



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
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KATIE HOBBS
Governor

TOBI ZAVALA
Executive Director

August 22, 2024

Lindsey Perry, CPA, CFE, Auditor General
Arizona Auditor General
2910 North 44th Street, Suite, 410
Phoenix, Arizona 85018-7271

Re: Arizona Board of Behavioral Health Examiners – Sunset Review: ARS §41-2951 et seq.

Dear Ms. Perry:

The Arizona Board of Behavioral Health Examiners (“Board”) has reviewed and provided responses to the Performance Audit and Sunset Review.

The Board’s staff, as well as the Board itself, appreciated the professionalism and courtesy of the Auditor General’s staff as well as the staff of Walker & Armstrong; and believes that we developed a transparent and professional working relationship. The Board has already begun addressing the finding as well as implementing the recommendations.

The Board looks forward to meeting with the Committees of Reference in both chambers of Arizona government with positive changes already made.

Respectfully,

A handwritten signature in black ink, appearing to read "Tobi Zavala".

Tobi Zavala
Executive Director

Enclosure: Board’s Response(s)

Cc: Ms. Adalesa Meek, Board Chair

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

Recommendation 1: Investigate and resolve complaints within 180 days.

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

Response explanation: The Board continually strives to investigate and resolve complaints within 180 days. However, the Board has not been able to do so due to the lack of resources, staff and support. The Board has experienced a 97% increase in complaints and a 101% increase in background investigations since 2018 with the same number of staff. Due to the Board's 34% increase in licensees and increase of investigations, the Board's FY 2025 operating budget request including a funding issue which included 7 more FTE and we were successful in obtaining. Additionally, the Board has recently implemented three plans to allow for the processing of complaints to be processed quicker. First, a discipline matrix was developed to be utilized by the members to help identify allegations and enable decisions to be made more quickly in a meeting which will allow more complaint matters to be heard. Second, the Board has implemented the standard that cases that appear to be dismissals can be completed without an interview and transcription of the interview which will complete cases quicker. Lastly, the Board has developed a hybrid approach to cases that present an opportunity to be settled beforehand with non-disciplinary or disciplinary action which will allow these cases to be placed on the consent agenda which again will allow more time in the meeting for complaint matters to be heard.

Recommendation 2: Hire additional investigators for which it received funding in fiscal year 2025.

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

Response explanation: The Board's 2025 budget request approval included 7 additional staff members, 3 of which were going to be hired in the investigations unit. Due to this finding, that number has changed to 4 to ensure we can meet the 180 day timeframe. The Board has already hired 2 of the 4 investigators and the other two are currently posted.

Recommendation 3: Develop a process, supported by written policies and procedures, for annually assessing whether its staffing level is sufficient to handle its workload and work with the Legislature to obtain additional staffing resources as appropriate.

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

Response explanation: The Board regularly assesses the staffing needs with the continual growth. However, moving forward the Board will develop a more formalized process that can be reviewed quarterly at its Board meeting to memorialize and analyze the success as well as improvements needed.

Recommendation 4: Discontinue its practice of prioritizing complaints its opens related to licensing investigations over lower-priority public complaints.

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

Response explanation: The Board has already implemented this. An application that needs reviewed at the Board meeting will be viewed in the order it is received.

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

Recommendation 5: The Board should establish fees that align with its operating costs as required by statute.

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

Response explanation: The Board will continue to assess their fees on an annual basis to determine fees needed based on growth of licensees. In the last 5 years, the Board has eliminated 3 fees and reduced 1. The Board recognizes the main revenue is from renewal fees which is dependent on the number of licensees. The Board will monitor the necessary fees more closely based on both the social work and counseling compacts passing legislation. This will have a huge impact on revenue depending on the use of compacts.

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

Recommendation 6: Finalize its proposed rulemakings to be consistent with statutory changes for the number of hours of experience required for each license.

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

Response explanation: Pursuant to A.R.S. § 41-1039, the Board requested permission to proceed with rulemaking and were approved on May 24th. On 7/1/24, a Notice of Rulemaking was filed. The Board is targeted to complete the rulemaking process by 12/31/24.

Recommendation 7: Update AAC R4-6-304 to be consistent with current practices for processing applications for licensure by endorsement.

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

Response explanation: The Board has notified a policy advisor with the House of Representatives for the need of a change and will continue to work legislation to ensure that this happens.

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

Recommendation 8: The Board should develop and implement procedures to ensure that it removes disciplinary actions, both stored on the Board's website server and available directly from its website after 5 years as required by statute.

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

Response explanation: This has been completed. The Board's new database has the ability to have this happen automatically.

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

Recommendation 9: The Board should provide periodic training on conflicts-of-interest for staff and Board members.

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

Response explanation: The Board will provide annual training on conflicts of interest with both staff and members as well as initial trainings with new staff and members.