

ARIZONA STATE SENATE

RESEARCH STAFF



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TO: JOINT LEGISLATIVE AUDIT COMMITTEE
Senator Rick Murphy, Co-Chair
Representative Carl Seel, Co-Chair

DATE: November 30, 2012

SUBJECT: Sunset Review of the Arizona Board of Behavioral Health Examiners

Attached is the final report of the sunset review of the Arizona Board of Behavioral Health Examiners, which was conducted by the Senate Healthcare and Medical Liability Reform and the House of Representatives Employment and Regulatory Affairs Committee of Reference.

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

Governor of the State of Arizona
The Honorable Jan Brewer

President of the Senate
Senator Steve Pierce

Speaker of the House of Representatives
Representative Andrew Tobin

Senate Members
Senator Nancy Barto, Co-Chair
Senator Paula Aboud
Senator Linda Lopez
Senator Rick Murphy
Senator John Nelson

House Members
Representative Bob Robson, Co-Chair
Representative Sally Gonzales
Representative Justin Olson
Representative Lynne Pancrazi
Representative Kimberly Yee

Arizona Board of Behavioral Health Examiners
Office of the Auditor General
Arizona State Library, Archives and Public Records

Senate Resource Center
Senate Republican Staff
Senate Democratic Staff
Senate Research Staff

Office of the Chief Clerk
House Republican Staff
House Democratic Staff
House Research Staff

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**Senate Healthcare and Medical Liability Reform and
House of Representatives Employment and Regulatory Affairs
Committee of Reference Report**

ARIZONA BOARD OF BEHAVIORAL HEALTH EXAMINERS

Background

Pursuant to A.R.S. § 41-2953, the Joint Legislative Audit Committee assigned the sunset review of the Arizona Board of Behavioral Health Examiners (Board) to the Senate Healthcare and Medical Liability Reform and House of Representatives Employment and Regulatory Affairs Committee of Reference (Committee of Reference). In addition to the Board's response to statutorily prescribed sunset factors, the Office of the Auditor General (OAG) conducted a performance audit of the Board (report no. 12-03).

Laws 1988, Chapter 313 originally established the Board to provide voluntary certification to professionals in three discipline areas including counseling, marriage and family therapy, and social work. Laws 1989, Chapter 296 added substance abuse counseling as a fourth discipline and Laws 2003, Chapter 65 converted the voluntary process of certification into mandatory licensure for applicable professionals.

The Board consists of eight members, including one professional from each credentialing committee and four public members. Each discipline has a credentialing committee (committee), which is comprised of four licensees and one public member. All committee and Board members are appointed by the Governor for three-year terms. The committees enforce Board laws, rules and orders, conduct investigations and hearings, and make recommendations to the Board on investigation outcomes and licensure. The Board enforces laws and compliance standards, issues licenses, conducts investigations and disciplinary actions, and maintains records on each licensee

In 2007, the Board participated in the sunset review process. During this process, the Committee of Reference considered concerns, including: 1) the backlog and need to triage complaints in order of seriousness; 2) the intention of the Board to increase licensing fees to cover expenses; and 3) a myriad of issues potential licensees experience while attempting to obtain licensure. Based on the information reviewed during the 2007 process, the Committee of Reference recommended continuing the Board for five years and for an OAG performance audit to occur.

Currently, the Board licenses over 8600 individuals, receives on average 825 new license applications and 133 new complaints each year. According to the OAG, in FY 2012 the Board received approximately \$1.7 million in revenues and expended approximately \$1.5 million, with nearly 70 percent of the expenditures attributed to personnel-related costs. For FY 2013, the Board was appropriated 17 FTE positions, of which four were vacant as of the November 2012 sunset hearing. The Board terminates July 1, 2013, unless continued by the Legislature (A.R.S. § 41-3013.11).

Committee of Reference Sunset Review Procedures

The Committee of Reference held one public meeting on November 13, 2012 to review the OAG performance audit, consider the Board's responses to the sunset factors and receive public testimony.

Committee Recommendations

The Committee of Reference recommended that the Legislature continue the Arizona Board of Behavioral Health Examiners for four years with modifications to be made through legislation.

Attachments

1. Meeting Notice
2. Minutes of Committee of Reference Meeting with Applicable Attachments
3. List of Individuals who Registered their Position on Presentations
4. Board Response to the Sunset Factors

Attachment 1

Interim agendas can be obtained via the Internet at <http://www.azleg.state.az.us/InterimCommittees.asp>

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE
OPEN TO THE PUBLIC

SENATE HEALTHCARE AND MEDICAL LIABILITY REFORM AND HOUSE EMPLOYMENT AND REGULATORY AFFAIRS COMMITTEE OF REFERENCE FOR THE SUNSET REVIEWS OF:

ARIZONA BOARD OF BEHAVIORAL HEALTH EXAMINERS

ARIZONA BOARD OF MASSAGE THERAPY

Date: Tuesday, November 13, 2012

Time: 8:00 A.M.

Place: SHR 109

AGENDA

- 1. Call to Order
- 2. Opening Remarks
- 3. Sunset Audit of the Arizona State Board of Massage Therapy
 - Presentation by Legislative Staff
 - Response by the Board
 - Public Testimony
 - Discussion and Recommendations by the Committee of Reference
- 4. Sunset Audit of the Arizona Board of Behavioral Health Examiners
 - Presentation by Auditor General
 - Response by the Board
 - Public Testimony
 - Discussion and Recommendations by the Committee of Reference
- 5. Adjourn

Members:

Senator Nancy Barto, Co-Chair
 Senator Paula Aboud
 Senator Linda Lopez
 Senator Rick Murphy
 Senator John Nelson

Representative Bob Robson, Co-Chair
 Representative Sally Gonzales
 Representative Justin Olson
 Representative Lynne Pancrazi
 Representative Kimberly Yee

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For questions regarding this agenda, please contact Senate Research Department. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602) 926-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

Attachment 2

ARIZONA STATE LEGISLATURE

**SENATE HEALTHCARE AND MEDICAL LIABILITY REFORM AND HOUSE
EMPLOYMENT AND REGULATORY AFFAIRS COMMITTEE OF REFERENCE FOR
THE SUNSET REVIEWS OF:**

ARIZONA BOARD OF MASSAGE THERAPY

ARIZONA BOARD OF BEHAVIORAL HEALTH EXAMINERS

**Minutes of the Meeting
Tuesday November 13, 2012
8:00 a.m., Senate Hearing Room 109**

Members Present:

Senator Nancy Barto, Co-Chair
Senator Paula Aboud
Senator Linda Lopez
Senator Rick Murphy

Representative Sally Gonzales
Representative Justin Olson
Representative Lynne Pancrazi
Representative Kimberly Yee

Members Absent:

Senator John Nelson

Representative Bob Robson, Co-Chair

Staff:

Marianne Yamnik, Senate Research Analyst
Kody Kelleher, Senate Assistant Research Analyst
Ingrid Garvey, House Research Analyst
Joe DeMenna, House Assistant Research Analyst

Co-Chairman Barto called the meeting to order at 8:08 a.m. and attendance was noted.

Opening Remarks

Senator Barto thanked Marianne Yamnik, Senate Research Analyst and Ingrid Garvey, House Research Analyst, for their work on organizing the meeting.

PRESENTATIONS

Sunset Audit of the Arizona State Board of Massage Therapy

Marianne Yamnik, Senate Research Analyst, explained the background and the make up of the Massage Therapy Board.

Kathleen Phillips, Deputy Director, Arizona State Board of Massage Therapy, distributed letters of recommendation in continuing the board from Jay Lee, Homeland Security Investigations, Office of the Assistant Special Agent in Charge (Attachment A) and a letter from Jason A. McClimans, Chandler Police Department (Attachment B). Ms. Phillips gave an overview of the recommended statutory changes and answered questions posed by the Committee.

Public Testimony

Gregory Harris, Lewis and Roca, Arizona Chapter, American Massage Therapy Association, testified in support of the continuation of the board.

Tee Wills, Arizona Chapter, American Massage Therapy Association, testified in support of the continuation of the board and answered questions posed by the Committee.

Judy Stahl, Licensed Massage Therapist, testified in support of the continuation of the board and answered questions posed by the Committee.

Recommendations by the Committee of Reference

Representative Yee moved that the Committee of Reference make the recommendation to continue the Arizona State Board of Massage Therapy for ten years. The motion CARRIED with a voice vote.

Sunset Audit of the Arizona Board of Behavioral Health Examiners

Jeremy Weber, Office of the Auditor General, distributed a handout entitled "Arizona Board of Behavioral Health Examiners Performance Audit and Sunset Review" (Attachment C) and gave a powerpoint presentation.

Public Testimony

Emily Jenkins, President/CEO, Arizona Council of Human Services Providers, testified regarding member's complaints regarding the process. Ms. Jenkins answered questions posed by the Committee.

Jennifer Walker, Licensed Professional Counselor, Arizona Counselors Association, discussed her personal experience with licensure related to reciprocity. Ms. Walker answered questions posed by the Committee.

Patricia Sneed, Potential Licensee, Licensed Independent Substance Abuse Counselor, discussed the frustrations in applying for her independent licensure relating to education requirements. Ms. Sneed answered questions posed by the Committee.

Dr. Miles Overholt, representing himself, testified on reciprocity. Mr. Overholt was denied reciprocity. Mr. Overholt answered questions posed by the Committee.

Rory Hays, Arizona Council of Human Services Providers, distributed a handout entitled "Summary of Proposed Statutory Changes" (Attachment D) and gave an overview of the proposed statutory changes. Ms. Hays answered questions posed by the Committee.

Del Worley, President, Arizona Association of Alcohol and Drug Abuse Counselors, testified in support of the Board as currently structured and answered questions posed by the Committee.

Richard Poppy, Executive Director, Therapeutic Alliance of Arizona, supported the sunset review. Mr. Poppy stated there are structural problems. Mr. Poppy answered questions posed by the Committee.

Laura Waterman, Behavioral Health Consulting PLLC, discussed exploring the issues of reciprocity, curriculum and education. Ms. Waterman answered questions posed by the Committee.

Josefina Ahumada, National Association of Social Workers, testified in support of some statutory changes. Ms. Ahumada would like to bring more recommendations to the Board.

Gordon Gray II, Arizona Counselors Association Governing Board Member, spoke on issues with licensure. Mr. Gray testified in support of the statutory changes. Mr. Gray answered questions posed by the Committee.

Doc Davis, Arizona Board of Behavioral Health Examiners Credentialing Committee, testified in support of the board and answered questions posed by the Committee.

Karim Moabi, representing himself, testified to the issue of reciprocity. Mr. Moabi supported the proposed statutory changes. Mr. Moabi answered questions from the Committee.

Jim Roth, Arizona Association of Alcohol and Drug Abuse Counselors, made a statement regarding the reconstruction recommendation.

Response by the Board

Kirk Bowden, Chair, Arizona Board of Behavioral Health Examiners, testified that changes may be needed. Mr. Bowden answered questions posed by the Committee.

Debra Rinaudo, Executive Director, Arizona Board of Behavioral Health Examiners, addressed issues and answered questions posed by the Committee.

Recommendations by the Committee of Reference

Representative Yee moved that the Committee of Reference make the recommendation to continue the Arizona Board of Behavioral Health Examiners for four years with modifications to be made through legislation. The motion CARRIED with a voice vote.

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

There being no further business, the meeting was adjourned at 11:10 a.m.

Respectfully submitted,



Toy Brown
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 Board of Behavioral Health Examiners

Performance Audit and Sunset Review

Report No. 12-03
Issued August 2012



Presenter: Jeremy Weber
Date: November 13, 2012

Madame Chairman, Members of the Committee:

My name is Jeremy Weber, and I'm with the Auditor General's Office. Today I'll be presenting information from our performance audit and sunset review of the Arizona Board of Behavioral Health Examiners. [\[click\]](#)

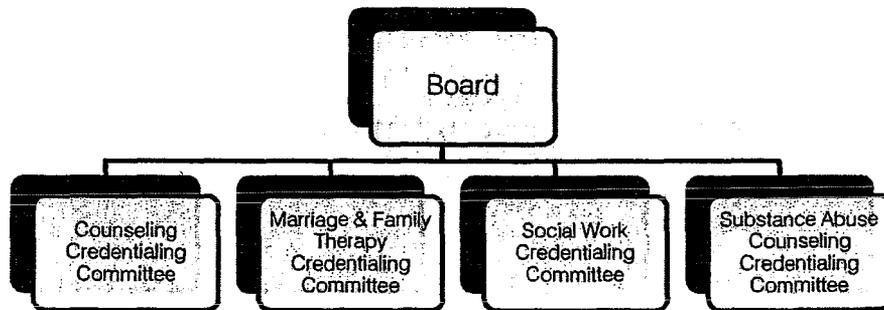
Board regulates behavioral health professionals

Profession	Number of Active Licenses
Counseling	3,167
Marriage and Family Therapy	445
Social Work	3,405
Substance Abuse Counseling	<u>1,622</u>
Total	8,639

Data as of May 2012.

The Board regulates behavioral health professionals practicing psychotherapy in the fields of counseling, marriage and family therapy, social work, and substance abuse counseling. As of May 2012, the Board had over 8,600 active licenses across the four professions. The Board regulates these professions by licensing qualified applicants, investigating and resolving complaints, and taking nondisciplinary or disciplinary action as appropriate.[\[click\]](#)

Credentialing committees



Board appropriated 17 FTE positions for fiscal year 2012

The Board consists of 8 members, including one professional member from each of the regulated professions and four public members.

The Board is assisted by four credentialing committees, one for each of the regulated professions. These committees are responsible for reviewing license applications and complaint investigations and making recommendations for licensure and complaint resolution to the Board. Each committee consists of four professionals, including the respective board professional member, and one public member.[\[click\]](#)

The Board was appropriated 17 full-time equivalent staff positions for fiscal year 2012, of which 4 positions were vacant as of June 2012.[\[click\]](#)

Finding 1

Board should improve
complaint resolution timeliness

Our report had one finding in which we reported that the Board should improve its complaint resolution timeliness.[\[click\]](#)

Complaint resolution

- ◉ Board responsible for investigating complaints and taking action as appropriate

 - ◉ Two types of complaints
 - Public complaints
 - Committee-opened complaints

 - ◉ Board relies on staff investigations and committee recommendations
-

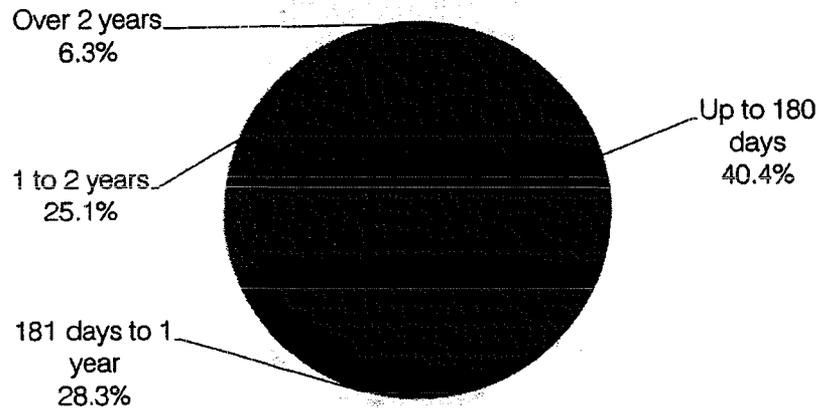
The Board is responsible for investigating complaints against licensed behavioral health professionals or applicants and taking nondisciplinary or disciplinary action as appropriate.**[click]**

The Board investigates two types of complaints: (1) complaints received from the public and (2) complaints opened by the Board's credentialing committees, who may open complaints to determine whether licensure applicants or licensees renewing their license have committed unprofessional conduct, such as failing to disclose a criminal arrest on the application form.**[click]**

The Board relies on staff investigations and committee recommendations in deciding whether to dismiss complaints or take nondisciplinary or disciplinary action.**[click]**

Complaint resolution timeliness

223 Total Complaints*



*Consists of all complaints closed in calendar years 2010 and 2011

We found that the majority of the Board's complaints were not resolved in a timely manner. Our Office has determined that Arizona health regulatory boards should resolve complaints within 180 days. However, approximately 60 percent of the complaints closed in calendar years 2010 and 2011 took longer than 180 days to resolve, and some took much longer. The median time it took the Board to resolve complaints was 248 days.[\[click\]](#)

Complaint resolution timeliness

- ◎ Complaints taking more than 180 days to resolve included some high-priority cases
 - Example: Board took 9 months to revoke a counselor's license for inappropriate activities with a 16-year-old client.
-

Complaints taking more than 180 days to resolve included some complaints that the Board had designated as high-priority cases. For example, it took the Board 9 months to revoke a counselor's license for inappropriate conduct with a 16-year-old client whom he had been providing at-home therapy. The inappropriate conduct included staying at the client's house very late on several occasions, giving the client a massage, and buying clothes for the client. It took the Board four-and-a-half months to begin substantial investigative work on this case and another four-and-a-half months before the licensee signed a consent agreement revoking the license. [\[click\]](#)

Contributing factors

1. Investigation of public complaints delayed
 - Median delay of nearly 6 months for complaints reviewed
 - Delay contributing to backlog
 2. Complaints opened that did not need investigation
 3. Duplicate review of complaint dismissals
-

We identified three factors that contributed to untimely complaint resolution.[\[click\]](#)
First, investigation of public complaints was delayed, which board officials attributed in part to not enough investigative staff. Staff took a median time of nearly 6 months to begin substantial investigative work on 21 public complaints we reviewed. This delay has also contributed to a growing number of open cases.[\[click\]](#)

Second, the Board was opening cases that could have been dismissed without investigation, including allegations that did not constitute violations of board statutes or rules.[\[click\]](#)

Third, dismissed complaints are first reviewed by a credentialing committee and then forwarded to the Board for dismissal, which adds 30 days or more to the complaint-resolution process. However, credentialing committees have statutory authority to dismiss complaints without forwarding them to the Board.[\[click\]](#)

Other issues

- ⦿ Board did not adequately prioritize complaints or monitor high-priority complaints
 - ⦿ Complaint data sometimes understated time to resolve complaints
-

We also found that the Board lacked an adequate approach to prioritize complaints based on risk to the public, and did not monitor high-priority complaints to ensure they were resolved in a timely manner.[\[click\]](#)

In addition, based on our review of 30 complaint files, we found that board data understated the time it took to resolve some of these complaints.[\[click\]](#)

Board actions

- ◉ Developed policies and procedures for screening out complaints that do not need investigation
 - ◉ Developed a more risk-based approach to prioritize complaints
 - ◉ Revised procedures for monitoring high-priority complaints
 - ◉ Revised procedures to help ensure timeliness data is accurate
-

During the audit, the Board took several actions to address these issues. These actions included **[click]** (1) developing policies and procedures for screening out complaints that do not need investigation **[click]**; (2) developing a more risk-based approach for prioritizing complaints **[click]**; (3) revising procedures for monitoring high-priority complaints **[click]**; and (4) revising procedures to help ensure that complaint data accurately reflects the time it takes to resolve complaints. **[click]**

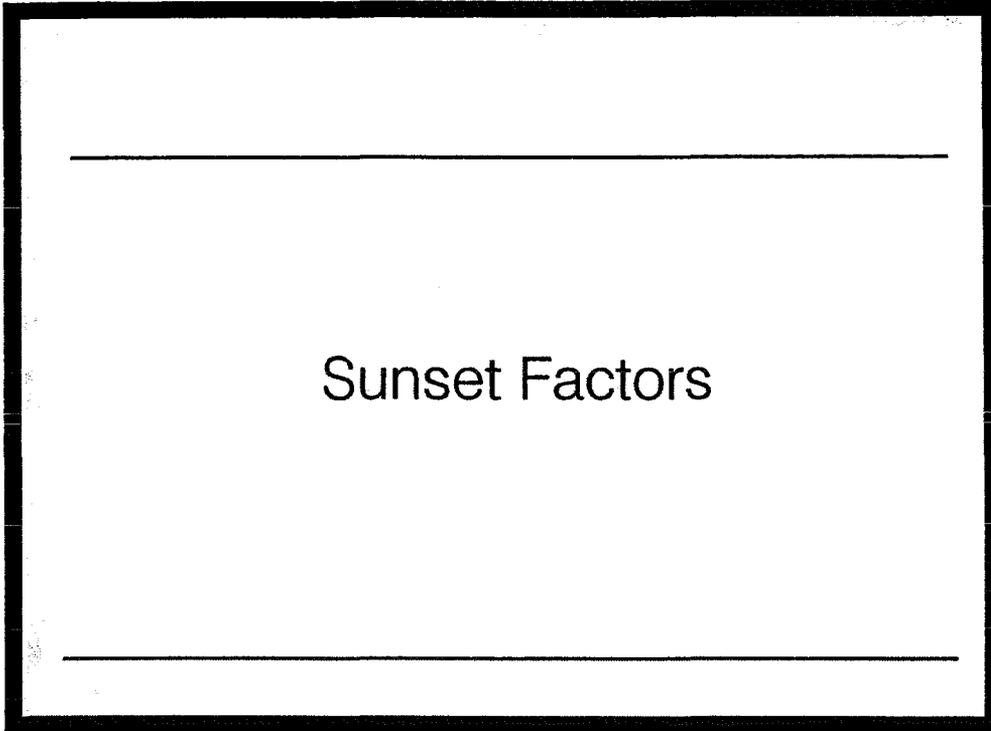
Recommendations

- ◉ Continue to implement board actions
 - ◉ Allow credentialing committees to dismiss complaints
 - ◉ Analyze investigative staffing needs
-

We recommended that the Board continue implementing these actions and further revise procedures, if necessary, to ensure their intended effect.[\[click\]](#)

We also recommended that the Board develop and implement policies and procedures allowing its credentialing committees to dismiss complaints.[\[click\]](#)

Finally, we recommended that the Board analyze its investigative staffing needs by continuing to assess the efficiency of its investigative process, determining its workload, and then determining its staffing needs.[\[click\]](#)



Our sunset factor analysis included an additional recommendation regarding various stakeholder concerns.[\[click\]](#)

Stakeholder concerns

- ◉ Stakeholders expressed concerns regarding board processes and requirements
- ◉ Board began monthly stakeholder meetings in March 2012

Recommendation: Continue meeting with stakeholders to address concerns.

During the audit, several stakeholders expressed concerns to us and the Board regarding board processes and requirements. For example, some stakeholders reported that the Board did not provide a user-friendly licensure process and that it was difficult to meet some requirements for obtaining a reciprocal license or a license to practice independently.[\[click\]](#)

In March 2012, the Board began meeting monthly with stakeholders to discuss their concerns, and took other steps during the audit to help resolve them. Several stakeholders reported that some progress had been made in addressing their concerns but indicated that additional progress was needed.[\[click\]](#)

We recommended that the Board continue meeting with stakeholders to discuss their concerns and take actions, as appropriate, to address them.[\[click\]](#)

Board response

Board agreed with finding and plans to implement recommendations

As outlined in its response, the Board agreed with our finding and plans to implement all of the recommendations. We will assess the Board's implementation of these recommendations as part of our follow-up process. Our follow-up work occurs at 6 and 18 months after the audit's release. [\[click\]](#)

Arizona Board of Behavioral Health Examiners

Performance Audit and Sunset Review

Report No. 12-03
Issued August 2012



Presenter: Jeremy Weber
Date: November 13, 2012

Madame Chairman, members of the Committee, that concludes my presentation and I'm available to answer questions.

SUNSET REVIEW: BOARD OF BEHAVIORAL HEALTH EXAMINERS

SUMMARY OF PROPOSED STATUTORY CHANGES

Through a stakeholder process sponsored by the Board and through a separate process of meetings of organization representatives, educators and other interested individuals, recommendations have been developed to address concerns about the Board of Behavioral Health Examiners. Many of these statutory changes will mandate the adoption of new rules or the amendment of existing rules. The effective date of some statutes should be timed to allow for enactment of these rules and there should be authorization of financial resources for the Board's performance of the reforms.

LICENSING

As the expansion of behavioral health services through public programs and private insurance approaches, the BBHE plays an important role as the gatekeeper of some of the professions necessary to provide those services. The present statutes and rules create numerous problems in the licensing of professionals including ambiguous standards, inconsistent decisions, delays in granting applications and other inappropriate barriers to licensing. The Coalition proposes the following statutory changes to address these issues:

Reciprocity

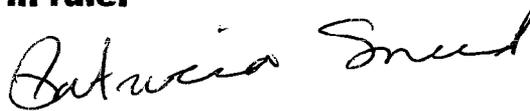
Jeannette Walker

The existing statute should be amended to reflect the endorsement process, allow endorsement after three years of practice in one or more states and remove the requirement of supervised practice after receipt of an independent license through endorsement.

Work Supervision

Independent practitioners in Social Work, Counseling, Marriage and Family Therapy and Substance Abuse Counseling must, in addition to meeting educational and testing requirements, demonstrate a period of supervised work experience both in the direct treatment of clients and the provision of other services and preparation. The proposed statutory provisions would clarify the number of hours required and the types of activities which would be acceptable and provide for the maintenance of information for determining the qualification of individuals to be used as supervisors. It would also require the Board to set out all requirements in rule.

Curriculum and Education



The educational requirements for applicants for counseling licenses who have attended programs without national certification have been particularly problematic. The statutory changes would provide an opportunity for educational institutions to seek prior approval for their curriculum, clarify core content courses, allow credit for programs operating on quarters rather than semesters and allow for consideration of subjects embedded in coursework.

Restructuring Licensing Consideration

The current use of Governor appointed Credentialing Committees has often resulted in delays. The membership of the Committees, including a public member, is not always qualified to review curriculum. The proposed statutory amendments would create and utilize Academic Review Committees appointed by the Board and include academic specialists to provide recommendations to the Board and the applicants about meeting educational requirements. These Review Committees would be utilized only when there are questions concerning an application.

Other Licensing Provisions

The Board has refused to allow applicants to withdraw applications for licensure even in cases of medical or family emergencies, thus resulting in a license denial on the applicant's record. This has been

addressed. Continuing education requirements would continue but the standards for such education must be established in rule.

DISCIPLINE

The proposed statutory amendments are designed to improve the delays in processing complaints identified by the Auditor General's Office, generate more consistent disciplinary findings and address concerns about fairness.

Restructure

The present disciplinary structure requires consideration by Credentialing Committees for each profession. This results in delays and potentially inconsistent findings and penalties for similar actions. The proposed statutory changes would adopt the model utilized by a number of other healthcare licensing boards. The Board membership would be expanded to include more professional members and complaints involving professional issues such as scope of practice and standard of care would be reviewed by a professional who would offer recommendations to the Board.

Impairment Program

In spite of commitments made several years ago the Board has never adopted a program for impaired professionals as utilized by other healthcare professional boards. The proposed statutory changes would require the establishment of such a program and its expansion to include behavioral health issues as well as substance abuse. The Coalition also supports necessary appropriations to allow the Board to implement this program.

Addressing Issues of Fairness

The proposed statutory changes would specifically address issues related to fairness several of which have been adopted by other healthcare professional boards: no anonymous complaints, clarification of the burden of proof, no complaints older than 7 years, a reasonable basis for ordering tests and access to investigatory files.

In addition, training would be required of investigators and a board member would within 3 months of appointment be required to be trained in judicial processes and temperament and responsibilities for administrative management.

Public Membership

The present statutory criteria for public members are significantly more onerous than that for other healthcare professional boards. The statutory proposals would reflect those found for other boards.

BOARD CONTINUATION AND RULE MAKING

The Board should be continued until July, 2017 to provide for Legislative review after completion of the restructuring and rule adoption with the Auditor General including in its continuing audit a review of the compliance of adopted rules with statutory authority and a report to the Joint Legislative Audit Committee.

Rules required under the new statutes should be the subject of a modified rule making process to include stakeholder notification, preliminary stakeholder meetings, at least two public meetings and a the publication of an impact study.

Sue Smith

From: Kyle Hommes [khommes@turnanewleaf.org]
Sent: Monday, October 29, 2012 11:53 AM
To: Nancy Barto
Cc: ejenkins@azcouncil.com
Subject: Statement for the AZBBHE sunset hearing

To Whom it May Concern:

My name is Kyle Hommes, and I am writing this e-mail in order to inform the legislators on the Committee responsible for the approval of the Arizona Board of Behavioral Health Examiners of my dealings with this board. Below is my personal information and the story of my dealings with the AZBBHE:

Name – Kyle Hommes

Status – Originally an LPC applicant, but now being considered for an LAC because my supervised work hours were disregarded.

Contact Information:

Kyle Hommes

3717 W. Sierra St.

Phoenix, AZ 85029

Phone: 602-791-9853

E-mail: khommes@turnanewleaf.org

Here is my Story:

I wanted to tell you about my experience with the Arizona Board of Behavioral Health Examiners. My wife and I moved to the Phoenix area in October of last year. Prior to moving to Phoenix we lived in Denver, CO. Just before we moved I received my licensed professional counselor certification (LPC) in Colorado (a process that took 1 month). I spent a lot of time prior to moving looking through the statutes for Arizona because I knew friends I went to school with that had difficulty getting licensed in other states. After many hours of reading through the statutes, it seemed that I met the expectations for a Licensed Professional Counselor certification in the state of Arizona. I had attended a CACREP accredited 60 credit hour counseling program (Denver Seminary) and had almost 4000 hours of supervised work experience and over 150 hours of clinical supervision. Therefore, I was expecting to receive my LPC from the state of Arizona. I applied at the beginning of October 2011, and did not hear anything from them until the end of January 2012 at which point they told me that they would be reviewing my application in February. After they reviewed my application, I was told that because my supervisor, who is licensed in the state of Colorado and met all requirements for supervision in the state of Colorado, did not take the supervision courses required by the state of Arizona, so my supervised work experience would not be counted. I also was informed that because my program did not consist of 60 credit hours of counseling courses and that my master's degree would not count as it is, and I would have to take an additional 23 credit hours of counseling courses. I did, however, take 60 credit hours for my masters program, but since it was a Christian counseling program some of the coursework centered around theological and biblical studies. The frustrating thing for me is that there is no part of the statutes that states all of the credit hours in a master's degree need to be in counseling if the program is accredited. So, I found out (six months after applying, and 3 days after I put an offer on a house) that the board would be denying my Associates level license. I appealed the decision, and was given an appeal date in August of 2012 (almost a year after sending in my application). At this meeting, I provided a

Per Sen. Barto - keep with minutes of Senate Healthcare & Medical Liability Reform & Home Employment and

11/9/2012

letter from my school stating that my master's degree was 60 credit hours, it was accredited by CACREP, and I had to take all of those 60 credit hours in order to receive my degree. The board decided to deny my Associate license request again. They stated that they did not know whether CACREP accredited the counseling program portion of my degree or the degree itself and stated that I needed to contact CACREP in order to receive documentation from them regarding what their accreditation covers in regards to my degree. This seemed odd to me, because CACREP accreditation is written into the Arizona statutes, so one would think that the board would possess a working understanding of CACREP's processes as they part of Arizona law. So, I have appealed that denial as well, and received documentation from CACREP regarding their accreditation of my degree. CACREP stated that my degree is a 60 credit hour accredited degree, but now I have to wait for my next appeal hearing, which is not until February 22nd, 2013 even though I sent in the required documentation from CACREP in September 2012. All told that will put me at almost 18 months before I get word from the counseling subcommittee about my license, and when I do hear from them, I will still have to wait for the Board's approval. This means that my overall license process in Arizona will take over one and a half years. During that time period, I was not able to be a supervisor because of my lack of licensure in the state, and was paid less as well because I was not licensed. This is very frustrating because I have been licensed in another state and dealt with this process before. In Colorado, this process was 18 times faster (1 month in Colorado compared to 18 months in Arizona) and a whole lot easier and less complicated. I would not have moved to Arizona had I known the scrutiny they were going to put my application through. And, I had read through the statutes. I felt like I was informed when I applied, but there are expectations that the board is utilizing that are not documented. Finally, my wife and I graduated from the same program, so she will face the same challenges in order to get licensed in Arizona when we already have licenses in Colorado. If we don't get this solved, we will most likely move back to Colorado in part because of this issue at some point.

Thank you for your time and consideration of my troubles with the board.

Sincerely,

Kyle Hommes, MA

Therapeutic Coordinator

Intensive Residential Program

P: 480-733-3075 x2830 (IRP)

C: 602-791-9853

F: 480-835-5457 (IRP), 480-733-3076 (Open Arms)

khommes@TurnaNewLeaf.org

www.TurnaNewLeaf.org

Kyle Hommes, MA

Therapeutic Coordinator

Intensive Residential Program

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C: 602-791-9853

F: 480-835-5457 (IRP) 480-733-3076 (Open Arms)

khommes@TurnaNewLeaf.org

www.TurnaNewLeaf.org

a new leaf
turning a new leaf

11/9/2012

Sue Smith

From: Moabi, Karim [KMoabi@cc-az.org]
Sent: Friday, November 09, 2012 12:22 PM
To: Nancy Barto
Subject: With thanks to Sue

Dear Senator Barto:

I am writing you to respectfully voice my complaints about the Arizona Board of Behavioral Examiners (AZBBHE) and in particular the Executive Director of the Board, Ms. Debra Rinaudo. Despite fear of retribution from the board, as I currently have a new application in process, I feel obligated to bring to you the problems I have encountered with the board in advance of the upcoming hearing. As you will read, these complaints are based on factual evidence, with specific supporting examples.

Having graduated with a Masters Degree in Counseling Psychology from an accredited University in California, I attained a Marriage & Family Therapist (MFT) Intern designation in California, the equivalent of Licensed Associate MFT (LAMFT) here in Arizona. When I applied for this LAMFT license here, the AZBBHE denied my application, with Debra Rinaudo stating that California Degrees are substandard, as California 'does not emphasize family systems' sufficiently to the AZBBHE's liking. At best, Ms. Rinaudo's statement is misleading, at worst, grossly incorrect: The Board of Behavioral Sciences in California to date only confers Marriage & Family Therapy licenses- the whole Behavioral Health field in California is in fact based IN family systems.

But this is just the beginning of the problems I have with Ms. Rinaudo's adjudication of the rules. In my appeal, the board threw out many of my courses because, as Ms. Rinaudo explained, the syllabi did not include the specific reference to therapy from a 'family systems' perspective. The following specific example illuminates the situation further:

During my appeal, my Child Psychotherapy Class was rejected on the basis that the syllabus did not explicitly state the course would be taught from a family systems perspective. One member of the committee, a child Psychiatrist herself, spoke up and stated that as a child psychotherapist, of-course you treat the child as part of a family system: It is a given and would be redundant to say so. But Ms. Rinaudo quickly, and *firmly*, re-directed the problem with the syllabus. The committee member, the child psychiatrist, ceded to Ms. Rinaudo and the course was rejected.

I assert that anyone not recognizing that of-course you treat a child as part of a family system has a very limited understanding of psychology, and specifically, family systems. Ms. Rinaudo speaks of California not emphasizing family systems yet she has an incomplete grasp of the concept herself. I understand Ms. Rinaudo's background is in law, and I agree the board does not have to be headed by a psychologist. But only if the ED was a true administrator, and not, as Ms. Rinaudo appears to act, as the expert on the subject, in effect using her 17 years as ED to over-ride the *actual* expert, who, because Credentialing Committee members serve on a rotating basis, could have only been part of the board for less than three years.

The board denied my application and the board led by Ms. Rinaudo rejected my appeal. There appears to be no oversight for the board, and the Governor, Ms. Rinaudo's only boss

11/9/2012

technically, is busy with other matters. But even putting aside the lack of impartiality in the process, there is a disturbing deliberately closed path to licensure to an applicant from California like me.

With no recourse, I was forced to accept the Board's decision that my Degree was 'deficient' as Ms. Rinaudo stated. I looked to cure the deficiency, but technically I could not, as the board has a rule that an applicant cannot use more than 9 units from outside their Degree towards licensure. When I spoke with Ms. Rinaudo she noted this 9 unit rule was put in place so applicants cannot collate together a patchwork of courses to satisfy requirements, which on one level makes sense but is also patently unfair to those like myself who are clearly not trying to do a patchwork application and would happily attend one university of the board's choosing to cure the deficiency if allowed. When I questioned Ms. Rinaudo about the unfairness of this rule she simply stated that I should get a degree from a school in Arizona.

But you see, I have already been irreparably financially harmed by what I believe are the misguided and inappropriately arbitrary rulings of Ms. Rinaudo. I have a family now and could not afford to go back and pay for another degree.

Please note that upon arriving in Arizona, my supposedly substandard training was such that I was promoted from Intern to a full time staff position as a counselor, only the second intern in the last 7 years at Catholic Charities to be so promoted. Under my Agency's licensure, I worked for over a year on a contract with the State of Arizona and Office of Refugee Resettlement (ORR) to provide counseling for refugees. As one of only two Arabic-speaking counselor-types in Phoenix, I was able to extend the resources of the state and ORR by doing away with the need for an interpreter for the large Iraqi refugee contingent here which I served.

In summary, I believe I am a competent, useful, and eligible applicant to serve the state of Arizona. I believe the AZBBHE and specifically its ED Debra Rinaudo are not acting in the best interests of the people of Arizona. If you would like to speak to me in person, I would be happy to do so. For now, I thank you for taking the time to read this letter.

Sincerely,

Karim Moabi
602-402-6866
12106 N. 52nd Drive,
Glendale AZ, 85304

Karim Moabi
Refugee Adjustment Services
Catholic Charities
1825 W Northern Avenue
602-749-4402
Fax: 602-870-3891
kmoabi@cc-az.org

Here is my Story:

I wanted to tell you about my experience with the Arizona Board of Behavioral Health Examiners. My wife and I moved to the Phoenix area in October of last year. Prior to moving to Phoenix we lived in Denver, CO. Just before we moved I received my licensed professional counselor certification (LPC) in Colorado (a process that took 1 month). I spent a lot of time prior to moving looking through the statutes for Arizona because I knew friends I went to school with that had difficulty getting licensed in other states. After many hours of reading through the statutes, it seemed that I met the expectations for a Licensed Professional Counselor certification in the state of Arizona. I had attended a CACREP accredited 60 credit hour counseling program (Denver Seminary) and had almost 4000 hours of supervised work experience and over 150 hours of clinical supervision. Therefore, I was expecting to receive my LPC from the state of Arizona. I applied at the beginning of October 2011, and did not hear anything from them until the end of January 2012 at which point they told me that they would be reviewing my application in February. After they reviewed my application, I was told that because my supervisor, who is licensed in the state of Colorado and met all requirements for supervision in the state of Colorado, did not take the supervision courses required by the state of Arizona, so my supervised work experience would not be counted. I also was informed that because my program did not consist of 60 credit hours of counseling courses and that my master's degree would not count as it is, and I would have to take an additional 23 credit hours of counseling courses. I did, however, take 60 credit hours for my masters program, but since it was a Christian counseling program some of the coursework centered around theological and biblical studies. The frustrating thing for me is that there is no part of the statutes that states all of the credit hours in a master's degree need to be in counseling if the program is accredited. So, I found out (six months after applying, and 3 days after I put an offer on a house) that the board would be denying my Associates level license. I appealed the decision, and was given an appeal date in August of 2012 (almost a year after sending in my application). At this meeting, I provided a letter from my school stating that my master's degree was 60 credit hours, it was accredited by CACREP, and I had to take all of those 60 credit hours in order to receive my degree. The board decided to deny my Associate license request again. They stated that they did not know whether CACREP accredited the counseling program portion of my degree or the degree itself and stated that I needed to contact CACREP in order to receive documentation from them regarding what their accreditation covers in regards to my degree. This seemed odd to me, because CACREP accreditation is written into the Arizona statutes, so one would think that the board would possess a working understanding of CACREP's processes as they part of Arizona law. So, I have appealed that denial as well, and received documentation from CACREP regarding their accreditation of my degree. CACREP stated that my degree is a 60 credit hour accredited degree, but now I have to wait for my next appeal hearing, which is not until February 22nd, 2013 even though I sent in the required documentation from CACREP in September 2012. All told that will put me at almost 18 months before I get word from the counseling subcommittee about my license, and when I do hear from them, I will still have to wait for the Board's approval. This means that my overall license process in Arizona will take over one and a half years. During that time period, I was not able to be a supervisor

because of my lack of licensure in the state, and was paid less as well because I was not licensed. This is very frustrating because I have been licensed in another state and dealt with this process before. In Colorado, this process was 18 times faster (1 month in Colorado compared to 18 months in Arizona) and a whole lot easier and less complicated. I would not have moved to Arizona had I known the scrutiny they were going to put my application through. And, I had read through the statutes. I felt like I was informed when I applied, but there are expectations that the board is utilizing that are not documented. Finally, my wife and I graduated from the same program, so she will face the same challenges in order to get licensed in Arizona when we already have licenses in Colorado. If we don't get this solved, we will most likely move back to Colorado in part because of this issue at some point.

Thank you for your time and consideration of my troubles with the board.

Sincerely,

Attachment 3

Individuals who Registered their Position on Presentations

Sunset Audit of the Arizona State Board of Massage Therapy

The following individuals testified in support:

Kathleen Phillips, Massage Therapy Board
Gregory Harris, American Massage Therapy Association-Arizona Chapter
Tee Wills, GRC Chair, Arizona Chapter/AMTA
Judy Stahl, LMT, AMTA

All written or typed comments (transcribed as received):

Gregory Harris, American Massage Therapy Association - Arizona Chapter: The Arizona Chapter of the AMTA supports the continuation of the Board of Massage Therapy

Sunset Audit of the Arizona Board of Behavioral Health Examiners

The following individuals testified in support:

Richard Poppy, Executive Director, Therapeutic Alliance of Arizona
Patricia Sneed, Potential Licensee, LISAC
Jennifer Walker, Licensed Professional Counselor, Arizona Counselors Association
Emily Jenkins, President/Ceo, Arizona Council of Human Service Providers
Rory Hays, Arizona Council of Human Service Providers
Gordon Gray II, Arizona Counselors Association Governing Board Member, Arizona Counselors Association
Del Worley, AzAADAC
Laura Waterman, Behavioral Health Consulting PLLC
Josefina Ahumada, Social Worker, National Assoc. of Social Workers
Doc Davis, Member SWCC AZBBHE, AZ BBHE
Karim Moabi, representing self
Jim Roth, Arizona Association of Alcohol and Drug Abuse Counselors
Kirk Bowden, Chair of Arizona Board Health Examiners, AzBBHE
Debra Rinaudo, Executive Director, Arizona Board of Behavioral Health Examiners

The following individuals testified, but neutral:

Jeremy Weber, Performance Audit Manager, Auditor General's Office
Miles Overholt, Dr, representing self

The following individuals were present in support:

Elizabeth Forsyth, Board Member, Arizona Counselors Association, Arizona Counselors Association
Yvonne Rios, marketing, AICA
John Butler, CEO, AICA
Patricia Bonnay, Psychotherapist, Therapeutic Practitioners Alliance of Arizona

The following individuals were present in opposition:

Tara Plese, AZ Assoc. of Community Health Centers, Arizona Association of Community Health Centers

All written or typed comment (transcribed as received):

Patricia Bonnay, Therapeutic Practitioners Alliance of Arizona: Supporting ACHSP in suggested changes to the BBHE.

Kirk Bowden, AzBBHE: I am chair of AzBBHE

John Butler, AICA: None

Doc Davis, AZ BBHE: Support the AZ BBHE for continuation. Speaking for the continuation of the Arizona Board of Behavioral Health Examiners. Practice protection Protection of the public

Elizabeth Forsyth, Arizona Counselors Association: I am for the changes being proposed today for the Board of Behavioral Health regarding reciprocity, curriculum, and supervision.

Emily Jenkins, Arizona Council of Human Service Providers: If recommendations adopted

Miles Overholt, Self: Testifying on reciprocity issues

Tara Plese, Arizona Association of Community Health Centers: There are significant problems with the operations of the Board of Behavioral Health Examiners licensure procedures and the process they use should be reviewed as it is impeding the ability of our health centers to fully staff their behavioral health providers. This is a real problem in light of the efforts to fully integrate physical and behavioral health.

Richard Poppy, Therapeutic alliance of arizona: I am in support of the sunset review

Yvonne Rios, AICA: the Board systematically disriminates against people with behavioral health or substance abuse issues

Patricia Sneed, LISAC: I would like to speak on my negative experiences with the AZBBHE

Jennifer Walker, Arizona Counselors Association: Want changes in the ?AZBBHE

Laura Waterman, PhD, LPC, Behavioral Health Consulting PLLC: I wish to speak regarding the culture of the Board.

Del Worley, MC, AzaADAC: Support the Board of Behavioral Health continuing without restructuring the credentialing committees. Applaud the efforts of the Boasrd and the stakeholder process. In support of the BBHE as currently structured

Karim Moabi: Issue of reciprocity: People who are eligible for licensure/ and are licensed in different states should be eligible here.

Jim Roth: I'm a member of The regulated community. I am Immediate Past President of The Arizona Association of Alcoholism & Drug Abuse Counselors

Attachment 4

**Arizona Board of Behavioral Health Examiners
September 4, 2012**

SUNSET FACTORS RESPONSE

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

The Board of Behavioral Health Examiners (“Board”) was established in 1988 (Laws 1988, Chapter 313), and became effective July 1, 1989. Under the original statutes, the Board provided voluntary certification in the disciplines of professional counseling, marriage and family therapy, social work, and substance abuse counseling. Accordingly, the Board was responsible for protecting the public by ensuring that behavioral health professionals who voluntarily sought certification met minimum standards for education, experience, and examination and by investigating complaints against certified professionals.

In 2003 (Laws 2003, Chapter 65), the Board was converted from a voluntary certification model to mandatory licensure, consistent with virtually all other health related regulatory boards in Arizona. As of July 1, 2004, the Board became responsible for protecting the public by:

- a. Ensuring that social workers, professional counselors, marriage and family therapists and substance abuse counselors engaged in the practice of psychotherapy are licensed by the Board.
- b. Investigating and taking action on complaints against licensees who present a risk of harm to the public.
- c. Investigating and taking action on complaints that non-licensed individuals are engaged in the practice of psychotherapy.

The Board’s objectives are set forth in A.R.S. § 32-3253 and include the following:

- a. Administer and enforce the licensure statute.
- b. Issue licenses to qualified professionals.
- c. Conduct investigations to determine if a licensee or applicant has engaged in unprofessional conduct, is incompetent, or is mentally or physically unable to engage in the practice of behavioral health.
- d. Conduct disciplinary actions.
- e. Ensure that non-licensed persons do not engage in the practice of psychotherapy except as allowed in A.R.S. § 32-3271.
- f. Maintain a public record of all licensed professionals and disciplinary action taken by the Board.

Private enterprises, such as private behavioral health certification entities, exist and offer a wide variety of voluntary certifications to behavioral health professionals who meet standards as determined by each individual entity. These entities cannot meet the same objectives as the Board as they have no authority to:

- a. Require that persons practicing psychotherapy meet any type of educational or competency standards.
- b. Take any type of action against certified persons whose conduct presents a risk of harm to the public other than revoking their certifications.
- c. Take any type of action against dangerous certified or non-certified persons to prevent them from practicing psychotherapy.

Although there are numerous private state and national entities that offer voluntary certifications to qualifying behavioral health professionals, the Board is unaware of any state that relies on such entities as an appropriate mechanism to protect the public.

Although local governmental entities may have the authority to enact laws regulating psychotherapists in a manner similar to the Board's regulatory authority, such regulation would not likely be successful where:

- a. State professional licensure boards are self-funded through fees paid by applicants and licensees.
- b. It is unlikely that there would be sufficient professionals practicing within any type of local jurisdiction to generate sufficient revenue to support the cost of regulation.
- c. It appears unlikely that a local governmental entity would be able or willing to subsidize the cost of regulating behavioral health professionals practicing psychotherapy within the entity's jurisdiction.
- d. An individual would be able to avoid regulation by a local jurisdiction by simply moving out of the regulated jurisdiction and into another jurisdiction with no level of regulation.

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

The Board meets its overall objective to protect the public health and safety by:

- a. Ensuring that those engaged in the practice of psychotherapy in Arizona meet minimum standards of education, experience, and examination.
- b. Processing complaints against licensees and applicants in a fair and expedient manner.
- c. Taking appropriate disciplinary action as needed to ensure safe and competent practice by licensees.

The Board's effectiveness and efficiency in carrying out its mandated duties is demonstrated by the following:

- a. The Board currently regulates 8,639 licenses.
- b. The Board received an average of 825 new licensure applications annually over the last five years.
- c. The percent of application reviews completed within 180 days during that timeframe was 97 percent.
- d. The Board conducts all application reviews fairly and objectively, as evidenced by the fact that the Board has never had any of its application decisions challenged in

Superior Court.

- e. The Board exceeded its application processing timeframe in only 9 cases over the last five years. A.A.C. R4-6-302.
- f. The Board received an average of 3,752 renewal applications annually over the last five years.
- g. The Board's average renewal application processing timeframe during that time was 21 days.
- h. None of the renewal applications processed during that time exceeded the Board's renewal application processing timeframe. A.A.C. R4-6-302.
- i. The Board received an average of 224 requests for written license verifications annually over the last three years.
- j. The average processing time for verifications during that time was 4 days.
- k. The Board received an average of 133 new complaints annually over the last five years.
- l. The Board determined that disciplinary action was warranted in 60 percent of the complaints closed during the last four years.
- m. The Board's average complaint resolution timeframe over the last three years was 347 days.
- n. The Board conducts all complaint reviews fairly and objectively, as evidenced by the fact that Board has never had any of its disciplinary decisions overturned on appeal.
- o. The Board is committed to carrying out its statutory obligations efficiently and effectively. That commitment is evidenced by its average customer satisfaction rating over the last four years of 6.5 (scale 1-8).

08/12 Audit Report Recommendations

- a. On 08/31/12, the Auditor General issued a report (Audit Report) regarding its sunset review and performance audit of the Board.
- b. The only recommendations in the Audit Report were that the Board should improve complaint resolution timeliness and continue meeting with stakeholders to discuss their concerns and take action, as appropriate, to address them.
- c. The Board has already implemented all of the recommended changes to improve complaint resolution timeliness.
- d. The Board remains committed to continuing the stakeholder meetings to facilitate the opportunities for the stakeholders to develop a consensus on contested issues. The stakeholders continue to meet monthly with regard to the remaining issues where consensus has not yet been achieved. The lack of consensus on the remaining issues reflects the differences in professions, employee and employer relationships, competing priorities and implementation costs. Continuing to work with all of its stakeholders to determine if consensus can be reached regarding these outstanding issues remains a priority for the Board.

3. The extent to which the agency, board, or commission serves the entire State rather than specific interests.

The services provided by the Board benefit the public, as evidenced by the following:

- a. From 1989 – 2003, the Board offered voluntary certification to those professionals

who chose to subject themselves to Board regulation by meeting minimum standards in education, experience, and examination and by being subject to the Board's complaint review process.

- b. In 2001, the professional associations representing the four disciplines licensed by the Board formed the Arizona Behavioral Health Professionals Coalition (Coalition) based on the recognition that voluntary certification provided an inadequate level of protection to the public where:
 - Individuals were free to practice psychotherapy in Arizona without meeting certification standards.
 - The Board had no jurisdiction to investigate or take action against uncertified psychotherapists regardless of the risk of harm they presented to the public.
 - Certified professionals disciplined by the Board were free to ignore disciplinary sanctions imposed by the Board while continuing to practice psychotherapy by just letting their certifications expire.
- c. The Coalition, with the support of the Board and all other major stakeholders in Arizona, began efforts to obtain mandatory licensure for psychotherapists in Arizona.
- d. As a result of these efforts, and in recognition of the inadequate level of public protection provided by voluntary certification, the Legislature increased the Board's regulatory authority as of July 1, 2004, to require mandatory licensure for all psychotherapists practicing in Arizona, except as allowed under A.R.S. § 32-3271.
- e. Licensure standards as enforced by the Board benefit the public by:
 - Ensuring that psychotherapists meet minimum standards in education, experience, and examination.
 - Providing a mechanism for an objective and impartial review of complaints against licensees and applicants.
 - Providing a mechanism to require remedial action to correct practice deficiencies by licensees.
 - Providing a mechanism to suspend or revoke the licenses of professionals determined to be unable to practice safely and competently.

The services provided by the Board also benefit the regulated community, as evidenced by the following:

- a. The large majority of entities that provide psychotherapy services require employees to have a Board license.
- b. The large majority of entities that provide reimbursement for psychotherapy services, such as insurance companies, will only pay for services provided by persons holding a Board license.
- c. The Board's licensure application and renewal process provides an efficient mechanism for professionals to obtain and maintain the licenses they need to practice in Arizona.
- d. The Board provides a mechanism for an objective and impartial review of complaints against licensees.

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

The Board has established 11 Articles of rules at A.A.C. R4-6-101 *et seq.* under the exemption to rulemaking provision that was included in Laws of 2003, Chapter 65. Each rule is supported by statutory authority provided to the Board by the legislature. While the Board received an exemption from the formal rulemaking process, as referenced below, the Board proactively obtained and received stakeholder input from the regulated community before adopting rules implementing licensure.

In July 2009, the Board submitted a Five-Year Review Report of all of its rules to the Governor's Regulatory Review Council ("GRRC") for review and approval. The Board's July 2011 Five-Year Review Progress Report was approved by GRRC on 02/02/10.

5. *The extent to which the agency, board, or commission 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.*

Prior to adopting its licensure rules, the Board worked extensively with all of the state behavioral health professional associations. The Board also conducted statewide public hearings to solicit comments from the public. Each comment was considered before the rules were adopted. The Board received no opposition to adoption of its proposed rules. In order to properly advise behavioral health professionals about its statutory and rule changes, in 2004 the Board mailed a newsletter explaining these changes to all licensees immediately after the rules were adopted.

The Board keeps the regulated community and the public apprised of the Board's activities through information on the Board's website at www.azbbhe.us, which is continuously updated to include the following:

- a. Public meeting schedules
- b. Public meeting agendas
- c. Public meeting minutes
- d. A verification tool that provides instant access to information regarding licensees and applicants and all Board Orders and Consent Agreements related to a specific individual
- e. An adverse action tool that provides a comprehensive summary of all disciplinary actions taken by the Board
- f. The Board's statutes and rules
- g. The Board's substantive policy statements
- h. Detailed instructions regarding completion of licensure applications
- i. Information regarding the Board's courtesy clinical supervisor review process
- j. Information regarding clinical supervisors who have completed the courtesy clinical supervisor review process
- k. Information regarding clinical supervision documentation requirements
- l. A sample clinical supervision form

The Board also keeps the regulated community apprised of important issues through the use of newsletters. In an effort to help the regulated community better understand and

comply with the Board's requirements for independent licensure, in November 2011, the Board sent a newsletter to all licensees and licensed agencies in Arizona clarifying the standards and review process for independent level license applications. The Board also keeps the regulated community and other stakeholders apprised of important issues through regular communications with Board staff.

Each of the Board's four credentialing committees conducts one monthly public meeting. During these meetings, the credentialing committee:

- a. Reviews complaint investigations and makes recommendations to the Board
- b. Reviews licensure applications and application denial appeals and makes recommendations to the Board
- c. Conducts other business as needed.

The Board itself also conducts at least one monthly public meeting. During these meetings, the Board:

- a. Reviews and takes action on complaint investigation recommendations by the credentialing committees.
- b. Reviews and takes action on licensure recommendations by the credentialing committees.
- c. Conducts formal interviews and formal hearings.
- d. Conducts other business as needed.

The Board ensures compliance with the open meeting law during all of its public meetings by:

- a. All Board meeting staff members have been trained on open meeting law requirements.
- b. During an orientation session with Board staff after their appointment, all Board and credentialing committee members are provided with a copy of the open meeting law and the open meeting law requirements are reviewed.
- c. The Board's AAG has reviewed and approved the Board's public meeting agenda format.
- d. The Board's AAG is provided with a copy of all of the Board's public meeting agendas in advance of a meeting for review and approval.
- e. The Board's AAG has reviewed and approved the Board's public meeting minutes format.
- f. The Board's AAG is provided with a copy of all of the Board's public meeting minutes for review and approval.
- g. The Board's AAG is present for all of the Board's public meetings, in part, to ensure compliance with the open meeting law.
- h. The Board's AAG is present for the disciplinary part of all credentialing committee meetings, in part, to ensure compliance with the open meeting law.
- i. The Board's AAG provides training to Board and credentialing committee members as needed with regard to the open meeting law requirements.

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

The Board has been extremely successful in investigating and resolving complaints within its jurisdiction, as evidenced by the following results over the last five years:

- a. The Board resolved a total of 727 complaints.
- b. Of the cases resolved:
 - 40 percent were dismissed.
 - 60 percent resulted in some type of disciplinary action.
- c. Of the cases where sanctions were imposed, the Board resolved 43 percent of those cases informally and efficiently through the voluntary acceptance of a Consent Agreement.
- d. Detailed information regarding resolved complaints is available via the Board's website within 30 days of resolution.
- e. The Board successfully defended the 3 cases where Board sanctions were challenged on appeal to Superior Court.

The Board faces ongoing challenges in processing complaints in a timely manner. Under certification, the Board's enforcement authority was severely curtailed based on the following:

- a. The Board's investigation authority was limited to certified professionals only.
- b. The Board received and routinely dismissed all complaints against non-certified persons regardless of the severity of the allegations.
- c. The Board's compliance authority was extremely limited in that a certified professional who was disciplined by the Board could avoid all sanctions by letting the certification expire.

While voluntary certification provided an inadequate level of public protection, the Board's extremely limited enforcement authority required a relatively low level of resources.

The Board's enforcement responsibilities changed dramatically when licensure became mandatory in FY 2005. The significant increase in the Board's enforcement responsibilities under licensure resulted in a concomitant increase in the Board's workload, as evidenced by the following:

- a. From FY 2000-2004, on average the Board received 52 complaints annually.
- b. From FY 2005-2010, on average the Board received 134 complaints annually, a 158 percent increase over FY 2000-2004.
- c. The Board lacked resources to timely address the dramatic and unexpected increase in the number of complaints received under licensure.
- d. As a result, in FY 2006-2009, the Board developed a backlog of unresolved complaints and the average number of days to resolve complaints rose to 521 days.

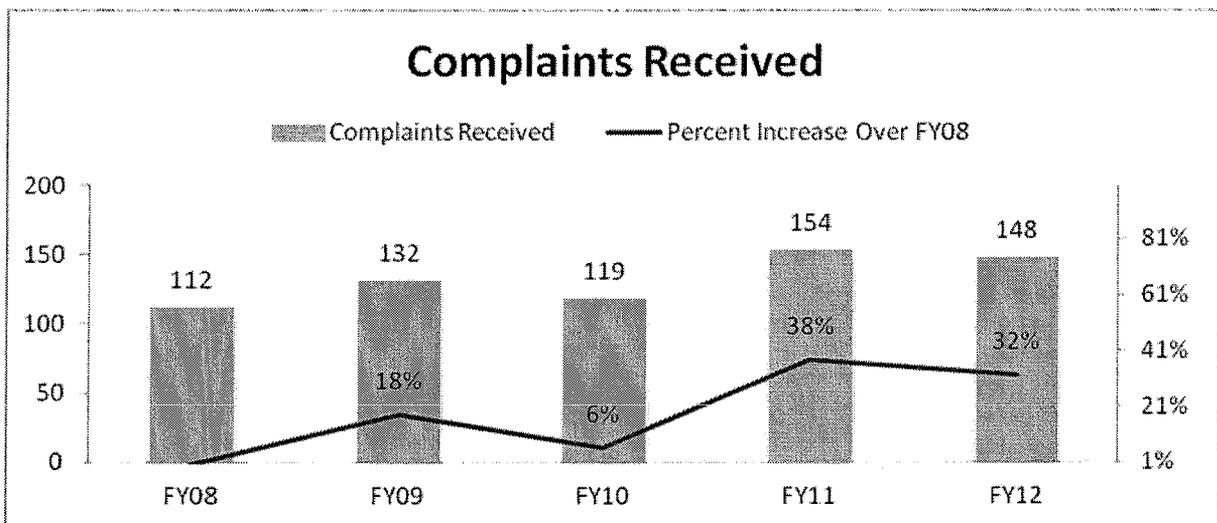
In order to address the complaint workload increase resulting from licensure, the Board was approved to hire 2 additional investigators in FY 2008. These additional resources,

as well as significant operational efficiencies, allowed the Board to reduce its average complaint resolution timeframe to 325 days in FY 2011-2012, a 38 percent decrease over FY 2006-2009.

Although the Board has made progress in reducing its complaints backlog, its ability to achieve further reductions has been negatively impacted by continuing significant increases in its investigation workload, as evidenced by the following:

Continuing Increases In Complaints Received

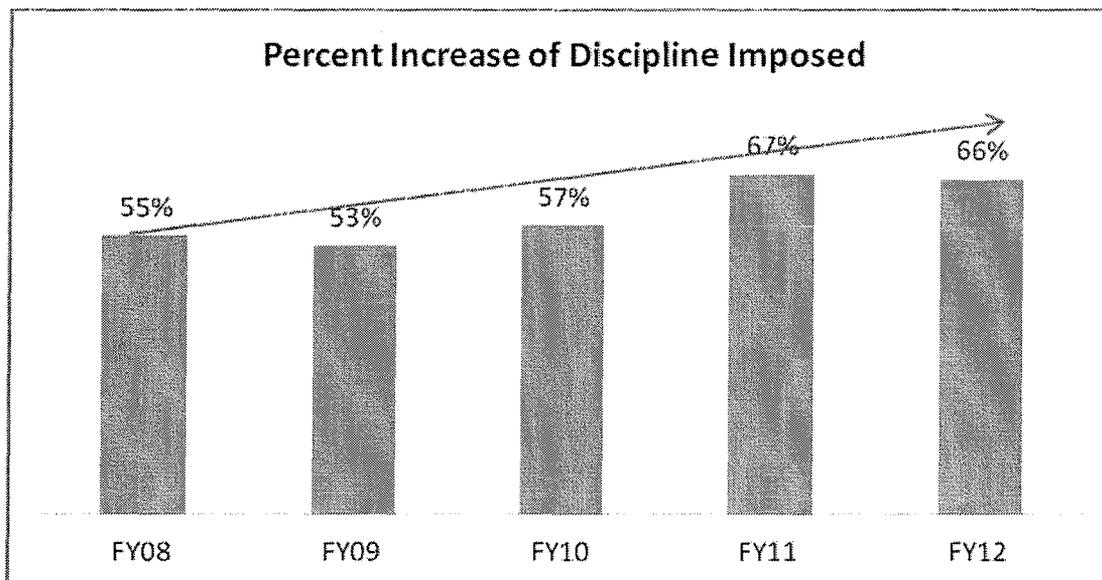
- a. The Board continues to receive increasing numbers of complaints.
- b. For example, on average from FY 2008-2010, the Board received 121 complaints annually.
- c. In FY 2011-2012, on average the Board received 151 complaints annually.
- d. This represents a 25 percent increase over the number of complaints received in FY 2008-2010.



Continuing Increases In Cases Involving Disciplinary Sanctions

- a. If, after reviewing a complaint, the Board determines that there is not a preponderance of evidence that the professional engaged in unprofessional conduct, the Board dismisses the complaint.
- b. Dismissed complaints do not require any further investment of resources by the Board.
- c. If the Board determines that there is a preponderance of evidence that the professional engaged in unprofessional conduct, the Board will pursue disciplinary sanctions designed to ameliorate the professional’s practice deficiencies.
- d. The imposition of disciplinary sanctions requires the continuing investment of Board resources in one or more of the following activities:
 - Drafting and negotiating consent agreements.

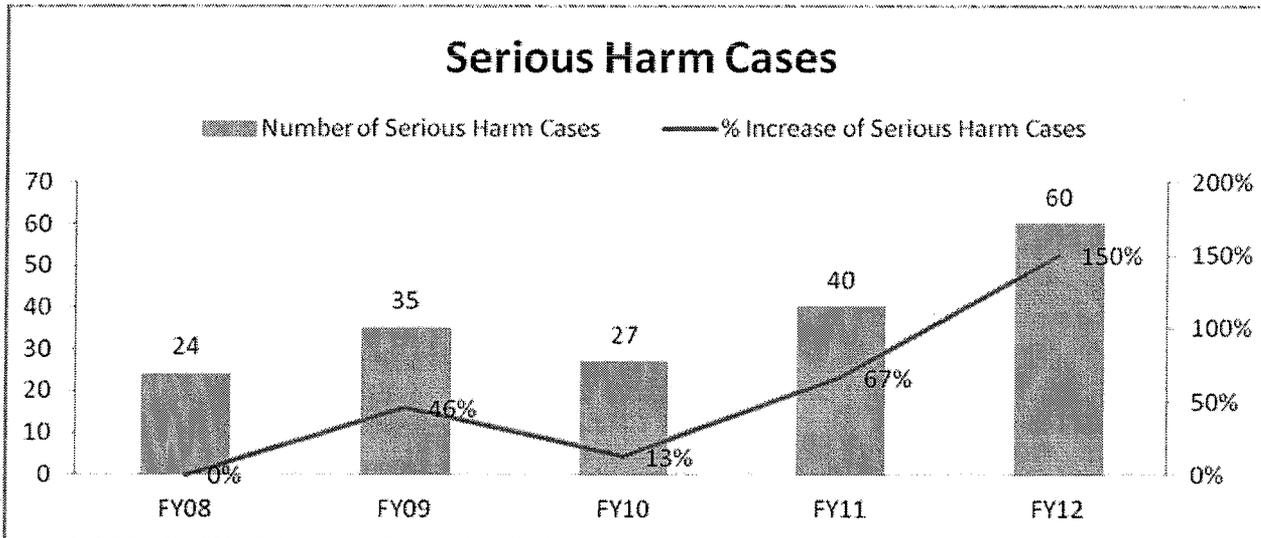
- Scheduling and holding formal interviews and formal hearings.
 - Monitoring licensees on probation to ensure compliance with Board ordered sanctions.
- e. In FY 2008-2010, on average the Board imposed disciplinary sanctions in 55 percent of the complaints it resolved.
 - f. In FY 2011-2012, on average the Board imposed disciplinary sanctions in 67 percent of the complaints it resolved.
 - g. This represents a 22 percent increase in the average number of cases involving disciplinary sanctions over FY 2008-2010.



Continuing Increases In Serious Harm Cases

- a. Some of the Board's complaints involve professionals whose practice deficiencies present such a serious risk of harm to the public that the Board revokes their licenses, indefinitely suspends their licenses, or refuses to issue them a license (Serious Harm Cases).
- b. The Board only denies licensure or suspends/revokes an existing license for extremely serious offenses, including the following:
 - Active habitual substance abuse
 - Sexual conduct with a client
 - Creation of fraudulent documents
 - Embezzlement
 - Sexual harassment
- c. License suspension/revocation and application denial cases are extremely resource intensive as they typically are much more complex and require a much greater investment of resources to investigate and resolve than other types of cases.
- e. Because of the high risk of harm to the public presented by Serious Harm Cases, the Board must expedite them.
- f. This inevitably delays the processing of the Board's less serious complaints.

- g. The investigation of Serious Harm Cases is also typically longer than that required for other complaints because the professionals involved are much less likely to voluntarily agree to the imposition of severe disciplinary sanctions by the Board.
- h. On average from FY 2008-2010, the Board received 29 annual Serious Harm Cases.
- i. In FY 2011, the Board received 40 Serious Harm Cases, a 38 percent increase over FY 2008-2010.
- j. In FY 2012, the Board received 60 Serious Harm Cases, a 107 percent increase over FY 2008-2010.



The Board's ability to reduce its complaints backlog has also been negatively impacted by its inability to recruit and retain qualified investigators, as evidenced by the following:

- a. Board investigators must have the skill sets to do all of the following with minimal oversight:
 - Conduct complex investigations involving widely varying fact patterns.
 - Analyze and accurately summarize complex documents.
 - Write accurate and concise investigation reports.
- b. The Board requires that its investigators have either a bachelor's degree and specialized investigation training or a master's degree and demonstrated investigation skills.
- c. Unfortunately, the Board's limited Personnel Services appropriation has prevented the Board from offering a salary commensurate with the skills sets required for its investigators.
- d. As a result, the Board has experienced a 77% turnover in investigation staff over the last 5 years.
- e. This turnover rate has resulted in the loss of a significant amount of resources due to the repetitive and non-productive cycle of hiring and training new investigators who lack the required fundamental skill sets.
- f. To reduce costly staff turnover, the Board now:
 - Administers a test to investigator applicants in order to measure writing and

critical thinking skills.

- Provides an extensive training period to help new investigators develop the required skill sets.
- g. Despite these efforts, the Board continues to experience extreme difficulty attracting qualified investigators.
- h. Given the long-term nature of this problem, resolution appears unlikely until the Board can offer competitive salaries commensurate with the skill sets required.

The Board does not have a statutory time frame for resolving complaints. As previously noted, the Board's current average complaint resolution timeframe is 347 days.

The Board continues to take all available measures to reduce its complaint resolution timeframes. For example:

- a. In 05/12, the Board implemented the recommendation in the Audit Report that the Board define categories of non-jurisdictional complaints (NJ Complaints) that do not need to be opened for investigation.
- b. The Board has defined eight categories of NJ complaints.
- c. The Board projects that this change will result in a 10 percent reduction in the number of Board complaints opened for investigation annually.
- d. The Board is in the process of implementing the recommendation in the Audit Report that it expand the list of complaints subject to dismissal by a credentialing committee without further Board review pursuant to A.R.S. § 32-3281(D)(1).
- e. The Board projects that this change will result in an 11 day reduction in the Board's average complaint resolution timeframes.
- f. The Board has also made a number of process changes to improve its efficiency in resolving complaints, including the following:
 - Reassignment of non-technical investigative duties (drafting subpoenas, reviewing records, simple investigations) from investigators to investigative support staff.
 - Reassignment of simple complaint reviews from investigators to investigative support staff.
 - Development of standardized formats for consent agreements.
 - Elimination of investigator participation in weekly credentialing committee meetings and monthly Board meetings.
- g. These changes have significantly increased the productivity of the Board's highly skilled investigators.

Moving forward, the Board will continue to direct all available resources to reducing the continuing complaints backlog.¹ However, given its significantly increased investigation workload and continuing staffing challenges, it appears unlikely that the Board will be

¹ The Board has 3 positions that are exempt under A.R.S. §41-771 and not subject to overtime compensation. On average, the three staff members currently in these positions work the following uncompensated hours annually:

Enforcement Manager:	238 annual uncompensated hours
Deputy Director:	436 annual uncompensated hours
Executive Director:	525 annual uncompensated hours

able to reduce its complaints resolution timeframe to 180 days, as recommended in the Audit Report, without additional resources.

The agency also receives complaints on occasion with regard to Board processes and Board personnel. In large part, these complaints are resolved through informal communications with Board staff. When Board staff is unable to resolve a process complaint informally, complainants are referred to the Ombudsman's Office.

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.*

A.R.S. § 41-192 authorizes the Attorney General's Office to prosecute actions and represent the Board. The Board is currently represented by one full-time AAG.

In addition, A.R.S. § 32-3286(C) provides that a person who engages in the unlicensed practice of behavioral health or claims to be licensed by the Board is guilty of a class 2 misdemeanor. In FY 2007, in response to a referral by the Board, the Pima County Attorney's Office obtained a criminal conviction in the Pima County Justice Court based on the court's determination that the individual referred by the Board engaged in the unlicensed practice of behavioral health.

8. *The extent to which the agency, board, or commission has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.*

Prior to July 1, 2004, the Board was only authorized to provide voluntary certification to qualified behavioral health professionals. Because certification was voluntary, unqualified or unethical individuals were allowed to practice psychotherapy absent any state oversight or review.

In recognition of the inadequate level of public protection available under voluntary certification, the Arizona Legislature, in 2003, effective from and after July 1, 2004, significantly modified the Board's authority and established mandatory licensure for professional counselors, social workers, marriage and family therapists, and substance abuse counselors engaged in the practice of psychotherapy. Depending upon education and experience, the Board now provides qualified applicants with nine opportunities for licensure as technicians, supervisees, or independent practitioners. Unlicensed individuals are prohibited from engaging in the practice of psychotherapy unless they are exempt from licensure pursuant to A.R.S. § 32-3271.

The statutory modifications made in 2003 have addressed the problems created under the voluntary certification model that prohibited the Board from providing an appropriate level of public protection to consumers of behavioral health services in Arizona.

The Board's maximum statutory fee of \$250 for licensure and renewal applications was set in statute in 1989. For the large majority of the Board's existence after 1989, it charged the maximum statutory fee of \$250 for licensure and renewal applications.

The Board's maximum statutory fee was not raised in 2004 when the Board's authority was changed to mandatory licensure. By 2007, the Board was unable to generate sufficient revenue to carry out its mandated responsibilities. With the full support of the four professional associations representing the disciplines regulated by the Board and no organized opposition, the Board sought and received an increase in its maximum statutory fee to \$500 during the 2008 legislative session. A.R.S. § 32-3272. The Board's current fees are as follows:

- a. \$250 license application fee
- b. \$100 non-independent license issuance fee
- c. \$250 independent license issuance fee
- d. \$350 license renewal fee

Under the licensure statute enacted in 2003, the Board offered limited reciprocity to applicants certified or licensed in another state. Such individuals were required to "substantially meet" the licensure education and experience standards. Beginning in 2006, a number of concerns were raised about the difficulty professionals faced as they tried to transfer their licensure status from one state to another. A workgroup with representatives from the Board and a number of other stakeholders was created to address this issue. After drafting proposed changes that addressed the need for greater license portability without sacrificing the need to ensure that licensees are qualified to provide services safely and competently, the workgroup circulated the proposed statutory revision for review and comment by stakeholders throughout Arizona. With the full support of the entities participating in the workgroup and no organized opposition, the proposed changes were adopted during the 2008 legislative session. A.R.S. § 32-3274.

Under the licensure statute enacted in 2003, applicants seeking licensure as a Licensed Substance Abuse Technician ("LSAT") were required to have an associate's degree in chemical dependency. In response to feedback from the regulated community that this educational requirement was too narrow, the Board included language in its 2008 proposed legislation broadening the education required for the LSAT license to include bachelor's degrees in a behavioral science with an emphasis on counseling. With the full support of the regulated community and no organized opposition, this proposed modification was adopted during the 2008 legislative session. A.R.S. 32-3321(A)(1)(b).

Neither the Board nor the regulated community introduced any legislation during the 2009–2011 legislative sessions.

In response to issues identified by its stakeholders with regard to the Board's licensing requirements and complaint processes, the Board began meeting on a monthly basis in March 2012 with all of its major stakeholders.² As a result of these ongoing discussions,

² The Board's major stakeholders include the Arizona Counselors Association, the Arizona Chapter of the National Association of Social Workers, the Arizona Association of Marriage and Family Therapists, the Arizona Association of Drug and Alcohol Counselors, and the Arizona Council of Human Service Providers.

the stakeholders reached consensus on a number of issues and the Board was able to implement the requested changes with the full support of the stakeholders. These changes include the following:

- a. The creation and distribution of detailed information for applicants to clarify the licensing process and help prevent common application errors.
- b. The creation of a standardized clinical supervision form for use by applicants seeking independent licensure.
- c. The development of a process to provide easier access to information regarding clinical supervisors who have completed Board required training.

The stakeholders continue to meet on a monthly basis with regard to the remaining issues where consensus has not yet been achieved. The lack of consensus over the remaining issues reflects the differences in professions, employee and employer relationships, competing priorities and implementation costs. The Board remains committed to working

with all of its stakeholders to determine if consensus can be reached regarding these outstanding issues.

9. *The extent to which changes are necessary in the laws of the agency, board, or commission to adequately comply with the factors listed in the sunset law.*

As reflected in the Audit Report, current statutes allow the Board to fully comply with the Sunset factors set forth in A.R.S. § 41-2954(D).

10. *The extent to which the termination of the agency, board, or commission would significantly harm the public health, safety or welfare.*

The Board was authorized to offer voluntary certification to qualified professionals through June 30, 2004. In recognition of the fact that voluntary certification provided an inadequate level of public protection to an often vulnerable population, as of July 1, 2004, the Arizona Legislature modified the Board's authority to require mandatory licensure for all those engaged in the practice of psychotherapy.

Termination of state regulation of behavioral health professionals would significantly endanger the public. In order to obtain licensure, applicants must demonstrate competency by meeting minimum standards in education, experience, and examination. Once licensed, professionals remain within the Board's jurisdiction. This allows the Board to review and take appropriate action on complaints filed against licensees. Finally, mandatory licensure laws allow the Board to review and take appropriate action with regard to individuals practicing psychotherapy in Arizona without being licensed to do so. Without the Board's regulatory authority, there would be no mechanism for:

- a. Ensuring that only qualified behavioral health professionals engage in the practice of psychotherapy.
- b. Reviewing and taking appropriate disciplinary action against licensed individuals who engage in inappropriate or unethical behavior.

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

The Board believes that the current level of regulation as amended and added in Laws 2003, Chapter 65, Section 40, is appropriate based on the following:

- a. Mandatory licensure for behavioral health professionals ensures that applicants demonstrate competency to practice by meeting minimum requirements in education, experience, and examination in order to obtain licensure in this state.
- b. Mandatory licensure also allows the Board to review complaints filed against those practicing psychotherapy. This provides a mechanism for the Board to take appropriate disciplinary action against incompetent or unethical licensees.
- c. Mandatory licensure also provides a mechanism for the Board to take action against non-licensed individuals who engage in the practice of psychotherapy.

The federal government does not regulate behavioral health professionals. Although the Board has never formally surveyed other states with regard to regulation of behavioral health professionals, from information obtained over the years, the Board believes the following:

- a. Virtually all states require some level of regulation of behavioral health professionals.
- b. With the exception of a small number of states, most states require mandatory licensure for behavioral health professionals.
- c. Regulatory requirements for behavioral health professionals in many states are more stringent than those in Arizona.

12. *The extent to which the agency, board, or commission 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 Board has used private contractors in the performance of its duties on a number of occasions.

- a. In FY 2006 - 2007, the Board was authorized to hire independent contractors to address a complaints backlog. The Board's experience with the use of independent contractors was not positive. The investigators approved to conduct investigations for the Board did not have any expertise in behavioral health or regulatory issues. As a result, the Board was only able to assign simple investigations to the independent contractors and even these simple investigations required a high degree of Board oversight. In addition, the independent contractors took significantly longer to complete investigations as compared to the Board's internal investigators. The Board stopped assigning complaint investigations to independent contractors as a result of their lack of expertise and the resulting cost inefficiencies.
- b. The Board has successfully contracted for years with different individuals to review highly contested complaint files, provide guidance to Board staff regarding clinical

- issues, and provide expert testimony on behalf of the Board in formal administrative hearings. Use of these contracts provides a cost effective way for the Board to obtain the clinical expertise it needs to properly evaluate and litigate highly contested cases.
- c. The Board has also successfully contracted for years for all of its information technology needs. Use of such contracts provides a cost effective way for the Board to obtain the technical expertise it needs.
 - d. The Board also contracts with independent contractors to conduct curriculum reviews required for counseling licensure applicants.

The Board has no knowledge regarding the use of private contractors by other regulatory entities in Arizona or other states. Such information, even if available, would be of extremely limited value as each discipline has its own unique requirements and regulatory culture. Processes used by another regulatory board may have limited or no applicability to this Board.

13. *The extent to which the agency, board, or commission 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.*

The Board was originally created in 1988 to provide voluntary certification to professionals meeting minimum standards in education, experience, and examination. This level of regulation allowed uncertified individuals to practice psychotherapy without any state oversight of their qualifications or practice.

At the request of the professional associations representing the four disciplines regulated by the Board, and with no organized opposition, as of July 1, 2004, the Board's authority was changed to require mandatory licensure for those engaged in the practice of psychotherapy. The need for this level of state regulation was clearly addressed and deemed appropriate at that time. It also made state regulation of behavioral health professionals consistent with virtually all other health related regulatory boards in Arizona.

The licensure statute was narrowly focused to reduce the burden of licensure within the regulated community. As a result, the statute includes exemptions allowing individuals to provide psychotherapy services in a wide variety of settings free from Board regulation. A.R.S. § 32-3271.

In addition, the Board modified its rules to facilitate the transition to licensure for the regulated community. For example, effective 12/02/08:

- a. The Board reduced continuing education hours required for biennial license renewal from 40 clock hours to 30 clock hours. Over time, the Board had enhanced its renewal process and required licensees to take specific coursework in ethics, cultural competency, supervision, and substance abuse. Requiring licensees to take specific

continuing education coursework provided the Board with the opportunity to reduce the total number of continuing education hours required while ensuring the quality of the overall continuing education program of each licensee.

- b. The Board deleted the requirement for a licensee renewing a license to provide a notarized signature on the renewal application

**Arizona Board of Behavioral Health Examiners
September 4, 2012**

ADDITIONAL SUNSET FACTORS RESPONSE

1. An identification of the problem or the needs that the agency is intended to address.

From 1989 – 2003, the Board offered voluntary certification to those professionals who chose to subject themselves to Board regulation by meeting minimum standards in education, experience, and examination and by being subject to the Board’s complaint review process.

In 2001, the professional associations representing the four disciplines licensed by the Board formed the Arizona Behavioral Health Professionals Coalition (Coalition) based on the recognition that voluntary certification provided an inadequate level of protection to the public where:

- a. Individuals were free to practice psychotherapy in Arizona without meeting certification standards.
- b. The Board had no jurisdiction to investigate or take action against uncertified psychotherapists regardless of the risk of harm they presented to the public.
- c. Certified professionals disciplined by the Board were free to ignore disciplinary sanctions imposed by the Board while continuing to practice psychotherapy by just letting their certifications expire.

The Coalition, with the support of the Board and all other major stakeholders in Arizona, began efforts to obtain mandatory licensure for psychotherapists in Arizona. As a result of these efforts, and in recognition of the inadequate level of public protection provided by voluntary certification, the Legislature increased the Board’s regulatory authority as of July 1, 2004, to require mandatory licensure for all psychotherapists practicing in Arizona, except as allowed under A.R.S. § 32-3271.

Licensure standards as enforced by the Board benefit the public by:

- a. Ensuring that psychotherapists meet minimum standards in education, experience, and examination.
- b. Providing a mechanism for an objective and impartial review of complaints against licensees and applicants.
- c. Providing a mechanism to require remedial action to correct practice deficiencies by licensees.
- d. Providing a mechanism to suspend or revoke the licenses of professionals determined to be unable to practice safely and competently.

2. A statement to the extent practicable, in quantitative and qualitative terms, of the objectives of such agency and its anticipated accomplishments.

The Board meets its overall objective to protect the public health and safety by:

- a. Ensuring that those engaged in the practice of psychotherapy in Arizona meet minimum standards of education, experience, and examination.
- b. Processing complaints against licensees and applicants in a fair and expedient manner.
- c. Taking appropriate disciplinary action as needed to ensure safe and competent practice by licensees.

The Board's accomplishments are evidenced by the following:

- a. The Board currently regulates 8,639 licenses.
- b. The Board has processed an average of 825 new licensure applications annually over the last five years.
- c. 97 percent of the Board's application reviews were completed within 180 days.
- d. The Board has never had any of its application decisions challenged in Superior Court.
- e. The Board exceeded its application processing timeframe in only 9 cases over the last five years. A.A.C. R4-6-302.
- f. The Board received an average of 3752 renewal applications annually over the last five years.
- g. The Board's average renewal application processing timeframe during that time was 21 days.
- h. None of the renewal applications processed during that time exceeded the Board's renewal application processing timeframe. A.A.C. R4-6-302.
- i. The Board received an average of 224 requests for written license verifications annually over the last three years.
- j. The average processing time for verifications during that time was 4 days.
- k. The Board received an average of 133 new complaints annually over the last five years.
- l. The Board conducts all complaint reviews fairly and objectively, as evidenced by the fact that Board has never had any of its disciplinary decisions overturned on appeal.
- m. The Board is committed to carrying out its statutory obligations efficiently and effectively. That commitment is evidenced by its average customer satisfaction rating over the last four years of 6.5 (scale 1-8).

08/12 Audit Report Recommendations

- a. On 08/31/12, the Auditor General issued a report (Audit Report) regarding its sunset review and performance audit of the Board.
- b. The only recommendations in the Audit Report were that the Board should improve complaint resolution timeliness and continue meeting with stakeholders to discuss their concerns and take actions, as appropriate, to address them.
- c. The Board has already implemented all of the recommended changes to improve complaint resolution timeliness.
- d. The Board remains committed to continuing the stakeholder meetings to facilitate the opportunities for the stakeholders to develop a consensus on contested issues. The stakeholders continue to meet monthly with regard to the remaining issues where consensus has not yet been achieved. The lack of consensus on the remaining issues reflects the differences in professions, employee and employer relationships, competing priorities and implementation costs. Continuing to work with all of its stakeholders to determine if consensus can be reached regarding these outstanding issues remains a priority for the Board.

3. An identification of 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 three other types of professionals in Arizona qualified to provide psychotherapy. These professionals are regulated by separate regulatory entities as follows:

- a. Psychiatrists – Arizona Medical Board
- b. Psychologists – Arizona Board of Psychologist Examiners
- c. Psychiatric nurses – Arizona Board of Nursing

There is no conflict or duplication between this Board and state boards regulating other types of behavioral health professionals because:

- d. Professionals are licensed by a regulatory entity according to the professional's educational background and professional orientation.
- e. Professionals licensed by any of the boards identified above are exempt from this Board's enforcement authority pursuant to A.R.S. 32-3271(1).

The Arizona Department of Health Services/Division of Licensing Services/ Office of Behavioral Health Licensing (OBHL) regulates behavioral health facilities, including those that receive state funding. Many of this Board's licensees work in state licensed facilities.

There is no conflict or duplication between this Board and OBHL because:

- a. OBHL determines and monitors standards for licensed facilities.
- b. OBHL has no regulatory authority over individuals working within these agencies.
- c. Individuals working with an OBHL licensed facilities are not required to be licensed as they are exempt from this Board's enforcement authority pursuant to A.R.S. 32-3271(5).

4. An assessment of the consequences of eliminating the agency or of consolidating it with another agency.

Elimination of the Board would have the following immediate negative impact:

- a. The practice of psychotherapy by master's level behavioral health professionals would no longer be regulated in Arizona.
- b. Individuals claiming to be master's level behavioral health professionals would be able to practice psychotherapy without meeting any education or training standards.
- c. Behavioral health clients would have no method for determining whether individuals holding themselves out as master's level psychotherapists had the education or training to do so safely and competently.
- d. Because every other state regulates master's level behavioral health professionals, elimination of this Board would attract and create a safe harbor for individuals determined to be unqualified or unfit to practice in all other states.
- e. There would be no entity specifically authorized to review consumer complaints against master's level behavioral health professionals providing psychotherapy services.
- f. Qualified master's level behavioral health professionals would not be able to establish the completion of education and training qualifying them to provide psychotherapy safely

- and competently provided through a state licensing system.
- g. Many third party reimbursing entities and large employers require state licensure for master's level behavioral health professionals, including the following:
 - Healthcare insurance entities
 - Veterans Administration
 - Hospitals
 - h. The inability to obtain state licensure would make it much harder for master's level behavioral health professionals to obtain reimbursement for their services or become employed in Arizona.

Consolidation of the Board with another state entity would create the following problems:

- a. As a composite board, the Board regulates behavioral health professionals in four different disciplines: professional counseling, marriage and family therapy, social work, and substance abuse counseling.
- b. Each of these disciplines has a unique and complex set of education and training requirements.
- c. In order to manage the regulation of four different disciplines, the Board has four credentialing committees.
- d. Each of the credentialing committees is comprised of four professional members and 1 public member.
- e. All of the Board's twenty credentialing committee members are appointed by the Governor.
- f. Each of the Board's four credentialing committees meet monthly to:
 - Review license applications to determine if applicants meet licensure requirements.
 - Review complaints to determine if applicants/ licensees have violated the Board's unprofessional conduct standards.
 - Make recommendations to the Board regarding all applications and complaints reviewed.
- g. Consolidation of the Board with one of the other healthcare licensing boards would create a number of challenges where the large majority of other Arizona healthcare licensing board do not regulate behavioral health professionals. As result, they would have no background or experience with the complex and unique licensing or practice standards of the four disciplines regulated by this Board.
- h. Although three Arizona licensing boards regulate professionals who are qualified to provide psychotherapy (the Medical Board, the Board of Psychologist Examiners, and the Nursing Board), none of these boards license master's level behavioral health professionals in the four disciplines regulated by this Board.
- i. As a result, none of these boards would have any background or experience with the complex and unique licensing standards applicable to the four disciplines regulated by this Board.
- j. Given the lack of background or experience of other healthcare boards with regard to this Board's licensing standards, there appears to be no benefit to transferring the regulation of this Board's licensing responsibilities to another board.
- k. In addition, when the professional associations representing the four disciplines licensed by the Board formed the Arizona Behavioral Health Professionals Coalition (Coalition) in order to obtain mandatory licensing for master's level psychotherapists in Arizona,

they agreed to accept and pay for the costs of the current regulatory system, which includes four credentialing committees and a composite Board comprised of representatives from each of the four regulated professions.

- l. A consolidation of this Board with another healthcare licensing board would result in licensing and complaint decisions involving this Board's licensees being made by professionals in another professional discipline.
- m. It appears likely that the Coalition would strenuously oppose any consolidation effort that would result in the regulation of its members by professionals licensed in another discipline.