

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**February 12, 2002**  
**9:57 AM**

**TAPES**

SFC-02 # 7, Side A  
SFC 02 # 7, Side B

**CALL TO ORDER**

Co-Chair Pete Kelly convened the meeting at approximately 9:57 AM.

**PRESENT**

Senator Dave Donley, Co-Chair  
Senator Pete Kelly, Co-Chair  
Senator Jerry Ward, Vice Chair  
Senator Loren Leman  
Senator Lyda Green  
Senator Gary Wilken  
Senator Lyman Hoffman  
Senator Donald Olson  
Senator Alan Austerman

**Also Attending:**

SENATOR BEN STEVENS; HEATHER BRAKES, staff to Senator Therriault;  
DEBBIE GRUNDMAN, staff to Senator Stevens; CATHERINE REARDON,  
Director, Division of Occupational Licensing, Department of  
Community and Economic Development; PAT DAVIDSON, Legislative  
Auditor, Legislative Budget and Audit Division, Legislative Affairs  
Agency; ANNE HENRY, Chair: Board of Professional Counselors,  
Special Projects Coordinator, Division of Mental Health and  
Developmental Disabilities, Department of Health and Social  
Services

**Attending via Teleconference:**

There were no teleconference participants.

**SUMMARY INFORMATION**

SB 243-CHIROPRACTORS: SUNSET/LICENSING

The Committee heard testimony from the sponsor, the Division of  
Legislative Budget and Audit, and the Department of Community and

Economic Development. The bill was held in Committee.

SB 244-OPTOMETRISTS: SUNSET AND MISCELLANEOUS

The Committee heard testimony from the sponsor, the Division of Legislative Budget and Audit, and the Department of Community and Economic Development. Two amendments were adopted and the bill moved from Committee.

SB 257-EXTEND BOARD OF PROFESSIONAL COUNSELORS

The Committee heard testimony from the sponsor, the Division of Legislative Budget and Audit, and the Department of Community and Economic Development. One amendment was adopted and the bill moved from Committee.

#SB243

SENATE BILL NO. 243

"An Act extending the termination date of the Board of Chiropractic Examiners; and relating to chiropractors."

This was the first hearing for this bill in the Senate Finance Committee.

HEATHER BRAKES, staff to Senator Therriault, spoke to the details of the bill. She informed there is an accompanying committee substitute in the packet.

Senator Leman offered a motion to adopt CS SB 243, 22-LS1266\F Lauterbach, as a working draft.

There being no objection, the document was ADOPTED as a working draft.

Ms. Brakes spoke of the Division of Legislative Budget and Audit report [copy on file] which supports restoring the Board of Chiropractic Examiners to implement full licensure by credentials as outlined in Section 2 of the bill. Ms. Brakes referenced page 5 of the Audit Report which stated the Board of Chiropractic Examiners is "operating in an efficient and effective manner and should continue to regulate and license chiropractors." She noted the Report also states the Board Chiropractic Examiners "serves a public purpose by promoting the competent and safe practice of chiropractic therapy." She summarized this bill as being based on

the audit recommendations.

KATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development stated the Division provides the administrative support for the Board of Chiropractic Examiners.

Co-Chair Kelly asked Ms. Reardon to explain the differences in licensure requirements as presented in the committee substitute.

Ms. Reardon explained both the committee substitute and the original bill include licensure by credentials which applies to people applying for a license in the state of Alaska who have had a previous license in another state. The committee substitute establishes identical criteria; however the Board has the option of permitting an applicant to pass two of the four sections of the national exam or pass another special national exam that is designed for people who have been in practice. She stated some sections of the current test are geared for people who are coming right out of medical school, and this committee substitute allows for a different sort of test for those who have been out of school for a while and have been in practice.

Ms. Reardon continued that the original bill specifically mentions paying a licensing fee; however, licensing fees are not mentioned in this committee substitute as fees are addressed in other statutes.

Ms. Reardon stated the committee substitute specifies the applicant must have graduated from a licensed chiropractic school; the original bill does not. She continued that the committee substitute states the applicant must have passed the national exam and must have held a license in another state for five years; whereas the "original bill gave you an option of one or the other." She continued that the committee substitute states the applicant must have been in active practice three of the past five years; recent practice guidelines are not specified in the original bill. She outlined other differences in the bills including the new provision for a different test if the applicant has been practicing in another state.

PAT DAVIDSON, Legislative Auditor, Division of Legislative Budget and Audit, Legislative Affairs Agency, spoke to the audit review on the sunset of the Board of Chiropractic Examiners and verified the audit recommends the standard four-year extension with the additional recommendation of licensure by credentials.

Senator Green, referring to page 2, line 26, Section 2(C)(3), of

the committee substitute, asked for clarification of what qualifies as length of practice.

Ms. Reardon responded the section regarding prior length of practice is "pretty common" and "within the typical range of other programs." She noted the intent of this requirement is to address that an applicant has practiced recently and "not twenty years ago." She informed that the dental board has "even more strident time requirements with no break in time" of active practice.

Senator Green asked what the requirement is for medical doctors.

At ease 10:08 AM /10:12 AM

Ms. Reardon responded there is no recent active practice requirement for medical doctors, but reiterated there are such requirements for dentists.

Senator Olson asked what constitutes active practice and how is the time accounted for if a practitioner works, for example, only three days a week.

Ms. Reardon replied that the Board would have to interpret what constitutes active clinical practice. She surmised if a practitioner were actively seeing patients for only nine months of the year, the time would have to accumulate to 36 months within a five-year span to qualify for the three-year active practice requirement. She reiterated this would be a decision of the Board.

Senator Green voiced she is not comfortable supporting this committee substitute without this active practice requirement being further clarified.

Co-Chair Kelly asked Senator Green to work with Ms. Davidson and the Division of Legislative Budget and Audit to work on appropriate language.

Senator Olson stated there are many circumstances to consider, and he supports holding the bill pending further clarification.

Co-Chair Kelly asked Senator Green to form a subcommittee to address this concern and to report back to the Committee by February 18.

The bill was held in Committee.

#SB244

CS FOR SENATE BILL NO. 244(L&C)

"An Act extending the termination date of the Board of Examiners in Optometry; and relating to optometrists."

This was the first hearing for this bill in the Senate Finance Committee.

Ms. Brakes explained this committee substitute provides for a new termination date for the Board of Optometrists and allows for statutory changes to enable the Board to "more effectively license by credential, update continuing education requirements" and bring the requirements in line with current practice and regulations. She detailed some of the changes such as the replacement of the state tactical exam with the National Board of Examiners and Optometry examination.

Ms. Brakes referred to the Division of Legislative Budget and Audit report on the issue [copy on file] which supports the extension date proposed for the Board. She referenced page seven of the report which details the findings and recommendations of the audit.

Ms. Brakes noted that page 15 of the audit report contains the Department of Community and Economic Development' response to the audit recommendations. She informed that SB 244 was drafted based on the findings and recommendations of the audit.

Senator Green noted that the original bill included a requirement that the applicants submit a photograph with their application; however that requirement was omitted from the committee substitute. She asked for clarification about this change.

Ms. Brakes responded on page seven of the audit report, Recommendation No. 1 recommends the Board rescind the application requirement of requiring a photograph of the applicant. She stated the drafters attempted to draft the legislation based on the audit recommendations, and, as the sponsor, "we wanted to put those out on the table for discussion and to let that work through the Committee process." She noted the Senate Labor and Commerce Committee reinstates the photograph requirement; however, it specifies photographs are not permitted to be forwarded to the Board at time of licensure.

Senator Green asked if the photograph requirement is typical of all

licenses.

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development responded that the Department "looked through all of the programs, as a result of this issue coming up. Approximately two-thirds of the 38 licensing programs do require photographs with the application; however, in most of those instances, it is not because of a statute or a regulation that requires it, but a board policy." She continued the requirement is on the application form which was approved by a Board. She continued that this particular wording stating a photograph should be submitted, but would not be "forwarded to the Board during the application process, is unique to this bill."

Senator Green inquired as to the purpose of the photograph.

Ms. Reardon responded the photograph is included in the file and is used for identification purposes. She qualified that the application is signed and notarized; however there are instances in which "people do try to pass themselves off as other people." She continued that some boards view having the photograph as "useful." She noted that photo identification is useful at exam check-in, to make sure that a "ringer" is not taking the test for the "correct person."

Senator Green asked if the photograph is used for the issuance of a state of Alaska photo identification card when a person is licensed.

Ms. Reardon responded that the Department only issues paper licenses printed on a laser printer that do not contain photographs.

Senator Ward inquired as to "how many ringers have been used to take tests."

Ms. Reardon responded she "is not aware of that happening" during the seven years she has been with the Department. She continued that "very rarely, if at all" can that Department prove that this has occurred. She continued that on the national level, there is "a lot of concern about that, particularly with the big professional exams," such as engineering. She noted there has been "an instance in Alaska in the last two years where a nurse applicant tried to pass herself off as an entirely different person." She detailed how this person "was caught" during the application process. She informed that "strange things" do happen.

Senator Green asked if "we expect this language to start appearing

in all licensure and renewals" for these various licenses or would this be better addressed in a separate statute.

Ms. Reardon responded the photograph requirement is addressed in this particular bill because of the audit recommendation to remove "the board's ability to require photographs." She stated this is "not an effort to add photographs to the process, it is a reaction to the recommendation that the ability to require photographs be removed." She stated "there was discussion in the Senate Labor and Commerce Committee about whether that was a good idea."

Ms. Reardon summarized the language in the committee substitute is perhaps, "a compromise." She continued, "the recommendation to not require a photograph was to eliminate a potential opportunity for discrimination based on the photograph." She continued "there was some debate about whether it was necessary, whether that really was a significant risk," and this language is "a way of coming up with protecting against discrimination while retaining the ability to ask for photographs."

Senator Olson asked if the Division is in favor of having photographs.

Ms. Reardon responded that the Division supports the position of the Boards and "if a board feels this is important," then the Division would support "obtaining the photographs" for them." She voiced support for not submitting the photograph to the Board during the application review process as the current bill describes "to eliminate anyone's concern that that might be influential."

Senator Olson asked if "there have been any complaints by minority groups that they have been discriminated against through the application period."

Ms. Reardon responded she was not aware of any complaints.

Co-Chair Kelly stated that one of the reasons not to include a photograph is just a "general sense" that the Board may make a decision based on a photograph.

Senator Olson spoke of his experience as a member of the Board of Optometrists and stated it was "quite helpful" to have photograph as it made it easier to identify a person and easier to recall the person if their name came up at a later proceeding. He stated he "did not necessarily agree with the findings of the audit."

Senator Ward asked if the Board could make a decision as to whether a photograph would be required.

Ms. Reardon commented "boards review the application forms" so she would "look to boards for direction."

Senator Ward clarified that if Board did not require a photograph, the Department would not object.

Ms. Reardon concurred.

Senator Ward clarified that if Board did want a photograph that also would be fine with the Department.

Ms. Reardon concurred, stating "as long as it was not contrary to statute."

Senator Lemman voiced he did not agree with the audit recommendation, and he believes it is important to have photographs on file. He stated that the terrorist events of September 11, 2001 make him "realize what some people will go through to defraud and harm other people." He opined that requiring a photograph is appropriate. He continued "this language is not necessary because the policy of division has been to do this and if that is the boards policy they can continue to do that." He does not foresee a "problem with discrimination" as these people will interact with other professionals and the public in their profession.

Senator Green stated the current language takes the decision whether to require photographs away from the Board and perhaps it would be more appropriate to let the Board make that decision.

Co-Chair Kelly asked "if it is not the statute to let Board deal with this anyway."

Ms. Reardon replied the current statute language authorizes such discretion to the Board. She suggested changing the language to clarify that the Board and not the Department make this decision.

Amendment #1: This amendment changes the wording in Section 2, line 11 to reflect "the board may require.." instead of "the Department may require..."

Senator Green moved for adoption.

Co-Chair Kelly reiterated the change.

There being no objection, Amendment #1 was approved.

Senator Lemman asked if the Committee should address this photograph issue through statute instead of through Board policy. He suggested

removing a portion of Section 2 from the bill. He discussed the normal application process.

Ms. Reardon clarified that photographs are handled varies among the boards. She detailed that some boards require photographs at different stages of the application process. She stated that the Optometrist Board has not been viewing the photographs during the application process.

Senator Green stated this language should be addressed throughout all licensure boards.

Co-Chair Kelly agreed.

Senator Green suggested statutory language could be enacted to leave the photograph requirement up to the discretion of all boards.

Ms. Reardon informed that the Department does have a statute, AS 08.01. under which something of this nature could be addressed.

Co-Chair Kelly acknowledged this change could be done in this bill, and then addressed in a "more generalized statute" at a later date.

Amendment #2: This amendment deletes Section 2 of the committee substitute in its entirety.

Senator Lemman moved for adoption. He stated if Section 2 were deleted, there would be no change to existing practice.

There being no objections, Amendment #2 was ADOPTED.

Senator Lemman offered a motion to report CS SB 244 (FIN), 22-LS1267\J with a prior \$17,700 Department of Community and Economic Development fiscal note from Committee.

Without objection, the bill MOVED from Committee.

#SB257

CS FOR SENATE BILL NO. 257(L&C)

"An Act extending the termination date of the Board of Professional Counselors; and relating to licensing of professional counselors."

This was the first hearing for this bill in the Senate Finance Committee.

DEBORAH GRUNDMAN, staff to Senator Stevens, detailed the specifics of SB 257. She informed that the Division of Legislative Budget and Audit report [copy on file] recommends continuation of the Board. She noted that the audit also recommends the merger of the Board of Professional Counselors and the Board of Marital and Family Therapy into a "single oversight and licensing Board." She informed that Division of Legislative Budget and Audit also recommends similar sunset dates for the two boards in order to address the possible merger.

Ms. Grundman noted Section 2 of the committee substitute addresses some changes in the educational requirements of professional counselors at the request of the Board and the Department.

ANN HENRY, Chair, Board of Professional Counselors, Department of Community and Economic Development informed that Committee that the division supports the extension of the Board.

PAT DAVIDSON, Legislative Auditor, Legislative Budget and Audit Committee, Division of Legislative Audit, notified the Committee that the Audit report did recommend extension of the Board to allow time to merge "two very similar groups." She clarified each group would have their own separate licensing statute but "would be controlled by one Board." She continued this recommendation was "based on effectiveness and economy of scale." She noted the merger "would not result in any substantial impact on costs associated with either of those boards."

Ms. Davidson stated all behavioral science boards including Professional Counselors, Marital and Family Therapists, Professional Social Workers, and Psychologists "would be up for review at the same time" in the year 2005.

Senator Olson inquired if there were any objections to the merger of "these two disciplines."

Ms. Davidson reported the Division conducted surveys during the audit period. She informed there were no strong disagreements from professional counselors or from marital and family therapy counselors; however psychologists "strongly objected to being combined with either of those boards."

Amendment #1: This amendment would delete "completing the requirement of" and insert "earning the degree required under" on page 2, line 19, Section 2(a)(6).

Senator Leman offered a motion to adopt Amendment #1. He explained this amendment allows counselors to begin earning supervised experience as soon as they complete their education" instead of having to wait until they complete their graduate hours of training.

Ms. Reardon informed the Committee this amendment is supported by the Board and the Division of Occupational Licensing. She stated this amendment would allow it to be "more feasible" for people who need to work while they are obtaining graduate hours.

Senator Olson exemplified that the effect of this amendment would be to allow someone to do "moonlighting."

Ms. Reardon characterized the language as clarifying "when someone's supervised experience would start counting for licensure." She stated current law requires people to get 3,000 hours of supervised experience, in addition to a 60-hours master degree requirement. She noted this amendment would allow those people who have a Masters degree with less than 60-hours of required degree time to work toward getting that 60-hour requirement.

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Ms. Reardon continued that with this amendment a person with a Master's degree could count hours as "supervised hours" while they were working toward the 60-hour requirement.

There being no objection, Amendment #1 was ADOPTED.

Senator Leman offered a motion to report CS SB257 (FIN), 22-LS 1336\J from Committee with the previous fiscal note of \$51,400 from the Department of Community and Economic Development.

There being no objection, the bill MOVED from Committee.

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#### **ADJOURNMENT**

Co-Chair Pete Kelly adjourned the meeting at 10:48 AM.