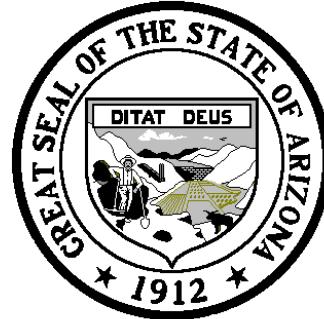


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Sunset Review of the Arizona Regulatory Board of Physician Assistants



Report November 2017

SENATE MEMBERS

Senator Nancy Barto, Co-Chair
Senator David Bradley
Senator Katie Hobbs
Senator Debbie Lesko
Senator Steve Montenegro

HOUSE MEMBERS

Representative Heather Carter, Co-Chair
Representative Regina Cobb
Representative Jay Lawrence
Representative Tony Navarrete
Representative Pamela Powers Hannley

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Background

Pursuant to [A.R.S. § 41-2953](#), the Joint Legislative Audit Committee assigned the sunset review of the Arizona Regulatory Board of Physician Assistants (Board) to the Senate Health and Human Services and House Health Committee of Reference (COR).

The Board was established by Laws 1977, Chapter 159. The Board consists of 11 members: five physician assistants who hold a current license, two public members, four physicians who are actively practicing medicine and two of whom supervise a physician assistant at the time of appointment. All Board members are appointed by the Governor and must submit to a state and federal background check ([A.R.S. § 32-2502](#)). The Board annually elects a chairperson and vice-chairperson from the existing members and is required to meet on a quarterly basis ([A.R.S. § 32-2503](#)). The Board's primary duty is to protect the public from unlawful, incompetent, unqualified, impaired, or unprofessional physician assistants. The Board is also responsible for licensing, regulation, investigations and discipline of physician assistants ([A.R.S. § 32-2504](#)).

Committee of Reference Sunset Review Procedures

The COR held one public meeting on Monday, November 27, 2017, to review and consider the Arizona Regulatory Board of Physician Assistants responses to the sunset factors (See *Appendix A*) and to receive public testimony (See *Appendix C*).

A video recording of the committee can be found at:

http://azleg.granicus.com/MediaPlayer.php?clip_id=19960

Committee Recommendations

The Committee of Reference recommended that the Legislature continue the Arizona Regulatory Board of Physician Assistants for eight years.



Douglas A. Ducey
Governor

Arizona Regulatory Board of Physician Assistants

Myles Whitfield, PA-C
Chair

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Mr. Rick Hazelton
Arizona House of Representatives, Suite H
Research Staff
1700 West Washington
Phoenix, AZ 85007

2 August 2017

RE: Joint Legislative Audit Committee's sunset review of the Arizona Regulatory Board of Physician Assistants

Dear Mr. Hazelton,

Thank you for providing the Arizona Regulatory Board of Physician Assistants ("ARBoPA") the opportunity to address the Joint Legislative Audit Committee's sunset review. The agency's responses follow:

1. *The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprises in other states.*

Established by statute in 1984, the ARBoPA protects Arizona citizens through the judicious licensing and regulating of physician assistants. The agency processes applications for licenses, handles complaints against physician assistants and disseminated information pertinent to physician assistants and the regulatory process. There are currently 2932 physician assistants licensed in Arizona.

The objective and purpose have not been found to be met by private enterprises in other states.

2. *The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.*

The agency concentrates on meeting its statutory objective and purpose by licensing qualified applicants in a timely manner, by appropriately resolving complaints against licensees, and providing accurate and timely information to the public.

In the last fiscal year, FY 2017, the agency approved 293 physician assistant license applications, and approved those license applications in an average time of 12.4 days. The Investigations Staff also currently has an open investigation caseload of 43 physician assistant quality of care cases and all the cases, except for one, were initiated in 2017. The total number of complaints opened was 104; and the average number of days for the Investigations Staff to complete an investigation was 140 days.

3. *The extent to which the agency serves the entire state rather than specific interests.*

The ARBoPA serves the entire State by licensing and resolving complaints against physician assistants who practice throughout Arizona.

4. *The extent to which rules adopted by the agency are consistent with the legislative mandate.*

The ARBoPA fulfills its statutory responsibility by promulgating, reviewing and updating its rules. The agency's rules are consistent with the legislative mandate.

5. *The extent to which the agency 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 agency encourages input from the public before adopting its rules by publishing notices and holding public meetings. The agency also encourages stakeholder involvement in making its policy decisions. The agency maintains email distribution lists of stakeholders involved in particular issues and notifies them of upcoming meetings.

Furthermore, the ARBoPA adheres to the various provisions of the State's open meeting laws. As required, the ARBoPA posts notices and agendas on its website at least 24 hours in advance and posts the notices and agendas in physical locations where the ARBoPA website states they will be posted. The ARBoPA also posts written meeting minutes on the ARBoPA website within 3 business days following its meetings.

6. *The extent to which the agency has been able to investigate and resolve complaints within its jurisdiction.*

The ARBoPA has statutory authority to investigate and resolve complaints within its jurisdiction and has various non-disciplinary and disciplinary options available to address violations of statute and/or rule. Some of these options include: issuing decrees of censure, orders of continuing medical education, probation, and suspension or revocation of license.

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 the ARBoPA as its legal advisor, and provides legal services to the ARBoPA as required by statute.

8. *The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.*

In 2015 the ARBoPA determined there was a need to move the physician assistants from a one year renewal cycle to a two-year, or biennial, license renewal cycle. With Laws 2015, Ch. 84, Sec. 3, a change was made to bring the physician assistant community to a biennial cycle, with license renewal occurring on the birthday of the physician assistant and requires providing proof of 40 hours of Category I continuing medical education (CME), consistent with physicians in this state. The agency further recognized a deficiency in its statute regarding physician assistant CME and sought a statutory change in 2016 to address the issue. Laws 2016, Ch. 68, Sec. 1, was amended to state: that the CME requirement is deemed satisfied if, at the time of renewal, the licensee holds a certification in good standing from a certifying body approved by the ARBoPA. This change allows those physician assistants who remain certified from having to provide evidence of the 40 hours of required continuing medical education through audit.

9. *The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection.*

There are currently no changes necessary in the laws of the agency to comply with the factors listed in this subsection.

10. The extent to which the termination of the agency would significantly affect the public health, safety or welfare.

Terminating the ARBoPA would affect public health, safety, and welfare. The ARBoPA's role is to protect the public by regulating the practice of health care tasks provided by physician assistants. It accomplishes this mission by licensing individuals who meet statutory requirements, receiving and investigating complaints against licensees alleging statute and/or rule violations, including unprofessional conduct, and taking action against licensees when necessary. The ARBoPA also provides information to the public about licensees, including disciplinary history. These functions help protect the public from harm. For example, complaints received by the ARBoPA alleging actions by physician assistants who pose a threat to the public, including physician assistants who allegedly inappropriately prescribed controlled substances and had inappropriate physical contact with patients.

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

The agency strives to find regulatory balance that is appropriate but does not infringe on a physician assistant's ability to make the right judgment when performing health care tasks. Current statutes and rules adequately address the vast majority of physician assistant practice and on-going policy discussions center around these issues. The agency is confident that physician assistants are regulated in a manner consistent with public and professional expectations.

12. The extent to which the agency 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 ARBoPA uses private contractors to perform its duties. These include expert witnesses at hearings, outside medical consultants, temporary licensing staff, ARBoPA meeting security, and court reporters. The ARBoPA also contracts with an outside medical group to perform assessments and post-treatment monitoring of physician assistants who may suffer from substance abuse, medical, or mental health disorders that may affect their ability to safely practice medicine or perform healthcare tasks.

13. The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

There is no evidence that the agency creates unexpected negative consequences requiring additional review by the committee of reference. The ARBoPA does not involve itself in the pricing of goods, nor does it limit the availability of legitimate physician assistant services. ARBoPA judiciously licenses and regulates the physician assistant community with a focus on public safety and practices efficiency in its licensing and regulatory processes.

Additionally, please provide written responses to the following:

1. Identify the problem or the needs that the agency is intended to address.

The ARBoPA protects Arizona citizens through the judicious licensing and regulating of physician assistants. The agency accomplishes this through processing applications for licenses, handling complaints against physician assistants and disseminating information pertinent to physician assistants and the regulatory process. There are currently 2932 physician assistants licensed in Arizona. The ARBoPA also fulfills the function of licensing new physician assistants to disseminate health care tasks in an environment, where we are short on physicians in our state, per capita.

2. *State, to the extent possible, in quantitative and qualitative terms, the objectives of the agency and its anticipated accomplishments.*

The agency concentrates on meeting its statutory objective and purpose by licensing qualified applicants in a timely manner, by appropriately resolving complaints against licensees, and providing accurate and timely information to the public. With the shortage of physicians in Arizona and the rising demand for economical healthcare services, the ARBoPA fills an important role in the healthcare profession. According to the Bureau of Statistics, employment of physician assistants is projected to grow 30 percent from 2014 to 2024, much faster than the average for all occupations. Demand for healthcare services will increase because of the growing and aging population. Retrieved from: www.bls.gov/ooh/healthcare/physician-assistants.htm

In the last fiscal year, FY 2017, the agency approved 293 physician assistant license applications, and approved those license applications in an average time of 12.4 days. The Investigations Staff also currently has an open investigation caseload of 43 physician assistant quality of care cases and all the cases, except for one, were initiated in 2017. The total number of complaints opened was 104; and the average number of days for the Investigations Staff to complete an investigation was 140 days.

The staff responsibilities and caseloads are combined with those of the Arizona Medical Board ("AMB"); and the data reflected here are only for the ARBoPA, not the combined statistics.

3. *Identify any other agencies having similar, conflicting or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.*

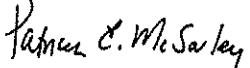
There are no other agencies in the state that license and regulate physician assistants. Therefore, there is no duplication or conflict with any other such agency.

4. *Assess the consequences of eliminating the agency or of consolidating it with another agency.*

Terminating the ARBoPA would affect public health, safety, and welfare. The ARBoPA's role is to protect the public by regulating the practice of health care tasks provided by physician assistants. It accomplishes this mission by licensing individuals who meet statutory requirements, receiving and investigating complaints against licensees alleging statute and/or rule violations, including unprofessional conduct, and taking action against licensees when necessary. The ARBoPA also provides information to the public about licensees, including disciplinary history. These functions assist the public in making educated decisions on their healthcare providers and further help protect the public from harm. For example, complaints received by the ARBoPA alleging actions by physician assistants who pose a threat to the public, including physician assistants who allegedly inappropriately prescribed controlled substances and had inappropriate physical contact with patients. As stated supra, the agency is already housed with and shares resources with the AMB. Mirroring the successful clinical relationship between physicians and physician assistants, the leadership of ARBoPA and the AMB meet and collaborate twice a year to review staff utilization, and address performance issues.

Again, thank you for the opportunity to respond to the sunset audit questions. Please feel free to contact me at (480) 551-2720, or by email at pmcsorley@azmd.gov should you have any questions.

Sincerely,



Patricia E. McSorley
Executive Director
Arizona Regulatory Board of Physician Assistants

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

SENATE HEALTH AND HUMAN SERVICES AND HOUSE HEALTH COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF THE: ARIZONA ACUPUNCTURE BOARD OF EXAMINERS ARIZONA DEPARTMENT OF ECONOMIC SECURITY ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS ARIZONA BOARD OF OCCUPATIONAL THERAPY EXAMINERS

Date: **Monday, November 27, 2017**

Time: **10:00 A.M.**

Place: **HHR 1**

AGENDA

1. Call to Order
2. Sunset Review of the State of Arizona Acupuncture Board of Examiners
 - Presentation by the Office of the Auditor General
 - Response by the State of Arizona Acupuncture Board of Examiners
 - Public Testimony
 - Discussion
 - Recommendation by the Committee of Reference
3. Sunset Review of the Arizona Department of Economic Security
 - Presentation by the Office of the Auditor General
 - a) Child Care Services
 - b) Division of Developmental Disabilities
 - c) Information Technology
 - d) Vocational Rehabilitation Service Program
 - Response by the Arizona Department of Economic Security
 - Public Testimony
 - Discussion
 - Recommendation by the Committee of Reference
4. Sunset Review of the Arizona Regulatory Board of Physician Assistants
 - Response by the Arizona Regulatory Board of Physician Assistants
 - Public Testimony
 - Discussion
 - Recommendation by the Committee of Reference

5. Sunset Review of the Arizona Board of Occupational Therapy Examiners
 - Response by the Arizona Board of Occupational Therapy Examiners
 - Public Testimony
 - Discussion
 - Recommendation by the Committee of Reference
6. Adjourn

Members:

Senator Nancy Barto, Co-Chair
Senator David Bradley
Senator Katie Hobbs
Senator Debbie Lesko
Senator Steve Montenegro

Representative Heather Carter, Co-Chair
Representative Regina Cobb
Representative Jay Lawrence
Representative Tony Navarrete
Representative Pamela Powers Hannley

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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.

ARIZONA STATE LEGISLATURE

SENATE HEALTH AND HUMAN SERVICES AND HOUSE HEALTH COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF THE: ARIZONA ACUPUNCTURE BOARD OF EXAMINERS ARIZONA DEPARTMENT OF ECONOMIC SECURITY ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS ARIZONA BOARD OF OCCUPATIONAL THERAPY EXAMINERS

Minutes of the Meeting
November 27, 2017
10:00 a.m., House Hearing Room 1

Members Present:

Senator Nancy Barto, Co-Chair
Senator David Bradley
Senator Katie Hobbs
Senator Debbie Lesko
Senator Steve Montenegro

Representative Heather Carter, Co-Chair
Representative Jay Lawrence
Representative Tony Navarrete
Representative Pamela Powers Hannley

Members Excused:

Representative Regina Cobb

Staff:

Rick Hazelton, House Research Analyst
Jessica Newland, Senate Research Assistant Analyst

Co-Chair Carter called the meeting to order at 10:09 a.m. and attendance was noted. Representative Carter made statements regarding the content and order of the meeting.

SUNSET REVIEW OF THE STATE OF ARIZONA ACUPUNCTURE BOARD OF EXAMINERS

Presentation by the Office of the Auditor General

Katie Grzybowski, Office of the Auditor General (OAG), distributed and explained a PowerPoint entitled "State of Arizona Acupuncture Board of Examiners" (Attachment A). Ms. Grzybowski gave an overview of the State of Arizona Acupuncture Board of Examiners. Ms. Grzybowski explained the Board's response to the audit and answered questions posed by the Committee.

Response by the State of Arizona Acupuncture Board of Examiners

Mario Fontes, Secretary, State of Arizona Acupuncture Board of Examiners, stated that the Board has been without a full-time Executive Director, but thanked the OAG for making their findings and working with them to address them.

Pete Gonzalez, previous Executive Director and current Acting Director, State of Arizona Acupuncture Board of Examiners, explained that he retired but was asked to return temporarily when the position was vacated. Mr. Gonzalez explained that a plan of action has been decided upon but due to staffing changes has not been fully enacted. Mr. Gonzalez spoke regarding the OAG findings and the Board's attempt to answer them and answered questions posed by the Committee.

Mr. Fontes answered questions posed by the Committee.

Mr. Gonzalez answered additional questions posed by the Committee.

Ms. Grzybowski answered additional questions posed by the Committee.

Public Testimony

Catherine Niemiec, President/Founder, Arizona Institute of Herbal Medicine & Acupuncture, testified in support of the State of Arizona Acupuncture Board of Examiners and the need for its continuation. Ms. Niemiec answered questions posed by the Committee.

Mr. Gonzalez answered additional questions posed by the Committee.

Ms. Grzybowski answered additional questions posed by the Committee.

Mr. Gonzalez answered additional questions posed by the Committee.

Discussion

The Committee members discussed what motion they want to move forward.

Recommendation by the Committee of Reference

Senator Barto moved the Arizona Acupuncture Board of Examiners be continued for one year and that the Board continue to address the concerns related to the Auditor General recommendation implementation, a follow up report shall be submitted by the Board to the Auditor General and to the Standing Health Committees by March 1, 2018. The report shall document the progress of implementing the Auditor General recommendations. The motion CARRIED by voice vote.

SUNSET REVIEW OF THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Representative Carter made remarks regarding the order of presentations for the Arizona Department of Economic Security (DES).

Presentation by the Office of the Auditor General

Stephanie Grosvenor, Office of the Auditor General (OAG), distributed and explained a PowerPoint presentation entitled "Department of Economic Security" (Attachment B) and gave an overview of DES.

Response by the Arizona Department of Economic Security

Mike Trailor, Executive Director, DES, gave an overview of his work experience, DES and the management system he is implementing at DES. Mr. Trailor answered questions posed by the Committee.

Dale Chapman, OAG, gave an overview of risk assessments and how they decide what is chosen to be audited. Mr. Chapman answered questions posed by the Committee.

Representative Carter made statements regarding audits and the aging and adult services.

a) Child Care Services

Ms. Grosvenor gave an overview of the audit on Child Care Services continuing to reference Attachment B. Ms. Grosvenor answered questions posed by the Committee.

Response by the Arizona Department of Economic Security

Mr. Trailor answered additional questions posed by the Committee.

Michael Wisehart, Assistant Director, Division of Employment & Rehabilitation Services, DES, explained the screening program for those wishing to become a childcare provider. Mr. Wisehart spoke regarding audits and reviews and answered questions posed by the Committee.

Public Testimony

Erin Raden, Arizona Early Childhood Education Association, testified in support of the continuation of DES.

b) Division of Developmental Disabilities

Brian Miele, OAG, gave an overview of the audit of the Division of Developmental Disabilities (DDD) referencing Attachment B.

Response by the Arizona Department of Economic Security

Mr. Trailor responded to the Committee regarding the OAG audit of the DDD.

Maureen Casey, Assistant Director, DDD, DES, testified regarding the OAG audit of the DDD. Ms. Casey answered questions posed by the Committee.

Mr. Trailor answered additional questions posed by the Committee.

Ms. Casey answered additional questions posed by the Committee.

Public Testimony

Karen Van Epps, representing herself, testified regarding outside monitoring, human rights committees and conditions in group homes.

Linda Mecham, District Central Human Rights Committee (HRC), gave an overview of the HRC and testified regarding complaints of not receiving a resolution and the need for the DDD to continue.

Jon Meyers, Executive Director, The Arc of Arizona, gave an overview of The Arc of Arizona and testified regarding homes for adults and providers conflicts of interest.

Ms. Casey answered additional questions posed by the Committee.

Mr. Trailor answered additional questions posed by the Committee.

Mr. Meyers answered questions posed by the Committee.

c) Information Technology

Brian Miele, OAG, gave an overview of the OAG audit of Information Technology referencing Attachment B and spoke of the findings and recommendations.

Response by the Arizona Department of Economic Security

Mr. Trailor introduced Jim Hillyard, Deputy Director, DES.

Jim Hillyard, Deputy Director for Operations, DES, gave an overview of the progress being made to address the OAG recommendations and spoke to security practices. Mr. Hillyard answered questions posed by the Committee.

d) Vocational Rehabilitation Service Program

Stephanie Grosvenor, OAG, gave an overview of the OAG audit and the Department's response and implementation of recommendations referencing Attachment B.

Response by the Arizona Department of Economic Security

Mr. Trailor re-introduced Michael Wisehart, Assistant Director, Division of Employment & Rehabilitation Services, DES.

Mr. Wisehart explained who is helped, how they are helped and that the Division still has much more work to do. Mr. Wisehart answered questions posed by the Committee.

Mr. Trailor made statements regarding his length of time at the agency and his plans moving forward.

Recommendation by the Committee of Reference

Senator Barto moved the Committee of Reference recommend to the full Legislature that the Arizona Department of Economic Security be continued for eight years. The motion CARRIED by voice vote.

Representative Carter questioned if the Committee could continue with the meeting in regards to time constraints.

Debbie Davenport, Arizona Auditor General, stated that her office did not do reviews so did not have presentations regarding the two remaining Boards on the agenda.

SUNSET REVIEW OF THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

Response by the Arizona Regulatory Board of Physician Assistants

Pat McSorley, Executive Director, Arizona Regulatory Board of Physician Assistants and the Arizona Medical Board, gave an overview of the Arizona Regulatory Board of Physician Assistants. Ms. McSorley answered questions posed by the Committee.

Recommendation by the Committee of Reference

Senator Barto moved the Committee of Reference recommend to the full Legislature that the Arizona Regulatory Board of Physician Assistants be continued for eight years. The motion CARRIED by voice vote.

SUNSET REVIEW OF THE ARIZONA BOARD OF OCCUPATIONAL THERAPY EXAMINERS

Response by the Arizona Board of Occupational Therapy Examiners

Karen Whiteford, Executive Director, Arizona Board of Occupational Therapy Examiners and the Board of Athletic Training, gave an overview of the Board of

Occupational Therapy Examiners. Ms. Whiteford testified regarding the actions needing improvement and answered questions posed by the Committee.

Representative Carter and Senator Barto made remarks regarding the self-audit system.

Recommendation by the Committee of Reference

Senator Barto moved the Committee of Reference recommend to the full Legislature that the Arizona Board of Occupational Therapy Examiners be continued for eight years. The motion CARRIED by voice vote.

Attached is a list noting the individuals who registered their position on the agenda items (Attachment C).

Attached are the forms noting the individuals who submitted a Speaker slip on the agenda items (Attachment D).

There being no further business, the meeting was adjourned at 2:40 p.m.

Respectfully submitted,

Shelley Ponce
Committee Secretary

(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at <http://www.azleg.gov>)