

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 Pharmacy

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 Pharmacy 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 Pharmacy
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 Pharmacy



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 Pharmacy (Board) to the Senate Health and Human Services and House of Representatives Health and Human Services Committees of Reference for review.

The mission of the Board is to protect the health, safety and welfare of Arizona citizens by regulating the practice of pharmacy and the manufacturing, distribution, sale and storage of prescription medications and devices and non-prescription medications. Board responsibilities include: 1) issuing licenses to pharmacists, pharmacy interns and pharmacy technicians; 2) issuing permits to pharmacies, manufacturers, wholesalers, distributors and third party logistic providers; 3) conducting compliance inspections of permitted facilities; 4) investigating and adjudicating complaints against licensees and permit holders; 5) providing information about licensed individuals and permitted facilities to the public; and 6) operating and monitoring the Controlled Substance Prescription Monitoring Program (A.R.S. §§ [32-1904](#), [32-1922](#), [32-1923](#), [32-1923.01](#), [32-1940](#), [32-1991](#) and [36-2602](#)).

The Board is composed of nine members appointed by the Governor for five-year terms as follows: 1) six pharmacists, including at least one pharmacist employed by a hospital permittee and one pharmacist engaged in day-to-day practice of pharmacy in a permitted community pharmacy; 2) one pharmacy technician; and 3) two public members (A.R.S. §§ [32-1902](#) and [32-1904](#)).

The Board terminates on July 1, 2022, unless legislation is enacted for its continuation ([A.R.S. § 41-3022.16](#)).

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 four years until July 1, 2026.

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/videoplayer/?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

01/05/2022
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 Pharmacy

Presenter: Tanner Weigel

Date: January 13, 2022



Board regulates practice of pharmacy in Arizona



- Issuing licenses and permits
- Inspecting pharmacies and other permitted facilities
- Investigating and adjudicating complaints
- Providing information to the public

Board responsible for Controlled Substances Prescription Monitoring Program



- Monitoring program database tracks the prescribing, dispensing, and use of certain controlled substances
- Pharmacists, pharmacies, and medical professionals must register for and use the database

Problem identified



Board did not ensure pharmacists registered with and used database as required

- Approximately 5,000 of 8,000 licensed pharmacists were registered with database
- Board had not assessed if additional pharmacists should be registered

Problem identified



Board did not ensure other required users registered with and used database

- Approximately 4,300 of 18,800 medical professionals who prescribed controlled substances were not registered with and using database
- Board had not notified licensing boards responsible for those medical professionals

Why this matters



According to U.S. DEA, drug monitoring programs can help:

- Support medical use of controlled substances
- Identify, deter, or prevent drug abuse
- Facilitate identification and treatment of persons addicted to prescription drugs

Recommendations



- Identify required users who are not registered with or using the database
- Take actions to ensure its licensees register with and use database
- Provide information to other professional licensing boards to help ensure their licensees register with and use database

Problems identified



Board did not:

- Verify validity of fingerprint clearance cards
- Consistently investigate complaints
- Ensure licensees met continuing education requirements
- Meet inspection time frames for permitted facilities

Why this matters



Deficiencies in Board's regulatory oversight could put the public's health and safety at risk

- Quality of drugs compounded at pharmacies not verified by the FDA
- Board responsible for confirming validity of applicants' fingerprint clearance cards

Recommendation



Develop and implement processes for ensuring staff fulfill regulatory responsibilities

Recommendation



Work with Legislature to require licensees to maintain a valid fingerprint clearance card at renewal

Problem identified



- The Board's primary revenue source is its licensing and permit fees
- Board has not based its license and permit fees on the cost of performing its regulatory processes

Why this matters



Board's fiscal year 2019 Pharmacy Fund balance was more than \$8 million, but its yearly expenditures were less than \$3 million

Recommendation



Conduct a review of license and permit fees and adjust where necessary

Other recommendations



- Ensure pharmacy technicians meet training requirements
- Protect Board's cash receipts
- Improve compliance with State's conflict-of-interest and open meeting law requirements
- More timely investigate complaints
- Provide accurate information to the public



Arizona State Board of Pharmacy

Presenter: Tanner Weigel

Date: January 13, 2022

