

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 7, 2022

1:31 p.m.

MEMBERS PRESENT

Senator Peter Micciche, Acting Chair

Senator Gary Stevens

Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Mia Costello, Chair

Senator Joshua Revak, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 186

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

- MOVED SB 186 OUT OF COMMITTEE

SENATE BILL NO. 222

"An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board; and providing for an effective date."

- MOVED SB 222 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 186

SHORT TITLE: EXTEND BOARD OF EXAMINERS IN OPTOMETRY

SPONSOR(S): SENATOR(S) STEVENS

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| 02/09/22 | (S) | READ THE FIRST TIME - REFERRALS |
| 02/09/22 | (S) | L&C, FIN |
| 03/07/22 | (S) | L&C AT 1:30 PM BELTZ 105 (TSBldg) |

BILL: SB 222

SHORT TITLE: EXTEND PT & OCCUPATIONAL THERAPY BOARD

SPONSOR(S): SENATOR(S) GRAY-JACKSON

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| 02/22/22 | (S) | READ THE FIRST TIME - REFERRALS |
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02/22/22 (S) L&C, FIN
03/07/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

TIM LAMKIN, Staff
Senator Gary Stevens
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 186 on behalf of the sponsor.

KRIS CURTIS, Legislative Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the sunset audit for the Board of Examiners in Optometry during the hearing on SB 186.

DR. DAMIEN DELZER, Chair
Board of Examiners in Optometry
Fairbanks, Alaska

POSITION STATEMENT: Testified by invitation in support of SB 186.

DR. STEVEN DOBSON, Founder
Diamond Vision Clinic
Anchorage, Alaska

POSITION STATEMENT: Testified by invitation in support of SB 186.

SARA CHAMBERS, Director
Division of Corporations Business and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 186.

BESSE ODOM, Staff
Senator Elvi Gray-Jackson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 222 and presented the sectional analysis on behalf of the sponsor.

KRIS CURTIS, Legislative Auditor
Legislative Audit Division
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Reviewed the sunset audit for the State Physical Therapy and Occupational Therapy Board during the hearing on SB 222.

ACTION NARRATIVE

[1:31:59 PM](#)

VICE CHAIR PETER MICCICHE called the Senate Labor and Commerce Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Gray-Jackson, Stevens, and Acting Chair Micciche.

SB 186-EXTEND BOARD OF EXAMINERS IN OPTOMETRY

[1:33:00 PM](#)

ACTING CHAIR MICCICHE announced the consideration of SENATE BILL NO. 186 "An Act extending the termination date of the Board of Examiners in Optometry; and providing for an effective date."

He stated that this is the first hearing. The intention is to hear from the sponsor, hear invited and public testimony, take committee questions, and either hold the bill or look to the will of the committee.

[1:33:27 PM](#)

SENATOR STEVENS, speaking as sponsor, explained that the SB 186 extends the June 30, 2022 termination date of the Board of Examiners in Optometry for six years to June 30, 2028, as recommended by the Division of Legislative Audit's sunset review of the board.

[1:33:57 PM](#)

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, Juneau, Alaska, stated that optometrists provide a majority of eye care to Alaskans, particularly in rural areas. Examinations by an optometrist are the medically recognized standard for safe eyecare, and these professionals safeguard overall health by detecting diseases such as high blood pressure, diabetes, autoimmune diseases, and cancers.

MR. LAMKIN stated that the Alaska Board of Examiners in Optometry is essential for optometrists practicing in the state; it has done an outstanding job of regulating the profession; and it is self-funded. This board has received an overall favorable

audit and the sponsor encourages the committee to extend the board as suggested.

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ACTING CHAIR MICCICHE asked Ms. Curtis to provide her testimony.

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KRIS CURTIS, Legislative Auditor, Division of Legislative Audit Alaska State Legislature, Juneau, Alaska, reviewed the sunset audit for the Board of Examiners in Optometry ("board") during the hearing on SB 186.

MS. CURTIS paraphrased the first paragraph of the report conclusions on page i.

REPORT CONCLUSIONS

Overall, the audit concluded, with certain exceptions, that board operations were conducted in the public's interest. The board conducted its meetings in compliance with state laws, effectively licensed optometrists, and actively amended regulations to address statutory changes and improve the licensing process. The Division of Corporations, Business and Professional Licensing (DCBPL) staff failed to operate in the public's interest by not consistently recording licensees with federal Drug Enforcement Administration (DEA) registration numbers in the licensing database, not ensuring continuing education audits were conducted timely, and not monitoring licensees' compliance with requirements for continuing education in pain management and opioid use and addiction.

MS. CURTIS stated that the Division of Legislative Audit recommends the legislature extend the termination date of the board to June 30, 2028, which is two years less than the eight year maximum extension provided in statute. This reduced extension reflects the need for more timely oversight in light of the audit findings.

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MS. CURTIS turned to Exhibit 2 on page 9 that shows that on January 31, 2021 there were 218 licensed optometrists in the state, which is an 18 percent increase since the 2013 sunset audit. Exhibit 3 on page 10 provides the schedule of revenues and expenditures for the board. It shows that the board had a \$52 thousand deficit on January 31, 2021. The prior audit

recommended a fee increase but that did not happen because the governor froze occupational board fee levels to help mitigate the financial effect of the pandemic.

MS. CURTIS reviewed the three recommendations the report made starting on page 13.

Recommendation No. 1: The director of the Division of Corporations, Business and Professional Licensing (DCBPL) should dedicate resources to ensure licensees holding a DEA number are consistently recorded in the licensing database.

She explained that this information is needed to help monitor the requirement to register with the controlled substance prescription database. The audit found that DCBPL licensing staff did receive training on how to enter this information but it was not entered consistently.

MS. CURTIS stated that DCBPL management attributed the deficiency to regular turnover in the board's licensing examiner and licensing supervisor positions.

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MS. CURTIS reviewed Recommendation 2 on page 14.

Recommendation No. 2: The board chair and DCBPL's director should change the license renewal form to allow the board to monitor compliance with continuing education requirements.

She explained that effective July 2018, optometrists were required to obtain two hours of education in pain management and opioid use and addiction during the two years prior to their license renewal date. However, the audit found that the December 2020 form had not been changed to require licensees to comply with the new education requirement.

MS. CURTIS described Recommendation 3 on page 15.

Recommendation No. 3: DCBPL's director should ensure adequate resources are available to perform continuing education audits.

She explained that DCBPL's primary internal control to ensure compliance with the continuing education requirement is the continuing education audit. The division requires 10 percent of

licensees to be audited, but the sunset audit found that it took 2.5 years to complete the review for the 2018 renewal. This was due to turnover and multiple licensing staff vacancies.

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MS. CURTIS directed attention to the commissioner's response to the audit beginning on page 25. The commissioner concurred with the conclusions and recommendations. In response to the recommendations, she relayed that the licensing examiner position turned over five times in the 3.5 year period and the licensing supervisor position turned over four times. That turnover contributed to all the recommendations and findings.

The chair's response to the recommendations is on page 27. In response to Recommendation 2 regarding the form deficiencies, the chair stated that the form should be corrected prior to the 2022 licensing renewal cycle.

1:40:44 PM

SENATOR STEVENS asked if she believes the three recommendations are achievable.

MS. CURTIS answered yes; many are simple fixes. She suggested asking Director Chambers about the compliance audits because those are probably a resource issue which is not as easy to fix.

1:41:38 PM

DR. DAMIEN DELZER, Chair, Board of Examiners in Optometry, Fairbanks, Alaska, testified by invitation in support of SB 186. He stated that he had practiced optometry in Alaska for about 29 years and recently completed eight years on the board, three of which were as chair. He stated that the board is charged with public protection, assuring competency of continuing licensees, addressing queries and complaints from the public, and crafting and enforcing regulations to implemented statutory changes. He noted that the board implemented nearly 20 regulatory changes over last three years. These included continuing education requirements including opioid education, scope of practice, military exemptions, specialty designations, and the modernization of law exams and prescription requirements. The board also implemented emergency regulations during the height of the COVID-19 pandemic. He said the board is self-funded through licensing fees and board travel expenses have been minimized by holding meetings exclusively by Zoom the last three years. He highlighted that the board chair also participates in biweekly board chair meetings and biweekly prescription drug monitoring program meetings.

DR. DELZER thanked the committee for its consideration of the extension for the Board of Examiners in Optometry.

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SENATOR STEVENS asked if he believes the three audit recommendations were achievable and if he had any thoughts on the shorter extension.

DR DELZER said he believes all the recommendations have been addressed. The application deficiency was corrected prior to the publication of the sunset audit. The issue with the continuing education audits was corrected and the follow-up audit was completed timely. The issue regarding PDMP compliance has also been corrected. During the last board meeting, a PDMP representative reported near 100 percent compliance with registration. The current examiner, with oversight from Director Chambers, has been very attentive.

SENATOR STEVENS asked if he was comfortable with the six-year extension.

DR. DELZER said yes, but he would point out that all the issues have been addressed.

[1:46:16 PM](#)

DR. STEVEN DOBSON, founder of Diamond Vision Clinic, Anchorage, Alaska, testified by invitation in support of SB 186 to extend the termination date of the Board of Examiners in Optometry to June 30, 2028. He stated that he is a lifelong Alaskan who has been practicing optometry for 39 years. He related that his service on the board in the late '80s and early '90s gave him an appreciation of the importance of the board in protecting the visual welfare of Alaskans. He explained that optometrists in Alaska look to the board to ensure that both new and current licensees are qualified to maintain the high professional standards the board has established. The board must continually update and implement regulations that reflect the high quality education provided by the schools and colleges of optometry.

[1:48:09 PM](#)

At ease

[1:48:32 PM](#)

ACTING CHAIR MICCICHE reconvened the meeting and listed who was available to answer questions.

SENATOR STEVENS asked Ms. Chambers to comment on the three recommendations in the sunset audit.

[1:49:11 PM](#)

SARA CHAMBERS, Director, Division of Corporations Business and Professional Licensing (DCBPL), Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, stated that she agrees with the board chair that the matters highlighted in the audit had been corrected. She added that DCBPL continues to be vigilant because the division continues to face turnover and vacancies as its institutional memory leaves. That being said, audits are taken seriously and the division always takes immediate action when it finds areas it can improve.

[1:50:17 PM](#)

ACTING CHAIR MICCICHE opened public testimony on SB 186, finding none, he closed public testimony.

ACTING CHAIR MICCICHE found no further questions or comments and solicited the will of the committee.

[1:50:51 PM](#)

SENATOR GRAY-JACKSON moved to report SB 186, work order 32-LS1476\A, from committee with individual recommendations and attached fiscal note(s).

ACTING CHAIR MICCICHE found no objection and SB 186 was reported from the Senate Labor and Commerce Standing Committee.

[1:51:31 PM](#)

At ease

SB 222-EXTEND PT & OCCUPATIONAL THERAPY BOARD

[1:52:34 PM](#)

ACTING CHAIR MICCICHE reconvened the meeting and announced the consideration of SENATE BILL NO. 222 "An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board; and providing for an effective date."

He stated that this is the first hearing and the intention is to hear invited and public testimony, take committee questions, and potentially look to the will of the committee.

[1:53:04 PM](#)

SENATOR GRAY-JACKSON, speaking as sponsor of SB 222, paraphrased the first paragraph of the sponsor statement. It read as follows:

Under current statute, the State Physical Therapy and Occupational Therapy Board is set to terminate on June 30, 2022. The Division of Legislative Audit recommends an eight-year extension of the Board. SB 222 would extend that termination date to an effective date of June 30, 2030.

She deferred further introduction and presentation of the sectional analysis to Besse Odom.

[1:53:47 PM](#)

BESSE ODOM, Staff, Senator Elvi Gray-Jackson, Alaska State Legislature, Juneau, Alaska, read the second paragraph of the sponsor statement for SB 222:

The State Physical Therapy and Occupational Therapy Board provides oversight for medical services utilized by many Alaskans. Extending the Board's termination date will allow for continued regulation of the practice of physical and occupational therapy in our state; ensuring that the industry adheres to best practices.

[1:54:27 PM](#)

MS. ODOM presented the sectional analysis for SB 222. It read as follows:

[Original punctuation provided.]

Section 1: Amends statute to change the termination date of the State Physical Therapy and Occupational Therapy Board from June 30, 2022, to June 30, 2030

Section 2: The Act becomes effective immediately upon signature

ACTING CHAIR MICCICHE turned to invited testimony.

[1:55:17 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Alaska State Legislature, Juneau, Alaska, directed attention to the sunset audit report for the State Physical Therapy and Occupational Therapy Board dated April 2, 2021.

MS. CURTIS paraphrased the first paragraph of the report conclusions on page i:

Overall, the audit concludes that the board served the public's interest by conducting meetings in accordance with state laws; amending certain regulations to improve the professions of physical therapy and occupational therapy; and effectively licensing and regulating physical therapists, physical therapy assistants, occupational therapists, and occupational therapy assistants.

MS. CURTIS stated that the Division of Legislative Audit recommends the legislature extend the termination date of the board eight years.

MS. CURTIS turned to Exhibit 2 on page 5 that shows that on January 31, 2021 the board had 1,762 active licenses and permits. This is a 53 percent increase compared to the 2013 sunset audit. The board chair attributed the increase to telehealth.

MS. CURTIS directed attention to Exhibit 4 on page 7 that has the board's schedule of revenues and expenditures. It shows that on January 31, 2021 the board had a surplus of just over \$211,000. The schedule of license and permit fees is outlined in Exhibit 3 on page 6. Because of the surplus, fees were decreased in FY 2020.

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MS. CURTIS stated that the audit made no recommendations. Agency responses to the audit begin on page 19. Both the commissioner of DCCED and the board chair agree with the audit conclusions.

ACTING CHAIR MICCICHE found no questions and noted who was available to answer questions.

[1:57:04 PM](#)

ACTING CHAIR MICCICHE opened public testimony on SB 222; finding none, he closed public testimony.

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SENATOR STEVENS relayed that in an earlier hearing he learned that in Alaska it is not necessary to have a referral from a medical doctor to see a physical therapist.

SENATOR GRAY-JACKSON added that in that same hearing she also heard there were exceptions, and she believes AETNA is one of the insurance companies that still requires a referral from a medical doctor to see a physical therapist.

[1:58:29 PM](#)

ACTING CHAIR MICCICHE found no further questions or comments and solicited the will of the committee.

[1:58:51 PM](#)

SENATOR STEVENS moved to report SB 222, work order 32-LS1593\A, from committee with individual recommendations and attached fiscal note(s).

ACTING CHAIR MICCICHE found no objection and SB 222 was reported from the Senate Labor and Commerce Standing Committee.

[2:00:00 PM](#)

There being no further business to come before the committee, Acting Chair Micciche adjourned the Senate Labor and Commerce Standing Committee meeting at 2:00 p.m.