5, for the list of Arizona professional licensing boards).³⁶ According to Board information, nearly 4,300 of the nearly 18,800 licensed prescribers, or approximately 23 percent, who wrote opioid analgesic or benzodiazepine prescriptions that were filled in January 2020 were not registered for CSPMP database access and would not have been able to check a patient’s utilization report prior to prescribing these medications or at least quarterly while the prescription remained a part of the treatment.³⁷ However, the Board did not provide any of this information to the licensed prescribers’ respective professional licensing boards. By not doing so, these boards, which have statutory authority to enforce their licensees’ compliance with State CSPMP statutes, cannot address noncompliance among their licensees and hold those licensees accountable for following State CSPMP statutes. Although other Arizona professional licensing boards can access the CSPMP database to research individual patients, they must rely on the Board for aggregate information that they can use to more quickly identify potential noncompliance among their licensed prescribers.

Board has taken educational rather than enforcement approach to CSPMP compliance and does not think other boards would want to enforce licensee compliance with State CSPMP statutes

The Board reported that it has taken an educational rather than an enforcement approach to help ensure compliance with State CSPMP statutes and a belief that other Arizona professional licensing boards would not be interested in enforcing their licensees’ compliance with these statutes. Specifically:

- Board reported it has taken an educational rather than enforcement approach to ensure CSPMP compliance**—The Board reported a preference for educating licensees and permit holders regarding State CSPMP statutory requirements rather than pursuing any enforcement remedies to address instances

³⁴ A.R.S. §36-2606(G) requires that before a pharmacist dispenses a schedule II controlled substance, they shall obtain a patient utilization report regarding the patient for the preceding 12 months at the beginning of each new course of treatment.

³⁵ The Board assessed only Arizona pharmacists and did not include those licensed by the Board but working outside of the State.

³⁶ A.R.S. §36-2606(F) requires that medical practitioners, before prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule II, III, or IV for a patient, obtain a patient utilization report regarding the patient for the preceding 12 months from the CSPMP database at the beginning of each new course of treatment and at least quarterly while that prescription remains a part of the treatment.

³⁷ According to the Board’s data, more than 500,000 opioid analgesic and benzodiazepine prescriptions were filled in Arizona in January 2020.

of noncompliance. Specifically, the Board provides online training videos about how to access and use the CSPMP database and directly notifies pharmacists about the requirement to register for the CSPMP database. Although providing this educational assistance is beneficial, it does not relieve the Board of its statutory responsibility to enforce CSPMP statutory compliance with its licensees and inform other Arizona professional licensing boards of potential noncompliance when necessary.

- **Board has not provided CSPMP information to other Arizona professional licensing boards because Board staff do not think the boards would use it to enforce compliance with the CSPMP**—Although other Arizona professional licensing boards have statutory authority to enforce their licensees' compliance with State CSPMP statutes, according to Board staff, these boards are not interested in enforcing these statutes and may not use noncompliance information if it were provided by the Board. Additionally, according to the Board, it does not know if noncompliance with State CSPMP statutes is considered “unprofessional conduct” by these other boards' statutes. However, as of June 2020, the Board has not worked with other Arizona professional licensing boards to determine whether they would use CSPMP information or reports or the type of information they would need to enforce CSPMP compliance. According to Board staff, identifying potential noncompliance would likely be a time-consuming, manual process. As a result, the Board has not established processes for identifying licensed prescriber potential noncompliance with CSPMP requirements and notifying the appropriate Arizona professional licensing board of this potential noncompliance. However, after we inquired about processes for providing information to these boards, the Board reported that it requested information from the CSPMP database vendor about potentially adding reporting functionalities that would assist in identifying and reporting potential noncompliance.

Recommendations

The Board should:

10. Enforce licensed pharmacist and permitted pharmacy compliance with State CSPMP statutes.
11. Develop and implement processes to identify licensed pharmacists who have not registered for and are not checking the CSPMP database as required and take enforcement action, as appropriate.
12. Continue its newly developed process to identify permitted pharmacies with an Arizona address that should have, but are not, registered to submit information accessible through the CSPMP database.
13. Develop and implement a process to identify permitted pharmacies that are outside of Arizona that should have, but are not, registered to submit information accessible through the CSPMP database.
14. Ensure that all permitted pharmacies that should be submitting information accessible through the CSPMP database, including those identified as a result of the Board's processes (see Recommendations 12 and 13), are doing so and follow up with any pharmacies that are delinquent in reporting.
15. Work with the other 9 Arizona professional licensing boards listed in A.R.S. §36-2606(B)(1) to determine the information they need to investigate and enforce licensed prescriber noncompliance with State CSPMP statutory requirements.
16. Follow State CSPMP statutes and provide other Arizona professional licensing boards with information they need to investigate and enforce noncompliance with these statutes.
17. Develop and implement processes for identifying licensed prescriber potential noncompliance with State CSPMP statutory requirements.

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



Board did not provide required public information on its website or in response to our anonymous phone calls

Board did not provide required complaint information on its website and provided inaccurate and incomplete complaint information over the phone

Although the Board is statutorily required to provide certain information about its licensees and permit holders to the public (see Table 6), its website did not include required complaint information and it provided inaccurate and incomplete information over the phone. The Board's provision of inaccurate and incomplete information about licensees, such as pharmacists and pharmacy technicians, and permitted facilities, such as pharmacies, prevents the public from making accurately informed decisions about which pharmacies they will use to obtain prescription medication. Specifically:

Table 6
Statutorily required/allowed ways Board should provide public information about complaints

	Phone 	Website 	Office 
Dismissed complaint	✓	✗	✓
Open complaint investigation	✗	✗	✗
Nondisciplinary action	✓	✓	✓
Disciplinary action	✓	✓	✓

Source: Auditor General staff review of A.R.S. §§ 32-3209, 32-3214, and 39-121.

- **Board’s website did not have all required complaint information**—Our comparison of complaint information from our random sample of 30 complaints to information available on the Board’s website found that the website did not include complete information (see Sunset Factor 6, pages 25 through 26, for more information on our complaints review).³⁸ Specifically, for 6 of the 30 complaints, the website lacked information about nondisciplinary actions the Board issued. For example, the Board issued an advisory letter and 3 hours of nondisciplinary continuing education in medication error prevention and patient safety to a pharmacy technician who dispensed a higher dose of fentanyl than had been prescribed. However, contrary to statute, the Board’s website did not reflect this information.

In addition, the Board’s website does not include the statutorily required statement that a person may obtain public records related to any licensee or permit holder, including dismissed complaints, by contacting the Board directly.³⁹

³⁸ We randomly selected 30 of the 570 complaints the Board’s data showed that it received in fiscal year 2019. However, this number is likely inaccurate because the Board did not sufficiently track this data. For example, the Board’s data included complaint allegations that were not in the Board’s jurisdiction and were not opened for investigation and the Board did not differentiate these complaints from complaints that it determined were within its jurisdiction. In addition, when the Board opens complaints against several licensees/permit holders for the same allegation, the Board assigns each complaint the same complaint number.

³⁹ A.R.S. §32-3214(C).

- **Board staff provided inaccurate and incomplete complaint information over the phone**—In response to our 2 anonymous phone calls to the Board’s office regarding 1 licensed pharmacist and 1 permitted pharmacy, Board staff provided inaccurate complaint information.⁴⁰ In both instances, Board staff referred us to the Board’s website to obtain information. However, the licensed pharmacist and permitted pharmacy both had complaint information that was not available on the Board’s website. Regarding the licensed pharmacist, after we obtained information about 1 complaint from the website, we inquired about any additional complaints. Board staff told us the licensee did not have any other complaints and did not tell us about a closed complaint that resulted in an advisory letter and a nondisciplinary order to complete continuing education. This information is not available on the website and can only be obtained by contacting the Board.

Regarding the permitted pharmacy, Board staff did not tell us about a dismissed complaint. Statute requires that a record of the dismissed complaint be available to the public upon request but does not allow this information to be provided on the Board’s website.⁴¹ However, when we asked Board staff to provide us with the information over the phone, Board staff responded that they would not provide the information over the phone.

In both calls, Board staff did not take reasonable steps to provide us with other options for obtaining the public information, such as transferring us to Board management.

Board’s policies lack guidance to help staff with provision of accurate and complete public information

The Board did not ensure that its staff or its website provided public information in compliance with statutory provisions. For example, although Board management indicated they were aware that the Board’s website lacked information about complaints that resulted in nondisciplinary actions and the statutorily required statement that a person may obtain public records by contacting the Board directly, the Board had not updated the website or developed and implemented a plan to do so. Additionally, although Board management verbally reported that staff are to refer callers to the executive director or deputy director to obtain complaint information, the policies and procedures do not guide staff to do so. Rather, Board policy states that complaint information should not be provided by Board staff over the phone. Therefore, Board staff responsible for answering the phone reported that they would direct the caller to the website.

Recommendations

The Board should:

18. Provide required information on its website by updating it to include (1) all required information about licensees and permit holders, including nondisciplinary actions, and (2) a statement informing the public that they can contact the Board for more information as required by statute.
19. Ensure that it provides complete and accurate information to the public over the phone by revising and implementing its policies and procedures for providing public information to include how staff should respond to phone calls requesting complaint information.
20. Develop and provide training for its staff once it has developed the policies and procedures outlined in Recommendation 19.

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

⁴⁰ We made 2 calls in September 2019 to request complaint history information about a licensed pharmacist who had an advisory letter, a nondisciplinary continuing education order, and a consent agreement; and a permitted pharmacy that had a dismissed complaint.

⁴¹ A.R.S. §32-3214.



In accordance with A.R.S. §41-2954, 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 Board. The sunset factor analysis includes additional findings and recommendations not discussed earlier in the report.

Sunset factor 1: The objective and purpose in establishing the Board and the extent to which the objective and purpose are met by private enterprises in other states.

The Board was established in 1903, and its mission is to protect the health, safety, and welfare of the public through the regulation of the practice of pharmacy and the manufacturing, distribution, sale, and storage of prescription medications and devices, and nonprescription medications. The Board is responsible for issuing licenses to qualified professionals and permits to qualified facilities engaged in activities related to the practice of pharmacy and for investigating and adjudicating complaints against licensees and permit holders. The Board is also responsible for providing information to the public regarding licensees' disciplinary history and license status, conducting inspections of permitted facilities located in Arizona, and administering the CSPMP, a prescription drug monitoring program, which includes a database to help facilitate the appropriate prescribing, dispensing, and use of controlled substances.

According to NABP, all 50 states and the District of Columbia regulate the practice of pharmacy and have a functioning board of pharmacy. Additionally, 49 states administer a prescription drug monitoring program (PDMP) (see Sunset Factor 11, page 28, for more information on PDMPs in other states). We did not identify any states that met the Board's objective and purpose through private enterprise. However, the Board relies on NABP for some services, such as providing information on reciprocal license applicants, including the status of their license in other states and any discipline they have received.

Sunset factor 2: The extent to which the Board has met its statutory objective and purpose and the efficiency with which it has operated.

The Board has met some of its statutory objective and purpose. Specifically, our review of 30 initial pharmacist licenses and 30 initial pharmacy technician licenses the Board issued to applicants in fiscal year 2019 found that all 60 were issued within the time frames established in rule.^{42,43} Additionally, the Board had determined that all 30 initial pharmacist license applicants had met the statutory education and examination requirements.⁴⁴

However, we identified several areas in which the Board has not fully met its statutory objective and purpose or fulfilled other responsibilities. Specifically, the Board:

- **Did not ensure pharmacy technician applicants met training requirements prior to issuing licenses, but a January 2020 change to requirements for taking national pharmacy technician exam may mitigate need for Board to ensure applicants meet training requirements**—Our review of 30 initial pharmacy technician licenses issued in fiscal year 2019 found that the Board did not ensure that applicants had completed required training. Although rule requires pharmacy technician applicants to provide proof that they either (1) complete training in a pharmacy while working as a licensed technician trainee, or (2) complete

⁴² AAC R4-23-202, R4-23-203, and R4-23-1103.

⁴³ We reviewed a random sample of 30 of the 699 initial pharmacist licenses and 30 of the 1,167 initial pharmacy technician licenses the Board issued to applicants in fiscal year 2019.

⁴⁴ A.R.S. §32-1922.

an on-the-job training program immediately after becoming licensed as a technician, Board staff did not require applicants to submit training information.⁴⁵ According to Board staff, they do not check this requirement because they believe applicants demonstrate sufficient training by passing 1 of the national certification exams that is required prior to receiving a license in Arizona. All 30 applicants we reviewed passed 1 of the national certification exams. Additionally, as of January 2020, both national certifying organizations that offer the exams accepted by the Board require exam applicants to attest that they have completed a qualifying pharmacy technician education/training program or other qualifying work experience before taking the national exam (see Sunset Factor 11, pages 27 through 28, for more information on licensing requirements). However, as of May 2020, the Board had yet to require its applicants to demonstrate compliance with its rule requirement or revise its rule to rely on the national certifying organizations' attestation requirements.

- **Did not adequately protect cash receipts, placing public monies at risk of loss or theft**—The Board has not adequately protected the monies it receives either through the mail or in-person at the Board office, such as renewal fees and civil penalties. Our review of the Board's cash-handling processes identified the following:
 - One staff member opens the mail alone, logs checks and money orders received into an internal database, and performs some licensing functions, such as issuing a copy of a license to a licensee.
 - Board staff do not always deposit amounts over \$1,000 at the end of each business day as required and leave the money in an unlocked drawer overnight.
 - Board staff receive some cash in the mail, but return cash to the sender rather than processing the transaction and depositing it.

The *State of Arizona Accounting Manual* (SAAM) cash-handling requirements include maintaining an appropriate segregation of cash-handling and cash-recording functions, such as opening the mail in the presence of another person and not authorizing staff who handle cash to also issue licenses. Further, SAAM requires monies, including cash, to be deposited as soon as it is practical but no later than the end of the business day after totaling \$1,000 or more. Because cash receipts are susceptible to loss or theft, it is critical that State agencies adequately control and safeguard these monies.

Finally, as discussed in Findings 1 through 3, the Board had not ensured licensees were qualified to practice and facilities were operating safely, established licensing and permit fees consistent with the cost of its regulatory activities, or enforced CSPMP statutes. To address these issues, we recommended that the Board:

- Ensure pharmacist license applicants possess a valid fingerprint clearance card by checking the validity of fingerprint clearance cards on the DPS website and working with the Legislature to amend statute to require licensees to maintain a valid fingerprint clearance card at license renewal; ensure that renewal applicants meet continuing education requirements by conducting continuing education audits after each renewal cycle; consistently determine complaint jurisdiction and document the rationale for its determination; and track, monitor, and timely perform facility inspections (see Finding 1, pages 8 through 11).
- Review and adjust its license and permit fees based on the costs of its regulatory activities (see Finding 2, pages 12 through 14).
- Enforce State CSPMP statutes for its permitted pharmacies and licensed pharmacists and take steps to provide information to other Arizona professional licensing boards to assist them with enforcing these statutes (see Finding 3, pages 15 through 18).

⁴⁵ AAC R4-23-1102 and R4-23-1105.

Recommendations

The Board should:

21. Ensure pharmacy technicians meet training requirements by either requiring pharmacy technician applicants to submit documentation showing they meet training requirements or revising its rule to rely on the national boards' training attestation requirements.
22. Protect its cash receipts by developing and implementing written cash-handling policies and procedures that adhere to SAAM requirements, such as
 - a. Opening mail with at least 2 staff members present.
 - b. Separating the duties of logging cash receipts from licensing functions.
 - c. Depositing cash receipts exceeding \$1,000 on a daily basis.
 - d. Processing cash transactions and depositing cash rather than returning it to the sender through the mail.
23. Train staff on these updated policies and procedures and review staff work periodically for compliance.

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

Sunset factor 3: The extent to which the Board serves the entire State rather than specific interests.

The Board serves the entire State by licensing and permitting applicants, inspecting permitted facilities throughout Arizona, and investigating and adjudicating complaints (see Finding 1, pages 8 through 11, for more information).

However, the Board has not complied with several of the State's conflict-of-interest requirements. Statutes require (1) public officers and employees to make known any substantial interests, such as through a conflict-of-interest disclosure form, and refrain from voting on decisions in which they have a substantial interest, and (2) agencies to maintain a special file that contains all disclosures of substantial interest that is available for public inspection.⁴⁶ Further, best practices indicate that the conflict-of-interest disclosure form should be signed annually and require Board members and staff to affirm that they have no conflicts of interest, if applicable. Signing a conflict-of-interest disclosure form annually reminds employees/public officers of the importance of complying with conflict-of-interest laws and helps ensure that potential conflicts of interest are disclosed if an employee's or public officer's circumstances change. A completed conflict-of-interest disclosure form also enables Board members and staff to disclose any potential financial and/or personal interests that the Board could then make available for public inspection.

The Board has taken some steps to ensure its decisions are free of conflicts of interest. Specifically, the Board has a policy that requires Board members to declare conflicts of interest during Board meetings. In addition, the Board reported it provides training to all newly appointed Board members regarding conflicts of interest and the process for refraining from participating in Board business if there is a conflict. Further, we observed 2 Board meetings during which Board members formally recused themselves from various agenda items.

However, for both of these Board meetings, the Board did not document the reason(s) for Board members' recusals in the meeting minutes. Further, we identified 2 complaints for which a Board member voted even though she had recused herself from the associated agenda items. Board staff also reported that the Board does not require its members or staff to sign an annual conflict-of-interest disclosure form. Additionally, the Board lacks the statutorily required special file to document disclosures of substantial interest. Finally, the Board lacks policies and procedures for disclosing conflicts of interest in writing, requiring or maintaining a special file, and managing any disclosed potential conflicts of interest.

⁴⁶ A.R.S. §§38-503 and 38-509.

Recommendations

The Board should:

24. Ensure it complies with all State conflict-of-interest requirements.
25. Develop and implement comprehensive policies and procedures for addressing potential conflicts of interest in accordance with State laws, including:
 - a. Requiring Board members and staff to refrain from voting or otherwise participating in matters related to the disclosed interest.
 - b. Requiring Board members and staff to complete an annual conflict-of-interest disclosure form.
 - c. Defining a process for ensuring that completed conflict-of-interest disclosure forms are maintained in a separate special disclosure file available for public inspection.
 - d. Implementing a process for managing and monitoring any disclosed potential conflicts of interest to ensure the conflict will not interfere with the performance of Board member and staff duties.
 - e. Documenting reasons for Board member recusal in Board meeting minutes and maintaining a copy of these minutes in the special disclosure file.

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

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

Our review of 9 Board statutes that require it to make rules found that the Board had adopted the specified rules for all but 1 of these statutes. Specifically, the Board has not adopted the following rules pertaining to prescription medication donation programs, as required by A.R.S. §32-1909(G):

- An identification card or other method for people to prove they are eligible to receive donation prescription medication through the prescription medication donation program.
- A list of prescription medications, organized by drug type or category, that the prescription medication donation program may accept from individuals and health care institutions.
- A list of prescription medications, organized by drug type or category, that the prescription medication donation program may not accept from a health care institution. This list will include a statement as to why the drug is ineligible for donation.

According to the Board, since 2006 when the statute was established, no pharmacies have initiated prescription medication donation programs. As a result, the Board has not developed the required rules for these programs. According to the Board, it intends to work with the Governor's Office to seek statutory changes to eliminate the requirement for the Board to adopt these rules.

Sunset factor 5: The extent to which the Board has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

The Board has encouraged input from the public and informed the public of its actions and their expected impact by involving the public in rulemaking. Specifically, the Board provided opportunities for public input as part of its rulemaking between September 2016 and January 2019 by publishing notices of proposed rulemaking in the Arizona Administrative Register, allowing for 30 days of public comment after it published the notice, indicating the date and time when a meeting for public input would take place at the Board office, and providing contact information for Board staff who could receive input about the proposed rulemaking. In addition, the Board incorporated feedback and suggestions received through public comments in its final rulemaking when possible.

However, the Board did not comply with 2 open meeting law provisions. Specifically, the Board did not correctly cite the statutory reasons for entering into executive session on 4 Board meeting agendas—2 Board meetings and 2 complaint committee meetings—we observed between July and September 2019. In addition, for 2 of these 4 meetings, the Board did not make its public meeting minutes available within 3 working days nor did it post its recorded meeting minutes, or a notice about the recorded meeting minutes, within 5 business days of the meeting. The Board does not have policies and procedures that provide staff with the necessary guidance to comply with the State’s open meeting law.

Finally, as discussed in Finding 4, the Board did not provide required public information on its website or in response to anonymous phone calls we made. We recommended that the Board update its website to provide the required information, revise and implement its policies and procedures to help ensure staff provide complete and accurate information to the public, and train Board staff on these policies and procedures (see Finding 4, pages 19 through 20).

Recommendations

The Board should:

26. Ensure it complies with all open meeting law requirements.
27. Develop and implement policies and procedures to guide its staff in complying with the State’s open meeting law, including appropriately citing executive sessions on Board meeting agendas and making its public meeting minutes available as required by law.

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

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

Although the Board has statutory authority to investigate and adjudicate complaints within its jurisdiction, it did not do so in a timely manner for 9 complaints we reviewed. Our review of a random sample of 30 complaints against licensees and permit holders that the Board received in fiscal year 2019 found that the Board followed its complaint investigation policies and procedures (see Appendix A, page a-1, for more information about this sample).⁴⁷ Also, for the meetings we observed and the complaints we reviewed, the Board appropriately followed a violations outcome grid that it developed to promote consistent adjudication when imposing discipline (see textbox, page 26, for disciplinary and nondisciplinary options the Board has available to address statute and/or rule violations).

However, the Board took between 189 and 699 days, nearly 2 years, to investigate and adjudicate 9 complaints—most of which alleged that licensees failed to report required information about arrests, such as a DUI or disorderly conduct, to the Board within 10 days of the arrest or at the time of application.⁴⁸ We have determined that Arizona health regulatory boards should investigate and adjudicate complaints within 180 days of receiving them. Most of these complaints were delayed because the licensee did not respond to the Board’s requests for information. In addition, according to Board staff, it did not have enough staff to timely investigate all complaints and it did not focus on these complaints because the complaint allegations were determined to be low risk. As of September 2019, the Board reported it had established a new step in its complaint-handling process for subpoenaing licensees/permit holders to compel them to provide requested information. Additionally, according to the Board,

⁴⁷ Although the Board’s data showed that it received 570 complaints in fiscal year 2019, this number is likely inaccurate because the Board did not sufficiently track this data. For example, the Board’s data included complaint allegations that were not in the Board’s jurisdiction and were not opened for investigation and the Board did not differentiate these complaints from complaints that it determined were within its jurisdiction. In addition, when the Board opens complaints against several licensees/permit holders for the same allegation, the Board assigns each complaint the same complaint number.

⁴⁸ Of the 9 complaints, 1 was dismissed; 1 received an advisory letter; 1 received a nondisciplinary continuing education order; 1 voluntarily surrendered their license; 1 had their license revoked; and 2 resulted in a consent agreement with a civil penalty. The remaining 2 complaints were still open as of February 2020 for a total of 267 and 601 days, respectively.

as of April 2020, it was taking steps to hire an additional investigator to help manage its complaint-investigation workload.

Lengthy investigations and/or adjudications may put the public at risk because licensees/permit holders can continue to practice/operate during the time the complaint is being investigated and adjudicated, even though they may be unfit to do so. According to the Board, it has not developed time frames for specific steps in its complaint-handling process or for completing the overall complaint-handling process, which would help ensure that it completes complaint investigations and adjudications in a timely manner.

Recommendations

The Board should:

28. Investigate and adjudicate complaints in 180 days or less.
29. Develop and implement time frames for the steps in its complaint-handling process to help ensure complaints are investigated and adjudicated in 180 days or less.
30. Track complaints in accordance with its complaint-handling process steps.
31. Continue with its newly implemented process for issuing subpoenas to licensees/permit holders who do not respond to requests for information in a timely manner and take action, where appropriate, against licensees/permit holders who do not respond to subpoenas.

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

Sunset factor 7: The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under the enabling legislation.

The Attorney General serves as the Board's legal advisor and provides legal services as the Board requires, according to A.R.S. §41-192(A)(1). Further, the Board's various enabling statutes provide the Attorney General's Office and the County Attorney with authority to pursue criminal and civil actions in superior court for violations of specified Board statutes and rules.

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

According to the Board, there are no deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

Sunset factor 9: The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in this sunset law.

We identified 1 statutory change that will enable the Board to better protect public health, safety, and welfare. As indicated in Finding 1 (see page 9), the Board should pursue changes to its enabling statutes so that it has the authority to require licensees to maintain a valid fingerprint clearance card and submit these upon license renewal. For licensees that have listed the Board on their fingerprint clearance card application, DPS is statutorily

Examples of the Board's disciplinary and nondisciplinary options

Disciplinary actions:

- Letter of reprimand¹
- Decree of censure²
- Continuing education
- Civil penalty (not to exceed \$1,000)
- Probation
- Suspension of license or permit
- Revocation of license or permit

Nondisciplinary actions:

- Advisory letter
- Continuing education

¹ A letter of reprimand is a disciplinary letter from the Board informing the licensee or permit holder that their conduct violates State or federal law and may require the Board to monitor them.

² A decree of censure is an official Board action and may require restitution of fees to a patient or consumer.

Source: Auditor General staff analysis of A.R.S. §§32-1927 to 32-1927.03.

required to notify the Board if the licensee's fingerprint clearance card is suspended, revoked, or has a driving restriction placed on it. This would allow the Board to continue to receive notifications from DPS rather than relying on self-reported information. Specifically, fingerprint clearance cards expire after 6 years and without a requirement for the continued maintenance of a fingerprint clearance card, the Board may not continue to stay informed and receive DPS notifications.

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

Terminating the Board would affect the public's health, safety, and welfare if its regulatory responsibilities were not transferred to another entity. The Board's regulations help protect the public by licensing individuals who practice pharmacy and permitting facilities that manufacture, distribute, sell, and store prescription medications and devices and nonprescription medications. Additionally, the Board helps protect the public by receiving and investigating complaints against licensees and permit holders within its jurisdiction, and taking appropriate disciplinary action upon substantiating complaints. For example, the Board summarily suspended a pharmacy technician's license after learning that the licensee had diverted controlled substances. The Board later revoked the license. The Board also inspects permitted facilities to ensure compliance with statute and rule, including pharmacies that compound sterile pharmaceuticals, which may perform tasks that present a higher level of risk to public safety. Finally, the Board administers the State's CSPMP, which enables prescribers and dispensers of controlled substances to make informed decisions prior to prescribing and dispensing these substances. Terminating the Board without transferring responsibility for the CSPMP to another agency would remove a tool for helping to combat controlled substance abuse.

Sunset factor 11: The extent to which the level of regulation exercised by the Board compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.

We found that the level of regulation the Board exercises appears appropriate and is similar to the level of regulation in other states we reviewed. Specifically, we judgmentally selected 4 states for review—California, Colorado, New Mexico, and Utah—and found that regulatory requirements for licensure in these states are similar to Arizona's. For example:

- **National examination**—Arizona and all 4 states require pharmacist license applicants to pass the North American Pharmacist Licensure Examination national exam and a jurisprudence exam to obtain licensure.⁴⁹ To obtain a pharmacy technician license, Arizona, Colorado, New Mexico, and Utah require pharmacy technician applicants to pass a national exam as a requirement for licensure.⁵⁰ Applicants for pharmacy technician licensure in California may obtain licensure in multiple ways, including by passing the national exam.
- **Education**—Arizona and all 4 states require pharmacy license applicants to graduate from a school of pharmacy that is accredited by the Accreditation Council for Pharmacy Education. To obtain a pharmacy technician license, Arizona, California, and Utah require applicants to complete education and training prior to licensure.⁵¹ For example, Arizona requires pharmacy technician applicants to complete a training program in a pharmacy setting. Utah requires applicants to complete an approved education program that includes a 180-hour supervised practical training component.
- **Fingerprint-based background checks**—Arizona and all 4 states require both pharmacist and pharmacy technician license applicants to disclose certain charges, arrests, and convictions, and other relevant

⁴⁹ California requires its own California Practice Standards and Jurisprudence Examination, while Arizona and the other 3 states reviewed require applicants to pass NABP's Multistate Pharmacy Jurisprudence Examination.

⁵⁰ Colorado requires applicants to be nationally certified, which includes passing a national exam. New Mexico has an option for applicants who are completing a training program and have not yet passed the national exam to be licensed as a provisional pharmacy technician for 1 year.

⁵¹ Colorado does not explicitly require formal education or training for pharmacy technician applicants, but requires applicants to be nationally certified, which requires applicants to complete an approved course of education and training unless they meet an exception, such as having obtained at least 500 hours equivalent work experience; New Mexico allows applicants to either obtain the national certification or to work as a pharmacy technician while receiving on-the-job training.

disciplinary history on their application. Additionally, Arizona requires both pharmacist and pharmacy technician applicants to obtain a fingerprint clearance card whereas California and Utah require these applicants to submit fingerprints for the purpose of a criminal background check to qualify for licensure. Colorado requires only pharmacy technician applicants to attest to having undergone a criminal history background check.⁵² New Mexico does not require pharmacist or pharmacy technician applicants to undergo a fingerprint-based background check.

- **Continuing education**—Arizona and all 4 states require pharmacist licensees to complete continuing education hours as part of renewing their license. For pharmacy technicians, Arizona and 3 states reviewed require pharmacy technician licensees to complete continuing education hours as part of renewing their license.⁵³ California does not have continuing education requirements for pharmacy technicians.
- **Reciprocal pharmacist licensure**—Arizona and all 4 states require pharmacists applying for a reciprocal license to submit a license transfer application through NABP.⁵⁴ Arizona is the only state that charges an additional fee for reciprocity and the 4 states we reviewed do not charge an additional fee to process a reciprocal application compared with an application for initial licensure as a pharmacist.

Additionally, we compared Arizona’s facility permits to permitting in the 4 states reviewed and found that although each state differs in how it categorizes and defines its facilities, all generally regulate pharmacies, wholesalers, and manufacturers. For example, Arizona and all 4 states have statutory authority to inspect licensed, permitted, or registered facilities periodically to ensure compliance with state laws. In addition, Arizona, California, New Mexico, and Utah require facilities to apply for a new permit or license when undergoing change of ownership, whereas facilities in Colorado must apply to transfer their existing registration to the new owner when changing ownership.

Finally, we compared the Board’s administration of the CSPMP to other states. Forty-nine states administer a PDMP to help states with appropriate prescribing efforts, such as the reduction of controlled substance diversion and abuse, although a variety of state agencies are responsible for PDMP administration in their respective states (see Table 7).⁵⁵

Sunset factor 12: The extent to which the Board has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.

The Board does not use private contractors in the performance of most of its regulatory duties. We contacted boards of pharmacy in 4 states—California, Colorado, New Mexico, and Utah—to obtain information regarding their use of contractors for regulatory functions and found that they similarly do not contract for most of their services, with 3 exceptions. First, California and Colorado reported using a private vendor to administer programs for evaluating and helping licensees in

Table 7
Number and types of state agencies administering a PDMP

Agency type administering PDMP	Number of states
Pharmacy board	20
Department of health	15
Professional licensing agency	6
Law enforcement	4
Substance abuse agency	3
Consumer protection agency	1
Total	49

Source: Institute for Intergovernmental Research, Prescription Drug Monitoring Program Training and Technical Assistance Center. (2019). *PDMP by operating state agency type*. Retrieved 7/7/2019 from https://www.pdmpassist.org/pdf/PDMP_Agency_Type_20190701.pdf.

⁵² Colorado also allows pharmacy technician applicants to provide proof that they have undergone a background check for other reasons, such as a condition of employment at a pharmacy.

⁵³ Colorado and New Mexico do not outline specific continuing education hour requirements in statute or rule for pharmacy technicians, but require licensees to maintain national certification, which requires completion of continuing education as a condition for national certification renewal.

⁵⁴ California indicated that it only retrieves an applicant’s test score from the NABP transfer application, and otherwise treats these applications just like an initial applicant for pharmacist licensure in the state of California.

⁵⁵ Missouri does not have a state-wide PDMP but the St. Louis County Department of Public Health operates a PDMP and has made it available to other Missouri counties. Additionally, the District of Columbia has a PDMP.

substance abuse recovery.⁵⁶ Second, California also reported using private vendors to develop its licensure exams. Finally, Colorado reported contracting with NABP to process reciprocal pharmacist licensure applications.

The Board contracts for 1 of its duties—maintaining the CSPMP central database tracking system. As mentioned in Sunset Factor 11, various types of state agencies oversee their respective PDMPs. Three of the 4 states we contacted contract for their PDMP database services. Specifically, the California Department of Justice, Colorado State Board of Pharmacy, and New Mexico Board of Pharmacy contract with private entities to run their PDMP data tracking systems. Utah’s Division of Occupational and Professional Licensing operates its PDMP, but contracts with a private vendor for pharmacy data submissions and validation.

⁵⁶ The Colorado contract was entered into by the Colorado board’s umbrella agency, and multiple boards have access to the same contracted services.



SUMMARY OF RECOMMENDATIONS

Auditor General makes 31 recommendations to the Board

The Board should:

1. Ensure that initial pharmacist license applicants possess a valid fingerprint clearance card before it issues a license by developing and implementing policies and procedures requiring Board staff to check the validity of fingerprint clearance cards on the DPS website (see Finding 1, pages 8 through 11, for more information).
2. Work with the Legislature to amend statute to require licensees to maintain a valid fingerprint clearance card and submit them at renewal (see Finding 1, pages 8 through 11, for more information).
3. After statute is amended (see Recommendation 2), develop and implement written policies and procedures that require Board staff to check the DPS website to ensure the validity of fingerprint clearance cards submitted by all renewal licensure applicants(see Finding 1, pages 8 through 11, for more information).
4. Ensure that renewal applicants meet continuing education requirements by continuing to develop and implement written policies and procedures for conducting continuing education audits after each renewal cycle (see Finding 1, pages 8 through 11, for more information).
5. Consistently determine complaint jurisdiction by developing and implementing guidance, such as types of violations that would not be within the Board's jurisdiction, to help ensure its lead compliance officer and executive director consistently and appropriately determine complaint jurisdiction (see Finding 1, pages 8 through 11, for more information).
6. Document the rationale for its complaint jurisdiction determinations (see Finding 1, pages 8 through 11, for more information).
7. Consistently meet established inspection time frames by developing and implementing processes for tracking and monitoring the completion of facility inspections (see Finding 1, pages 8 through 11, for more information).
8. Conduct a review of its license and permit fees consistent with government fee-setting standards and guidelines, including ensuring the fees are based on actual costs and promote service efficiency, and then adjust its fees accordingly. Specifically, the Board should:
 - a. Develop and implement a method for determining and tracking the direct and indirect costs for its regulatory processes and establish policies and procedures for using this method. The policies and procedures should also require the periodic review of the Board's fees, including tracking and reassessing actual costs and assessing if costs are necessary for providing services.
 - b. After implementing this cost methodology, determine the appropriate license and permit fees.
 - c. Consider the effect of proposed fee changes on applicants, licensees, and permit holders and obtain their input when reviewing the fees.
 - d. Adjust its fees in its rules, as necessary (see Finding 2, pages 12 through 14, for more information).
9. Work with the Legislature, as needed, to revise statute to eliminate the reciprocity fee and charge the same application fee to all initial pharmacist applicants (see Finding 2, pages 12 through 14, for more information).

10. Enforce licensed pharmacist and permitted pharmacy compliance with State CSPMP statutes (see Finding 3, pages 15 through 18, for more information).
11. Develop and implement processes to identify licensed pharmacists who have not registered for and are not checking the CSPMP database as required and take enforcement action, as appropriate (see Finding 3, pages 15 through 18, for more information).
12. Continue its newly developed process to identify permitted pharmacies with an Arizona address that should have, but are not, registered to submit information accessible through the CSPMP database (see Finding 3, pages 15 through 18, for more information).
13. Develop and implement a process to identify permitted pharmacies that are outside of Arizona that should have, but are not, registered to submit information accessible through the CSPMP database (see Finding 3, pages 15 through 18, for more information).
14. Ensure that all permitted pharmacies that should be submitting information accessible through the CSPMP database, including those identified as a result of the Board's processes (see Recommendations 12 and 13), are doing so and follow up with any pharmacies that are delinquent in reporting (see Finding 3, pages 15 through 18, for more information).
15. Work with the other 9 Arizona professional licensing boards listed in A.R.S. §36-2606(B)(1) to determine the information they need to investigate and enforce licensed prescriber noncompliance with State CSPMP statutory requirements (see Finding 3, pages 15 through 18, for more information).
16. Follow State CSPMP statutes and provide other Arizona professional licensing boards with information they need to investigate and enforce noncompliance with these statutes (see Finding 3, pages 15 through 18, for more information).
17. Develop and implement processes for identifying licensed prescriber potential noncompliance with State CSPMP statutory requirements (see Finding 3, pages 15 through 18, for more information).
18. Provide required information on its website by updating it to include (1) all required information about licensees and permit holders, including nondisciplinary actions, and (2) a statement informing the public that they can contact the Board for more information as required by statute (see Finding 4, pages 19 through 20, for more information).
19. Ensure that it provides complete and accurate information to the public over the phone by revising and implementing its policies and procedures for providing public information to include how staff should respond to phone calls requesting complaint information (see Finding 4, pages 19 through 20, for more information).
20. Develop and provide training for its staff once it has developed the policies and procedures outlined in Recommendation 19 (see Finding 4, pages 19 through 20, for more information).
21. Ensure pharmacy technicians meet training requirements by either requiring pharmacy technician applicants to submit documentation showing they meet training requirements or revising its rule to rely on the national boards' training attestation requirements (see Sunset Factor 2, pages 21 through 23, for more information).
22. Protect its cash receipts by developing and implementing written cash-handling policies and procedures that adhere to SAAM requirements, such as:
 - a. Opening mail with at least 2 staff members present.
 - b. Separating the duties of logging cash receipts from licensing functions.
 - c. Depositing cash receipts exceeding \$1,000 on a daily basis.
 - d. Processing cash transactions and depositing cash rather than returning it to the sender through the mail (see Sunset Factor 2, pages 21 through 23, for more information).

23. Train staff on these updated policies and procedures and review staff work periodically for compliance (see Sunset Factor 2, pages 21 through 23, for more information).
24. Ensure it complies with all State conflict-of-interest requirements (see Sunset Factor 3, pages 23 through 24, for more information).
25. Develop and implement comprehensive policies and procedures for addressing potential conflicts of interest in accordance with State laws, including:
 - a. Requiring Board members and staff to refrain from voting or otherwise participating in matters related to the disclosed interest.
 - b. Requiring Board members and staff to complete an annual conflict-of-interest disclosure form.
 - c. Defining a process for ensuring that completed conflict-of-interest disclosure forms are maintained in a separate special disclosure file available for public inspection.
 - d. Implementing a process for managing and monitoring any disclosed potential conflicts of interest to ensure the conflict will not interfere with the performance of Board member and staff duties.
 - e. Documenting reasons for Board member recusal in Board meeting minutes and maintaining a copy of these minutes in the special disclosure file (see Sunset Factor 3, pages 23 through 24, for more information).
26. Ensure it complies with all open meeting law requirements (see Sunset Factor 5, pages 24 through 25, for more information).
27. Develop and implement policies and procedures to guide its staff in complying with the State's open meeting law, including appropriately citing executive sessions on Board meeting agendas and making its public meeting minutes available as required by law (see Sunset Factor 5, pages 24 through 25, for more information).
28. Investigate and adjudicate complaints in 180 days or less (see Sunset Factor 6, pages 25 through 26, for more information).
29. Develop and implement time frames for the steps in its complaint-handling process to help ensure complaints are investigated and adjudicated in 180 days or less (see Sunset Factor 6, pages 25 through 26, for more information).
30. Track complaints in accordance with its complaint-handling process steps (see Sunset Factor 6, pages 25 through 26, for more information).
31. Continue with its newly implemented process for issuing subpoenas to licensees/permit holders who do not respond to requests for information in a timely manner and take action, where appropriate, against licensees/permit holders who do not respond to subpoenas (see Sunset Factor 6, pages 25 through 26, for more information).



Objectives, scope, and methodology

The Office of the Auditor General conducted a performance audit and sunset review of the Board pursuant to a September 19, 2018, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951. This audit addresses the Board's processes to issue licenses and permits to applicants, investigate and adjudicate complaints, conduct inspections of permitted facilities, provide information to the public, and administer the CSPMP. It also includes responses to the statutory sunset factors.

We used various methods to study the issues in this performance audit and sunset review of the Board. These methods included reviewing Board statutes, rules, and policies and procedures; interviewing Board members and staff; reviewing information on the Board's website; and reviewing best practices.⁵⁷ In addition, we used the following specific methods to meet the audit objectives:

- To determine whether the Board issued initial pharmacist and pharmacy technician licenses to qualified applicants in a timely manner, we randomly selected and reviewed a sample of 30 of the 699 pharmacist licenses and a sample of 30 of the 1,167 pharmacy technician licenses issued by the Board in fiscal year 2019. To assess the Board's compliance with ensuring that applicants submit a valid fingerprint clearance card for licensure, we compared fingerprint clearance card information from our sample of 30 initial pharmacist licenses to the DPS website. Additionally, to assess the Board's continuing education process, we reviewed 23 of the 50 licensees that the Board selected for its continuing education audit after the 2018 renewal cycle, 15 of which were judgmentally selected and 8 of which were randomly selected. Finally, to determine whether the Board issued initial pharmacy and manufacturer permits to qualified applicants in a timely manner, we randomly selected and reviewed a sample of 12 of the 209 manufacturer applications and 10 of the 520 pharmacy applications the Board issued in fiscal year 2019.
- To assess whether the Board investigated and adjudicated complaints in a timely manner, we randomly selected and reviewed a sample of 30 of the 570 complaints the Board received in fiscal year 2019.⁵⁸ Additionally, to assess whether the Board adequately determined its jurisdiction for investigating complaints, we judgmentally selected and reviewed 10 complaints—5 each from the March 2019 and May 2019 Board meeting agendas.
- To evaluate the Board's inspection frequency at permitted facilities, we randomly selected and reviewed the inspection history for 7 of the 1,323 permitted pharmacies and 3 of the 50 permitted manufacturers that were active as of September 2019. We also judgmentally selected 3 additional pharmacy permits from the 1,323 permitted pharmacies that were active as of September 2019 based on those we thought were more likely to

⁵⁷ National Association of Boards of Pharmacy (NABP). (2019). *Model state pharmacy act and model rules of the National Association of Boards of Pharmacy*. Retrieved 1/2/2020 from <https://nabp.pharmacy/publications-reports/resource-documents/model-pharmacy-act-rules/>; National State Auditors Association. (2004). *Carrying out a state regulatory program: A National State Auditors Association best practice document*. Lexington, KY. Retrieved 1/2/2020 from https://www.nasact.org/files/News_and_Publications/White_Papers_Reports/NSAA%20Best%20Practices%20Documents/2004_Carrying_Out_a_State_Regulatory_Program.pdf.

⁵⁸ Although the Board's data showed that it received 570 complaints in fiscal year 2019, this number is likely inaccurate because the Board inadequately tracked this data. For example, the Board's data included complaint allegations that were not in the Board's jurisdiction and were not opened for investigation and the Board did not differentiate these complaints from complaints that it determined were within its jurisdiction. In addition, when the Board opens complaints against several licensees/permit holders for the same allegation, the Board assigns each complaint the same complaint number, which may also affect the total number of complaints it actually received.

engage in sterile compounding. We also observed Board compliance officers inspect 4 different pharmacies in August and September 2019. Additionally, we reviewed information on drug compounding from the FDA and the U.S. Pharmacopeia.⁵⁹

- To determine whether the Board appropriately established its fees, we interviewed Board management, reviewed Board rulemaking notices from 2009 to 2019, and reviewed best practices for government fee-setting developed by several government and professional organizations.⁶⁰ In addition, we compiled and analyzed unaudited information from the Arizona Financial Information System *Accounting Event Transaction File* and the State of Arizona *Annual Financial Report* for the Pharmacy Fund for fiscal years 2017 through 2019.
- To evaluate the Board's administration of the CSPMP database, we reviewed CSPMP database reports for January 2020 and interviewed CSPMP staff.
- To evaluate whether the Board provided appropriate information to the public, we compared the information found in our sample of 30 of the 570 complaints the Board received in fiscal year 2019 to the information provided on the Board's website for these complaints. Additionally, we placed 2 anonymous phone calls to the Board in September 2019 to request information about 1 licensed pharmacist and 1 permitted pharmacy that had received complaints to test the Board's compliance with statute and evaluate its procedures for providing information to the public.
- To obtain information for the Introduction, we reviewed the Board's licensing database to determine the number of licenses and permits issued during fiscal year 2019, reviewed information from the Board on the number of active licenses and permits as of January 2020, and compiled and analyzed unaudited information from the Arizona Financial Information System *Accounting Event Transaction File* and the State of Arizona *Annual Financial Report* for fiscal years 2017 through 2019, and Board-provided information for fiscal year 2020. Additionally, we reviewed information on the importance of states having and using PDMP and guidance from the Arizona Department of Health Services.⁶¹
- To obtain information for the Sunset Factors, we reviewed the Board's rulemaking notices in the Arizona Administrative Register from September 2016 through January 2019 and assessed the Board's compliance with various provisions of the State's open meeting law for 4 Board meetings held between July and September 2019. Further, we observed the Board's cash-handling procedures and compared these to best practices in the *State of Arizona Accounting Manual*, and assessed the Board's compliance with the State's conflict-of-interest laws by reviewing statute, Board policies and procedures, and best practices.⁶² In addition, we judgmentally selected 4 states—California, Colorado, New Mexico, and Utah—and reviewed their regulation of pharmacists, pharmacy technicians, and other areas of the practice of pharmacy, including administering

⁵⁹ U.S. Pharmacopeia and the National Formulary. (2008). *USP general chapter <797> pharmaceutical compounding—sterile preparations*. Rockville, MD.

⁶⁰ We reviewed the following fee-setting best practices: Arizona State Agency Fee Commission. (2012). *Arizona State Agency Fee Commission report*. Phoenix, AZ; U.S. Government Accountability Office. (2008). *Federal user fees: A design guide*. Washington, DC. Retrieved 3/3/2020 from <https://www.gao.gov/assets/210/203357.pdf>; Michel, R.G. (2004). *Cost analysis and activity-based costing for government*. Chicago, IL: Government Finance Officers Association; Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review. (2002). *State agency fees: FY 2001 collections and potential new fee revenues*. Jackson, MS. Retrieved 3/3/2020 from <https://www.peer.ms.gov/Reports/reports/rpt442.pdf>; and U.S. Office of Management and Budget. (1993). *OMB Circular No. A 25, revised*. Washington, DC. Retrieved 3/3/2020 from <https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf>.

⁶¹ Arizona Department of Health Services. (2020). *Opioid update & surveillance data summary*. Retrieved on 6/29/2020 from <https://www.azdhs.gov/documents/prevention/health-systems-development/epidemic/update-adhs-opioid-response-2017-2019.pdf>; Alexander, G.C., Frattaroli, S., & Gielen, A.C., eds. (2017). *The opioid epidemic: From evidence to impact*. Baltimore, MD: Johns Hopkins Bloomberg School of Public Health. Retrieved 6/29/2020 from <https://www.jhsph.edu/events/2017/americas-opioid-epidemic/report/2017-JohnsHopkins-Opioid-digital.pdf>.

⁶² Ethics & Compliance Initiative (ECI). (2016). *Conflicts of Interest*. Retrieved 12/9/2019 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; Controller and Auditor General of New Zealand. (2007). *Managing conflicts of interest: Guidance for public entities*. Wellington, New Zealand. Retrieved 12/9/2019 from <https://oag.parliament.nz/2007/conflicts-public-entities/docs/oag-conflicts-public-entities.pdf>; Organisation for Economic Co-operation and Development (OECD). (2003). *Recommendation of the council on guidelines for managing conflicts of interest in the public services*. Paris, France. Retrieved 12/9/2019 from https://legalinstruments.oecd.org/public/doc/130/130_en.pdf.

a PDMP. We also contacted staff from boards of pharmacy in these states to confirm our understanding of their regulations and to obtain information about their use of private contractors.

- Our work on internal controls included reviewing the Board's policies and procedures for ensuring compliance with Board statutes and rules, and where applicable, testing its compliance with these policies and procedures. We reported our conclusions on these internal controls and, where applicable, Board efforts to improve its controls in Findings 1, 3, and 4, as well as Sunset Factors 2, 3, 5, and 6 of the report.

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 of the Board 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 and its staff for its cooperation and assistance throughout the audit.

BOARD RESPONSE



Arizona State Board of Pharmacy

Physical Address: 1616 W. Adams, Suite 120, Phoenix, AZ 85007
Mailing Address: P.O. Box 18520, Phoenix, AZ 85005
p) 602-771-2727 f) 602-771-2749 www.azpharmacy.gov

September 10, 2020

Ms. Lindsey Perry, Auditor General
Office of the Auditor General
2910 N. 44th St., Suite 410
Phoenix, AZ 85018

Dear Ms. Perry,

The Arizona State Board of Pharmacy enjoyed the opportunity to discuss the activity of our Board with your team, led by Dale Chapman. It was a pleasure meeting with them and sharing what we do.

The Board of Pharmacy respectfully submits its response to the performance audit and sunset review.

The Board of Pharmacy continually strives to perform at our best and operate to uphold the mission of the Board. We concur with the recommendation and we will ensure they are addressed appropriately.

We would like to thank you and your team for the guidance to improve our operation.

Sincerely,

Dr. Kam Gandhi, PharmD
Executive Director

Enclosure

c: Board Members

Finding 1: Board did not ensure licensees and facilities we reviewed were qualified to practice and operating safely

Recommendation 1: The Board should ensure that initial pharmacist license applicants possess a valid fingerprint clearance card before it issues a license by developing and implementing policies and procedures requiring Board staff to check the validity of fingerprint clearance cards on the DPS website.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Initially, the Board did not verify the Fingerprint Clearance Card (FCC) of initial pharmacist applicants. Interns are required to have an FCC to attend pharmacy school. The expiration date of an FCC is six years. Therefore, the Board would have been notified if there was a denied or suspended FCC for that intern or initial pharmacist applicant. The intent was to be efficient and eliminate redundancy without compromising standards. Today, verification of the FCC with the DPS website is conducted for all applicants, including initial pharmacist applicants, to ensure validity of the FCC.

Recommendation 2: The Board should work with the Legislature to amend statute to require licensees to maintain a valid fingerprint clearance card and submit them at renewal.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will review and discuss the implementation of requiring fingerprint clearance cards to be maintained and submitted at renewal at the upcoming Board meeting. In addition, the Board will hold stakeholder meetings to discuss the proposed legislative change. Should the Board move forward with the statutory change to require a fingerprint clearance card at renewal, an increase in staff in the next budgetary cycle would be required.

Recommendation 3: After statute is amended (see Recommendation 2), develop and implement written policies and procedures that require Board staff to check the DPS website to ensure the validity of fingerprint clearance cards submitted by all renewal licensure applicants.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: If given the statutory authority to require fingerprint clearance cards at renewal, the Board will develop and implement policies and procedures for verifying the validity of the fingerprint clearance card.

Recommendation 4: The Board should ensure that renewal applicants meet continuing education requirements by continuing to develop and implement written policies and procedures for conducting continuing education audits after each renewal cycle.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The licensee's renewal application requires the licensee to attest that they have completed the continuing education (CE) requirements for that renewal period. The Board recognized that the current CE audit process needed to extend to involve more licensees. Therefore, the Board has implemented a more robust CE audit policy and procedure. The Board is now conducting CE audits in conjunction with inspections which will increase the amount of CE audits to ensure licensees meet the CE requirements.

Recommendation 5: The Board should consistently determine complaint jurisdiction by developing and implementing guidance, such as types of violations that would not be within the Board's jurisdiction, to help ensure its lead compliance officer and executive director consistently and appropriately determine complaint jurisdiction.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: After a statute change that occurred in August 2019, the Board gave the Executive Director authority to dismiss or take no action on complaints without violations or complaints not within the Board's jurisdiction. Today, all complaints are reviewed by one to two compliance officers who are also pharmacists. If no violation of statute or rule is found, the compliance officers will refer it to the Deputy Director and Executive Director for dismissal. The complaint is reviewed by at least three pharmacists prior to dismissal. In addition, the Board will create a substantive policy that will outline the types of complaints that do not fall in the Board's jurisdiction.

Recommendation 6: The Board should document the rationale for its complaint jurisdiction determinations.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has implemented a process to better document complaint jurisdiction determination. The Board changed its policy and procedure on how

to determine and document complaints without violations or complaints not within the Board's jurisdiction.

Recommendation 7: The Board should consistently meet established inspection time frames by developing and implementing processes for tracking and monitoring the completion of facility inspections.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has developed and implemented a process for tracking and monitoring the completion of facility inspections. In addition to tracking and monitoring inspections, the established inspection time frames will be reevaluated. The Board has been implementing a risk based inspection process to ensure the safety of Arizonians. However, the pandemic has delayed the full implementation of this recommendation.

Finding 2: Board's license and permit fees are not based on the cost of providing services, resulting in large and growing fund balance

Recommendation 8: The Board should conduct a review of its license and permit fees consistent with government fee-setting standards and guidelines, including ensuring the fees are based on actual costs and promote service efficiency, and then adjust its fees, accordingly. Specifically, the Board should:

Recommendation 8a: Develop and implement a method for determining and tracking the direct and indirect costs for its regulatory processes and establish policies and procedures for using this method. The policies and procedures should also require the periodic review of the Board's fees, including tracking and reassessing actual costs and assessing if costs are necessary for providing services.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will work to develop and implement a method to review the direct and indirect costs for its regulatory processes. Once this method is established, policies and procedures will be developed and implemented as necessary.

Recommendation 8b: After implementing this cost methodology, determine the appropriate license and permit fees.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Once the cost methodology is complete, the Board will review and determine if the license and permit fees should be increased or decreased.

Recommendation 8c: Consider the effect of proposed fee changes on applicants, licensees, and permit holders and obtain their input when reviewing the fees.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will conduct open meetings and public forums to consider the effect of the proposed fee change on licensees and permit holders. Through these meetings, the Board will obtain the input from the licensee and permit holder on the proposed fee change.

Recommendation 8d: Adjust its fees in its rules, as necessary.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will adjust its fees in its rules as necessary.

Recommendation 9: The Board should work with the Legislature, as needed, to revise statute to eliminate the reciprocity fee and charge the same application fee to all initial pharmacist applicants.

Board Response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: The Board will review the reciprocity fee and perform a cost analysis including direct and indirect costs associated with a reciprocity application. Once this cost analysis is complete, the Board will review the results and work with Legislature, as needed, to revise statute if the analysis shows that the reciprocity fee should be eliminated.

Finding 3: State may not be receiving full benefits of the CSPMP because the Board has not enforced or helped to enforce compliance with CSPMP requirements

Recommendation 10: The Board should enforce licensed pharmacist and permitted pharmacy compliance with State CSPMP statutes.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will modify the compliance officer checklist to include verification of each licensed pharmacist's registration with the CSPMP when conducting

inspections. Additionally, a rule change to require the currently available ASAP standard field to collect Pharmacist State License Number on all controlled substance dispensations would assist in monitoring which pharmacists should be checking the CSPMP. The field is currently optional, not required, and without it, the Board does not have an accurate determination of pharmacists who should be performing lookups.

Recommendation 11: The Board should develop and implement processes to identify licensed pharmacists who have not registered for and are not checking the CSPMP database as required and take enforcement action, as appropriate.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will modify the compliance officer checklist to include verification of each licensed pharmacist's registration with the CSPMP when conducting inspections. Additionally, a rule change to require the currently available ASAP standard field to collect Pharmacist State License Number on all controlled substance dispensations would assist in monitoring which pharmacists should be checking the CSPMP. The field is currently optional, not required, and without it, the Board does not have an accurate determination of pharmacists who should be performing lookups.

Recommendation 12: The Board should continue its newly developed process to identify permitted pharmacies with an Arizona address that should have, but are not, registered to submit information accessible through the CSPMP database.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will continue its process to identify permitted pharmacies with an Arizona address that should have, but are not, registered for the PMP Clearinghouse as required to report.

Recommendation 13: The Board should develop and implement a process to identify permitted pharmacies that are outside of Arizona that should have, but are not, registered to submit information accessible through the CSPMP database.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will continue to develop its process to identify permitted pharmacies that are outside of Arizona that should have, but are not, registered for the PMP Clearinghouse as required to report.

Recommendation 14: The Board should ensure that all permitted pharmacies that should be submitting information accessible through the CSPMP database, including those identified as a result of the Board's processes (see Recommendations 12 and 13), are doing so and follow up with any pharmacies that are delinquent in reporting.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has addressed this matter and will continue to monitor and follow up with the permitted pharmacies as required.

Recommendation 15: The Board should work with the other 9 Arizona professional licensing boards listed in A.R.S. §36-2606(B)(1) to determine the information they need to investigate and enforce licensed prescriber noncompliance with State CSPMP statutory requirements.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: After receiving clarification regarding the 9 professional licensing boards' statutory authority for disciplinary action for failing to consult the CSPMP as required by law (see Recommendation 10), the Board will collaborate with the professional licensing boards of prescribers with the intent of proactively providing information about potential licensed prescriber noncompliance with State CSPMP statutory requirements.

Recommendation 16: The Board should follow State CSPMP statutes and provide other Arizona professional licensing boards with information they need to investigate and enforce non-compliance with these statutes.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: In January of 2018, legislation was passed allowing the other Arizona professional licensing boards access to have full access to the database, removing the requirement to state in writing that the information is necessary for an open investigation or complaint. The licensing boards must still request prescriber query histories, as they are not available for direct download. The Board will participate in meetings with the other licensing boards to allow for dialogue and sharing of aggregate data to help establish thresholds for noncompliance.

Recommendation 17: The Board should develop and implement processes for identifying licensed prescriber potential noncompliance with State CSPMP statutory requirements.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: On a per request basis, the Board provides AHCCCS and other healthcare entities information on their prescribers' registration status in the CSPMP. The Board also currently generates an aggregated report that examines licensed prescriber compliance with patient query requirements. The Board is hopefully going to purchase a new enhancement to help track compliance more accurately and effectively. The Board will continue to refine its processes for identifying licensed prescriber potential noncompliance as the enhancement allows. This enhancement will also assist with determining the level of noncompliance discussed in Recommendation 16.

Finding 4: Board did not provide required public information on its website or in response to our anonymous phone calls

Recommendation 18: The Board should provide required information on its website by updating it to include (1) all required information about licensees and permit holders, including nondisciplinary actions, and (2) a statement informing the public that they can contact the Board for more information as required by statute.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will update its website with the appropriate information.

Recommendation 19: The Board should ensure that it provides complete and accurate information to the public over the phone by revising and implementing its policies and procedures for providing public information to include how staff should respond to phone calls requesting complaint information.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board staff does meet regularly to discuss information and processes. Board staff has discussed and implemented a process on how to direct calls to the appropriate person.

Recommendation 20: The Board should develop and provide training for its staff once it has developed the policies and procedures outlined in Recommendation 19.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has implemented weekly calls to share new information and policies and procedures that will be rolled out.

Sunset Factor 2: The extent to which the Board has met its statutory objective and purpose and the efficiency with which it has operated.

Recommendation 21: The Board should ensure pharmacy technicians meet training requirements by either requiring pharmacy technician applicants to submit documentation showing they meet training requirements or revising its rule to rely on the national boards' training attestation requirements.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will revise its rule to rely on the national boards' training attestation requirements.

Recommendation 22: The Board should protect its cash receipts by developing and implementing written cash-handling policies and procedures that adhere to SAAM requirements, such as:

Recommendation 22a: Opening mail with at least 2 staff members present.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will adjust its policy and procedure to have at least 2 staff members present to open mail. However, implementation of this may be delayed because of COVID-19 as we have minimal staff in the office. We are looking to possibly implement this process virtually.

Recommendation 22b: Separating the duties of logging cash receipts from licensing functions.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will change its policy and procedure to separate the duties of logging cash receipts from any licensing functions. However, implementation of this may be delayed because of COVID-19 as we have minimal staff in the office. We are looking to possibly implement this process virtually.

Recommendation 22c: Depositing cash receipts exceeding \$1,000 on a daily basis.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Currently, COVID-19 restrictions have prevented the implementation of daily deposits. Once the COVID-19 restrictions are lifted, the Board will conduct daily deposits.

Recommendation 22d: Processing cash transactions and depositing cash rather than returning it to the sender through the mail.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will change its current policy and procedures to process cash transactions and deposit the cash.

Recommendation 23: The Board should train staff on these updated policies and procedures and review staff work periodically for compliance.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Executive Director and Deputy Director of the Board conduct weekly meetings with the Board staff to share the latest information and changes impacting the Board. The directors also engage with staff members on a daily basis to answer any questions they may have regarding the provided information. In addition, the Executive Director, Deputy Director, or a Compliance Officer will review applications periodically to ensure compliance.

Sunset Factor 3: The extent to which the Board serves the entire State rather than specific interests.

Recommendation 24: The Board should ensure it complies with all State conflict-of-interest requirements.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board takes this matter seriously and does focus on the State vs specific interests.

Recommendation 25: The Board should develop and implement comprehensive policies and procedures for addressing potential conflicts of interest in accordance with State laws, including:

Recommendation 25a: Requiring Board members and staff to refrain from voting or otherwise participating in matters related to the disclosed interest.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will develop and implement a policy and procedure to address potential conflicts of interest for Board members and staff in accordance with State laws.

Recommendation 25b: Requiring Board members and staff to complete an annual conflict-of-interest disclosure form.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has implemented an annual conflict-of-interest disclosure form. This will be addressed at every January Board meeting.

Recommendation 25c: Defining a process for ensuring that completed conflict-of-interest disclosure forms are maintained in a separate special disclosure file available for public inspection.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has implemented a process to maintain the completed annual conflict-of-interest forms in a separate disclosure file. This is maintained by the Executive Secretary.

Recommendation 25d: Implementing a process for managing and monitoring any disclosed potential conflicts of interest to ensure the conflict will not interfere with the performance of Board member and staff duties.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will develop and implement a process for managing and monitoring any disclosed potential conflicts of interests to ensure the conflict will not interfere with the performance of a Board member or staff duties.

Recommendation 25e: Documenting reasons for Board member recusal in Board meeting minutes and maintaining a copy of these minutes in the special disclosure file.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board has revised its process to have each Board member sign and complete a disclosure or recusal form developed by the Board's attorney(s). The form will also include the reasons for the recusal. These forms will be maintained in a special disclosure file.

Sunset Factor 5: The extent to which the Board has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Recommendation 26: The Board should ensure it complies with all open meeting law requirements.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board developed a checklist that the Executive Secretary or Board staff completes for each meeting to ensure it complies with open meeting law requirements.

Recommendation 27: The Board should develop and implement policies and procedures to guide its staff in complying with the State's open meeting law, including appropriately citing executive sessions on Board meeting agendas and making its public meeting minutes available as required by law.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will develop policies and procedures to guide its staff in complying with the State's open meeting law. The Board is currently working on adjusting its Board meeting agenda to appropriately cite executive sessions. In addition, the Board has developed a process to ensure the meeting minutes are available, or a notice, within 3 working days and/or that the recorded meeting minutes are available, or a notice, within 5 working days.

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

Recommendation 28: The Board should investigate and adjudicate complaints in 180 days or less.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The complaints the Board receives range from complex to relatively straightforward. The Board investigates and adjudicates the majority of its complaints within the 180 day time frame. The Board strives to swiftly complete the complaints and has developed a process to ensure that the complaints are completed in an efficient manner. However, this process does take into account that some complaints take longer because of the complexity or circumstances of the case.

Recommendation 29: The Board should develop and implement time frames for the steps in its complaint-handling process to help ensure complaints are investigated and adjudicated in 180 days or less.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Currently the Board is reviewing the complaint process to distinguish what the time frames are appropriate for the steps in the complaint-handling process. Within the next 6 months, the Board plans to develop and implement time frames for the steps in its complaint-handling process with the goal of completing the cases within 180 days.

Recommendation 30: The Board should track complaints in accordance with its complaint-handling process steps.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will continue to use its database to track complaints and evaluate the steps taken to process the complaint as discussed in the response explanation to Recommendation 30.

Recommendation 31: The Board should continue with its newly implemented process for issuing subpoenas to licensees/permit holders who do not respond to requests for information in a timely manner and take action, where appropriate, against licensees/permit holders who do not respond to subpoenas.

Board Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Board will continue issuing subpoenas to licensees and permit holders in order to take action in a timely manner. In addition, if a licensee or permit holder fails to comply with the subpoena, which will be noted in the investigation and presented to the Board to decide whether or not to take action for the failure to comply with the Board's subpoena. The Board will also look at running legislation that requires a license holder or permit holder to cooperate with the Board without the need for a subpoena.



Attachment B

Followup

Arizona State Board of Pharmacy

The September 2020 Arizona State Board of Pharmacy (Board) performance audit and sunset review found that the Board did not fulfill several regulatory responsibilities, base its fees on the cost of providing services, enforce compliance with State Controlled Substances Prescription Monitoring Program (CSPMP) requirements, and provide accurate and complete information to the public. We made 42 recommendations to the Board, and its status in implementing the recommendations is as follows:¹

Status of 42 recommendations

Implemented	18
Implemented in a different manner	5
Partially Implemented	1
Implementation in process	3
Implementation in process in a different manner	1
No longer applicable	1
Not yet applicable	3
Not implemented	10

We will follow up with the Board on the status of the recommendations from the September 2020 report that it has not implemented during the Board’s next performance audit and sunset review, which we plan to initiate later in 2024.

Finding 1: Board did not ensure licensees and facilities we reviewed were qualified to practice and operating safely

1. The Board should ensure that initial pharmacist license applicants possess a valid fingerprint clearance card before it issues a license by developing and implementing policies and procedures requiring Board staff to check the validity of fingerprint clearance cards on the DPS website.

Implemented at 18 months

2. The Board should work with the Legislature to amend statute to require licensees to maintain a valid fingerprint clearance card and submit them at renewal.

Not implemented—As reported in the 18-month followup, in March 2021, the Board convened a task force consisting of Board members and stakeholders that recommended the Board not require licensees to maintain a valid fingerprint clearance card and submit them at renewal because statute already requires licensees to report certain misdemeanors and felonies to the Board. The Board voted to accept the task force’s recommendation during its March 2021 regular Board meeting. However, fingerprint clearance cards rely on information from law enforcement agencies, which provides better assurance that an applicant has not been arrested for or convicted of a criminal offense that would preclude their ability to have their license renewed. Therefore, by not requiring licensees to maintain a valid fingerprint clearance card and submit them at renewal, and relying solely on renewal applicants to self-disclose, the Board cannot independently ensure that its licensees have not been arrested or convicted of an offense that would preclude them from renewing their license.

¹ In previous follow-up reports, we noted that there were 41 recommendations; however, for this follow-up report, we split recommendation 18 into 2 subrecommendations, resulting in 42 recommendations.

3. The Board should, after statute is amended (see Recommendation 2), develop and implement written policies and procedures that require Board staff to check the DPS website to ensure the validity of fingerprint clearance cards submitted by all renewal licensure applicants.

No longer applicable—This recommendation is no longer applicable because the Board has determined to not pursue a statutory amendment to require licensees to maintain a valid fingerprint clearance card and submit them at renewal (see explanation for Recommendation 2).

4. The Board should ensure that renewal applicants meet continuing education requirements by continuing to develop and implement written policies and procedures for conducting continuing education audits after each renewal cycle.

Implemented in a different manner at 12 months—The Board has developed and implemented policies and procedures for conducting continuing education audits monthly instead of after each renewal cycle.

5. The Board should consistently determine complaint jurisdiction by developing and implementing guidance, such as types of violations that would not be within the Board's jurisdiction, to help ensure its lead compliance officer and executive director consistently and appropriately determine complaint jurisdiction.

Implemented at 18 months

6. The Board should document the rationale for its complaint jurisdiction determinations.

Implemented at 18 months

7. The Board should consistently meet established inspection time frames by developing and implementing processes for tracking and monitoring the completion of facility inspections.

Implementation in process—Board policy specifies time frames for inspecting compounding pharmacies and outsourcing facilities and for conducting routine compliance inspections. All permitted facilities are subject to routine compliance inspections. According to Board policy, routine compliance inspections are to be completed within an 18-month cycle for each permitted facility, while compounding pharmacies and outsourcing facilities that compound sterile or nonsterile products including hazardous compounds may be placed on a 12-month inspection cycle. The Board's most recent 18-month inspection cycle concluded on December 31, 2023, and according to the Board's inspection log, it inspected 1,182 of 1,728 pharmacies. According to the Board's inspection log, the Board inspected 68 of 198 compounding facilities during its calendar year 2023 12-month inspection cycle. The Board attributed its inability to inspect all pharmacies within its established time frames to inspection staff turnover, the need to hire and train new inspection staff, and the complexity of inspections. We will further assess the Board's compliance with its inspection time frames during the Board's next sunset review, which we plan to initiate later in 2024.

Finding 2: Board's license and permit fees are not based on cost of providing services, resulting in large and growing fund balance

8. The Board should conduct a review of its license and permit fees consistent with government fee-setting standards and guidelines, including ensuring the fees are based on actual costs and promote service efficiency, and then adjust its fees accordingly. Specifically, the Board should:
 - a. Develop and implement a method for determining and tracking the direct and indirect costs for its regulatory processes and establish policies and procedures for using this method. The policies and procedures should also require the periodic review of the Board's fees, including tracking and reassessing actual costs and assessing if costs are necessary for providing services.

Implementation in process in a different manner—In February 2023, the Board partnered with the Arizona Governor's Transformation Office (GTO) for assistance with evaluating its regulatory processes, such as its inspection, complaint-handling, and licensing processes. This assistance included conducting observations of some field inspections and recommending that the Board track the time it spends on various compliance-

related activities, including travel time. However, the Board has not developed policies and procedures for determining its regulatory costs or conducting periodic review of its fees. We will further assess the Board's implementation of this recommendation during its next sunset review, which we plan to initiate later in 2024.

- b. After implementing this cost methodology, determine the appropriate license and permit fees.

Not yet applicable—See explanation for Recommendation 8a.

- c. Consider the effect of proposed fee changes on applicants, licensees, and permit holders and obtain their input when reviewing the fees.

Not yet applicable—See explanation for Recommendation 8a.

- d. Adjust its fees in its rules, as necessary.

Not yet applicable—See explanation for Recommendation 8a.

- 9. The Board should work with the Legislature, as needed, to revise statute to eliminate the reciprocity fee and charge the same application fee to all initial pharmacist applicants.

Implemented in a different manner at 36 months—As reported in our initial followup, the Board has not worked with the Legislature to revise statute to eliminate the reciprocity fee and instead approved plans to revise its rules to lower the reciprocity fee from \$300 to \$150. The Board completed the revision to its rules, which became effective in March 2024, and although this rule change still requires reciprocity applicants to pay more than nonreciprocity applicants for an initial license, it more closely aligns the reciprocity fee with the nonreciprocity application fee.

Finding 3: State may not be receiving full benefits of the CSPMP because Board has not enforced or helped to enforce compliance with CSPMP requirements

- 10. The Board should enforce licensed pharmacist and permitted pharmacy compliance with State CSPMP statutes.

Implementation in process—Although the Board has taken some steps to enforce licensed pharmacist and permitted pharmacy compliance with CSPMP statutory requirements, it has not implemented all recommendations to help ensure compliance with these requirements. For example, as explained in Recommendation 11, although the Board reported that statutory changes, such as defining a "new course of treatment," are needed to help it determine whether pharmacists check the CSPMP database as required and discussed potential statutory changes at an August 31, 2022, CSPMP task force meeting, it decided not to pursue statutory changes, explaining that changes would be too costly to implement. However, the Board was unable to provide documentation supporting an analysis of or the costs it estimated to implement these changes. Additionally, as explained in Recommendations 13 and 14, the Board has not developed processes for identifying and following up with permitted pharmacies that are outside of Arizona that should have, but are not, registered to submit information accessible through the CSPMP database. We will further assess the Board's implementation of this recommendation during its next sunset review, which we plan to initiate later in 2024.

- 11. The Board should develop and implement processes to identify licensed pharmacists who have not registered for and are not checking the CSPMP database as required and take enforcement action, as appropriate.

Partially implemented at 36 months—As reported in our 18-month followup, the Board has developed and implemented processes to identify licensed pharmacists who have not registered with the CSPMP database as required and to remind these pharmacists of their responsibility to register with and check the CSPMP database. The Board also developed a process to enforce compliance with this registration requirement. For 1 licensed pharmacist we reviewed, this included the Board sending this licensee an advisory letter and nondisciplinary order requiring the licensee to take continuing education related to pharmacy law. Although the Board reported that statutory changes, such as defining a "new course of treatment," are needed to assist it in determining whether pharmacists check the CSPMP database as required and discussed potential statutory changes at an August 31, 2022, CSPMP taskforce meeting, it decided not to pursue statutory changes, explaining that changes would be

too costly to implement. However, the Board was unable to provide documentation supporting an analysis of or the costs it estimated to implement these changes.

12. The Board should continue its newly developed process to identify permitted pharmacies with an Arizona address that should have, but are not, registered to submit information accessible through the CSPMP database.

Implemented at 18 months

13. The Board should develop and implement a process to identify permitted pharmacies that are outside of Arizona that should have, but are not, registered to submit information accessible through the CSPMP database.

Not implemented—During our 18-month followup, the Board reported that it was in the process of developing a procedure using its licensing database and the Drug Enforcement Administration (DEA) numbers of permitted pharmacies it collects to identify those pharmacies that are outside of Arizona that should be, but have not registered to submit information accessible through the CSPMP database. However, the Board indicated that its licensing database vendor is not able to generate a usable report for Board staff to identify nonresident pharmacies not reporting into the CSPMP. The Board reported that it is in the process of switching to a new licensing database, which it anticipates implementing by the end of calendar year 2024. The Board further reported that the new database should be able to furnish a usable report, and anticipates that the data and information needed for this report will be available in its new database by July 2025. We will assess the Board's implementation of this recommendation during its next sunset review, which we plan to initiate later in 2024.

14. The Board should ensure that all permitted pharmacies that should be submitting information accessible through the CSPMP database, including those identified as a result of the Board's processes (see Recommendations 12 and 13), are doing so and follow up with any pharmacies that are delinquent in reporting.

Implementation in process—As reported in our 18-month followup, the Board has implemented a process to identify permitted pharmacies with an Arizona address that should have, but are not, registered to submit information accessible through the CSPMP database and to open a complaint against delinquent pharmacies. However, as explained in Recommendation 13, the Board has not developed a process for identifying permitted pharmacies that are outside of Arizona that should have, but are not, registered to submit information accessible through the CSPMP database. Lacking this information, the Board would not be able to follow up with out-of-State pharmacies that are not reporting or are delinquent in reporting to the CSPMP database. We will further assess the Board's implementation of this recommendation during its next sunset review, which we plan to initiate later in 2024.

15. The Board should work with the other 9 Arizona professional licensing boards listed in A.R.S. §36-2606(B)(1) to determine the information they need to investigate and enforce licensed prescriber noncompliance with State CSPMP statutory requirements.

Implemented at 12 months

16. The Board should follow State CSPMP statutes and provide other Arizona professional licensing boards with information they need to investigate and enforce noncompliance with these statutes.

Implemented at 18 months

17. The Board should develop and implement processes for identifying licensed prescriber potential noncompliance with State CSPMP statutory requirements.

Implemented at 18 months

Finding 4: Board did not provide required public information on its website or in response to our anonymous phone calls

18. The Board should provide required information on its website by updating it to include:
- All required information about licensees and permit holders, including nondisciplinary actions.
Not implemented—The Board’s website does not include all required information about licensees and permit holders. For example, the Board had not made available on its website the record of final nondisciplinary action for 6 licensees we reviewed during the audit.
 - A statement informing the public that they can contact the Board for more information as required by statute.
Implemented at 18 months—The Board posted the statutorily required statement on its website informing the public that they can contact the Board for more information about its licensees and permit holders.
19. The Board should ensure that it provides complete and accurate information to the public over the phone by revising and implementing its policies and procedures for providing public information to include how staff should respond to phone calls requesting complaint information.
Not implemented—As reported in the 18-month followup, the Board developed policies and procedures to guide Board staff on providing information related to disciplinary and nondisciplinary actions to the public over the phone. The policy also allows Board staff to require a caller to file a public records request when inquiring about nondisciplinary actions because information about these actions may be difficult for Board staff to locate. Callers must make a written request for complaint history rather than receiving this information over the phone, and we noted that these practices can make it more challenging for callers to obtain publicly available information from the Board, especially those that may not have reliable internet access. However, the Board has not further updated or revised its policies and procedures. Additionally, in response to an anonymous phone call we made to the Board, Board staff reported that it could not provide information about a licensed pharmacy technician who received a disciplinary action over the phone; referred us to the Board’s website and said we should submit a public information request. We will further assess the Board’s provision of complete and accurate information to the public over the phone during its next sunset review, which we plan to initiate later in 2024.
20. The Board should develop and provide training for its staff once it has developed the policies and procedures outlined in Recommendation 19.
Not implemented—As reported in the 18-month followup, the Board has provided training to its staff on its policies and procedures for providing information to the public. However, as explained in Recommendation 19, the Board’s policies do not require its staff to provide complete complaint information over the phone, and in response to an anonymous phone call we made to the Board’s office requesting information about a licensed pharmacy technician who had received a disciplinary action, its staff was unable to provide any information (see explanation for Recommendation 19). We will further assess the Board’s implementation of this recommendation during its next sunset review, which we plan to initiate later in 2024.

Sunset Factor 2: The extent to which the Board has met its statutory objective and purpose and the efficiency with which it has operated.

21. The Board should ensure pharmacy technicians meet training requirements by either requiring pharmacy technician applicants to submit documentation showing they meet training requirements or revising its rule to rely on the national boards’ training attestation requirements.
Not implemented—As reported in the initial followup, the Board opted to revise its rules to allow it to rely on the national boards’ training attestation requirements and has been in the process of revising its rules. However, the Board has yet to finalize these rules and reported anticipating doing so by the end of calendar year 2024.

22. The Board should protect its cash receipts by developing and implementing written cash-handling policies and procedures that adhere to SAAM requirements, such as
- a. Opening mail with at least 2 staff members present.
Implemented at 12 months
 - b. Separating the duties of logging cash receipts from licensing functions.
Implemented at 18 months
 - c. Depositing cash receipts exceeding \$1,000 on a daily basis.
Implemented in a different manner at 36 months—As reported in the 18-month followup, the Board developed policies and procedures for depositing cash receipts exceeding \$1,000 by the end of the business day following receipt of the cash. However, the Board updated its policy in March 2023 to include language that permits extended overnight storage of cash receipts, stipulating that “adequate” staffing levels are needed to follow its written policy. The Board reported that when needed, cash receipts are stored in a locked cabinet with access restricted to 1 person in an office that is not accessible to the public. Based on our review of 5 Board deposit records from July 2023 that exceeded \$1,000, the Board adhered to its policies and procedures by depositing these cash receipts by the next business day for 4 of 5 deposits. The Board made 1 deposit 2 business days after it received the cash, attributing the delay to the lack of staff availability to make the deposit.
 - d. Processing cash transactions and depositing cash rather than returning it to the sender through the mail.
Implemented at 12 months
23. The Board should train staff on these updated policies and procedures and review staff work periodically for compliance.
- Not implemented**—Although the Board provided training to its staff on topics that cover some of its cash-handling processes, it has not developed a specific cash-handling training, and documentation provided by the Board shows potential inadequacies in its training curriculum. For example, the Board administered a mail-processing quiz that contains questions related to cash-handling, and 4 of 6 staff members who took the quiz received a failing score of 50 percent. Additionally, the Board did not provide documentation showing that it has developed a process for periodic review of staff work to help ensure compliance with its policies and procedures. We will further assess the Board’s implementation of this recommendation during its next sunset review, which we plan to initiate later in 2024.

Sunset Factor 3: The extent to which the Board serves the entire State rather than specific interests.

24. The Board should ensure it complies with all State conflict-of-interest requirements.
Implemented at 12 months
25. The Board should develop and implement comprehensive policies and procedures for addressing potential conflicts of interest in accordance with State laws, including:
- a. Requiring Board members and staff to refrain from voting or otherwise participating in matters related to the disclosed interest.
Implemented at 12 months
 - b. Requiring Board members and staff to complete an annual conflict-of-interest disclosure form.
Implemented at 12 months

- c. Defining a process for ensuring that completed conflict-of-interest disclosure forms are maintained in a separate special disclosure file available for public inspection.

Implemented at 12 months

- d. Implementing a process for managing and monitoring any disclosed potential conflicts of interest to ensure the conflict will not interfere with the performance of Board member and staff duties.

Implemented at 36 months

- e. Documenting reasons for Board member recusal in Board meeting minutes and maintaining a copy of these minutes in the special disclosure file.

Implemented in a different manner at 12 months—Although the Board’s meeting minutes document when Board members recuse themselves from agenda items, the Board has implemented a different process for documenting the reasons for members’ recusals. Specifically, Board members are required to complete a “Declaration of Conflict of Interest” form for each recusal, including the reason for the recusal. The Board maintains completed forms in a special disclosure file.

Sunset Factor 5: The extent to which the Board has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

- 26. The Board should ensure it complies with all open meeting law requirements.

Implemented at 12 months

- 27. The Board should develop and implement policies and procedures to guide its staff in complying with the State’s open meeting law, including appropriately citing executive sessions on Board meeting agendas and making its public meeting minutes available as required by law.

Implemented at 12 months

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

- 28. The Board should investigate and adjudicate complaints in 180 days or less.

Not implemented—As reported in our 18-month followup, the Board has not developed and implemented time frames for all the steps in its complaint-handling process to help ensure complaints are investigated and adjudicated within 180 days. The Board reported that it is working with a new database vendor to develop the capability in its database to track complaint-handling, and as of April 2024, reported that it anticipates implementing this capability by the end of calendar year 2024, at which time it will also update and implement policies for complaint processing, including developing time frames for the steps in its complaint-handling process. We will assess the Board’s implementation of this recommendation and Recommendations 29 and 30 during its next sunset review, which we plan to initiate later in 2024.

- 29. The Board should develop and implement time frames for the steps in its complaint-handling process to help ensure complaints are investigated and adjudicated in 180 days or less.

Not implemented—See explanation for Recommendation 28.

- 30. The Board should track complaints in accordance with its complaint-handling process steps.

Not implemented—See explanation for Recommendation 28.

31. The Board should continue with its newly implemented process for issuing subpoenas to licensees/permit holders who do not respond to requests for information in a timely manner and take action, where appropriate, against licensees/ permit holders who do not respond to subpoenas.

Implemented in a different manner at 18 months—The Board has modified its approach to issuing subpoenas. Specifically, the Board has developed and implemented a policy that requires it to issue subpoenas with all complaint notices to licensees requiring licensees to respond to the complaint allegations rather than only when the licensee does not respond to the Board’s requests. According to the Board, it issues subpoenas to permit holders as necessary. Further, the Board has implemented its policy to take action, where appropriate, against licensees/permit holders who do not respond to subpoenas. Specifically, if a licensee or permit holder does not respond to a subpoena, the complaint is presented to the Board for referral to a formal hearing.



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

DATE: June 7, 2024

TO: Representative Matt Gress, Chair
Senator Sonny Borrelli, Vice-Chair
Members, JLAC

FROM: Lindsey Perry, Auditor General

SUBJECT: State of Arizona fiscal year 2023 financial statements and federal compliance audits' updates

Background

The Office is responsible for conducting annual financial and federal compliance audits of all State agencies subject to federal single audit requirements pursuant to A.R.S. §41-1279.03(2). The Arizona Department of Administration (ADOA) is the State agency responsible for preparing and issuing the State's financial statements report, also known as the Annual Comprehensive Financial Report, or ACFR, and preparing the State's schedule of expenditures of federal awards, or SEFA, which is the basis of a federal compliance audit, also known as the Single Audit, using information provided by the State's agencies. Federal law requires Arizona to issue a Single Audit by March 31 of each year, which keeps federal dollars flowing into the State.

The State's financial statements are a part of the State's Single Audit submission to the federal government. Further, our opinion on the State's SEFA is in relation to the State's financial statements. Therefore, until the State's financial statements for a given fiscal year are issued, we cannot complete our audit and issue the State's Single Audit.

We were asked to present the State's financial statement and federal compliance audits' status for fiscal year 2023. The following are updates for agencies that have significant activity for the financial or federal compliance audits:

- Our Office is in the fieldwork stage of the financial statement and federal compliance audits. However, we have had to perform stop-and-go auditing during fieldwork due to certain agencies' delays in providing key financial information.
- ADOA has informed us that it is unable to provide estimated dates for submitting to us the remaining financial information and a final State SEFA for audit until it receives outstanding information from the Arizona Health Care Cost Containment System (AHCCCS), which is needed to finalize the State's financial statements and SEFA.

- AHCCCS missed the final, agreed-upon revised deadline of April 26, 2024, for submitting its financial statements, associated note disclosures, supporting schedules, and final SEFA to ADOA.
- In April, auditing of 3 federal programs at the Governor's Office was put on hold at its request so it could respond to a time-sensitive U.S. Department of the Treasury desk review of the State's Coronavirus Relief Fund program.
- The Department of Economic Security (DES) met all revised deadlines to ADOA and submitted its financial information, including the DES draft SEFA by April 26, 2024.

Due to the delays mentioned, we are unable to determine agreed-upon report-issuance dates with ADOA for the State's financial statements or federal compliance audits.

The State's delay in meeting its financial reporting and audit requirements may affect decision makers' ability to rely on financial information that is not provided timely or may result in the credit rating agencies lowering the State's credit ratings for its bonds and certificates of participation. Further, the State, including its 3 universities, could potentially face actions by federal agencies that may affect the State's and universities' future federal awards, such as additional cash monitoring, other compliance monitoring, and funding restrictions or penalties.

Action required

None. Presented for JLAC's information only.



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

DATE: June 7, 2024

TO: Representative Matt Gress, Chair
Senator Sonny Borrelli, Vice Chair
Members, JLAC

FROM: Lindsey Perry, Auditor General

SUBJECT: Office updates regarding JLAC-directed school district performance audit follow-up reports: Hackberry Elementary and Peach Springs Unified School Districts

Background

The Office is responsible for conducting performance audits of Arizona school districts (districts) pursuant to A.R.S. §41-1279.03. These performance audits assess districts' spending and operational efficiency in noninstructional areas, including administration, plant operations and maintenance, food service, and transportation. These audits result in public reports that provide recommendations to improve the efficiency and effectiveness of district operations. In addition to providing recommendations, we also follow up with districts to assess their efforts to implement the recommendations and, consistent with the intent of our recommendations, often find their implementation improves performance, ensures compliance with laws and regulations, and yields cost savings.

The Legislature has appropriated the Office resources to follow up on district report findings and recommendations periodically for 2 years. Depending on the audit recommendations' complexity, we find that it sometimes takes districts longer than 2 years to implement critical recommendations. However, because our recommendations are important to improving the district, we do not simply go away after 2 years if a district has not implemented all critical recommendations.

We were asked to present an update on the 2 school districts that JLAC directed the Office to conduct additional follow-up work on during its September 13, 2023, meeting, including our recently issued Hackberry ESD 36-month follow-up report and Peach Springs USD 60-month follow-up report. See **Attachments A** and **B** for the Hackberry ESD Performance Audit 36-month follow-up report and Hackberry ESD's April 17, 2024, action plan to implement the 3 outstanding recommendations (recommendations 11, 12, and 14), respectively. See **Attachments C** and **D** for the Peach Springs USD Performance Audit 54-month and 60-month follow-up reports, respectively.

Action required

None. Presented for JLAC's information only.

Attachment A

Followup

Hackberry Elementary School District

The October 2020 Hackberry Elementary School District performance audit found that the District spent more on administration, plant operations, food service, and transportation than its peer districts and could redirect an estimated \$145,000 annually or more to instruction or other District priorities. We made 17 recommendations to the District and 1 recommendation to the Legislature, and its status in implementing the recommendations is as follows:

Status of 17 District recommendations

Implemented	11
Partially implemented	1
In process	2
Not implemented	3

Status of 1 legislative recommendation

Not implemented	1
------------------------	----------

On September 13, 2023, the Joint Legislative Audit Committee (JLAC) passed a resolution directing our Office to conduct a 36-month followup to assess the District’s efforts to implement the 9 outstanding recommendations from our October 2020 performance audit report. In the previous 24-month follow-up report, the District had not implemented 7 recommendations and was in the process of implementing 2 recommendations. Since the 24-month follow-up report, the District has implemented an additional 3 recommendations and partially implemented 1 recommendation, but has continued to not implement or not fully implement 5 recommendations.

Unless otherwise directed by JLAC, this report concludes our follow-up work on the District’s efforts to implement the recommendations from the October 2020 report.

Finding 1: Hackberry ESD spent twice as much on administration as peer districts and could redirect an estimated \$104,600 annually to instruction or other District priorities by reducing administrative staffing and paying hourly employees only for hours worked

1. The District should operate more efficiently in administration and redirect savings to instruction or other District priorities.

Implemented at 36 months—The District reduced administrative staffing levels in fiscal year 2024 by 1 full-time equivalent employee (FTE) compared to the audit year by having administrative staff split their time between administrative and non-administrative duties, such as school bus monitor and student nurse. In fiscal year 2024, the District employed 1.5 administrative FTE, which was approximately what its peer districts averaged during the audit. As a result of these staffing changes, we estimate that the District will spend a similar amount per student for administrative spending as its peer districts in fiscal year 2024.

2. The District should review its administrative staffing levels and implement reductions.

Implemented at 36 months—See explanation for recommendation 1.

3. The District should ensure that supervisors review all timecards, ensure that those timecards do not include employees' lunch breaks as paid time, and pay employees only for hours worked.

Implemented at 18 months

4. The District should ensure employment agreement terms are documented and include any additional employee pay above original contracted pay, either within the contract or in an addendum.

Implemented at 36 months—In the first half of fiscal year 2024, the District made additional payments above the originally contracted pay to 2 of its 14 employees. We reviewed payroll documentation for the 2 employees and found that the District documented and approved these payments prior to the employees receiving payment.

Finding 2: Hackberry ESD has continually operated its 1 school substantially below its designed capacity, resulting in an estimated \$1.3 million of inefficient spending

1. The Legislature should consider adopting statutory requirements that any schools built with NSF fund monies be built only to SFB-approved projections. It should also consider adopting additional requirements that districts' enrollment projections demonstrate 2 or more years of accurately projected enrollment growth prior to awarding new school construction monies.

Not implemented—The Legislature has not yet acted on this recommendation.

5. The District should determine and implement ways to reduce its excess capacity and/or the costs associated with it by doing such things as identifying opportunities and implementing plans to attract any home-schooled students living within its boundaries and to retain any students living within its boundaries who are choosing to attend other school districts. Additionally, the District should identify and close any unused or underutilized space.

Partially implemented at 36 months—In fiscal year 2024, the District's school capacity as determined by Arizona Department of Administration's School Facilities Oversight Board was 168, which is the same as during the audit. Since the audit year, the District's ADM has increased from 29.5 to 45 in fiscal year 2024, increasing its capacity utilization from approximately 18 percent to 27 percent. Additionally, since our previous 24-month followup, the District has taken some steps to attempt to increase its capacity utilization or reduce the costs of its excess capacity. For example, the District worked with the Mohave County School Superintendent's Office to identify home-schooled students within District boundaries and identified 4 home-schooled students. However, the District determined that these students would not make a significant difference in its capacity utilization and therefore did not contact these students' families to discuss their interest in enrolling at the District. Further, in response to JLAC's July 28, 2023, letter requesting an action plan and timeline for implementing its outstanding recommendations, the District reported that all its classrooms were fully utilized. During our review, we found that the District was using excess classroom space as intervention rooms for individualized and small-group instruction or as a conference room. The District further reported to JLAC that it intended to use its excess space outside of school hours to generate revenue for the District. When we discussed this with District officials in January 2024, they stated they had discussed renting out space after school and on weekends but had not done so because of the difficulties of having staff on-site during those times and other nearby school districts offering rental space, and the District's Governing Board (Board) discussed these topics at its February 2024 meeting. As of February 2024, District officials reported that the District's space was being utilized as much as possible and that they did not plan to take further action to identify or close any unused or underutilized space.

Finding 3: District produced more meals than it served and had higher food service labor hours than similarly sized peer districts, costing it an estimated \$31,500 annually in monies that could have been used for instruction or other District priorities

6. The District should ensure that the food service director stops overproducing meals that the District does not serve by basing meal productions on the number of lunch orders that are reported each morning.

Implemented at 18 months

7. The District should reduce food service spending by reducing the number of labor hours it contracts to operate its food service program.

Implemented at 24 months

Finding 4: District operated its transportation program at a higher cost in fiscal year 2018 than peer districts and did not perform timely bus preventative maintenance

8. The District should evaluate whether it is more cost-effective and feasible to purchase an appropriately sized bus of its own, lease a more appropriately sized bus, or pay parents to transport their children to and from school, and make changes accordingly, as pandemic conditions allow.

Implemented at 18 months—We reported in our previous 24-month followup that the District determined that continuing to lease a school bus was the most cost-effective and feasible option available to it. However, at the time of our review for the 36-month followup, District officials reported that the District was no longer able to lease a school bus as of July 2023, and instead, the District purchased a used school bus in August 2023. District officials further reported that the used school bus it purchased had significant mileage and stated it is their intent to purchase a new school bus by the end of fiscal year 2024.

9. If the District continues using a bus to transport its students, it should track bus mileage and perform preventative maintenance according to its lease agreement or other policies the District may adopt if it purchases its own bus.

Implementation in process—In its October 2023 meeting, the District's Board approved a school bus preventative maintenance policy requiring preventative maintenance be performed every 3,500 miles or at least quarterly. However, the Board-approved policy does not specify what school bus preventative maintenance work will be performed at each interval. As of January 2024, the District had not yet completed a preventative maintenance service on its 1 school bus since the Board adopted the District's preventative maintenance policy.

Finding 5: District put sensitive student information and public monies at risk because it did not comply with important requirements and standards to protect its monies and sensitive information

10. The District should follow required purchasing procedures by ensuring that employees make purchases only after obtaining proper approval and pay vendors only after verifying that all purchases have been received and billings are accurate.

Not implemented—The District updated its purchasing and payables procedures in October 2023. However, our review of a judgmental sample of 10 of 38 expenditures approved between October 2023 and January 2024 found that District staff made 6 purchases prior to obtaining proper approval and made payments for 7 of these purchases to vendors prior to verifying that all purchases had been received and billings were accurate, indicating that the District is not consistently following its required purchasing procedures.

11. The District should ensure that all monies collected are deposited by requiring that the same individual responsible for preparing cash deposits is not also responsible for reconciling cash deposited to cash collected.

Not implemented—The District updated its cash-handling procedures in October 2023. Although the District's new cash-handling procedures made some improvements, such as including additional review steps to ensure cash collected is recorded, the District's updated procedures continue to be inadequate because the same individual continues to be responsible for preparing cash deposits and reconciling cash deposited to cash collected. Therefore, the District continues to increase the risk that not all cash collected is deposited, as required.

12. The District should discontinue the use of debit cards as a payment method.

Implemented at 6 months

13. The District should review the Uniform Chart of Accounts for school districts and implement its guidance to accurately classify all expenditures when reporting its spending.

Not implemented—As we reported in the previous 24-month followup, the District began working with a consultant that provides expenditure coding guidance and reviews the District's expenditures monthly to identify and correct any incorrectly classified expenditures. However, our review of the District's fiscal year-to-date 2024 expenditures found that the District incorrectly classified 10 percent of its expenditures totaling approximately \$66,200. Of the total amount of miscoded expenditures we identified during our review, approximately \$55,500 occurred prior to the consultant's most recent monthly review, indicating that these miscoded expenditures had not been corrected during the monthly review process.

14. The District should review credible industry standards, including those from the National Institute of Standards and Technology (NIST), at least annually, and ensure student information system (SIS) password requirements meet the standards.

Implemented at 18 months

15. The District should work with its vendor to immediately remove all terminated user accounts currently in its SIS and implement additional procedures, such as termination checklists that include attestation that terminated employees' SIS access has been removed, to ensure that it reduce the future risk of unauthorized access to sensitive student information.

Implemented at 18 months

16. The District should work with its vendor to substantially reduce the number of users with administrator-level access in its SIS.

Implemented at 24 months

17. The District should limit accounting system users' access to only those functions needed to perform their job duties and work with the County to determine which vendor accounts, as well as any County accounts, are necessary. Further, the District should remove any unnecessary accounts, disable any necessary accounts when not in use, and substantially reduce the number of users with administrator-level access in its accounting system.

Implementation in process—Our January 2024 review of users' access for all active users in the District's accounting system found that the District had 1 vendor account, 3 accounts associated with County users, and 2 accounts with administrator-level access, both of which appeared to be appropriate. However, 3 District users and 1 County user continued to have system access allowing them to initiate and complete accounts payable and/or payroll transactions without another individual involved to verify the transactions were valid, accurate, and appropriate. In October 2023, the District implemented a review process for its accounts payable and payroll transactions, but its new process occurs outside of the District's accounting system and does not include steps to check that all transactions are included in the review, which may allow users with excessive accounting system access to initiate and complete transactions without secondary review and continues to increase the District's risk for errors and fraud.

Attachment B

Response

Hackberry Elementary School District

Hackberry Elementary School District #3

*Cedar Hills School
9501 E. Nellie Drive
Kingman, AZ 86401-8917*

*Phone (928) 692-0013
Fax: (928) 692-1075*

www.hesd.net



Deb Warren
Administrator

Hackberry Mustangs

The October 2020 Hackberry Elementary School District performance audit found that the District spent more on administration, plant operations, food service, and transportation than its peer districts and could redirect an estimated \$145,000 annually or more to instruction or other District priorities. We made 17 recommendations to the District and 1 recommendation to the Legislature, and its status in implementing the recommendations is as follows:

Status of 17 District recommendations

Implemented 11
Partially implemented 1
In process 2
Not implemented 3

Status of 1 legislative recommendation

Not implemented 1

On September 13, 2023, the Joint Legislative Audit Committee (JLAC) passed a resolution directing our Office to conduct a 36-month followup to assess the District's efforts to implement the 9 outstanding recommendations from our October 2020 performance audit report. In the previous 24-month follow-up report, the District had not implemented 7 recommendations and was in the process of implementing 2 recommendations. Since the 24-month follow-up report, the District has implemented an additional 3 recommendations and partially implemented 1 recommendation, but has continued to not implement or not fully implement 5 recommendations.

Unless otherwise directed by JLAC, this report concludes our follow-up work on the District's efforts to implement the recommendations from the October 2020 report.

Finding 1: Hackberry ESD spent twice as much on administration as peer districts and could redirect an estimated \$104,600 annually to instruction or other District priorities by reducing administrative staffing and paying hourly employees only for hours worked

1. The District should operate more efficiently in administration and redirect savings to instruction or other District priorities.

Implemented at 36 months—The District reduced administrative staffing levels in fiscal year 2024 by 1 full-time equivalent employee (FTE) compared to the audit year by having administrative staff split their time between administrative and non-administrative duties, such as school bus monitor and student nurse. In fiscal year 2024, the District employed 1.5 administrative FTE, which was approximately what its peer districts averaged during the audit. As a result of these staffing changes, we estimate that the District will spend a similar amount per student for administrative spending as its peer districts in fiscal year 2024.

2. The District should review its administrative staffing levels and implement reductions.

Implemented at 36 months—See explanation for recommendation 1.

3. The District should ensure that supervisors review all timecards, ensure that those timecards do not include employees' lunch breaks as paid time, and pay employees only for hours worked.

Implemented at 18 months

4. The District should ensure employment agreement terms are documented and include any additional employee pay above original contracted pay, either within the contract or in an addendum.

Implemented at 36 months—In the first half of fiscal year 2024, the District made additional payments above the originally contracted pay to 2 of its 14 employees. We reviewed payroll documentation for the 2 employees and found that the District documented and approved these payments prior to the employees receiving payment.

Finding 2: Hackberry ESD has continually operated its 1 school substantially below its designed capacity, resulting in an estimated \$1.3 million of inefficient spending

1. The Legislature should consider adopting statutory requirements that any schools built with NSF fund monies be built only to SFB-approved projections. It should also consider adopting additional requirements that districts' enrollment projections demonstrate 2 or more years of accurately projected enrollment growth prior to awarding new school construction monies.

Not implemented—The Legislature has not yet acted on this recommendation.

5. The District should determine and implement ways to reduce its excess capacity and/or the costs associated with it by doing such things as identifying opportunities and implementing plans to attract any home-schooled students living within its boundaries and to retain any students living within its boundaries who are choosing to attend other school districts. Additionally, the District should identify and close any unused or underutilized space.

Partially implemented at 36 months—In fiscal year 2024, the District's school capacity as determined by Arizona Department of Administration's School Facilities Oversight Board was 168, which is the same as during the audit. Since the audit year, the District's ADM has increased from 29.5 to 45 in fiscal year 2024, increasing its capacity utilization from approximately 18 percent to 27 percent. Additionally, since our previous 24-month followup, the District has taken some steps to attempt to increase its capacity utilization or reduce the costs of its excess capacity. For example, the District worked with the Mohave County School Superintendent's Office to identify home-schooled students within District boundaries and identified 4 home-schooled students. However, the District determined that these students would not make a significant difference in its capacity utilization and therefore did not contact these students' families to discuss their interest in enrolling at the District. Further, in response to JLAC's July 28, 2023, letter requesting an action plan and timeline for implementing its outstanding recommendations, the District reported that all its classrooms were fully utilized. During our review, we found that the District was using excess classroom space as intervention rooms for individualized and small-group instruction or as a conference room. The District further reported to JLAC that it intended to use its excess space outside of school hours to generate revenue for the District. When we discussed this with District officials in January 2024, they stated they had discussed renting out space after school and on weekends but had not done so because of the difficulties of having staff on-site during those times and other nearby school districts offering rental space, and the District's Governing Board (Board) discussed these topics at its February 2024 meeting. As of February 2024, District officials reported that the District's space was being utilized as much as possible and that they did not plan to take further action to identify or close any unused or underutilized space.

District Action Plan:

- Hackberry will continue to contact the Mohave County Superintendent's office for information on home-schooled students within the district each year. (annually)
- Hackberry is a single building school district that provides a Free and Appropriate Public Education (FAPE) for K-8th grades. Current enrollment is 54 students.

- Hackberry will continue to utilize excess classroom space for small group instruction/interventions and other learning activities.
- Hackberry will continue to utilize excess classroom space to provide required services for students with Individual Education Plans (IEP's) such as occupational therapy, speech, counseling, etc.
- Hackberry school board will continue to review options for usage of building space.

Finding 3: District produced more meals than it served and had higher food service labor hours than similarly sized peer districts, costing it an estimated \$31,500 annually in monies that could have been used for instruction or other District priorities

6. The District should ensure that the food service director stops overproducing meals that the District does not serve by basing meal productions on the number of lunch orders that are reported each morning.

Implemented at 18 months

7. The District should reduce food service spending by reducing the number of labor hours it contracts to operate its food service program.

Implemented at 24 months

Finding 4: District operated its transportation program at a higher cost in fiscal year 2018 than peer districts and did not perform timely bus preventative maintenance

8. The District should evaluate whether it is more cost-effective and feasible to purchase an appropriately sized bus of its own, lease a more appropriately sized bus, or pay parents to transport their children to and from school, and make changes accordingly, as pandemic conditions allow.

Implemented at 18 months—We reported in our previous 24-month followup that the District determined that continuing to lease a school bus was the most cost-effective and feasible option available to it. However, at the time of our review for the 36-month followup, District officials reported that the District was no longer able to lease a school bus as of July 2023, and instead, the District purchased a used school bus in August 2023. District officials further reported that the used school bus it purchased had significant mileage and stated it is their intent to purchase a new school bus by the end of fiscal year 2024.

9. If the District continues using a bus to transport its students, it should track bus mileage and perform preventative maintenance according to its lease agreement or other policies the District may adopt if it purchases its own bus.

Implementation in process—In its October 2023 meeting, the District's Board approved a school bus preventative maintenance policy requiring preventative maintenance be performed every 3,500 miles or at least quarterly. However, the Board-approved policy does not specify what school bus preventative maintenance work will be performed at each interval. As of January 2024, the District had not yet completed a preventative maintenance service on its 1 school bus since the Board adopted the District's preventative maintenance policy.

District Plan:

- Hackberry will develop a schedule for preventative maintenance to be performed. The preventative maintenance will be scheduled during the following breaks; winter, and summer or 3500 miles.
- In collaboration with the automotive facility, a maintenance checklist will be provided.
- A preventative maintenance service was not scheduled prior to spring break due to the bus only transporting students for 9 weeks. The bus had not reached the 3500 mile threshold.

Finding 5: District put sensitive student information and public monies at risk because it did not comply with important requirements and standards to protect its monies and sensitive information

10. The District should follow required purchasing procedures by ensuring that employees make purchases only after obtaining proper approval and pay vendors only after verifying that all purchases have been received and billings are accurate.

Not implemented—The District updated its purchasing and payables procedures in October 2023. However, our review of a judgment sample of 10 of 38 expenditures approved between October 2023 and January 2024 found that District staff made 6 purchases prior to obtaining proper approval and made payments for 7 of these purchases to vendors prior to verifying that all purchases had been received and billings were accurate, indicating that the District is not consistently following its required purchasing procedures.

District Action Plan:

- At the beginning of each school year (July) the Business Manager will create purchase orders for services that require annual fees. (fire, health permits etc.)
- Invoice dated prior to purchase order.
- Purchase order created by Administration.
- Purchase orders are signed and stated ok to pay in accounts payable.
- The Business Manager will research clarification on coding when in doubt. (USFR, CPA, Auditor General)

11. The District should ensure that all monies collected are deposited by requiring that the same individual responsible for preparing cash deposits is not also responsible for reconciling cash deposited to cash collected.

Not implemented—The District updated its cash-handling procedures in October 2023. Although the District's new cash-handling procedures made some improvements, such as including additional review steps to ensure cash collected is recorded, the District's updated procedures continue to be inadequate because the same individual continues to be responsible for preparing cash deposits and reconciling cash deposited to cash collected. Therefore, the District continues to increase the risk that not all cash collected is deposited, as required.

District Action Plan: Implemented

- The Business Manager no longer prepares the cash deposits as of 02/26/2024. This task was given to the building Principal. The Business Manager will continue to complete the cash reconciliations only.

12. The District should discontinue the use of debit cards as a payment method.

Implemented at 6 months

13. The District should review the Uniform Chart of Accounts for school districts and implement its guidance to accurately classify all expenditures when reporting its spending.

Not implemented—As we reported in the previous 24-month followup, the District began working with a consultant that provides expenditure coding guidance and reviews the District's expenditures monthly to identify and correct any incorrectly classified expenditures. However, our review of the District's fiscal year-to-date 2024 expenditures found that the District incorrectly classified 10 percent of its expenditures totaling approximately \$66,200. Of the total amount of miscoded expenditures we identified during our review, approximately \$55,500 occurred prior to the consultant's most recent monthly review, indicating that these miscoded expenditures had not been corrected during the monthly review process.

District Action Plan: Scheduled for implementation

- The Business Manager will review the USFR and update, if needed, monthly.
- The Business Manager and the CPA consultant will meet monthly for coding guidance and review.

14. The District should review credible industry standards, including those from the National Institute of Standards and Technology (NIST), at least annually, and ensure student information system (SIS) password requirements meet the standards.
Implemented at 18 months

15. The District should work with its vendor to immediately remove all terminated user accounts currently in its SIS and implement additional procedures, such as termination checklists that include attestation that terminated employees' SIS access has been removed, to ensure that it reduce the future risk of unauthorized access to sensitive student information.
Implemented at 18 months

16. The District should work with its vendor to substantially reduce the number of users with administrator-level access in its SIS.
Implemented at 24 months

17. The District should limit accounting system users' access to only those functions needed to perform their job duties and work with the County to determine which vendor accounts, as well as any County accounts, are necessary. Further, the District should remove any unnecessary accounts, disable any necessary accounts when not in use, and substantially reduce the number of users with administrator-level access in its accounting system.

Implementation in process—Our January 2024 review of users' access for all active users in the District's accounting system found that the District had 1 vendor account, 3 accounts associated with County users, and 2 accounts with administrator-level access, both of which appeared to be appropriate. However, 3 District users and 1 County user continued to have system access allowing them to initiate and complete accounts payable and/or payroll transactions without another individual involved to verify the transactions were valid, accurate, and appropriate. In October 2023, the District implemented a review process for its accounts payable and payroll transactions, but its new process occurs outside of the District's accounting system and does not include steps to check that all transactions are included in the review, which may allow users with excessive accounting system access to initiate and complete transactions without secondary review and continues to increase the District's risk for errors and fraud.

District Action Plan:

- Hackberry is in the process of scheduling a meeting with the Mohave County Superintendent's office Business Manager and the Auditor General's office for clarification and review of user access.
- Hackberry Business Manager and District Administrator met with Mohave County Business Manager in February and discussed scheduling this meeting.
- Hackberry Business Manager emailed the Mohave County Business Manager in reference to the user access meeting in April, 2024.
- The Business Manager from the Mohave County Superintendent's office responded and scheduled the user access meeting for Thursday, April 18, 2024 at 2:00 pm.

Attachment C

Followup—54-Month

Peach Springs Unified School District

The January 2019 Peach Springs Unified School District performance audit found that the District should focus on improving its instructional program; work with legal counsel and the Tribal Corporation to receive unpaid lease amounts and establish a current lease for use of its high school; strengthen accounting, equipment, and computer controls; and improve oversight of its food service and transportation programs. We made 16 recommendations to the District, and its status in implementing the recommendations is as follows:

Status of 16 recommendations

Implemented	5
Implemented in a different manner	1
Partially implemented	1
In process	2
Not implemented	7

We will conduct a 66-month followup with the District on the status of the recommendations that have not yet been implemented.

Finding 1: District should continue focus on instructional program

1. The District should continue to work closely with the Arizona Department of Education (ADE) to develop, implement, monitor, and evaluate action plan steps to improve its instructional program and students' academic performance.

Implementation in process—In fiscal years 2021 and 2022, the District worked with ADE's Crisis Management Team (CMT) to identify areas of impact on students' academic success, such as recruiting and retaining teachers and adopting an evidence-based curriculum, and monitor the District's progress in these areas.¹ The CMT issued its final report to the Legislature in December 2021. The report stated that the District had made some progress in implementing CMT recommendations and that ADE would continue to monitor and support the District's school improvement efforts, such as its continued participation in the federal and State-wide school improvement programs.

Beginning in fiscal year 2021, the District hired new staff to support and improve its instructional programs, including a principal, an assistant principal, a community liaison, a director of instruction, and 2 instructional coach consultants. Additionally, as reported in the prior 42-month followup, ADE officials reported that the District networked with other school districts and organizations to get ideas for addressing instructional challenges, improved its technology infrastructure, increased its social-emotional learning support, and improved its relationship with the community by increasing community engagement. Also, the District reestablished its transportation program, which was an area of concern as it could impact attendance.

In fiscal year 2022, the District's elementary school's letter grade improved from an F to a D. According to ADE officials, the District will likely be a candidate for more rigorous oversight through ADE's Comprehensive Support and Improvement program. Additionally, in fiscal year 2024, the District began participating in Project Momentum, a voluntary program administered and funded through ADE that is designed to improve academic performance.

¹ Laws 2020, Ch. 26, established the CMT in August 2020 and required it to recommend necessary district changes due to the District's persistent underperformance. Laws 2021, Ch. 404, §106, extended the sunset date for the CMT from April 1, 2021, to April 1, 2022.

2. The District should ensure that it applies for all monies available to it through the school improvement program.

Implementation in process—As reported in the explanation for recommendation 1, in fiscal year 2024, the District began participating in Project Momentum, a voluntary program administered and funded through ADE that is designed to improve academic performance. The District reported that it will receive additional funding up to \$223,000 for participating in the program. Additionally, as of August 2023, the District was applying for 2 instructional improvement grants for fiscal year 2024.

3. The District should continue to work with ADE to correct errors in reporting student test data.

Implemented at 12 months

Finding 2: District incurs costs but collects no revenues for leasing its high school to a tribal corporation

4. The District should continue to work with its legal counsel and the Tribal Corporation to establish a current lease agreement for the Tribal Corporation's use of the District's high school and to recover prior years' unpaid lease and utility payments.

Implemented in a different manner at 42 months—According to the District, in July 2019, the Tribal Corporation stopped utilizing District-owned facilities. In July 2022, the District reopened the high school for student instruction, and in August 2022, we toured the high school, confirming that the Tribal Corporation was no longer utilizing District-owned facilities. According to the District, it worked with its legal counsel to enter into a new land lease agreement with the Tribal Corporation and will not pursue the unpaid lease and utility payments owed to it by the Tribal Corporation. However, the District was not able to provide documentation to support that the Governing Board (Board) approved the decision to not pursue the payment of these unpaid lease and utility payments.

Finding 3: District should strengthen accounting, equipment, and computer controls

5. The District should ensure that it requires an independent review and approval for all its purchases prior to the purchases being made.

Not implemented—In the prior 42-month followup, we reported that the District updated its purchasing process to require documented approval from the superintendent prior to purchases being made and found that District staff were not consistently following the updated process. The District reported in August 2023 that it is developing a new process to ensure purchases have approval from a supervisor prior to the purchases being made and plans to implement the new process by October 2023. The District should ensure that an authorized employee approves all purchases before goods or services are ordered, as required by the *Uniform System of Financial Records for Arizona School Districts*, to help ensure the District has adequate budget capacity for purchases and that expenditures are appropriate and properly supported. We will reassess the District's implementation of this recommendation during our 66-month followup.

6. The District should ensure that payments are made in a timely manner to avoid unnecessary late fees and finance charges.

Not implemented—Since the prior 42-month followup, the District has continued to pay late fees as a result of untimely credit card payments. Specifically, in February 2023, the District incurred \$214 in fees and interest charges resulting from a late payment. The District reported in August 2023 that it is working with its bank to receive statements in a timely manner to ensure that it can timely process payments and avoid unnecessary late fees and finance charges. According to the District, its new process will be in place by October 2023. The District should have a process in place to help ensure timely payments and thereby ensure that public monies are used for appropriate education-related expenditures. We will reassess the District's implementation of this recommendation during our 66-month followup.

7. The District should ensure that additional duties and related payments are addressed in employment contracts or personnel/payroll action forms, approved in advance of the work being performed, and maintained in employee personnel files.

Not implemented—In the prior 42-month followup, we reported that the District had developed a payroll process requiring administrative approval on personnel action requests (PAR) for employees' additional duties in advance of the work being performed and found that it could not demonstrate that it had followed its PAR process. The District reported in August 2023 that it is developing a new PAR process that will be in place by October 2023. The District should ensure that additional duties and related payments are addressed in employment contracts or personnel/payroll action forms, approved in advance of the work being performed, and maintained in employee personnel files to ensure that employees' pay is approved and appropriate. We will reassess the District's efforts to implement this recommendation during our 66-month followup.
8. The District should seek legal counsel to determine if it had the legal authority to pay \$25,000 in bonuses to its superintendent, and if not, to determine its ability to recover the monies.

Partially implemented at 42 months—Although the District sought legal counsel regarding the \$25,000 in bonuses paid to its previous superintendent, it did not clearly describe the issue and therefore did not receive clear guidance regarding whether it had the legal authority to pay the bonuses. According to District officials, the District's Board has decided to no longer pursue recovery of the monies. Although the District's governing board meeting agenda for its November 3, 2021, meeting indicates the Board considered and discussed the prior superintendent's compensation in executive session, the District could not provide documentation that the Board took action in a public meeting regarding the matter, such as voting to approve the decision to not pursue recovery of the monies from the former superintendent.
9. The District should establish and implement additional procedures to review employee pay to help ensure that employees are paid correctly and rectify any overpayments or underpayments made to employees.

Not implemented—In the prior 42-month followup, we reported that the District had not established and implemented procedures to review employee pay to help ensure employees are paid correctly, and we found that 2 of 5 employees we reviewed were underpaid by \$500 and \$587. According to the District, it is still developing a new process to calculate and enter staff pay amounts to help ensure that employees are paid correctly. The District stated that the new process will be established by October 2023. We will reassess the District's implementation of this recommendation during our 66-month followup.
10. The District should classify all expenditures in accordance with the Uniform Chart of Accounts for school districts.

Not implemented—Our review of the District's fiscal year-to-date 2023 expenditures found that the District continued to incorrectly classify transactions similar to what we identified during the audit, which may result in the District inaccurately reporting its spending. According to District officials, the District business manager will complete trainings on classifying expenditures in accordance with the Uniform Chart of Accounts for school districts through various organizations by October 2023. Additionally, the District plans to work with a consultant to review and correct its expenditure coding by October 2023.
11. The District should better secure equipment stored at its high school and consider the possibility of using some of the equipment at its elementary school.

Implemented at 42 months—The District worked with a consultant to review the equipment inventory stored at its high school and developed a list of equipment that is unusable to approve for disposal. The District began operating its high school again in July 2022 and is using some of the remaining equipment for instruction and has secured the rest of the equipment in locked storage areas.
12. The District should limit employees' access in the accounting system to only those accounting system functions necessary to perform their job duties.

Not implemented—Our October 2021 review of the District's accounting system access reports for the 4 District employees with accounting system access at that time found that all 4 employees had more access than was required for them to perform their job duties. During our discussions with the District in July 2022 and March

2023, the District stated that they had not made changes to limit access. However, the District reported in August 2023 that it is working with the Mohave County School Superintendent's Office to limit employees' access in the accounting system to only those accounting system functions necessary to perform their job duties. According to the District, it will review and reduce employees' accounting system access by October 2023. Granting employees system access beyond what is required to fulfill their job duties exposes the District to an increased risk of errors and fraud, such as processing false invoices, changing employee payrates, or adding and paying nonexistent vendors or employees.

13. The District should improve procedures to ensure that terminated employees have their student information system access promptly removed.

Implemented at 30 months

Finding 4: District needs to improve food service program oversight

14. The District should implement food production controls, such as varying meal production based on daily student attendance or expected lunch counts submitted by classroom teachers to help reduce meal overproduction and waste.

Implemented at 42 months—The District is now using attendance counts to determine its daily meal production, and our August 2022 District food service operations observations did not identify excessive waste or overproduction.

15. The District should develop and implement procedures to ensure its meals meet the National School Lunch Program's (NSLP) nutritional and portion-size requirements.

Implemented at 42 months—For fiscal year 2023, the District developed a new process for serving student meals that requires an additional food service employee to double-check each student meal served while counting meals for NSLP reporting to ensure that all student meals meet NSLP nutritional and portion-size requirements. Our August 2022 District food service operations observation found that meals served for lunch appeared to have met NSLP nutritional and portion-size requirements.

Finding 5: District should improve controls over transportation program, if operations resume

16. The District should ensure that bus driver certification requirements are met and documented; ensure that it conducts and documents bus preventative maintenance and inspections in a systematic and timely manner; and ensure it maintains documentation supporting the miles driven and riders transported for State funding purposes if it resumes its transportation program.

Not implemented—The District resumed operating its transportation program in March 2022. Our March 2023 review of the school bus driver certification documentation for the District's 3 school bus drivers found that the District did not have documentation to demonstrate that 2 of its school bus drivers met the State's *Minimum Standards for School Buses and School Bus Drivers* (Minimum Standards). Specifically, 2 school bus drivers' files were missing evidence of an initial driver training or a refresher training.

Additionally, in April 2023, the District developed an informal policy to perform preventative maintenance on its school buses every 6 months or 3,500 miles. However, the policy did not specify what preventative maintenance will be performed on each school bus to ensure it meets Minimum Standards. Finally, for fiscal year 2023, although the District developed a process to document the miles driven and riders transported for State funding purposes, it could not demonstrate that the process was effective because as of August 2023, it had not reported its miles and riders to ADE, even though it was required to report this information in March 2023 for State funding purposes.

The District should follow the Minimum Standards to help ensure the school bus passengers' safety and welfare, as well as extend the useful life of school buses. Additionally, the District should maintain documentation

supporting the miles driven and riders transported for State funding purposes to ensure that it was funded appropriately for its student transportation. According to the District, it plans to ensure that all of its school bus drivers meet the Minimum Standards requirements for school bus driver certifications and develop a checklist to document its school bus preventative maintenance by October 2023.

Attachment D

Followup—60-Month

Peach Springs Unified School District

The January 2019 Peach Springs Unified School District performance audit found that the District should focus on improving its instructional program; work with legal counsel and the Tribal Corporation to receive unpaid lease amounts and establish a current lease for use of its high school; strengthen accounting, equipment, and computer controls; and improve oversight of its food service and transportation programs. We made 16 recommendations to the District, and its status in implementing the recommendations is as follows:

Status of 16 recommendations

Implemented	9
Implemented in a different manner	1
In process	3
Not implemented	3

On September 13, 2023, the Joint Legislative Audit Committee passed a resolution directing our Office to conduct a 60-month followup to assess the District’s efforts to implement the 10 outstanding recommendations from our January 2019 performance audit report. However, inconsistent with its statutory responsibilities, the District did not respond to our Office’s multiple requests for information and documentation for our 60-month follow-up review. Specifically, on November 30, 2023, we requested a response and supporting documentation regarding the District’s progress toward implementing the 10 recommendations we made in our January 2019 report that it had not fully implemented as of our 54-month followup. The District did not provide any supporting documentation by the requested date of December 22, 2023. The District similarly failed to respond to 2 subsequent requests we made seeking the information and documentation necessary for our review. Because the District failed to provide the requested documentation, we traveled to the District in January 2024 to interview District officials and collect the documentation necessary for us to assess the District’s progress toward implementing the outstanding recommendations from the January 2019 report. In the previous 54-month follow-up report, the District had not implemented 7 recommendations, had partially implemented 1 recommendation, and was in the process of implementing 2 recommendations. Since the 54-month follow-up report, the District has implemented an additional 4 recommendations but has continued to not implement or not fully implement 6 recommendations.

Unless otherwise directed by the Joint Legislative Audit Committee, this report concludes our follow-up work on the District’s efforts to implement the recommendations from the January 2019 report.

Finding 1: District should continue focus on instructional program

1. The District should continue to work closely with the Arizona Department of Education (ADE) to develop, implement, monitor, and evaluate action plan steps to improve its instructional program and students’ academic performance.

Implementation in process—In the prior 54-month followup, we reported that the District worked with ADE’s Crisis Management Team (CMT) in fiscal years 2021 and 2022 to identify areas of impact on students’ academic success, such as recruiting and retaining teachers and adopting an evidence-based curriculum, and monitor the District’s progress in these areas.¹ The CMT issued its final report to the Legislature in December 2021. The report stated that the District had made some progress in implementing CMT recommendations and that ADE would

¹ Laws 2020, Ch. 26, §1, established the CMT in March 2020 and required it to recommend necessary district changes due to the District’s persistent underperformance. Laws 2021, Ch. 404, §106, extended the sunset date for the CMT from April 1, 2021 to April 1, 2022.

continue to monitor and support the District's school improvement efforts, such as its continued participation in the federal and State-wide school improvement programs.

Beginning in fiscal year 2021, the District hired new staff to support and improve its instructional programs, including a principal, an assistant principal, a community liaison, a director of instruction, and 2 instructional coach consultants. Additionally, as reported in the prior 42-month followup, ADE officials reported that the District networked with other school districts and organizations to get ideas for addressing instructional challenges, improved its technology infrastructure, increased its social-emotional learning support, and improved its relationship with the community by increasing community engagement. Additionally, the District reestablished its transportation program, which was an area of concern as it could impact student attendance.

In fiscal year 2022, the District's elementary school's letter grade improved from an F to a D, and in fiscal year 2023, both the elementary school and high school received D letter grades. Additionally, recently, in fiscal year 2024, the District began participating in Project Momentum, a voluntary program administered and funded through ADE that is designed to improve school districts' academic performance. ADE officials indicated that they are still working with the District to improve its instructional program and students' academic success.

2. The District should ensure that it applies for all monies available to it through the school improvement program.

Implemented at 60 months—As reported in the explanation for recommendation 1, in fiscal year 2024, the District began participating in Project Momentum, a voluntary program administered and funded through ADE that is designed to improve school districts' academic performance. As of January 2024, the District had received \$56,500 of the total \$223,470 allocated to it by ADE for participating in the program. Additionally, in fiscal year 2024, ADE helped the District to apply for 2 instructional improvement grants, and as of our review in January 2024, the District had been approved to receive over \$224,000 in grant monies.

3. The District should continue to work with ADE to correct errors in reporting student test data.

Implemented at 12 months

Finding 2: District incurs costs but collects no revenues for leasing its high school to a tribal corporation

4. The District should continue to work with its legal counsel and the Tribal Corporation to establish a current lease agreement for the Tribal Corporation's use of the District's high school and to recover prior years' unpaid lease and utility payments.

Implemented in a different manner at 42 months—According to the District, in July 2019, the Tribal Corporation stopped utilizing District-owned facilities. In July 2022, the District reopened the high school for student instruction, and in August 2022, we toured the high school, confirming that the Tribal Corporation was no longer utilizing District-owned facilities. According to the District, it worked with its legal counsel to enter into a new land lease agreement with the Tribal Corporation and will not pursue the unpaid lease and utility payments owed to it by the Tribal Corporation. However, the District was not able to provide documentation to support that the governing board (Board) approved the decision to not pursue the payment of these unpaid lease and utility payments.

Finding 3: District should strengthen accounting, equipment, and computer controls

5. The District should ensure that it requires an independent review and approval for all its purchases prior to the purchases being made.

Implementation in process—In the prior 54-month followup, we reported that the District planned to implement a new process to ensure purchases have independent review and approval from a supervisor prior to the purchases being made. District officials reported in January 2024 that the District was following its new process. Our review of 10 of 386 District purchases made during November and December 2023 found that all 10 purchases had an independent review and approval prior to the purchase being made. However, due to the District having recently

implemented a new process and the timing of our followup, the District had only 2 months of purchasing data and documentation available for our review, which did not include purchases similar to those we identified in previous followups that lacked an independent review and approval prior to the purchase being made. As a result, we could not determine if the District had consistently followed its purchasing approval process for the types of purchases it had previously made without the required review and approval.

6. The District should ensure that payments are made in a timely manner to avoid unnecessary late fees and finance charges.

Implementation in process—In the prior 54-month followup, we reported that the District planned to develop and implement a new process to ensure it timely made credit card payments to avoid unnecessary late fees and finance charges. District officials reported in January 2024 that the District was following its new process. Our review of the statements for 2 District credit cards for the months of November and December 2023 found that the District did not incur any late fees or finance charges in the 2 months we reviewed. However, due to the District having recently implemented its new process and the timing of our followup, the District had only 2 months of credit card statements available for our review. As a result, we cannot determine if the District is consistently making all credit card payments in a timely manner to avoid unnecessary late fees and finance charges.

7. The District should ensure that additional duties and related payments are addressed in employment contracts or personnel/payroll action forms, approved in advance of the work being performed, and maintained in employee personnel files.

Implemented at 60 months—In the prior 54-month followup, we reported that the District planned to develop and implement a payroll process that required administrative approval on personnel action requests (PAR) for employees' additional duties in advance of the work being performed. District officials reported in January 2024 that the District was following its new process. Our January 2024 review of payroll documentation for 14 additional duties performed by 12 District employees in November and December 2023 found that the District had PARs that were signed and approved by administrators before the work relating to the PARs was performed for all the additional duties we reviewed. We also found during our January 2024 review that the employee PARs we reviewed were appropriately maintained in employee personnel files.

8. The District should seek legal counsel to determine if it had the legal authority to pay \$25,000 in bonuses to its superintendent, and if not, to determine its ability to recover the monies.

Implemented at 60 months—We reported in the previous 54-month followup that, according to the agenda for the Board's November 3, 2021, meeting, the Board considered and discussed the prior superintendent's compensation in executive session. However, the District could not provide documentation that the Board took action in a public meeting regarding the matter. In September 2023, the District's legal counsel testified to the Joint Legislative Audit Committee that he had provided legal counsel to the Board during executive session regarding the former superintendent's bonus payments. In November 2023, the Board approved a motion in a public meeting stating that the \$25,000 in bonuses paid to the prior superintendent were appropriate and that the District would take no further action regarding the bonuses.

9. The District should establish and implement additional procedures to review employee pay to help ensure that employees are paid correctly and rectify any overpayments or underpayments made to employees.

Not implemented—In the prior 54-month followup, we reported that the District planned to develop a payroll process to calculate and enter staff pay amounts to help ensure that employees are paid correctly. District officials reported in January 2024 that the District was following its new process. However, our January 2024 review of 6 employees who no longer worked for the District at the time of our review but had received payment from the District in November 2023 found that the District overpaid 1 employee by over \$2,100. Specifically, District officials indicated that the District overpaid the employee by approximately \$1,000 at the beginning of fiscal year 2024 but failed to recoup the overpayment from the employee before terminating them in September 2023. After being terminated by the District, the employee submitted additional time sheets to the District's business office for work the employee indicated they performed in May 2022 and September 2023 in addition to their regular duties. Despite submitting the time sheets nearly 1.5 years after the employee indicated they had performed the

additional duties, the District's superintendent approved the retroactive time sheets for payment, and the District paid the former employee \$4,680 in retroactive pay. However, District staff made additional errors when calculating the number of regular and overtime hours the District paid out to the employee for the retroactive time sheets, resulting in a \$1,120 overpayment for the retroactive pay and a total overpayment to the employee of over \$2,100 as previously discussed. The District superintendent indicated that he approved the retroactive time sheets for payment because he recalled the former employee performing the work and had personal knowledge of the work the former employee performed. However, the District should have required the employee to submit the time sheets when the former employee performed the work rather than allowing them to submit the time sheets nearly 1.5 years later. After we brought this overpayment to the District's attention, District officials reported that they plan to seek recovery of the overpayment from the former employee and identify necessary changes to its payroll process to ensure employees are paid correctly.

10. The District should classify all expenditures in accordance with the Uniform Chart of Accounts for school districts.
Not implemented—In our prior 54-month followup, District officials reported that the District's business manager would complete trainings on classifying expenditures in accordance with the Uniform Chart of Accounts for school districts through various organizations by October 2023. Additionally, the District indicated that it planned to work with a consultant to review and correct its expenditure coding by October 2023. However, at the time of our January 2024 review, the business manager had not completed training on classifying expenditures, and the District had not yet worked with a consultant to review and correct its expenditure coding. Our January 2024 review of the District's November and December 2023 expenditures found that the District continued to incorrectly classify transactions similar to the errors we identified during the audit, which may result in the District inaccurately reporting its spending.
11. The District should better secure equipment stored at its high school and consider the possibility of using some of the equipment at its elementary school.
Implemented at 42 Months—The District worked with a consultant to review the equipment inventory stored at its high school and developed a list of equipment that is unusable to approve for disposal. The District began operating its high school again in July 2022 and is using some of the remaining equipment for instruction and has secured the rest of the equipment in locked storage areas.
12. The District should limit employees' access in the accounting system to only those accounting system functions necessary to perform their job duties.
Implemented at 60 Months—During our visit to the District in January 2024, the District worked with the Mohave County School Superintendent's Office to limit employees' access in the accounting system to only those accounting system functions necessary to perform their job duties. Our subsequent review of the District's accounting system access reports for the 5 District employees with accounting system access found that the employees' access in the accounting system was limited to only those accounting system functions necessary to perform their job duties.
13. The District should improve procedures to ensure that terminated employees have their student information system access promptly removed.
Implemented at 30 months

Finding 4: District needs to improve food service program oversight

14. The District should implement food production controls, such as varying meal production based on daily student attendance or expected lunch counts submitted by classroom teachers to help reduce meal overproduction and waste.
Implemented at 42 months—The District is now using attendance counts to determine its daily meal production, and our August 2022 District food service operations observations did not identify excessive waste or overproduction.

15. The District should develop and implement procedures to ensure its meals meet the National School Lunch Program's (NSLP) nutritional and portion-size requirements.

Implemented at 42 months—For fiscal year 2023, the District developed a new process for serving student meals that requires an additional food service employee to double-check each student meal served while counting meals for NSLP reporting to ensure that all student meals meet NSLP nutritional and portion-size requirements. Our August 2022 District food service operations observation found that meals served for lunch appeared to have met NSLP nutritional and portion-size requirements.

Finding 5: District should improve controls over transportation program, if operations resume

16. The District should ensure that bus driver certification requirements are met and documented; ensure that it conducts and documents bus preventative maintenance and inspections in a systematic and timely manner; and ensure it maintains documentation supporting the miles driven and riders transported for state funding purposes, if it resumes its transportation program.

Not implemented—The District resumed operating its transportation program in March 2022. Our January 2024 review of the school bus driver certification documentation for the District's 1 school bus driver found that the District did not have complete documentation to demonstrate that the school bus driver met the State's *Minimum Standards for School Buses and School Bus Drivers* (Minimum Standards). Specifically, the school bus driver's file was missing evidence of any random drug and alcohol tests in calendar year 2023.

Additionally, in April 2023, the District developed an informal policy to perform preventative maintenance on its school buses every 6 months or 3,500 miles. However, our review of 1 preventative maintenance service performed in November 2023 on 1 of 2 District school buses found that the District did not conduct the preventative maintenance service within the mileage range established by its preventative maintenance policy. At the time of our review, District officials stated that the District was updating its process to use a third-party vendor to perform preventative maintenance on its school buses.

Finally, although in fiscal year 2023 the District developed a process to document the miles driven and riders transported for State funding purposes, the District did not report all its fiscal year 2023 miles and riders to ADE by March 2023, as required. District officials stated that ADE provided guidance that the District did not need to accurately report miles driven and riders transported due to the low number of miles driven in fiscal year 2023. However, this guidance appears to be inconsistent with State law requirements and ADE transportation guidelines requiring school districts to certify daily route mileage and eligible students transported and the District could not provide information about who they spoke with at ADE or documentation of the guidance it reported receiving from ADE.

The District should follow the Minimum Standards to help ensure school bus passengers' safety and welfare, as well as extend the useful life of school buses. Additionally, the District should maintain documentation supporting the miles driven and riders transported for State funding purposes to comply with State law and ensure the District was funded appropriately for its transportation program.



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

DATE: June 7, 2024

TO: Representative Matt Gress, Chair
Senator Sonny Borrelli, Vice Chair
Members, JLAC

FROM: Lindsey Perry, Auditor General

SUBJECT: Office presentation regarding Arizona School District Spending Analysis—Fiscal Year 2023

Background

Arizona Revised Statutes §41-1279.03 requires the Office to monitor Arizona school districts annually to determine the percentage of every dollar they spent in the classroom, resulting in a publicly released report each March. We have been monitoring this instructional spending percentage since FY 2001.

In FY 2023, State-wide school district spending increased by nearly \$1 billion with per student increases in all operational spending areas compared to FY 2022, including instruction. Much of this increase was likely due to the continued availability of COVID-19 federal relief monies. However, districts allocated a smaller proportion of the increased operational spending to instruction than in prior years, which led the State-wide instructional spending percentage to decrease to 53.4 percent, the lowest recorded percentage since we began monitoring in FY 2001.

The State average teacher salary increased to \$62,934 in FY 2023—a 30.1 percent increase over the FY 2017 average—and districts continued to use COVID-19 federal relief monies to help fund the increase. Additionally, new reporting in FY 2023 about teacher base salaries and years of experience provides more information about how districts pay teachers. We continued to see wide operational spending variations among similar districts in areas such as plant operations, indicating possible opportunities for improved efficiency at some districts, which could free up dollars for increasing teacher salaries, lowering class sizes, and other district priorities. Districts reported spending a majority of COVID-19 federal relief monies on salaries and benefits, and food service program operations continued to be impacted as federal waivers that allowed schools to provide free meals to all students expired and State-wide meals served decreased.

Alexa Tavasci, Division of School Audits Manager, will provide an overview of this special web-based report, including the results of Arizona school district spending at both the State and individual school district levels.

To review this special web-based report, please click on the following hyperlink: [Overview Auditor General School District Spending Analysis – FY2023](https://sdspending.azauditor.gov/) or visit our website at <https://sdspending.azauditor.gov/>

See **Attachment A** for a printout of the Fiscal Year 2023 State results from our web-based report.

Action required

None. Presented for JLAC's information only.

Attachment A

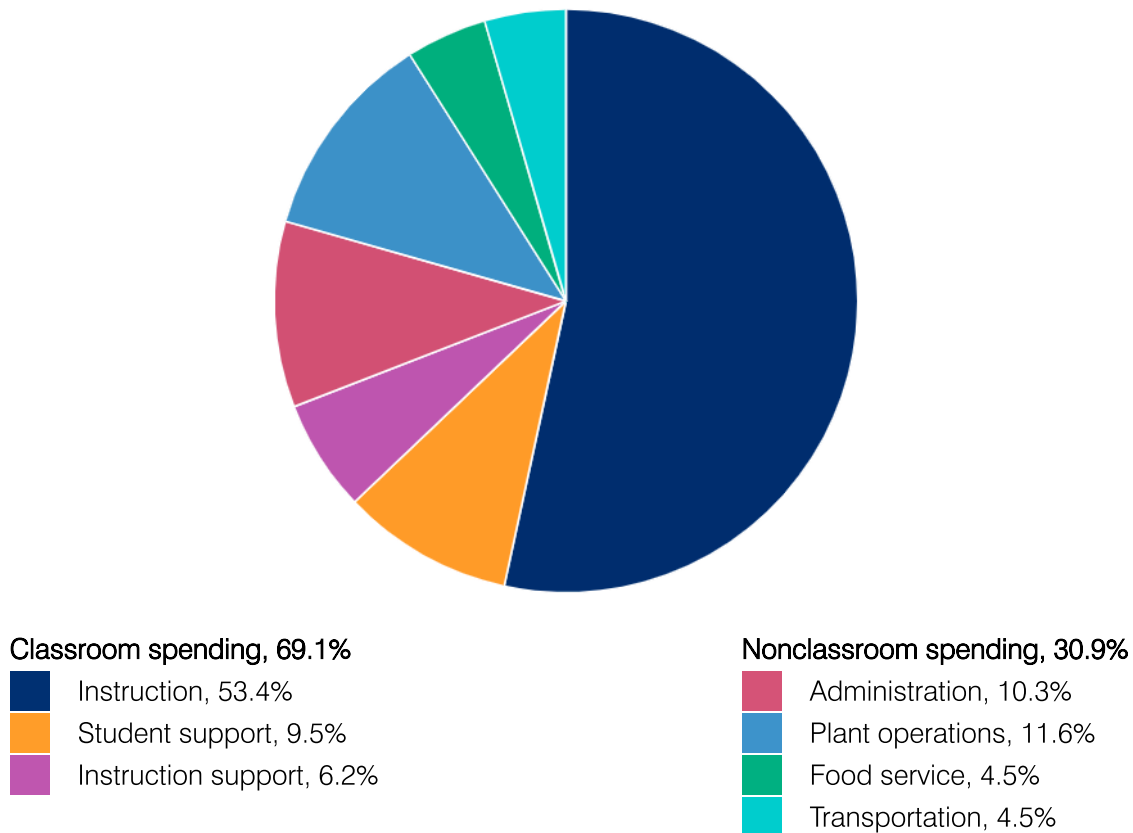
Arizona School District Spending Analysis

Fiscal Year 2023 State results

State of Arizona

State demographic information ▾

State's spending by operational area



For definitions of what is included in operational spending and each of the operational areas, see the “Spending areas” section on the [Glossary page](#).

Every year, school districts must decide where to allocate their monies. This pie chart shows how, as a State, Arizona’s public school districts collectively spent their funding by operational area, including the percentage they spent in the classroom and specifically on instruction.

We have monitored instructional spending since FY 2001. Below are highlights from the State’s instructional spending trend showing the most recent year-to-year change and the years districts collectively spent the highest and lowest percentages on instruction.

Instructional spending percentage highlights (FYs 2001-2023)

Reviewing these instructional spending percentage highlights can provide insight into short-term (year-to-year comparison) and long-term (highest and lowest comparison) State-wide trends of districts' allocation of monies to instruction. Depending on how much districts spend in total, even small changes in the percentage spent on instruction can equate to large changes in the State-wide actual dollars the districts spent.



Why monitor school district spending?

Beginning with the FY 2016 budget, the K-12 education budget reconciliation bills have included the following wording each year:

“The governor and the legislature intend that school districts increase the total percentage of classroom spending over the previous year’s percentages in the combined categories of instruction, student support, and instructional support as prescribed by the auditor general.”

The bar chart below, "Percentage point change in spending by area," shows how the percentage of school districts' spending on each area has changed from the prior fiscal year and 5 fiscal years ago, including the total change for classroom spending. Most school district funding is based on the number of students attending, and districts can choose how to spend most funding, so every decision a school district makes to spend on one operational area directly impacts its ability to spend on another. For example, if a district has higher spending in plant operations, it will have fewer dollars to spend on instruction.

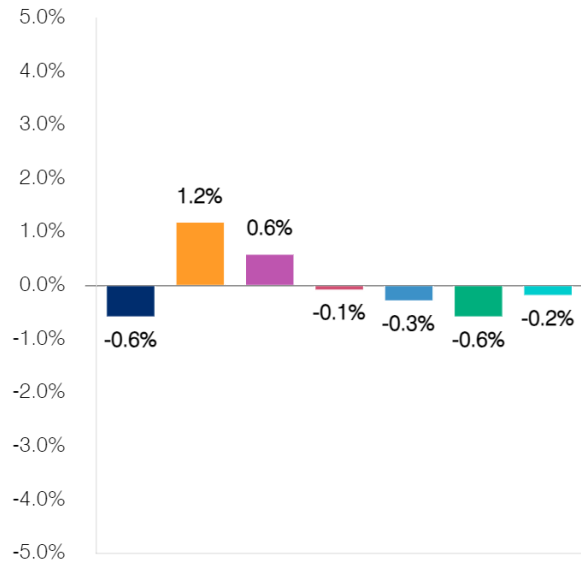
To put the spending percentages in context, it can also be helpful to review per student spending in dollars. For example, a district's overall spending might increase, but its percentage spent on an operational area may decrease if the dollars per student spent on that area stay the same or even increase.

We have also included the FY 2021 national spending percentages and per student spending averages, which are the most recently available, to compare to the corresponding year of Arizona spending.

Percentage point change in spending by area

Compare State-wide FY 2023 spending to:

State-wide FY 2018 spending (5-year comparison) ▼



Change in classroom spending, 1.2%

- Instruction, -0.6%
- Student support, 1.2%
- Instruction support, 0.6%

Change in nonclassroom spending, -1.2%

- Administration, -0.1%
- Plant operations, -0.3%
- Food service, -0.6%
- Transportation, -0.2%

Per student spending by area and national comparisons

Compare:

State-wide FY 2022 average vs. FY 2023 average spending

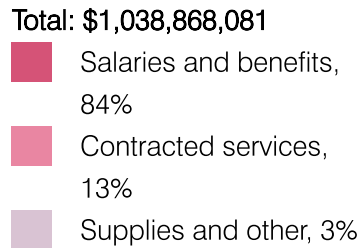
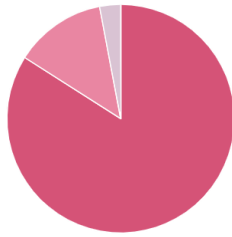


Area	State-wide FY 2022	State-wide FY 2023	1-year change
Classroom spending			
Instruction	\$5,846	\$6,253	+\$407
Student support	\$986	\$1,108	+\$122
Instruction support	\$632	\$717	+\$85
Nonclassroom spending			
Administration	\$1,088	\$1,207	+\$119
Plant operations	\$1,209	\$1,363	+\$154
Food service	\$507	\$523	+\$16
Transportation	\$461	\$532	+\$71
Total operational	\$10,729	\$11,703	+\$974
Land and buildings	\$1,373	\$1,531	+\$158
Equipment	\$840	\$852	+\$12
Interest	\$309	\$286	-\$23
Other	\$203	\$257	+\$54
Total nonoperational	\$2,725	\$2,926	+\$201
Total per student spending	\$13,454	\$14,629	+\$1,175

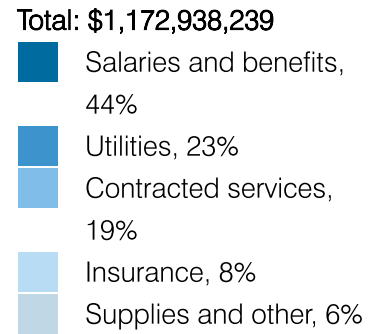
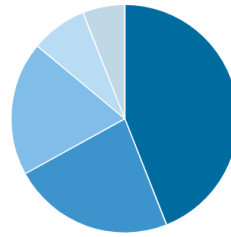
Nonclassroom spending by category

In reviewing State-wide nonclassroom spending in more detail, spending on some areas, like administration, is heavily driven by a single category of costs whereas spending on others, like food service, is more evenly distributed across different categories.

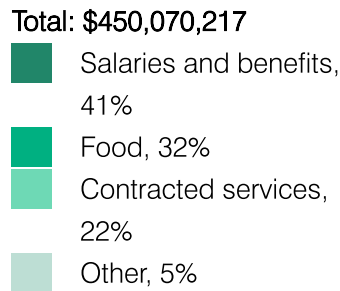
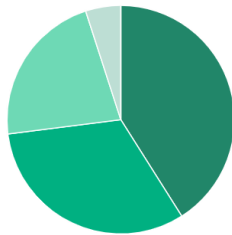
Administration spending



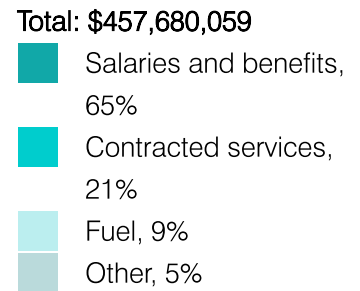
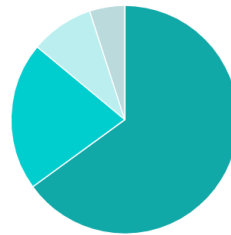
Plant operations spending



Food service spending







Transportation spending



Operational efficiency measures

FYs 2021 through 2023

In addition to monitoring spending on a percentage and per student basis, calculating performance measures at the State level and monitoring them over multiple years can also identify trends in school district operations that are being seen State-wide, such as changes in students attending, meals served, and transportation miles driven and riders transported. State-wide performance measures also provide benchmarks districts can use to compare and track their efficiency.

Operational area	Measure	FY 2021	FY 2022	FY 2023
 Administration	Spending per student	\$1,041	\$1,088	\$1,207
	Students per administrative position	63	63	62
 Plant operations	Spending per square foot	\$6.84	\$7.21	\$8.05
	Square footage per student	171 ft ²	167 ft ²	169 ft ²
 Food service	Spending per meal	\$3.54	\$3.25	\$4.12
	Meals per student	113	158	128
 Transportation	Spending per mile	\$7.22	\$5.53	\$6.19
	Spending per rider	\$2,862	\$1,945	\$2,039

Why monitor average teacher salary?

Teacher salaries are one of a school district's most substantial costs and have been a topic of high interest in Arizona. Therefore, we have expanded our reporting on average teacher salary in FY 2023 to provide additional information based on stakeholder feedback. The breakdown below shows the State's average teacher salary and amount from Classroom Site Fund (CSF) monies as we have reported in prior years. In FY 2023, we have also reported the average base salary for teachers depending on their years of experience. This differs from the average teacher salary. Specifically, average base salary represents the average of only base salaries paid to the teachers within the presented categories of years of experience, meaning it does not reflect additional pay teachers may receive, such as performance pay and stipends or additions to base pay unrelated to additional duties. Neither the average teacher salary nor the average base salary includes payments for additional nonteaching duties a teacher may perform for additional pay, such as tutoring, cocurricular activities, or athletics.

The additional teacher salary information we report this year can provide a better picture of how districts pay teachers. For example, the FY 2023 total average teacher salary is higher than the average base salaries for both experience categories. This indicates that State-wide, districts use performance pay and one-time payments to compensate teachers in addition to their base salary amounts, signaling that if monies were not available for these performance and one-time payments, teachers' total compensation may decrease. Further, not all districts recognize a teacher's classroom experience outside of their school district when determining a teacher's pay. The graphic below shows the number of districts State-wide that reported recognizing classroom experience outside of the district through placement on the district's salary schedule, meaning the teacher's experience resulted in a higher base pay, and/or by making additional payments to teachers in addition to their base pay, such as a stipend.

Average teacher salary and other teacher measures (FY 2023)

State average teacher salary ⁱ

\$62,934

Amount from CSF: \$9,418 ⁱ

Number of districts that reported paying any of its teachers for prior classroom experience outside the District:	155 of 206 ¹
Number of districts that reported these payments were included in base salary by being accounted for with salary schedule placement:	146 of 206 ¹
Number of districts that reported these payments were made in addition to, but separate from, base salary:	50 of 206 ¹

¹ One district's average teacher salary reporting did not meet our criteria for reporting.

Average years of teacher experience

11.9 years

Percentage of teachers in their first 3 years

18%

Average base salary of teachers in their first 3 years ⁱ

\$47,952

Percentage of teachers in their 4th year or later

82%

Average base salary of teachers in their 4th year or later ⁱ

\$58,862

Students per teacher ⁱ

17.7

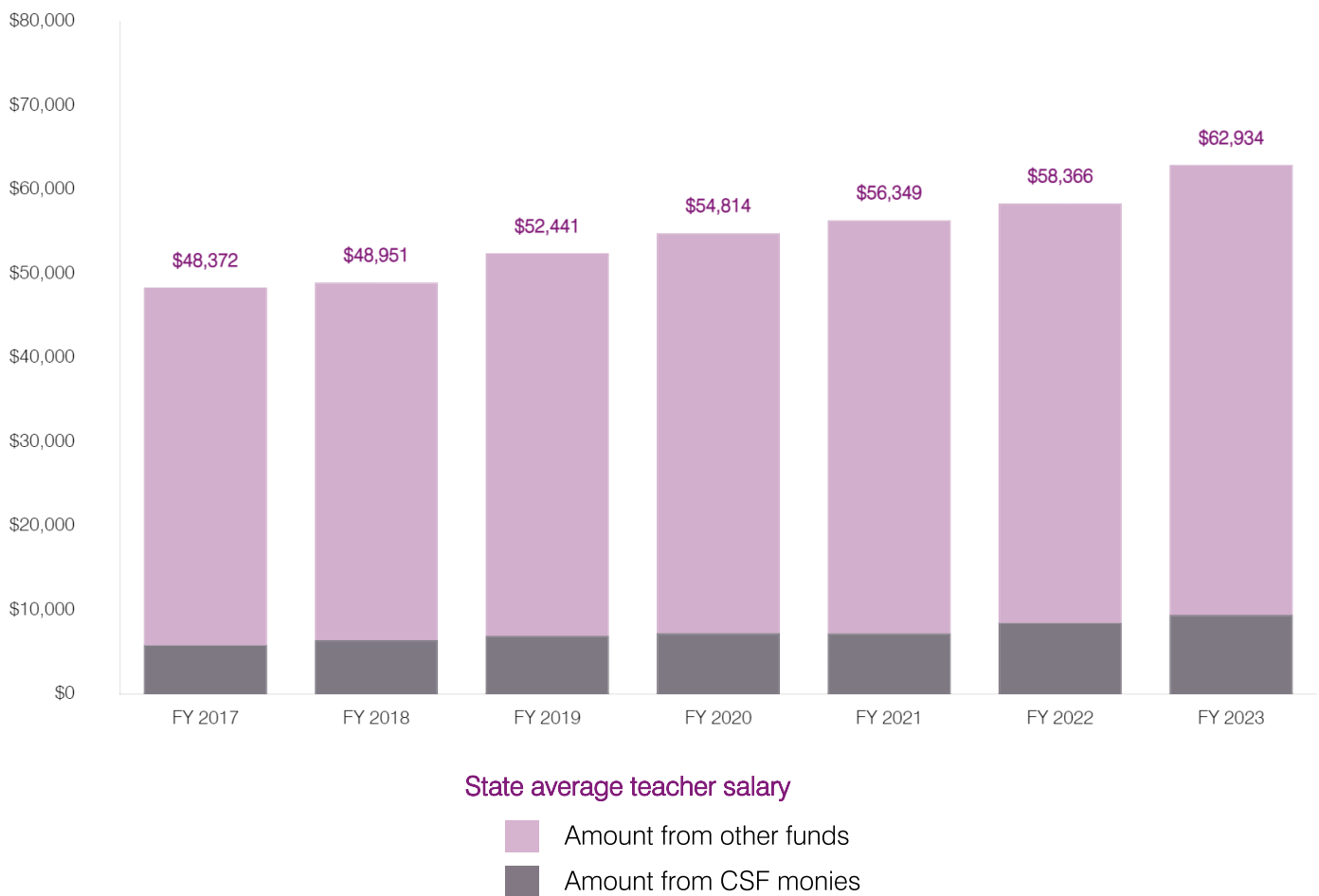
Students per teacher is total students attending divided by total certified teachers. Total certified teachers includes special-area teachers such as art, music, and physical education teachers.

Districts received additional State monies intended to increase average teacher salary

In FYs 2018 through 2021, the State provided additional monies to increase teacher salaries by 20 percent from the FY 2017 base year. Although these monies were provided to districts with the intention to increase teacher salaries, districts were not required to use them for this purpose, and the monies were not separately tracked to show how each district chose to spend them. We have included a bar chart showing how the State's average teacher salary changed during this time (FYs 2018 through 2021) and through the most recent fiscal year (FY 2023). Further, we have broken down what portion of the State average teacher salary was from CSF monies.

We have also included a table showing other student and teacher measures during the same time frame for additional context for understanding the State-wide average teacher salary. At a State level, these measures generally have small year-to-year changes, but when evaluating individual districts, some of these variables may help explain why the average teacher salary increased or decreased in certain years.

State average teacher salary (FYs 2017-2023)



Prior years' State average teacher salary and other teacher measures

Year	State average teacher salary	Students per teacher ¹	Average years of teacher experience	Percentage of teachers in first 3 years
FY 2023	\$62,934	17.7	11.9	18%
FY 2022	\$58,366	17.2	11.8	18%
FY 2021	\$56,349	17.0	11.9	17%
FY 2020	\$54,814	18.0	11.7	18%
FY 2019	\$52,441	18.0	11.5	19%
FY 2018	\$48,951	18.4	11.4	19%
FY 2017	\$48,372	18.5	11.3	19%

Student achievement

In FYs 2020 and 2021, State assessment testing was impacted by the COVID-19 pandemic, with school districts being exempted from conducting State assessments in FY 2020 and not all eligible students participating in FY 2021. We have included the percentage passing for each of the past 5 fiscal years, excluding FYs 2020 and 2021 for the reasons previously noted. For additional information on how these percentages were calculated, see the "Student achievement" section on the [Glossary page](#).

State's student achievement (5-year trend)

View the percentage of students who passed State assessments for:

Math ▼

