

ARIZONA STATE HOUSE OF REPRESENTATIVES RESEARCH STAFF



TO: JOINT LEGISLATIVE AUDIT COMMITTEE

DATE: January 21, 2022

SUBJECT: Sunset Review of the Arizona
State Board of Dispensing Opticians

Ahjahna Graham
Committee on Health
and Human Services
Telephone: (602) 926-3583

Attached is the final report of the sunset review of the Arizona State Board of Dispensing Opticians which was conducted by the Senate Health and Human Services and House Health and Human Services Committees of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona
The Honorable Douglas A. Ducey

President of the Senate
Senator Karen Fann

Speaker of the House of Representatives
Representative Russell Bowers

Senate Members
Senator Nancy Barto, Co-Chair
Senator Tyler Pace
Senator Rosanna Gabaldon
Senator Sally Ann Gonzales
Senator Wendy Rogers
Senator Thomas Shope
Senator Raquel Terán
Senator Kelly Townsend

House Members
Representative Joanne Osborne, Co-Chair
Representative Steve Kaiser
Representative Kelli Butler
Representative Joseph Chaplik
Representative Alma Hernandez
Representative Beverly Pingerelli
Representative Pamela Powers Hannley
Representative Amish Shah
Representative Justin Wilmeth

Arizona State Board of Dispensing Opticians
Arizona State Library, Archives & Public Records
House Republican Staff
House Democratic Staff
House Research Staff

Senate Resource Center
Senate Republican Staff
Senate Democratic Staff
Senate Research Staff
Office of the Auditor General

Sunset Review of the Arizona State Board of Dispensing Opticians



Final Report January 2022

SENATE MEMBERS

Senator Nancy Barto, Co-Chair
Senator Tyler Pace
Senator Rosanna Gabaldon
Senator Sally Ann Gonzales
Senator Wendy Rogers
Senator Thomas Shope
Senator Raquel Terán
Senator Kelly Townsend

HOUSE MEMBERS

Representative Joanne Osborne, Co-Chair
Representative Steve Kaiser
Representative Kelli Butler
Representative Joseph Chaplik
Representative Alma Hernandez
Representative Beverly Pingerelli
Representative Pamela Powers Hannley
Representative Amish Shah
Representative Justin Wilmeth

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Report 2022

Background

Pursuant to [A.R.S. § 41-2953](#), the Joint Legislative Audit Committee assigned the sunset review of the Arizona State Board of Dispensing Opticians (Board) to the Senate Health and Human Services and House of Representatives Health and Human Services Committees of Reference for review.

Established in 1956, the Board regulates the practice of opticianry in Arizona. Board responsibilities include: 1) issuing licenses to qualified opticians and optical establishments; 2) administering examinations; 3) investigating and adjudicating complaints against licensees; and 4) providing information about licensees to the public. The Board prescribes and enforces rules necessary to ensure the competency of dispensing opticians in Arizona (A.R.S. §§ [32-1673](#), [32-1674](#), [32-1681](#), [32-1682](#), [32-1691.01](#)).

The Board consists of seven members, including five dispensing opticians and two public members appointed by the Governor for five-year terms ([A.R.S. § 32-1672](#)).

The Board terminates on July 1, 2022, unless legislation is enacted for its continuation ([A.R.S. § 41-3022.06](#)).

Summary of Committee Activity

The Senate Health and Human Services and House Health and Human Services Committees of Reference met on January 13, 2022, to review the performance audit and sunset review conducted by the Auditor General, evaluate the Board's response to the sunset factors and receive public testimony.

Committee Recommendation

The Senate Health and Human Services and House Health and Human Services Committees of Reference recommended that the Board be continued for eight years until July 1, 2030.

Appendix A:

January 13, 2022, Senate Health and Human Services and House Health and
Human Services Committees of Reference
Minutes and Reference Materials

ARIZONA STATE LEGISLATURE

INTERIM JOINT MEETING NOTICE OPEN TO THE PUBLIC

HOUSE HEALTH & HUMAN SERVICES COMMITTEE OF REFERENCE AND SENATE HEALTH & HUMAN SERVICES COMMITTEE OF REFERENCE

Date: Thursday, January 13, 2022

Time: 9:30 A.M. or Upon Adjournment of Floor

Place: HHR 1

Members of the public may access a livestream of the meeting here:
<https://www.azleg.gov/videooplayer/?clientID=6361162879&eventID=2022011007>

AGENDA

1. Call to Order
2. Roll Call
3. Sunset Review of the Arizona Acupuncture Board of Examiners
Presentation by the Arizona Acupuncture Board of Examiners
Public Testimony
Discussion and Recommendation
4. Sunset Review of the Arizona Board of Chiropractic Examiners
Presentation by the Arizona Board of Chiropractic Examiners
Public Testimony
Discussion and Recommendation
5. Sunset Review of the Arizona State Board of Dispensing Opticians
Presentation by the Arizona Office of the Auditor General
Response by the Arizona State Board of Dispensing Opticians
Public Testimony
Discussion and Recommendation
6. Sunset Review of the Arizona State Board of Nursing
Presentation by the Arizona Office of the Auditor General
Response by the Arizona State Board of Nursing
Public Testimony
Discussion and Recommendation

7. Sunset Review of the Arizona State Board of Pharmacy
Presentation by the Arizona Office of the Auditor General
Response by the Arizona State Board of Pharmacy
Public Testimony
Discussion and Recommendation
8. Adjourn

Members:

Senator Nancy Barto, Co-Chair
Senator Rosanna Gabaldon
Senator Sally Ann Gonzales
Senator Tyler Pace
Senator Wendy Rogers
Senator T.J. Shope
Senator Raquel Terán
Senator Kelly Townsend

Representative Joanne Osborne, Co-Chair
Representative Steve Kaiser
Representative Kelli Butler
Representative Joseph Chaplik
Representative Alma Hernandez
Representative Beverly Pingerelli
Representative Pamela Powers Hannley
Representative Amish Shah
Representative Justin Wilmeth

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01/06/2022

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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

HOUSE HEALTH & HUMAN SERVICES COMMITTEE OF REFERENCE AND SENATE HEALTH AND HUMAN SERVICES COMMITTEE OF REFERENCE

Minutes of the Meeting

January 13, 2022

9:30 A.M., HHR1

Members of the public may access a livestream of the meeting here:

<https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2022011007>

Members Present:

Senator Barto, Co-Chair
Senator Gabaldon
Senator Gonzales
Senator Rogers
Senator Shope
Senator Terán
Senator Townsend

Representative Osborne, Co-Chair
Representative Steve Kaiser
Representative Butler
Representative Chaplik
Representative Hernandez
Representative Pingerelli
Representative Powers Hannley
Representative Wilmeth

Members Excused:

Senator Tyler Pace

Members Absent:

Representative Shah

Staff:

Michael Madden, Health and Human Services Committee Analyst
Maelinn Chow, Health and Human Services Assistant Analyst
Ahjahna Graham, House Research Analyst
Jeremy Bassham, House Research Assistant Analyst
Bethany Graham, House Research Intern

Co-Chair Osborne called the meeting to order at 10:00 a.m. and attendance was noted by the committee secretary.

SUNSET REVIEW OF THE ARIZONA ACUPUNCTURE BOARD OF EXAMINERS

Presentation by the Arizona Acupuncture Board of Examiners

David Geriminsky, Agency Director, AZ Acupuncture Board, explained the Board, the Board's response to the Audit General's Audit and answered questions posed by the Committee.

Public Testimony

Shannon Whiteaker, Asian Medicine Acupuncturists of Arizona, testified in favor on the continuation for the Arizona Acupuncture Board of Examiners.

Marilyn Allen, Vice-President, American Acupuncture Association, testified in favor on the continuation for the Arizona Acupuncture Board of Examiners.

Discussion and Recommendation

Representative Butler asked questions regarding the Board.

Ms. Allen answered questions posed by the Committee.

Representative Osborne requested a motion on the recommendation.

Senator Barto moved that the House Health and Human Services Committee of Reference and Senate Health and Human Services Committee of Reference recommends that the Arizona Acupuncture Board of Examiners be continued for 8 years until July 2, 2030. The motion CARRIED with a roll call vote of 15-0-2 (Attachment 1).

SUNSET REVIEW OF THE ARIZONA BOARD OF CHIROPRACTIC EXAMINERS

Presentation by the Arizona Board of Chiropractic Examiners

Dr. Babak M. Nayeri, Executive Director, AZ Board of Chiropractic Examiners, distributed and explained, a PowerPoint presentation, entitled "Sunset Review" (Attachment A) and gave an overview of the Board.

The Committee discussed and offered comments for the presentation mentioned above.

Public Testimony

Dr. Richard Gaurino, Chair, Board of Chiropractic Examiners, testified in favor on the continuation of the Arizona Board of Chiropractic Examiners.

Discussion and Recommendation

Representative Osborne requested a motion on the recommendation.

Senator Barto moved that the House Health and Human Services Committee of Reference and Senate Health and Human Services Committee of Reference recommends that the Arizona Board of Chiropractic Examiners be continued for 8 years until July 1, 2030.

Senator Gabaldon made a substitution motion that the Joint Health and Human Services COR recommends that the Arizona Board of Chiropractic Examiners be continued for 4 years until July 1, 2026.

Senator Gabaldon explained her motion.

Representative Butler seconded the motion.

Senator Barto offered comments on her opposition to the substitute motion.

Representative Osborne called for the vote on the substitute motion.

The substitute motion FAILED with a roll call vote of 6-9-2 (Attachment 2).

Representative Osborne called for the vote on the motion made by Senator Barto.

The motion CARRIED with a roll call vote of 10-5-2 (Attachment 3).

SUNSET REVIEW OF THE ARIZONA STATE BOARD OF DISPENSING OPTICIANS

Presentation by the Arizona Office of the Auditor General

Dale Chapman, Office of the Auditor General, distributed and explained a PowerPoint presentation entitled "Arizona State Board of Dispensing Opticians" (Attachment B).

Response by the Arizona State Board of Dispensing Opticians

Megan Darian, Executive Director, State Board of Dispensing Opticians, gave an update regarding the Board's response to the Auditor General's Performance Audit and Sunset Review.

Public Testimony

No public testimony took place.

Discussion and Recommendation

Representative Osborne requested a motion on the recommendation.

Senator Barto moved that the House Health and Human Services Committee of Reference and Senate Health and Human Services Committee of Reference recommends that the Arizona State Board of Dispensing Opticians be continued for 8 years until July 1, 2030. The motion CARRIED with a roll call vote of 13-0-4 (Attachment 4).

RECESS

At 11:09 a.m. the Chairman recessed the meeting to the sound of the gavel.

RECONVENE

At 11:18 a.m. the Chairman called the meeting to order.

SUNSET REVIEW OF THE ARIZONA STATE BOARD OF NURSING

Presentation by the Arizona Office of the Auditor General

Dale Chapman, Office of the Auditor General, distributed and explained a PowerPoint presentation entitled "Arizona State Board of Nursing" (Attachment C).

Response by the Arizona State Board of Nursing

Joey Ridenour, Executive Director, Arizona State Board of Nursing, distributed and explained a handout entitled "Summary of Audit Recommendation (Attachment D) and gave overview of the Board and the work the Board has done.

The Committee discussed and offered comments on the response from Ms. Ridenour.

Public Testimony

Kathryn Busby, Arizona Nurses Association, testified in favor on the continuation and voiced her concerns.

The Committee discussed and asked questions regarding Ms. Busby's testimony.

Carol Schaeffer, Nursing Advocate, testified regarding the poor treatment that has been received from the Nursing Board and testified against the continuation of the Board.

Alice Minch, representing herself, testified regarding the poor treatment that has been received from the Board.

Discussion and Recommendation

The Committee discussed and commented on Ms. Minch's testimony.

Representative Osborne requested a motion on the recommendation.

Senator Barto moved that the House Health and Human Services Committee of Reference and Senate Health and Human Services Committee of Reference recommends that the Arizona State Board of Nursing be continued for 8 years until July 1, 2030. The motion CARRIED with a roll call vote of 14-0-3 (Attachment 5).

Senators Gabaldon, Gonzales, Townsend, Representatives Butler, Powers Hannley, Senator Barto and Representative Osborne explained their vote.

SUNSET REVIEW OF THE ARIZONA STATE BOARD OF PHARMACY

Presentation by the Arizona Office of the Auditor General

Tanner Weigel, Office of the Auditor General, distributed and explained a PowerPoint presentation entitled "Arizona State Board of Pharmacy" (Attachment E).

Response by the Arizona State Board of Pharmacy

The Committee discussed and offered comments on the presentation mentioned above.

Kamlesh Gandhi, Executive Director, Arizona State Board of Pharmacy, gave an overview of the Board and its purpose.

Mr. Gandhi answered questions posed by the Committee.

Public Testimony

Mark Boesen, representing himself, testified in support on the continuation of the Board but encouraged continued work with the stakeholders. Mr. Boesen answered questions posed by the Committee.

Discussion and Recommendation

The Committee discussed and commented on Mr. Boesen's testimony.

Representative Osborne requested a motion on the recommendation.

Senator Barto moved that the House Health and Human Services Committee of Reference and Senate Health and Human Services Committee of Reference recommends that the Arizona State Board of Pharmacy be continued for 8 years until July1, 2030.

Representative Butler made a substitute motion that the Joint Health and Human Services COR recommends that the Arizona State Board of Pharmacy be continued for 4 years until July1, 2026.

Senator Gonzales seconded the motion.

Senator Barto offered comments against the four year substitute motion.

Representative Powers Hannley offered comments in support of the four year substitute motion.

Representative Osborne called for the vote on the substitute motion.

The substitute motion CARRIED with a roll call vote of 9-6-2 (Attachment 6).

Senators Gabaldon and Rogers, Representatives Butler, Chaplik and Osborne explained their vote.

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

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

There being no further business, the meeting was adjourned at 1:48 p.m.

Respectfully submitted,

Brisa Roman
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>)



Arizona State Board of Dispensing Opticians

Presenter: Dale Chapman

Date: January 13, 2022



Board met its statutory objective and purpose in several areas



- Followed complaint-handling policies and procedures
- Generally resolved complaints in a timely manner
- Timely issued licenses we reviewed
- Generally ensured applicants met most requirements

Lawful presence documentation

- Did not ensure 8 dispensing optician applicants we reviewed submitted required lawful presence documentation
- Developed new policy to address this issue



Written notices for application deficiencies



- Did not send written notices of application deficiencies as required by rule
- Without written notices, applicants could contest Board licensing decisions

Some practices did not align with rule and statute



- Information requested on applications
- Complaint-investigation process

Civil penalty remittances



- Board's statutes do not require it to remit 100 percent of civil penalties to State General Fund, although it did so in practice
- Most Arizona health regulatory boards have statutes that require this

Key recommendations



- Continue to ensure applicants submit required lawful presence documentation
- Provide written notice of application deficiencies
- Align its practices with rule and statutory requirements and/or revise its rules and statutes
- Propose legislation requiring it to remit 100 percent of civil penalties to State General Fund

Board response



- Implemented or was addressing all but 1 recommendation
- Our next follow-up review will begin in late spring 2022



Arizona State Board of Dispensing Opticians

Presenter: Dale Chapman

Date: January 13, 2022

