A REPORT
TO THE
ARIZONA LEGISLATURE

Performance Audit Division

Procedural Review

Arizona Medical Board

Board Has Improved Its Processes, but Should Conduct a Risk-Based Review of Previously-Issued Licenses

April • 2015
Report No. 15-103

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

Debra K. Davenport
Auditor General

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DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

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AUDITOR GENERAL

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April 6, 2015

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Ms. Patricia McSorley, Executive Director
Arizona Medical Board

Transmitted herewith is a report of the Auditor General, *A Procedural Review of the Arizona Medical Board—Licensing and Registration Processes*. This procedural review was conducted under the authority vested in the Auditor General by Arizona Revised Statutes §41-1279.03.

As outlined in its response, the Arizona Medical Board agrees with all of the findings and plans to implement all of the recommendations.

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

Sincerely,

Debbie Davenport
Auditor General

Attachment

cc: Arizona Medical Board members

2910 NORTH 44th STREET • SUITE 410 • PHOENIX, ARIZONA 85018 • (602) 553-0333 • FAX (602) 553-0051

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

Arizona Medical Board—
Licensing and Registration Processes

PROCEDURAL REVIEW

Ombudsman determined that the Board may have inappropriately issued licenses and registrations

Summary

The Arizona Medical Board (Board) has improved its licensing and registration processes, but should continue to follow them and conduct a risk-based review of previously issued licenses. In response to an October 2013 Arizona Office of the Ombudsman-Citizens' Aide (Ombudsman) report regarding the potential inappropriate issuance of some licenses and registrations, auditors reviewed the Board's licensing processes and made recommendations to address deficiencies. The Board subsequently implemented the recommendations and adequate licensing and registration policies and procedures. Because it previously lacked adequate policies and procedures, the Board has retained a vendor to review the initial medical doctor (MD) licenses it issued between October 1, 2011 and February 5, 2014. In addition, the Board should conduct a risk-based review of the initial MD licenses it issued between February 6, 2014 and June 16, 2014, and continue to follow its improved licensing and registration processes.

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As authorized by Arizona Revised Statutes (A.R.S.) §§41-1376 through 41-1380 and Arizona Administrative Code (AAC) Title 2, Ch. 16, in calendar year 2013, the Ombudsman conducted an investigation of the Board in response to allegations that it may have inappropriately approved or processed applications for initial or renewal MD licenses and *locum tenens* registrations since October 2011 and dispensing registrations since May 2012.[1] The Ombudsman investigated 20 issues and, in its October 2013 report, determined that 13 of these issues pertained to the "unlawful licensure of physicians." For example, the Ombudsman reported that the Board did not do the following:

- Require applicants to ask issuing authorities, such as medical schools and other state boards, to send credentials directly to the Board (i.e., require them to be "primary source") as required by statutes and rules;
- Require applicants to submit credentials and other information, such as proof of citizenship and disclosures of disciplinary action in other states, as required by statutes and rules;
- Review credentials in accordance with statutes and rules, such as accepting post-graduate training of durations of no less than 1 year; and
- Require applicants to attest to the accuracy of statements on their applications regarding meeting continuing-medical-education (CME) requirements.

The Ombudsman recommended that, given the issues it identified, "the (Board) needed to ascertain which applicants the agency approved in error, and initiate processes to correct the errors." The Ombudsman further recommended that the Legislature determine whether the Board or the Office of the Auditor General should conduct an audit of license and registration applications approved after October 2011.

The Legislature determined that a vendor should be hired to conduct reviews of only the initial MD license applications that the Board received from October 1, 2011 through February 5, 2014, to ensure that these applicants met all licensure requirements. This effort would not include a review of any other licenses or registrations that the Board may have inappropriately issued. Additionally, the Office of the Auditor General conducted an in-depth review of the Board's licensing and registration policies and procedures to determine the dates when revisions to these policies and procedures were adequate to help ensure that the Board would issue licenses and registrations only to applicants who met all statutory and rule requirements. This review also helped the Board establish time frames for the review of previously issued licenses and registrations.

[1] A *locum tenens* registration authorizes an out-of-state doctor to temporarily assist or substitute for a licensed Arizona doctor. A dispensing registration authorizes a licensed Arizona doctor to dispense controlled substances, prescription-only drugs, and/or prescription-only devices.

Board has addressed deficiencies in its licensing and registration processes

During its initial review, auditors identified several deficiencies with the Board's licensing and registration processes that the Board subsequently addressed. Specifically, the Board's policies and procedures did not ensure that the Board obtained and reviewed all required information before approving license and registration applications. Auditors made recommendations to the Board to address these deficiencies, which the Board subsequently implemented, resulting in improved policies and procedures for issuing licenses and registrations to qualified applicants.

Board lacked adequate policies and procedures to appropriately process licenses and registrations—Based on a review of applicable statutes and rules and board policies and procedures, auditors determined that these policies and procedures were inadequate to ensure the appropriate issuance of licenses and registrations. Identified weaknesses included inadequate board application forms, inadequate policies for obtaining all necessary application documentation, and inadequate policies and procedures to guide board staff's processing and review of license and registration applications. Specifically:

- **Application form was inconsistent with administrative rule requirements**—Although the Board revised its MD license application form in response to the issues the October 2013 Ombudsman's report identified, auditors determined that this application form still did not help to ensure applicants submitted all required information. For example, contrary to statute and rule, the form authorized board staff to obtain credentials from a third-party credentials verification service instead of directly from the entities that issued them and did not require applicants to disclose any open complaints or legal actions against them as required by rule.
- **Primary source documents not obtained as required by statute**—In response to the October 2013 Ombudsman's report, the Board also made significant changes to its processes for reviewing and approving applications. However, the Board did not ensure it obtained licensing documents consistent with statute and rule requirements. Specifically, although required by A.R.S. §32-1422 and AAC R4-16-201, the Board did not obtain primary source documents to appropriately verify applicants' credentials. For example, in a licensing file auditors reviewed, the Board accepted employment verification that did not originate from the employer as required by A.R.S. §32-1422. That statute and its corresponding rule (AAC R4-16-201) also require that other state boards send verification of licensure, including disciplinary history, to the Board for *locum tenens* registration applicants. However, board licensing staff used American Medical Association physician profiles and other state medical boards' Web sites to verify some applicants' licensure in other states. Primary source documentation ensures that the Board bases licensure and registration decisions on accurate information, whereas information that does not come directly from an issuing authority has the potential for error or fraud. In this case, the potential for both error and fraud existed as AMA profiles are compiled based on applicant-reported information.

In addition, management and licensing staff reported that licensing and registration processes were constantly changing as a result of gradually implementing changes to comply with statute and rule. Management communicated the changes to licensing staff in meetings and e-mail, but the Board lacked comprehensive written policies and procedures for licensing staff to follow.

Board has taken steps to improve its licensing and registration policies and procedures—When informed of these deficiencies in its licensing and registration policies and procedures, the Board took several steps to address them. Specifically, the Board further revised its MD license and *locum tenens* registration applications to address the gaps auditors identified and ensure these applications comply with applicable statutes and rules. The Board also adopted auditors' recommendations for improving its license and registration application review processes to ensure they comply with applicable statutes and rules. For example, consistent with auditors' recommendations, the Board developed and implemented procedures requiring its staff to retain proof that they received documents directly from the issuing authority that are required to be primary source by statute and/or rule. Finally, during auditors' review, the Board was in the process of developing a licensing policies and procedures manual to guide its processing and review of license and registration applications. Auditors compared the Board's August 2014 licensing manual to relevant statutes and rules and determined that the policies and procedures reflected in the manual and implemented by the Board would help ensure that it appropriately processes and approves only license and registration applications that have satisfied all statutory and rule requirements.

In addition to taking these steps and in response to auditors' recommendations, the Board further enhanced its policies and procedures to help ensure it appropriately issues licenses and registrations to only qualified applicants. Specifically, the Board:

- **Enhanced its secondary review process**—Although the Board had a secondary review process in place at the time of auditors' review to help ensure that it received and reviewed applicants' credentials in compliance with relevant statutes and rules, auditors recommended that the Board enhance the process by developing checklists to guide the reviews. As implemented, experienced secondary reviewers use the checklists to determine if applicants met all requirements for licensure/registration prior to approval for issuance. If an application does not pass secondary review, it is referred back for remediation to the licensing staff member who processed it. The secondary reviewer notes the error and associated staff member on an error-tracking log that is provided to board management on a weekly basis. According to board management, the Board also uses the error-tracking log to identify the need for training on certain topics and for certain licensing staff.

- **Reviewed and approved third-party credentials verification services**—Statutes and rules for the initial MD license and *locum tenens* registration require that the issuing authority, i.e., the "primary source," send documents such as medical school transcripts, verification of licensure in other states, and post-graduate training certificates directly to the Board. However, third-party credentials verification services and online resources that claim to obtain primary source documents on applicants' behalf have become increasingly available. Further, during the 2014 legislative session, the Legislature revised A.R.S. §32-1422 authorizing the Board to approve third-party credentials verification services and accept primary source documents from these services once they are approved. Auditors recommended that the Board develop a process for reviewing these services' procedures for obtaining documents to ensure credentials the services collect may be relied upon as primary source. According to board management, although the Board did not develop a formal procedure, it opted to vet third-party credentials verification services on a case-by-case basis by reviewing their policies and the entities that accredit them. The Board has approved three credentials-verification services as of December 2014. These services are listed in the Board's licensing manual so licensing staff know they may treat documents received from them as primary source when processing applications.

Board should conduct a risk-based review of previously issued initial MD licenses and continue to follow its improved policies and procedures

The Board's improved licensing policies and procedures, if followed, should help ensure that it appropriately issues licenses and registrations. As previously discussed, the Board has made a number of changes to its policies and procedures, including revising some of its licensing and registration application forms, that should help it appropriately determine that license and registration applicants satisfy all statutory and rule requirements prior to it issuing a license or registration. Auditors reviewed a sample of approved licenses and registrations to assess the Board's implementation of its revised policies and procedures and identify what, if any, previously issued licenses and registrations the Board should review. Specifically:

- **Initial MD license**—Auditors reviewed a random sample of five initial MD applications the Board approved from June 17, 2014 to August 12, 2014, and found that it appropriately processed all five applications. This indicates that the Board had appropriate policies and procedures for processing initial MD applications in accordance with statute and rule as of June 17, 2014. Therefore, the applications for initial MD licenses at risk of improper issuance were issued from October 1, 2011 to June 16, 2014. The Board has already contracted with a vendor to review the initial MD licenses it issued between October 1, 2011 and February 5, 2014. Additionally, because the Board has taken steps to improve its licensing policies and procedures during the course of this review by auditors, it should conduct a risk-based review of initial MD licenses it issued between February 6, 2014 and June 16, 2014, based on deficiencies the vendor identifies and/or the Board identifies as it reviews

the vendor's work.[1] The Board should also continue to follow its improved licensing and registration policies and procedures.

- **MD license renewals**—Auditors reviewed a random sample of five MD license renewal applications the Board approved from November 1, 2013 to December 13, 2013, and found that it appropriately processed all five applications.[2] This indicates that the Board had appropriate policies and procedures for processing MD license renewal applications in accordance with statute and rule as of November 1, 2013. Therefore, the renewal MD applications at risk of improper issuance were issued from October 1, 2011 through October 31, 2013.

  The Board revised its biennial MD license renewal form in December 2013 to require doctors renewing their license to provide and attest to the accuracy of provided information dating back to 2009. This allows the Board to address the information and attestations that it did not obtain for MD licenses it renewed since October 2011. Because the Board had established appropriate policies and procedures as of November 1, 2013, it should ensure that it continues to use its revised MD license renewal form at least through October 31, 2015, to ensure it obtains the required information and/or attestations for the MD licenses it may have inappropriately renewed and continue to follow its improved licensing and registration policies and procedures.

- **Locum tenens registrations**—Auditors reviewed the one *locum tenens* registration application the Board approved from June 17, 2014 to August 12, 2014, and found that it appropriately processed the application. This indicates that the Board had appropriate policies and procedures for processing *locum tenens* applications in accordance with statute and rule as of June 17, 2014. Therefore, the *locum tenens* applications at risk of inappropriate issuance were issued from October 1, 2011 through June 16, 2014.

  However, *locum tenens* registrations are temporary and only effective for 180 days, at which time the registered doctor must either discontinue practicing in the State or apply for an MD license. As a result, any *locum tenens* registrations the Board may have inappropriately issued between October 1, 2011 and June 16, 2014, have expired. Additionally, as previously mentioned, the Board revised its *locum tenens* registration application and review processes to help ensure it complies with applicable statutory and rule requirements. Therefore, the Board should continue to follow its improved licensing and registration policies and procedures, including using its revised *locum tenens* registration application, to help ensure it issues these registrations only to qualified applicants.

- **Dispensing registration**—Auditors reviewed five randomly selected dispensing registration applications the Board approved from September 27, 2013 to October 29, 2013, and found that it appropriately processed all five applications. This indicates that the Board had appropriate policies and procedures for processing dispensing registration applications in accordance with statute and rule as of September 26, 2013.

  Doctors who wish to dispense prescription drugs from their offices must apply for a dispensing registration by June 30 each year. Accordingly, any dispensing registrations that the Board may have inappropriately issued through September 26, 2013 have expired. Additionally, auditors did not identify any deficiencies in the Board's dispensing registration application or its policies and procedures for processing these applications.[3] For any doctors who applied for dispensing registrations the Board approved through September 26, 2013, and who have submitted subsequent applications, board review of these applications should have been subject to these policies and procedures.

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[1] Laws 2014, Ch. 251, appropriated monies and determined the scope of this review of initial MD licenses. This legislation was enacted prior to auditors' test work that led to a recommended end date of June 16, 2014, for the review of initial MD licenses (see page 1).

[2] During its review, auditors found that the Board was in compliance with statutes and rules that require applicants to attest to the accuracy of information they provide regarding their compliance with continuing-medical education requirements, an issue which the Ombudsman had identified. To address this issue, the Board reintroduced the attestation requirement as well as a random selection of applicants for audit to assess compliance with CME requirements. Although the Board did not audit auditors' random sample of five MD renewal applications, auditors reviewed an additional four MD license renewal applications that the Board audited and determined that the applicants had satisfied CME requirements.

[3] For dispensing registrations, the Ombudsman found that a doctor was permitted to continue dispensing drugs although her dispensing registration had expired and her subsequent application was not complete. Although doctors have until June 30 of each year to apply, the doctor's dispensing privileges were not suspended until 4 months after June 30, 2013, because her application remained incomplete. Auditors did not identify a recurrence of this issue during review of the five randomly selected dispensing registration applications.

Recommendations

1. The Board should conduct a risk-based review of initial MD licenses it issued between February 6, 2014 and June 16, 2014, based on deficiencies the vendor identifies and/or the Board identifies as it reviews the vendor's work.

2. The Board should continue to follow its improved licensing and registration policies and procedures.

3. The Board should continue to use its revised MD license renewal form at least through October 31, 2015, to ensure it obtains the required information and/or attestations for the MD licenses it may have inappropriately renewed.

4. The Board should continue to use its revised *locum tenens* registration application to help ensure it issues these registrations only to qualified applicants.

AGENCY RESPONSE

Arizona Medical Board

9545 E. Doubletree Ranch Road, Scottsdale AZ 85258 • website: www.azmd.gov
Phone (480) 551-2700 • Toll Free (877) 255-2212 • Fax (480) 551-2707

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Executive Director

Patricia E. McSorley

April 2, 2015

Office of the Auditor General
Debbie Davenport
2910 N. 44th Street, Ste 410
Phoenix, AZ 85018

Dear Ms. Davenport:

The purpose of this letter is to respond to the Auditor General's recommendations issued in its most recent report. The Arizona Medical Board would like to thank the Auditor and investigators for their diligence and professionalism over the course of this project as the Board has worked to improve its processes. The Board agrees with the findings of the Auditor General. Each recommendation is specifically addressed as follows:

Finding 1: The Board should conduct a risk-based review of initial MD licenses it issued between February 6, 2014 and June 16, 2014, based on deficiencies the vendor identifies and/or the Board identifies as it reviews the vendor's work.

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

Board staff will conduct a risk-based review of initial licenses issued between February 6, 2014 and June 16, 2014 within the next 6 months.

Finding 2: The Board should continue to follow its improved licensing and registration policies and procedures.

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

Finding 3: The Board should continue to use its revised MD license renewal form at least through October 31, 2015 to ensure it obtains the requirement information and/or attestations for the MD licenses it may have inappropriately renewed.

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

Finding 4: The Board should continue to use its revised *locum tenens* registration application to help ensure it issues these registrations only to qualified applicants.

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

The Board appreciates the opportunity to respond to the Auditor's Report.

Respectfully,

Patricia E. McSorley
Executive Director

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Contact person:
Dale Chapman (602) 553-0333

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