

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 10, 2003

3:15 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Bob Lynn, Vice Chair
Representative Nancy Dahlstrom
Representative Carl Gatto
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 71

"An Act extending the termination date of the Board of Certified Direct-Entry Midwives."

- MOVED HB 71 OUT OF COMMITTEE

HOUSE BILL NO. 73

"An Act extending the termination date of the State Medical Board."

- MOVED HB 73 OUT OF COMMITTEE

HOUSE BILL NO. 74

"An Act extending the termination date of the Board of Nursing."

- MOVED HB 74 OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 71

SHORT TITLE: EXTEND BOARD OF MIDWIVES

SPONSOR(S): STATE AFFAIRS

Jrn-Date	Jrn-Page		Action
01/31/03	0105	(H)	READ THE FIRST TIME - REFERRALS

01/31/03 0105 (H) L&C, FIN
02/10/03 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 73

SHORT TITLE: EXTEND STATE MEDICAL BOARD

SPONSOR(S): REPRESENTATIVE(S) DAHLSTROM

Jrn-Date	Jrn-Page		Action
02/05/03	0130	(H)	READ THE FIRST TIME - REFERRALS
02/05/03	0130	(H)	L&C, FIN
02/10/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 74

SHORT TITLE: EXTEND BOARD OF NURSING

SPONSOR(S): REPRESENTATIVE(S) DAHLSTROM

Jrn-Date	Jrn-Page		Action
02/05/03	0130	(H)	READ THE FIRST TIME - REFERRALS
02/05/03	0130	(H)	L&C, FIN
02/10/03		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE BRUCE WEYHRAUCH

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As chair of the sponsoring committee, presented HB 71, extending the term of the Board of Certified Direct-Entry Midwives; he described his family's experience with midwives at the birth of his three children.

PAT DAVIDSON, Legislative Auditor

Division of Legislative Audit

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified about the sunset reviews conducted on the three the boards that would be extended in HB 71, HB 73, and HB 74; the audits concluded that the boards should be extended, and in the case of the Alaska Medical Board and the Board of Nursing, the auditor recommended extensions of eight years rather than the typical four years.

KAYE KANNE, President

Midwives Association of Alaska;

Executive Director

Juneau Family Birth Center
Juneau, Alaska

POSITION STATEMENT: Spoke in support of HB 71, noting that high fees have not limited entry into the midwife field; she answered questions about midwife training and birthing techniques.

RICK URION, Director
Division of Occupational Licensing
Department of Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 71, HB 73, and HB 74, saying the boards function well.

DANA BROWN, Chair
Board of Certified Direct-Entry Midwives;
Executive Director, Alaska Family Health and Birth Center
Fairbanks, Alaska

POSITION STATEMENT: Testified in favor of HB 71 and noted that midwives strongly prefer having their own board.

KIMBERLY HANGER, Staff
to Representative Nancy Dahlstrom
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions about HB 73 and HB 74.

NANCY SANDERS, Chair
Board of Nursing
Anchorage, Alaska

POSITION STATEMENT: Spoke in favor of HB 74, which extends the termination date for the Board of Nursing.

ACTION NARRATIVE

TAPE 03-7, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Anderson, Lynn, Dahlstrom, Crawford, and Guttenberg were present at the call to order. Representatives Gatto and Rokeberg arrived as the meeting was in progress.

HB 71-EXTEND BOARD OF MIDWIVES

CHAIR ANDERSON announced the first order of business was a hearing on HOUSE BILL NO. 71, "An Act extending the termination date of the Board of Certified Direct-Entry Midwives."

Number 0077

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, speaking as chair of the House State Affairs Standing Committee, sponsor of HB 71, explained that this legislation that extends the Board of Certified Direct-Entry Midwives through June 30, 2007. He said the continuation of this board was handled in a stand-alone bill because the profession is significantly different from other health professions. The fiscal note is zero. Fees from midwife licensing cover the administrative costs of the board.

REPRESENTATIVE WEYHRAUCH explained his personal experience with the midwife profession. His three children were born at home with the assistance of midwives. Representative Weyhrauch's wife selected this birthing option after researching what midwives offer. Each time, the midwife carefully examined Mrs. Weyhrauch, monitored her pregnancy, and evaluated her for risks such as twins and Caesarian section birth. Both the Weyhrauchs took prenatal classes from the midwife and the hospital and developed contingency plans for emergencies. He described these services, when conservatively handled, as a great asset both in rural and urban Alaska. The board gives the state oversight over who's practicing when, where, and how.

Number 0445

REPRESENTATIVE CRAWFORD noted that two of his three children were born with the assistance of midwives, and he supports this profession. He asked whether midwives would rather be separate from related professionals and bear all the administrative cost themselves or be combined with another board in order to keep the cost of their licenses lower.

REPRESENTATIVE WEYHRAUCH suggested that a member of the midwife board could better answer that question.

Number 0575

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature responded to a question from Representative Guttenberg about the legislative audit of the Board of Certified Direct-Entry Midwives. The audit [Control No. 08-20016-02] recommended a four-year extension of the

board's termination date. In a similar sunset audit four years ago, the agency was concerned that the high cost of the licensing fee was presenting a barrier to entry into the profession. In this audit, staff found that those fees have dropped, but the board is collecting sufficient fees to cover their expenses. This audit did not examine whether the midwives should consider joining another board. In answer to a question from Representative Crawford, she noted that the biennial fee is currently \$950, down from \$1,550 two years ago. Ms. Davidson, in response to a comment by Representative Rokeberg, noted that the Board of Certified Direct-Entry Midwives received a clean audit.

Number 0675

KAYE KANNE, President, Midwives Association of Alaska; Executive Director, Juneau Family Birth Center, told members that she has practiced as a midwife in Juneau for 19 years. She testified in support in HB 71. She said the Board of Certified Direct-Entry Midwives board has done an excellent job of writing and implementing regulations. She noted that she was a member of the board from its inception in 1992 through 1999 and was its chair for four of those years. The board strives for high standards for CDMs [certified direct-entry midwives], and as a result, she testified, midwives in Alaska are professional, well trained, and provide safe, excellent care for women and families.

MS. KANNE referred to data from the Office of Vital Statistics, Division of Public Health, Department of Health and Social Services, on the percentage of births in Alaska attended by certified direct-entry midwives. She said they delivered almost 10 percent of the babies born in Alaska last year. The percentage is even higher in some parts of the state, for example, almost 25 percent in the Matanuska-Susitna Borough. Alaska's figures are higher than the nationwide average, where midwives attend approximately 5 percent of the births.

MS. KANNE opined that Alaska has one of the best midwifery laws in the United States. Many other states look to Alaska as an example when passing midwifery legislation. Some 21 states have licensing for direct-entry midwives and 8 more have legislation pending.

Number 0830

MS. KANNE answered Representative Rokeberg's questions from the Legislative Audit report about why only 7 out of 30 apprentices are still active. She described supervising apprentices during her 20-year career. The long hours, low pay, and huge responsibility discourage many students. She has supervised two apprenticeships who finished their training and became licensed. There's no requirement for a university degree in Alaska; Alaska's direct-entry midwifery laws are based on the apprenticeship model. There are several nationally credited programs that instructors use when they supervise midwife trainees; Ms. Kanne explained that she uses the National College of Midwifery out of New Mexico, which is a degree program.

Number 0928

REPRESENTATIVE ROKEBERG noted his concern about high licensure costs. He cited a recent disciplinary action by the board, the cost of which must be covered by the midwife licensing fee. He expressed concern that the fee would rise again. He noted it was a key issue when the board was created because of its potential barrier to entry; the amount of the licensing fee is always a consideration in licensing an occupation.

MS. KANNE replied that the licensing fee was \$1,300 for the most recent renewal of December 31, so it has risen from \$950, probably because of the investigation. As the president of the Midwives Association of Alaska, she reported that members feel it is very important to have an independent board, and they do not want to be merged with any other board. Members are willing to pay the higher licensing fees, she said. They are continuing to recruit midwives in the state. The Juneau Family Birth Center and other nonprofit birth centers in Alaska pay their midwives' licensing fees. They try to assure that no one is prohibited from practicing because of the licensing fees.

Number 1085

MS. KANNE, in response to questions from Representative Rokeberg about whether midwives can afford the fees, said midwifery services pay for themselves and the midwives' salaries. She said the total fees for a childbirth at the Juneau Family Birth Center range from \$3,000 to \$5,000, which is about half the cost of a normal delivery at the hospital.

Number 1127

REPRESENTATIVE LYNN asked if midwife services are covered by insurance. He asked about the process, and timeframe, and the cost of getting licensed as a certified direct-entry midwife.

MS. KANNE answered that midwife training in Alaska uses an apprenticeship model. Students must finish an academic program approved by the national accreditation program for midwives and must finish clinical requirements under state law. Most apprentices take three to four years because they must assist at 60 births. The cost of apprenticeship varies around the state. At the Juneau birth center, for example, students pay \$200 a month and work at the center.

Number 1240

REPRESENTATIVE GUTTENBERG asked about the protocols to transfer a patient from a midwife to a doctor in case of complications.

MS. KANNE replied that certified direct-entry midwives are independent practitioners who do not practice under the supervision of physicians. State law recommends - but does not require - that patients see a physician for a complete physical exam. She said she believes midwives and medical professionals in Juneau and around the state have good working relationships. Alaska law clearly defines what midwives can and cannot do.

REPRESENTATIVE GUTTENBERG asked whether there has been a situation in which someone used a midwife instead of using a physician.

MS. KANNE replied no, not to her knowledge.

Number 1360

MS. KANNE, in response to a question from Representative Lynn about whether midwives administer pain medication during childbirth, answered that no, midwives use natural techniques such as massage and water to create a situation in which pain medication isn't necessary.

MS. KANNE answered a question from Representative Gatto about whether men are allowed to become midwives. She said that yes they are, although there are none that she knows of practicing in Alaska.

Number 1388

RICK URION, Director, Division of Occupational Licensing, Department of Community & Economic Development, said the Board of Certified Direct-Entry Midwives functions well and within its budget. He urged the committee to pass HB 71.

Number 1430

DANA BROWN, Chair, Board of Certified Direct-Entry Midwives; Executive Director, Alaska Family Health and Birth Center, testified in favor of extending the board. She said the board has been doing its work of maintaining high standards of care for the public's safety. The midwives are able and willing to pay the licensing fees required to maintain a separate board.

Number 1504

REPRESENTATIVE GATTO moved to report HB 71 out of committee with individual recommendations and the attached fiscal note. There being no objection, HB 72 was reported from the House Labor and Commerce Standing Committee.

HB 73-EXTEND STATE MEDICAL BOARD

Number 1546

CHAIR ANDERSON announced a hearing on HOUSE BILL NO. 73, "An Act extending the termination date of the State Medical Board."

REPRESENTATIVE DAHLSTROM, sponsor of HB 73, testified that the bill extends the termination date of the State Medical Board for four years. She described the membership of the eight-member board, which is appointed by the governor. She also said:

The board serves the public interest by establishing the minimum education and work-experience requirements that individuals must meet to become licensed physicians, osteopaths, podiatrists, paramedics, and physician assistants. The board further serves the public interest by investigating complaints against licensed professionals and taking disciplinary action when appropriate and necessary. The board has consistently proven to be efficient; therefore I recommend that the State Medical Board be extended to June 30, [2007], and I urge you to vote for its passage.

Number 1641

REPRESENTATIVE ROKEBERG asked why the sponsor didn't follow the recommendation of the legislative audit report for an eight-year extension.

KIMBERLY HANGER, Staff to Representative Nancy Dahlstrom, Alaska State Legislature, quoted AS 08.03.020, which sets the four-year extension for a board unless it is continued or reestablished for a longer period.

REPRESENTATIVE ROKEBERG noted that the legislature can continue the board longer than the four-year period if it chooses, depending on the level of confidence the legislature has in the board's work. The board has been in the headlines frequently, holding disciplinary hearings, and perhaps, he surmised, that means it's doing a good job. It's a judgment call how long to extend the sunset provision. Often, the legislative audits expose problems in the statute or the regulations of a board. A shorter sunset period allows the legislature to review the results of previous changes to the law.

Number 1811

PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, Alaska State Legislature, explained that the audit report [No. 08-20017-02] recommended an eight-year extension to 2011 for several reasons. Auditors found that the board was actively working on statutory and regulatory development of items in the public interest. The board was functioning smoothly and there were no financial problems with its operations. It's unusual for her office to recommend such a lengthy extension of the board, she said, and the statutes indicate a preference for four-year extensions. She reminded legislators that they can ask her agency to review a board if they see problems.

MS. DAVIDSON answered Representative Lynn's questions about the details of board members' terms and appointments. She said the eight members' terms are four-years and staggered; members are appointed by the governor and approved by the legislature.

MS. DAVIDSON replied to Representative Rokeberg's query about the statute controlling the extension of the boards, AS 08.03.020. She said the statute gives legislators leeway to put whatever year they'd like on the termination date.

Number 1965

MS. DAVIDSON, as requested by Representative Rokeberg, explained the one-year closeout period provided by state law if the legislature chooses not to extend the termination date of a board. She explained that the licensing function may remain and be administered by the Division of Occupational Licensing even if the board dissolves. When a board shuts down, the division loses the voice of the professionals it is regulating. It is more difficult to make changes in statute and regulations, which as a result tend to get stale. Because a board only meets several times a year, those activities would get shelved during a wind-down year.

MS. DAVIDSON answered a question from Representative Guttenberg about the State Medical Board's taking an active role in shaping state laws and regulations. She said its members testify before the legislature on bills and develop regulations to support the statutes.

REPRESENTATIVE GUTTENBERG noted the board's 413 investigative cases referenced in the audit and asked whether any resulting legal challenges handled by the Department of Law have affected the board's budget.

MS. DAVIDSON replied that most times when the Department of Law does work associated with a licensing board, the department charges the board for those services.

Number 2135

REPRESENTATIVE DAHLSTROM said that as the sponsor of the bill, she favors the four-year period because the medical industry is changing so rapidly, and this allows the legislature to review the board again in four years.

MS. HANGER noted that the committee's bill packet includes a letter from the former director of the Division of Occupational Licensing, Catherine Reardon, agreeing with the audit's recommended eight-year extension.

Number 2176

REPRESENTATIVE GATTO agreed with the sponsor's choice of a four-year extension. He commented that a board might increase its activities as it sees a termination date approaching. He has followed the news of the board's investigations reported in the newspaper. He has worked as a paramedic in Anchorage for 28

years and is familiar with some of the professionals being investigated.

MS. DAVIDSON replied to Representative Guttenberg's question about whether a board's activity increases as it nears its termination date. She said it depends on the particular board. Some boards prefer to have their sunset extension handled separately from any changes to their governing statues. Other boards may be going through growing pains and may be more active before a sunset review.

Number 2355

RICK URION, Director, Division of Occupational Licensing, Department of Community & Economic Development, said the division supports HB 73 and asked the committee to pass it on. He said the department has no problem with either a four-year or eight-year extension of the board. Setting the term of the board does not affect the four-year term of the members, and he's not aware of any boards that become more active at the approach of sunset.

TAPE 03-7, SIDE B

Number 2370

MR. URION said the Medical Board is extremely active and has handled a number of disciplinary actions, which causes their administrative costs to rise. He discussed how diplomacy actions affect the licensing fees, and for professions with fewer members, that can have a severe impact. He said the State Medical Board is about \$190,000 in the hole, and he predicted next year will be a quieter year with less investigative activity. The fee for physicians is \$590 as of the beginning of the year, and the next renewal is in 2004.

MR. URION replied to Representative Lynn's question about when an investigation becomes public. He said under current division policies, a complaint becomes public right away. But the division is working on adding an intermediate step in which a complaint would be screened for validity before beginning an investigation.

Number 2139

REPRESENTATIVE GATTO asked how a patient can take action against an incompetent physician. He also questioned whether the medical profession is truly self-policing.

MR. URION replied that the patient can file a complaint about the doctor with the Division of Occupational Licensing. He added that it's easier for physicians to assess the competency of their peers, now that they've been relieved of the liability under a change in state law [AS 08.64.362] several years ago.

CHAIR ANDERSON invited Mr. Urion to brief the committee at a future meeting about complaint procedures and the budget impact of these procedures.

Number 1935

REPRESENTATIVE DAHLSTROM, in response to a question from Representative Rokeberg, said she is not comfortable with increasing the four-year extension, but she is willing to talk to Senator Con Bunde, who is sponsoring a similar bill.

Number 1856

REPRESENTATIVE LYNN moved to report HB 73 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 73 was reported from House Labor and Commerce Standing Committee.

HB 74-EXTEND BOARD OF NURSING

Number 1814

CHAIR ANDERSON announced that the final order of business would be consideration of HOUSE BILL NO. 74, "An Act extending the termination date of the Board of Nursing."

REPRESENTATIVE DAHLSTROM, as sponsor of HB 74, noted that it extends the termination date of the Board of Nurses to June 30, 2007. She described the membership of the board and noted that it establishes minimum education and work experience requirements for licensed nurses and certified nursing aides. The board also investigates complaints against licensed professionals and takes disciplinary action when appropriate. She said the board acts efficiently, and she urged the committee to pass the bill.

Number 1753

KIMBERLY HANGER, Staff to Representative Nancy Dahlstrom, Alaska State Legislature, testified that the Division of Legislative

Audit reviewed the operations of the Board of Nursing and recommended the extension of the board. Each committee member's packet includes a letter from the former director of the Division of Occupational Licensing, Catherine Reardon, recommending the extension of the board.

Number 1712

REPRESENTATIVE ROKEBERG asked whether the sponsor considered adding statutory changes to the bill based on the recommendations from the auditors report [No. 08-20018-02]. He pointed out that the report highlighted two issues: notifying the Board of Pharmacy of changes to the prescriptive authority of nurse practitioners and nurse anesthetists and developing a self-evaluation monitoring checklist for approved nursing aide training programs.

MS. HANGER replied that these are regulatory matters that the board can deal with internally.

Number 1630

PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, Alaska State Legislature, replied to Representative Rokeberg that the two recommendations in the audit are operational, and that the Board of Nursing responded to both issues with plans of action.

REPRESENTATIVE ROKEBERG asked Ms. Davidson to explain why this audit also recommends an eight-year extension on the Board of Nursing and to explain to the committee the scheduling and cost of sunset audits.

Number 1578

MS. DAVIDSON replied that while the board must cover the full cost of its operations with license fees, it does not pay the cost of legislative hearings or audits. An audit can cost between \$8,000 and \$20,000, depending on the results. For example, the State Medical Board and the Board of Nursing audits are less expensive because the boards are well established and function smoothly. Some of the controversial issues do not relate to the board's operations. The Division of Occupational Licensing conducts investigations, and its work must be prioritized because it serves the boards across the occupations. The boards do not have control over investigations, which in some cases are controversial and hit the newspapers.

Number 1387

MS. DAVIDSON, in response to Representative Rokeberg, agreed that the legislature would save one sunset audit if the board were extended eight years instead of four. She said the auditors would move to the next priority on their list and deal with their backlog sooner. The length of board extensions is completely up to the legislature. When the state adopted the sunset law, the legislature wanted to keep tabs on what's happening in the occupations, helping ensure that they are operating in the public's best interest. The Division of Legislative Audit does not lightly recommend eight-year extensions.

Number 1268

RICK URION, Director, Division of Occupational Licensing, Department of Community & Economic Development, testified that his division favors HB 74, the extension of the Board of Nursing. He reminded the committee that if legislators extend the board for eight years, they always have the option to request an audit.

Number 1109

NANCY SANDERS, Chair, Board of Nursing, spoke in support of HB 74 and said she was available to answer questions.

REPRESENTATIVE ROKEBERG recounted how he sponsored a budget bill in 2000 which allowed the Board of Nursing licensees to raise their own fees in order to replace lost grant money. He asked about the outcome of that project.

MS. SANDERS answered that she was not on the Board of Nursing when this event took place and so she was not familiar with the project.

[SANDY PERRY-PROVOST, Lobbyist, Alaska Nurses Association, said she did not know the answer to Representative Rokeberg's question.]

Number 0960

REPRESENTATIVE LYNN moved to report HB 74 out of committee with individual recommendations and the accompanying fiscal note.

There being no objections, HB 74 was reported from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:40 p.m.