

SUNSET  
REVIEW  
BOARD of  
CHIROPRACTIC  
EXAMINERS

# 3

TO: JOHN

FROM: KEN

RE: BOARD OF CHIROPRACTIC EXAMINERS

THE ALASKA BOARD OF CHIROPRACTIC EXAMINERS WAS FIRST ESTABLISHED IN 1939. IT IS COMPRISED OF FIVE MEMBERS; FOUR ARE PRACTICING CHIROPRACTORS AND ONE IS A PUBLIC INDIVIDUAL. THE BOARD IS RESPONSIBLE FOR REVIEWING APPLICATIONS, ADMINISTERING EXAMINATIONS, ADOPTING REGULATIONS PERTAINING TO PRACTICE, AND INVESTIGATE AND ACT ON COMPLAINTS FILED AGAINST PRACTICING CHIROPRACTORS.

A PERFORMANCE REPORT  
ON THE  
BOARD OF CHIROPRACTIC EXAMINERS

July 1, 1980 to February 28, 1983

Audit Control Number

08-1114-50-33-R

Commissioner, Department of  
Commerce and Economic Development

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Member  
Member

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# STATE OF ALASKA

AUDIT DIVISION  
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## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

February 28, 1983

Members of the  
Legislative Budget and Audit Committee:

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

A PERFORMANCE REPORT  
ON THE  
BOARD OF CHIROPRACTIC EXAMINERS

July 1, 1980 to February 28, 1983



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

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## PURPOSE AND SCOPE OF THE REPORT

### PURPOSE

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have examined the activities of the Board of Chiropractic Examiners for the past three fiscal years. Our examination was conducted to determine if the Board has been operating in an effective and efficient manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Chiropractic Examiners should be reestablished. The law now specifies that the Board will terminate June 30, 1984 and have one year from that date to conclude 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. Discussions with the Division of Occupational Licensing personnel.
4. Tests of the records and documents of the Board and the Division of Occupational Licensing.
5. Complaints filed with the Division of Occupational Licensing, Ombudsman's Office, Consumer Protection Agency, Equal Employment Opportunity Office, and the Human Rights Commission.

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## ORGANIZATION AND FUNCTION

Created in 1939, the Alaska Board of Chiropractic Examiners is a regulatory board comprised of five members appointed by the Governor. Four are licensed chiropractors and one is a public individual.

The underlying reasons for this Board are fourfold. First, the Board is responsible for reviewing the applications of individuals desiring to enter the chiropractic profession in Alaska. Secondly, the Board has the responsibility of administering an examination to test the applicant's ability. Third, the Board is responsible for the adoption of regulations regarding the standards of professional practice in Alaska and fourth, to investigate and act upon complaints filed against members of the regulated profession.

To assist the Board, it has the staff support of the Division of Occupational Licensing (OL), Department of Commerce and Economic Development which is comprised of two sections. The licensing section processes applications, maintains license files, collects statistics, answers inquiries, and provides administrative help to the Board. The investigation section provides investigative services to the Board in the event of consumer or other professional complaints.

The Board of Chiropractic Examiners issues licenses to applicants that have met all licensing requirement and have taken and passed the State examination. The Board may also issue a license without examination if the applicant holds a current license in another state whose licensing requirements are essentially equivalent to those of Alaska. In addition, the Board may issue a temporary permit to individuals apparently qualified until the next regular meeting of the Board.

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## REPORT CONCLUSION

### POLICY ISSUES

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

### REPORT CONCLUSION

In our opinion, the Board of Chiropractic Examiners should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Also, assurances that those licensed act in a competent manner is provided by active investigation of complaints and revocation or suspension of licenses where appropriate.

However, the following findings describe areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the effectiveness and efficiency of the Board.

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## FINDINGS AND RECOMMENDATIONS

### Prior Audit Recommendation No. 1

The Board of Chiropractic Examiners should eliminate Part I (written) of the State examination.

The Alaska State Board of Chiropractic Examiners has recognized the National Board examination by adopting through proposed regulation "persons applying for a chiropractic license by examination in the State of Alaska, graduating after January 1, 1978, are required to submit a Diplomate Certificate from the National Board of Chiropractic Examiners." The Diplomate Certificate is certification that the applicant has taken Parts I and II of the National Board and indicates the areas tested and examination results. The following areas of chiropractic are tested at the National level: General and Spinal Anatomy, Physiology, Chemistry, Pathology, Micro-Public Health, General and Neuro-Muscular Diagnosis, X-ray, Principles of Chiropractic, Chiropractic Practice, Associate Clinical Science, and Physiotherapy. The examination questions are objective in nature.

In addition to the requirement that the applicant provide the Board with the Diplomate Certificate, the State Board administers a State examination which basically consists of three parts. Part I is a written examination consisting mostly of subjective type questions. Part II involves X-ray identification and interpretation, and Part III consists of practical application of chiropractic technique. While Parts II and III of the State examination involve physical application of the applicant's knowledge through oral testing and actual adjustive techniques in case situations, the merits of the written examination (Part I) are questionable.

Part I of the State examination tests the applicant on topics, previously examined at the National Board level, such as anatomy, physiology, physiotherapy, chiropractic, diagnosis and X-ray. Also, in a 1971 opinion, the Attorney General stated that "the Board of Chiropractic Examiners has the authority to require an applicant to demonstrate competence only in those subjects not covered by the National Board."

Therefore, considering the redundancy of the State written examination over the National Board, the Attorney General's opinion on the topic and the State requirement of the applicant to take the National Board, we recommend the discontinuance of the State written examination.

### Legislative Audit's Current Position

During 1980, the State Board sent a copy of the written State examination to the National Board of Chiropractic Examiners so they could review the State examination for redundancy.

The National Board's response was that any State examination is going to be redundant to the National Board examination since it covers such a large scope of material and that Alaska's written examination was 100% redundant. Therefore, we reiterate our prior audit recommendations that the Board eliminate Part I (written) of the State examination.

### Prior Audit Recommendation No. 2

Legislation should be introduced requiring continuing education for chiropractors as a provision for license renewal.

The underlying purpose of continuing education is to permit professional education on a post-graduate level and allow for the maintenance and upgrading of professional competency.

According to the most recent figures provided by the Federation of Chiropractic Licensing Board's, thirty-nine states require some form of continuing education for license renewal. In December of 1977, the Alaska Chiropractic Society notified the Board of Chiropractic Examiners of its unanimous endorsement of a requirement of continuing education for license renewal. Of more significance, 94% of the respondents to the questionnaire were in favor of such a requirement and 78% knew of workshops or seminars that may qualify as continuing education that were in the respondents' locality.

From information available, it appears the Board expressed interest in a continuing education requirement in early 1977. We recommend that this worthwhile interest be regenerated towards implementing a sound post-graduate education requirement tied to the biennial license renewal. Accordingly, regulations should be promulgated for the administration of such a program by the Board.

### Legislative Audit's Current Position

Alaska Statute 08.20.170(d) requires the Board to adopt "regulations which insure that renewal of license is contingent on proof of continued competency by a practitioner." Continuing education is one way of promoting continued competency. In October of 1981, the Board drafted continuing education regulations, but has not yet adopted them. Therefore, to fulfill the Alaska Statute requirement we recommend that the Board should adopt continuing education regulations for chiropractors as a provision for license renewal.

Recommendation No. 3

The Board of Chiropractic Examiners should improve examination guidelines.

During our review, we noted two examples of an employer/employee relationship existing between a Board member and the individual taking the examination. Examination guidelines should be established to prevent situations where a Board member/employer is administering and grading the State examination for an employee. These guidelines would prevent any appearance of a conflict of interest for the Board member and the examinee.

Recommendation No. 4

The Board of Chiropractic Examiners should revise regulation 12 AAC 16.200 regarding the issuance of temporary permits.

Currently, AS 08.20.160 allows for the issuance of temporary permits "to persons apparently qualified until the next regular meeting of the Board." The Board also adopted 12 AAC 16.200 as additional regulations for issuing temporary permits. The regulations stipulate that a temporary permit holder must "practice in association with a licensed chiropractor in the State." Currently there is no definition of "association." The term "association with" does not limit the scope of services that can be performed nor requires direct or indirect supervision by the licensed chiropractor. Therefore, a temporary permit holder is allowed to practice unsupervised, for up to 6 months prior to taking the State examination.

If the Board feels that the State examination, both written and practical is necessary for public protection then the issuance of temporary permits to individuals who can practice chiropractic unsupervised is not in the best interests of public health.

Therefore, the Board should revise the regulations on the issuance of temporary permits to include either a supervisory requirement or a limitation on the services that can be performed.

Recommendation No. 5

The Board of Chiropractic Examiners should issue, and the Division of Occupational Licensing should maintain the yearly reports as required by statute.

Alaska Statute 37.07 requires the Board to prepare and issue a performance report which should include the Board's goals, objectives, licensing, and financial information. For Fiscal Years 1981 and 1982, we could not locate the required report for the Board of Chiropractic Examiners. Without the report, neither the Legislature nor the Governor have an adequate basis for evaluating and analyzing the Board's performance for the year.

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## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive but to address those areas we were able to cover during our review.

- I. The extent to which the board, commission or program has operated in the public interest.
  - A. The written examination requirement is redundant of the required National Board examination, except for certain areas covering Alaska law, resulting in duplicate testing of Alaskan applicants (see Recommendation No. 1).
  - B. The Board has not established a formal passing grade for the State examination.
- 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.
  - A. The Division of Occupational Licensing (OL) has not provided licensing and examination statistics for the Board to use in their annual report.
- III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.
  - A. The Board has initiated the repeal of the regulation on advertising that was in violation of antitrust laws.
  - B. The Board has drafted, but not yet adopted, a regulation requiring continuing education for license renewal.
  - C. The statutes providing for licensure of Associate Chiropractors has been repealed.
- 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.
  - A. The Board publishes public notices of all examinations, meetings, and regulation changes.

- V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.
- A. The Board announced proposed regulation changes or additions in the newspaper, according to the Administrative Procedures Act.
- 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.
- A. According to the Division of Occupational Licensing's files, there have been approximately fifteen investigation cases in the past four years with an average case length of eleven months. No complaints have been filed with the Office of the Ombudsman or the Attorney General's office.
- 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.
- A. The Board issues temporary licenses to individuals so they may practice unsupervised, until the next scheduled examination (see Recommendation No. 4).
- 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.
- A. Application for licensure as a chiropractor require information and photographs which the Division of Equal Employment Opportunity (EEO) believes may not be necessary to determine the qualifications of the applicant.
- 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 recommendations section of this report.

APPENDIX

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APPENDIX A

BOARD OF CHIROPRACTIC EXAMINERS  
REVENUES COMPARED WITH EXPENDITURES

For the Fiscal Year Ended June 30, 1982

(UNAUDITED)  
(Note 1)

<u>Average Revenue</u> (Note 2)	\$ 8,680
<u>Less: Expenditures</u> (Note 3)	<u>42,240</u>
<u>Excess of Expenditures</u> <u>Over Revenues</u>	<u>\$33,560</u>

<u>Revenue Type</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$ 50	With application
Re-examination Fee	20	With application
Temporary Permit	50	With application
Initial License	200	With license issuance
Renewal License	200	Every four years

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's 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 or four years and causes 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 1981 and 1982 in order to obtain a more accurate representation of revenues collected.

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.

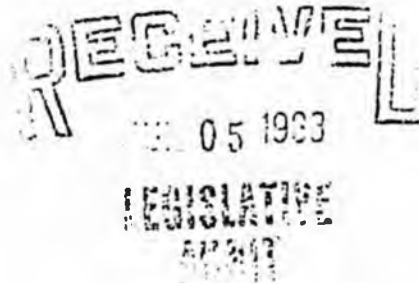
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**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

July 5, 1983



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

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your February 28, 1983 audit findings entitled A Performance Report on the Board of Chiropractic Examiners, July 1, 1980 to February 28, 1983. The Department of Commerce and Economic Development feels that the licensing of chiropractors and the continuation of the Board of Chiropractic Examiners is in the public interest. The following are our comments with regard to the specific recommendations outlined in your findings.

Prior Audit Recommendation No. 1: The Board of Chiropractic Examiners should eliminate Part I (written) of the State Examination.

The department does not object to this recommendation. The audit findings present substantial evidence that part one of the State examination duplicates the national examination by testing the same knowledge base. It is the policy of the department to oppose unnecessary obstacles to licensure since they may delay or discourage competent practitioners from offering their services to the public. However, the board contends that there are several key differences in the two examinations which merit retention of both.

First, the national examination is normally taken by students immediately out of school and is, therefore, a weaker indicator of the individual's ability to retain basic knowledge over time.

Second, the national examination has straight multiple choice questions while the State written examination tests the knowledge base through questions which emphasize practical applications.

For these two reasons, primarily, the board feels that the State's written portion provides a reasonable and more desirable level of public protection. In view of the board's concerns, consideration might be given to requiring a State written examination only for those candidates who have not passed the national examination within a reasonable period of time (e.g., two years) prior to application for licensure.

July 7, 1983

X

Prior Audit Recommendation No. 2: Legislation should be introduced requiring continuing education for chiropractors as a provision of license renewal. The department concurs with the audit finding that "to fulfill the Alaska Statutes...the board should adopt continuing education regulations for chiropractors as a provision for license renewal." However, the department questions the assumption that continuing education assures continuing competence and that it is the State's responsibility to require such education. Continuing education regulations entail additional costs of doing business which are passed on to the consumer.

Recommendation No. 3: The Board of Chiropractic Examiners should improve examination guidelines. The department concurs with this recommendation. Written examination guidelines should be established and followed to prevent situations where board member/employer is administering and grading the State examination for his/her employee.

Recommendation No. 4: The board should revise regulation 12 AAC 16.200 regarding the issuance of temporary permits. The department concurs with this recommendation. More appropriate controls over practice under temporary permits should be established to assure public protection.

Recommendation No. 5: The board should fulfill its statutory reporting requirements. The department concurs with this recommendation.

Thank you again for this opportunity to comment on your findings.

Sincerely,



Richard A. Lyon  
Commissioner

RAL/saH/37  
705b

Board of Chiropractic Examiners

Current Number of Licensees - 95

FY '83 - Allocated 10.5 (Board Travel and Per Diem)

Revenues (7/1/82 - 7/1/83)	5.5	
Contractual	23.0	
Board Travel and Per Diem		12.9
**Personal Services		8.6
*Contractual		1.5
	Total	<u>23.0</u>

FY '84 - Allocated 5.5 (Board Travel and Per Diem)

Revenues (7/1/83 - 2/1/84)	1.4	
Contractual	9.5	
Board Travel and Per Diem		5.0
**Personal Services		4.1
*Contractual		.4
	Total	<u>9.5</u>

FY '85 Board Component - Division Budget Total - 95.0  
Board of Chiropractic Examiners Allocation - 2.3

- \* The above items are funded in the division's budget under the Administration component.
- \*\* Personal services or 1/3 of one licensing examiner's position.

(1) meets the requirements of 12 AAC 16.030;

(2) furnishes the board with the name of the licensed chiropractor in the state with whom he or she will associate while practicing under authority of the temporary permit;

(3) has not previously taken and failed the examination; and

(4) has not previously held a temporary permit.

(b) A temporary permit holder must

(1) provide the board with a statement sworn to by a licensed chiropractor in the state with whom the temporary permit holder will practice, that the licensed chiropractor assumes all legal liability for the practice of the temporary permit holder.

(2) display his or her temporary permit in a conspicuous place in the office where the holder practices chiropractic; and

(3) inform the board of a change in his or her mailing and practicing address.

(c) A temporary permit is valid until the results of the next scheduled examination are received by the applicant. If an applicant is unable to appear for the first scheduled examination, the board will, in its discretion, extend the temporary permit until the results of the next scheduled examination are received. The board will not extend a temporary permit more than once.

(d) Temporary permits are subject to termination by the board at any time if, in the board's determination, the holder of the permit is violating ethical behavior or law after being warned by the board that this action in regard to him or her was being contemplated. (Eff. 3/8/71. Reg. 37, am 3/31/82, Reg. 81; am 10/21/82, Reg. 84)

Authority: AS 08.20.055  
AS 08.20.160

12 AAC 16.210. ASSOCIATES. Repealed 9/30/81.

12 AAC 16.211. CHIROPRACTIC ASSOCIATES. (a) No associate may treat or diagnose a patient professionally unless

(1) he establishes and provides the board with documented evidence of a supervisory relationship which includes

(A) name, license number, address and signature of the licensed supervising chiropractor;

**12 AAC 16.120. DISTURBANCE.** An applicant may not communicate with another applicant during the examination. Communication with another applicant will result in immediate dismissal from the entire examination. (Eff. 3/8/71, Reg. 37; am 9/30/81, Reg. 79)

Authority: AS 08.20.055  
AS 08.20.130(a)

**12 AAC 16.130. SECTIONS OF EXAMINATION.** (a) The examination consists of the following sections:

(1) a written examination covering subjects described in 12 AAC 16.070 and the provisions of AS 08.20;

(2) a practical and oral examination of the following subjects:

(A) Clinical proficiency, including manipulation technique, physiotherapy and clinical examination procedures;

(B) physical diagnosis;

(C) X-ray technique and interpretation; and

(D) Any other subjects which, in the opinion of the board, are necessary to demonstrate knowledge of chiropractic as defined in AS 08.20.220.

(b) An applicant shall rely solely on his own judgment for the meaning of each question and on his own knowledge of the subject in answering each question.

(c) A grade of at least 75 percent on the written examination and a grade of at least 75 percent on each subject of the practical and oral section is a passing grade. (Eff. 3/8/71, Reg. 37; am 9/30/81, Reg. 79; am 10/21/82, Reg. 84; am 4/22/83, Reg. 86)

Authority: AS 08.20.055  
AS 08.20.120  
AS 08.20.130i

**12 AAC 16.140. GRADES.** (a) An applicant failing to make required grade average will be credited for the subjects passed.

(b) An applicant failing to attain a general average rating of 75 percent after two examinations is required to produce evidence of refresher courses in the subjects failed before he is allowed a reexamination. (Eff. 3/8/71, Reg. 37)

Authority: AS 08.20.055  
AS 08.20.130

**12 AAC 16.150. REEXAMINATION.** An applicant may apply for reexamination by

(1) informing the board of his intention at least 30 days before the next regularly scheduled examination; and

(2) paying the reexamination fee. (Eff. 3/8/71, Reg. 37)

Authority: AS 08.20.055

**12 AAC 16.160. TIME.** Repealed 9/30/81.

**12 AAC 16.170. SPECIAL EXAMINATION.** A special examination of an applicant may be allowed if all members of the board agree and notice of 30 days in writing is given to the board and the applicant has complied with the provisions of this chapter and AS 08.20. (Eff. 3/8/71, Reg. 37)

Authority: AS 08.20.055

**12 AAC 16.180. RECONSIDERATION OF PAPERS.** The examining board will not reconsider an applicant's examination papers unless the applicant presents his reason in writing to the board. The applicant is bound by the decision of the board. (Eff. 3/8/71, Reg. 37)

Authority: AS 08.20.055

**12 AAC 16.190. LICENSES AND CERTIFICATES.** (a) The board will issue a renewable consecutively numbered license to a person passing the examination.

(b) The board will issue a certificate to a person passing the examination. The certificate, issued on a one-time basis, will contain the signatures of all board members. (Eff. 3/8/71, Reg. 37; am 9/30/81, Reg. 79)

Authority: AS 08.20.055

**12 AAC 16.200. TEMPORARY PERMITS.** (a) The board will, in its discretion, issue a temporary permit to an applicant who