

HB

179

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 14, 1987

SUMMARY OF: A Performance Report on the Department of Commerce and Economic Development, Board of Psychologist and Psychological Associate Examiners, December 19, 1986.

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 Psychologist and Psychological Associate Examiners. Our examination was conducted to determine if the Board has been operating in an efficient, effective manner and whether the Board should be reestablished. The law now specifies that the Board will terminate on June 30, 1987.

REPORT CONCLUSION

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

FINDINGS AND RECOMMENDATION

1. The Board should adhere to regulations concerning Board powers to deny applicants from licensure by examination.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS

December 19, 1986

Audit Control Number

08-1270-87-R

Commissioner, Department of
Commerce and Economic Development J. Anthony Smith

Deputy Commissioners, Department of
Commerce and Economic Development Greg Baker
Terry Elder

Members of the Board of Psychologist
and Psychological Associate Examiners

Chairperson	Vacant
Member	Margaret E. Fischer, Ph.D.
Member	James F. Harper, Ph.D.
Member	Dennis M. Scholl, Ph.D.
Member	Linda Olsen-Webber, Ph.D.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

December 19, 1986

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 PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS

December 19, 1986

Audit Control Number

08-1270-87-R



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

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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 Psychologist and Psychological Associate Examiners to determine if the Board has been operating in an efficient and effective manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Psychologist and Psychological Associate Examiners should be reestablished. The law currently specifies that this Board will terminate on June 30, 1987.

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. Tests of files and documents of licensees.
3. Interviews with the licensing examiner.
4. Complaints filed with the Division of Occupational Licensing, 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's Opinions applicable to professional boards.

ORGANIZATION AND FUNCTION

The Board of Psychologist and Psychological Associate Examiners (PPAE) was established under the provisions of Title 8, Chapter 86 of the Alaska Statutes. The Board consists of four licensed psychologists and one public member appointed by the Governor and approved by the Legislature.

The Board regulates licensed psychologists and psychological associates in the State. A psychologist is licensed to use psychological principles, methods, and procedures for the treatment of emotional and mental disorders. A psychological associate is licensed to perform psychological services under the supervision of a licensed psychologist. Legislation recently passed (Chapter 63, SLA 1986) allows a psychological associate who has completed at least five years of licensed practice to petition the Board for certification to practice without supervision.

The Board's duties are basically the following:

1. Examining and issuing licenses to qualified applicants.
2. Establishing or amending rules and regulations necessary and desirable to enforce State statutes.
3. Holding hearings in order to revoke or suspend the license of a person violating the psychologist and psychological associate statutes and regulations.

An applicant may be licensed by passing an exam given by the Board or by credentials. For credentials, an applicant must provide proof of licensure by another authority with equal licensing requirements.

In order to qualify for licensure as a psychologist by examination, an applicant must pass a written examination, have a doctorate degree, and one year of experience. The examination is composed of two parts: an objective national examination composed by the Professional Examination Service and an essay examination composed by the Board.

Psychological associates may qualify for the examination if they have three years supervised experience after obtaining a Master's degree.

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 recommendation presented in this report so the potential impact of policy changes can be evaluated.

Report Conclusion

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

However, the following finding describes an area where weaknesses or conflicts exist. We have made a recommendation which, if implemented, will improve the efficiency and effectiveness of the Board.

The Board should adhere to regulations for denying applicants the right to take the psychology examination. Two applicants were improperly denied the right to take the psychology examination.

FINDINGS AND RECOMMENDATION

Recommendation No. 1

The Board should adhere to regulations concerning Board powers to deny applicants from licensure by examination.

The Board inappropriately denied a person the right to take the psychology exam based on the allegation of unethical conduct. The Attorney General's Office determined that the Board's action was not authorized under existing statute or regulation.

12 AAC 60.055 permits the Board to deny an applicant for licensure if the applicant has . . .

- (1) been found guilty of incompetence by another state or jurisdiction;
- (2) violated the ethical standards for providers of psychological services as established by another state agency or jurisdiction;
- (3) misrepresented his or her qualifications to the board in any way; or
- (4) been found to be practicing psychological services without a license.

In this instance there was no actual finding or decision by another State agency or jurisdiction.

Similarly, another applicant for licensure by examination was not allowed to take the examination pending the outcome of an investigation by the Division of Occupational Licensing. Board of Psychology regulations do not prohibit a person from taking the psychology exam merely based on an investigation. According to the Licensing Examiner, the Board tabled their decision to act on the application without even reviewing the applicant's file.

Alaska Statute 08.86.070 provides for the Board to impose disciplinary sanctions. Those disciplinary sanctions apply to licensed psychologists and psychological associates. The Board does not have the authority to deny applicants the right to take the psychology examination as long as other minimum requirements are met. Denial of that right cannot be based on mere allegations or outstanding investigations.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission, or program has operated in the public interest.
 - A. The Board has promulgated regulations concerning continuing education requirements. In addition, public hearings have been held to consider regulation changes regarding course requirements for graduate programs in psychology, criteria for practicing psychology without supervision as a psychological associate, and the qualifications for persons performing psychological-related activities that are exempt from licensure. The public is notified about upcoming examinations and meetings and is invited to provide input at Board meetings.
 - B. The Board has developed goals and objectives. Some of the goals the Board achieved in 1986 includes:
 - (1) Reviewing applications for licensure and examination.
 - (2) Conducting examinations twice a year.
 - (3) Reviewing investigative reports.
 - (4) Considering regulatory changes to psychology regulations.
 - C. The Board prepared forms to document continuing education by licensed psychologists.
- 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 needs to clarify AS 08.86.180 which defines the Board's jurisdiction over the practice of psychology. The statutes which govern the Board prohibit any person, unless they are licensed or exempt, to practice psychology in the State.

to a permit process and allow applicants for licensure by credentials to be issued a temporary permit provided they meet criteria similar to licensing requirements.

B. The Board has proposed statutory changes to clarify exactly when confidentiality may be waived if a client threatens serious harm to her/himself or to another person, or to property in such a way that a person's life might be in danger. In addition, the Board has proposed legislation to clarify under what conditions the board may impose disciplinary sanctions against a psychologist for lewd conduct.

IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

A. The public is invited to attend Board meetings. Notices of meetings and examinations are published in at least 3 major newspapers and a time for public comment is reserved at Board meetings.

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

A. Public notices of proposed regulations are published in major newspapers. Public comment to proposed regulations, both written and oral, are considered at Board meetings.

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. Most complaints filed with OL allege unlicensed activity. For the most part, these complaints are investigated and resolved in a timely manner. Investigations could be hampered because statutory language concerning licensing exemptions to the practice of psychology is difficult to interpret (see II. A.). Based on records at OL, there were 6 complaints filed at OL in FY 86, 20 filed in FY 85, and 19 filed in FY 84. Currently, only one investigative case is outstanding.

B. Review of recently closed Ombudsman's case files showed no significant complaints.

APPENDIXES

APPENDIX A
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS
REVENUES COMPARED WITH EXPENDITURES

For the Fiscal Year Ended June 30, 1986
(Unaudited)
(Note 1)

Average Revenue (See Schedule 1 and Note 2)	\$ 8,808.00
Expenditures (See Note 3)	<u>22,045.28</u>
Excess of Revenues over Expenditures	<u><u>\$(13,237.28)</u></u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>Amount Prior to 11/20/86</u>	<u>Amount Effective 11/20/86</u>	<u>Collection Time</u>
Application Fee	\$ 25	\$ 20	With submittal of application
Examination Fee	\$125	\$ 90	With submittal of application
Credential Review Fee	\$125	\$ 50	With submittal of application
Initial License Fee	\$200	\$200	With submittal of application
License Renewal	\$200	\$200	Every Four Years

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Statement of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is composed of license renewal fees. Licenses are renewed every four years and the last renewal date was June 30, 1985. Because of the renewals, revenues vary substantially every fourth year. Therefore, we averaged revenues collected in fiscal years 83, 84, 85 and 86 in order to obtain a representative amount of average annual revenues collected.

APPENDIX B
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL
ASSOCIATE EXAMINERS
EXAMINATION STATISTICS

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Failed at Least one Section	4	4	4	2	3
Passed	<u>9</u>	<u>5</u>	<u>3</u>	<u>8</u>	<u>4</u>
Total	<u>13</u>	<u>9</u>	<u>7</u>	<u>10</u>	<u>7</u>

APPENDIX C
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL
ASSOCIATE EXAMINERS
ADMINISTRATIVE STATISTICS

Schedule 1
Number of Licenses

	<u>As of June 30, 1986</u>
Licensed Psychologists	94
Licensed Psychological Associates	<u>14</u>
Total	<u>108</u>

Schedule 2
Licenses Issued by Fiscal Year

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Psychologists	7	10	7	12	9
Psychological Associates	<u>2</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
Total	<u>9</u>	<u>12</u>	<u>8</u>	<u>14</u>	<u>10</u>

STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

February 6, 1987

Mr. Gerald Wilkerson
Legislative Auditor
Division of Legislative Audit
P.O. Box W
Juneau, AK 99811

FEB 17 1987


Dear Mr. Wilkerson:

The department agrees that the Board of Psychologist and Psychological Associate Examiners should be continued and concurs with the recommendation that the board should adhere to regulations concerning the board powers to deny applicants from licensure by examination. It should be noted, however, that, although the board initially inappropriately denied an applicant from licensure by examination, an attorney general's opinion was sought prior to the examination and the candidate was permitted to take the examination on schedule.

The issue was whether or not the board has the power to deny a license by examination or licensure by credentials based on allegations of unethical conduct or pending the results of ongoing investigations. Under its current regulations, the board does not have this authority. Since the board has the responsibility to ensure only qualified, competent individuals receive licenses to practice, the department would recommend that the board amend 12 AAC 60.055 to add another section: "(5) is not the subject of an unresolved complaint, review procedure or disciplinary proceeding." There is a current applicant for licensure who has been accused of several counts of sexual misconduct in another state. Under the existing regulation, the board is required to license the applicant. The department believes the public safety will be in danger if this applicant is licensed prior to the allegation being substantiated. Several regulatory boards have similar provisions in statute or regulation.

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

Sincerely,


J. Anthony Smith
Commissioner

JAS/KM/ssC19
020687b

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

February 23, 1987

Members of the Legislative Budget
and Audit Committee:

We have reviewed the Board's response to the preliminary audit report on the Performance Report on the Department of Commerce and Economic Development, Board of Psychologist and Psychological Associate Examiners. Our comments follow.

The Board has proposed regulations requiring a psychological associate (PA) to have 60 credit hours of program study after five years of supervised experience in order to practice unsupervised. In the Board's opinion, 60 credit hours of study is necessary to insure adequate public protection. The Board gave an example of a PA practicing but only seeing three clients per week for a year (three hours) and has three face-to-face supervision sessions each year. We believe the 60 credit hour educational requirement is excessive.

Currently, a PA is required to have a Master's degree (24 credit hours) and three years of weekly supervision and pass a national examination in order to be licensed as a PA. Legislation amending AS 08.86.164 recently passed that allows a PA who has completed at least five years of licensed practice to petition the Board for certification to practice without supervision (monthly contact and quarterly face-to-face meetings). The Board is required to grant the petition if the PA satisfies the criteria established by the Board by regulation. Proposed regulations include requiring the PA to have documented at least five years of supervised practice which included at least an average of 1,500 hours of supervised practice per year. This would prevent a non-experienced PA from being certified to practice unsupervised.

The new legislation also requires the Board to propose regulations defining the academic programs that are required to be included in obtaining the Master's degree. Testimony was given by the Division of Occupational Licensing during the legislative hearings. At the hearings it was stated that the main purpose of the bill was to define an acceptable masters program through regulation so that the Board could agree that a PA can practice psychology after a certain amount of time. Therefore, the Board's definition of programs to be included in a PA's Master's degree along with supervised experience should be adequate to protect the public.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSHB 179 (Fin)
Publish Date: HOUSE 4/23/87

Revision Date: _____

Agency Affected: Commerce & Economic Dev.

Title: An Act extending the termination date of the Board of Psychologist & Psych.

TRU: Occupational Licensing

Sponsor: House Labor & Commerce

Associate Examiners: _____

Requestor: _____

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Funding for continuation of the Board of Psychologist and Psychological Associate Examiners is budgeted in the department's FY 88 operating budget request and is anticipated to be covered primarily through program receipts.

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

Phone: 465-2111
Date: 3/16/87

Approved by Commissioner: JJ Anderson Smith
Agency: Commerce and Economic Development

Date: 3/17/87

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