

Report Highlights

Why DLA Performed This Audit

The audit was performed to determine if there is a continued need for the board and if its termination date should be extended. The board is set to sunset on June 30, 2023, and will have one year from that date to conclude its administrative operations.

What the Legislative Auditor Recommends

1. The board's executive administrator should ensure that all board meetings are adequately public noticed.
2. The board should ensure that emergency regulations comply with statutes.

A Sunset Review of the Department of Commerce, Community, and Economic Development, State Medical Board (board)

July 19, 2022

Audit Control Number 08-20132-22

REPORT CONCLUSIONS

The audit concluded that the board developed and adopted regulations to protect the public, improve the licensing process, and expand access to care during the coronavirus disease 2019 (COVID-19) public health emergency. Further, the board served the public's interest by effectively licensing physicians, osteopaths, and podiatrists; however, emergency courtesy licenses for physician assistants were not issued in accordance with state law.

The board's workload significantly increased during the audit period due to the COVID-19 pandemic. The board met frequently, sometimes weekly, to consider pandemic-related regulations. The number of licensing applications increased dramatically as a result of practitioners traveling to Alaska to help meet the need for health care services and out-of-state practitioners providing services via technology (commonly referred to as telehealth). The dramatic increase in workload occurred right after all board members were replaced by the governor. Board turnover and vacancies were common during the audit period.

In accordance with AS 08.03.010(c)(13), the board is scheduled to terminate on June 30, 2023. We recommend that the legislature extend the board's termination date to June 30, 2031, which is the maximum extension allowed per statute.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
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August 12, 2022

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Medical Board and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW
July 19, 2022

Audit Control Number
08-20132-22

The audit was conducted as required by AS 44.66.050(a). Per AS 08.03.010(c)(13), the board is scheduled to terminate on June 30, 2023. We recommend the legislature extend the board's termination date to June 30, 2031.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the audit findings and recommendations are presented in the Objectives, Scope, and Methodology section of the audit.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

ABBREVIATIONS

AAC	Alaska Administrative Code
ACN	Audit Control Number
AS	Alaska Statute
CISA	Certified Information Systems Auditor
COVID-19	Coronavirus Disease 2019
CPA	Certified Public Accountant
CSPD	Controlled Substance Prescription Database
DCBPL	Division of Corporations, Business and Professional Licensing
DCCED	Department of Commerce, Community, and Economic Development
DEA	Drug Enforcement Administration
DHSS	Department of Health and Social Services
DLA	Division of Legislative Audit
FSMB	Federation of State Medical Boards
FY	Fiscal Year
PAECL	Physician Assistant Emergency Courtesy License

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ORGANIZATION AND FUNCTION

State Medical Board(board)

The State Medical Board is established under the authority of AS 08.64.010 and is comprised of eight members who are appointed by the governor to serve staggered four-year terms. Board membership consists of five physicians licensed in the state of Alaska and “residing in as many separate geographical areas of the state as possible,” one licensed physician assistant, and two public members with “no direct financial interest in the health care industry.” Board members, as of March 31, 2022, are listed in Exhibit 1.

Alaska Statute 08.64.101 establishes the board’s duties, which include the following:

1. examine and issue licenses to applicants;
2. develop written guidelines to ensure that licensing requirements are not unreasonably burdensome and the issuance of licenses is not unreasonably withheld or delayed;
3. after a hearing, impose disciplinary sanctions on persons who violate statutes or the regulations or orders of the board;
4. adopt regulations ensuring that renewal of licenses is contingent upon proof of continued competency;
5. under regulations adopted by the board, contract with private professional organizations to establish an impaired medical professional program to identify, confront, evaluate, and treat licensed persons who abuse alcohol, other drugs, or other substances or are mentally ill or cognitively impaired;

Exhibit 1

State Medical Board Members as of March 31, 2022

Richard Wein, Chair, Physician (Sitka)

Steve Parker, Physician (Palmer)

Matt Heilala, Physician (Anchorage)

Maria Freeman, Physician (Wasilla)

Vacant, Physician

Sarah Bigelow Hood, Physician Assistant (Anchorage)

Lydia Mielke, Public Member (Big Lake)

David Wilson, Public Member (Palmer)

Source: Office of the Governor, Boards and Commissions website.

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6. adopt regulations that establish guidelines for the practice of physicians or physician assistants who are rendering a diagnosis, providing treatment, or prescribing, dispensing, or administering a prescription drug to a person without conducting a physical examination. The guidelines must include a nationally recognized model policy for standards of care of a patient who is at a different location than the physician or physician assistant; and
 7. require that licensees that have a federal Drug Enforcement Administration registration number register with the controlled substance prescription database.

**Department
of Commerce,
Community,
and Economic
Development's Division
of Corporations,
Business and
Professional Licensing
(DCBPL)**

DCBPL provides administrative and investigative assistance to the board. Administrative assistance includes budgetary services, collecting fees, maintaining files, receiving application forms, publishing notices for meetings, and assisting with board regulations. The department is required by AS 08.01.065 to adopt regulations that establish the fee and manner of payment for applications, examinations, licenses, permits, and investigations.

Alaska Statute 08.01.087 gives DCBPL authority to act on its own initiative or in response to a complaint. DCBPL staff may:

1. conduct an investigation to determine whether a person has violated a law;
2. issue an order directing a person to stop an act or practice;
3. bring an action in Superior Court to enjoin the act;
4. examine or have examined the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010; and
5. issue subpoenas for the attendance of witnesses and the production of records.

To support board operations, DCBPL employs an executive administrator who reports directly to the board, three medical licensing examiners, a probation monitor, and three dedicated investigators.

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REPORT CONCLUSIONS

In developing our conclusion regarding whether the State Medical Board's (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this letter. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

The audit concluded that the board developed and adopted regulations to protect the public, improve the licensing process, and expand access to care during the coronavirus disease 2019 (COVID-19) public health emergency. Further, the board served the public's interest by effectively licensing physicians, osteopaths, and podiatrists; however, emergency courtesy licenses for physician assistants were not issued in accordance with state law.

The board's workload significantly increased during the audit period due to the pandemic. The board met frequently, sometimes weekly, to consider pandemic-related regulations. The number of licensing applications increased dramatically as a result of practitioners traveling to Alaska to help meet the need for health care services and out-of-state practitioners providing services via technology (commonly referred to as telehealth). The dramatic increase in workload occurred right after all board members were replaced by the governor. Board turnover and vacancies were common during the audit period.

In accordance with AS 08.03.010(c)(13), the board is scheduled to terminate on June 30, 2023. We recommend that the legislature extend the board's termination date to June 30, 2031, which is the maximum extension allowed per statute.

Detailed report conclusions are as follows.

The board generally conducted its meetings effectively and did not duplicate the efforts of other entities.

The board met 43 times from FY 20 through March 31, 2022. The 43 board meetings exceeded the minimum four meetings per year required by statute; however, the board’s workload supported the number of meetings held. A review of 15 board meetings found that meetings allowed time for public comment and a quorum was consistently met. Testing of public notice requirements for 32 board meetings identified six board meetings (18 percent) were not adequately public noticed. (Recommendation No. 1)

As the only entity authorized to license and regulate physicians, osteopaths, podiatrists, and physician assistants, the board did not duplicate the activities of other agencies.

The board actively amended regulations.

During the audit period, authority to license mobile intensive care paramedics was transferred from the board to the Department of Health and Social Services (DHSS). Board statutes were also amended to require the board to adopt telehealth regulations for physician assistants. The board supported both statutory changes.

Board regulations were amended to implement statutory changes, improve the license process, and respond to the COVID-19 pandemic. Significant changes included:

- The board’s executive administrator was given authority to issue temporary permits. This change made the licensing process more efficient.
- Telehealth regulations were expanded to allow licensees to treat opioid use disorders without a physical examination. This change broadened the public’s access to medical treatment.
- Restrictive emergency courtesy license requirements were removed and the effective period was lengthened. This change increased the public’s access to medical care.

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- Board licensees were required to register with and report to the controlled substance prescription database (CSPD). This change enhanced public safety by improving the effectiveness of the CSPD.

Investigations were actively performed and disciplinary actions were reported in accordance with state law.

A review of board investigative activity concluded that board investigations were conducted in an active manner. A total of 267 cases were open or opened between FY 20 and March 2022. The audit found 103 of the cases were open for over 180 days. Auditors reviewed 17 of the 103 cases and found no unreasonable periods of inactivity.

The two prior board sunset audits identified that the board had not been reporting board disciplinary actions to the Federation of State Medical Boards (FSMB) as required by state law. The prior findings were resolved during the audit period. Auditors reviewed disciplinary actions for the period January 2020 through January 2021 and found all were correctly reported to the FSMB.

Licenses were issued in compliance with state law, with the exception of emergency courtesy licenses for physician assistants.

As shown in Exhibit 2 on the following page, there were 5,878 active board licenses as of March 31, 2022, representing a 28 percent increase when compared to the 2019 sunset audit.¹ The increase was due to the addition of emergency courtesy license types and a rise in the use of telehealth.

¹ Per the prior 2019 sunset audit (ACN 08-20118-19), active licenses totaled 4,597 after removing the 476 mobile intensive care paramedic licenses and permits.

Exhibit 2

State Medical Board License and Permit Activity FY 20 through March 31, 2022			
New Issued** (Exclusive of Renewals)			
	FY 20	FY 21	Active Licenses as of March 31, 2022
Licenses:			
Physician	302	489	4,222
Physician – Courtesy	0	10	78
Physician Assistant*	58	65	730
Osteopathic Physician	46	74	573
Osteopathic Physician – Courtesy	0	1	2
Podiatrist	0	0	29
Permits:			
Physician Resident	28	20	78
Physician Temporary	0	1	128
Physician Assistant Temporary	0	0	11
Osteopathic Physician Resident	6	5	12
Osteopathic Physician Temporary	0	1	15
Total	440	666	5,878

Source: Compiled from the Division of Corporations, Business and Professional Licensing (DCBPL) licensing database.

* Includes emergency courtesy licenses.

** Senate Bill 21, effective January 2022, transferred authority to license mobile intensive care paramedics from the board to DHSS. This schedule does not include licenses for this group.

Auditors tested 25 new and 15 renewal licenses issued during the audit period. All but one of the licenses were adequately supported and issued in compliance with state law. The exception was a physician assistant emergency courtesy license (PAECL) that was issued without verifying the applicant had a collaborative plan with

a supervising physician. Emergency license regulations approved by the board failed to require a collaborative plan, even though such a plan was required by statute. According to DCBPL management, from April 2020 through November 2021, 34 physician assistants were issued a PAECL without verifying that the applicants had a collaborative plan. DCBPL identified the deficiency in November 2021 and took corrective action by sending a letter to noncompliant licensees. (Recommendation No. 2)

The board monitored licensees' registration with the CSPD.

According to AS 08.64.101(a)(7), licensees with a federal Drug Enforcement Administration (DEA) number are required to register with the CSPD. The audit reviewed 40 licenses issued during the audit period to evaluate whether licensees appropriately registered with the CSPD. Of the 40 licensees, 38 reported a DEA registration number on the license applications. Of the 38 applicants, all but two registered with the CSPD. Board licensing staff followed up the noncompliance by referring one noncompliant licensee to the DCBPL investigations unit and by sending the other noncompliant licensee a letter of advisement that directed the licensee to take corrective action.

License fees were sufficient to cover board operations.

Primarily, the board receives its revenue from license, permit, and renewal fees. Renewals are conducted on a biennial basis creating a two-year cycle in board revenues. The board's schedule of revenues and expenditures for FY 20 through March 2022 is shown in Exhibit 3 on the following page.

As reported in the prior sunset audit, the board had a deficit of approximately \$800,000 at the end of FY 18. In response, license fees were increased during FY 19. As shown in Exhibit 3, the deficit had decreased to \$488,013 by the end of FY 20.

During FY 21 license revenues increased substantially due to an increase in the number of license applications. Additionally, the board was allocated \$215,314 of general funds to replace revenue

Exhibit 3

State Medical Board Schedule of Revenues and Expenditures FY 20 Through March 31, 2022 (Unaudited)			
	FY 20	FY 21	July 1, 2021 – March 31, 2022
Revenues			
Licensing Fees	\$578,308	\$2,597,830	\$673,390
General Fund	-	-	215,314
Total Revenues	<u>578,308</u>	<u>2,597,830</u>	<u>888,704</u>
Direct Expenditures			
Personal Services	684,811	794,082	512,682
Travel	15,389	-	11,530
Services	115,885	103,790	71,000
Commodities	1,252	1,290	2,033
Total Direct Expenditures	<u>817,337</u>	<u>899,162</u>	<u>597,245</u>
Indirect Expenditures	499,194	569,260	426,945
Total Expenditures	<u>1,316,531</u>	<u>1,468,422</u>	<u>1,024,190</u>
Annual Surplus (Deficit)	(738,223)	1,129,408	(135,486)
Beginning Cumulative Surplus (Deficit)	250,210	(488,013)	641,395
Ending Cumulative Surplus (Deficit)	<u>\$(488,013)</u>	<u>\$641,395</u>	<u>\$505,909</u>

Source: DCBPL Schedule of Revenues and Expenditures 3rd Quarter – Fiscal Year 2022 published on DCBPL’s website.

lost due to the license fee freeze that was mandated by the governor to help mitigate the financial impact of the pandemic. The increase in license revenues and the general fund allocation led to a surplus of \$505,909 as of March 2022. The board’s schedule of fees is shown in Exhibit 4.

Exhibit 4

State Medical Board License and Permit Fees FY 20 through FY 22				
Fee Type	FY 20	FY 21	FY 22	
Physicians, Podiatrists, and Osteopaths:				
Nonrefundable Application Fee:				
Initial license	\$400	\$400	\$400	
Locum tenens permit	150	150	150	
Courtesy license	100	100	100	
Permit Fee:				
Temporary permit	200	200	200	
Initial or extended locum tenens	150	150	150	
Biennial Renewal Fee:				
Active license renewal	425	425	425	
Inactive license renewal	275	275	275	
License fee for all or part of the initial biennial license period	425	425	425	
Residency permit nonrefundable application and permit fee	100	100	100	
Retired status license one-time fee	150	150	150	
Courtesy license fee	150	150	150	
Physician Assistants:				
Nonrefundable application fee for initial license:				
Initial license	200	200	200	
Emergency courtesy license	-	50	50	
License for all or part of the initial biennial license period	250	250	250	
Temporary license fee	75	75	75	
Emergency courtesy license fee	-	60	60	
Biennial Fee:				
License renewal	250	250	250	
Inactive license renewal	175	175	175	
Fee for establishing or changing a collaborative relationship	125	125	125	
Graduate Physician Assistant Fee:				
Nonrefundable application and license	100	100	100	

Source: DCBPL regulations.

The board’s workload significantly increased.

The board’s workload increased significantly during the audit period due to the pandemic. The board met more frequently to develop and enact emergency regulations and to authorize the issuance of emergency courtesy licenses. During this time, there was a large increase in the number of license applications that had to be reviewed by the board. As discussed above, the board saw a 28 percent increase in the number of active licenses and permits when compared to the 2019 sunset audit.

The licensing and regulation challenges caused by the pandemic were faced by a board made up entirely of new members (see Exhibit 5). Board vacancies and turnover were common during the audit period. According to DCBPL management and board members, board vacancies increased board member workloads, which negatively impacted the board’s operations and contributed to licensing delays.

Exhibit 5

All Board Members Replaced During March and April 2020

The governor replaced all eight board members during March and April of 2020, resulting in a lack of board knowledge at the beginning of the pandemic. Subsequently, four of the eight board member positions experienced a vacancy. The longest board vacancy was approximately eight and a half months. Three of the eight board member positions were vacant between September 2021 and November 2021.

FINDINGS AND RECOMMENDATIONS

The prior 2019 sunset audit made three recommendations:

- The board should adopt regulations to provide guidance for registering with the controlled substance prescription database (CSPD).
- The board should develop procedures to ensure licensees with a Drug Enforcement Administration (DEA) number register in the CSPD.
- The board chair should work with the Division of Corporations, Business and Professional Licensing (DCBPL) director to establish and implement procedures to ensure the board reports disciplinary actions in accordance with state law.

The prior audit recommendation to adopt regulations to guide the process for registering with the CSPD was resolved. The board drafted regulations that became effective March 2021.

The prior audit recommendation for the board to develop procedures to ensure licensees with a DEA number register in the CSPD was addressed. Procedures were developed that became effective March 2021.

The prior audit recommendation that the board chair work with DCBPL's director to establish and implement procedures to ensure the board reports disciplinary actions in accordance with state law was addressed. Procedures were drafted that became effective January 2020.

Two new recommendations were made as part of this audit.

Recommendation No. 1:

The board’s executive administrator should ensure all board meetings are adequately public noticed.

DCBPL staff did not sufficiently public notice six of the 32 board meetings reviewed. Of the six meetings, four did not include the date or time of the meeting and two were not posted on the State’s Online Public Notices website.

Alaska Statute 44.62.175(a)(2) requires all state agency meeting notices be posted on the Alaska Online Public Notices website. Additionally, AS 44.62.310(e) requires reasonable public notice be given for all meetings. The notice must include the date, time, and place of the meeting and, if the meeting is by teleconference, the location of any teleconferencing facilities that will be used.

DCBPL attempted to public notice multiple meetings in a single posting on the State’s Online Public Notices website. However, required information, such as date and time, was not included in the posting, which impacted four meetings. The failure to post two meetings on the State’s Online Public Notices website was due to turnover in the assistant director position (which oversees DCBPL’s online public notice process) and in the executive administrator position. Inadequate public notice of board meetings may limit public input.

We recommend the board’s executive administrator ensure that all board meetings are adequately public noticed.

Recommendation No. 2:

The board should ensure that emergency regulations comply with statutes.

Emergency regulation 12 AAC 40.045(j)(2)(B) established the physician assistant emergency courtesy license, but did not require a collaborative plan with a supervising physician in order to practice. From April 2020 through November 2021, 34 emergency courtesy licenses were issued to physician assistants without requiring a collaborative plan. Issuing licenses to physician assistants without ensuring the applicant is adequately supervised increases the risk to public health.

Alaska Statute 08.64.107 outlines the board’s responsibility to regulate physician assistants and establish the scope of activities authorized,

and the responsibilities of the supervising or training physician. Regulation 12 AAC 40.410 states that a licensed physician assistant may not practice without at least one collaborative relationship with a supervising physician. The collaborative relationship must be documented by a collaborative plan on a form provided by the board. The urgent need to increase the public's access to care due to the coronavirus disease 2019 pandemic resulted in developing the emergency regulation without ensuring the regulation fully complied with statutes.

We recommend that the board ensure emergency regulations comply with statutes.

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the State Medical Board (board) to determine if there is a demonstrated public need for its continued existence.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(13), the board will terminate on June 30, 2023, and will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the board's termination date should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine the status of recommendations made in the prior sunset audit.

Scope

The assessment of operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board. We reviewed the board's activities from July 1, 2019, through March 31, 2022. Financial information is presented, unaudited, from July 1, 2019, through March 31, 2022.

Methodology

During the course of our audit we reviewed and evaluated the following:

- The prior sunset audit report (ACN 08-20118-19) to identify issues affecting the board and to identify prior sunset audit recommendations.

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- The Legislative Budget and Audit Committee, *Interim Report: Status of State Medical Board Audit Recommendations, April 21, 2021*, to assess the status of prior board sunset audit recommendations.
 - Applicable statutes and regulations to identify board functions and responsibilities, determine whether statutory or regulatory changes enhanced or impeded board activities, and help ascertain if the board operated in the public interest.
 - The State's Online Public Notices system to verify the board meetings were adequately public noticed.
 - Board meeting minutes and annual reports to gain an understanding of board proceedings and activities, the nature and extent of public input, whether a quorum was maintained, and whether board vacancies impeded operations.
 - Expenditures, revenues, and fee levels for the board to determine whether fee levels covered the costs of operation.
 - Board investigation data to access the efficiency of the investigative process.
 - Various state and news related websites to identify board related complaints or other board related concerns.
 - Various websites containing information for potential duplication of board activities.

Internal controls over the licensing database and the investigation process were assessed to determine if controls were properly designed and implemented. Additionally, to identify and evaluate board activities, we conducted interviews with state agency staff and board members. Specific areas of inquiry included: board operations, statutory duties, regulations, duplication of effort, fee levels, supplemental board revenue, board vacancies, board oversight of licensees' requirements with the controlled substance prescription database, and complaints against the board.

The audit utilized the following samples:

- A random sample of 15 of 43 board meetings held from July 1, 2019 through March 31, 2022, was reviewed to gain an understanding of board proceedings and activities, the nature and extent of public input, whether a quorum was maintained, whether the meetings were public noticed, and whether board vacancies impeded operations. An additional 17 board meetings were judgmentally selected and reviewed to evaluate further compliance with public notice requirements. Results were projected to the population.
- A sample of 17 of 103 board related cases open six months or longer from July 1, 2019, through March 31, 2022, was reviewed for unjustified periods of inactivity. Fourteen cases were randomly selected and three were judgmentally selected. Test results were not projected to the population.
- A random sample of 40 license applications was tested. Twenty-five new applications were selected from the 1,735 new licenses issued between July 1, 2019, and March 31, 2022. Fifteen renewal applications were selected from the 4,143 active licensees issued before July 1, 2019, and subject to the December 31, 2019, renewal period. The 25 new and 15 renewal applications were assessed for statutory and regulatory compliance. The sample size was based on low to moderate control risk, moderate inherent risk, and moderate audit risk. Test results were not projected to the population.

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APPENDIX SUMMARY

Appendix A provides the sunset criteria used in developing the conclusions regarding whether the State Medical Board's termination date should be extended.

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APPENDIX A

Analysis of Public Need Criteria AS 44.66.050(c)

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

1. the extent to which the board or commission has operated in the public interest;
2. the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters;
3. the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
4. the extent to which the board or commission has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided;
5. the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
6. the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved;
7. the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;

APPENDIX A (Continued)

8. the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission to its own activities and the area of activity or interest;
9. the extent to which statutory, regulatory, budgetary, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
10. the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated; and
11. the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

Agency Response from the Office of the Governor

STATE CAPITOL
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907-465-3500



550 West Seventh Avenue, Suite 1700
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907-269-7450

Governor Mike Dunleavy
STATE OF ALASKA

September 27, 2022

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SEP 27 2022

LEGISLATIVE AUDIT

Ms. Kris Curtis, CPA, CISA
Legislative Auditor
Alaska Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Ms. Curtis:

I have received the Division of Legislative Audit's letter, dated September 6, 2022, regarding the Department of Commerce, Community, and Economic Development State Medical Board.

After reviewing the July 19, 2022, preliminary audit report, I agree that the State Medical Board's executive administrator should ensure that all board meetings are adequately public noticed (Recommendation 1).

Secondly, I concur that the Board should ensure that emergency regulations comply with statutes (Recommendation 2). However, these emergency licenses were issued during a global pandemic when Alaska needed health care professionals. The substantially increased workload of the Board and staff as a result of the pandemic was noted in the audit, and their efforts to provide services to Alaskans should be commended during these difficult times. I defer to Commissioner Sande and her staff on how we best ensure that emergency regulations are tied in with statutory compliance in a way that ensures adequate oversight while also prioritizing services to Alaskans in need.

If you have any questions or need additional information, please contact my Boards and Commissions Deputy Director, Alan Marasigan, at 907-269-0035.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Dunleavy".

Mike Dunleavy
Governor

cc: The Honorable Julie Sande, Commissioner, Department of Commerce Community and Economic Development
Tyson Gallagher, Chief of Staff, Alaska Office of the Governor
Aimee Bushnell, Deputy Legislative Director, Alaska Office of the Governor
Alan Marasigan, Deputy Director, Boards and Commissions, Alaska Office of the Governor

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Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

OFFICE OF THE COMMISSIONER
Anchorage Office

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RECEIVED

SEP 29 2022

LEGISLATIVE AUDIT

September 27, 2022

Kris Curtis
Legislative Auditor
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Dear Ms. Curtis:

Thank you for the September 6, 2022, *Confidential Preliminary Report* regarding the State Medical Board (board) Sunset Review. I concur with all conclusions of the report and have the following comments regarding the auditor's recommendations:

Recommendation #1: The board's executive administrator should ensure all board meetings are adequately public noticed.

It is the intent and the standard practice of this agency to ensure all meetings of the board provide adequate public notice. The pandemic caused an increase in the volume of licenses before the board at a time when staff were out due to illness or the positions had turned over. This was true in the case of the executive administrator for the board and Administrative Assistant 3, often referenced as the director's assistant. (Please note that this division does not have an assistant director as mentioned in the report.)

Recommendation #2: The board should ensure that emergency regulations comply with statutes.

While the Division of CBPL works with the board and provides advice and guidance the board is not under the purview of the Department and the responsibility of ensuring compliance with regulations and statutes lies solely with the members of the board.

Again, thank you for the opportunity for the department to provide input on this matter. Should you have any questions about the contents of this letter, please do not hesitate to contact me at 907-465-2500.

Sincerely,

A handwritten signature in blue ink, appearing to read "Julie Sande".

Julie Sande
Commissioner

CC: Sara Chambers, Division Director

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Agency Response from the State Medical Board



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development

STATE MEDICAL BOARD

P.O. Box 110806
Juneau, Alaska 99811-0806
Main: 907.465.2550
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October 11, 2022

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OCT 11 2022

LEGISLATIVE AUDIT

Pauline Perry-Henriques
Legislative Auditor
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Transmitted by email to: pauline.henriques-perry@akleg.gov and Josiah.Lazarek@akleg.gov

Dear Ms. Perry-Henriques,

I have reviewed the Alaska State Medical Board Legislative Audit Report. The recommendations made by the auditing reviewers are appropriate and I accept your findings. The deficits noted have already been noted and remedied:

1. The ASMB will comply with AS 44.62.175(a)(2) to notice all meetings meeting statutory requirements.
2. The ASMB created emergency regulation 12 AAC 40.045(j)(2)(B) the Physician Assistant (PA) Emergency Courtesy License. The regulatory language did not specifically list the requirement for PAs to have a collaborative relationship with a supervising physician as per 12 AAC 40.410. The requirement was initially not enforced. This was corrected through correspondence with the effected individuals and the natural expiration of the emergency regulation.

I would like to suggest an addition to your audit findings. If the pandemic had a single lesson to teach, it was that there was a Board/Legislature disconnect. We at the Board need a regularly scheduled meeting with appropriate and interested members of the legislature so that we may communicate our statutory needs in person. Also, it would be important that the Board be viewed as a medical resource and consulted when medical issues are part of legislation.

Thank you for time and consideration during this audit.

With appreciation and best regards,

A handwritten signature in cursive that reads "Richard Jan Wein, MD".

Richard Wein, MD
Chair

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Legislative Auditor's Additional Comments

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@akleg.gov

October 19, 2022

Members of the Legislative Budget
and Audit Committee:

I have reviewed management's responses to the State Medical Board audit report. Nothing contained in the responses causes me to revise or reconsider the report conclusions or recommendations, except for a statement made by the Department of Commerce, Community, and Economic Development's commissioner. The commissioner points out that there is no assistant director position and the audit should have referenced the director's assistant. We agree and identify that on page 14 of the audit the section that states "The failure to post two meetings on the State's Online Public Notices website was due to turnover in the assistant director position" is incorrect. It should read "The failure to post two meetings on the State's Online Public Notices website was due to turnover in the Division of Corporations, Business and Professional Licensing director's assistant position."

In summary, I reaffirm the report conclusions and recommendations, except for the revision noted above.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

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