

Introduced: 1/25/85
Referred: Labor & Commerce, Health,
Education & Social Services and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 123

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act extending the termination date of the Board
of Pharmacy; and providing for an effective date."

7

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

* Section 1. AS 08.03.010(c)(4) is amended to read:

10

(4) Board of Pharmacy (AS 08.80.010) -- June 30, 1988

11

[1984].

12

* Sec. 2. This Act takes effect immediately in accordance with

13

AS 01.10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: October 9, 1984

REQUEST

Bill/resolution No.: HB 123
 Title: An Act relating to the con-
tinuation of the Board of Pharmacy
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The bill extends the function of the Board of Pharmacy which was sunsetted and expected to terminate on June 30, 1985. Funding for operating costs of the board is included in the agency's FY '86 budget request.

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 10/9/84

Approved by Commissioner: Richard A. Lyon Date: 12/11/84
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

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

7/1/84

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

143 123

January 25, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill extending the termination date of the Board of Pharmacy for four more years.

Under AS 08.03.010(c)(4), the board terminated on June 30, 1984. Under AS 08.03.020, however, the board is authorized to continue its activities, with no reduction in its powers or authority, until June 30, 1985. If the board's termination date is not extended before June 30, 1985, the board must cease its activities. Because of the valuable examination and oversight functions of the Board of Pharmacy, I believe the public interest would be best served by continuing the existence of the board.

The attached bill, therefore, amends AS 08.03.010(c)(4) to extend the life of the board until June 30, 1988.

Last session, I vetoed CSHB 716(L&C), which, in part, would also have extended the board's termination date until June 30, 1988. That bill, however, contained other provisions that I felt were administratively undesirable. I noted in my veto message that the legislature could still accomplish extension of the board before June 30, 1985.

I urge your prompt action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

CSHB 685(Loans)

and the Alaska renewable resources investment fund; and providing for an effective date.)

Chapter 161, SLA 1984

CSHB 716(L&C)

The following letter dated July 6, 1984, was received:

Re: CSHB 716(L&C)
(An Act relating to the
Board of Pharmacy)

"Dear Mr. Speaker:

Under the authority granted in art. II, sec. 15 of the Alaska Constitution, I have vetoed Committee Substitute for House Bill No. 716 (L&C), concerning the Board of Pharmacy.

This bill would have authorized the Board of Pharmacy to hire its own executive secretary. This would have been an undesirable departure from the consolidation and uniformity of the occupational licensing system under AS 08.01. It would have set a disturbing precedent for other boards in securing autonomous staff, outside of the division of occupational licensing in the Department of Commerce and Economic Development.

Another important reason for my veto is that the legislature failed to appropriate any money to fund the fiscal requirements of this position which was estimated by the department in a fiscal note to be \$135,000 this year.

Rather than allow this unfunded and administratively flawed bill to become law, I have directed the Department of Commerce and Economic Development and the Department of Law to review methods of better and more quickly implementing AS 17.30 concerning controlled substances. That chapter, which was enacted in 1982, gave the Board of Pharmacy some new powers and duties which have not been fully implemented, even though they largely overlap the board's continuing powers and duties under AS 08.80.

I believe that there are other better ways to implement the controlled substances legislation without unnecessarily disrupting the structure of the occupational licensing system. I am confident that the review I have directed will produce recommendations for alternatives that can be accomplished by the end of the next budget cycle, if the legislature will fund them.

Meanwhile even though this vetoed bill included a provision to extend the board's termination date from June 30, 1984 to June 30, 1988, under AS 08.03.020(a), the board will continue until June 30, 1985. Before that date the next

CSHB 716(L&C)

session of the legislature can extend the board without granting it the power to hire an executive secretary.

Sincerely,

/s/

Bill Sheffield
Governor"

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

TABLE OF CONTENTS

	<u>Page</u>
Purpose and Scope of the Report	1
Organization and Function	3
Report Conclusion	5
Findings and Recommendations.	7
Analysis of Public Need	11
Appendix:	
A. Board of Pharmacy, Revenues Compared with Expenditures.	15
Response:	
Department of Commerce and Economic Development	17

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.

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.

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, 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 efficiency and effectiveness of the Board.

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.

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

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 or 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.

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.

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.

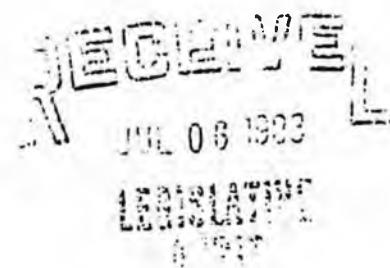
BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

June 23, 1983



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.

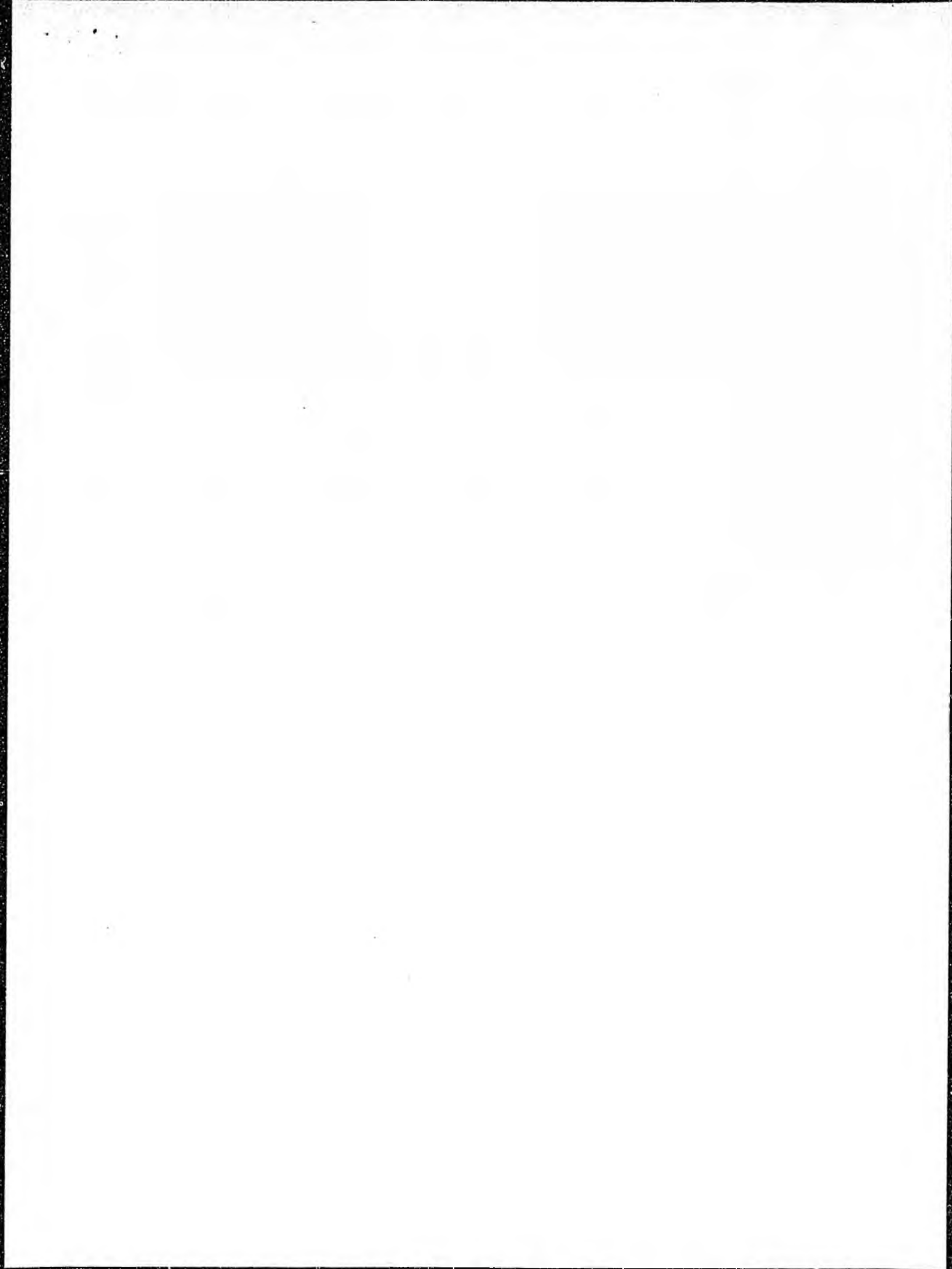
RECOMMENDATION #1.

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.



BOARD: PHARMACY, BOARD OF

TITLE: Board of Pharmacy

DEPT: Department of Commerce and Economic Development

AUTHORITY: AS 08.80.010

STATUS: ACTIVE

REQUIREMENTS: LEGISLATIVE CONFIRMATION

PROHIBITIONS: Cannot serve more than two successive complete terms

TERM: 4-year - overlapping

DESCRIPTION: 5 members appointed by Governor: 5 licensed pharmacists actively engaged in practice in Alaska for 3 years immediately preceding appointment; 2 public members (staggered terms) with no direct financial interest in health care industry; when possible, one member should represent each judicial district; terms begin April 1; members elect President.

SPECIAL FACTS: Quorum - 4 members (3 when examining applications for registration); report to Legislature; members may be removed for cause

FUNCTION: Controls certification, revocation of applicants; promulgates regulations to ensure adequate security for dangerous drugs.

COMPENSATION: Actual travel expenses and standard per diem

MEETINGS: 3 times per year; 9 days total

*FOR FURTHER INFORMATION CONTACT: Licensing Examiner, Division of Occupational Licensing, Dept. of Commerce and Economic Development, Pouch D, Juneau, AK 99811 - 465-2541

Pharmacy

<u>MEMBER</u>	<u>APPT</u>	<u>REAPPT</u>	<u>TERM</u>
Joy H. Donelson, RPh 908 "R" Street Anchorage 99501 Pharmacist	83/12/27		86/03/31
William P. Larson, RPh SRA Box 562 Anchorage 99516 Pharmacist	84/03/30		88/03/31
James H. McCorcle, RPh P.O. Box 450 Juneau 99802 Pharmacist - Chair	80/04/15		85/03/31
Christy C. Nielson, RPh SR Box 20124-A Fairbanks 99701 Pharmacist	83/12/27		87/03/31
Sue Roberts Mile 153 Sterling Highway Anchor Point 99556 Public	81/03/05		86/03/31
Robert K. Snider 2122 Forest Park Drive Anchorage 99503 Public	80/04/15		85/03/31
Margaret D. Soden, RPh 3222 Anelia Avenue Fairbanks 99701 Pharmacist	81/03/19		86/03/31

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