

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

January 29, 2014

3:19 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Lora Reinbold, Vice Chair
Representative Bob Herron
Representative Dan Saddler
Representative Andy Josephson

MEMBERS ABSENT

Representative Mike Chenault
Representative Charisse Millett

COMMITTEE CALENDAR

HOUSE BILL NO. 239

"An Act extending the termination date of the Board of Examiners in Optometry; and providing for an effective date."

MOVED HB 239 OUT OF COMMITTEE

HOUSE BILL NO. 240

"An Act extending the termination date of the Board of Chiropractic Examiners; and providing for an effective date."

MOVED HB 240 OUT OF COMMITTEE

HOUSE BILL NO. 241

"An Act extending the termination date of the Board of Marital and Family Therapy; and providing for an effective date."

MOVED HB 241 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 239

SHORT TITLE: EXTEND BOARD OF EXAMINERS IN OPTOMETRY

SPONSOR(S): REPRESENTATIVE(S) REINBOLD

01/21/14	(H)	PREFILE RELEASED 1/10/14
01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	L&C, FIN

01/29/14 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 240

SHORT TITLE: EXTEND BOARD OF CHIROPRACTIC EXAMINERS

SPONSOR(S): REPRESENTATIVE(S) REINBOLD

01/21/14 (H) PREFILE RELEASED 1/10/14
01/21/14 (H) READ THE FIRST TIME - REFERRALS
01/21/14 (H) L&C, FIN
01/29/14 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 241

SHORT TITLE: EXTEND BOARD OF MARITAL & FAMILY THERAPY

SPONSOR(S): REPRESENTATIVE(S) REINBOLD

01/21/14 (H) PREFILE RELEASED 1/10/14
01/21/14 (H) READ THE FIRST TIME - REFERRALS
01/21/14 (H) L&C, FIN
01/29/14 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

CRYSTAL KOENEMAN, Staff
Representative Lora Reinbold
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 239 on behalf of the prime sponsor, Representative Lora Reinbold.

CRYSTAL KOENEMAN, Staff
Representative Lora Reinbold
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 240 on behalf of the prime sponsor, Representative Lora Reinbold.

KRIS CURTIS, Legislative Auditor
Division of Legislative Audit
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Answered questions on auditor findings and recommendations during the discussion of HB 240.

DON HABEGGER, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, & Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 240.

JIM HESTON, D.C.; Chair
Board of Chiropractic Examiners
Department of Commerce, Community & Economic Development (DCCED)
Homer, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 240.

CRYSTAL KOENEMAN, Staff
Representative Lora Reinbold
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 241 on behalf of the prime sponsor, Representative Lora Reinbold.

KRIS CURTIS, Legislative Auditor
Division of Legislative Audit
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Presented auditor findings and recommendations and answered questions during the discussion of HB 241.

DON HABEGGER, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, & Economic Development
Juneau, Alaska

POSITION STATEMENT: Briefly testified during the discussion of HB 241.

LEON WEBBER, D.Mn., LMFT; Chair
Board of Marital & Family Therapy (BMFT)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 241.

KENNETH MCCARTY, Board Member
Board of Marital & Family Therapy
Department of Commerce, Community & Economic Development
Eagle River, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 241.

ACTION NARRATIVE

[3:19:30 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Saddler, Reinbold, Josephson, Herron, and Olson were present at the call to order.

HB 239-EXTEND BOARD OF EXAMINERS IN OPTOMETRY

[3:19:56 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 239, "An Act extending the termination date of the Board of Examiners in Optometry; and providing for an effective date."

[3:20:27 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Lora Reinbold, Alaska State Legislature, on behalf of Representative Reinbold, sponsor, stated that HB 239 will reauthorize the Board of Examiners in Optometry for eight years at the recommendation of the Legislative Audit Division. The division concluded that the termination date of June 30, 2022 was sufficient since the board serves the public interest by effectively licensing and regulating the industry. The legislative auditors recommended that the Division of Corporations, Business, and Professional Licensing (DCBPL) within the Department of Commerce, Community, and Economic Development (DCCED) continue its efforts to improve the case management system. In the past few years, the division has taken great strides to improve the integrity of the aforementioned system and she anticipated the efforts would continue.

[3:22:00 PM](#)

REPRESENTATIVE SADDLER asked whether any developments or changes have arisen for the practice of optometry.

MS. KOENEMAN answered no. In further response to a question, she was not aware of any other bills that affected this board.

[3:23:46 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 239.

REPRESENTATIVE HERRON remarked that this is clearly needed.

[3:24:19 PM](#)

REPRESENTATIVE SADDLER moved to report HB 239 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 239 was reported from the House Labor and Commerce Standing Committee.

[3:24:47 PM](#)

The committee took an at-ease from 3:24 p.m. to 3:26 p.m.

HB 240-EXTEND BOARD OF CHIROPRACTIC EXAMINERS

[3:26:48 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 240, "An Act extending the termination date of the Board of Chiropractic Examiners; and providing for an effective date."

[3:27:10 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Lora Reinbold, Alaska State Legislature, on behalf of Representative Reinbold, sponsor, stated that HB 240 would extend the Board of Chiropractic Examiners (BCE). The auditors recommended that the BCE be extended for a full eight years until June 30, 2022 since the board has been effectively serving the public interest and effectively licensing and regulating the chiropractic community. She highlighted two recommendations the auditors made. First, the auditors indicated a prior audit recommendation should be implemented, such that the governor shall appoint board members in accordance with statute. One board member did not meet the statutory requirements at the time of the appointment, although the governor subsequently took the appropriate steps and removed the person from the board and reappointed another member. Second, the auditors recommended that the Division of Corporations, Business, and Professional Licensing (DCBPL) improve its investigative case management system. As previously mentioned the division has taken great strides in the past few years to improve the integrity of the aforementioned system and she anticipated the DCBPL's efforts would continue.

[3:28:57 PM](#)

REPRESENTATIVE SADDLER referred to the fiscal note for the prior bill, HB 239, relating that the fiscal note for Board of Examiners in Optometry (BEO) was for \$6.8 thousand. However the fiscal note for HB 240 lists \$16.6 thousand for BCE's travel costs. He noted that the fiscal note narrative indicates that BCE's board members would attend an out-of-state conference. He asked for more details on the out-of-state conference since the fiscal notes don't seem to match up.

MS. KOENEMAN answered that BCE board members attend out-of-state trainings and conferences to keep current with national practices and other state's laws pertaining to the practice or any trends.

[3:30:09 PM](#)

REPRESENTATIVE SADDLER detailed that the Board of Examiners in Optometry (BEO) projected travel costs for two meetings a year at \$6.8 thousand whereas this board would attend four meetings per year estimated at \$16.6 thousand. He asked for further clarification since he did not think the out of state conference figures seemed comparable.

[3:30:40 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, Legislative Agencies and Offices, stated that the division conducted a sunset audit dated June 6, 2013. The auditors recommended extending the termination date of the board for eight years, which is the maximum allowed in statute. The auditors concluded the BCE was operating in the public's interest since it monitors licensees and ensures that only qualified individuals practice. From fiscal year 2006 (FY 06) through FY 12, the board adopted, repealed, or revised 35 regulations. The regulation changes focused primarily on updating continuing education, adding an oral examination to the licensing requirement, requiring criminal background checks for applicants, and clarifying and defining regulatory language. During that same time, FY 06-FY 12, the number of license applicants increased by 28 percent, from 226 in FY 06 to 290 in FY 12. As previously mentioned, the auditors recommended two changes regarding the appointment of board members: first, to the DCBPL's director, and second, to the Office of the Governor. In response to a question on the number of regulations the BCE

addressed, Ms. Curtis answered that the auditors found 35 regulations were revised, repealed, or adopted during that time period.

[3:32:57 PM](#)

REPRESENTATIVE SADDLER asked for specific purpose of the travel and whether the travel was for training to improve the chiropractic practice or for training members of a professional licensing board to improve board performance.

MS. CURTIS answered that the audit addressed travel. She acknowledged that some boards have had difficulty in obtaining authority to use funding for out-of-state travel; however, of the five occupational sunset reviews the division conducted, this is the only one not permitted to travel. She referred to page 15 of the BCE's sunset audit for the BCE and said the auditors concluded the restrictions impeded the board's ability to operate as a board. Additionally, the audit concluded that BCE's board members were prohibited from travel due to DCBPL's budgetary restrictions. She said, "According to DCBPL management, restrictions on travel should be alleviated in FY 14 by an increase in the travel budget and the ability to receive third-party reimbursements for some board member travel." She explained that this means that in some cases travel is reimbursed since it is built into a portion of the fees paid to be part of the national organization.

[3:34:24 PM](#)

REPRESENTATIVE SADDLER asked for clarification. He related his understanding that board members could not obtain permission from the division to attend out-of-state conferences. He asked whether the ultimate determination on how to spend the fees generated through licenses rests with the division and not the board.

MS. CURTIS deferred to the division director; however, she recalled testimony at last year's hearings that some complaints were voiced about restrictions boards faced when using their budgets for out-of-state travel. Thus auditors included the complaint in scope of sunset audits conducted in 2013. She reiterated the BCE was the only board experiencing this specific problem.

[3:35:10 PM](#)

REPRESENTATIVE JOSEPHSON asked for clarification on the process used for the 35 aforementioned regulations. He asked whether the regulations were initiated by the individual board members or if the BCE had absolute power to create regulations subject to the Lieutenant Governor's approval.

MS. CURTIS deferred to the division director for details, noting regulation changes may vary from board to board. One criteria auditors use when evaluating boards during the sunset audit process is to measure to what degree the board addresses public interest and one way boards do this is by enacting regulations, she said.

[3:36:42 PM](#)

REPRESENTATIVE JOSEPHSON clarified that he was interested in the "check" on the body itself.

MS. CURTIS answered that all regulations go through a public process.

[3:37:00 PM](#)

DON HABEGER, Director, Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community, & Economic Development (DCCED), with respect to travel costs, answered that it varies by board. In some instances board members attend regional meetings. In other instances board members attend a national conference, often with a membership connected to it. The national organizations consist of a group of likeminded state regulators and board members across the nation meet periodically to regulate the specific practice. Typically, the national organization will review practice decisions, for example, it may consider something such as injectible nutrients. The national organization will come to consensus or it will agree to disagree on a variety of national practice decisions that affect the profession. Additionally, the national organization requests BCE's board members participate in a national group to design the national test and review questions as part of this process. He believed the Chair, Dr. Heston, has participated in this process. Referring to the fiscal note he said the \$15.0 thousand represents the biennial costs for travel in FY 14. He clarified the division assesses board costs based on the prior two years.

[3:39:49 PM](#)

MR. HABEGER turned to limited travel. As previously stated, this issue has been corrected. The DCBPL considered travel costs to be a budgetary appropriation issue. At the time he became director, the DCBPL had over \$300,000 in travel appropriations; however, each board prepares an annual report and the total travel requests exceeded \$550,000. Typically, he approved in-state travel, but out-of-state travel was based on available funding so the division denied some travel requests. He emphasized that in 2014, the legislature increased the division's travel budget by \$200,000, which alleviated the problem. He explained that a number of national organizations encourage board members to attend conferences and reimburse the state through a third-party reimbursement for travel costs. Previously, the division lacked the mechanism to restore funds to each board; instead, travel reimbursements were deposited to the general fund; however, that was corrected last year, he said.

[3:42:04 PM](#)

MR. HABEGER reviewed the promulgation of regulations process, such that the statutes under Title 8, give boards practice authority. The boards identify which statutes need to be repealed or amended to reflect any additional practices necessary, such as adopting or changing continuing education requirements. He didn't recall the specific BCE regulation changes; however the boards work with the regulations specialist, regulations are drafted, noticed - typically for 30-days - for public comment, the board reviews public comments and determines whether to adopt the regulations or make changes. He said the legislature receives copies of all proposed regulations.

[3:43:42 PM](#)

REPRESENTATIVE SADDLER asked whether any developments have arisen for chiropractors that need to be addressed.

MR. HABEGER offered his belief that chiropractors are considering allowing injectible nutrients, but he offered to confirm this.

[3:44:27 PM](#)

JIM HESTON, D.C.; Chair, Board of Chiropractic Examiners (BCE), with respect to travel, commented that the BCE connects with

fellow boards at conferences. The travel to conferences helps board members keep informed, proactively, on national trends and potential regulation changes. He recalled the BCE made about 10 regulation changes and was unsure of the 35 regulation changes previously mentioned. In response to a question, Dr. Heston said the number of regulations changed seemed high.

[3:46:11 PM](#)

REPRESENTATIVE REINBOLD explained that the total number of regulations included repealing, amending, and revising regulations.

DR. HESTON said, "I can believe that."

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 240.

[3:46:52 PM](#)

REPRESENTATIVE SADDLER moved to report HB 240 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 240 was reported from the House Labor and Commerce Standing Committee.

[3:47:23 PM](#)

The committee took an at-ease from 3:47 p.m. to 3:49 p.m.

HB 241-EXTEND BOARD OF MARITAL & FAMILY THERAPY

[3:49:27 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 241, "An Act extending the termination date of the Board of Marital and Family Therapy; and providing for an effective date."

[3:49:41 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Lora Reinbold, Alaska State Legislature, stated that the bill will extend the Board of Marital and Family Therapy (BMFT) until June 30, 2018, based on a previous audit. Auditors recommended a four-year extension based on two prior audit recommendations from the 2009 audit that had not been fully resolved. First, the audit recommended that the Board of Marital and Family Therapy (BMFT) develop a

strategy for distance therapy and distance supervision. She said she discussed this with the BMFT's chair. The chair advised that the board worked with the division and the Department of Law and concluded that the matter will require statutory language to implement changes. She said the board is moving forward for proposed language for possible introduction next legislative session.

[3:51:01 PM](#)

CHAIR OLSON asked whether the small size of the BMFT adds to the present challenges.

MS. KOENEMAN answered yes. Auditors also recommended that the Office of the Governor and the board work together to fill vacant board seats timely. She recalled the BMFT consists of almost 100 licensees, although the board or the division could confirm the figures. She advised that the board member vacancy has since been filled. Finally, the auditors recommended that the BCBPL's investigative case management system be improved, but as previously mentioned the division has made improvements in this area. The sponsor agrees with the legislative auditors on the recommended four-year extension, she said.

[3:52:25 PM](#)

REPRESENTATIVE JOSEPHSON was surprised by the small number of licensees.

MS. KOENEMAN explained that by statute, one requirement for marital and family therapist licensures is the therapist must have 1,500 hours of practice, of which 200 hours must be supervised. In response to a question on whether the clients or the professional needs distance supervision she deferred to the division.

[3:54:11 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, Legislative Agencies and Offices, explained the division conducted a sunset audit dated June 19, 2013, with the main objective to determine whether the board is serving the public's interest and if it should be extended. The legislative auditors recommended only a four-year extension since the board had not fully addressed the prior sunset audit recommendation to pursue regulation changes that are necessary to protect the public's interest. The prior audit's reasoning on the recommendation was

slightly different. Although the board initiated one regulation change, the board has not addressed the need for distance supervision and distance therapy. She explained that distance supervision pertains to licensure, such that an applicant must have a certain number of supervised hours to become licensed as a marital and family therapist. Distance supervision would be provided electronically, possibly through the Internet, or from other technology. Currently, BMFT's services are not widely available in some areas of the state and distance delivery has been viewed as being a means to address this disparity.

MS. CURTIS said that during the current audit period the board extensively researched and discussed the topic; however, it made little progress in developing regulations and the board does not have a strategy to move past the discussion phase. The auditor recommended the board develop a strategy to address the need for distance services, and the board and division concurred with the recommendation. She reported that as of March 2013, 91 applicants applied for licensure. Additionally the BMFT licenses associates, although she did not have the figures for that category of license. In response to Representative Josephson, Ms. Curtis replied that the BMFT offers one type of license, but people can obtain services in other areas, such as social worker examiners, professional counselors, and psychologists.

[3:57:17 PM](#)

REPRESENTATIVE SADDLER asked for the historical counts on licensees.

MS. CURTIS referred to page 17 of the audit that shows a count by year on the number of new licenses issued, which varies from three to nine licenses.

[3:57:54 PM](#)

DON HABEGER, Director, Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community, & Economic Development (DCCED), deferred to Mr. Webber, Chair, Board of Marital & Family Therapy (BMFT).

[3:58:46 PM](#)

LEON WEBBER, D.Mn., LMFT; Chair, Board of Marital & Family Therapy (BMFT), Department of Commerce, Community & Economic Development (DCCED), related his understanding that the board

previously faced financial difficulties, stemming from investigative expense, with fees increasing to \$1,000 for a biennial license, resulting in some licensees transferring to larger boards with lower fees. Currently, the board licenses 118 "marriage and family therapists" and "marriage and family therapy associates." Although marital and family therapists practice in the specific field, as previously mentioned, services are also being provided other professionals such as those providing couples therapy. The field of marital and family therapy specifically requires licensees to achieve a masters' level or doctorate level in marriage and family therapy.

REPRESENTATIVE JOSEPHSON acknowledged the fields have all become very sophisticated and complicated.

4:01:18 PM

REPRESENTATIVE SADDLER wondered about the quality of service provided by the other professionals when the BMFT's licensees shift to other boards.

MR. WEBBER answered that he couldn't answer that question. He said the BMFT's responsibility is to ensure that those who are licensed by the board provide quality services and for other professions to monitor and oversee services provided under other licenses to ensure their licensees are qualified to perform them. He lauded DCBPL's director, Mr. Habeger, for providing financial assistance to the board. He said the sunset review was very thorough and he reported that the BFMT has subsequently contacted 49 states to obtain research and has worked with other boards and health care agencies on tele-therapy and tele-supervision. For example, tele-therapy might mean a licensed therapist in Alaska is providing therapy to an out-of-state client in Idaho or it may mean a therapist in a residential treatment center in Idaho is providing family therapy to someone in Alaska. Thus far, the board hasn't established any guidelines to address those issues or any competency issues for tele-therapy services, noting that an average therapist may not feel as competent providing distance therapy, he said. Additionally, confidentiality issues have arisen, for example, whether encrypted communications are needed. The BMFT considered these matters at its last board meeting, and plans to address proposed statutes, regulations, and ethical guidelines at its next meeting, which he said has been a huge challenge.

4:03:48 PM

REPRESENTATIVE SADDLER asked whether the division's remedies on investigation costs will stabilize the number of licensees and curtail the drift of BMFT's licensees to other boards.

MR. WEBBER thought it would do so. He anticipated that license fees will drop to within several hundred dollars of other similar professional fees. He did not envision more therapists would leave the field. He characterized the total clarity on finances as being a relief.

[4:04:52 PM](#)

REPRESENTATIVE SADDLER asked whether he envisioned other changes in the field that will need to be addressed.

MR. WEBBER answered that it will be important to monitor how well tele-therapy is handled. For example, he related that he is participating in this hearing from Hawaii, while simultaneously his friend is at a military base hospital conducting tele-therapy with five members of a family who are located in Iraq, North Carolina, and Honolulu. He said that his board recognizes that this type of service is beginning to become predominant in the field. He looked forward to working with the legislature on statutory and regulation changes. In further response to a question, he said the BMFT hopes to have a bill introduced next year.

CHAIR OLSON said appreciated the work Mr. Habeger has done to address the investigative costs and level the fees for all boards.

[4:07:02 PM](#)

KENNITH MCCARTY, Board Member, Board of Marital & Family Therapy (BMFT), Department of Commerce, Community & Economic Development (DCCED), stated he also serves as the president of the Association for Marriage and Family Therapists. He provided a brief background of his service and the board issues that arose from an investigation. He explained that the BMFT's statutes have title protection, but not practice protection. In other words, unless a person is licensed by the BMFT, the professional cannot call themselves a family therapist on his/her business card, but the person could offer other services such as "couples counseling." In response to a question on practice protection, he said the board was unsure of how to proceed with practice protection. For example, in the instance of couples counseling,

the board could examine the type of experience in terms of education and training; however, the board is holding ongoing discussions.

CHAIR OLSON suggested members could contemplate statutory remedies to assist the board.

[4:10:46 PM](#)

MR. MCCARTY, in response to the comment on the number of licensees, agreed that higher license fees has affected the number of overall practitioners, but the division's efforts to reduce license fees have helped remedy this and may lead to some professionals applying for dual licenses.

REPRESENTATIVE REINBOLD lauded Mr. McCarty. She encouraged him working with Mr. Webber, and her staff and congratulated him on his wedding.

[4:12:21 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 241.

[4:12:40 PM](#)

REPRESENTATIVE SADDLER moved to report HB 241 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 241 was reported from the House Labor and Commerce Standing Committee.

[4:13:00 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:13 p.m.