

The November 2020 Arizona State Board of Dispensing Opticians performance audit and sunset review found that the Board has generally met its statutory objective and purpose but should ensure that dispensing optician license applicants submit required lawful presence documentation, provide written notice of application deficiencies to license applicants, and periodically review the appropriateness of its fees. We made 7 recommendations to the Board, and its status in implementing the recommendations is as follows:

**Status of 7 recommendations**

Implemented	5
Partially implemented	1
<b>Not implemented</b>	<b>1</b>

Unless otherwise directed by the Joint Legislative Audit Committee, this report concludes our follow-up work on the Board’s efforts to implement the recommendations from the November 2020 report.

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

1. The Board should continue to implement its new lawful presence policy that requires Board staff to ensure initial dispensing optician applicants, including comity applicants, submit the required documentation to demonstrate lawful presence.  
**Implemented at 12 months**
2. The Board should revise its licensing policies and procedures to require its staff to provide written documentation of application deficiencies identified during the application review process to applicants.  
**Implemented at 12 months**
3. The Board should establish and implement a process to periodically review the appropriateness of its fees by analyzing the costs of its regulatory processes, comparing these costs to the associated fees, and determining the appropriate licensing fees, and then revise its fees as needed.  
**Implemented at 12 months**

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

4. The Board should continue to implement its new conflict-of-interest policy.  
**Implemented at 48 months**—Consistent with the Board’s policy, all Board members and staff completed an annual disclosure form in calendar year 2024, which includes an affirmation if no conflict(s) exist. The policy also requires Board members who verbally recuse themselves during a Board meeting to document the disclosed conflict and all facts material to the conflict of interest. Our review of Board meeting minutes for meetings held between January 2023 through June 2024 identified 5 instances in which a Board member disclosed a potential

conflict with an agenda item during Board meetings, recused themselves, and completed a disclosure form with details regarding the potential conflict. The Board also stored all 5 disclosures in its special file.

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

5. The Board should conduct its planned comprehensive rules review and, based on this review, align its practices with current rule requirements and/or work with its Assistant Attorney General to determine whether and when it should revise its rules, and make revisions to its rules as necessary.

**Implemented at 12 months**—To address this recommendation, the Board made revisions to both its dispensing optician renewal license application and its rules, including revising rule to no longer require owners of corporate applicants for initial optical establishment licenses to also sign the applications. The Governor’s Regulatory Review Council approved the revised rules in November 2021.

## 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.

6. The Board should conduct a review of its statutes, and based on this review, align its practices with current statutory requirements and/or work with the Legislature to amend its statutes, and revise its policies and procedures as needed.

**Partially implemented at 48 months**—As reported in our 24-month followup, the Board reviewed its statutes and determined that no statutory changes were necessary. Instead, the Board revised its complaint-investigation procedures to more closely align them with Arizona Revised Statutes (A.R.S.) §32-1691.01(C) and (D), which include requirements for investigating complaints, appointing a Board member to act as an investigator and/or establishing an investigative committee, and having an acting investigator make a written recommendation to the Board regarding the complaint. In addition, our review of the 1 public complaint the Board received between October 2022 and July 2024 found that it followed its policies and procedures for investigating and resolving this complaint.<sup>1</sup> However, our review of the Board’s revised complaint-investigation procedures found that although the Board’s procedures align with most of the statutory requirements, they do not reference the 90-day time frame for completing a complaint investigation, as required by A.R.S. §32-1691.01(D). Additionally, although the procedures reference the creation of an investigative committee to investigate complaints the Board receives, they do not state that the investigative committee should consist of licensed dispensing opticians and laypersons who are not members of the Board, as required by A.R.S. §32-1691.01(C).

7. The Board should propose legislation that would require it to remit 100 percent of all civil penalties to the State General Fund.

**Not implemented**—Although the Board reported it has continued to remit 100 percent of civil penalties to the State General Fund, in an August 2021 Board meeting, the Board discussed and determined that it would not seek a statutory change requiring it to do so. Further, the Board reported it received no civil penalties in fiscal year 2024.

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<sup>1</sup> The Board also initiated 3 additional investigations between October 2022 and July 2024 in response to either licensee self-reports of potential violations or Board staff determination that a licensee potentially violated Board statutes. The Board followed its procedures for conducting these 3 investigations, determined that there were no statutory or rule violations, and took no further action.