

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

January 18, 2006

3:21 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Pete Kott
Representative Gabrielle LeDoux
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 338

"An Act relating to applications, qualifications, and criminal history and background checks for a certificate of fitness for explosives handlers; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 93

"An Act relating to dentists and dental hygienists and the Board of Dental Examiners; establishing certain committees for the discipline and peer review of dentists; excluding the adjudicatory proceedings of the Board of Dental Examiners and its committees from the Administrative Procedure Act and from the jurisdiction of the office of administrative hearings; and providing for an effective date."

- MOVED CSHB 93(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 295

"An Act adopting the Uniform Fraudulent Transfer Act and relating to fraudulent transfers of property."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 338

SHORT TITLE: CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

SPONSOR(S): REPRESENTATIVE(S) CHENAULT, REPRESENTATIVE LYNN

01/09/06 (H) PREFILE RELEASED 12/30/05
01/09/06 (H) READ THE FIRST TIME - REFERRALS
01/09/06 (H) L&C, FIN
01/18/06 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 93

SHORT TITLE: DENTISTS AND DENTAL HYGIENISTS

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

01/21/05 (H) READ THE FIRST TIME - REFERRALS
01/21/05 (H) L&C, JUD, FIN
01/28/05 (H) L&C AT 3:15 PM CAPITOL 17
01/28/05 (H) -- Meeting Canceled --
02/02/05 (H) L&C AT 3:15 PM CAPITOL 17
02/02/05 (H) Heard & Held
02/02/05 (H) MINUTE(L&C)
01/18/06 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

SHARALYN "SUE" WRIGHT, Staff
to Representative Mike Chenault
House Finance Committee
Alaska State Legislature

POSITION STATEMENT: Provided opening statement on HB 338 on behalf of Representative Chenault, one of the prime sponsors.

GREY MITCHELL, Director
Central Office
Division of Labor Standards and Safety
Department of Labor & Workforce Development (DLWD)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 338.

CLIFF HUSTEAD, Chief
Consultation & Training
Occupational Safety & Health
Division of Labor Standards & Safety
Department of Labor & Workforce Development
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 338.

HEATH HILYARD, Staff

to Representative Tom Anderson
Alaska State Legislature
POSITION STATEMENT: Presented HB 93 on behalf of Representative
Anderson, sponsor.

JIM TOWLE, Executive Director
Alaska Dental Society, Inc. (ADS)
Anchorage, Alaska
POSITION STATEMENT: Testified on HB 93.

GEORGE SHAFFER, D.M.D.
Alaska Dental Society, Inc. (ADS)
Ketchikan, Alaska
POSITION STATEMENT: Testified in support of HB 93.

RICK URION, Director
Central Office
Division of Occupational Licensing
Department of Commerce, Community, & Economic Development
(DCCED)
Juneau, Alaska
POSITION STATEMENT: Expressed concerns with HB 93.

ACTION NARRATIVE

CHAIR TOM ANDERSON called the House Labor and Commerce Standing
Committee meeting to order at [3:21:48 PM](#). Representatives
Anderson, Kott, Rokeberg, Lynn, and Guttenberg were present at
the call to order. Representatives Crawford and LeDoux arrived
as the meeting was in progress.

HB 338-CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

[3:22:59 PM](#)

CHAIR ANDERSON announced that the first order of business would
be HOUSE BILL NO. 338, "An Act relating to applications,
qualifications, and criminal history and background checks for a
certificate of fitness for explosives handlers; and providing
for an effective date."

SHARALYN "SUE" WRIGHT, Staff to Representative Chenault, House
Finance Committee, Alaska State Legislature, stated that the
Department of Labor & Workforce Development (DLWD) requested the
legislation and would therefore be presenting HB 338.

[3:24:01 PM](#)

GREY MITCHELL, Director, Central Office, Division of Labor Standards and Safety, Department of Labor & Workforce Development (DLWD), stated that he is in support of HB 338. He informed the committee that the division licenses explosive handlers in the state. There are currently about 170 licensed explosives handlers in Alaska, and the Division issues 50-70 new licenses each year. It is a three-year license. He stated that the intention of the legislation is to create a system that would allow the Division to check for national criminal records of the applicants. [The background check] would also apply to anyone renewing his or her license. He explained that "... To us it just made good common sense to do that, with the ... concerns that are going around the country right now, and we have these workers who are working in close contact with explosives; we want to make sure that they don't have records that would cause concerns for us."

[3:25:21 PM](#)

CHAIR ANDERSON informed the committee that there was a proposed amendment, which read [original punctuation provided]:

Section 7 This act would not apply to people working under the jurisdiction of the U.S. Department of Labor, Mine Safety and Health Administration.

MR. MITCHELL stated that he was familiar with the proposed amendment.

CHAIR ANDERSON explained that the proposed amendment would add a new section and would address concerns of the Alaska Miners Association.

MR. MITCHELL, in response to a question, stated that the proposed amendment is designed to clarify that HB 338 was not intended to extend to miners. He explained that miners are covered under the U.S. Department of Labor (USDOL), Mine Safety and Health Administration (MSHA) jurisdiction, and so the department DLWD doesn't have any authority over them. He added that the proposed amendment puts this into writing.

REPRESENTATIVE GUTTENBERG asked if the proposed amendment would exclude gravel extraction.

MR. MITCHELL responded that any mining covered under the MSHA's jurisdiction would be covered.

REPRESENTATIVE GUTTENBERG remarked that taking a cliff face down to remove it and then reuse it seems to be covering both mining and extraction. He asked if highway construction would be considered mining because, in this area, they seem to be the same.

MR. MITCHELL agreed that this is probably right, and that certain projects would be so closely tied that it would require certification in both areas.

[3:31:26 PM](#)

CLIFF HUSTEAD, Chief, Consultation & Training, Occupational Safety & Health, Division of Labor Standards & Safety, Department of Labor & Workforce Development (DLWD), noted that he would be representing the Occupational Safety & Health Administration (OSHA) and stated that it was never the intent to include miners in the regulation.

[3:32:12 PM](#)

MR. HUSTEAD, in response to an earlier question from Representative Guttenberg, stated that when explosives handlers are dealing with gravel, it would fall under the MSHA's jurisdiction. He explained that if it was for a logging road or something of that nature, and "they" were using the fill material to build road, then it would fall under the DLWD's jurisdiction.

REPRESENTATIVE GUTTENBERG asked if there was a connection between having a "handler's license" and having a "business license". He said:

One of the concerns that I hear from explosives handlers is, oftentimes when they go out on a job ... the [contractors] themselves don't have ... an explosives license, and they want the handler to have the license. And then it becomes an issue of liability and who's carrying the liability insurance for the event. So, sometimes you're just putting the handler out of business, or not, but you're certainly putting the liability on that person, and they don't have control of the worksite.

MR. HUSTEAD responded that the blaster would only have to have a business license if he/she owned the company. If working for a

company as an employee, he/she would not be required to have a business license.

REPRESENTATIVE GUTTENBERG asked if the 10-year "look-back" for felonies is conforming to the federal standard.

MR. HUSTEAD answered that Alaska is the only state that has a look back provision. He added that [OSHA] would like to expand the look back provision to the rest of the nation, because the individuals that it applies to will go from state to state, and [OSHA] would like to know if the person has committed a felony in another state.

REPRESENTATIVE GUTTENBERG asked how long it takes to get the results of a background check.

MR. HUSTEAD replied that normally the results are received the same day.

REPRESENTATIVE GUTTENBERG asked if this was for a fingerprint background check.

MR. HUSTEAD confirmed that it is.

REPRESENTATIVE CRAWFORD asked if the background check was for any felony.

CHAIR ANDERSON commented that some felonies would apply more than others, and asked how this would work.

MR. MITCHELL, in response to questions said that the 10-year look-back period does apply to any felony, and there is an appeal process. If the felony doesn't relate to a person's ability to handle explosives safely, a person would be able to appeal to the commissioner's office. He added that the department does not have any regulations in place, because the statute is new.

CHAIR ANDERSON commented that he would like to see "criminal history" and the section regarding the 10-year felony look-back provision removed, adding that he does not see the relevance.

REPRESENTATIVE ROKEBERG asked if there is a provision for current license holders to be "grandfathered in."

MR. MITCHELL replied that there is no such clause in the bill. He explained that the [license holder's situation] would be reviewed at the time of renewal. He said:

Let's say there's someone out there who has a felony record ... within the last ten year, that's currently got a blasters license; they ... would be denied and then have to go through the appeal process ... to maintain their license upon renewal.

REPRESENTATIVE ROKEBERG said:

You're making the assumption that there is a grandfathering by saying a current licensee wouldn't have to apply for a new license ... or certificate of fitness until it expired. There seems to be a little ambiguity here about that.

REPRESENTATIVE ROKEBERG added that usually there are transition provisions when requirements are changed, and that he would like to get a legal [opinion on this issue].

REPRESENTATIVE KOTT said: "The way I read it, in Section 2, it says: ... 'applicant for the issuance or renewal of a certificate'. So, it seems to me that if you had a license that was expiring a year and a half from now, that I don't have to subject myself to fingerprints and a background check until I come up for renewal." He asked Mr. Mitchell if this is correct.

MR. MITCHELL confirmed that this is correct.

[3:41:56 PM](#)

REPRESENTATIVE ROKEBERG asked if the amendment should be expanded to cover the Bureau of Alcohol, Tobacco & Firearms (ATF). He also asked how the department would verify if someone already has a certificate in another state.

MR. HUSTEAD stated that the ATF mainly regulates the storage and transportation of explosives, and the department does not believe that it is necessary to add the ATF to the amendment.

REPRESENTATIVE ROKEBERG asked if ATF issues any type of certificate of fitness.

MR. HUSTEAD answered that it does not; only the MSHA issues a certificate.

MR. MITCHELL, in response to questions from Representative Kott, stated that the number of explosives handlers is not growing rapidly, and that the cost of the background check would be \$35, plus an additional \$18 for the national background check. He added that there may be a fee for fingerprinting, depending on where the fingerprinting is done.

REPRESENTATIVE KOTT asked if the applicant would need to submit to a background check each time the license is up for renewal.

MR. MITCHELL confirmed that this is correct.

REPRESENTATIVE KOTT expressed concern about the 10-year look back.

REPRESENTATIVE LYNN commented that a felony is a serious issue, and that explosives are dangerous. He expressed approval for the way that the legislation is currently written.

REPRESENTATIVE GUTTENBERG asked if Section 1, Paragraph (5) which says, "other information that the department requires", includes interviews with applicants. He explained that he has heard concerns regarding the length of time it takes to receive a federal permit, adding that the application process for a federal permit includes an in-person interview and can take up to five months.

MR. MITCHELL explained that Paragraph (5) is part of current statute, and was simply renumbered as a result of adding another Paragraph (4). He stated his belief that the current regulations ask for additional information from the applicant, and that there is no intention of requiring an in-person interview.

REPRESENTATIVE KOTT commented that committing numerous misdemeanors is also inappropriate behavior, and that someone may have committed a crime 10 years ago that was a misdemeanor at the time, but is now a felony. He added that when he was in the military, they would have people fill out the forms for a background check and it would take anywhere from two to four months, depending on the extent of the check. He stated that oftentimes, even though there was nothing returned in the background check that would indicate the person had committed a crime, they would have field representatives go out and interview neighbors. He asked what the reaction of the department would be if they were to have a field representative

interview neighbors or friends and the representative discovered that the person was known to do illegal drugs. He stated that even if the person hadn't been caught, it [should] be a concern.

MR. MITCHELL responded that if those types of concerns were brought to the attention of the department, they would have the authority under current regulations to revoke the explosives handler's license, and hold hearings concerning the allegations. He explained that in this case, the background check would consist of the Department of Public Safety contacting the Federal Bureau of Investigation (FBI) and asking it to check the national criminal information system database for any criminal history of the person in question.

CHAIR ANDERSON pointed out that on page two, line 24, it states that, "The department may not find an applicant competent", and commented that this means it's not a guarantee that the applicant shall receive a certificate.

MR. MITCHELL confirmed that this is correct.

REPRESENTATIVE LEDOUX commented that as used in the bill, the term felony is both too broad and too narrow, explaining that it does not include some misdemeanors that might show an inability to control one's temper, while including some felonies that would not affect one's ability to handle explosives.

MR. MITCHELL replied that this statement is fairly accurate, adding that regulations are in the works right now, in an attempt to firm up what a statewide background check looks for in terms of misdemeanors. He commented that certain crimes, such as domestic violence, should limit a person's ability to have an explosives handler's license. Mr. Mitchell added that this is designed to apply in a broad sense, and looks at nationwide data.

REPRESENTATIVE ROKEBERG asked if this applies to fireworks.

MR. HUSTEAD responded that it does not, and that fireworks are not considered "construction activity."

REPRESENTATIVE ROKEBERG pointed out AS 08.52.070, which reads:

Sec. 08.52.070. Persons exempt.
Persons employed in mining operations as defined in AS 27.20.061 are exempt from the provisions of this chapter.

REPRESENTATIVE ROKEBERG commented that because this language is already in statute, he did not know that the proposed amendment is needed.

REPRESENTATIVE GUTTENBERG commented that the legislation is only regulating people who are licensed and looking for a legitimate job in the industry. He added that the people who are "up to mischief" would still be able to walk into a store and buy the supplies.

REPRESENTATIVE CRAWFORD stated that finger printing applicants would be a good idea. He commented that he understands the intent of the legislation, but feels that the current wording is "overkill."

MR. MITCHELL replied that in addition to the "terrorist threat," the department is also trying to protect the public from those individuals who may act recklessly. He added that it is a "fairly big job" to make sure that the department is acting responsibly when issuing licenses.

[4:04:46 PM](#)

REPRESENTATIVE CRAWFORD said: "I don't know that it's up to us to continue to ... punish somebody for something that they have supposedly paid their debt to society for."

[4:05:24 PM](#)

CHAIR ANDERSON stated that the proposed amendment would not be offered in the committee, as the concerns are already addressed in current statute.

[4:06:35 PM](#)

REPRESENTATIVE GUTTENBERG stated that having spent his life working in this industry, he agrees with Representative Crawford, adding that he would prefer that any necessary changes be made in the House Labor and Commerce Standing Committee.

CHAIR ANDERSON added that he agrees with Representative Crawford in regard to, "how far do you take this."

REPRESENTATIVE CRAWFORD expressed concern about drafting an amendment "on the fly," adding that he would like a chance to work with the department to draft new language.

REPRESENTATIVE ROKEBERG commented that the current felony statutes are onerous in some areas, and HB 338 may conflict with them. He added that it would be a good idea to look into this although he is not sure how this would be done.

[4:09:42 PM](#)

REPRESENTATIVE LYNN commented that it might be better to move the bill from committee and have an amendment drafted before it is scheduled for its hearing in the House Finance Committee.

CHAIR ANDERSON replied that there are four committee members with concerns, adding that it would be best to hold the bill over.

REPRESENTATIVE KOTT, referring to Section 4, line 24, stated that after further thought, "may not" clearly states that there is no choice, adding that "shall not" would also be appropriate.

REPRESENTATIVE CRAWFORD stated that he would work with the sponsor to try and come up with different language.

REPRESENTATIVE KOTT commented that it would be difficult to make the bill work for all the different situations that could possibly come up.

CHAIR ANDERSON relayed that HB 338 would be held over.

HB 93-DENTISTS AND DENTAL HYGIENISTS

[4:13:01 PM](#)

CHAIR ANDERSON announced that the last order of business would be HOUSE BILL NO. 93 "An Act relating to dentists and dental hygienists and the Board of Dental Examiners; establishing certain committees for the discipline and peer review of dentists; excluding the adjudicatory proceedings of the Board of Dental Examiners and its committees from the Administrative Procedure Act and from the jurisdiction of the office of administrative hearings; and providing for an effective date." [Before the committee was the proposed committee substitute (CS) for HB 93, Version 24-LS0384\G, Mischel, 1/31/05, which was adopted as a work draft on 2/2/05.]

[4:13:11 PM](#)

REPRESENTATIVE KOTT moved to adopt the proposed CS for HB 93, Version 24-LS0384\I, Mischel, 1/12/06, as the working document. There being no objection, Version I was before the committee.

4:13:49 PM

HEATH HILYARD, Staff to Representative Anderson, Alaska State Legislature, sponsor, informed the committee on behalf of Representative Anderson that many of the concerns expressed by the Alaska Dental Society, Inc. (ADS) and the Division of Occupational Licensing have been addressed via Version I. He explained that one of the concerns of the division was that in the original version, the Board of Dental Examiners was given far broader power than the division comfortable with. He added that Jim Towle from the ADS would be able to explain the changes in greater detail.

4:15:41 PM

JIM TOWLE, Executive Director, Alaska Dental Society, Inc., (ADS), stated that the ADS has worked extensively with the division to address their concerns, adding that they are ready to address any new concerns that the division may have. He explained that the language in Version I has been modified to ensure that the department staff involved in the investigatory process work with the Board of Dental Examiners ("the board"), and the board would not be empowered to act independently.

CHAIR ANDERSON commented that the CS was faxed to several dentists, and his office did not receive any objections. He asked if any members of the committee had received any calls with concerns or objections.

4:17:49 PM

REPRESENTATIVE GUTTENBERG asked how the public feels about the proposed "peer review" and how it has worked in the past.

CHAIR ANDERSON asked Mr. Towle to address the issue of having "peer review" instead of review by a neutral entity.

MR. TOWLE replied that the public makes a complaint based on the performance of dentistry, and a licensed professional would have the background and working knowledge to protect the public. He added that an untrained "professional investigator" would not be aware of what goes on in a technical healthcare field.

CHAIR ANDERSON asked if this is comparable to a doctor having oversight on the Alaska State Medical Board, or a real estate agent on the Real Estate Commission & Board of Certified Real Estate Appraisers.

MR. TOWLE answered that this is correct. He added that someone who has the training and background in the field would be qualified to look at things like x-rays and tell if the care given was appropriate, and that someone who doesn't have the training and background would not be able to do this.

CHAIR ANDERSON asked if by "background", he meant someone like an occupational licensing administrator.

REPRESENTATIVE GUTTENBERG stated his concern is that the dentists who are reviewing complaints may know the party in question, and asked if there would be a "blind system" set up, so that the person performing the review would not know the person he/she is reviewing.

MR. TOWLE responded that there is not a "blind system" in statute, and the board would have to set this up.

CHAIR ANDERSON opined that the board should be able to deal with these situations, adding that he would rather have a group of dentists who have the knowledge than an administrator who is unable to understand the situation.

[4:26:03 PM](#)

GEORGE SHAFFER, D.M.D, Alaska Dental Society, Inc., informed the committee that he has served as chairman on the [Board of Dental Examiners] and is currently on the executive council for the Alaska Dental Society, Inc., (ADS). He stated that the premise for the legislation was to maintain the professional standards of dentistry. He explained that during his term on the board, when a complaint was being made against a dentist, the board would be required to make a decision based on a report from department investigators, but would not be able to see any evidence. He stated that the board would ask to see evidence, such as an x-ray, and was told that it could not until an initial decision was made and appealed; however, the Administrative Procedure Act (APA) clearly specifies that an appeal regarding board action goes to the Alaska Superior Court, and not back to the board.

DR. SHAFFER stated that the legislation engendered by a desire to make the process fairer and ensure that problems did not slip through the cracks. [The bill] would give the board stronger power by allowing it to impose heavier discipline than is currently in the law, and also gives broader powers for minor infractions such as fee disputes. The board is currently overworked, and this would allow the board to appoint other committees to investigate minor complaints, though the board would be the final arbitrator to take action.

CHAIR ANDERSON asked if this is similar to the Alaska Bar Association (ABA).

DR. SHAFFER replied that all other professions in the state are different than the ABA, adding that the bill provides for a better way to define "checks and balances," allows the board to deal with serious matters, and puts the board in charge of the direction and consequences of investigations.

[4:31:50 PM](#)

REPRESENTATIVE CRAWFORD, referring to page 4, line 4, of the proposed CS, asked the significance of adding "clinical" before "practice". Referring to page 4, [lines 12-15], he asked if "20 hours" was weekly, monthly, or yearly.

DR. SHAFFER replied that "clinical" was added to create fairness in the investigations. He stated that it is easy to get a license and then not work on a patient for many years, which can then cause the license holder to fall behind with current practice. He explained that adding "clinical" guarantees that the license holder is currently working with patients. In regard to the "20 hours", he stated that this is fairly arbitrary and that it was meant to be 20 hours per week, which would mean the license holder was working half time and staying fairly current.

[4:35:07 PM](#)

CHAIR ANDERSON moved Amendment 1, to page 4, line 13, adding "per week" after 20 hours. There being no objection, amendment 1 was adopted.

[4:35:26 PM](#)

DR. SHAFFER, in response to a question from Representative Guttenberg, explained that the term, "private clinical practice"

was added as a way to guarantee independence for the people making the decisions, and to ensure that the licensees were not making certain choices out of fear that they might lose their job.

REPRESENTATIVE LEDOUX, referring to page 3, line 11, subparagraph B, asked how "threatens or compromises patient care, has the potential to compromise patient care", differs from "impairs a licensee's ability to practice safely".

DR. SHAFFER replied that this wording further clarifies the definition. In response to further questions and comments, he explained that "impairing" would require proof that harm has been done, whereas "potential to compromise" means that there is a drug problem or addiction that has serious potential to harm a patient. He added that this gives the board the opportunity to act sooner, instead of waiting until harm has been done. In response to another question from Representative LeDoux, who referred to proposed AS08.32.160(6)(c) and proposed AS08.36.315(8)(d), he explained that having a difference in physical and mental disability standards for dentists and hygienists was an oversight and they should instead be the same. He expressed a preference for wording that is more inclusive and allows the board to monitor both professions.

CHAIR ANDERSON recommended that they use the wording on page 3, lines [14-16], subparagraph (c), as the standard for both professions.

DR. SHAFFER replied that the ADS has no problem with this wording. Referring to the provisions pertaining to addiction, he said that if a dentist or dental hygienist had a drug or alcohol problem and was in rehabilitation, he/she should be able to work something out with the board so that he/she is able to continue working while in rehabilitation.

REPRESENTATIVE CRAWFORD commented that he would prefer the wording on page 8 [lines 25-26], which read:

(D) physical or mental disability that cannot be overcome through an accommodation for purposes of complying with this chapter;

REPRESENTATIVE LEDOUX commented that they could try and combine the language in proposed AS08.32.160(6)(c) with the language in proposed AS08.36.315(8)(d). The resulting language might then read something along the lines of:

physical or mental disability that threatens [or] compromises [patient care, has the potential to compromise patient care, or impairs the licensee's ability to practice safely] unless such physical or mental disability [can] be overcome through an accommodation for purposes of complying with this chapter.

CHAIR ANDERSON asked whether such language in both provisions would work.

DR. SHAFFER said yes.

CHAIR ANDERSON referred to the aforementioned language as Conceptual Amendment 2, and [although no formal motion was made], announced that Conceptual Amendment 2 was adopted.

[4:46:36 PM](#)

REPRESENTATIVE KOTT, referring to page 10, line 4, stated that he would like to have the language changed such that it would read in part, "SHALL, By certified mail, send a copy", because there is a 30-day requirement.

DR. SHAFFER said he did not object to such a change.

[4:48:31 PM](#)

CHAIR ANDERSON referred to the aforementioned suggested change as Conceptual Amendment 3. [Although no formal motion was made, Conceptual Amendment 3 was treated as adopted.]

[4:48:44 PM](#)

RICK URION, Director, Central Office, Division of Occupational Licensing, Department of Commerce, Community, & Economic Development (DCCED) informed the committee that he had shown the bill to the Department of Law (DOL) and to his investigative staff, both of which came back with unfavorable opinions of the legislation. He explained that the premise of the bill was based on misconceptions of past history. He went on to say that last session, the legislature passed a bill that formed a new office of administrative hearing officers, which solved many of the problems that the department had. Mr. Urion explained that the legislation that was passed set time limits on how long a hearing officer has to act. He stated that the bill currently

before the committee takes dentistry cases out of this new administrative hearing system, and so there would be no hearing officer on dentist cases if this legislation passes. He explained that the board would become the hearing officer and from the board it would go to the Alaska Superior Court, and suggested that the committee get a fiscal note from the superior court.

MR. URION explained that there are 654 licensed dentists in the state and for the last 10 years there have been 195 complaints. He stated that this is less than 20 complaints per year, and went on to say that 6 of these complaints resulted in licensing action, 40 percent are closed with no action, and 30 percent have "some" action. He stated that [HB 93] changes a system that deals with six potential cases per year, and said he does not think there will be good results. He added that 30 days is not enough time to develop a case, stating that this is " ... certainly not [going to] protect the public, that's protecting the guilty party." He opined that to require the complaint information be made available to the [licensee] would discourage some people from making complaints, especially if they are employed by the licensee. He commented that to suspend a board member if a complaint is filed against them is unfair, adding that it may be an unjust complaint. Mr. Urion opined that the restriction on telephonic meetings for disciplinary actions will result in more plane fares and will cost the board members more money. He added that this will result in a higher licensing cost.

MR. URION explained the system that the Alaska State Medical Board uses, adding that this would be a better system for the dental board to consider. In response to Dr. Shaffer's comments, Mr. Urion stated that there have been two summary suspensions in 10 years. He said that the department feels that the current system is working fine, and remarked that he would be willing to work with the dental community to find a system that works for them.

[4:57:49 PM](#)

CHAIR ANDERSON stated that many of the concerns that the Division of Occupational Licensing had previously were addressed with the current CS, and remarked that the issues presently being raised would be more appropriately addressed in the House Judiciary Standing Committee.

[5:00:35 PM](#)

DR. SHAFFER, in response to comments made by Representative Guttenberg, explained that when an accusation against a licensee goes to court, the judge or jury would get to see all the evidence involved prior to making a decision. Currently, the board is required to make decisions without seeing any evidence. He opined that the current situation lacks "fairness of law", adding that this is the reason for making the evidence available to the licensee. He stated that the "peer review" would offer more protection to the public, as it allows patients to ask other dentists whether or not certain behaviors are questionable.

DR. SHAFFER, in response to questions from Chair Anderson, agreed that this would be comparable to court cases where the information must be made public. He explained that a few other states have similar systems, adding that the majority of states have dentists and [dental] hygienists on the state licensing board, overseeing the entire investigatory process.

[5:06:32 PM](#)

MR. URION clarified that under the current system, when cases go to a hearing officer, the hearing officer makes a decision which is then sent on to the board. The board can then concur or reject the decision. He added that the board is then able to see all of the evidence, which is extensive and therefore may discourage some people from serving as board members.

REPRESENTATIVE LEDOUX asked if, in regard to physicians, a hearing officer is used for disciplinary proceedings or if the case is heard by a panel of doctors.

MR. URION answered that the case goes to a hearing officer.

[5:07:51 PM](#)

REPRESENTATIVE KOTT moved to report the proposed CS for HB 93, Version 24-LS0384\I, Mischel, 1/12/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 93(L&C) was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 5:09 to 5:10.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [5:11:02 PM](#).