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Senate Com. Committee Report on Sunset Review of
Division of Occupational Licensing, Department
of Commerce and Economic Development.

Statement of Problem

In accordance with the provisions of Alaska
Statutes 44.66.010 and 44.66.050 the Senate
Commerce Committee as the designated committee of
reference has conducted the required Sunset Review
of the Division of Occupational Licensing. This report
fulfills the legislative requirements for the committee
of references' responsibility to make formal
notification to the president of the senate of
their findings relative to the Division of Occupational
Licensing.

The Senate Commerce Committee is designated as the committee of reference by the President of the Senate. The Senate Commerce Committee has held one public hearing during which testimony was received from all those who requested a chance to be heard. Among those who were heard were the Director ^{representing the} ~~of the~~ Division of Occupational Licensing and the chief investigator from Occupational Licensing. The remainder of those who testified were the Deputy Commissioners of Commerce and Economic Development ~~also testified~~ and a representative ~~of the~~ from the Alaska Health Coalition.

Discussion (3)

~~The Homogeneity of Testimony~~

The thrust of testimony^{received} fall into two and
categories: (1) Administration position, (2)
the Health Care Industry.

(1) The administrative position, is to follow
the recommendations embodied in the Performance
Review (attached as enclosure (17)). The
administrative position as stated by the Department
of Commerce and Economic Development included
the following recommendations.

(a) That the Division of ~~the~~

Occupational Licensing should display better
management through an 'in-house' ^{organization} program.

(b) That the Division of Occupational
Licensing whose primary goal, is to ensure
that Alaskans are adequately protected from

④

unscrupulous or incompetent practitioners,
streamline their investigative practices.

(2) The consensus position presented by the Health Care Coalition was that ~~the~~ money is the major problem plaguing ~~on~~ the various boards, especially money for investigative services. Lack of division funds for investigative services has stymied every board being reviewed. The Coalition also believes that that more complaints would be filed if people were better informed as to the procedures for doing so. A major concern of the coalition was the lack of communication between the

(5)

division of Occupational Licensing
department and the boards. Reference was
made that introduction of legislation directly
affecting the boards ~~that in~~ be discussed
~~prior~~ to with the boards prior to introduction.

The following Recommendations were submitted by
the Health Coalition:

(a) At least 3 investigator positions
be funded for the health board and that
each be assigned to certain boards so
they can be educated in that particular
discipline to facilitate their investigation.

(b) The ~~dep~~ division of occupational
licensing be required to submit to
boards all proposed legislation having
a direct or indirect affect on the boards.

(c) The division of occupational licensing
play a stronger role in settling disputes
between boards and other agencies and
departments.

(6)

insert (a)

That the division of Occupational
licensing, investigations unit be
transferred to the Department of
Public safety.

- (d) Require the Division of Occupational Licensing to actively solicit names ~~from~~ for possible appointments from the public and private sectors and that the division periodically review and update it with current information.
- (e) All the statutes in chapter 08 be revised to limit the number of terms that any board member could serve to two.
- (f) The Division should review the licensing fee structure and seek appropriate revisions.

(6)
Conclusions

The Senate Commerce Committee after hearing all-testimony provided in the hearing has come to the following conclusions.

(1) The Division of Occupational Licensing should be continued subject to resolution of the recommendations made by the Legislative Budget and Audit Committee (see attached enclosure <1>).

(2) Statutory amendments are needed to assure that appropriate action is taken on consumer complaints against licensed persons.

(3)

(3) It does not appear at this time that there is an alternative method of achieving the stated purposes and objectives of the Division of Occupational Licensing.

(4) It does not appear on the basis of testimony received that the Division of Occupational Licensing could be consolidated with any other board or commission within the state government.

Recommendations

The Senate Commerce Committee recommends the following actions be taken by the eleventh legislature.

(1) ~~That~~ The performance Review of the Division of Occupational Licensing ~~be~~ conducted by the legislative audit be approved and adopted as the required report to the president of the senate together with this report.

(2) That legislation be drafted to extend the life of the Division of Occupational Licensing until June 30, 1980 pending the recom.

(3) In the interim the Senate Commerce Committee recommends that certain legislative actions be taken to correct the deficiencies in the Division of Occupational Licensing as noted in the Legislative Budget and Audit Performance Review. These would include, but not be limited to SB-73.

Jana Varrati

Coordinator of Alaska Health Coalition.

Common Problems

- 1) Funding
- 2) Communicators
- 3) Lack of funding

\$ for meeting and investigation.

Why - Boards were never asked to put a budget in. Under ms. Hostack this has been a little alleviated.

→ Lack of division funds for investigators.

Recommendation → 3 investigate for health boards alone

→ Use investigators of the department of public safety. If this is done the boards could loose track of the records.

Communication Problems

Lack thereof

→ Department of O.C. should admit all legislation to the various Boards.

→ O.C. should send out budget requests for discussion from all boards.

→ O.C. should help the Boards with their problems dealing with other agencies.

→ Openness result in more efficient operation.

- Communicate Problem between Dept. and Boards.
- Procedures followed by board members.
- Ethics about activities of board members.
- The Boards should be required to place notice of all public meeting. I.E. -- In newspaper in the same place all times. like opposite the committee.
- Boards should solicit public input.
- ~~etc~~
- A person complaining should get a follow-up. Also the person being complained against should be unfamed w/r to the complaint.

[Boards have no knowledge of what is going on during an investigation. This is a severe problem.

A convention once a year for all boards and the O.L. director, also the Commissioner of commerce.

A phone book by O.L. of all Boards distributed to all Board members.

Some other states have a news letter for communication between Boards.

Board Vacancies →

- ① Dept be required to solicit names for board members.
- ② Review this list and update it
- ③ No board member can have no more than 2 terms.

④ No Provision for Removing a Board Member.
→ If you don't go to 40% of the meetings you get removed.
→ In California the Gov. can remove a board member.

get this statute

Re-licensure should have again to take an exam to prove they are still qualified.

About Sun-Set Legislation →

get the problems on the table and review them. Most boards are trying to do their job but are running into bureaucratic garbage.

Mr Hong - Chief Investigator for
O.L. Division

① Drug abuse by professionals.

Can a board fine! → (S)

Bert Wagnon

O.L. \$1,025 million budget.

→ they should better manage. But
these are in-house problems.

→

STATE OF ALASKA

A PERFORMANCE REVIEW
OF THE
DIVISION OF OCCUPATIONAL LICENSING
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

October 30, 1978

DIVISION OF OCCUPATIONAL LICENSING
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA

A PERFORMANCE REVIEW
OF THE
DIVISION OF OCCUPATIONAL LICENSING
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

October 30, 1978

Commissioner of the Department of
Commerce and Economic Development
Deputy Commissioner of the Department
of Commerce and Economic Development

H. Phillip Hubbard
Bertram L. Wagnon

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

October 30, 1978

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska
Statutes, the attached report is submitted for your review.

A PERFORMANCE REVIEW
OF THE
DIVISION OF OCCUPATIONAL LICENSING ✓
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

October 30, 1978



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REVIEW

In accordance with the provisions of Title 24 of the Alaska Statutes, a review was conducted to determine the efficiency and effectiveness of certain Divisional operations that have a direct effect on the performance of the 11 occupational licensing boards currently under sunset review.

The performance of the Division of Occupational Licensing's responsibilities reflect on the efficiency and effectiveness of the licensing boards. Therefore, this report should be reviewed in conjunction with the individual reports, issued under separate covers, of the following boards subject to termination under sunset legislation, AS 08.03.010(a):

- (1) Board of Chiropractic Examiners (AS 08.20.010);
- ✓(2) Board of Dental Examiners (AS 08.36.010);
- ✓(3) State Medical Board (AS 08.64.010);
- ✓(4) Board of Nursing (AS 08.68.010);
- ✓(5) Board of Dispensing Opticians (AS 08.71.010);
- ✓(6) Board of Examiners in Optometry (AS 08.72.010);
- ✓(7) Board of Pharmacy (AS 08.80.010);
- ✓(8) Board of Veterinary Examiners (AS 08.98.010);
- ✓(9) Board of Psychologists and Psychological Associate Examiners (AS 08.86.010);
- (10) Board of Nursing Home Administrators (AS 08.70.010);
and
- (11) Physical Therapy Board (AS 08.84.010).

Our review of the 11 licensing boards was hampered, in part, by the Division of Occupational Licensing. The Division has not adequately collected, recorded and maintained pertinent files and statistics relating to the boards to effectively and efficiently carry out their administrative responsibilities, nor have they established managerial controls over the investigation unit.

In 1977, the Legislature approved a fiscal note to the sunset legislation which provided for a Management Analyst I position. The intended purpose of this position was to provide staff support to each of the sunset effected agencies in order to develop, design and implement program data systems which accurately reflect the level of activity and public impact of each agency's programs. Although the

position was filled by a temporary employee for 7 1/2 months, the employee spent the majority of time assisting the past Director with budget preparation, proposed desk reclassifications and various requests. Therefore, little effort was given to preparation for sunset review.

ORGANIZATION AND FUNCTION

The Department of Commerce and Economic Development is charged with the responsibility of providing administrative, budgetary, and investigative services for 21 professional licensing boards and the administration of the Construction Contractor's Registration Act and the Mortuary Science Licensing Act.

These responsibilities are performed by the Division of Occupational Licensing whose primary goal, as stated in the FY'78 budget document, is to ensure that Alaskans are adequately protected from unscrupulous or incompetent practitioners where neither the existence of competition nor recourse to general law will provide sufficient protection or redress.

Services provided by the Division include:

- ① Investigations;
2. Collection of fees;
3. Issuance and receipt of applications;
4. Publication of notices;
5. Issuance of licenses, certificates and permits as authorized by the boards;
6. Employment of support staff;
7. Maintenance of files relating to individual licensees; and
8. Performance of other services requested by the boards.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Division of Occupational Licensing's investigation unit should be transferred to the Department of Public Safety.

During our review of the licensing boards, we found that the investigative performance was not sufficient to provide adequate public protection from abuse by regulated occupations.

The Department of Commerce and Economic Development has not established managerial controls over the investigation unit. Our review of the boards and the investigative files found:

1. A board requested the investigators not to pursue complaints against firms held by board members;
2. Potential board member improprieties exist which have received no investigative action;
3. Investigative files exist on persons for no justifiable reason, and investigations have been pursued without evidence of potential violation;
4. Investigations are conducted outside of the Division's statutory responsibility. Fifty-one percent of the investigative files are on building contractors, although it is the Department of Labor who is statutorily charged with investigations of building contractor violations.
5. The status of many investigations could not be determined. For many of the closed files, there was nothing in the files that indicated that the cases had been closed.

Satisfactory criteria for categorizing investigations has been recently established. However, past investigations have not been performed on the basis of the greatest threat to the public welfare.

1. Of the investigation cases for the State Medical Board during FY '78, 21 of the 46 open cases should be classified as posing a life threatening or a severe danger to the public. Of the 21 cases, 2 are closed, 4 were in litigation and 1 had some investigative effort. However, there were 14 cases for which no investigative action had occurred, although cases of a technical nature with little potential harm were investigated.

2. The various health boards requested 27 investigations. Of these, 15 had been investigated. For 12 cases there was no indication of any investigative effort. In addition, there was no evidence the boards had been informed as to the outcome of these investigations.

4 years ago!

There have been complaints made by several boards that they are getting no response from the investigative unit on requests they have made for investigations. For example, one board asked for an investigation in 1975. Although the case was investigated, the board has not yet heard from the investigative unit regarding this complaint.

The quality of investigations is largely the result of having qualified personnel. We were informed by the investigative unit that during FY'78 they did not have a competent investigative staff, nor did they have sufficient clerical support.

*didn't hire Q of investigators
law says.*

Based on our review we concur that additional clerical staff is needed. However, we were unable to determine if there are a sufficient number of investigators because the number of cases worked and the number of investigative hours per case was not available. Also the Division did not hire all investigators authorized; 20 of 43 investigative man months were vacant during FY'78.

Transferring the investigation unit to the Department of Public Safety would provide continuing managerial control, proper training and supervision, and insulate the investigators from possible board influence. With joint cooperation and proper communication between Public Safety and Occupational Licensing, investigations could be efficiently and effectively conducted.

Recommendation No. 2 *(condition agrees)*

Statutory amendments are needed to assure that appropriate action is taken on consumer complaints against licensed persons.

During our review of the investigations unit within the Division of Occupational Licensing (OL), we noted that consumer complaints against licensed persons are not being adequately handled. Consumer complaints involving regulated occupations are received by two agencies: OL and the Consumer Protection agency (CP), under the Attorney General's office. We noted the following problems with the handling of consumer complaints by the two agencies:

- 1) Neither OL nor CP has the statutory authority to

handle the consumer complaints involving regulated occupations.

- 2) Because a gray area exists as to which agency should handle the consumer complaints, both agencies end up investigating some complaints.
- 3) Other complaints are referred from one agency to the other. We found several cases where CP referred a case to OL, and OL referred the case back to CP. As a result, the complaints either were never investigated or the investigation took months to complete.
- 4) Of the complaints that finally end up in OL, many are never investigated. According to OL, this is because consumer complaints are given a low priority; OL does not have time to deal with consumer complaints. Two boards have resolved that consumer complaints be turned over to local grievance committees for review.
- 5) The consumer is not notified of the outcome of the investigation of a complaint when the investigations are actually conducted by OL.

The consumer needs a government channel to file and pursue a complaint if the public is to have recourse against licensed persons. Even when a complaint is lodged with a board, the complainant has little or no leverage he can use against a board that is reluctant to move. A board is also placed in a difficult position when a consumer has been charged an unreasonable amount for professional services. While the boards have the power to suspend or revoke a license, they have no expressed authority to provide redress to a wronged or injured party.

In order to combat the problem of inefficient and ineffective handling of consumer complaints, we recommend the following statutory changes:

- 1) The current statute, AS 45.50.471, which gives Consumer Protection authority to handle consumer complaints excludes from its jurisdiction persons regulated by other State agencies or boards. This statute should be expanded to allow the CP office to handle complaints against licensed persons.

This will allow CP to pursue redress against licensees for wronged or injured persons. In addition, licensing boards should seek CP's assistance in cases where the board believes economic redress is in order and is in the best interest of persons injured or wronged.

- 2) Presently business practices of an unethical or unscrupulous nature are not considered licensing violations. Boards should be allowed to define professional business practices which are not in the best interest of the

public as licensing violations. The following types of practices should be considered licensing violations by all boards:

- A) A conviction of a criminal or civil act which demonstrates a threat to the public's welfare or safety.
- B) Giving or receiving a rebate, kickback, or other form of compensation for services not actually rendered.
- C) Advertising which is deceptive or misrepresents the practice of the licensed person and which could result in harm to the public welfare or safety.
- D) Fraudulent business practices, such as willful overcharging for services, including filing false statements for collection of fees for services.

In addition to the statutory changes, the two agencies - OL and CP - should coordinate the handling of consumer complaints involving licensed persons. The coordination efforts should be geared towards two goals: 1) providing the public with efficient and effective service, and 2) using State resources in the most efficient manner. Coordinating the flow of paperwork between the two agencies would be one step towards achieving these goals.

Recommendation No. 3

The Office of the Governor should keep the appointments of members of the occupational licensing boards current.

During our review of the 11 licensing boards, we noted several unjustifiable delays in the appointment or reappointment of board members. Some examples are:

- 1. Twenty-eight (28) months have lapsed without appointment to a public member position created in 1976 on the Board of Examiners in Optometry;
- 2. Twenty-five (25) months had lapsed before appointment to a position on the Board of Nursing Home Administrators since the inception of the Board;
- 3. Two members of the Board of Dental Examiners served a total of 66 months after the expiration of their terms until they ultimately were reappointed as Board members.

As a result of these and other vacancies, the boards are not in compliance with the statutes that created them. In addition, the boards may be missing valuable input from the profession they represent or the public by not having a full board. For those members whose terms are not renewed, confusion is created, since the members are not clear as to whether they should continue attending meetings or not.

We recommend that the Office of the Governor review all regulatory boards and appoint new members to vacant board seats or reappoint current members when their terms expire in a timely manner.

We further recommend that the Office of the Governor consider establishing a talent pool for all board appointments. The concept of a talent pool is to have a list of persons available and desiring to serve as a board member. Many sources exist in the State to establish such a pool. Professional associations could be requested to provide a list of members who would like to serve on their profession's board or as a public member on any board. Retired citizens offer an excellent pool of potential talent for public member appointments and should be contacted for possible inclusion in the talent pool.

An established talent pool, updated at reasonable intervals, would allow for the immediate appointment of board members when terms expire or a position is vacated.

Recommendation No. 4

Legislation should be enacted limiting the length of service for all board members to two consecutive terms.

All boards' statutes define the number of years in a term of office, ranging from three to five years. However, only the Board of Nursing Statutes limit the number of terms a member may serve.

In our review of the Board of Pharmacy, we found that by the time current terms expire, three members will have served a combined total of 50 years and a previous Board member served for 25 consecutive years on the Board. This dedication to service is commendable. However, we feel that a regulatory board should have reasonable turnover.

Limiting appointments to two consecutive terms would, over the years, permit a broader spectrum of professional background combined with increased opportunities for new members and ideas. This should make the boards more responsive to public needs and less subject to criticism.

Recommendation No. 5

The Department of Commerce and Economic Development should improve the operation, security and internal control of the 3M-Linolex minicomputer system.

The Division of Occupational Licensing (OL) uses a mini-computer system to maintain the basic licensee data necessary for license issuance and ready reference of all regulated professions.

We reviewed the system to determine the use made of the mini-computer and the internal control and security established for the hardware and licensee computer files.

To improve the overall operation of the system and to protect the valuable data files, we recommend that OL should:

1. Designate a data entry person, not responsible for application review or other board related duties, to enter and update information to licensee data files. This will provide the needed separation of duties.
2. Store master file data diskettes in a locked cabinet or the available fireproof safe overnight and whenever authorized operating personnel are not present. Presently, there are no security precautions taken to protect against unintentional or intentional loss or modification of the data base.
3. Establish a policy for regular data file backup. With current backup information, OL would be able to quickly and positively recover data in the event master files are lost or become unusable.
4. Periodically reconcile computer data files to the original licensee folder to strengthen internal control and allow for earlier error detection.
5. Pre-number the blank licenses, strictly control access to the blank license stock and maintain a control log of all licenses issued, voided, destroyed, etc.
6. Maintain a systems utilization log to determine actual computer use and workload composition. This information would provide a good supervisory tool.
7. Prepare an Operating Procedures Manual. Step-by-step procedures would quickly and efficiently educate users as to how the system operates.

*Occupation
and the
Condition
agree.*

8. Install a key-lock type system on the equipment to protect against unauthorized use.

Implementation of these recommendations will improve the security and operating effectiveness of the minicomputer system.

Recommendation No. 6

The Department of Commerce and Economic Development should review the license fee structure of all boards and seek appropriate revisions.

During our review of the Division of Occupational Licensing (OL), we prepared a comparison of the costs of operations versus the revenue generated by each of the 11 boards under sunset review (see Appendix A). We found that the total costs of the 11 boards (\$270,900) exceeds the revenues generated (\$132,700) by \$138,200. The deficits range from \$3,500 for the State Medical Board to \$42,100 for the Board of Nursing.

The main source of revenue for the boards is the license renewal fee collected, by the majority of the boards, on a biennial basis. Presently, license fees are set by statute. A large majority of these fees have not been revised since 1968 and 1969.

Although we do not believe that all licensing boards are capable of being self-supporting, it can be reasonably expected that the licensed professional should adequately contribute to the cost of operating his or her respective licensing board. This includes those professionals currently holding an inactive Alaska license.

Therefore, we recommend that the Department review the existing license fees and where deemed necessary, seek legislation increasing the fees. In addition, legislation should be enacted requiring an inactive license renewal fee for all boards. Presently, only State Medical Board Statutes allow for the collection of inactive license renewal fees.

An alternative to continuous legislative revision of the current single license fee structure would be to amend the license fee statutes to designate a minimum to maximum range within which the Department of Commerce and Economic Development could administratively establish license fees. However, this would necessitate a more accurate accounting by individual boards of all related Departmental expenditures in order to properly justify any fee increase.

yes

Should not be approved of each Board

Recommendation No. 7

The Department of Commerce and Economic Development should include the goals, objectives, and quantifiable measures of each board in the Division of Occupational Licensing's budget documents and submit performance reports for each board as required by AS 37.07.

The Executive Budget Act, AS 37.07, requires each State agency, including boards, to prepare and submit their goals and objectives to the Office of the Governor's Division of Budget and Management and the Legislative Finance Division.

Since boards are budgeted under OL, there is joint responsibility for the proper formulation and inclusion of goals, objectives, and measures in the budget documents.

Presently, OL establishes its own budget goals and objectives, but the budget documents do not include any goals or measures for individual boards. Without each board's goals and objectives being identified or measured, neither the Governor's office nor the Legislature can properly evaluate a board's performance.

The Executive Budget Act also requires each State agency to submit a performance report to the Division of Budget and Management no later than September 1, for the preceding fiscal year. The Division of Budget and Management has not requested nor has the Department prepared the required reports.

In the 1977 Session, the Legislature, in conjunction with sunset legislation, amended the performance reporting statute (AS 37.07.090) to require agencies to specifically address eight criteria. The reports, based on those criteria, would provide a useful tool for evaluating agencies that are presently or in the future may be subject to sunset review.

Recommendation No. 8

The Division of Occupational Licensing should collect, record and maintain, for five year periods, files and statistics of license and testing applicants, and related workload of the licensing examiners.

The Division needs relevant facts and statistics for evaluating the performance of their personnel and board activity. Many past records have not been collected and maintained. Some examples are:

1. Number of professionals licensed, by speciality if applicable;
2. Records of applicants denied a license or the chance to take the examination due to the lack of qualifications;

3. Records of those applicants failing the examination;
4. Number and type of complaints and criticisms about the boards and staff;
5. Number of persons requesting applications; and
6. Correspondence workload of licensing examiners.

Uniform procedures should be developed as to how records and statistics are to be gathered and maintained for all licensing boards. It is to the advantage of the Division to keep these records in order to support their budget request, evaluate their personnel and keep the boards informed as to their progress. Also, feedback from the boards and the public should be encouraged so as to determine whether staff performance is adequate.

Recommendation No. 9

The Department of Commerce and Economic Development, in conjunction with the Office of the Governor, should prepare a board member orientation booklet, including a code of conduct.

During our review of the 11 licensing boards, we noted several instances where it is questionable whether a board or a board member's actions were in the public's best interest.

The acceptance of a gubernatorial appointment as a board member should invoke a commitment to honorable behavior, even at the sacrifice of personal advantage. Although a code of conduct cannot guarantee ethical behavior, it should set forth minimum levels of acceptable conduct that are mandatory and enforceable.

A code of conduct for all board members should include the following:

1. A member should not enter into a conflict of interest relationship, a position contrary to the basic philosophy, principles and goals of the board, which might impair the integrity and objectivity necessary to properly fulfill his/her responsibilities.
2. If a member does not have an impartial attitude concerning an issue before the board that member should abstain from participating in the board action.
3. A member should not use his/her public trust to further personal or professional interests to the detriment of the health and welfare of the public.

4. A required percentage of attendance at all board related activities.

In addition, all new board appointments should be acquainted with:

1. The general duties and responsibilities of a board member and the limits of his/her authority;
2. The philosophy of a regulatory licensing board;
3. The role of a public member on a licensing board; and
4. Services provided by or available through the Division of Occupational Licensing.

Both the general acquaintance information and a code of conduct could be included in one informational booklet that would apply to all boards under the Department of Commerce and Economic Development.

Recommendation No. 10

The 11 health-related boards, in conjunction with the Division of Occupational Licensing, should review their applications for licensure and delete any questions which could lead to discrimination against applicants.

One of the public need criteria for the continued existence of a board is the extent to which State personnel practices, including affirmative action requirements, have been complied with by the board in its area of activity.

In reviewing the applications for licensure of the various boards, we noted that the applications contain questions which could lead to discrimination by board members against applicants. The applications request information on sex, age, height, weight, color of eyes and hair, and most of the applications require pictures. We did not find any evidence of discrimination against an applicant based on the answers to these questions. However, the potentiality for discrimination exists.

this info. is not necessary

We recommend that the boards and/or Division of Occupational Licensing consult with the State Equal Employment Opportunity Office or the Human Rights Commission on the makeup of the applications for licensure. These two agencies could help the boards make a determination as to whether or not the questions asked are of a discriminatory nature. Then, any discriminatory-type questions should be analyzed to determine if a real need for the information exists. If not, the questions should be deleted.

Two alternatives to the applications currently used are as follows:

- a) Include a disclaimer on the application stating that certain questions may lead to discrimination and the applicant has the option of not answering the questions. These questions should then be identified.
- b) Any discriminatory-type questions, if necessary for investigation purposes, for example, may be included on a detachable page of the application. The page could then be detached before the application is seen by board members.

Already been implemented

Recommendation No. 11

The Department of Commerce and Economic Development should improve formal board minutes.

Board minutes are the official public record of all proceedings of a board meeting and the only means a board has to formally state its actions. Therefore, it is essential that all minutes be detailed, accurate, and complete.

Several boards tape record the meeting proceedings to be transcribed at a later date. This is a good method of accurately recording the boards' activities and should be encouraged. However, it was observed by auditors in attendance at a board meeting, that the tape recorder was arbitrarily turned off and on during board discussion. This practice should not be allowed.

In addition, much of the detail contained on the tape is omitted during the transcribing process.

To improve the quality of all board minutes, we recommend that the Department establish procedures that include the following requirements:

1. All board proceedings, except for executive sessions, should be tape recorded to allow for a more accurate and detailed transcription;
2. Tapes should be retained for a reasonable period of time following transcription;
3. Minutes should include board member attendance, absence and public attendance;
4. Minutes should reflect more detail of discussions during the meeting and identification of the person speaking;

5. Minutes should include an accurate quote of all motions and resolutions whether carried or not and an accurate breakdown of the membership's voting;
6. Attachments to board minutes should include any documents adopted, lists of applicants approved and denied for licensure or examination; and
7. Minutes should be properly approved, signed and ratified in a timely manner.

Recommendation No. 12

The Department of Commerce and Economic Development and all licensing boards should ensure that public notices of examinations are sufficiently and timely advertised.

The Department is required by statute to publish notices of examinations and it is each board's responsibility to notify the Department of upcoming examinations well enough in advance to permit proper advertisement.

During our review of examination advertisements, we found that many notices did not allow adequate time for individuals interested in taking the examination to submit applications within the advertised deadline. For example, on May 25, 1978, the Department advertised an upcoming Registered Nurses' examination. The notice required all completed applications to be submitted to the Department by May 26, 1978.

Advertisements should be published on dates that will allow adequate time for all interested people to submit applications before the stated deadline.

SUPPLEMENTAL INFORMATION

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
 DIVISION OF OCCUPATIONAL LICENSING
BOARD REVENUES COMPARED WITH EXPENDITURES
 Fiscal Year 1978

UNAUDITED¹

	<u>Medical</u>	<u>Psychology</u>	<u>Pharmacy</u>	<u>Nursing</u>	<u>Veterinary</u>	<u>Physical Therapy</u>	<u>Dispensing Opticians</u>	<u>Optometry</u>	<u>Nursing Home Administrators</u>	<u>Dental</u>	<u>Chiropractic</u>	<u>Total</u>
Revenues ²	\$ 39,800	\$ 2,100	\$ 12,400	\$ 56,500	\$ 2,700	\$ 2,300	\$ 1,600	\$ 1,700	\$ 1,900	\$ 10,200	\$ 1,500	\$ 132,700
Less:												
Expenditures ³	<u>43,300</u>	<u>20,000</u>	<u>17,500</u>	<u>98,600</u>	<u>10,000</u>	<u>11,700</u>	<u>11,900</u>	<u>14,000</u>	<u>10,000</u>	<u>22,000</u>	<u>11,900</u>	<u>270,900</u>
Excess of Expenditures over Revenues	<u>\$(3,500)</u>	<u>\$(17,900)</u>	<u>\$(5,100)</u>	<u>\$(42,100)</u>	<u>\$(7,300)</u>	<u>\$(9,400)</u>	<u>\$(10,300)</u>	<u>\$(12,300)</u>	<u>\$(8,100)</u>	<u>\$(11,800)</u>	<u>\$(10,400)</u>	<u>\$(138,700)</u>
Year of Last Renewal Fee Increase	1969	1970	1968	1969	1968	1969	(Note 4)	1969	(Note 4)	1968	1968	

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and accordingly we do not express an opinion on the Board Revenues Compared With Expenditures.

Note 2

The majority of the revenues collected are composed of license renewal fees. These fees are collected by most boards once every two years and cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average of the revenues collected in fiscal year 1977 and 1978 in order to obtain an accurate representation of collected revenues.

Note 3

Expenditures include those made by board members, such as travel and per diem and an allocated percentage (estimated) of total administrative expenses of the Division of Occupational Licensing. They do not include expenditures for efforts of other departments, such as the Department of Law, assisting the boards and the Division.

Note 4

The Board of Dispensing Opticians and the Board of Nursing Home Administrators were created in 1973 and 1975 respectively and have not had a fee increase.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

RECEIVED

JAN 11 AM

LEGISLATIVE
AUDIT

January 10, 1979

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

We appreciate the efforts put forth in your findings and recommendations contained in your Preliminary Report entitled:

A Performance Review of the Division of Occupational Licensing, Department of Commerce and Economic Development, October 30, 1978

It should be pointed out that certain recommendations in this report and others pertaining to specific Boards and Commissions are beyond the scope of authority of the Division of Occupational Licensing to resolve.

This will acknowledge Commissioner Hubbard's December 15, 1978 response to that report and provide additional comments as considered necessary.

Recommendation No. 1

The Division of Occupational Licensing's investigation unit should be transferred to the Department of Public Safety.

Response

Although your recommendation has merit, we concur with Commissioner Hubbard's position in which he disagreed with this recommendation. The examples of apparent impropriety and inadequate or lack of investigations have caused and do cause us serious concern. However, the underlying cause seems to be largely a shortage of or lack of adequately trained investigators and clerical support staff.

We have discussed this recommendation with Acting Commissioner Nix of the Department of Public Safety and he has expressed agreement that the nature and extent of licensing, professional ethics and related standards investigations would differ substantially from those performed by the Criminal Investigations Bureau and others within his department.

Despite stringent budgetary constraints we are concentrating on improved investigative reports and records within the Division of Occupational Licensing. You may be assured that current and any future investigations will be made on an impartial basis and that appropriate actions will be taken.

January 10, 1979

Recommendation No. 2

Statutory amendments are needed to assure that appropriate action is taken on consumer complaints against licensed persons.

Response

We are in agreement, and as you suggested, we are pursuing an amendment to AS 45.50.471 and its application.

Recommendation No. 3

The Office of the Governor should keep the appointments of members of the Occupational Licensing Boards current.

Response

We are presently reviewing the occupational licensing boards in an effort to make appropriate appointments and to keep them filled with qualified persons. Additionally, as you suggested, we are establishing a talent pool from which appointments can be made to the Boards as necessary. Please be assured that this office will make timely appointments in the future.

Recommendation No. 4

Legislation should be enacted limiting the length of service for all board members to two consecutive terms.

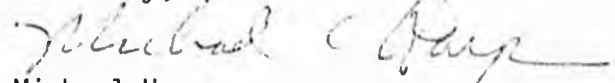
Response

We agree in concept. Recommendations will be made during Sunset review to address this situation.

We believe the remaining recommendations are appropriately addressed in Commissioner Hubbard's response with a view toward resolving any deficiencies noted. Remedial actions have already been taken pertaining to significant issues raised. For example, as shown in Commissioner Hubbard's response to your Recommendation No. 6, the Division of Occupational Licensing has heretofore introduced and re-introduced legislation authorizing the department to set fees for all boards.

Your findings and recommendations and our own studies indicate much has been accomplished by the Boards and Commissions through the administration of the Division of Occupational Licensing but that much remains to be accomplished to assure compliance and maximized public service and protection. Please be assured we are continuing to monitor and refine data to upgrade those services and protective programs.

Sincerely,



Michael Harper
Administrative Assistant
to the Governor

JAY S. HAMMOND, Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

December 15, 1978

RECEIVED

JAN 11 AM.

LEGISLATIVE
AUDIT

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

The following comments are in response to the Performance Review of the Division of Occupational Licensing, Department of Commerce and Economic Development submitted by the Division of Legislative Audit.

Recommendation No. 1. We disagree. Transfer of the division's investigation unit has not been demonstrated to be of potential benefit to the State or to the public. Whenever the functions of an agency are divided between two or more governmental bodies, responsibilities are fragmented and public confusion exists.

Major improvements have been made in this unit within the past few months. A complete review of investigative files has resulted in eliminating many of the concerns expressed in this audit. Transfer of appropriate files to the Department of Labor was accomplished in September 1978. Frequent turnover of clerical support has resulted in inadequate organization of investigative files in the past. We believe that other specific examples cited are isolated instances of the type that must be dealt with periodically and should not imply prevalence among boards.

As you have noted, criteria for categorizing investigations have been recently established. This includes procedures for informing boards of investigations status within Administrative Procedure guidelines. We agree with your observations regarding the need for additional clerical staff in this unit.

Recommendation No. 2. We agree that statutory amendments are needed, however, we would advocate provisions that would make Consumer Protection responsible for complaints concerning nonlicensing violations. Determination of unethical business practices should be made by the agency, which has jurisdiction over consumer complaints.

Recommendation No. 3. Agreed. There are a myriad of reasons that could be cited as to this deficiency. However, I am assured by the Governor's Office that timely appointments will be made in the future.

Recommendation No. 4. Agreed. This policy would enhance participation by a broader professional base with different views and ideas, provided there are qualified professionals available and willing to serve on a particular board.

Recommendation No. 5. The general recommendation is agreed with and majority of these concerns either are in the planning process or have recently been initiated. The designation of one employee as a data entry person is not agreed with at this time. Current staff limitations prohibit this approach. The prenumbering of blank licenses is under consideration as a means of controlling license stock, however, further study will be made before determining if this is the best approach. The installation of a key lock system on the mini computer is not needed. The building is secured and the diskettes are locked in a safe. Any unauthorized use of this machine would be highly improbable and of no use to the unauthorized user.

Recommendation No. 6. Agreed. The division has re-introduced legislation which would allow and authorize the department to set fees for all boards. This request was made to the 1978 Legislature. No action was taken.

Recommendation No. 7. Agreed. Consultation with the boards was initiated for the FY 80 budget on a limited basis. The division will be contacting all boards for their goals, objectives and financial requirements for inclusion in the FY 1981 budget.

Recommendation No. 8. Agreed. The division has initiated many of these recommendations for each board. The remaining recommendations will be initiated within a eight-month period.

Recommendation No. 9. Agreed. The division, in conjunction with the Attorney General's Office, is in the process of formulating an orientation and procedure booklet which will encompass all points listed.

December 15, 1978

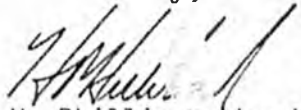
Recommendation No. 10. Agreed. Applications and all other forms used by the 21 boards administered by the division will be reviewed, consolidated and changed to meet affirmative action requirements and to increase the efficiency of forms processing. We expect to accomplish this task within the next eight months depending on staff availability.

Recommendation No. 11. Agreed. The majority of these items are being and have been accomplished. All meetings will be recorded and tapes preserved for two years. The typing of verbatim minutes is not felt to be needed, especially with the tapes available to provide details.

Recommendation No. 12. Agreed. Every effort is made to publish all public notices at least 30 days before each meeting, examination or application deadline.

We appreciate the time and efforts expended by your staff.

Yours truly,


H. Phillip Hubbard
Commissioner

M E M O R A N D U M

MAJORITY MEMBERS' (HOUSE COMMERCE COMMITTEE) RECOMMENDATIONS
REGARDING "SUNSET" REVIEW ON ELEVEN HEALTH REGULATORY BOARDS

The following memorandum represents the position recommended to the House Commerce Committee by its majority members on the morning of February 26, 1979, regarding retention or termination of eleven boards, which, through the Division of Occupational Licensing, regulate the practices within the various indicated professions.

This memo is not in formal form, and does not go into the explanations that would be forthcoming from a Committee Report under the "Sunset" law, and, of course, is not in the statutory form that will be required in order to implement these suggestions.

1. The Board of Medical Examiners would be continued on a probationary basis for only one year, with specific directives in the committee's letter regarding the matters of scrutiny which must be addressed by that Board. Indications are that the doctors also need to have an executive director on their board similar to the executive director for the Board of Nursing.
2. The Board of Nursing should be continued for a full four years, and the statutes should be amended to allow the Board of Nursing alone to promulgate regulations for the advanced nurse practitioners.
3. The Board of Dentistry should be continued but only for two years, in a probationary status, with statutory changes which would facilitate the entrance into the profession of more dentists, particularly dentists credentialed in other jurisdictions. At the end of two years, the dentists would be expected to demonstrate that their Board has acted to admit competent dentists and has not acted in any restrictive or "turf-protecting" manner.
4. The Board of Pharmacy is to be continued for a four-year period, with some of the statutory changes suggested by the legislative auditors.

With regard to all four Boards retained, the terms should be adjusted to four-year terms, staggered, with no member to serve more than two consecutive four-year terms.

The makeup of the Boards should be adjusted to provide for more lay participation. Each of the four Boards is presently constituted with five admitted professionals and two lay-persons. The statutes should be changed to provide for a ratio of four professionals to three lay-members.

The remaining seven Boards (Licensing, Psychologists and Psychological Associates, Physical Therapists, Chiropractors, Optometrists, Opticians, Veterinarians, and Nursing Home Administrators) should be terminated but not quite in the manner anticipated by the Sunset law. The termination should occur during a period when the Boards are still fully functioning, allowing admission to their professions, while also cooperating with the Division of Occupational Licensing, and transferring their licensing functions to that Division. Our original suggestion was that this termination date be January 1, 1981; however, the budgetary considerations may well cause us to change that recommendation to June 30, 1980. In either case, this will give the Boards and the Division one entire budget cycle with which to deal with the transfer, and will avoid an unfortunate ambiguity in the Sunset law about the role of the Board during its final year of operation if terminated.

Originally, we were considering looking at the legislation that the federal government normally expects from a state which has nursing homes obtaining federal funds. The Nursing Home Administrators were only established in order to guarantee the flow-through of federal money. However, there have been some recent indications that nursing home administrators need only be licensed, but not necessarily by a professional Board as presently constituted. If that is the case, it will fit into our plan with no different treatment for the Nursing Home Administrators; if it is not the case, the Division and the legislature will have adequate time to address the problem in the next session.

This memorandum does not address the practices of the Division of Occupational Licensing, although the review of the Division by the Legislative Audit will necessarily be affected by these recommendations if they are adopted.

Obviously the recommendations anticipate substantial explanation and direction in Committee Reports and in legislation yet to be introduced.

Dated:

Fred Brown, Chairman
House Commerce Committee

TESTIMONY OF THE ALASKA HEALTH COALITION

submitted by
Jana Varrati, Coordinator

I'm Jāna Varrati, coordinator of the Alaska Health Coalition, a member of the dental board and a practicing dental hygienist.

Again at the start I would like to express the Coalition's enthusiasm for the concept of sunset review and our appreciation for the way this committee is working overtime to implement the spirit of the statute. We look to sunset as a way to alleviate some of the problems that have been plaguing our boards for years and we're pleased to have the opportunity to get at them all at once rather than piecemeal. We would also like to thank Elaine Garrett and David Creckman from CL and Mr. Hostak, director of CL, for their roles in supplying information and support to our boards and associations when requested and to the best of their abilities. We also thank the legislative auditors for their willingness to tackle a very difficult job in a sometimes hostile environment.

I would like to address some of the common problems of our boards which hamper their function; funding or a lack of it; communication or a lack of it; filling and creating board vacancies; licensing examiners; incomplete minutes. I would also like to address the auditor's recommendations after reviewing OL, and make some miscellaneous observations.

Money is the major problem plaguing our boards: money for meetings and for investigative services. There are a couple reasons for the inadequate meetings budget. The boards were never advised by the department of statutes requiring them to submit a budget to the department nor were the boards asked until Mr. Hottel came on to do so. He moved on it right away but the time was short so the needs could not be discussed in a meeting; therefore in 1978 most ^{for most boards} boards ~~could not~~ ^{guessed} short on what they would need for 1980. Two years projection is a long one and a good number of the boards' members were newly appointed so had little appreciation of time requirements for getting things done on a board. Part of problem is already solved. As a result of this audit we see that our boards are aware of their obligations to devise a workable budget and are better prepared for longer needs projection.

Lack of Division funds for investigative services has stymied every board being reviewed. We believe that there is an insufficient number of investigators handling licensing complaints and that the salary classification for the position of investigator is too low. For \$1500/month we expect Superman but what we get are ~~not~~ ^{not} positions, a lack of qualified applicants, the hiring of less qualified personnel, a high turnover and more cases handled improperly. We recommend:

- ① At least 2 investigator positions be funded for the health boards and that they be assigned to certain boards so they can be educated in that particular area ~~and~~ ^{and} to facilitate such investigations;
- ② Raising the classification for investigator to provide a salary commensurate

with job responsibilities and comparable to other investigator salaries.

(For instance, a trooper investigator I starts at \$2172, investigator II earns \$2238, investigator III makes \$2517/month) We expect our investigators to be familiar with Alaska law, to know the Administrative Procedures Act inside out, as well as the practice acts and other applicable statutes, to be a super sleuth and to do it for only \$300 more per month than the guy who pushes the broom out in the halls earns.

But supposing we don't keep investigations within the division of OL. There is a strong case to be made for using the department of public safety for investigations and a good one. The investigators are already there, already trained, and are assigned by specialty and training to each of about 10 categories of crime. They are sufficiently well-paid to be motivated, have the administrative and technical know-how to get the job done and have knowledge of the laws. It should be just one more additional duty to take on board investigations. The big difficulty with this idea lies in the possibility of the boards and the division losing track of cases. That could be solved by having a chief investigator for OL charged with assigning cases to the troopers, to CP and peer review organizations, and with keeping track of the progress and outcome of those assignments in order to keep the boards and the divisions informed.

The Coalition also believes that there would be more complaints filed if people knew more about the procedures for doing so. If communications between the boards and the public existed beyond a cursory notice in the paper of meetings we are holding, there would be even more investigations work to be done, probably in the form of consumer protection, rather than actual licensing violations.

In addition, by knowing some real deficiencies in communications exist which are a major problem: communication between the department and the boards, between the boards and the public, between related boards, and between boards and the professionals they regulate.

The lack of communication between the department and the boards has resulted in the introduction of legislation directly affecting the boards but without board knowledge or approval (see HB's 46, 62, 109; SB's 94 and 73). Because the department may and does submit legislation we would like to see:

3. the department required to submit to boards all proposed legislation having a direct or indirect affect on the board, the professionals regulated, or on board function. The boards are responsible for policy as well as for function and should be included in drafting legislation.
4. the department required to ~~to~~ speedily set out reasons for opposing or supporting legislation submitted to it by the boards, or favored by the board. The veterinary bill (HB 86) is an example. The veterinary association and board worked hard to draw up a new practice act which failed to get the support of the administration, but neither the board nor the association were told why the bill was rejected, just that it would not be supported. And that only after I told them; before that they had no suspicion that all was not right with their world. It turns out that the reason for the opposition was the inclusion in the bill of a section adding two members to their board, one a veterinarian and one a public member. They were trying to save the state money by asking for only a five person board instead of the seven that is standard, but the department opposed it because two public members were not added. That's what the veterinarians were told. I was told that it was opposed because of the extra expense of adding any members. Whatever the reason, it could have been worked out beforehand. After all, the boards and the department are supposed to be on the same side. The Commission would also like to see the department play an active role in resolving disputes between the boards and other departments or agencies. An example of this need is that of the dental board and the Aleutian-Kribiloff Island

dental clinic. The department of Health, Education and Social Services was involved initially before the case slipped its harness and got wrapped up in federal grants and jurisdiction. I know it was because I was involved in some of the discussion with Dr. Fraser about it. Granted, there were several other points at which the whole situation would have been resolved, the work done on the people needing it, and the hard feelings that we see now avoided. The point is, that if the department had taken a stronger role in helping the parties come together and had served as a kind of middle man or middle ground everyone would have benefited. Openness results in more efficient operations and a better understanding of the other side's position. So we recommend that

5. the department play a stronger role in settling disputes between boards and other agencies, departments , etc.

Another major gap in department/board communications results from board members and their licensing examiners not being familiar with all the statutes affecting their boards. The Coalition sees a strong need for an information packet to be given to each board member and licensing examiner when he/she comes on consisting of:

6.
 1. the current statute and regulations governing that board's regulated professionals.
 2. any other statutes affecting a board or their activities
 - a. Central Licensing
 - b. Advertising
 - c. Malpractice
 - d. Administrative Procedures
 - e. Executive Budget Act
 - f. Public Health Act
 3. procedures to be followed by the board members regarding
 - a. investigation
 - b. litigation
 - c. examination
 4. ethics concerning activities of the members
 5. general responsibilities of the board
 6. two years of back minutes of the board

The second area of communications lag is that between the boards and the public.

Public notices of meetings and examinations are run one time only in differing sections of certain newspapers. Usually the meeting's agenda is not part of the notice. Obviously, a person not knowing where to look, usually doesn't see the notice if it's not on or opposite their favorite feature and if they don't know what's to be discussed they certainly are not going to walk off the job to attend a board meeting on the chance that a topic of interest to them will be considered. Another roadblock to public input is the lack of a form on which to file a complaint with a board. People wishing to complain are told to file a written report but many are hesitant because they don't know how much or what kind of information is needed to spark an investigation. Lack of a form which requests specific information slows classification and disposal of cases. Even after a complaint is registered in most cases the complainant is not informed of what action was taken, the results, etc. The boards get the blame, but truthfully, the boards don't know what kind or how many complaints are filed with OL nor are board members allowed to help decide investigative priorities. To alleviate these matters the Coalition recommends:

7. that the boards, through the department, by statute or regulation, be required
 - a. place notices of all public meetings of the boards in a popular section of the newspapers in which they are published (like opposite the comics or on the second page.)
 - b. that these notices always be in the same section of all newspapers in which they are printed.
 - c. that they always run for 3 days
 - d. that they include a proposed agenda whenever possible
 - e. that they also be published in alternate newspapers such as the Tundra Times or The Alaska Advocate so people without the Atwood syndrome would be more likely to see them.
8. that the boards, through the department, be required to solicit public input by:
 - a. periodic public service announcements on radio and tv;
 - b. periodic letters of inquiry to groups such as Ak.PIRG, Native Corporations, OPAG.
9. that the division of OL be required to compose a common complaint form to be used by all the health regulatory boards
10. that the division of OL be required to
 - a. advise each complainant within 30 days of receipt of the complaint what disposition has been made of the complaint:
 - 1) to CP
 - 2) to professional peer review committee
 - 3) to both 1) and 2)
 - 4) to investigator for further action

5) to the board for immediate action.

b. advise each complainant as to the findings regarding that complaint.

11. that the boards:

- a. be advised at each meeting of the numbers and kinds of complaints against practitioners regulated by that board and the disposition of those cases
- b. choose from their membership one person who is to be consulted by the investigator in deciding investigative priorities of licensing violations and other decisions which may require professional knowledge. Such board member will automatically be excluded from deliberations by the board concerning those cases in which she/he was consulted.

Communications between boards with similiar responsibilities and interests is badly needed for reinforcement of purpose, the sharing of information and policies, and discussion and possible solution of common problems. In 1977 Commissioner Hubbard call all the board chairs to a meeting to introduce himself and to recognize shared problems. It had a remarkable effect on the members. We were recognized as people, for one thing, and not as paper agencies! Several people stayed around afterward to discuss certain subjects and got so enthusiastic at the communication that the Coalition was formed. Now the Coalition is an alliance of the professional associations regulated by the boards so the boards are still without ties. Therefore we reccommend:

12. a meeting be held at least once a year for at least two days for the express purpose of discussing common problems and solutions of the boards' problems which shall be attended by members of the health regulatory boards, the Commissioner of Commerce Department, the Director of OL, representative of the AG's office, licensing examiners.
13. that each member of each health regulatory board receive from the department the names, addresses and phone numbers of members of the other health boards. (the reasoning behind this reccommendation is that in case of a cross-disciplinary problem, such as between nurses and dental hygienists in the past, a board member can have a contact in the other board, get the information, perhaps even get the problem resolved without haveing to go through the whole rigamarole of official phone calls, investigations, etc. Most of this type problem is just a result of faulty information, misunderstanding of proper information.)
14. a boards' newsletter serving the health regulatory boards. As a board member I would be interested in knowing what is happening with the other boards periodically and officially rather than through the licensing examiner grapevine.

Communications between the boards and the members of the professional associations they regulate are also suffering. Our associations feel there is little if any

attempt by the boards to encourage participation by the associations in board meetings, discussions, etc. Not so much by intent, but by oversight. We feel this could be corrected if:

15. the boards were required, through the licensing examiner, to send a 30 day advance notice of pending board meetings and public hearings with the proposed agenda to the person in charge of the professional newsletter or to the state president of the association represented.
16. the boards were required either by statute or by regulation to send copies of their annual reports, including but not limited to receipts and expenditures and a list of all persons currently licensed in the board's jurisdiction to the president of the professional association represented.

The professionals, the associations, as well as the public suffer when our boards are not working with their full complement of members. We realize that the governor has the problem of a lack of nominations to such positions, especially for public members. (who in their right mind would want to serve on a board? Often those who do want to for some very wrong reasons.) We propose the following solutions:

17. require the department to actively solicit names for possible appointment from the public and private sectors through newspaper notices, public service announcements, recommendations from professional associations, private organizations like Ak.PIRG, OPAG, Native groups, and other public interest and service groups on a prescribed form for that purpose
18. that the department review this list periodically and update it with current information.

The governor could then choose from that pool if she or he wanted. The Coalition also recommends that

19. all the statutes in chapter 08 be revised to limit the number of terms that any board member could serve to two.

By that time any member no burned out either hasn't been doing the job or has gone past caring. Time for new blood in either case. *But make sure you don't lose by one*
and one of the functions of a party is to make sure the board is not too large
Now that we've talked about filling vacancies on the boards I think we should talk about creating vacancies. The Coalition feel that there should be a way to remove from duty board members who are not fulfilling their obligations as members. Presently there is nothing in the statutes that set out procedure for accomplishing this but there should be for obvious reasons. We suggest:

20. Either

- a. automatic termination if a member fails to attend 40% of meetings in any fiscal year or
- b. California Statute: Chap.4, Div. 2, Art. 1, Sec. 1605 "The governor has the power to remove from office at anytime any member of the board for continued neglect of duty required by this chapter or for incompetency or unprofessionsl conduct." (Unprofessional is defined in the chapter)

I would like to briefly address what were major areas of concern to our boards but which have been greatly relieved since Mr. Hostak's arrival at OL and these are rapid turnover of licensing examiners and the lack of detailed minutes. Most of our boards seem to be pleased with their licensing examiners now and the licensing examiners seem to be comfortable with their workload except in the case of the person responsible for the pharmacy/medical/psychology boards. These are all very busy boards. The medical board should probably have an executive director like the nursing board. Their ^{jurisdiction} jurisdiction is so varied that it's inconceivable to us how they ever address any one issue in depth given their meeting schedule. Obviously they don't function as efficiently as they should given the life and death responsibilities of their profession. I think we've all seen the magic that an executive director can work for a board. The nursing board is the smoothest functioning board, got the highest marks from the auditors, and the fewest recommendations and the only health board with an executive director. I'm not recommending executive directors for all boards, most could function with some statute changes, some membership changes, and increased communications as outlined before, and with a periodic review to keep the whole picture in sight.

The taking of minutes has also greatly improved since Mr. Hostak's arrival. In the recent past the minutes were so cursory that it was impossible to read them over and get a fairly clear idea of what went on in the meeting, who voted how and why, what kind of discussion occurred. There is still room for improvement especially in the area of recording discussion and the reasons a particular member voted. At Mr. Hostak's direction the licensing examiners are also sending to the members an interim report keeping them informed of OL activity on their behalf between meetings. A real helpful addition.

COALITION RESPONSE TO THE OL AUDIT RECOMMENDATIONS

Recc. 1. That the division of OL investigations unit be transferred to the Dept of Public Safety.

The Coalition has mixed feelings about this recommendation. We can see the value in keeping investigations within the department (division) but because of salary restrictions and budgeting restraints on #'s of investigators we feel, as previously stated, that we have no objection to the troopers handling our investigations PROVIDED THAT ALL COMPLAINTS FIRST GO ACCROSS THE DESK AND THROUGH THE HANDS OF THE OL INVESTIGATOR WHO WOULD BE CHARGED WITH:

- a. deciding if a complaint is a licensing violation and what priority it should be given, with the aid of a designated board member, if needed
- b. assigning the complaint to the proper investigative authority
- c. maintaining an open OL file on each complaint and advising the board on the status at each board meeting until the case is closed by the proper authority and to the satisfaction of the board.

Recc. 2. Statutory amendments are needed to assure appropriate action is taken on consumer complaints against licensed persons.

- a. we agree with statute change #1- that the current statute which gives CP the authority to handle consumer complaints be expanded to allow CP to also handle those complaints against licensed persons excluding, however, actual licensing violations. We believe that CP as well as the professional peer review committee should play the major roles in this area so the consumer knows that a specific agency has responsibility but that these complaints, filed on a specifically prescribed form, be filtered throug OL before going to either CP or peer review. We firmly believe that OL must keep the master records of the boards are to keep fully informed and therby functional in their obligation to protect the public.
- B. We heartily agree with the recommendation that boards be allowed to--rather, be required to--define unethcal or unscrupulous business practices as licensing violations. I think that most statutes have already addressed this issue but not defined specifically as unethcal or unscrupulous practice. The California statutes have a long list under unprofessional conduct, parts of which the Alaska dental board has incorporated into its proposed statute changes to round out an already long list of infractions. Perhaps what needs to be done in reviewing the statutes is to make a complete list similiar to California's and include it in all the practice acts.
- c. We agree with the third recommendation under #2 regarding coordination between OL and CP be established. The chief investigator can and should handle this.

- Recc. 3. The Office of the Governor should keep the appointments of the occupational licensing boards current. We agree and have already presented our recommendations for a nominations pool and methods for stocking the pool. The recommendation that retired persons should be considered is an excellent one.
- Recc. 4. Legislation should be enacted limiting the length of service for all board members to 2 consecutive terms. Agreed, as already discussed.
- Recc. 5. The Department should improve the operation, security and internal control of the 3M Linolex computer system. The Coalition has no recommendation on use of the computer but does agree with sub-recommendations
- 3) establish a policy for regular file backup
 - 4) periodically reconcile computer data with the original license folder
 - 5) pre-number the blank licenses!!!!!!!
- Recc. 6. The Department should review the licensing fee structure and seek appropriate revisions. HERE WE ENCOUNTER THE FALSE PREMISE THAT PROFESSIONALS ARE THE BENEFICIARIES OF THE REGULATORY PROCEDURE AND SHOULD THEREFORE BEAR THE BURDEN OF SUPPORTING THE REGULATORY AGENCY. WE BELIEVE THE BOARDS SHOULD BE ABLE TO GENERATE ENOUGH REVENUE TO PAY FOR THE PAPERWORK GENERATED IN LICENSING AND EXAMINING PROFESSIONALS, TO SUPPORT THE LICENSING EXAMINERS, AND TO PAY THEIR SHARES OF THE SALARIES OF THE COMMISSIONER AND THE OL DIRECTOR, AND OF THE OVERHEAD BUT SINCE IT IS THE PUBLIC THAT BENEFITS FROM THE REGULATION AND LICENSING OF PROFESSIONALS, THAT THE \$\$ FOR THAT REGULATION COME FROM PUBLIC FUNDS!!! After all, we don't expect the revenues from the parking meters to pay the salaries of the police force.
- The auditor was in error when he stated that the medical statute is the only one which addresses fees for inactive license renewal. The dental statute also deals with that issue. Here again, we go off into discussion of the advisability of allowing for inactive licenses to renewed. The dental statute requires that any person who allows her or his license to lapse into inactivity must prove that she or he has been in active practice elsewhere during the lapsed time or else to take the examination for licensure again. We could run into the problem of persons dropping out of practice to pursue another line of interest then deciding to go back to medicine (or nursing, etc.) after

a number of years has gone by and they may now under most statutes with out proof of additional schooling, continuing education courses. Only the dental hygiene statute, rewritten last year, defines "active practice" and then when it is a condition for licensure by credentials. The Coalition feels this area needs to be addressed by all the boards and associations in order to assure minimum competency in practice.

- Recc. 7. The Department should include the goals, objectives and quantifiable measures of each board in the division of OL budget document and submit performance reports for each as required by AS 37. 07 Executive Budget Act. We agree.
- Recc. 8. The Division of OL should collect, record and maintain for 5 years the files, statistics of license and examination and related workload of the licensing examiners. We agree.
- Recc. 9. The Department should prepare a board member orientation booklet, including a code of ethics. We agree and feel it should include copies of all statutes and regs affecting each board, 2 years of back minutes, policy and standard procedure for investigation, litigation, and examination as well as the general responsibilities of the boards. The packet should also be distributed to the licensing examiner.
- Recc.10. The 11 health boards review their applications and delete questions which could lead to discrimination against applicants. Agreed.
- Recc. 11. That formal board minutes be improved. Agreed and implemented already
- Recc.12. The Department and boards should ensure that public notices of exams are sufficiently and timely advertized. Agreed. The Coalition feels that this recommendation should go even further to incorporate the recommendations we made concerning lack of communications.

MISCELLANEOUS OBSERVATIONS

1. Consistent audit recommendation for additional public members to equal the number of professional members. I disagree that California's experience is a good one. The dental board members were told repeatedly that it is close to a disaster. The public members don't show up, lack interest and experience. Large boards are unwieldy and expensive. We believe that one or two public members on a 5 or 7 person board, respectively, is a suitable number.

2. Consistent audit recommendations to discontinue the requirement of photographs for board files. We disagree. Photographs are necessary for the identification of the applicants. Remember the Great Imposter?
It could be recommended that only the licensing examiner check the photograph against the face at the examination sites.

3. Failure of the auditors to recognize the value of the professional peer review committees. The Coalition recommends that the boards direct the professional associations to examine, update and oil their peer review mechanisms; and that all complaints sent to CP (as non-licensing violations) be also sent to peer review as a double check. A different facet of the complaint may be explored by peer review than by CP. We believe this dual investigation of a consumer complaint would add comfort and credibility to the consumer/patient to know that an in-house as well as a public investigation of the complaint is taking place.

To Senate Read 1-1
Hess Committee.

Testimony
of
Alaska Health Coalition

The Alaska Health Coalition is a legislative alliance of the state associations of the professionals in nursing, dental hygiene, pharmacy, physical therapy, optometry, occupational therapy, veterinary medicine, speech & hearing, psychology, optical dispensing & nurse practitioners. The purpose of the Coalition is to promote responsible health legislation by monitoring all health bills and taking action deemed appropriate and by providing a resource pool of information and expert witnesses for legislators and their staff members for use in drafting health bills and in legislative hearings. Since the boards regulating most of our members are being reviewed under the Sunset Statute this session the Coalition would like to submit testimony regarding that review: to point out some of the basic deficiencies of the audit, enumerate problems the Coalition sees as hampering board functions, and to propose some possible solutions.

At the start I would like to state that the Coalition membership enthusiastically supports the concept of Sunset review and looks to it as a way of solving some of the major problems which have been frustrating our boards for years. We sincerely appreciate your efforts to view these hearings as a positive effort to address those problems. In addition we would like to thank Elaine Garrett and David Creekman from Occupational Licensing and Mr. Hastok, Director of OL for their roles in supplying Sunset information and support to our associations and boards when requested and to the best of their ability. We would also like to thank the auditors from legislative audit for their willingness to tackle a very difficult job.

Outline of Contents

I. Limitations of Audit

A. Lack of Precedent

1. In State
2. Out of State

B. Conducted by CPA and Accountants

1. Lacked knowledge of professions
2. Line of questioning pursued
 - a. Too broad
 - b. Irrelevant
 - c. Lacked flexibility

C. Burden of proof for continuance lies with boards but

1. Boards unaware of Sunset implications and requirements
 - a. Advised by O.L. of statute
 - b. No guidelines provided for implementation
2. Audits
 - a. Not started till mid July
 - b. Preliminary reports back to boards for response in August
 - c. Final reports not available until second week of this legislative session
3. Funding to deal with Sunset responsibilities
 - a. Considerations
 1. No funds from department available for meeting
 2. Geographic appointment of members
 - b. Results
 1. Boards not able to meet to decide what information to request from department
 2. Boards response is simply reaction to audit and information and statistics used by auditors

D. Sixty day provision in statute is restrictive

1. Hinders in-depth look at all factors
2. Colorado
 - a. Hears 13 boards, commissions, agencies every 2 years (or 6/session)
 - b. No time restriction on submitting recommendations
 - c. Sessions 5 to 6 months in length

II. Common Problems Hampering Board Functions

A. Funding

1. For meetings
 - a. Boards input not requested by department when composing budget until last year
 - b. Boards not advised of statute requirements to make budget requests nor of department's responsibility to advise of same
 - c. Therefore:
 1. Insufficient funds for meeting needs of boards' workload in budget
 2. Takes longer to get things done
2. For investigative services
 - a. Insufficient numbers of investigators
 1. Additional investigators recently hired but numbers still inadequate
 2. Affects speedy classification and disposal of cases.
 - b. Low classification of investigator positions results in
 1. Vacancies
 2. Lack of qualified applicants
 3. Hiring of less qualified personnel
 4. Higher turnover
 5. More cases not handled properly
 - a. Administrative Procedures Act not fully complied with so accused escapes on technicality
 - b. Cases not fully investigated so action by department or boards cannot be taken
3. "Per Diem" too low

B. Lack of Communication

1. Between Department and Boards
 - a. Budget - (see II, A, 1, a)
 - b. Legislation
 1. Introduction of legislation directly affecting boards but without board knowledge or approval
 2. Failure to support legislation introduced by boards but not offering reasons
 - c. Hesitancy of department to involve itself with conflict board may have with another department and to help facilitate solutions
 - d. No department policy and procedures manual for board members and licensing examiners
2. Between Boards and Public
 - a. Public Notices not sufficient
 1. No prescribed section in newspapers for notices of meetings or examinations
 2. Run one time only
 3. Agendas not published

- b. No active solicitation of public input except through public members
- c. No prescribed forms for filing complaints
- d. No response from boards to complainants regarding action taken, results, etc.
 - 1. Boards don't know what complaints filed with O.I.
 - 2. Boards not allowed to help decide investigative priorities
- 3. Between Boards and other related boards
- 4. Between Boards and the professionals they regulate
 - a. Few statutes require boards to send copy of annual report to associations
 - b. No special notice given to associations of board meetings and proposed agenda for publication in professional newsletters, announcements of meetings, etc.

C. Vacancies on the Boards

- 1. Not promptly filled
- 2. No active solicitation of names for appointment from public or private sources
- 3. No statutory limitations, in most cases, of number of terms a member may serve

D. Rapid turnover of Licensing Examiners

- 1. Hiring unqualified personnel for difficult job
- 2. Overburdening
 - a. Most are evened out now
 - b. Medical board shares examiner with two other boards requiring a lot of paperwork: pharmacy & psychology

E. Lack of detailed minutes

F. No procedure for removal of board members

III. Suggested Solutions

A. Funding

1. General

- a. Support pending legislation before House Commerce Committee to allow boards to set all fees for licensure, examination, etc. by regulation rather than by statute
 1. Allow boards flexibility
 2. Facilitate process of boards becoming more self-supporting
 3. Eliminate taking valuable legislative time to raise fees
- b. Direct O.L. to advise boards of required dates for submission of projected board funding needs for inclusion in department budget.

2. Investigative

- a. Upgrade job classification of investigators
- b. Budget funds for more investigators

3. Increase "per diem" from \$55/day for board members.

B. Communications

1. Between Departments & Boards by regulation:

- a. Require department to submit to the board all proposed legislation having a direct or indirect effect on the board, its members, or its function
- b. Require the department to advise boards submitting legislation of department's reasons for supporting or not supporting that legislation
- c. Require the department to take an active role in settling disputes between a board and another department, agency or commission of the state government.
 1. Not just sending an investigator but
 2. Helping set meetings between key people on both sides of dispute
 3. Coordinate with Attorney General in dispute
- d. require the department to publish and dispense to all board members and to their licensing examiners a manual which includes but is not limited to:
 1. The current statute and regulations governing the board's actions
 2. Any statute affecting a board
 - a. Central licensing
 - b. Advertising
 - c. Malpractice
 - d. Administrative procedures
 - e. Executive budget act

3. Procedures to be followed in
 - a. Investigations
 - b. Litigation
 - c. Examination
 4. Ethics concerning activities of members
 5. General responsibilities of the board
2. Between Boards and the Public by regulation
 - a. Require that notices of all public meeting or the boards be
 1. Placed in a popular section of the newspapers in which they are published;
 2. That they always be in the same section of all newspapers;
 3. That they always run for three consecutive days;
 4. That they include proposed agendas whenever possible
 5. That they also be published in alternate newspapers such as The Tundra Times and The Alaska Advocate
 - b. Require the boards through the department to solicit public input by periodic
 1. Public service announcements
 2. Letters to such groups as AK. P.I.R.G., Native Corporations
 - c. Require the division of O.L. to compose a common complaint form to be used by all health regulatory boards which would result in
 1. More comprehensive information from complainant
 2. Facilitating classification by investigator
 3. Facilitating investigation of complaint
 - d. Require that each complainant
 1. Be advised by O.L. within 30 days of receipt of the complaint what disposition has been made of the complaint:
 - a. To Consumer Protection
 - b. To professional peer review committee
 - c. To both 1. and 2.;
 - d. To investigator for further action
 - e. To board for immediate action
 2. And that each complainant be advised as to the findings regarding that complaint.
 - e. Require that boards
 1. Be advised at each meeting of the numbers and kinds of complaints against practitioners regulated by that board and the disposition of those cases
 2. Choose from their membership one person who is to be consulted by the investigator in deciding investigative priorities of licensing violations and other decisions which may require professional knowledge; such board member will automatically be excluded from deliberations by the board concerning those cases in which he/she was consulted
 3. Between Boards and other Alaska Health Regulatory Boards:
 - a. A meeting at least once a year of members of related boards and the commissioner to discuss common problems and solutions
 - b. A boards newsletter would be really helpful

4. Between Boards and the Professionals they regulate
 - a. Require that all boards either by statute or regulation send copies of annual reports, including but not limited to receipts and expenditures to the professional associations under their regulation
 - b. Require that the Boards, through the licensing examiner, send 30 day advance notice of pending board meetings and public hearings with proposed agenda to the person in charge of the professional newsletter of the practitioners regulated.

C. Vacancies on boards

1. Require the department to actively solicit names for appointment from the public and private sectors
 - a. Newspaper notices
 - b. Public service announcements
 - c. Recommendations from professional associations
 - d. Recommendations from practitioners by direct mailing with return postage paid
2. Governor may, but would not be required, to fill board vacancies from that pool
3. Pool must be updated periodically
4. Require statutory, not regulatory, limits of two consecutive terms for board members.

D. Rapid Turnover of Licensing Examiners

1. Somewhat alleviated now but has been a real problem in the past.
 - a. Recommend selection of licensing examiners be made with great care
 - b. Recommend that licensing examiners be provided with information packets and manuals recommended in III, B, 1 & 2
2. Recommend periodic reassessment of workload of all licensing examiners

E. Lack of Detailed Minutes

Agree with audit's recommendation #11 page 16 of Occupational Licensing Review.

F. Removal of Board Members: Suggestions

1. Automatic termination if member fails to attend 40% of meetings in any fiscal year
2. California Statute: Chap 4, Div 2, Art. 1, Sec 1605 "The Governor has power to remove from office at anytime any member of the board for continued neglect of duty required by this chapter or for incompetency or unprofessional or dishonorable conduct"

IV. Review of Recommendations by Legislative Audit of Division of Occupational Licensing, Department of Commerce and Economic Development

- | | |
|-----------------------|---------------------|
| A. Recommendation #1 | Disagree |
| B. Recommendation #2 | Conditionally agree |
| C. Recommendation #3 | Agree |
| D. Recommendation #4 | Agree |
| E. Recommendation #5 | Conditionally agree |
| F. Recommendation #6 | Conditionally agree |
| G. Recommendation #7 | Agree |
| H. Recommendation #8 | Agree |
| I. Recommendation #9 | Agree |
| J. Recommendation #10 | Conditionally agree |
| K. Recommendation #11 | Agree |
| L. Recommendation #12 | Agree |

V. Miscellaneous Observations

- A. Consistent audit recommendation for additional public members: Disagree
1. California experience not a good one
 2. Large boards
 - a. Unwieldy
 - b. expensive
 3. Knowledgeable public members are assets but non-contributing members are a severe handicap
- B. Consistent audit recommendations to discontinue requirement of photographs for board files: Disagree
1. Necessary for identification of applicants
 2. It could be recommended that only licensing examiners check photograph against face at examination sites (as does dental board)
- C. Failure of auditors to recognize the value of professional peer review groups
- Recommendations:
1. That boards direct professional associations to examine and update and oil their peer review mechanisms
 2. That all complaints sent to C.P. (as non-licensing violations) also be sent to professional peer review
 - a. Double check
 - b. Different facet of complaint may be explored by peer review than by C.P.
 - c. Add credibility and comfort to consumer/patient to know in-house as well as public investigation of problem

Discussion

I. There are three major considerations to keep in mind when viewing the results and recommendations of these audits. First of all, that the whole procedure for this review was experimental, a first for Alaska. Secondly, that the reviews were conducted by C.P.A.'S and Accountants with little or no knowledge of the professions to which they were assigned; therefore, in almost all instances, boards and practitioners expressed frustration at trying to answer questions that were so broad that they sounded inane but the answers to which carried considerable weight. For example, a question asked of the board of dispensing opticians:

Q. Do you believe there is a shortage of opticians in Alaska?

Four members said yes. The auditor concluded that because only Fairbanks, Anchorage, and Homer have resident opticians, there is a great shortage in the rural areas. If he had had knowledge of the bush practices of some optometrists and phthamologists he would have known that the shortage is not as critical as he assumed because those optometrists and ophthomologists usually have opticians or other dispensers traveling with them. Members of the pharmacy association expressed frustration that the auditor spent a major portion of his time with them stating that their board was remiss in not regulating the prices of drugs, which, of course is beyond that board's powers. In some instances, boards have expressed concern that because of the auditor's apparent lack of flexibility in attitude that improper weight would be assigned to some answers allowing for faulty conclusions.

The second area of concern of the Coalition is that our boards may be thought somewhat ill-prepared for the hearing process and we would like to point out some of the reasons for this seeming inadequacy. Even though, by statute, the burden of proof lies with the board, most were unaware of Sunset implications and requirements until the actual audits began in July. The boards were advised by O.L. that Sunset legislation had been passed but were provided with no guidelines for implementation. This is probably because O.L. was as much in the dark about procedures as were the boards and the auditors. The audits began in mid-July and preliminary reports from both legislative audit and the department of Commerce were sent back to the board members by mid-August for response. Only then did the boards learn the scope and shape of the process. But by then most boards had used up their budgeted meetings for the year and were informed by O.L. that there was no more money under any circumstances. You might say, if it were really important to them the members would get together on their own to formulate an action plan to deal with Sunset. You must remember, however, that board appointments are made to balance geographic needs and concerns so a meeting is not as simple as calling up the locals for an afterwork session. Consequently, most of our boards were not able to meet even once for the express purpose of dealing with Sunset and the responses are mainly a reaction to audit and the information and statistics used by the auditors, even though a considerable amount of work was done by individual members on behalf of their respective boards. A further hinderance was the fact that the final legislative audit reports were not made available to the boards until January 29th, of this year.

In spite of these limitations the Coalition feels that the audit, viewed as a management study, was very enlightening to all concerned and has focused in on some of the vagaries and inconsistencies in board policies and function as well as discrepancies and shortcomings in the statutes and regulations. However, the Coalition also feels that the 60 day provision in the statute by which time all hearings must have been conducted and committee chair reports on board worthiness for continuance be made to the leader of each chamber of the legislature is too restrictive and hinders an in-depth look at all factors as well as places an incredible burden on the committees of reference and their chairpersons. Colorado, by contrast, hears 13 boards or commissions every two years, or an average of six per session, with sessions lasting five to six months and no time restrictions on submitting recommendations.

II. The Coalition sees several problems common the health regulatory boards that hamper efficient function. Lack of funding for meetings is the major deficiency. Until last year the boards were not asked to determine their projected meeting needs nor were they advised of the department's responsibility in asking them to do so. It was difficult to try to predict two years ahead for needs and most boards know now that they seriously underestimated. The results will be that 1980 will find some very frustrated boards attempting to get their acts together after Sunset exposure but severely limited in doing so unless extra budget allowances are made.

Another funding concern of our member association is that there are an insufficient number of investigators to police the health boards. Three persons for 22 boards is ridiculous, especially when the physical

wellbeing and safety of the state's population is at stake. Additional investigators have been hired but numbers are still inadequate to speed up the classification and disposal of cases.

One reason why it is difficult to hire really good investigators with broad and useful backgrounds is the low job classification. An investigator for the boards must have knowledge of laws, procedures and the professions as well as Dick Tracy training. We cannot expect to attract really talented people for \$1500/month. Consequently we see positions not filled because of a lack of qualified applicants who want to work for peanuts and subsequent hiring of less qualified persons, a higher turnover, and more cases improperly handled with the accused let off on a technicality either because the complicated Administrative Procedures Act was not followed to the letter or because aspects of cases were not fully investigated.

The final complaint dealing with funding is that the "per diem" is too low. It really is a sacrifice for conscientious board members to spend as much time as they do on board business on their own and then compensate them with only \$55/day when participating in scheduled meetings.

In addition to funding some real deficiencies in communication exist which hamper board function. Those between the boards and the department include the introduction of legislation directly affecting the boards but without board knowledge or approval (see HB's 46, 62, 109; SB's 94 & 73); failure to support legislation favored by boards but not offering reasons. The veterinary bill (HB 86) is an example.

The veterinary association and board worked hard to draw up a new practice act which failed to get the support of the administration only because of the addition in the bill of two more members to the board, one a public member, to bring the board into line with the Governor's Policy of two public members on each board. The veterinary board was not told why their bill was rejected, simply that it would not be supported. There is the problem of the department's hesitancy to get involved with a conflict a board may have with another department or agency. (See Dr. Hansen's report in the dental board file about the Aleutian-Pribilof Island dental clinic)

Lastly, there is no department policy and procedures manual for new board members and licensing examiners. The department personnel are always very helpful in answering questions and pulling files but new board members and licensing examiners need some basic information provided at the outset to enable them to function efficiently.

There are difficulties in communications between the boards and the public. Public notices of meetings and examinations are run one time only in differing sections of certain newspapers. Usually the meeting's agenda is not part of the notice. Obviously, a person not knowing where to look, usually doesn't see the notice if it's not on or opposite their favorite feature and if they don't know what's to be discussed they certainly are not going to walk off the job to attend a board meeting on the chance that a topic of interest to them will be considered. Another roadblock to public input is the lack of a form on which to file a comprehensive complaint with a board. People wishing to complain are told to file a written report but many are hesitant because they don't

know how much or what kind of information is needed to spark an investigation. Lack of a form which requires certain information slows classification and disposal of cases. After a complaint is registered, however, in most cases the complainant is never informed of the action taken, the results, etc. The boards get the blame but the boards don't even know what kind and how many complaints are filed with O.L., nor are board members allowed to help decide investigative priorities.

There is no communication between the such related boards as the health delivery regulators; therefore, one does not benefit from the struggles and victories of another except through discussions in association alliances such as the Coalition. At that, the associations feel somewhat neglected by their boards because little or no effort is made by boards to encourage participation in meetings, no special notice given to regulated practitioners of board functions and decisions, and few statutes require the boards to make available their annual report to the professionals they regulate.

Vacancies on the boards not promptly filled is a real hinderance to board activity. There seems to be no set policy in the department for soliciting names for possible appointment from either the public or private sectors. So seats remain vacant while the search mechanism, if there is one, is set in action. In addition, the Coalition feels that certain boards have stagnated because their members keep getting reappointed to term after term, a deal danger when there are no statutory limitations to the number of terms a member be allowed to serve.

In the past, the major complaint of all boards was that there was a rapid turnover of licensing examiners and that the examiners were severely overburdened. The former has been fairly well rectified but at least

one examiner is still having to try to be wonder woman to three busy boards.

In addition, most board minutes lack detail which results in re-discussion of the same points of contention or agreement in many meetings, wastes a lot of time, and makes it impossible for any person reading the minutes to have much of an idea of what went on and how, who voted how and why. This is of concern to our associations because we're trying to stay informed of all our boards' activities, to give them input when discussion is raised on certain points and issues, and to initiate discussion on certain points and issues when timely. In addition, a non professional should be able to pick up the minutes and get a fairly clear idea of what goes on at the meetings. Until recently, it wasn't possible to do that.

The Coalition also feels that there should be a way to remove from duty board members who are not fulfilling their obligations as members. Presently there is nothing in statutes or regulations that set out procedure for accomplishing that but there should be for obvious reasons.

CASE PRIORITIES

<u>INDICATORS</u>	<u>CATEGORY</u>	<u>PRIORITY</u>
1. Public danger, real or potential, is <u>severe</u> . Situation present that death has occurred, or is imminent, or severe public injury is real or very possible, unless urgent action is taken to correct or remove the danger. Generally this will apply to but is not limited to the health services, i.e. medical, dental and nurse board areas. Use or abuse of drugs, alcoholism, emotional instability and/or gross incompetence in the health board areas; poor or incompetent engineering; and unlicensed activity in the health board areas are some examples which could pose grave danger or severe threats against the general public.	SEVERE	I
2. Public harm, real or potential, is <u>very serious</u> . Indicators can be the same as under <u>Priority I</u> , but the threat of public harm appears not as severe. The matter demands early attention. In the fiduciary area, fraud, incompetency and misconduct are considerations as well as unlicensed activity in the marine pilot and electrical administrator areas.	VERY SERIOUS	II
3. Public harm, real or potential is <u>serious</u> . Indicators can be the same as <u>Priority I and II</u> , but to a lesser degree. Financial improprieties such as in trust account activity; licensees acting outside their license category such as in building services and engineering; and misconduct or misrepresentation in all licensing areas which indicate public harm by financial loss are some examples. Unlicensed activity in the fiduciary and building services (except electrical) will usually be in this category.	SERIOUS	III
4. Public harm, <u>potential</u> , due to <u>technical</u> type violations. Public harm can result if the violations are allowed to continue. No indication on receipt that other problems are evident.	TECHNICAL	IV

NOTE: Case prioritization can be influenced by many other considerations as well such as amount of financial loss involved, the number of people or victims indicated and the impact if not acted on right away. Each case must be reviewed with priority assigned according to the merits of the case. Priorities may change as investigation progresses and/or situations dictate.

(EXHIBIT _____)

*Section 1. AS 08.01 is amended by adding a new section to read:

Sec. 08.01.005. PURPOSE OF CHAPTER. There is established in the Department of Commerce and Economic Development, an Alaska Commission of the Healing Arts, created with the responsibility of assuring the public of safe and competent health care providers.

*Section 2. AS 08.01.010 is amended to read:

Sec. 08.01.010. APPLICABILITY OF CHAPTER. This chapter applies to the

- (1) Repealed;
- (2) Repealed;
- (3) Repealed;
- (4) [BOARD OF] chiropractic profession;
- (5) Repealed;
- (6) [BOARD OF] dental profession;
- (7) Repealed;
- (8) Repealed;
- (9) [STATE] medical profession [BOARD];
- (10) [BOARD OF] nursing profession;
- (11) [BOARD OF EXAMINERS IN] optometry profession;
- (12) [BOARD OF] pharmacy profession;
- (13) Repealed;
- (14) [BOARD OF] veterinary profession;
- (15) [BOARD OF] psychologist and psychological associate profession [EXAMINERS];

- (16) Repealed;
- (17) Repealed;
- (18) Repealed;
- (19) [BOARD OF] dispensing optician [S] profession;
- (20) Repealed;
- (21) [STATE] physical therapy profession board; [.]
- (22) nursing home administrator profession .

*Section 3. AS 08.01.020 is amended to read:

Sec. 08.01.020. COMMISSION [BOARD] MEMBERSHIP AND ORGANIZATION. The commission consists of eleven public members. [UNLESS OTHERWISE PROVIDED, ALL] All commission [BOARD] members are appointed by the legislature for staggered terms of six years [GOVERNOR AND SERVE AT HIS PLEASURE]. However, three initial appointments shall be made for two year terms, four initial appointments for four year terms and four initial appointments for six year terms . No member may succeed himself more than once . [UNLESS OTHERWISE PROVIDED, THE GOVERNOR SHALL DESIGNATE THE CHAIRMAN OF THE BOARD AND ALL] all [OTHER] officers shall be elected by the commission [BOARD] members.

*Section 4. AS 08.01.025 is amended to read:

Sec. 08.01.025. PUBLIC MEMBERS. No [PUBLIC] member of the commission [A BOARD] may:

- (1) be engaged in an [THE] occupation which the commission [BOARD] regulates;
- (2) be associated by legal contract with a member of an [THE] occupation which the commission [BOARD] regulates except as a consumer of the services provided by a practitioner of an [THE] occupation regulated; or
- (3) have a direct financial interest in an [THE] occupation which the commission [BOARD] regulates.

*Section 5. AS 08.01 is amended by adding a new section to read:

Sec. 08.01.026. COMMISSION MEETINGS. The commission shall meet semi-annually for the conduct of its business. The meetings shall be held each time in a judicial district different from the one in which the previous meeting was held.

*Section 6. AS 08.01.030 is amended to read:

Sec. 08.01.030. QUORUM. A majority of the membership of the commission [A BOARD] constitutes a quorum [UNLESS OTHERWISE PROVIDED].

*Section 7. AS 08.01.050(19) is amended to read:

(19) provide investigative services to the commission [BOARDS] established under this chapter [CHS. 20, 32, 36, 64, 68, 71, 72, 80, 84, and 86 OF THIS TITLE,] for the purpose of assisting the [THOSE] board[S] in matters of professional discipline ; and [.]

*Section 8. AS 08.01.060 is amended by adding new subsections to read:

(20) coordinate the activities of the commission established under this chapter and the advisory boards established under chapters 20, 36, 64, 68, 70, 71, 72, 80, 84, 86, and 98 of this title; and

(21) employ an executive secretary for the commission established under this chapter.

*Section 9. AS 08.01 is amended by adding a new section to read:

Sec. 08.01.065. FEES ESTABLISHED BY REGULATION. (a) The department shall adopt regulations which establish application fees, examination fees, and license fees for the occupations covered by this chapter, and which establish the manner in which the fees must be paid.

(b) Before adopting a regulation under (a) of this section, the department shall consult with the commission.

*Section 10. AS 08.01.070 is amended to read:

Sec. 08.01.070. [ADMINISTRATIVE] DUTIES OF THE COMMISSION [BOARDS]. The commission [EACH BOARD] shall perform the following duties [IN ADDITION TO THOSE PROVIDED IN ITS RESPECTIVE LAW]:

- (1) keep minutes and records of all proceedings;
- (2) hold a minimum of two [ONE] meetings each year;
- (3) hold [AT LEAST ONE] examinations [EACH YEAR];
- (4) request, through the department, investigations of alleged violations of its laws and regulations;
- (5) direct the advisory boards to make recommendations regarding the preparation, selection and grading of examinations [PREPARE AND GRADE EXAMINATIONS];
- (6) direct the department to pass on qualifications of routine applicants for examination and license;
- (7) forward minutes of meetings to the department within 30 [20] days;
- (8) forward results of examinations to the department;
- (9) notify the department of meeting dates and places at least 30 [15] days before meeting ; [.]
- (10) promulgate all necessary regulations upon advisement by an advisory board and after consultation with representatives of interested professional societies, department staff, consumer organizations and the general public ;
- (11) establish minimum educational and training qualifications for all regulated practitioners ;
- (12) appoint, from among its membership, committees deemed necessary ;
- (13) endorse a valid license issued by a licensing board or commission of another state, jurisdiction, territory or province which was issued upon similar qualifications to those in effect in this state ;

(14) direct the department to remedy any error in the issuance of a license ;

(15) designate a professional conduct officer on recommendation of the commissioner and/or investigative staff in connection with professional misconduct proceedings and criminal matters , such officer to be empowered to issue subpoenas and administer oaths in connection with disciplinary proceedings ;

(16) establish , by regulation , standards of conduct with respect to advertising , fee splitting , practicing under a pseudonym when not authorized , proper use of professional or academic titles tending to imply professional status and other such ethical practices as the board deems necessary ; and

(17) delegate to department officials the disposition of any licensing matters pursuant to board regulations .

*Section 11. AS 08.01.087 is amended to read:

Sec. 08.01.087. POWERS AND DUTIES OF DEPARTMENT. (a) The department shall [MAY], upon its own motion or at the instance of the commission, conduct investigations to determine whether any person has violated a provision of this chapter or a regulation adopted under it or a provision of a chapter in this title dealing with one of the occupations [BOARDS], or to secure information useful in the administration of this chapter.

(b) If it appears to the director [COMMISSIONER] that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it or any of the laws pertaining to the professions [OR REGULATIONS ADOPTED BY THE BOARDS] listed in § 10 of this chapter, he may, if he considers it in the public interest, and after notification to all commission [BOARD] members by telephone or telegraph of a proposed order or action unless a majority of the members of the commission [BOARD] object within 10 days,

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the director [COMMISSIONER] may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming, modifying, or reversing the temporary order is issued or

until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the director [COMMISSIONER] or his designee shall be the hearing officer at the hearing and shall issue a final order within 10 days after the hearing;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it or an order issued under it, or any of the laws or regulations pertaining to [OR REGULATIONS ADOPTED BY] the occupations [BOARDS] listed in § 10 of this chapter and adopted by the commission established by this chapter;

(3) examine or have examined the books and records of any person whose business activities require licensure by the commission [BOARD LISTED IN § 10 OF THIS CHAPTER] and he may require that person to pay the reasonable costs of the examination; and

(4) issue subpoenas for the attendance of witnesses, and the production of books, records and other documents.

(c) The director shall bring to the commission cases of alleged violations where the protection of the public health, welfare or safety requires immediate action.

(d) The director may overrule a commission determination regarding the issuance of a license; however, the commission may overrule the director in this instance by a 2/3rds vote of its total membership.

*Section 13. AS 08.01.100 is amended to read:

Sec. 08.01.100. LICENSE RENEWAL, LAPSE AND REINSTATEMENT.

(a) All licenses shall be renewed [BIENNIALY] on the dates set by the department with the approval of the commission [RESPECTIVE BOARD].

(b) A registration, license, permit or certificate[S] requiring renewal to continue to be effective must be renewed in or before the date set by the department or it will lapse. The department may establish a [A] penalty which must be paid [OF \$10

SHALL BE CHARGED] in addition to all delinquent renewal fees for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

*Section 15. AS 08.01.105 is amended to read:

Sec. 08.01.105. PENALTY FOR IMPROPER PAYMENT. An applicant shall pay a penalty of \$15 [\$10] each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

*Section 16. AS 08.01.110 is amended to read:

Sec. 08.10.110. DEFINITIONS. In this chapter

(1) "board" means the Alaska Commission of the Healing Arts described in § 20 of this chapter [INCLUDES THE BOARDS AND COMMISSIONS LISTED IN § 10 OF THIS CHAPTER];

(2) "department" means the Department of Commerce and Economic Development;

(3) Repealed

(4) "license" means any license, certificate, permit or registration or similar evidence of authority issued by [ONE OF] the commission [BOARDS LISTED IN § 10 OF THIS CHAPTER];

(5) "licensee" means any person who holds a license;

(6) "occupation" means any of the trades or professions for which licensure is required and [BY ONE OF THE BOARDS] listed in § 10 of this chapter ; [.]

(7) "director" means the director of the Division of Occupational Licensing of the Department of Commerce and Economic Development .

*Section 17. AS 08.02.010(b) is amended to read:

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of his noncompliance by the commission [HIS APPROPRIATE LICENSING BOARD]. If, after a reasonable time, with opportunity

for a hearing, his noncompliance continues, the commission [BOARD] may suspend or revoke his license or registration, or administer other disciplinary action which in its determination is appropriate.

*Section 18. AS 08.02.020 is amended to read:

Sec. 08.02.020. LIMITATION OF LIABILITY FOR MEMBERS OF COMMISSIONS [LICENSING BOARDS]. No person is liable for damages or other relief in an action by reason of his activity as a member of a regulatory or advisory [LICENSING] commission or board established under this title or by reason of a recommendation or action of the board when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or to the board after reasonable efforts to ascertain the facts upon which the action or recommendation is made.

*Section 19. AS 08.02 is amended by adding a new section to read:

Sec. 08.02.030. PROFESSIONAL ADVERTISING. After the effective date of this Act, it is unlawful for a professional association, trade association, occupational or professional licensing agency, or any other governmental agency to adopt, implement, or enforce, or attempt to adopt, implement, or enforce, any prohibition of truthful advertising including publication of fees and prices. However, this section does not prohibit an association or agency to which licensing functions have been delegated by statute from setting reasonable standards or established reasonable requirements pertaining to advertising by an occupation or profession within its jurisdiction.

*Section 20. AS 08.03.010(c) is repealed and re-enacted to read:

(c) The following commission has the termination date provided by this subsection. The Alaska Commission of the Healing Arts (AS 08.10.005) June 30, 1985.

Chapters 20, 32, 36, 64, 68, 70, 71, 72, 80, 84, 86 and 98 of Title 8 are to be uniformly amended so that each reads similarly and provides for:

- (1) creation of an "advisory" board for the profession in question consisting of two members of the profession and one public member who also serves on the Alaska Commission of the Healing Arts. Each professional member is to serve for a term of three years, may succeed himself only once and is appointed by the commission;
- (2) minimum qualifications to be met by an applicant for any profession currently regulated by the board now in existence.

Each advisory board should, in the amended version, be given authority to advise the commission on regulation and disciplinary questions. The advisory boards, also, are primarily responsible for the administration of and, where applicable, grading of examinations subject, of course, to final certification or review by the commission. References to executive officer/secretary positions in the amended versions should be repealed as a similar position is being created for the commission as a whole.

Included in each amended section should be, if at all possible and where appropriate, the suggestions for statutory changes which have been made by the individual boards. Much board and division time has gone into some of these drafts with the hoped for result being stronger and more workable laws relating to the practice of any of the health care professions regulated by the state.

Finally, certain appropriate and applicable sections of legislation already introduced should be included in the redraft of all sections to be amended. Those bills with applicable sections to be included are HB 46 (relating to advertising by businesses/professions), HB 86 (relating to the practice of veterinary medicine), SB 94 (relating to occupational licensing fees) and SB 261 (relating to physical therapists).

*Section 1. AS 08.01 is amended by adding a new section to read:

Sec. 08.01.005. PURPOSE OF CHAPTER. There is established in the Department of Commerce and Economic Development, an Alaska Commission of the Healing Arts, created with the responsibility of assuring the public of safe and competent health care providers.

*Section 2. AS 08.01.010 is amended to read:

Sec. 08.01.010. APPLICABILITY OF CHAPTER. This chapter applies to the

- (1) Repealed;
- (2) Repealed;
- (3) Repealed;
- (4) [BOARD OF] chiropractic profession;
- (5) Repealed;
- (6) [BOARD OF] dental profession;
- (7) Repealed;
- (8) Repealed;
- (9) [STATE] medical profession [BOARD];
- (10) [BOARD OF] nursing profession;
- (11) [BOARD OF EXAMINERS IN] optometry profession;
- (12) [BOARD OF] pharmacy profession;
- (13) Repealed;
- (14) [BOARD OF] veterinary profession;
- (15) [BOARD OF] psychologist and psychological associate profession [EXAMINERS];

(16) Repealed;

(17) Repealed;

(18) Repealed;

(19) [BOARD OF] dispensing optician [S] profession;

(20) Repealed;

(21) [STATE] physical therapy profession board; [.]

(22) nursing home administrator profession .

*Section 3. AS 08.01.020 is amended to read:

Sec. 08.01.020. COMMISSION [BOARD] MEMBERSHIP AND ORGANIZATION. The commission consists of eleven public members. [UNLESS OTHERWISE PROVIDED, ALL] All commission [BOARD] members are appointed by the legislature for staggered terms of six years [GOVERNOR AND SERVE AT HIS PLEASURE]. However, three initial appointments shall be made for two year terms, four initial appointments for four year terms and four initial appointments for six year terms . No member may succeed himself more than once . [UNLESS OTHERWISE PROVIDED, THE GOVERNOR SHALL DESIGNATE THE CHAIRMAN OF THE BOARD AND ALL] all [OTHER] officers shall be elected by the commission [BOARD] members.

*Section 4. AS 08.01.025 is amended to read:

Sec. 08.01.025. PUBLIC MEMBERS. No [PUBLIC] member of the commission [A BOARD] may:

(1) be engaged in an [THE] occupation which the commission [BOARD] regulates;

(2) be associated by legal contract with a member of an [THE] occupation which the commission [BOARD] regulates except as a consumer of the services provided by a practitioner of an [THE] occupation regulated; or

(3) have a direct financial interest in an [THE] occupation which the commission [BOARD] regulates.

*Section 5. AS 08.01 is amended by adding a new section to read:

Sec. 08.01.026. COMMISSION MEETINGS. The commission shall meet semi-annually for the conduct of its business. The meetings shall be held each time in a judicial district different from the one in which the previous meeting was held.

*Section 6. AS 08.01.030 is amended to read:

Sec. 08.01.030. QUORUM. A majority of the membership of the commission [A BOARD] constitutes a quorum [UNLESS OTHERWISE PROVIDED].

*Section 7. AS 08.01.C50(19) is amended to read:

(19) provide investigative services to the commission [BOARDS] established under this chapter [CHS. 20, 32, 36, 64, 68, 71, 72, 80, 84, and 86 OF THIS TITLE,] for the purpose of assisting the [THOSE] board[S] in matters of professional discipline ; and [.]

*Section 8. AS 08.01.060 is amended by adding new subsections to read:

(20) coordinate the activities of the commission established under this chapter and the advisory boards established under chapters 20, 36, 64, 68, 70, 71, 72, 80, 84, 86, and 98 of this title; and

(21) employ an executive secretary for the commission established under this chapter.

*Section 9. AS 08.01 is amended by adding a new section to read:

Sec. 08.01.065. FEES ESTABLISHED BY REGULATION. (a) The department shall adopt regulations which establish application fees, examination fees, and license fees for the occupations covered by this chapter, and which establish the manner in which the fees must be paid.

(b) Before adopting a regulation under (a) of this section, the department shall consult with the commission.

*Section 10. AS 08.01.070 is amended to read:

Sec. 08.01.070. [ADMINISTRATIVE] DUTIES OF THE COMMISSION [BOARDS]. The commission [EACH BOARD] shall perform the following duties [IN ADDITION TO THOSE PROVIDED IN ITS RESPECTIVE LAW]:

- (1) keep minutes and records of all proceedings;
- (2) hold a minimum of two [ONE] meetings each year;
- (3) hold [AT LEAST ONE] examinations [EACH YEAR];
- (4) request, through the department, investigations of alleged violations of its laws and regulations;
- (5) direct the advisory boards to make recommendations regarding the preparation, selection and grading of examinations [PREPARE AND GRADE EXAMINATIONS];
- (6) direct the department to pass on qualifications of routine applicants for examination and license;
- (7) forward minutes of meetings to the department within 30 [20] days;
- (8) forward results of examinations to the department;
- (9) notify the department of meeting dates and places at least 30 [15] days before meeting ; [.]
- (10) promulgate all necessary regulations upon advisement by an advisory board and after consultation with representatives of interested professional societies, department staff, consumer organizations and the general public ;
- (11) establish minimum educational and training qualifications for all regulated practitioners ;
- (12) appoint, from among its membership, committees deemed necessary ;
- (13) endorse a valid license issued by a licensing board or commission of another state, jurisdiction, territory or province which was issued upon similar qualifications to those in effect in this state ;

(14) direct the department to remedy any error in the issuance of a license ;

(15) designate a professional conduct officer on recommendation of the commissioner and/or investigative staff in connection with professional misconduct proceedings and criminal matters , such officer to be empowered to issue subpoenas and administer oaths in connection with disciplinary proceedings ;

(16) establish , by regulation , standards of conduct with respect to advertising , fee splitting , practicing under a pseudonym when not authorized , proper use of professional or academic titles tending to imply professional status and other such ethical practices as the board deems necessary ; and

(17) delegate to department officials the disposition of any licensing matters pursuant to board regulations .

*Section 11. AS 08.01.087 is amended to read:

Sec. 08.01.087. POWERS AND DUTIES OF DEPARTMENT. (a) The department shall [MAY], upon its own motion or at the instance of the commission, conduct investigations to determine whether any person has violated a provision of this chapter or a regulation adopted under it or a provision of a chapter in this title dealing with one of the occupations [BOARDS], or to secure information useful in the administration of this chapter.

(b) If it appears to the director [COMMISSIONER] that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it or any of the laws pertaining to the professions [OR REGULATIONS ADOPTED BY THE BOARDS] listed in § 10 of this chapter, he may, if he considers it in the public interest, and after notification to all commission [BOARD] members by telephone or telegraph of a proposed order or action unless a majority of the members of the commission [BOARD] object within 10 days,

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the director [COMMISSIONER] may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming, modifying, or reversing the temporary order is issued or

until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the director [COMMISSIONER] or his designee shall be the hearing officer at the hearing and shall issue a final order within 10 days after the hearing;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it or an order issued under it, or any of the laws or regulations pertaining to [OR REGULATIONS ADOPTED BY] the occupations [BOARDS] listed in § 10 of this chapter and adopted by the commission established by this chapter;

(3) examine or have examined the books and records of any person whose business activities require licensure by the commission [BOARD LISTED IN § 10 OF THIS CHAPTER] and he may require that person to pay the reasonable costs of the examination; and

(4) issue subpoenas for the attendance of witnesses, and the production of books, records and other documents.

(c) The director shall bring to the commission cases of alleged violations where the protection of the public health, welfare or safety requires immediate action.

(d) The director may overrule a commission determination regarding the issuance of a license; however, the commission may overrule the director in this instance by a 2/3rds vote of its total membership.

*Section 13. AS 08.01.100 is amended to read:

Sec. 08.01.100. LICENSE RENEWAL, LAPSE AND REINSTATEMENT.

(a) All licenses shall be renewed [BIENNIALY] on the dates set by the department with the approval of the commission [RESPECTIVE BOARD].

(b) A registration, license, permit or certificate[S] requiring renewal to continue to be effective must be renewed on or before the date set by the department or it will lapse. The department may establish a [A] penalty which must be paid [OF \$10

SHALL BE CHARGED] in addition to all delinquent renewal fees for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

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Sec. 08.01.105. PENALTY FOR IMPROPER PAYMENT. An applicant shall pay a penalty of \$15 [\$10] each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

*Section 16. AS 08.01.110 is amended to read:

Sec. 08.10.110. DEFINITIONS. In this chapter

(1) "board" means the Alaska Commission of the Healing Arts described in § 20 of this chapter [INCLUDES THE BOARDS AND COMMISSIONS LISTED IN § 10 OF THIS CHAPTER];

(2) "department" means the Department of Commerce and Economic Development;

(3) Repealed

(4) "license" means any license, certificate, permit or registration or similar evidence of authority issued by [ONE OF] the commission [BOARDS LISTED IN § 10 OF THIS CHAPTER];

(5) "licensee" means any person who holds a license;

(6) "occupation" means any of the trades or professions for which licensure is required and [BY ONE OF THE BOARDS] listed in § 10 of this chapter ; [.]

(7) "director" means the director of the Division of Occupational Licensing of the Department of Commerce and Economic Development .

*Section 17. AS 08.02.010(b) is amended to read:

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of his noncompliance by the commission [HIS APPROPRIATE LICENSING BOARD]. If, after a reasonable time, with opportunity

for a hearing, his noncompliance continues, the commission [BOARD] may suspend or revoke his license or registration, or administer other disciplinary action which in its determination is appropriate.

*Section 18. AS 08.02.020 is amended to read:

Sec. 08.02.020. LIMITATION OF LIABILITY FOR MEMBERS OF COMMISSIONS [LICENSING BOARDS]. No person is liable for damages or other relief in an action by reason of his activity as a member of a regulatory or advisory [LICENSING] commission or board established under this title or by reason of a recommendation or action of the board when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or to the board after reasonable efforts to ascertain the facts upon which the action or recommendation is made.

*Section 19. AS 08.02 is amended by adding a new section to read:

Sec. 08.02.030. PROFESSIONAL ADVERTISING. After the effective date of this Act, it is unlawful for a professional association, trade association, occupational or professional licensing agency, or any other governmental agency to adopt, implement, or enforce, or attempt to adopt, implement, or enforce, any prohibition of truthful advertising including publication of fees and prices. However, this section does not prohibit an association or agency to which licensing functions have been delegated by statute from setting reasonable standards or established reasonable requirements pertaining to advertising by an occupation or profession within its jurisdiction.

*Section 20. AS 08.03.010(c) is repealed and re-enacted to read:

(c) The following commission has the termination date provided by this subsection. The Alaska Commission of the Healing Arts (AS 08.10.005) June 30, 1985.

Chapters 20, 32, 36, 64, 68, 70, 71, 72, 80, 84, 86 and 98 of Title 8 are to be uniformly amended so that each reads similarly and provides for:

- (1) creation of an "advisory" board for the profession in question consisting of two members of the profession and one public member who also serves on the Alaska Commission of the Healing Arts. Each professional member is to serve for a term of three years, may succeed himself only once and is appointed by the commission;
- (2) minimum qualifications to be met by an applicant for any profession currently regulated by the board now in existence.

Each advisory board should, in the amended version, be given authority to advise the commission on regulation and disciplinary questions. The advisory boards, also, are primarily responsible for the administration of and, where applicable, grading of examinations subject, of course, to final certification or review by the commission. References to executive officer/secretary positions in the amended versions should be repealed as a similar position is being created for the commission as a whole.

Included in each amended section should be, if at all possible and where appropriate, the suggestions for statutory changes which have been made by the individual boards. Much board and division time has gone into some of these drafts with the hoped for result being stronger and more workable laws relating to the practice of any of the health care professions regulated by the state.

Finally, certain appropriate and applicable sections of legislation already introduced should be included in the redraft of all sections to be amended. Those bills with applicable sections to be included are HB 46 (relating to advertising by businesses/professions), HB 86 (relating to the practice of veterinary medicine), SB 94 (relating to occupational licensing fees) and SB 261 (relating to physical therapists).