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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 857 "An Act continuing the existence
Title of the Board of Dental Examiners; and providing for an effective date."
Requested by Labor and Commerce Date 2-16-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions.
(Note: If more than one budget component is affected, separate line-item
amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITION

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The Board of Dental Examiners has been included in the FY'83 detail budget. HB 857 has no additional fiscal impact on the department.

IV. DATE 3-4-82

PREPARED BY Marjorie Odland
AGENCY DIVISION OF OCCUPATIONAL LICENSING

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Name)

33-001 (Rev. 12/81)

A PERFORMANCE REVIEW OF THE
BOARD OF DENTAL EXAMINERS

July 17, 1981

Audit Control Number
08-101-1038-R

Commissioner, Department of
Commerce and Economic
Development

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Vacant

Members of the
Board of Dental Examiners

President
Secretary
Member
Member
Member
Member
Member

Arthur Hansen, D.D.S.
John Kobylarz, D.M.D.
Dennis L. Anderson, D.D.S.
John Beard
Leslieann Melvin, R.D.H.
Dick Madson
Wayne Putman, D.M.D.

STATE OF ALASKA

AUDIT DIVISION
POUCH W - ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

July 17, 1981

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the
Alaska Statutes, the attached report is submitted for your
review.

A PERFORMANCE REVIEW OF THE BOARD OF DENTAL EXAMINERS

July 17, 1981



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

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (Sunset legislation), a review of the Board of Dental Examiners was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Dental Examiners should be reestablished. The law currently specifies that this Board will terminate on June 30, 1982, but will continue until June 30, 1983 for the purpose of concluding its affairs.

Scope

The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions. Our review consisted of analyzing and evaluating the following:

1. Applicable statutes and Board regulations.
2. Interviews with Board members.
3. Interviews with health agencies and professional associations.
4. Tests of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development.
5. Interviews with OL employees.
6. Complaints filed with OL, the Ombudsman's Office, Consumer Affairs Agency, and the Equal Employment Opportunity Office.

ORGANIZATION AND FUNCTION

The Board of Dental Examiners was first created in 1906. Today, it is a regulatory board with seven members - four dentists, one dental hygienist and two public members.

Basically, the Board determines the minimum quality of dental care in the State by:

1. Examining and issuing licenses to qualified applicants;
2. establishing or amending rules and regulations necessary and desirable to enforce State statutes; and,
3. holding hearings in order to revoke, annul or suspend the license of a person violating the dental statutes and regulations.

In addition, the Board has staff support from OL which is composed of two sections. The licensing section, which processes applications, maintains license files, gathers and collects statistics, answers inquiries and provides other administrative help to the licensing boards. The investigative section provides investigative services to the Board in the event of consumer or other professional complaints.

The Board regulates three groups of dental practitioners in the State: dentists, dentists specializing in specific fields and dental hygienists who perform limited dental services. Most licensing requirements are established by statute. However, statutes have granted to the Board the power of waiving the dental examination if applicants have certain qualifications. In addition, Alaska statutes allow the Board to grant special permits for the practice of dentistry without taking the clinical examination. One is a temporary permit for applicants waiting to take the examination. The permit limits the area of practice to areas where there are currently no dentists practicing and is valid for one year. Another special permit is granted to those Federal agencies that supply dentistry to critical shortage areas.

The examinations given to prospective dentists include a clinical examination and a written examination. Both are graded by the Board. Dental Hygienists are also required to take a clinical and written examination. Although dental specialists do not need to take an exam, they must be licensed dentists in Alaska and may be required to have completed additional years of education in their specialty area.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these decisions, the legislative oversight committees should take into consideration the findings and alternatives presented in this report so that the potential impact of policy changes can be evaluated.

Report Conclusion

In our opinion, the Board of Dental Examiners should continue to regulate and license dental professionals. The regulation and licensing of these professionals is necessary to protect the public's health, safety and welfare.

The Board of Dental Examiners is carrying out its function in a responsible manner and is meeting needs and demands reasonably. The Board has attempted to correct many of the conditions noted in a previous audit report dated August 9, 1978 hindering its performance. For example, the Board has increased the number of clinical examinations to at least two a year. They have prepared regulations defining new expanded duties that dental hygienists may perform within the State. And the dental and dental hygienist licensing examinations have been improved.

Despite the increase in the frequency and speed of the licensure process, the statutes still allow temporary permits to be given to qualified applicants who are applying to take the clinical examination and who will practice in those areas which have no practicing dentists. Although the Board has not issued any permits in the last two years, the temporary permit statute should be amended to alleviate the double standard found in the current law (see Prior Audit Recommendation No. 3).

Chapter 49 of the 1980 Session Laws established "continuing competency" as a requirement for dentists to renew their licenses. The Board should pass well-defined regulations in a timely manner to help dentists prepare for their next license renewal (see Prior Audit Recommendation No. 5).

PRIOR AUDIT RECOMMENDATIONS

Eight of the ten recommendations presented to the Board of Dental Examiners in a previous audit report dated August 9, 1978 have been substantially implemented. The following is the status of the remaining recommendations.

Prior Audit Recommendation No. 3

Legislation should be introduced to amend the temporary permit statutes for dentists in order to alleviate the double standard found in the current law.

Alaska statutes allow temporary permits to be given to qualified applicants who are applying to take the clinical examination and who will practice in those areas which have no practicing dentists. The Board believes that temporary permit requirements with those provisions establish a double standard of quality of public protection against incompetent dentists in rural and urban areas and has stopped granting permits. This restriction may also be in violation of State and Federal anti-trust laws.

Legislative Audit's Current Position

The Board is presently administering two tests annually and applicants can now be licensed by credential, increasing the frequency and speed of the licensure process. Even though these conditions now exist, AS 08.36.280 has not been amended and there is still a double standard in the quality of public protection. Therefore, we again recommend legislation should be introduced amending the temporary permit statute.

Prior Audit Recommendation No. 5

Legislation should be introduced requiring continuing education for dentists, dental hygienists and dental specialists.

Dental practitioners are acutely aware of the public trust that they maintain their professional competency. Required continuing education is one means of fulfilling that trust. In addition, a program of continuing education will recognize individual interests and efforts, avoid professional obsolescence and keep practitioners aware of changes taking place in the profession.

According to the Council of State Governments, a nonprofit organization which studies state practices, eight states have required continuing education for dentists. Twenty-eight of 56 dentists (50%) and 22 of 25 dental hygienists (88%) responded to a Legislative Audit questionnaire that they believed continuing education should be required of their professions.

Legislative Audit's Current Position

Chapter 49 of the 1980 Session Laws established "continuing competency" as a requirement for dentists to renew their licenses. The statutes left it to the Board to define what education and/or experience will be accepted to comply with the statutes. In order to accomplish this, the Board needs to compose regulations defining continuing competency. Well-defined regulations passed in a timely manner will help dentists prepare for their next license renewal.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of Board activities relate to the public need factors defined in the "Sunset" law. These analyses are not intended to be all-inclusive, but address those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission or program has operated in the public interest.
 1. The Board adopted regulations describing the subjects and grading procedures of the dental clinical examination. The Board has also drafted regulations specifying the additional intra-oral functions for dental hygienists.
 2. Although the Board decided not to join a regional testing board as recommended in a prior Legislative Audit report dated August 9, 1978, it increased the number of exams to two a year. In addition, the Board has started to license dentists by endorsement.
 3. The Board has changed its exam procedures and content to comply with legal requirements and more fairly test dental and dental hygiene applicants.
 4. The Board has held an average of four public meetings per year, two dental and dental hygiene examinations each fiscal year beginning in Fiscal Year 1979. The Board administered a special examination in February, 1979 for five candidates who failed a section in a previous examination. The Board started thirty-eight investigations of which seventeen have been completed. The Board licensed thirteen dentists in 1979 and fourteen dentists in 1980. Twenty-two dental hygienists were licensed in 1979 and twenty-four in 1980.
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
 1. Investigations of dental complaints have been hindered due to a lack of coordination between the license examiner, the investigative unit and the

Attorney General's Office. In one case, the license examiner did not inform the investigative unit of the Board's action to revoke a license. Time was of critical importance and the license was never revoked. In another case, litigation was delayed because the Attorney General's Office and the investigative unit did not agree about the evidence needed to support complaints. Action has already been implemented to correct the lack of coordination.

2. The Board has implemented an exam procedure to insure the anonymity of dental applicants. This procedure was introduced after an examinee charged that the Board had committed sex discrimination [see VI(1)] in grading the examination and should enhance its operation.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. The Board has developed a draft for a State Dental Practice Act. The major purpose of this proposal is to give the Board greater enforcement powers.
2. The Board recommended the repeal of the statute allowing temporary permits because it allows for a double standard of public protection (see Prior Audit Recommendation No. 3).
3. The Board recommended legislation allowing licensure by credential which was passed. Other "house-keeping" changes were recommended including the repeal of the statutes prohibiting advertising and changing the make-up of the Board. Some of these changes were passed by the Alaska Legislature.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

1. The Board has allowed dental applicants to appeal their grades in Board meetings; the Board has allowed a special examination to candidates in the past.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. The Board announces its Board meetings, examinations and proposed regulations and regulation amendments in newspaper advertisements, encouraging public participation. Since FY'79, one advertisement was noted in at least three publications circulated in Alaska for each Board meeting and for each proposed regulations action. Advertisements for examinations were sometimes published more than once. This also complies with the requirements of the Alaska Administrative Procedures Act.
2. Since January, 1979, twenty-five persons other than Board members were present at Board meetings as recorded by Board minutes.
3. The Board presents and discusses correspondence related to Board matters which has been received from various persons and associations.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. Five dental examinees appealed their status and scores to the Board. Three of the six were re-examined in the one subject failed. One of the applicants charged the Board with sex discrimination in its grading of the exam. After the Board rejected the charge, the applicant filed a complaint against the Board. The charges were that the Board graded the examination inconsistently, unfairly delayed the grading, failed to comply with their own regulations, and failed to preserve the anonymity of the applicant.
2. Another examinee filed a complaint with the Department of Commerce and Economic Development charging that the Board's regulations conflict with the statutes. The Board adopted regulations in 1979 which allow examinees to be reexamined in the subject failed only if they pass the other subjects with a score of at least 80 per cent. Alaska Statute 08.36.180 states that an applicant shall pass each subject with a score of at least 75 per cent. The Attorney General's Office has ruled that

raising the minimum passing score to 80 per cent must be accomplished by a statutory change. Therefore the regulation is misleading and does not give adequate notice to applicants.

3. No complaints were filed with the Ombudsman during fiscal years 1979 and 1980.

VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

1. Since July 1, 1978, 38 complaints have been filed in OL against State dental practitioners.
2. The Board by policy does not issue temporary permits because of the double standard of public protection contained in the law (see Prior Audit Recommendation No. 3).
3. The Board needs to establish standards for proof of continued competence (see Prior Audit Recommendation No. 9).

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

1. Dental and dental hygiene applications require information not necessary for the Board's consideration, such as race and sex. This is a violation of Equal Employment Opportunity requirements. If this information is necessary for enforcement and examination purposes, it can be submitted unattached from the application presented to the Board. For instance, OL removes candidate pictures before the application is presented to the Dental Board.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous sections, Findings and Recommendations, and Prior Audit Recommendations.

APPENDIXES

APPENDIX A

BOARD OF DENTAL EXAMINERS
REVENUES COMPARED WITH EXPENDITURES
Fiscal Year 1980
(Unaudited)

Average Revenue (See Schedule 1 and Note 1)	\$ 11,492
Expenditures (See Note 2)	<u>46,310</u>
Excess of Revenues over Expenditures	<u>\$(34,818)</u>

Note 1

Most of the dental revenues are composed of renewal registration fees. Through FY'80, these fees are collected 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 years 1979 and 1980 in order to obtain an accurate representation of collected revenues.

Note 2

Expenditures include those made by Board members, such as travel and per diem and an allocated percentage (estimated) of total administrative expenses of OL. They do not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board and OL.

See next page for accompanying schedule and note.

Schedule 1
Types of Revenues
(See Note 3)

Revenues	Amount		Collection Time	
	Before FY'81	After FY'81	Before FY'81	After FY'81
Filing Fee - Application				
Dentist	N/A	\$ 25	N/A	With Application
Dental Hygienist	\$25	25	With Application	With Application
Examination Fee				
Dentist	50	200	Before Exam	Before Exam
Dental Hygienist	50	75	Before Exam	Before Exam
Credential Review Fee				
Dentist	N/A	200	N/A	Before Interview
Dental Hygienist	N/A	75	N/A	Before Interview
Initial License				
Dentist	30	30	Before Licensure	Before Licensure
Dental Hygienist	30	20	Before Licensure	Before Licensure
Registration Fee				
Dentist	40	200	Biennially	Every 4 Years
Dental Hygienist	20	100	Biennially	Every 4 Years
Reexamination Application				
Dentist	N/A	25	N/A	With Application
Dental Hygienist	N/A	25	N/A	With Application
Speciality License	30	30	Before Licensure	Before Licensure
Branch Office Registration	40	100	Biennially	Every 4 Years
Temporary Permit, Dentistry	25	50	Before Permit issued	Before Permit issued
Delinquent Registration				
Dentist	10	10	With Registration	With Registration
Dental Hygienist	N/A	10	N/A	With Registration
Duplicate License	10	10	With Application	With Application
Reinstatement Fee				
Dentist	25	75	With Reinstatement	With Reinstatement
Dental Hygienist	25	N/A	With Reinstatement	N/A

Note 2

Chapter 49 of the 1980 session laws amended the fee structure and related time periods as noted. The change will affect revenues collected beginning with Fiscal Year 1981.

APPENDIX B

PRACTICAL EXAMINATION

The dental examination consists of two sections. The clinical section of the dental examination is comprised of three subjects:

1. Preparation and finishing of amalgams.
2. Preparation and finishing of gold inlays.
3. Preparation and finishing of gold foils.

A dental applicant must furnish his/her own patient and many of the tools. The examination has recently been given in the Teamster's Clinic in Anchorage.

The written examination covers subjects dealing with the diagnosis of oral condition, prosthetics and the Alaska Statutes.

The dental hygiene examination also consists of two sections. The clinical examination tests the applicant's knowledge of data gathering and charting, oral prophylaxis and radiographic recognition. The written examination evaluates the applicant's knowledge of radiology, fluoridation and dietary counseling. Applicants must also furnish his/her own patient and tools.

Alaska Dental Examination Statistics

	Calendar Years		Pass Rate	Pass Rate
	<u>1980</u>	<u>1979</u>	<u>1979-1980 Average</u>	<u>1975-1978 Average (Note 1)</u>
Dental Applicants	26	20		
Number of Fails	12	7		
Number of Passes	<u>14</u>	<u>13</u>		
Percentage Pass Rate	<u>54%</u>	<u>65%</u>	<u>59%</u>	<u>61%</u>

Dental Hygiene Examination Statistics

	Calendar Years		Pass Rate 1979-1980	Pass Rate 1975-1978
	<u>1980</u>	<u>1979</u>	<u>Average</u>	<u>Average</u> (Note 1)
Examination Applicants	19	8		
Number of Fails	4	0		
Number of Passes	<u>15</u>	<u>8</u>		
Percentage Pass Rate	<u>79%</u>	<u>100%</u>	<u>89%</u>	<u>96%</u>

Note 1

Statistics were obtained from Division of Legislative Audit report "A Performance Review of the Board of Dental Examiners" dated August 9, 1978.

APPENDIX C

ANALYSIS OF COMPLAINTS FILED
AGAINST DENTISTS AND DENTAL HYGIENISTS

	Calendar Years		1974- 1978 (Note 1)	<u>Total</u>
	<u>1980</u>	<u>1979</u>		
Malpractice Complaints	10	2	7	19
Administrative Complaints	0	0	14	14
Practicing Without Licenses	1	4	4	9
Unethical Practices	11	9	0	20
Unfair Practical Exam Given by Board	<u>1</u>	<u>0</u>	<u>3</u>	<u>4</u>
<u>Total</u>	<u>23</u>	<u>15</u>	<u>28</u>	<u>66</u>

Note 1

Statistics were obtained from Division of Legislative Audit report "A Performance Review of the Board of Dental Examiners" dated August 9, 1978.

APPENDIX D

ADMINISTRATIVE STATISTICS

<u>Licensed Practitioners</u>	<u>As of March 10, 1981</u>
Licensed In-State Dentists	234
Licensed Out-of-State Dentists	87
Dental Hygienists	179
Dental Specialists	29
Average Number of Meetings Per Year (Excluding Telephone Conferences)	4 Meetings

APPENDIX E

DENTAL MANPOWER SHORTAGE AREAS
(See Note 1)

<u>Service Area</u>	<u>Population to Private Dentists Ratio</u>	<u>Population to Private and Public Health Dentist Ratio</u>	<u>Days of Visits by Private Dentists Per Year</u>
Angoon Division	600 to 0	600 to 0	3
Outer Ketchikan Division	2,000 to 1	2,000 to 1	41
Prince of Wales Division	2,600 to 1	2,600 to 1	6
Skagway-Yakutat Division	2,800 to 1	2,800 to 1	82
Alutian Island Division	8,000 to 0	8,000 to 0	4
Bethel Division	10,000 to 2	10,000 to 7	11
Bristol Bay Division	3,900 to 0	3,900 to 0	5
Bristol Bay Borough Division	1,400 to 0	1,400 to 2	12
Kuskokwim Division	2,700 to 0	2,700 to 0	38
Nome Division	7,200 to 2	7,200 to 4	61
Valdez-Chitina-Whittier Division	5,000 to 3	5,000 to 3	22
Wade Hampton Division	4,400 to 1	4,400 to 1	214
Barrow Division	8,300 to 0	8,300 to 2	4
Kobuk Division	5,100 to 0	5,100 to 2	6
S.E. Fairbanks Division	5,300 to 0	5,300 to 0	0
Upper Yukon Division	1,200 to 0	1,200 to 0	2
Yukon-Koyukuk Division	5,500 to 0	5,500 to 0	12

Note 1

The population to private dentists ratio was obtained from the Department of Health and Social Services, State of Alaska Dental Manpower report. The number of public health dentists were obtained from the Public Health Service of the Department of Health, Education and Welfare. These figures were combined with the private dentists to obtain the population to private and public health dentist ratio. The number of visits by private dentists per year were obtained from the 1980 Biennial Survey of Dentists from the State Center for Health and Social Statistics, Department of Health and Social Services, State of Alaska. These figures were unadjusted.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

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September 18, 1981

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LEGISLATIVE
AUDIT

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

Dear Mr. Wilkerson:

Re: Dental Board Interim Letter

Thank you for the opportunity to comment on the Division of Legislative Audit's Preliminary Report on the Board of Dental Examiners. The Department of Commerce and Economic Development concurs with your findings.

The board has made substantial progress over the past several years and does operate in a responsible manner. As recommended in the interim letter we agree that legislation should be introduced to amend the temporary permit statutes. We also concur with the continuing competency recommendation and note that the board is presently developing the necessary regulations.

Thank you

Sincerely,


Lois Cook
Acting Deputy Commissioner

LC/wfs 4/9