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434



OFFICIAL BUSINESS

# ALASKA STATE LEGISLATURE - SENATE

## COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON  
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811  
(907) 465-3844

March 8, 1984

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

The Senate Labor and Commerce Committee has had under consideration for "Sunset Review" the Board of Pharmacy pursuant to your referral under AS 44.65.050 and AS 08.03.010.

In accordance with the statutory requirement, a public hearing was held on the review of the Board. The Committee considered the proposed budget of the Board and examined the performance audit of the activities of the Board prepared by the Legislative Audit Division.

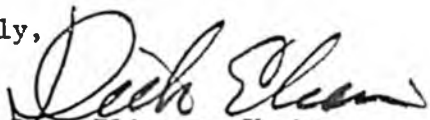
Guided, in part, by the report prepared by the Legislative Audit Division, the Committee took into consideration the factors required to be considered under AS 44.66.050(c). The Board of Pharmacy has protected the public's health, safety, and welfare by licensing only qualified professionals. The Board has passed regulations concerning dangerous drugs, continuing education as proof of continued competency, false or misleading advertisement of drugs, and prepackaging of drugs in hospital drug rooms.

The Board announces meetings and proposed regulation changes in newspapers according to the Administrative Procedures Act.

The Board of Pharmacy is directed under AS 17.30.010 to adopt regulations for the administration of the Controlled Substance Act. The Board will be working closely with the Division of Occupational Licensing to accomplish this goal.

The Senate Labor and Commerce Committee has introduced legislation that would extend the Board for another four years.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dick Eliason".

Senator Dick Eliason, Chair  
Senate Labor and Commerce Committee

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 434  
 Title: An Act extending the term  
date of the Board of Pharmacy;  
 Sponsor: Labor & Commerce Committee  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Dept. of Commerce & Econ. Dev.  
 Program Category Affected: Public Protection  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Division of Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No additional fiscal impact is expected to incur with this Senate Bill.

Funding to be continued and provided for in the Department's FY '85 budget.

ANALYSIS: Attach a separate page for analysis

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144  
 Division: Occupational Licensing Date: February 15, 1984

Approved by Commissioner: Richard A. Lyon Date: 3/12/84  
 Agency: Dept. of 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

Board of Pharmacy

FY '83 - Allocated 10.0 (Board Travel and Per Diem)

Revenues (7/1/82 - 6/30/83) 8.4  
(Total number of Active Licenses 438)

Expenses: Board Travel and Per Diem	10.3
Personal Services	9.1
Contractual	1.6
Total	<u>21.0</u>

FY '84 - Allocated 10.6 (Board Travel and Per Diem)

Revenues (7/1/83 - 2/1/84) 3.2

Expenses: Board Travel and Per Diem	2.7
**Personal Services	3.8
*Contractual	5.5
Total	<u>12.0</u>

FY '85 - Board Component - Division Budget Total - 95.0  
Board of Pharmacy Allocation - 2.4

- \* The above items are funded in the division's budget under the Administration component.
- \*\* Personal services are 1/4 of one licensing examiner's position.

# Summary for SB 434

THE SENATE LABOR AND COMMERCE COMMITTEE HAS EXAMINED THE PERFORMANCE AUDIT OF THE ACTIVITIES OF THE BOARD OF PHARMACY AND HAS DETERMINED THAT THIS BOARD HAS ACTED IN THE PUBLIC BEST INTEREST AND SHOULD BE REESTABLISHED FOR ANOTHER 4 YEARS.

THE BOARD OF PHARMACY HAS PROTECTED THE PUBLIC'S HEALTH, SAFETY, AND WELFARE BY LICENSING ONLY QUALIFIED PROFESSIONALS. THE BOARD HAS ACTIVELY PURSUED ITS ROLE BY PASSING REGULATIONS CONCERNING DANGEROUS DRUGS, REQUIREMENTS FOR CONTINUED COMPETENCY FOR LICENSE RENEWAL, AND GUIDELINES FOR PREPACKAGING OF DRUGS IN HOSPITAL DRUG ROOMS.

NOW AND IN THE FUTURE, THE BOARD OF PHARMACY WILL BE WORKING VERY CLOSELY WITH THE DIVISION OF OCCUPATIONAL LICENSING TO ADOPT APPROPRIATE REGULATIONS FOR THE ADMINISTRATION OF THE CONTROLLED SUBSTANCE ACT. THIS BOARD SERVES A VERY VALID PURPOSE AND I RECOMMEND PASSAGE OF SB 434.

## MORE INFORMATION

THE LEGISLATIVE AUDIT PROPOSED FOUR RECOMMENDATIONS.

1. DIVISION OF OCCUPATIONAL LICENSING BE ALLOWED TO PERFORM ITS ADMINISTRATIVE DUTIES.

EVIDENTLY THE BOARD AND OCCUPATIONAL LICENSING DIDN'T GET ALONG, BUT THE DEPT. FEELS THE COOPERATION IS IMPROVING.

2. BOARD SHOULD REEVALUATE ITS REGULATIONS GOVERNING CONTINUED EDUCATION.

THE BOARD IS PRESENTLY REVIEWING THE APPROPRIATE REGULATIONS.

3. THE BOARD SHOULD INTRODUCE LEGISLATION TO CLARIFY STATUTES.

EVIDENTLY SEVERAL STATUTES CONFLICT ON WHO HAS AUTHORITY TO CONDUCT INVESTIGATION. THE CODE REVISION COMMISSION IS PRESENTLY REWRITING CHAPTER 8 (BOARDS AND COMMISSIONS). THIS ISSUE WILL BE TACKLED THEN.

4. GOVERNOR SHOULD APPOINT MEMBERS FOR 4 YEAR TERMS.

BUDGET REPORT IS ON PAGE 15.

AVERAGE REVENUE (FROM LICENSE FEES)	\$42,763
* EXPENDITURES	46,166
COST TO STATE	3,403

\* EXPENDITURES INCLUDE BOARD MEMBER TRAVEL AND PER DIEM AS WELL AS OCCUPATIONAL LICENSING PERSONNEL.

A PERFORMANCE REPORT  
ON THE  
BOARD OF PHARMACY

July 1, 1980 to February 28, 1983

Audit Control Number

08-1114-51-83-R

Commissioner, Department of  
Commerce and Economic Development

Richard A. Lyon

Deputy Commissioners, Department of  
Commerce and Economic Development

Vincent O'Reilly  
Terry Elder

Members of the Board of Pharmacy

Chairman  
Secretary  
Member  
Member  
Member  
Member  
Member

Eldon Ulmer  
Margaret Soden  
Susan Roberts  
Robert Snider  
James McCorcle  
Charles Rush  
Sidney Fry

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

May 17, 1983

Members of the  
Legislative Budget and Audit Committee:

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

### A PERFORMANCE REPORT ON THE BOARD OF PHARMACY

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 reviewed the activities of the Board of Pharmacy for the past three fiscal years. Our examination was conducted to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Pharmacy 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 of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Interviews with the license examiners.
3. Tests of files and documents of licensees.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General Opinions applicable to professional boards.

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## ORGANIZATION AND FUNCTION

The Board of Pharmacy is a regulatory board with seven members; two public members having no direct financial interest in the health care industry, and five professional members with three years practical experience and licensed in Alaska. Whenever possible, each judicial district should be represented by a Board member.

The Board regulates five types of licenses; pharmacists, retail pharmacies, wholesale pharmacies, hospital pharmacies and drug rooms. The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations controlling pharmacy practices.
3. Revoking, annulling or suspending licenses in accordance with the Administrative Procedures Act when a person has violated pharmacy statutes or regulations.

Applicants for registration as a pharmacist are required to pass the National Association of the Boards of Pharmacy Licensing Examination (NABPLEX), and a jurisprudence exam covering Alaska pharmacy law and the Federal Controlled Substance Act.

Pharmacists licensed to practice in another state who apply for licensure in Alaska, can be licensed by credentials, except for those applicants from California or Louisiana. These two states require applicants to pass a state exam, not the national exam. Consequently, these applicants must take the national exam when applying in Alaska.

The Board may also issue temporary or emergency permits. Temporary permits allow qualified applicants to practice until the Board can formally license them; emergency permits allow pharmacists licensed in another state to practice in Alaska in an emergency. Both permits are limited in their duration and application.

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## REPORT CONCLUSION

### Policy Issues

This report 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 report but require legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendations presented in this report so the potential impact of policy changes can be evaluated.

### Report Conclusion

In our opinion, the Board of Pharmacy 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, assurance 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 efficiency and effectiveness of the Board.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board of Pharmacy should allow the Division of Occupational Licensing (OL) to perform its administrative duties as described in AS 08.01.050 to improve documentation and file management.

The Secretary of the Board receives license fees and applications, keeps applicant files, sends notification of exam results, and issues temporary permits. Each of these responsibilities has been assigned by the Legislature to the Department of Commerce and Economic Development, Division of Occupational Licensing. The above situation exists because the previous Secretary believed he could be more efficient in maintaining the files and processing the applications. We disagree.

The Division of Occupational Licensing is able to provide continuous, uninterrupted service while Board membership changes causing address changes and file transfers.

Additionally, the Secretary of the Board may not be equipped with the space or security needed to maintain confidentiality of files and to safeguard State assets. Furthermore, applicants become confused about where to send their documents.

Noncompliance with AS 08.01.050 is the major cause of the following problems:

- A. In seven of ten files reviewed for proper permanent licensure, we were unable to assure ourselves the applicant had passed the jurisprudence exam.
- B. In two of the files, we were unable to verify the applicants had satisfied the internship requirement. The Board reviewed these files and was unable to satisfy us that the requirements had been met. One file was missing documentation and the other file had documentation we considered insufficient in relation to that required of other applicants. Most applicants were required to have certified copies of hours worked from supervising pharmacists. In this case, documentation consisted of an internship permit issued by the Board with no evidence any hours had been worked.
- C. Temporary permits are being issued by individual Board members without complete documentation on file in DOL. This procedure has resulted in inconsistent issuances of temporary permits. Furthermore, it allows for the possibility of unqualified individuals being licensed.

Prior to the February 1983 Board meeting, we reviewed each application for permanent licensure scheduled for Board consideration. Each applicant had already been issued a temporary permit. In five of eleven cases, there was insufficient documentation in the applicant's file to show that all requirements for temporary licensure had been met.

By the time of the February 1983 meeting, all necessary documentation to support issuance of temporary permits, except for a jurisprudence exam, had either been received by OL or brought to the meeting by the secretary of the Board. With the additional documentation, we determined that no temporary permit had been issued to an unqualified applicant. However, the possibility exists for a person to be improperly licensed for a short time.

The Board should ensure all documentation is sent directly to OL. When the file is complete, a member of the Board can either issue the permit or direct OL to issue the permit. This procedure will ensure that all necessary documentation is on file at OL before issuance of temporary permits.

D. Alaska Statute 08.80.157 requires proof that an applicant for a retail or wholesale pharmacy license has the land, facilities and equipment necessary to carry on business. Also, that the applicant be free of any conviction of a federal or state drug offense and free of any addiction.

We reviewed seven pharmacy files and none of the files contained sufficient documentation to issue a license. We discussed our finding with the Board and determined it was not their policy to include this documentation. They knew who had the facilities and relied on a telephone call from the Drug Enforcement Administration to satisfy the conviction requirement.

We believe the Board should adopt a policy to document satisfaction of the licensing requirements. The procedures need not be elaborate, but should supply sufficient proof that the applicant complies with law.

We recommend the Board ensure that all files, applications, fees and exam results are sent directly to OL. Also, that temporary permits are only issued after all documentation has been received by OL.

Recommendation No. 2

The Board of Pharmacy should reevaluate its regulations governing continuing education.

The following requirements of continuing education should be reviewed.

- A. Regulations require nonacademic programs to have an examination or another method of assuring satisfactory completion of the program before continuing education credit will be given. The Board allowed continuing education credit to be given to an individual when the nonacademic requirement had not been met. The reason given for allowing these credits was that the regulations were too stringent.

If the Board believes its regulations to be arbitrary or unreasonable, those regulations should be changed before accepting nonregulation continuing education credits. Compliance with existing regulations will ensure that all licensees are treated equally and consistently until changes can be made.

- B. The Board has described four instances when they will excuse a licensee from continued competency requirements. These causes are chronic illness, retirement, military service, or hardships as individually determined by the Board.

In our opinion, it is more reasonable to require individuals who have been chronically ill, retired or in the military to demonstrate their continued competency, than those who have not interrupted their practice. We also understand that those persons who have been chronically ill should not be penalized for their illness.

However, the Board has the ability, under the hardship clause, to determine each case individually. They should evaluate the changes in the profession and develop a plan for the individual that would allow him or her to practice while fulfilling the continuing education requirements. This would fulfill the Board's primary purpose to protect the public while not unduly penalizing the professional.

Recommendation No. 3

The Board of Pharmacy and the Division of Occupational Licensing should introduce legislation that will clarify certain statutory requirements.

Alaska Statute 08.01.050(19) places the responsibility for

performing investigations with the Division; Alaska Statute 08.01.070 assigns to the Board the requesting authority. However, AS 08.80.030(3) also gives the Board the authority to conduct investigations. This conflict has caused friction between the Division and the Board.

The Board is concerned that the Division is not informing them of complaints or investigations concerning pharmacy, while the Division is concerned that the Board not become involved in the investigation to such an extent as to prejudice the case. Also, the Board must remain impartial in case they become involved in any disciplinary action against the licensee.

Legislation is necessary to clarify the responsibilities of the Board and the Division so both will be confident they are properly performing their statutory duties.

Recommendation No. 4

The Office of the Governor should ensure that Board members are properly appointed.

In July of 1980, the Legislature limited the number of consecutive terms a Board member could serve to two and reduced the term from five years to four. The intent of AS 08.80.020 as amended, was to make service on the Board accessible to more individuals in the profession.

In discussions with Legislative Affairs' attorneys, it became clear that the intent of the Legislature was to include service prior to July, 1980, in determining the limitation. Three members of the Board of Pharmacy have served longer than is allowed when prior service is applied.

One member has served for sixteen years as of March 31, 1983, thirteen of those years prior to July, 1980. This same member was reappointed after the effective date of AS-08.80.020. At the end of his present term, he will have served nineteen years. Two other members will have served twelve and ten years at the end of their present terms on March 31, 1984 and March 31, 1985, respectively.

Additionally, three members of the Board appointed after the effective date of the legislation, have been appointed for five year terms instead of four.

We recommend the Office of the Governor ensure that Board members are appointed in accordance with statute.

## 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 Board has held public meetings three times a year.
  - B. The Board administers the pharmacy test yearly.
  - C. The Board has passed regulations concerning dangerous drugs, continuing education as proof of continued competency, false or misleading advertisement of drugs, and prepackaging of drugs in hospital drug rooms.
  - D. The Board was instrumental in passage of the Controlled Substance Act and the Marijuana Therapeutic Research Program.
  
- 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 Board adopted continuing education regulations that may be too stringent. The Board is reconsidering these regulations (see Recommendation No. 2).
  
- 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 actively supported passage of the Controlled Substance Act; it became effective January 1, 1983.
  - B. The Board succeeded in having various obsolete or vague statutory requirements repealed which provided for smoother operation of the Board.

- 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. Board meetings are announced to the public. Comments on regulation changes are solicited by announcement in public newspapers. The Board does not actively solicit comment on its effectiveness.
- 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 announces proposed regulation changes or additions in newspapers 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. We found no problems in this area.
- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.
- A. We found no instances where the Board had licensed unqualified practitioners.
- B. The Board has licensed 83 pharmacists in the last three years, all but eight were licensed by credentials.
- 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. Applications for licensure as a pharmacist 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 factors enumerated in this subsection.

Please refer to the recommendation section of this report.

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APPENDIX A

BOARD OF PHARMACY  
REVENUES COMPARED WITH EXPENDITURES  
For the Fiscal Year Ended June 30, 1982

(UNAUDITED)  
(Note 1)

Average Revenues (Note 2)	\$42,763
Less: Expenditures (Note 3)	<u>46,166</u>
Excess of Expenditures Over Revenues	<u>\$ 3,403</u>

<u>Revenue Type</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$ 50	With application
Re-examination Fee	15	With application
Investigation Fee	25	With application
Pharmacist Fee	200	With license issuance
Pharmacist Renewal Fee	200	Every four years
Temporary License Fee	20	With permit issuance
Wholesale Drug Dealer Fee	200	With license issuance
Wholesale Drug Dealer Renewal Fee	200	Every four years
Retail Pharmacy Fee	200	With license renewal
Retail Pharmacy Renewal Fee	200	Every four years
Pharmacy Interim Fee	10	With license issuance
Emergency Permit Fee	10	With permit issuance
Hospital Pharmacy Fee	200	With license issuance
Hospital Pharmacy Renewal Fee	200	Every four years
Hospital Drug Room Fee	100	With license issuance
Hospital Drug Room Renewal Fee	100	Every four years
Nursing Home and Related Facility Fee	100	With license issuance
Nursing Home and Related Facility Renewal Fee	100	Every four years
License Amendments or Renewal Fee	10	When applicable

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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STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

June 23, 1983

RECEIVED  
JUL 06 1983  
LEGISLATIVE  
OFFICE

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

Dear Mr. Wilkerson:

Re: Board of Pharmacy -  
Performance Report

Thank you for the opportunity to respond to the performance audit of the Board of Pharmacy and the Division of Occupational Licensing which is dated July 1, 1980 to February 28, 1983.

We concur with your evaluation that the Board of Pharmacy should continue to exist in interest of the public's health and safety. Your suggestions will be evaluated for implementation. Those determined to improve the efficiency and effectiveness of the division and the board will be strongly supported and recommended. We have reviewed each of your recommendations and will provide you with this agency's position if we do not agree.

RECOMMENDATION #1.

The board of Pharmacy should allow the Division of Occupational Licensing (DOL) to perform its administrative duties as described in AS 08.01.050 to improve documentation and file management.

We concur in this recommendation, and cooperative efforts have recently improved. As mandated by legislation, and in the interest of efficiency, DOL is committed to assisting the Board of Pharmacy in all areas.

RECOMMENDATION #2.

The Board of Pharmacy should reevaluate its regulations governing continuing education.

June 28, 1983

This agency is continuing a review on requirement of continuing education by licensing agencies (boards). We do not agree that continued education ensures continued competency. As a licensing agency we determine that competency is the most important. Competency ensures the safety of the consumer. We also take the position that initial licensing is based on minimum qualifications; retesting on the entrance level may serve the purpose of ensuring continued competency. Continued education would, or should, be viewed as the professional association's responsibility to ensure knowledgeable professionals. This would also be in keeping with less government regulations and letting industry regulate itself.

RECOMMENDATION #3.

The Board of Pharmacy and the Division of Occupational Licensing should introduce legislation that will clarify certain statutory requirements.

We concur with this recommendation. This agency has been working with the Legislative Code Revision Committee in rewriting Title 8. This would have deleted the fragmentation throughout Title 8 and the various chapters. This effort was resisted by the board as an effort to diminish its authority. We will seek to have legislation submitted to clarify the issue of conflict within the statutes.

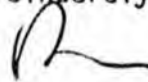
RECOMMENDATION #4.

The Office of the Governor should ensure that board members are properly appointed.

We would assure the auditors this has been addressed by the Governor's Office and by the Department of Law.

Again, thank you for the opportunity to respond to your report. Please feel free to contact this agency or the Division of Occupational Licensing if additional information or clarification is needed. Be assured, we determine your comments and findings to be fair and in the best interest of Alaskan consumers and professional pharmacist.

Sincerely,



Richard A. Lyon  
Commissioner

RAL/cw#23DD1  
62883B

SB 434 TITLE & SPONSOR SUMMARY 16:32 6/04/84 PAGE 1 OF 3

PROPOSED TITLE:

AN ACT EXTENDING THE TERMINATION DATE OF THE BOARD OF PHARMACY,  
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE LABOR&COMM COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 3/16/84 IN (H) LABOR & COM

SB 434 SENATE ACTION 16:32 6/04/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/09/84	01	2010	FIRST READING -- COMMITTEE REPORTS
03/09/84	02	2306	L&C -- DP05
03/09/84	03	2306	L&C LETTER OF INTENT
03/15/84	04	2361	RLS -- OTHER05 TAKEN UP IMMEDIATELY
03/15/84	05	2362	SECOND READING
03/15/84	06	2362	ADVANCED TO 3RD READING BY UNAN CONSENT
03/15/84	07	2362	THIRD READING
03/15/84	08	2362	PASSED BY DIV 17-00-01
03/15/84	09	2362	EFFECTIVE DATE VOTE SAME AS PASSAGE
***	**	**	*** ** *

SB 434 HOUSE ACTION 16:32 6/04/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
3/16/84	10	2945	FIRST READING -- COMMITTEE REPORTS LABOR & COMMERCE RULES
***	**	**	*** ** *

# COMMITTEE REPORT

## SENATE

FURTHER:

1/9/84

Date 3/4/84

Mr. President

The Committee on LABOR & COMMERCE considered SP 434

extending the terminating date of the Board of Pharmacy, etc.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
 \_\_\_\_\_  
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Chairman

Chairman recommendation





**DOWNTOWN REXALL DRUG**  
415 West 5th - P.O. Box 1420  
Anchorage, Alaska 99510 • (907) 277-2567

**ANCHORAGE PROFESSIONAL PHARMACY**  
2341 DeBarr Rd. Suite #225 • Box 1420  
Anchorage, Alaska 99510 • (907) 264-1650

**ULMER REXALL & TRUE VALUE HARDWARE**  
Lakeside Mall • Box 520  
Homer, Alaska 99603 • (907) 235-8594



23 March 1984

Honorable Joe L. Hayes  
SPEAKER OF THE HOUSE  
of Representatives  
Pouch V  
Juneau , Alaska 99811

Dear Joe,

Many thanks for your letter of March 17. It is gratifying to me to know that you , Representative Cowdery, and Senator Eliason are taking a hard look at what is happening regarding implementation of Alaska's Controlled Substance Act and particularly AS 17.30 of that Act.

The Board of Pharmacy was handed the ball by the Legislature, along with funding to hire an Executive Secretary and Investigator. Unfortunately these titles were not included as specific wording in the law , although these positions were repeatedly mentioned when the legislation was being considered and passed.

Board requests for an Executive Secretary , have repeatedly been ignored by the Governor, the Commissioner of Commerce , and the Director of Occupational Licensing (DOL). I believe all of them have a misconception of the intent , the importance , and the timely implementation of the Law.

Federal statistics, on file with the Alaska Department of Law , show that controlled substance from the legitimate industry account for some 60 % of deaths of patients brought to hospital emergency rooms with drug related problems ( nation wide). Statistics also show, over 60% of drug related problems of patients being treated in hospital emergency rooms, come from drugs from the legitimate industry. These drugs are obtained by armed robbery, by after hour breakins, by prescriptions from unscrupulous practitioners, by forgery of prescriptions, or by sale by unscrupulous pharmacists.....but all from the legitimate industry.

The federal Drug Enforcement Administration (DEA) and state and local drug enforcement units have their hands full dealing with the "street traffic" illegitimate entrance of and use of controlled substances in all states . They rely on state laws, such as Alaska's AS 17.30 to deal with the legitimate industry. Most states effectively do this through their Boards of Pharmacy. No big bureaucracy is needed . Wyoming does it quietly, and cost effectively with one Executive Secretary and one Investigator, Under the direction of its Board of Pharmacy. Alaska would do well to emulate this program and the Board planned just that.

**Ulmer**



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23 March 1984

Honorable Joe L. Hayes  
page 2.

You and Representative Cowdery and Senator Eliason all have documented evidence of the valient effort by the Board of Pharmacy to carry out the intent of the Legislature. I will not repeat all of that here, but it is important for you to know that I did spend many long hours drafting both .....proposed regulations and job qualifications and a job description for the Executive Secretary. The later may be of value to you when you propose legislation to mandate creation of the position.

Again thnks for your letter , your interest , and your help in drafting and passing legislation that will clarify legislative intent . If I can be of assistance in this effort , please call me.

Since the Governor removed me from the Board, and refused to reappoint the member from Sitka and has indicated that he will not reappoint the present experienced Secretary of the Board, the Board will be down to one professional and one lay member with any real experience . The new inexperienced Board will desperately need the Executive Secretary .

Sincerely,

Eldon R. Ulmer, R.Ph

Copy: Representative John Cowdery  
Senator Dick Eliason  
Charles Rush , R.PH. Secretary Board of Pharmacy

ANALYSIS OF DIVISION OF OCCUPATIONAL LICENSING  
DIRECT SUPPORT TO LICENSING AREAS FOR FISCAL YEAR 1983

Board	Personal Services <sup>1.</sup>	Travel Per Diem	Contractual	Commodities	Total *	Number of Active Licensees on 6/30/83	FY '83 Revenues
Athletic Commission	951.53	-0-	107.65	-0-	1,059.18	45	610.00
AELS	29,269.51	19,021.86	31,295.24	613.00	80,199.61	3679	85,195.00
Barbers & Hairdressers	22,202.48	7,659.54	7,500.06	-0-	37,362.08	2541	122,375.00
Chiropractors	3,023.31	12,890.89	1,543.80	-0-	17,458.00	89	5,510.00
Collection Agencies	5,003.91	-0-	8.70	-0-	5,082.61	59	4,920.00
Concert Promoters	302.34	-0-	8.50	-0-	310.84	19	6,295.00
Contractors	22,372.53	-0-	4,228.19	-0-	26,600.72	6911	361,640.50
Dental Board	13,604.92	12,823.90	41,546.90	101.94	68,077.66	619	24,726.35
Dispensing Opticians	3,488.96	4,778.04	1,202.54	-0-	9,469.54	49	2,030.00
Electrical	7,558.29	7,718.94	7,727.30	-0-	23,004.53	390	95,880.00
Geologist	302.33	-0-	-0-	-0-	302.33	103	-0-
Guides	15,011.75	16,434.10	5,013.00	-0-	36,458.85	1215	45,607.20
Marine Pilots	13,343.78	6,541.06	1,433.70	-0-	21,320.54	68	20,420.00
Medical Board	15,116.58	15,307.93	5,423.07	49.80	35,897.38	1164	103,264.00
Morticians	1,585.89	-0-	372.67	-0-	1,958.56	102	5,645.00
Nursing	28,546.05	12,041.80	11,995.97	17.00	52,600.82	5395	121,041.82
NHA	1,511.65	268.00	791.06	16.05	2,586.76	22	3,020.00
Optometry	3,488.96	3,392.00	1,308.29	-0-	8,189.25	45	1,410.00
Pharmacy	9,069.94	10,268.25	1,600.11	343.70	21,282.50	438	8,362.00
Physical Therapy	1,585.89	5,778.35	846.30	-0-	8,210.54	117	13,195.00
Psychology	4,534.97	11,040.30	1,890.28	-0-	17,465.55	95	4,710.00
Public Accountancy	13,604.92	9,489.00	16,376.85	165.00	39,635.77	648	25,442.00
Veterinary	1,585.89	2,775.98	936.59	-0-	5,298.46	143	5,520.00
<b>Total</b>		<u>158,233.04</u>	<u>115,060.77</u>		<u>525,064.44</u>	<u>73,956</u>	<u>1,066,854.87</u>

(1) Source: Work up sheets done for FY 82 & 83 for salaries, added 22.6 for benefits.  
 (2) Source: FY 83 Computer run of Revenues Received for FY 82 & FY 83.

\* does not include director salary plus other support.

ADD TO 1,079,454.87

Budget Breakdown

# Sitka Drug, Inc.

SITKA, ALASKA 99835

HARRY RACE DRUG  
BOX 1480  
(907) 747-8666

FRY'S PHARMACY  
BOX 699  
(907) 747-5755

3.5.84

Rep. Robt. Bettisworth (Chairman)  
Legist. Budget & Audit Committee  
Pouch V  
Juneau, Alaska 99811

Dear Rep. Bettisworth:

I understand the Alaska Pharmacy Board is coming up for Sunset review in the next few days. As a recent member of the board I would like to forward to you a few observations, that to me were upsetting, for your consideration.

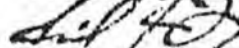
The Pharmacy Board was mandated in AS 17.30 & AS 17.35 to perform certain duties concerning the controlled substances and marijuana research. You will find that these duties have either not been done or have been done poorly. The reason will be given to you by the former Board President, Vice-president, Secretary or by reviewing the Board minutes.

We on the Board were excited about bringing the State of Alaska up to date in the drug field and with planning and enthusiasm set about our task. It was then that we found that if the Director of the Division does not want you to do it, you will not do it. Funding that was authorized was not provided, personnel was not provided as requested and authorized, personnel was switched so there was no expertise developed & in general Board requests were simply ignored.

My second observation is that when the Board is audited yearly the audit could well be biased. The auditing body (state employees) are more likely to look critically at non-state employees (State Boards) than at fellow state employees (Div. of Occ. Lic.) on issues that bring a confrontation. Might it not be better for the state to have some representation on the audit committee that is selected by a non-state group such as the State Chamber of Commerce?

Thank you for considering my comments. I really feel that if the Boards are not going to be allowed to function as they should, then they definitely should be eliminated.

Cordially yours,



Sid Fry Reg. Pharm.

cc- Sen. Dick Eliason

*Please ck this out*  
✓

MSG 84-00021684 PRTY 1 03/07/81 10:26:47 ORIG: LS00 IN= 0008 OUT= 0038  
FROM: SITKA TO: JUNEAU  
TARGET: LJHK SUBJ: POM

3

TO: SENATOR ELIASON AND REPRESENTATIVE BETTISWORTH (CHAIRMAN LEGISLATIVE BUDGET & AUDIT COMMITTEE)

FROM: SIDNEY J. FRY, REPRESENTING SITKA DRUG, INC. & PHARMACY IN GENERAL  
BOX 1480  
SITKA, AK 99835  
(H)747-8059 (W)747-8666

RE: LEG. BUDGET & AUDIT REVIEW OF ALASKA STATE BOARD OF PHARMACY & SB 434

LOOK IN DEPTH AT FACTORS INFLUENCING THE BOARD'S ABILITY TO ACT. WAS THE BOARD EVER GIVEN THE PERSONNEL & FUNDING THAT THE LEGISLATURE MANDATED IN AS 17.30 & AS 17.35? DOES THE DIRECTOR OF OCCUPATIONAL LICENSING REALLY HAVE THE EXPERTISE TO OVER-RIDE OR IGNORE THE BOARD'S ACTIONS IN FOLLOWING THE LEGISLATIVE MANDATE? SHOULDN'T, AS IN OTHER STATES, THE BOARD BE THE BETTER ONE TO SELECT AND DIRECT THE PERSON THAT WILL CARRY OUT THE BOARD'S MANDATE? IF YOU ALLOW OCC. LIC. TO OVER-RIDE OR IGNORE THE PHARMACY BOARD'S ACTIONS IN FOLLOWING THE LEGISLATIVE MANDATE, THEN PLEASE ELIMINATE THE PHARMACY BOARD AS THESE MEMBERS ARE THERE TO PRODUCE NOT TO RUBBER STAMP A STATE BUREAUCRACY.

\*\*\*SITKA LIO, 3/7, 21684\*\*\*\*\*

SUMMARY

BOARD OF PHARMACY

I. Functions of Board

A. Regulate licenses

1. pharmacists
2. retail pharmacies
3. wholesale pharmacies
4. hospital pharmacies
5. drug rooms

II. Recommendations

A. Board should be re-established

1. Division of Occupational Licensing should perform administrative duties, as described in AS 08.01.050. Non-compliance has caused:
  - a. unable to assure applicant passed jurisprudence exam
  - b. unable to verify applicants had satisfied internship requirement
  - c. temporary permits were issued by individual Board members without complete documentation on file in Occupational Licensing
  - d. AS 08.80.157 requires proof of sufficient land, facilities, equipment, and freedom from drug addiction
- 1.5. Board should have all files, applications, fees and exam results sent to Occupational Licensing
2. Board should re-evaluate requirements governing continuing education
  - a. non-academic requirements
  - b. excusure from continued competency requirements
3. Legislation should be introduced that will clarify statutory requirements. The responsibilities of the Board and Occupational Licensing must be clarified.
  - a. AS 08.01.050(19) - investigations by Division of Occupational Licensing.
  - b. AS 08.01.070 - gives Board requesting authority
  - c. AS 08.80.080(3) - investigations by Board
4. Board members properly appointed.
  - a. intent of AS 08.80.020 should be followed

III. Public Need

- A. Licensed 83 pharmacists in the last 3 years
- B. EEO feels photographs not necessary

IV. Department's Response

- A. Concur that Board should continue
- B. Does not agree that continued education ensures competency and that competency ensures safety of the consumer which is most important
- C. Worked with Code Revision Committee to rewrite Title 8 - will have legislation submitted to clarify issue of conflict