

Arizona State Board of Chiropractic Examiners (Board)

The Board regularly expanded complaint investigations by subpoenaing information unrelated to complaint allegations, potentially resulting in unwarranted disciplinary actions and lengthy complaint investigations; did not always apply its statutes and rules consistently among licensees; did not report allegations of criminal wrongdoing to appropriate authorities, increasing public safety risk; made progress toward reducing its complaint backlog but did not resolve most complaints within 180 days; engaged in advocacy regarding pending legislation without clear statutory authority to do so; did not comply with some State open meeting law and conflict of interest requirements; and had not established sufficient processes to ensure consistent Board practices and communication over time.

Special audit purpose

To review Board practices for issuing subpoenas related to complaint investigations, consistently applying its statutes and rules, handling allegations involving criminal wrongdoing, reducing its complaint backlog, participating in lobbying and advocacy activities, and complying with the State's open meeting law; and the role of the Board's Executive Director, including how the Executive Director ensures consistency in and communicates changes to Board practices.

Key findings

The Board:

- Is responsible for regulating the practice of chiropractic in Arizona by issuing and renewing licenses, is responsible for regulating the practice of chiropractic in Arizona by issuing and renewing licenses, investigating and resolving complaints, and providing information to the public about licensees.
- Regularly requested or subpoenaed information outside the scope of complaint allegations contrary to statute, potentially resulting in unwarranted disciplinary actions and lengthy complaint investigations. Specifically, the Board required licensees to submit records not relevant to the original complaint allegations, including continuing education documentation for 60 of 70 complaints we reviewed and a broad range of business and patient records for 24 of 70 complaints we reviewed; as a result, in 3 of these cases, the Board subjected licensees to disciplinary and non-disciplinary actions even when the Board deemed as unfounded and/or dismissed the original complaint.
- Did not consistently apply statutes and rules regarding licensees' continuing education and recordkeeping and follow consistent practices when requiring licensees accused of sexual impropriety to undergo psychosexual evaluations, but consistently initiated investigations of complaints related to improper division of fees for patient referrals.
- Did not refer allegations of criminal wrongdoing, such as allegations of sexual contact and insurance fraud, to appropriate criminal justice agencies as required, with 1 exception, increasing public safety risks and potentially delaying or hindering criminal investigations.
- Made progress resolving complaints dating back to 2018; however, as of May 1, 2024, 69 percent of its open complaints had been open for more than 180 days and it took an average of 551 days to investigate and resolve high priority complaints we reviewed, potentially impacting patient safety and causing undue burden for licensees under investigation for lengthy periods of time. A lack of time frames for the various steps in its complaint investigation and resolution process contributed to these issues.

- Encouraged its licensees to oppose legislation without clear statutory authority to do so, making statements that were potentially misleading and using its resources for purposes other than regulating the chiropractic profession.
- Did not always comply with open meeting law requirements, including limiting the public's ability to address the Board during the call to the public, and altering 7 meeting recordings by deleting references to patients and licensees, thereby limiting the public's access to information.
- Did not comply with some State conflict-of-interest requirements and its conflict-of-interest process was not fully aligned with recommended practices, increasing the risk that Board members and employees had not disclosed substantial interests that might influence their official conduct.
- Had not established processes for ensuring consistency in some Board practices and communicating changes in Board practices to licensees and the public, such as by developing substantive policy statements as authorized by statute, contributing to issues we identified and potentially creating confusion among licensees and the public.

Key recommendations

The Board should:

- Stop subpoenaing information during investigations that is unrelated to complaint allegations, and inform licensees of their ability to petition the Board or the Courts to revoke, limit, or modify a subpoena.
- Formally review its use of psychosexual evaluations in evaluating a chiropractor's professional competence and, if appropriate, develop and implement policies, procedures, and/or guidance regarding their use.
- Revise and implement its policies to require it to report allegations of criminal wrongdoing to the appropriate criminal justice agency within 48 hours and coordinate with criminal justice agencies when investigating complaints that allege criminal wrongdoing.
- Resolve complaints within 180 days; investigate high-priority complaints before low-priority complaints; and develop and implement time frames for the various steps in its complaint investigation and resolution process.
- Immediately discontinue efforts to encourage licensees to support/oppose legislation, including using public resources to advocate for its position, and develop and implement Board policies and procedures related to lobbying and advocacy activities that comply with statute.
- Comply with all statutory open meeting law requirements including ensuring meeting notices, agendas, executive sessions, minutes/recordings, and calls to the public are handled and documented as required.
- Revise and implement its conflict-of-interest policies and procedures to help ensure compliance with State conflict-of-interest requirements and implementation of recommended practices.
- Develop and implement policies and procedures for using substantive policy statements and other methods for communicating important information about its activities and practices to external parties rather than using email notifications.