

S B

4 5 6

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 456

Sponsor:

Date referred to committee:

Synopsis completed:

Fiscal note:

Further referrals:

CONTACTS:

Nancy Dunn
Jerry Snitler

2534

Offered: 2/28/86
Referred: Labor & Commerce and
Finance

Original sponsor: Health, Education and
Social Services Committee

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 634 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A FILL

6

For an Act entitled: "An Act relating to the Board of Nursing Home Admini-

7

strators; and providing for an effective date."

8

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

9

* Section 1. AS 08.03.010(c)(9) is amended to read:

10

(9) Board of Nursing Home Administrators (AS 08.70.010) --

11

June 30, 1990 [1986].

12

* Sec. 2. AS 08.70.020(a) is amended to read:

13

(a) The board consists of three [FIVE] members: one [TWO] nurs-

14

ing home administrator [ADMINISTRATORS] licensed under this chapter

15

and practicing in the state, a registered nurse licensed in the state

16

and having no direct financial interest in any nursing home, and one

17

person [TWO PERSONS] from the general public.

18

* Sec. 3. AS 08.70.155 is amended to read:

19

Sec. 08.70.155. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-

20

TIONS. After a hearing the board may impose disciplinary sanctions

21

when it finds that a licensee

22

(1) secured a license through deceit, fraud, or intentional

23

misrepresentation;

24

(2) engaged in deceit, fraud, or intentional misrepresenta-

25

tion in the course of providing professional services or engaging in

26

professional activities;

27

(3) advertised professional services in a false or mislead-

28

ing manner;

29

(4) intentionally or negligently engaged in or permitted

1 the performance of patient care by persons under the licensee's super-
2 vision which does not conform to minimum professional standards re-
3 gardless of whether actual injury to the patient occurred;

4 (5) failed to comply with this chapter, with a regulation
5 adopted under this chapter, or with an order of the board;

6 (6) continued to practice after becoming unfit due to

7 [(A)] professional incompetence, [;

8 (B)] addiction or severe dependency on alcohol or
9 other drugs which impairs the licensee's ability to practice
10 safely, or [;

11 (C)] physical or mental disability and the licensee
12 has not been rehabilitated to the satisfaction of the board;

13 (7) sold or furnished a license to another;

14 (8) practiced as a nursing home administrator or used a
15 designation tending to imply that the licensee is a nursing home
16 administrator without a license issued under this chapter unless
17 exempted from licensure requirements under AS 08.70.080.

18 * Sec. 4. TRANSITION. Notwithstanding the provisions of AS 08.70.-
19 020(a) as amended by sec. 2 of this Act, the members of the Board of Nurs-
20 ing Home Administrators on the effective date of this Act shall remain on
21 the board until their terms expire or the positions otherwise become va-
22 cant.

23 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
24 10.070(c).

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF NURSING HOME ADMINISTRATORS

September 30, 1985

Audit Control Number

JS-1222-86-R

Commissioner, Department of
Commerce and Economic Development

Loren H. Lounsbury

Deputy Commissioners, Department of
Commerce and Economic Development

Greg Baker
Terry Elder

Members of the
Board of Nursing Home Administrators

Acting Chairperson
Member
Member
Member
Member

Ruth Roth, RN
Jane Sabes, NHA
Thomas E. Boling, NHA
Raymond A. Davidson
Eloise E. Deater

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

September 30, 1985

Members of the Legislative Budget
and Audit Committee:

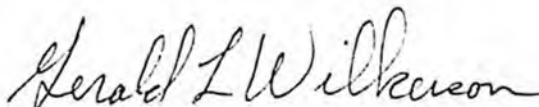
In accordance with the provisions of Titles 24 and 44 of the
Alaska Statutes (sunset legislation), the attached report is
submitted for your review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF NURSING HOME ADMINISTRATORS

September 30, 1985

Audit Control Number

08-1222-86-R



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

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Department of Commerce and Economic Development	19

PURPOSE OF THE REPORT

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 Nursing Home Administrators for the past four fiscal years 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 Nursing Home Administrators should be reestablished. The law now specifies that the Board will terminate June 30, 1986, and have one year from that date to conclude its affairs.

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and performed the following:

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

ORGANIZATION AND FUNCTION

Federal law [U.S. Code, Title 42, Sect. 1396a(29)] requires a state to license nursing home administrators in order for that state to receive Medicaid assistance from the Federal government. Thus, to receive Medicaid funding, a nursing home must be administered by a licensed nursing home administrator.

In response to this requirement, the Board of Nursing Home Administrators was created by the Alaska Legislature in 1975. The Board is comprised of five members; two nursing home administrators, one registered nurse, and two public members. The purpose of the Board is to ensure that nursing home administrators have the knowledge and experience necessary to be competent administrators.

The major duties of the Board are to issue initial licenses to qualified applicants and to monitor the renewal of licenses. The Board is assisted in these duties by the Department of Commerce and Economic Development, Division of Occupational Licensing (OL). OL processes applications, maintains licensing files, answers correspondence dealing with the Board, and provides other administrative support as needed by the Board. In addition, OL investigates any complaints involving nursing home administrators.

Qualifications for licensure include work experience and educational requirements. Additionally, a passing score of 75% or better must be obtained on the exam given by the National Association of Boards of Nursing Home Administrators.

License renewal is required biennially. Renewal requires the licensee to complete a license renewal application, an affidavit of good moral character, and to submit a 50 dollar license fee.

There are currently 21 facilities in the State which are required to have licensed administrators.

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 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

We found no evidence the continuation of the Board of Nursing Home Administrators (BNHA) will benefit the public's safety or welfare. However, the Board needs to be reestablished in order to comply with Federal law governing the licensing of nursing home administrators. These laws require nursing homes to be administered by licensed administrators if the nursing homes are to be eligible to receive Federal Medicaid financial assistance. Therefore, we are recommending that BNHA pursue ways to reduce the cost of regulating nursing home administrators without jeopardizing the State's eligibility to receive Federal Medicaid funding (see Recommendation No. 1).

(Intentionally left blank)

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FINDING AND RECOMMENDATION

Recommendation No. 1

The Board of Nursing Home Administrators (BNHA) should consider, evaluate, and pursue ways to reduce the cost of regulating nursing home administrators without jeopardizing the State's eligibility to receive Federal Medicaid funding.

The existence of BNHA is not required to ensure the public's welfare. Public protection is provided through State and Federal nursing home license and certification reviews. With the exception of the five State-operated Pioneers' Homes, all of the 21 facilities in Alaska that are required to have licensed administrators are subject to these reviews.

The primary justification for continuing BNHA is to maintain the State's eligibility to receive Federal Medicaid funding. U.S. Code, Title 42, requires the State to have either a licensing board or an agency of the State responsible for licensing under the Healing Arts Act of the State. Since Alaska does not have a Healing Arts Act, the State is required to have a licensing board in order to be eligible for Medicaid funding.

Alaska Statutes 08.70.020-.040 require a five member board to meet twice annually. BNHA is relatively inactive. Board activity is largely limited to the approval of applicants for licensure, of which there are only 50 active licensees in the State. The number of board members and meetings required by the statutes is greater than is warranted by the Board's workload.

From FY 82 through September 30, 1985, only four formal meetings had been held. Due to a lack of business, two of the more recent meetings lasted less than two and one-half hours each. Additionally, during the last five years, unfilled board member vacancies caused the Board to operate at less than full membership.

For these reasons BNHA should determine and support a less expensive method of licensing administrators. In June 1985, the U.S. Department of Health and Human Services indicated that they would possibly approve a scheme by which licensing of administrators could be done by the Medical Board. This would allow the elimination of the BNHA without jeopardizing the State's eligibility for Federal Medicaid funding. We believe the Medical Board could accomplish the limited duties of the BNHA in the course of its regular activities and meetings with little or no increase in its workload. To best serve the public, we recommend that the BNHA study and support implementation of a cost-effective alternative to the current Board that will preserve the State's eligibility for Medicaid funding.

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. We have determined that: no public need for the Board has been demonstrated. The Board was created to comply with Federal law (see Recommendation No. 1).
 - B. The Board has initiated statutory changes which have benefited the public (see criteria III).
- 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. Federal law requires the State to have either a Board of Nursing Home Administrators or an agency of the State responsible for licensing under the Healing Arts Act of the State. Since Alaska does not have a Healing Arts Act, the State is mandated to have a licensing board.
- 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 statutes were amended to replace annual licensing renewal requirements with biennial requirements.
 - B. Statutes were established by which licenses can be revoked from persons who do not uphold the standards established by 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 or the effectiveness of service, economy of service, and availability of service which it has provided.

- A. It is the policy of the Division of Occupational Licensing (OL) to publish in Anchorage, Fairbanks, and Juneau newspapers public meeting notices 30 days prior to scheduled meeting dates in order to allow persons wishing to attend a meeting time to prepare for it. There have been four board meetings held since FY 82. For two meetings, inadequate time was allowed between publication and actual meeting dates. No publication of public notices was made for a third meeting.
- 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 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 process and resolved.
- A. In the past several years, only one complaint involving nursing home administrators has been filed with the Investigations Unit within OL. The complaint was dismissed as lacking merit and required no board action.
- B. The Office of the Ombudsman and the Attorney General's Office has no outstanding consumer complaints regarding the Board of Nursing Home Administrators.
- 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. We found no instances where the Board had licensed unqualified practitioners.
- B. There are 50 persons licensed as nursing home administrators in Alaska.
- 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. No complaints have been filed with the Office of Equal Employment Opportunity regarding the Board of Nursing Home Administrators.

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

Please refer to the previous section, Finding and Recommendation.

APPENDIXES

APPENDIX A

BOARD OF NURSING HOME ADMINISTRATORS
REVENUES COMPARED WITH EXPENDITURES

For Fiscal Year 1985

(UNAUDITED)

(Note 1)

Average Revenues (Note 2)	\$ 1,818
Expenditures (Note 3)	<u>3,022</u>
Excess of Expenditures over Revenues	<u><u>\$(1,204)</u></u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$25	With application form
Reexamination Fee	25	With application form
Investigation Fee	25	With application form
Biennial License Fee	50	Prior to initial license issuance and biennially
Late Fee Fine	10	With late payment
Bad Check Charge	10	With valid payment

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 cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average for the revenues collected in Fiscal Years 1984 and 1985 in order to obtain a more accurate representation of collected revenues.

Note 3

Expenditures consist of direct costs resulting from Board activities. These include miscellaneous contractual, travel, and per diem costs incurred by Board members and the Board's licensing examiner. This amount does not include the administrative expenditures of the Division of Occupational Licensing such as employee salaries or the expenditures made to other departments such as the Department of Law, which assist the boards and the Division.

APPENDIX B

BOARD OF NURSING HOME ADMINISTRATORS
EXAMINATION STATISTICS

Number of Examinations Given in Fiscal Years 1983-85

<u>Fiscal</u> <u>Year</u>	<u>Passes</u>	<u>Fails</u>	<u>Total</u>
1983	4	0	4
1984	2	1	3
1985	7	2	9

APPENDIX C

BOARD OF NURSING HOME ADMINISTRATORS
ADMINISTRATIVE STATISTICS
September 30, 1985

Licensed Nursing Home Administrators	50
<u>Board Meetings in Fiscal Years 1983-1985</u>	
1983	0
1984	2
1985	1

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

December 23, 1985

RECEIVED
DEC 24 1985

**LEGISLATIVE
AUDIT**

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

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary audit report for the Board of Nursing Home Administrators.

We concur with your findings and recommendations and agree that a less expensive method to administer licensing should be sought while preserving the State's eligibility to obtain Medicaid funding.

Thank you once again for the opportunity to comment on your audit.

Sincerely,


Loren H. Lounsbury
Commissioner

LHL/me1282M
122385b

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/21/86

Date 3-19-86

Mr. President

The Committee on HESS considered SB 456
relating to the Board of Nursing Home Administrators; efd.

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

Joe G... ..

E. L.

Dittus Fabrenkamp
Chairman

Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 456
 Title: An Act relating to the Board of Nursing Home Administrators;
 Sponsor: Senate HESS
 Requester: Senate HESS
 Date of Request: 3/14/86

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL		-0-	-0-	-0-	[.5]	[.5]
CONTRACTUAL		[1.2]	[1.2]	[1.2]	[1.2]	[1.2]
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		[1.2]	[1.2]	[1.2]	[1.7]	[1.7]

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		**				
---------	--	----	--	--	--	--

FUNDING: (Thousands of dollars)

GENERAL FUND		[1.2]	[1.2]	[1.2]	[1.7]	[1.7]
FEDERAL FUNDS						
OTHER						
TOTAL		[1.2]	[1.2]	[1.2]	[1.7]	[1.7]

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

The bill provides for continuation of the Board of Nursing Home Administrators and reduces the number of board members from five to three by attrition. The bill also reduces the required number of meetings from semiannually to annually. The board usually conducts one face-to-face meeting and one teleconference each year.

(see attached for continuation)

Prepared by: Jennifer Strickler, Management Analyst
 Division: Occupational Licensing

Phone: 465-2144
 Date: 3-14-86

Approved by Commissioner: _____
 Agency: Commerce and Economic Development

Date: 3-14-86

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 456

The reduction in contractual expenditures is a result of eliminating the teleconference meeting.

Reduction in travel is a result of members being reduced by attrition. One Anchorage member would attend only one meeting in FY 87, therefore, per diem cost of \$80 would be eliminated for FY 88 - 91. This cost is not reflected as it is under \$100 annually.

The reduction of travel cost in FY 90 and FY 91 reflects the elimination of one Juneau member whose term expires October 1, 1988. This member would attend the face to face meeting in FY 89 but travel and per diem cost of \$512.00 in FY 90 and FY 91 would be eliminated.

SB 456

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



P. O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3782

Senate Committee on Health, Education and Social Services

LETTER OF INTENT FOR SB 456, AN ACT RELATING TO THE BOARD OF NURSING HOME ADMINISTRATORS.

During fiscal year 1985, operating costs of the Board of Nursing Home Administrators exceeded \$3,000. These costs were partially offset by the \$1,818 collected in license fees. SB 456 is intended to reduce the board's operating costs through reducing the membership of the board from 5 to 3 and reducing the minimum number of board meetings to one a year.

In addition, AS 08.70.150 and AS 08.01.065 authorize the Department of Commerce to establish license fees administratively with the concurrence of the board, and require that the fees reflect to the extent possible the actual costs to the Department of the board.

It is the intent of the Senate Committee on Health, Education and Social Services that the Department set fees for the Board of Nursing Home Administrators that are sufficient to cover the costs of its operations, and do so in a timely manner.

For FY 85

Board of Nursing Home Administrators

revenues	\$1,818
expenditures	<u>\$3,022</u>
	(\$1,204)

license fee \$25/yr.

(fees vary for exams, license by credentials, etc.)

Board of Dental Examiners

revenues	\$41,536
expenditures	<u>\$50,888</u>
	(\$9,352)

license fee \$50/yr dentists
\$25/yr hygienists

(fees vary for exams, license by credentials, etc.)

Last year legislature gave Dept. Commerce authority to set license fees administratively, with the concurrence of the board. You might ask the Dept. where in the process of fee setting they are.

file SB 456



Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH
JUNEAU, AK 998
465-377

SUNSET REVIEW REPORT - HOUSE BILL NO. 634

February 24, 1986

Representative Ben Grossendorf
Speaker of the House
P.O. Box V
Juneau, Alaska 99811

Dear Mr. Speaker:

The House Committee on Health, Education and Social Services has considered the Sunset Review of the Board of Nursing Home Administrators, and recommends that the board be continued. The Committee has introduced HB 634 to fulfill the findings of the Committee.

As required by AS 44.60.050 (c), the Committee submits the following findings:

(1) the extent to which the board, commission or program has operated in the public interest.

The Division of Legislative Audit found that the board served no public purpose and should be eliminated, however, the Committee finds that the existence of the board is required by federal Medicaid law and should therefore be maintained so that Alaskan nursing home residents may continue to qualify for Medicaid funds.

(2) 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.

Federal law requires the existence of this board as a criterion for qualification for Medicaid funding.

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

The statutes were amended to require biennial rather than annual licensing and to revoke licenses of those persons who do not uphold the board's standards.

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations

HB 634

REQUEST

Bill Resolution No.: HB 634
 Title: Continuation of the Board of Nursing Home Administrators
 Sponsor: House HESS
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL					[.4]	[.4]
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	[.4]	[.4]

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		-0-	-0-	-0-	-0-	-0-
---------	--	-----	-----	-----	-----	-----

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	[.4]	[.4]
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	[.4]	[.4]

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This bill provides for continuation of the Board of Nursing Home Administrators and reduces the number of board members from five to three by attrition. One Anchorage member would attend only one meeting in FY 87, so per diem cost of \$80 would be eliminated for FY 88-91. This cost is not reflected as it is under \$100 annually.

The reduction in cost shown for FY 90 and FY 91 reflects the elimination of one Juneau member whose term expires October 1, 1988. This member would attend the face to face meeting in FY 89 but travel and per diem cost of \$432.00 in FY 90 and FY 91 would be eliminated.

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: February 20, 1986

Approved by Commissioner: [Signature] Date: February 20, 1986
 Agency: Commerce and Economic Development

HB 634

and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

There have been four board meetings since 1982. For two meetings, there was insufficient hearing notice between time of publication and the meetings, and for a third meeting there was no notice.

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

The board announces proposed changes to regulations in the newspaper according to the Administrative Procedures Act.

(6) 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 the board or commission is administratively assigned, or with the office of the ombudsman have been processed or resolved.

Only one complaint has been filed with the Division of Occupational Licensing in the past several years, and that complaint was dismissed as lacking merit. No complaints have been filed with the Office of the Ombudsman or the Attorney General's office.

(7) the extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

50 persons are licensed as nursing home administrators in the state, with no evidence that unqualified practitioners have been licensed.

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

No complaints have been filed with the Office of Equal Employment Opportunity regarding the Board of Nursing Home Administrators.

(9) 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.

The Committee determined that the board should be reduced to three members to reduce the cost of operation. This change is reflected in HB 634, which the Committee introduced to continue the board.

As required by AS 44.60.050 (d), the Committee submits the following findings:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address.

The board needs to assure adequate notice of board meetings. The board wishes to investigate a preceptorship program and continuing

education requirements. The Committee determined that the board has the statutory authority to pursue these goals.

- (2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments.

The purpose of the board is to license qualified nursing home administrators to protect the public and assure that Alaska receives Medicaid funding. The board is fulfilling this function.

- (3) an identification of any other programs having similar, conflicting or duplicate objectives.

There are no other programs having a duplicate function.

- (4) an assessment of alternative methods of achieving the purposes of the program.

Because the Medicaid regulations require licensure by a board composed of members of different medical professions, the Committee determined that there are no alternatives other than this board for licensing nursing home administrators.

- (5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level.

Elimination of the board would make the state of Alaska liable for federal Medicaid sanctions. Since institutional facilities account for over half of the Medicaid budget, this would not be in the state's best interest. In order to save money, the Committee has reduced the number of members on the board to three from five.

- (6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts.

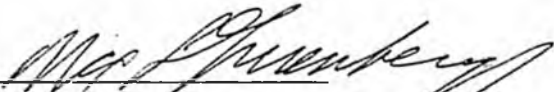
Since Alaska has no combined medical licensing boards which would meet federal regulations, the board must be continued.

- (7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

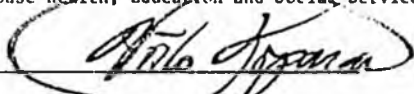
The Committee recommended that reduction of the board be accomplished by attrition. The Division of Occupational Licensing recommended that the meetings be reduced to one per year, but the Committee felt that teleconferenced meetings can and should be held so that the board can fulfill the mandate of AS 08.70.040 at little cost to the state. Such meetings will also allow the board to develop its proposed preceptorship program.

The Committee also recommends that licensing fees for the board be raised in order to produce income necessary to cover the operating

expenses of the board.



Representative Max E. Gruenberg, Jr., Co-Chair
House Health, Education and Social Services Committee



Representative Riiho Koponen, Co-Chair
House Health, Education and Social Services Committee

- (ii) in the care of the ill, injured, or infirm;
- (B) administration, supervision, delegation, and evaluation of nursing practice;
- (C) teaching others the skills of nursing;
- (D) execution of a medical regimen as prescribed by a person authorized by the state to practice medicine;
- (E) performance of other acts that require education and training that are recognized by the nursing profession as properly performed by registered nurses;
- (F) performance of acts of medical diagnosis and the prescription of medical therapeutic or corrective measures under regulations adopted by the board. (§ 2 ch 90 SLA 1957; am § 5 ch 37 SLA 1970; am § 3 ch 67 SLA 1973; am §§ 11, 12 ch 129 SLA 1974; am § 25 ch 14 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote the section. remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, ALS 1982.

Editor's notes. — This section was redrafted by the revisor of statutes to

Chapter 70. Nursing Home Administrators.

Section	Section
10. Creation of Board of Nursing Home Administrators	120. Examination
20. Membership board; source of appointments; term of office	130. Provisional licenses
30. Election of officers	140. Expiration and renewal
40. Board meetings: Quorum	150. Fees
50. Duties and powers of the board	155. Grounds for imposition of disciplinary sanctions
55. Removal of board members	160. Disciplinary sanctions
60 — 70. [Repealed]	170. Penalties
80. License required	180. Definitions
90. Application	190. Facilities operated by religious organizations
110. Licensing	

Collateral references. — 58 Am. Jur. Licensing and regulation of nursing or rest homes. 97 ALR2d 1187.
2d. Occupations, Trades and Professions, §§ 17-22.

Sec. 08.70.010. Creation of Board of Nursing Home Administrators. There is established the Board of Nursing Home Administrators. (§ 1 ch 123 SLA 1975)

Sec. 08.70.020. Membership board; source of appointments; term of office. (a) The board consists of five members: two nursing home administrators licensed under this chapter and practicing in the

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state, a registered nurse licensed in the state and having no direct financial interest in any nursing home, and two persons from the general public.

(b) Board members are appointed by the governor.

(c) Board members serve staggered terms of four years or until their successor is appointed, except that a member appointed to a vacated term serves the duration of that term. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term. (§ 1 ch 123 SLA 1975; am § 1 ch 77 SLA 1977; am §§ 3, 4 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment inserted "and having no direct financial interest in any nursing home" in subsection (a), and in subsection (c), substituted "four" for "three" near the beginning of the subsection, and substi-

uted the present second sentence for the former, which read: "On the first board two members serve one-year terms, two members serve two-year terms and one member serves a three-year term."

Sec. 08.70.030. Election of officers. The board shall annually elect a chairperson and a vice-chairperson from its members. (§ 1 ch 123 SLA 1975)

Sec. 08.70.040. Board meetings: Quorum. The board shall meet at least semiannually. A majority of the board constitutes a quorum. (§ 1 ch 123 SLA 1975)

Sec. 08.70.050. Duties and powers of the board. (a) The board shall

(1) adopt standards for licensing nursing home administrators to insure that licensees have knowledge and experience in health care and institutional administration necessary for competent administrators, and update the standards when necessary;

(2) examine, approve issuance of licenses and renewal of licenses of qualified persons;

(3) establish procedures to insure that licensees continue to uphold the board's standards; impose disciplinary sanctions upon persons who fail to uphold the standards;

(4) adopt criteria for educational programs for persons preparing for the licensing examination and for the continuing education of licensees; review the educational programs available in the state and accredit the programs meeting the criteria;

(5) keep a record of its proceedings and submit annual reports to the governor and the legislature;

(6) adopt regulations insuring that renewal of a license is contingent upon proof of continued competency by the licensee.

(b) The board may adopt regulations necessary for the performance of its duties and to meet the requirements of Title 19 of the Social Security Act, the federal rules promulgated under it, and other federal requirements. (§ 1 ch 123 SLA 1975; am §§ 5 — 7 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "approve issuance of licenses and renewal of" for "license, and renew the" in para-

graph (2), substituted "impose disciplinary sanctions upon" for "revoke, suspend, or refuse to renew licenses of" in paragraph (3), and added paragraph (6).

Sec. 08.70.055. Removal of board members. A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal. (§ 8 ch 141 SLA 1980)

Secs. 08.70.060 — 08.70.070. Expenses; applicability of Administrative Procedure Act.

Repealed by § 16 ch 141 SLA 1980.

Editor's notes. — The repealed sections derived from § 1, ch. 123, SLA 1975.

Sec. 08.70.080. License required. Only a licensed nursing home administrator may manage, supervise, or be generally in charge of a nursing home. The care provided by a nursing home or a licensed hospital providing nursing home care through the use of skilled nursing beds or intermediate care beds shall be supervised by a licensed nursing home administrator or by a person exempted from licensure requirements under this section. This section does not apply to persons engaged on July 1, 1980, in managing or administering an Alaska Pioneers' Home or a hospital with skilled nursing beds or intermediate care beds. (§ 1 ch 123 SLA 1975; am § 9 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 08.70.090. Application. Applicants shall file applications with the Department of Commerce and Economic Development on forms provided by the department. Information requested on the forms shall be given under oath. (§ 1 ch 123 SLA 1975; am § 50 ch 218 SLA 1976)

Sec. 08.70.110. Licensing. (a) The board shall license

(1) applicants who pass the written examination administered by the board and meet the standards established by the board under AS 08.70.050;

(2) persons licensed under emergency regulations 7AAC 12.045 promulgated in Register 51, July 8, 1974, who have practiced as administrators since licensing.

(b) The board may issue a license without examination to a person holding a current license as a nursing home administrator from another jurisdiction, if the board finds that the standards for licensing in the other jurisdiction are substantially equivalent to those in this state, and the person is otherwise qualified. (§ 1 ch 123 SLA 1975)

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Sec. 08.70.120. Examination. The purpose of the examination is to test the applicant's knowledge of the health and safety standards of the state and the applicant's experience in the practice of health care. The board determines the content, scope, format, and grading procedure. Examinations shall be given at least annually, at the time and place chosen by the board. (§ 1 ch 123 SLA 1975)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.130. Provisional licenses. (a) A provisional license may be granted without examination to a person who meets the standards adopted by the board under AS 08.70.050 and who is needed to fill a vacancy in an administrative position.

(b) The provisional license is valid for six months and is nonrenewable. (§ 1 ch 123 SLA 1975)

Sec. 08.70.140. Expiration and renewal. (a) Repealed by § 16 ch 141 SLA 1980.

(b) An administrator may apply to renew the license issued to the administrator under this chapter by submitting an application for renewal to the board; application forms for renewal are provided by the department.

(c) A person whose license has expired for a period of 24 months or more must apply for a license in the same manner as an applicant who has not been licensed before. (§ 1 ch 123 SLA 1975; am §§ 10, 16 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "24" for "12" in subsection (c), and repealed former subsection (a), which read: "A nursing home administrator's license expires on December 31 of the year issued."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

~~**Sec. 08.70.150. Fees.** The following fees shall be imposed under this chapter when applicable:~~

- ~~- (1) examination fee \$25
 - (2) investigation fee for persons applying for a license under AS 08.70.110(b) \$25
 - (3) license renewal fee \$50(§ 1 ch 123 SLA 1975; am § 11 ch 141 SLA 1980)~~

Effect of amendments. — The 1980 amendment deleted "annual" at the beginning of paragraph (3) and inserted "renewal" in paragraph (3).

Chapter 70. Nursing Home Administrators.

Section

150. Fees

Sec. 08.70.150. Fees [See effective date note]. The department shall set fees under AS 08.01.065 for examination and investigation of persons applying for a license, initial license, and license renewal. (§ 1 ch 123 SLA 1975; am § 11 ch 141 SLA 1980; am § 41 ch 37 SLA 1985)

Effect of amendments. — The 1985 amendment rewrote this section, which included a fee schedule. ment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Effective dates. — The 1985 amendment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Chapter 71. Dispensing Opticians.

Article

2. Licensing (§§ 08.71.120, 08.71.130)

5. General Provisions (§ 08.71.220)

Article 2. Licensing.

Section

120. Fees

130. Renewal of license

Sec. 08.71.120. Fees [See effective date note]. The department shall set fees under AS 08.01.065 for examination, initial license, and license renewal. (§ 1 ch 45 SLA 1973; am § 5 ch 56 SLA 1980; am § 42 ch 37 SLA 1985)

Effect of amendments. — The 1985 amendment rewrote this section, which included a fee schedule. ment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Effective dates. — The 1985 amendment to this section is effective upon the adoption of regulations under AS 08.01.065. For the law until that date, see the main pamphlet.

Sec. 08.71.130. Renewal of license. (a) A licensed dispensing optician shall renew a license issued under this chapter every four years with the department on or before the date set by the department under AS 08.01.100.

(b) [See effective date note] If the license is not renewed on or before the date set by the department under (a) of this section, the license lapses. Before reinstatement of a license that has remained lapsed for more than 60 days, the applicant must pay all delinquent renewal fees and any penalty established under AS 08.01.100(b).

(c) If the license remains lapsed for more than one year, the board may require the applicant to be examined under AS 08.71.090.

Sec. 08.70.155. Grounds for imposition of disciplinary sanctions. After a hearing the board may impose disciplinary sanctions when it finds that a licensee

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) intentionally or negligently engaged in or permitted the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards regardless of whether actual injury to the patient occurred;

(5) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;

(6) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) addiction or severe dependency on alcohol or other drugs which impairs the licensee's ability to practice safely;

(C) physical or mental disability;

(7) sold or furnished a license to another;

(8) practiced as a nursing home administrator or used a designation tending to imply that the licensee is a nursing home administrator without a license issued under this chapter unless exempted from licensure requirements under AS 08.70.080. (§ 12 ch 141 SLA 1980)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.160. Disciplinary sanctions. (a) When it finds that a licensee is guilty of an offense under AS 08.70.155, the board may impose the following sanctions singly or in combination:

(1) permanently revoke a license to practice;

(2) suspend a license for a determinate period of time;

(3) censure a licensee;

(4) issue a letter of reprimand;

(5) place a licensee on probationary status and require the licensee to

(A) report regularly to the board upon matters involving the basis of probation;

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

(6) impose limitations or conditions on the practice of a licensee.

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(b) The board may withdraw probationary status if it finds that the deficiencies which required the sanction have been remedied.

(c) The board may summarily suspend a license before final hearing or during the appeals process if the board finds that the licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice. A person whose license is suspended under this section shall be entitled to a hearing by the board no later than seven days after the effective date of the order. The person may appeal the suspension after a hearing to a court of competent jurisdiction.

(d) The board may reinstate a license which has been suspended or revoked if the board finds, after a hearing that the applicant is able to practice with skill and safety.

(e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from prior decisions involving similar situations shall be explained in findings of fact or orders. (§ 1 ch 123 SLA 1975; am § 13 ch 141 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Editor's notes. — This section was redrafted by the revisor of statutes to

remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.170. Penalties. A person convicted of violating a provision of this chapter is guilty of a class B misdemeanor. (§ 1 ch 123 SLA 1975; am § 14 ch 141 SLA 1980)

Cross references. — For penalties for misdemeanors, see AS 12.55.135.

Effect of amendments. — The 1980 amendment substituted "guilty of a class B

misdemeanor" for "punishable by a fine of not more than \$500, or by imprisonment for not more than one year, or by both" at the end of the section.

Sec. 08.70.180. Definitions. In this chapter

- (1) "board" means the Board of Nursing Home Administrators;
- (2) "department" means the Department of Commerce and Economic Development;
- (3) "license" means the certificate awarded by the board to a qualified person which entitles the person to be a nursing home administrator in this state;
- (4) "licensee" means a person who has been granted a license to be a nursing home administrator in this state by the board;
- (5) "nursing home" means a facility which is operated in connection with a hospital or in which nursing care, intermediate care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery within the state for the accommodation of convalescents or other persons who are not acutely ill but who do require skilled or intermediate nursing care and related medical services; the term "nursing home" is restricted to those

facilities the purpose of which is to provide skilled or intermediate nursing care and related medical services for a period of not less than 24 hours a day to individuals admitted because of illness, disease or physical or mental infirmity;

(6) "nursing home administrator" means a person who manages, supervises, or is in general charge of a nursing home, even though the duties are shared with another person; a member of a board of directors of a nursing home is an administrator only if the board member also serves in the administrative capacity defined in this paragraph. (§ 1 ch 123 SLA 1975; am § 51 ch 218 SLA 1976)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.70.190. Facilities operated by religious organizations. Nothing in this chapter or the regulation under this chapter is to be construed as requiring a person who applies for a license as administrator of a facility operated by a religious organization relying on spiritual means alone for healing to have skills in medical techniques or educational qualifications which are not in accord with the care and treatment provided in the facility. (§ 1 ch 123 SLA 1975)

Chapter 71. Dispensing Opticians.

Article

1. Board of Dispensing Opticians (§§ 08.71.010 — 08.71.070)
2. Licensing (§§ 08.71.080 — 08.71.160)
3. Unlawful Acts (§§ 08.71.170 — 08.71.180)
4. Miscellaneous Provisions (§ 08.71.200)
5. General Provisions (§§ 08.71.220 — 08.71.240)

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers, §§ 3, 40-43. 70 C.J.S., Physicians and Surgeons, §§ 11, 13.

Article 1. Board of Dispensing Opticians.

Section

10. Creation of board
20. Membership and term of office
30. [Repealed]
40. Election of officers

Section

45. Removal of board members
50. [Repealed]
55. Powers and duties
- 60 — 70. [Repealed]

Sec. 08.71.010. Creation of board. There is created the Board of Dispensing Opticians. (§ 1 ch 45 SLA 1973)

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