

HB

611

M E M O R A N D U M

DATE: 29 March 1984
TO: Representative Rick Uehling
FROM: John Geary
RE: Dental Hygienists, CSHB 611

You have requested that I review CSHB 611 an act relating to dentists and dental hygienists. This act, introduced by Representative Walt Furnace, consists of 41 sections which divide into three major topics.

1. Sections 1-15 regulate the practice of dental hygienists.
2. Sections 16-21 regulate the board of dental examiners who oversee both dentists and dental hygienists.
3. Sections 22-41 amends the current regulations of dentists.

For such an overall lengthy bill it reads coherently and is popular with the dentists themselves

MARCH 29, 1984

TO: JOHN

FROM: KEN

RE: HB 611 "RELATING TO DENTISTS AND DENTAL HYGENTISTS"

HB 611 WOULD UPDATE THE CURRENT STATUTES WHICH GOVERN THE LICENSING, EXAMINATIONS, AND PRACTICES TO WHICH DENTISTS AND DENTAL HYGENTIST MUST COMPLY. THIS BILL IS INTENDED TO GIVE MORE CLARITY TO THOSE STATUTES WHICH COVER: LICENSES AND REGISTRATION, TESTING OF APPLICANTS, DISCIPLINARY SANCTIONS, AND THE OPERATION OF THE BOARD OF DENTAL EXAMINERS. TO DATE THE COMMITTEE HAS HELD ONE PUBLIC HEARING ON HB 611, AND SINCE THAT TIME REPRESENTATIVES OF THE DIVISION OF LICENSING, THE BOARD OF DENATL EXAMINERS, THE ALASKA DENTAL SOCIETY, AND THE DENTAL HYGENTISTS SOCIETY, HAVE MET. IT IS MY UNDERSTANDING THAT THE BASIC PROBLEMS HAVE BEEN WORKED OUT. DURING TO TODAYS SESSION I HOPE ANY OTHER NECESSARY CHANGES CAN BE MADE TO THE LEGISLATION.

Delete all references to certificate or registration. Retain the word license.

Page 1

Line 12 add current after "without a."

Line 12/13 delete all after [and a current certificate of registration].

Line 15 delete [and registration].

Line 16 delete [and registration].

Page 2

Line 5 delete [a professional dental or dental hygiene association].
Insert [Another Dental Licensing jurisprudence].

Line 9 delete [and registration].

Page 3

Begin on Line 1. Oppose as unnecessary. The language can be restrictive to the board. The size of the board and number of applicants could be burdensome to meet this statutory requirement.

Line 18 add this new sentence [If the board has reason to believe the applicant cannot practice safely on a clinical patient].

Line 20 delete [REGISTRATION AND].

Line 21 delete [If the applicant passes the examination].

Line 21 change "t" to "T".

Line 28 and 29 delete. Retain only the term of license or licensure.

Page 4

Line 6, 7 and 8 delete words "registration or registration certificate".

Line 29 change to (5) license renewal fee.

Page 5

Section 10

Line 19, 20 and 21 request the direct and indirect term be clarified.

Line 21 add (b) eliminate intra oral (Lois Reeder).

Section 11

Recommend the wording be changed to: (Begin on line 24) "The board may revoke or suspend the license of a dental hygienist, after a hearing, or may reprimand, censure, or discipline a licensee, if the board finds that the licensee...." This change would give the board the authority to act timely for minor infractions without threatening the loss of a license.

Line 28

(1) delete or change the word knowingly.

This causes an extra burden of proof on the disciplinary body. It offers an affirmative defense or raises an issue that could cloud the main concern. It is fair to assume a licensee of this intelligence level would not participate in securing a license except by the same method the licensee applied.

Page 6

Line 1 add "or registration."

Line 5 and 6 delete (3) as unnecessary. Item (2) of the same section would cover the false or misleading advertising.

Line 6 delete [in violation of regulations adopted by the board].

Line 15 delete as over stating. "Severe" need not be stated if one is dependent on a substance such as alcohol or drugs so their reliability to protect the public is a question.

Section 12

Delete Section 12 beginning on line 25 continuing on to page 7, line 9. (Per Lois Reeder, and agreed by DOL).

Line 28 delete the word "Board." The board sits as the final judge they should not be the "investigators."

Page 7

Line 2 - Oppose. Prejudgment could be dangerous to fairness. The panel could recommend for reprimand or censure, not for hearing.

Page 9

Begins addressing AS 08.36 Dentist

Line 5 and 6 change after the word "state" who teaches or demonstrates clinical techniques at a seminar or limited course of instruction.

Line 9 to 11. Delete (4) instructors should be the first to be licensed.

Line 26 and 27 delete [FOR CAUSE] . Board members should be appointed and removed by the Governor.

Page 10

Section 18

Line 1 change [is] to "may be"

Line 5 - change "once" to read four.

This would allow proper budgeting. If once or one the agency would be able to budget for one meeting.

Line 12 to 14 - Delete as unnecessary beginning with "The department shall reimburse a member, etc...."

Page 11

Line 21 - This is fine, however, should it be required in statute?

Line 27 - Item (11). OK. However, the Association of Dental Hygienist wanted to respond.

Line 28 add the word "specific" after for.

Line 29 change special to "specific" and after training add "as determined by."

Page 12

Section 21

Oppose to and request deletion of lines 13 to 17. This not only circumvents state hiring procedures but dictates the service which the investigator will serve under ("exempt").

The current system provides for investigation when funded. Contractual monies are available for hiring expert help in the professional evaluations when needed. At present, there is insufficient cases to have one investigator serve just the dental board.

Line 26 and 27

The Dental Board requests change of the word "is a" to "has" on line 26 and line 27 after graduate add or will graduate.

Page 13

Section 24

Line 8 change [30] to 45.

Line 21 change [shall] to may. The board will have the latitude to follow the national acceptable standard; however, if the national standard falls below the State level, the board is not statutorily required to follow it.

Line 27 add "if the board has reason to believe the applicant cannot practice safely on a clinical patient."

Page 14

Line 5 add "regulation of."

Page 15

Section 27

Line 1 delete "professional association peer review procedure."

Line 2 change "professional dental association" to ANOTHER DENTAL LICENSING JURISDICTION.

Section 29 (continues on to page 16)

(b) delete as unenforceable. Licensing should be as stated in the above AS 08.36.246(a)(1), (2) and (3) as all that is necessary.

Page 16

Section 30

Line 9 to 11 delete.

Opposed as increasing the number of board members.

Page 17

Section 33

Line 17 to 22 (see prior recommendation Section 11)

Line 23 - Delete "knowingly."

Page 18

Line 16 delete the word severe.

Line 24 add "in violation of."

Line 26 add after "board" - through the Division of Occupational Licensing

Reason - Board members are not always available.

Delete all of Section 34 beginning on page 18 and continuing to line 12 of Page 19.

Page 21

Line 11 add after "who" teaching or

Line 12 add after "a seminar or limited course of instructions."
Delete the word "meeting."

Line 15-17 - delete. The Dental Hygienist School requires a current licensed dentist (see AS 08.32.095(1)).

Page 22

Section 40

Delete. The purpose of this new section is unclear. It enables one to violate this chapter under research.

HDT/kkkB41
32884b

✓ Sec. 08.36.140. Out-of-state examination. If an applicant requests the board to hold an examination outside the state, the board may require the applicant to pay the transportation costs to the members of the committee conducting the examination. (Sec 3 art III ch 186 SLA 1955)

✓ Sec. 08.36.150. Examination in out-of-state dental schools. The examination committee, with the approval of the board, may conduct an examination in the clinic of an approved dental school within the continental limits of the United States and admit to the examination a dental student in his last year of school who would otherwise be eligible for admission to examination and licensing in the state upon completion of his education. (Sec 3 art III ch 186 SLA 1955)

✓ Sec. 08.36.170. Partial examination. A student at least 19 years of age who has satisfactorily completed regular courses of instruction in dentistry in at least two different school years at an approved dental school, and who is certified by the dean of the college as having satisfactorily completed the subjects included in Section I of the examination may take Section I of the examination. If the student passes Section I and subsequently takes the full examination, the requirements of Section I are waived. (Sec 5 art III ch 186 SLA 1955)

✓ Sec. 08.36.200. Waiver of written examination. The board may waive the requirement for written examination for an applicant who holds a certificate from the National Board of Dental Examiners that he has passed the theoretical or written examination given by the national board. (Sec 8(a) art III ch 186 SLA 1955)

✓ Sec. 08.36.280. Temporary permit. (a) The board may issue a one year temporary permit without examination to an applicant to practice dentistry in a locality requested by the applicant if the locality is of the type specified in (2) of this subsection and the applicant

(1) meets the requirements of Sec 110 of this chapter;

(2) desires to practice dentistry in a city or rural village which does not have a resident licensed dentist in active general practice;

(3) has a license in good standing to practice dentistry in a state, territory, district or possession of the United States;

(4) tenders and pays the fee prescribed in AS 08.36.290(9).

(b) The board may authorize a temporary permittee to practice dentistry in more than one city or rural village of the type specified in (a)(2) of this section.

(c) The board may annually renew a temporary permit upon written application of an applicant and upon payment of the prescribed fee if the applicant has not committed an act which is a ground for revocation in Sec. 310 of this chapter, but in any case, within two years from issuance of his first temporary permit, the applicant must pass a board exam.

(d) A temporary permit may be revoked, suspended or annulled, or the permittee may be reprimanded, censured or disciplined by the board in the same manner and for the same cause as a licensed dentist under Sec. 310 of this chapter.

(e) The board shall grant or deny an application for a temporary permit within 60 days after it is received. (Sec 15 art III ch 186 SLA 1955; am Sec 4 ch 26 SLA 1965; am Secs 8, 9 ch 121 SLA 1972; am ch 59 SLA 1982)

MARCH 21, 1984

TO: JOHN

FROM: KEN

RE: HB 611 "RELATING TO DENTISTS AND DENTAL HYGENTISTS"

HB 611 WOULD UPDATE THE CURRENT STATUTES WHICH GOVERN THE LICENSING, EXAMINATIONS, AND PRACTICES TO WHICH DENTISTS AND DENTAL HYGENTIST MUST COMPLY. THIS BILL IS INTENDED TO GIVE MORE CLARITY TO THOSE STATUTES WHICH COVER: LICENSES AND REGISTRATION, TESTING OF APPLICANTS, DISCIPLINARY SANCTIONS, AND THE OPERATION OF THE BOARD OF DENTAL EXAMINERS.

QUESTIONS:

1. THIS BILL HAS A STRONG EMPHASIS ON DISCIPLINARY ACTIONS. IS THERE SERIOUS PROBLEMS IN THE INDUSTRY TODAY THAT WARRANTS THIS IN THE BILL ?
2. WHAT ARE THE FEELINGS ON THIS BILL OF THE DENTAL ASSOCIATIONS AND DENTAL SOCIETIES AROUND THE STATE ?
3. PARAGRAPH D OF SECTION SEC. 11, PAGE 6 LINE 19 SUGGESTS A CONTINUING EDUCATION PROGRAM SHOULD BE IN PLACE. AT

THE PRESENT IS THERE A REQUIREMENT FOR CONTINUING EDUCATION AND IF SO HOW IS IT MEASURED ?

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB No. 611
 Title: "An Act relating to
 dentists & dental hygienists"
 Sponsor: Rep. Furnace
 Requestor: L&C & H.E.S.S
 Date of Request: February 13, 1984

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: _____
Public Protection
 BRU, Program or Subprogram(s) Affected: _____
Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		1.2	0	0	0	0
300 CONTRACTUAL		1.5	1.3	1.4	1.5	1.6
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	2.7	1.3	1.4	1.5	1.6
CAPITAL						
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	2.7	1.3	1.4	1.5	1.6
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor

ANALYSIS: Attach a separate page for analysis (see attached)

Prepared By: Darrell Miller Phone: 465-2535
 Division: Occupational Licensing Date: 2/16/84
 Approved by Commissioner: Richard A. Lyon Date: 3/16/84
 Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

HOUSE BILL NO. 611

FISCAL ANALYSIS:

Assumptions: If adopted in its present form, this bill would require regulations be adopted to implement the provisions of Sec. 17, paragraphs (10), (12) and (13), and Sec. 27. This would be a one time cost for FY '85 only for travel and contractual costs.

Sec. 17, paragraph (11), would require a continuing contractual cost for advertising of a summary of disciplinary actions by the board.

200 TRAVEL

1 staff travel to Fairbanks and Anchorage to conduct public hearings on proposed regulations.

Fairbanks: Transportation - 1 trip	\$ 450.00
Per Diem: 2 days @ \$90.00	180.00
Anchorage: Transportation - 1 trip	375.00
Per Diem: 2 days @ \$80.00	<u>160.00</u>
Total	\$1,165.00

300 CONTRACTUAL

Advertising costs for public notices of proposed regulations and public hearings; 3 major newspapers, one time only X \$100.00 each. (one time cost - FY '85 only) \$ 300.00

Advertising costs - for quarterly publication of the summary of disciplinary actions; 3 major newspapers, one time only X \$100.00 each = \$300.00 X 4 quarters = 1,200.00
(7% inflation factor projected for succeeding fiscal years) Total \$1,500.00

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 20, 1984

SUBJECT: Sectional analysis of HCS CSHB 611
(Dentists and Dental Hygienists)

TO: Representative John Cowdery
Chairman, Labor Commerce

FROM: Teresa B. Cramer *Teresa B. Cramer*
Legislative Counsel

You have asked for a sectional analysis of CSHB 611 (L&C). The bill can be considered in three parts. Sections 1-15 amend AS 08.32, regulating the practice of dental hygienists. Many of the amendments transfer regulations applying to hygienists but codified in AS 08.36, regulating dentists, into AS 08.32.

The second set of amendments, found in sections 16-21, relate to the Board of Dental Examiners which regulates both dental hygienists and dentists.

The third part of the bill amends the regulation of dentists and is contained in sections 22 through 41.

Sections Relating to Dental Hygienists

Sections 1 and 2 Clarify the requirement that hygienists be registered as well as licensed.

Section 3 Permits dental hygienists licensed in another state to apply for a temporary license pending receipt of their Alaska licensing examination results.

Section 5 Clarifies the composition and content of the licensing examination.

Sections 6 and 7 Clarify the requirement that registrations be renewed every four years. Section 7 is modeled on AS 08.36.250 which currently applies to hygienists as well as to dentists.

Section 8 The penalty for late renewal under AS 08.01.100(b) is \$10.

Section 9 Gives the board the power to set licensing fees by regulation. AS 08.36.190 currently sets fees for dental hygienists and dentists by statute.

Section 10 Adds reference in AS 08.32.110 to requirement that hygienists who administer local anesthetics be certified.

Section 11 Paragraph (2) adds fraudulent billing for services as a basis for imposing discipline. Paragraph (3) limits discipline for false or misleading advertising to instances in which the advertising violates regulations adopted by the board. Paragraph (6)(D) adds unfitness because of failure to keep informed of current professional theories and practices as grounds for imposing discipline.

Section 12 Adds a new section to provide that a panel of the board will screen consumer complaints before the complaint reaches an adjudicatory hearing under the Administrative Procedure Act.

Section 13 Transfers provisions in AS 08.36.320 to AS 08.32 and adds language in subsection (c) to permit the board to suspend the license of a dental hygienist who refuses to submit to a physical or mental examination.

Section 14 Makes failure to comply with a regulation of the board a violation and changes the penalty for a violation to a Class B misdemeanor (punishable by a fine of no more than \$1000 (AS 12.55.035) and by imprisonment for no longer than 90 days (AS 12.55.135).

Section 15 Adds new provisions modeled on AS 08.36.350 to permit the hygienists listed to practice without a state license. Subsection (b) holds those dental hygienists to the same standard of care as licensed hygienists.

Sections relating to the Board of Dental Examiners

Section 16 Adds a requirement that the dental hygienist on the Board of Dental Examiners have practiced in Alaska for five years.

Section 17 Adds language to suspend a dentist or dental hygienist from the board if an accusation alleging unprofessional conduct has been filed under the Administrative Procedure Act. The suspension lasts until the decision of the board is final under AS 44.62.520.

Section 18 Permits a majority of the board to call a meeting in the absence of a call of the president.

Section 19 Adds specific authorization for the department to reimburse board members for expenses.

Section 20 Paragraph (a)(3) expands the required content of the board's annual report. Paragraph (a)(10) requires that the board publish information about its disciplinary decisions annually. Paragraph (a)(11) permits the board to provide for education and training requirements for special procedures and to issue permits or certificates to those who meet those requirements. Paragraph (a)(12) clarifies existing powers of the board. Paragraph (b)(2) permits the board to authorize the inspection of records of dentists to monitor compliance with AS 08.32 and 08.36.

Section 21 Authorizes the board to hire an investigator. The board currently has no staff.

Sections relating to dentists.

Section 22 Deletes reference to permits. The bill repeals AS 08.36.280 which provides for temporary permits. Dentists practicing in isolated areas under AS 08.36.271 are exempt from the chapter under AS 08.36.350.

Sections 23 and 27 Require that all applicants for licensing pass the national board examination before taking the state exam.

Section 25 Clarifies the composition and structure of the licensing examination.

Section 26 The penalty under AS 08.01.100(b) for late renewal is \$10.

Section 28 Deletes the requirement that dentists register with the clerk of the superior court.

Sections 29 and 30 Require that applicants for specialist licenses be eligible for diplomate status with a specialty board and that a licensed specialist take part in the licensing procedures.

Section 31 Adds subsection (b) requiring that dentists who are renewing their registrations report to the board any suits filed against them based on the quality of their professional services.

Section 32 Rewrites the fee statute to allow the board to set fees by regulation rather than providing for specific amounts by statute.

Section 33 Paragraph (2) adds fraudulent billing for services as a basis for imposing discipline. Paragraph (3) limits discipline for false or misleading advertising to instances in violation of regulations adopted by the board. Paragraph (10) makes a dentist who fails to report a death occurring in the dentist's office liable to discipline.

Section 34 Adds a new section to provide that a panel of the board will review complaints about professional services before an accusation is filed under the Administrative Procedure Act adjudicatory hearing procedures. (See also Section 12)

Section 35 Deletes reference to dental hygienists

Section 36 Adds language to permit the board to suspend the license of a dentist who refuses to submit to a mental or physical examination.

Section 37 Makes dentists who violate regulations of the board subject to sentencing. A Class B misdemeanor carries a maximum fine of \$1000 (AS 12.55.035) and imprisonment for no more than 90 days (AS 12.55.135).

Section 38 Paragraph (a)(5) clarifies exemptions for licensed clinicians. Paragraph (a)(6) exempts from licensing instructors in an accredited dental educational institution. Paragraph (a)(7) exempts dentists providing emergency care. Subsection (b) holds dentists exempt from licensing to the same standard of care as licensed dentists.

Section 39 Paragraph (7) defines the practice of dentistry to exclude owners and managers of dental facilities.

Section 40 Adds a new section to provide rights to dentists. Paragraphs (3) and (4) permit dentists supervising research in a research institution chartered by the state or in a school accredited by the American Dental Association to perform procedures that would otherwise violate this chapter. Paragraph (4) requires that the dentist notify the board of any procedures to be performed on patients. The board may disapprove the procedures.

Section 41 Repeals five sections of the law.

AS 08.36.140 permits the board to hold a licensing exam outside the state.

AS 08.36.150 permits students in their last year of dental school to take the licensing examination and permits the board to give the exam in an out-of-state dental school.

AS 08.36.170 permits students to take sections of the state licensing examination at different times.

AS 08.36.200 permits the board to waive the state written exam for applicants who have passed the national board examination.

AS 08.36.280 provides for temporary permits to dentists practicing in a city or rural village which does not have a resident licensed dentist in active general practice.

TC:ojb
J4/105