HB
146

HOUSE COMMITTEE REPORT

File

(11)
Date Referred: March 26, 1990 FURTHER REFERRALS:

Date of Committee Action: 4/18/90

The FINANCE Committee considered: HB 146

HOUSE BILL NO. 146 APPLICANTS FOR MEDICAL LICENSES/PERMITS

"An Act relating to interview requirements for applicants for medical licenses and permits; and providing for an effective date."

RECOMMENDATIONS:

[X] be replaced with CS HB 146(FIN) [ ] the same title [X] a new title

[ ] have attached amendment(s)

[X] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] additional referral to the ______ Committee

ADOPTS: HOUSE HESS letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

[ ] fiscal impact ______

[X] zero fiscal note C&ED

[ ] zero with analysis ______

APPROVES PREVIOUS: (Date/Dept)

[ ] fiscal note(s) ______

[ ] zero fiscal note(s) ______

[ ] zero fn/analysis ______

SIGNING DO PASS:

[signatures]

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
[signature]		X	
[signature]		✓	
[signature]		X	

[signature]
Chairman's Signature

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

P.O. BOX V, JUNEAU 99811
(907) 465-3759

Adopted

March 23, 1990

Letter of Intent to
CSHB 146 (HESS)

It is the intent of the Legislature that the Alaska State Medical Board shall increase the licensing fees for physicians to cover the costs associated with the Impaired Physician Program.

Rep. Johnny Ellis, Chair

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 146 (FIN)
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act relating to occupational licensing; . . .
Sponsor: House Rules Committee/Governor
Requestor: House Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact for FY 90.

SEE ATTACHED

Adopted

Prepared by: Jennifer Strickler, Administrative Officer
Phone: 465-2144
Division: Occupational Licensing
Date: 4/17/90

Approved by Commissioner: Larry Merculieff
Date: 4-17-90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

JS/dg16194D/041790c

go0779hR
Lauterbach
4/11/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 146 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act limiting civil liability for damages relating
7 to certain occupational licensing functions; au-
8 thorizing temporary courtesy licenses for certain
9 occupations; relating to powers and duties of the
10 State Medical Board; and providing for an effective
11 date."

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

13 * Section 1. AS 08.02.020 is amended to read:

14 Sec. 08.02.020. LIMITATION OF LIABILITY [FOR MEMBERS OF LICENS-
15 ING BOARDS AND PEER REVIEW COMMITTEES]. <u>An action may not be brought</u>
16 <u>against a</u> [A] person [IS NOT LIABLE] for damages <u>resulting from</u>
17 <u>(1)</u> [OR OTHER RELIEF IN AN ACTION BY REASON OF] the per-
18 son's <u>good faith</u> performance of a duty, function, or activity <u>required</u>
19 as
20 <u>(A)</u> a member of<u>, or witness before,</u> a licensing board
21 or peer review committee established to review a licensing mat-
22 ter<u>;</u> [,]
23 <u>(B) a member of a committee appointed under AS 08.-</u>
24 <u>64.336(c);</u>
25 <u>(C) a contractor or agent of a contractor under</u>
26 <u>AS 08.64.101(6);</u> or
27 <u>(2)</u> [BY REASON OF] a recommendation or action <u>in accordance</u>
28 <u>with the prescribed duties</u> of <u>a licensing</u> [THE] board<u>,</u> [OR] peer
29 review committee <u>established to review a licensing matter, committee</u>

1 appointed under AS 08.64.336(c), or contractor or agent of a contrac-
2 tor under AS 08.64.101(6) when the person acts in the reasonable
3 belief that the action or recommendation is warranted by facts known
4 to the person, [OR TO THE] board, [OR] peer review committee, commit-
5 tee appointed under AS 08.64.336(c), or contractor or agent of the
6 contractor under AS 08.64.101(6) after reasonable efforts to ascertain
7 the facts upon which the action or recommendation is made.
8 * Sec. 2. AS 08.02 is amended by adding a new section to read:
9 Sec. 08.02.030. COURTESY LICENSES. (a) A board established
10 under this title and the Department of Commerce and Economic Develop-
11 ment, with respect to an occupation that it regulates under this
12 title, may by regulation establish criteria for issuing a temporary
13 courtesy license to nonresidents who enter the state so that, on a
14 temporary basis, they may practice the occupation regulated by the
15 board or the department.
16 (b) The regulations adopted under (a) of this section may in-
17 clude limitations relating to the
18 (1) duration of the license's validity;
19 (2) scope of practice allowed under the license; and
20 (3) other matters considered important by the board or the
21 department.
22 * Sec. 3. AS 08.64.101 is amended to read:
23 Sec. 08.64.101. DUTIES. The board shall
24 (1) examine and issue licenses to applicants;
25 (2) develop written guidelines to ensure [INSURE] that
26 licensing requirements are not unreasonably burdensome and the issu-
27 ance of licenses is not unreasonably withheld or delayed;
28 (3) submit an annual report of its proceedings to the
29 governor, including a statement of money received and disbursed;

(4) after a hearing, impose disciplinary sanctions on persons who violate this chapter [,] or the regulations or orders of the board;

(5) adopt regulations ensuring [INSURING] that renewal of licenses is contingent upon proof of continued competency on the part of the licensee; and

(6) under regulations adopted by the board, contract [COORDINATE] with private professional organizations to establish an impaired medical professionals program to identify, confront, evaluate, and treat persons licensed under this chapter who abuse addictive substances.

* Sec. 4. AS 08.64.130 is amended by adding new subsections to read:

(b) The board shall maintain records for each person licensed under this chapter concerning malpractice actions and their outcomes as reported under AS 08.64.200(a).

(c) The board shall make available to the public the information maintained under (a) and (b) of this section for each person licensed under this chapter.

* Sec. 5. AS 08.64.190 is amended to read:

Sec. 08.64.190. CONTENTS OF APPLICATION. The application must [SHALL] state the name, age, residence, the duration of residence, the time spent in medical or osteopathy study, the place, year, and school in which degrees were granted, the applicant's medical work history, and other information the board considers necessary. The application shall be made under oath. The board may verify information in the application through direct contact with the appropriate schools, medical boards, or other agencies that can substantiate the information.

* Sec. 6. AS 08.64.200 is amended to read:

1 Sec. 08.64.200. QUALIFICATIONS OF PHYSICIAN APPLICANTS. (a)
2 Except for foreign medical graduates as specified in AS 08.64.225,
3 each physician applicant shall
4 (1) [REPEALED
5 (2)] submit a certificate of graduation from a legally
6 chartered medical school accredited by the Association of American
7 Medical Colleges and the Council on Medical Education of the American
8 Medical Association;
9 (2) [(3)] submit a certificate from a recognized hospital
10 certifying that the applicant has satisfactorily performed the duties
11 of resident physician or intern for a period of one year;
12 (3) submit a list of negotiated settlements or judgments in
13 claims or civil actions alleging medical malpractice against the
14 applicant, including an explanation of the basis for each claim or
15 action;
16 (4) not have a license to practice medicine in another
17 state, province, or territory which is currently suspended or revoked
18 for disciplinary reasons; and
19 (5) be a citizen of the United States or be lawfully admit-
20 ted for permanent residence.
21 (b) The board shall determine whether each physician applicant
22 has any disciplinary or other actions recorded in the nationwide
23 disciplinary data bank of the Federation of State Medical Boards. If
24 the physician applicant was licensed or practiced in a jurisdiction
25 that does not record information with the data bank of the Federation
26 of State Medical Boards, the board shall contact the medical regula-
27 tory body of that jurisdiction to obtain comparable information about
28 the applicant.
29 * Sec. 7. AS 08.64.205 is amended to read:

Sec. 08.64.205. QUALIFICATIONS FOR OSTEOPATH APPLICANTS. Each osteopath applicant shall meet the qualifications prescribed in AS 08.64.200(a)(3) - (5) [AS 08.64.200(a)(4) AND (5)] and shall

(1) submit a certificate of graduation from the legally chartered school of osteopathy approved by the board;

(2) submit a certificate from a hospital approved by the American Medical Association or the American Osteopathic Association which certifies that the osteopath has satisfactorily completed and performed the duties of intern or resident physician for one year;

(3) take the examination required by AS 08.64.210 or be certified to practice by the National Board of Examiners for Osteopathic Physicians and Surgeons.

* Sec. 8. AS 08.64.209(a) is amended to read:

(a) Each applicant who desires to practice podiatry shall meet the qualifications [QUALIFICATION] prescribed in AS 08.64.200(a)(3) and (4) [AS 08.64.200(a)(4)] and shall

(1) submit a certificate of graduation from a legally chartered school of podiatry approved by the board;

(2) take the examination required by AS 08.64.210; the State Medical Board shall call to its aid a podiatrist of known ability who is licensed to practice podiatry to assist in the examination and licensure of applicants for a license to practice podiatry;

(3) meet other qualifications of experience or education which the board may require.

* Sec. 9. AS 08.64.225 is amended to read:

Sec. 08.64.225. FOREIGN MEDICAL GRADUATES. Applicants who are graduates of medical colleges not accredited by the Association of American Medical Colleges and the Council on Medical Education of the American Medical Association must [OR ONE OF ITS AGENCIES SHALL] meet

1 the requirements of AS 08.64.200(a)(2) - (5) and 08.64.255, [AS 08.-
2 64.200(a)(3), (4) AND (5)] and must have passed examinations as spec-
3 ified by the board in regulations [AN EXAMINATION AND BE CERTIFIED BY
4 THE EDUCATION COUNCIL ON FOREIGN MEDICAL GRADUATES,] or be licensed by
5 examination in another state or territory of the United States or
6 province or territory of Canada.
7 * Sec. 10. AS 08.64.230(a) is amended to read:
8 (a) If the physician applicant passes the examination and meets
9 the requirements of AS 08.64.200 and 08.64.255, the board shall grant
10 a license to the applicant to practice medicine in the state.
11 * Sec. 11. AS 08.64.230(b) is amended to read:
12 (b) If the osteopath applicant passes the examination and meets
13 the requirements of AS 08.64.205 and 08.64.255, the board shall grant
14 a license to the applicant to practice osteopathy in the state.
15 * Sec. 12. AS 08.64.240(a) is amended to read:
16 (a) The board may not grant a license if
17 (1) the applicant fails or cheats during the examination;
18 (2) the applicant has surrendered a license in another
19 jurisdiction while under investigation and the license has not been
20 reinstated in that jurisdiction;
21 (3) the board determines that the applicant is profession-
22 ally unfit to practice medicine or osteopathy in the state; or
23 (4) [(3)] the applicant fails to comply with a requirement
24 of this chapter.
25 * Sec. 13. AS 08.64.250 is amended to read:
26 Sec. 08.64.250. LICENSE BY CREDENTIALS. The board may waive the
27 examination requirement and license by credentials if the physician or
28 podiatry applicant meets the requirements of AS 08.64.200 or 08.64.-
29 209, submits proof of continued competence as required by regulation,

1 pays the required fee and has
2 (1) an active license from a board of medical examiners
3 established under the laws of a state or territory of the United
4 States or a province or territory of Canada issued after thorough
5 examination; or
6 (2) passed an examination as specified [GIVEN] by the board
7 in regulations [NATIONAL BOARD OF MEDICAL EXAMINERS OR THE FEDERATION
8 OF STATE MEDICAL BOARDS OF THE UNITED STATES IF THE APPLICANT IS A
9 PHYSICIAN, OR PASSED AN EXAMINATION GIVEN BY THE NATIONAL BOARD OF
10 PODIATRY EXAMINERS IF THE APPLICANT IS A PODIATRIST].
11 * Sec. 14. AS 08.64.270 is amended to read:
12 Sec. 08.64.270. TEMPORARY PERMITS. (a) The board may issue a
13 temporary permit to a physician applicant, osteopath applicant, or
14 podiatry applicant who meets the requirements of AS 08.64.200, 08.64.-
15 205, [OR] 08.64.209, or 08.64.225 and pays the required fee.
16 (b) A temporary permit issued under this section is valid for
17 six [EIGHT] months and shall be reviewed by the board at the next
18 regularly scheduled board meeting that occurs after its issuance [OR
19 UNTIL THE BOARD MEETS TO CONSIDER THE APPLICATION, WHICHEVER OCCURS
20 FIRST].
21 (c) A temporary permit issued under this section may not be
22 renewed [AT THE BOARD'S DISCRETION ONE TIME ONLY].
23 * Sec. 15. AS 08.64.270 is amended by adding new subsections to read:
24 (d) The fee for a permit issued under this section is one-fourth
25 of the fee for a biennial license, plus the appropriate application
26 fee.
27 (e) Upon application by the permittee and approval of the board,
28 a permit issued under this section may be converted to a biennial
29 license upon payment of the biennial fee minus the six-month permit

1 fee paid under (d) of this section, plus the appropriate application
2 fee.
3 * Sec. 16. AS 08.64.272(b) is amended to read:
4 (b) For the limited purpose of residency or internship, the
5 board may issue a permit to an applicant without examination if the
6 applicant meets the requirements of AS 08.64.200(a)(1) [AS 08.64.-
7 200(a)(2)] and applicable regulations of the board, meets the require-
8 ments of AS 08.64.279, pays the required fee, and has been accepted by
9 an eligible institution in the state for the purpose of residency or
10 internship.
11 * Sec. 17. AS 08.64.275(a) is amended to read:
12 (a) A member of the board or its executive secretary may grant a
13 temporary permit to a physician or osteopath for the purpose of sub-
14 stituting for another physician or osteopath licensed in this state.
15 The permit is valid for 60 [120] consecutive days. If circumstances
16 warrant, an extension of the permit may be granted by the board.
17 * Sec. 18. AS 08.64.275(b) is amended to read:
18 (b) A physician applying under (a) of this section shall pay the
19 required fee and shall meet the requirements of AS 08.64.200 and
20 08.64.279. In addition, the physician shall submit evidence of hold-
21 ing a license to practice medicine in a state or territory of the
22 United States or in a territory or province of Canada.
23 * Sec. 19. AS 08.64.275(c) is amended to read:
24 (c) An osteopath applying under (a) of this section shall pay
25 the required fee and shall meet the requirements of AS 08.64.205 and
26 08.64.279. In addition, the osteopath shall submit evidence of hold-
27 ing a license to practice in a state or territory of the United States
28 or in a territory or province of Canada.
29 * Sec. 20. AS 08.64.275 is amended by adding a new subsection to read:

1 (e) Permits and extensions of permits issued under this section
2 to an individual are not valid for more than 240 days during any
3 consecutive 24 months.
4 * Sec. 21. AS 08.64 is amended by adding new sections to read:
5 Sec. 08.64.276. RETIRED STATUS LICENSE. (a) On retiring from
6 practice and payment of an appropriate one-time fee, a licensee in
7 good standing with the board may apply for the conversion of an active
8 or inactive license to a retired status license. A person holding a
9 retired status license may not practice medicine, osteopathy, or
10 podiatry in the state. A retired status license is valid for the life
11 of the license holder and does not require renewal. A person holding
12 a retired status license is exempt from AS 08.64.312.
13 (b) A person with a retired status license may apply for active
14 licensure. Before issuing an active license under this subsection,
15 the board may require the applicant to meet reasonable criteria as
16 determined under regulations of the board, that may include submission
17 of continuing medical education credits, reexamination requirements,
18 physical and psychiatric examination requirements, an interview with
19 the entire board, and review of information in the national data bank
20 of the National Federation of State Medical Boards.
21 Sec. 08.64.279. INTERVIEW REQUIRED FOR PERMITS. An applicant
22 for an intern permit, a resident permit, or a temporary permit for
23 locum tenens practice must be interviewed in person by at least one
24 member of the board, the executive secretary of the board, or a person
25 designated for that purpose by the board.
26 * Sec. 22. AS 08.64.326(a) is amended to read:
27 (a) The board may impose a sanction if the board finds after a
28 hearing that a licensee
29 (1) secured a license through deceit, fraud, or intentional

misrepresentation;

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

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

(4) has been convicted, including conviction based on a guilty plea or plea of nolo contendere, of

(A) a felony or other crime if the felony or other crime is substantially related to the qualifications, functions, or duties of the licensee; or

(B) a crime involving the unlawful procurement, sale, prescription, or dispensing of drugs;

(5) has procured, sold, prescribed, or dispensed drugs in violation of a law, regardless of whether there has been a criminal action;

(6) intentionally or negligently permitted the performance of patient care by persons under the licensee's supervision that does not conform to minimum professional standards even if the patient was not injured;

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

(8) has demonstrated

(A) professional incompetence, gross negligence, or repeated negligent conduct;

(B) addiction to, severe dependency on, or habitual overuse of alcohol or other drugs that [WHICH] impairs the licensee's ability to practice safely;

(C) unfitness because of physical or mental disabil-

1 ity;

2 (9) engaged in unprofessional conduct or in lewd or immoral
3 conduct in connection with the delivery of professional services to
4 patients;

5 (10) has violated AS 18.16.010;

6 (11) has violated any code of ethics adopted by regulation
7 by the board;

8 (12) has denied care or treatment to a patient or person
9 seeking assistance from the physician if the only reason for the
10 denial is the failure or refusal of the patient to agree to arbitrate
11 as provided in AS 09.55.535(a); or

12 (13) has had a license or certificate to practice medicine
13 in another state or [,] territory of the United States, or a province
14 or territory of Canada suspended or revoked unless the suspension or
15 revocation was caused by the failure of the licensee to pay fees to
16 that state, territory, or province.

17 * Sec. 23. AS 08.64.335 is amended to read:

18 Sec. 08.64.335. REPORTS OF DISCIPLINARY ACTION OR LICENSE SUS-
19 PENSION OR SURRENDER. The board shall promptly report to the Fed-
20 eration of State Medical Boards for inclusion in the nationwide disci-
21 plinary data bank license and permit refusals under AS 08.64.240,
22 actions taken by the board under AS 08.64.331, and license and permit
23 suspensions or surrenders under AS 08.64.332 or 08.64.334.

24 * Sec. 24. AS 08.64.336(e) is amended to read:

25 (e) A physician, hospital, [OR] hospital committee, or private
26 professional organization contracted with under AS 08.64.101(6) to
27 identify, confront, evaluate, and treat individuals licensed under
28 this chapter who abuse addictive substances that in good faith submits
29 a report under this section or participates in an investigation or

judicial proceeding related to a report submitted under this section is immune from civil liability for the submission or participation.

* Sec. 25. AS 08.64.380(7) is amended to read:

(7) "practice of medicine" or "practice of osteopathy" means:

(A) for a fee, donation or other consideration, to diagnose, treat, operate on, prescribe for, or administer to, any human ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition; or to attempt to perform or represent that a person is authorized to perform any of the acts set out in this subparagraph;

(B) to use or publicly display a title in connection with a person's name including "doctor of medicine," "physician," "M.D.," or "doctor of osteopathic medicine" or "D.O." or a specialist designation including "surgeon," "dermatologist," or a similar title in such a manner as [, OR ANY TITLE WHICH TENDS] to show that the person is willing or qualified to diagnose or treat the sick or injured;

* Sec. 26. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM April 2, 1990

SUBJECT: Sectional Analysis
(CSHB 146(HESS))

TO: Representative Ron Larson
Representative Lyman Hoffman
Co-Chairs, House Finance Committee

FROM: Terri Lauterbach TML
Legislative Counsel

Following is the sectional analysis you requested for CSHB 146(HESS):

Sec. 1. The amendments to AS 08.02.020(1) expand the current liability limitations for licensing board members to include witnesses before a board, members of committees that provide substance abuse counseling for licensees, and contractors with the board that provide substance abuse counseling for licensees. It is less clear what the amendments to AS 08.02.020(2) accomplish. The restructuring of this section has resulted in confusing language in this paragraph, and I suggest the committee carefully consider it. It is not clear who "the person" is on page 2, line 7. A board member? Any person acting in accordance with a board recommendation?

Sec. 2. Authorizes courtesy licenses.

Sec. 3. Provides contracting authority for the State Medical Board with respect to private professional organizations for impaired medical professionals programs.

Sec. 4. Requires the medical board to keep information about malpractice actions.

Sec. 5. Authorizes verification of applications. Requires applicants to describe their medical work history.

Sec. 6. Requires physician applicants to submit information about medical malpractice civil actions. Directs the Board to use alternative sources of information when national data bank information is not available.

Secs. 7 - 8. Technical amendments.

Sec. 9. Changes requirements for graduates of foreign medical schools.

Secs. 10 - 11. Requires personal interviews for physician and osteopath applicants.

Sec. 12. Adds language relating to licenses surrendered in other jurisdictions.

Sec. 13. Changes the examination requirement for licensure by credentials.

Secs. 14 - 15. Amend temporary permit requirements.

Sec. 16. Adds a requirement for a personal interview for residents and interns.

Sec. 17. Changes the locum tenens permit statute.

Secs. 18 - 19. Adds a requirement for a personal interview for locum tenens permits.

Sec. 20. Adds language to the locum tenens permit statute to limit these permits in duration.

Sec. 21. Authorizes retired status licenses and describes certain interview requirements.

Sec. 22. Adds a restriction to Board determinations of professional incompetence when unconventional or experimental practices have been used by a licensee.

Sec. 23. Adds Board-requested language to "broaden" their reporting responsibility to include actions related to permits. I have included this section for the sake of discussion only. If it is retained in the draft, there are many other sections in AS 08.64 where "permits" should be added, including the disciplinary, refusal, suspension, and surrender statutes cited in AS 08.64.335. If the Board thinks "permits" needs to be added in AS 08.64.335, where

does it think it is getting its authority to discipline permittees under AS 08.64.331 or to suspend or take surrendered permits under AS 08.64.332 and 08.64.334? Those statutes refer only to licenses. I think the better view is to interpret "license" throughout the chapter to include "permits" and not to have this section in the bill.

Sec. 24. Expands this immunity language to additional organizations that help substance abusers.

Sec. 25. Requires licensees to report to the board about malpractice claims.

Sec. 26. Adds language relating to the use of "M.D." in a person's title.

Sec. 27. Requires a report by the Board in 1992.

Sec. 28. Immediate effective date.

TL:pl
WKP4/001

HB 146

April 10, 1990

Honorable Max F. Gruenberg, Jr.
Co-Chairman
House Judiciary Committee
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Gruenberg:

You expressed surprise this afternoon over one particular portion of the Department of Commerce and Economic Development's position paper on CSHB 146(HESS). Having now reviewed the position paper itself, I can see why you would have been surprised. While the statements I made may be correct, I failed to indicate, as I did before the House HESS Committee (of which you are a member), that the Division of Occupational Licensing nevertheless does not object to the language in Section 22 of the bill. Indeed, I discussed the present version of HB 146 with the Medical Board just yesterday (April 9), and the Medical Board itself is also no longer as concerned. (Please see the enclosed letter from Dr. Conley regarding the present version of HB 146, which also does not mention any problem with Section 22 and states that the "board is generally pleased with the bill.")

Again, as I have stated to you and your staff, while we would no doubt prefer no amendment to this section, in the spirit of acceptable compromise, the division and the board do not object to the language presently contained in Section 22 and support passage of the bill in its present form.

Respectfully yours,

Randall P. Burns
Director

RPB/bkt1635c
041090a
Enclosure
cc: Linda Wild, Deputy Commissioner
Department of Commerce and
Economic Development

HB 146

FROM: Thomas L. Conley, Legislative Committee
State Medical Licensing Board
TO: State Legislature, State Medical Licensing Board, Other Interested Parties
DATE: November 20, 1989

SUBJ: Proposed Legislation, Explanation of Provisions

Enclosed please find a proposal for legislation to supersede our proposals of last year. It borrows heavily from last year's proposal, incorporates material form the Committee Substitute for HB 146 introduced in House Labor & Commerce and our response to that substitute and uses ideas from Elements of a Modern State Medical Board produced under a HRSA Contract with the Federation of State Medical Boards. For convenience and ease of understanding it is presented in what the committee hopes is standard bill form. The format could be used to introduce a newly numbered bill, as a committee substitute for HB 146 now in Labor & Commerce or taken apart and apportioned into HB 146 as the legislature desires.

The proposed legislation is designed to produce greater efficiency in interviewing candidates for licensure, afford liability protection to the impaired physician program volunteers, close some loopholes in present license provisions, effectively define the difference between temporary and locum tenens licenses, and create categories for retired licensees and for those accompanying sporting teams, especially those accompanying Olympic athletes. It also seeks to prevent diversion of amphetamines (speed) into illegitimate channels and prevent improper prescribing. A strong feature of the proposal is a new definition of immunity, indemnity and protected communication that would apply to all boards [Section 1, revised AS08.02.020]. It is hoped this is a "bullet proof" definition in this important area. It is argued that it should carry a "no sum" fiscal note for though it promises indemnity the immunity grant is so complete as to preclude all but a madman from bringing an action. It is indeed sad to realize, but a clearly inescapable conclusion, that fear of liability is the brake on the whole enterprise and that there can be no cooperation expected in licensing and discipline from hospitals and physicians unless immunity and indemnity is absolute. We hope this language and subsidiary language in other sections, accomplishes this goal. In other sections this definition is applied to the protection of groups such as the impaired physician program and committees reviewing individual physician's competence, by making them agents of the board for the limited purpose of their assignment. Responses by the Attorney General to individuals inquiring into what protection is offered them by the state should they cooperate in good faith with the board in these areas has been quite chilling and the protection promised

flimsy to non-existent. The board is not surprised that we have been completely unable to get volunteers especially to fulfill the provisions of Sec. 08.64.336(c).

It will be helpful to review the bill by sections:

A. Section 1 is referred to above.

B. Sections 2 & 20 are to be read together. "Contract" is substituted for "coordinate" in the language to permit a legal bond between the board and the impaired professional program so that the program can be designated an agent of the board for purposes of immunity and indemnity under 08.02.020. The language adding identification and confrontation to the programs writ conforms to standard practice for such programs, strengthens their effectiveness and by defining such activity as normative and expected further strengthens protection against legal action.

C. Section 3 is adopted from the proposed substitute for HB 146 in Labor and Commerce.

D. Section 4 is similarly adopted from CS for HB 146 (L&C) with deletion of language referring to reporting of claims made. The board feels that the investigation of such reports would serve no useful purpose but would dramatically increase expenses and necessitate a substantial fiscal note for the bill.

E. Sections 5 & 6 are adopted form CS for HB 146 (L&C).

F. Section 7 takes language from CS for HB 146 (L&C), properly designates the agency that accredits medical schools and moves specification of exams into regulation. This latter reflects substantial change expected over the next two years as the ECFMG test is phased out and becomes unavailable and all graduates, US and foreign, become required to follow the same examination pathway to be administered conjointly by the Education Council on Foreign Medical Graduates, the National Board of Medical Examiners and the Federation of State Medical Boards. Putting the matter in regulation permits the board to respond to these changes expeditiously - the final result over several years will be a single national test sequence which we will as a matter of course require as will all jurisdictions (in any case nothing else will be available).

G. Section 8 is adopted from CS for HB 146 (L&C).

H. Section 9. This section closes a loophole. At present, persons who have surrendered a license in another jurisdiction while under investigation are free to apply in Alaska (if they have had the license revoked they are not so permitted). It seems sensible to require that they clear up their problem one way or another in the prior jurisdiction before

applying in Alaska.

I. Section 10. This section also clarifies that required examinations for licensure will appear in regulation.

J. Section 11 & 13 are to be read together.

In the past a temporary license was granted to an individual who had completed <u>all</u> the requirements for a permanent license including an interview and was waiting for the board to meet to confirm the material and grant permanent licensure.

The locum tenens license though statutorily designed to be used only by those substituting for another physician developed an expanded, and to the board, uncomfortable meaning. It was used as intended for substitute physicians but was also used to cover individuals who came to Alaska to work in seasonal jobs, emergency rooms, etc., and those coming up briefly to see if they wanted to relocate to Alaska. Often they were not actually substituting for an Alaskan physician but there seemed no other reasonable category in which to place them without requiring permanent licensure. Some individuals also seemed to acquire such permits on a regular basis and as it were, acquire sort of a permanent license at a cut rate.

By coordinating AS08.64.270 and AS08.275 the board hopes to create two categories.

a) Temporary Permit - good for 6 months and requiring all the documentation required for a permanent license plus interview by a board member to be used

   1) While waiting formal board action at the next regular meeting at which point it is converted to a permanent license.

   2) By those filling a temporary slot in an emergency room, seasonal clinic, etc. but not substituting for an Alaskan physician.

   3) By those moving to the state who have not yet decided if they wish to stay permanently.

   4) Individuals in category 2 & 3 (or for that matter those who wish to get frequent locum tenens permits) can then move on to permanent licensure by paying the remnant 75% of the permanent licensure fee any time up to 6 months after

getting the temporary as they will have complied with all the requirements. The board would still have the discretion of putting a hold on this if the individual had gotten into trouble during the 6 month temporary period.

b) Locum Tenens Permit - good for 60 days with one renewal and a limit of 240 days in any two years between new permits and renewals. It would require somewhat less documentation than a temporary (but demand a currently valid license in another jurisdiction and clearance by National Federation of State Medical Boards) plus an interview by either a board member or the board's executive secretary. It could be used only by one substituting for an Alaskan physician who would have to be specifically designated. An individual who chose to function repeatedly in the role (i.e. beyond 240 days in two years) would be expected to get a permanent license (either directly or through the temporary license route) in his own right, not as a substitute.

K. Sections 11, 12, 13, and 15 should be read together in reference to new Section 08.64.278. Present statute requires that all licensees and permittees be interviewed by at least one board member. Present policy requires that should the interviewer feel unsure about granting the license after the interview that an interview by the whole board and appropriate investigation by the division be carried out before licensure.

The interview requirement is one that was set by the legislature many years ago. What the legislative intent was is unclear to the board and my research through older versions of the statutes back to 1948 doesn't clarify the issue. Our practical experience is that it has some utility in determining that the applicant is indeed who he says he is (documents and pictures match, etc.), seems to be sober and not flagrantly psychotic, and seems to present a logical sequence of training. The board recognizes that the interview is of significantly less importance than careful review of notarized training, residency, hospital privilege, specialty board testing, and licensure (in other jurisdictions) documentation plus clearance by the DEA and National Federation of State Medical Boards.

Interviews are carried out by both physician and non-physician members of the board without distinction. There is no attempt to use the interview as a test of knowledge both for practical and statutory reasons.

The interviewing of permanent and temporary licensees (most of the latter are expected to go on to permanent license status) should appropriately remain with board members exclusively. It is being found however that interviewing residency and locum

tenens candidates is placing a severe burden on board members' time especially in Anchorage and Fairbanks and leading to delays and resentment on the part of both candidates and volunteer board members. It seems appropriate then that our executive secretary should take on part of that task. That individual is trained in statute and regulation and is familiar with training and testing cycles and the methods of acceptable identification.

L. Section 14. Retired License.

This provision seeks to do a number of things. It is recognized that there are a number of physicians who retain licensure beyond the time it is reasonable for them to practice out of the sense of pride licensure brings them and because of an oddity in statute that prohibits them from using the "M.D." after their name if not licensed. (The statute, 08.02.010, is designed to prevent the unlicensed from deluding the public as to their qualifications).

It is felt that a permanent retired license status will serve their purposes and protect the public health. Retired status should also appeal to those who are effectively retired and presently faced with CME requirements they cannot meet because of age and infirmity. The CME statutes at present make no provision for people in this status.

The proposed stature while not precluding reactivation of retired licenses would empower the board to make very certain that the individual was competent to resume such practice.

M. Section 15. Courtesy License.

This would permit the board to grant courtesy licensure, under appropriate restrictions, to medical practitioners accompanying sports teams (such as the Olympic teams if Anchorage gets the nod for Winter Olympics).

N. Section 17. Amphetamines.

It is clear that 99+% of all amphetamines prescribed are for weight reduction. It is clear that while they may be beneficial for 2-3 weeks, that after that they serve no purpose in that regard and lead to significant habituation. Amphetamine prescription in "weight reduction clinics" is the single most significant diversion point of these medications onto the illicit market.

The proposed legislation, adapted from Wisconsin statutes, recognizes the eight (8) valid uses of the medication (accounting for less than 1% of prescriptions) and makes other use subject to disciplinary sanction.

It will help us in slowing down diversion and will also help the ethical physician when importuned by individuals seeking such medications if he can inform those individuals that such prescribing is illegal.

Such provisions have proved quite useful in other states. From the personal experience of 15 years in a general practice in Ketchikan, I would remark that I have seen only two patients requiring amphetamines; one a patient with documented narcolepsy and one a patient with attention deficit disorder (hyperactivity) who was intolerant of Ritalin (Methylphenidate), the drug usually used for that condition along with Cylert (Pemoline). (Though hyperactivity is clearly over-diagnosed it is a real condition and occasionally requires drug therapy).

It is our suggestion that statutory language of a similar nature be inserted into the pharmacy statues to further control amphetamine use. The Division along with the boards of pharmacy, nursing and medicine, the DEA, the ASMA and State Troopers are presently engaged in a cooperative effort known as PADS (prescription abuse data system) to try to reduce diversion. The present statue will help in that effort.

O. Section 18. Reports of Disciplinary Action or License Suspension or Surrender.

When this section was crafted for HB 70 in 1986-87, we neglected to insert the word permit. Since certain of our licenses (temporary, locum tenens) and our physician assistant authority are referred to as permits, it could be argued we are prevented from reporting disciplinary and other actions concerning these licenses and permits. We have considered that such reports fall under the legislative intent of the statute so have proceeded to submit reports when appropriate but feel it would be best to clean up the language.

P. Sections 19 & 20 should be read in conjunction with the introduction and Section 1 on immunity, indemnity and protected communication.

Q. Section 21. Preserving Sanctions of the Board.

The division, the board, and the National Federation of State Medical Boards regard medical licensure as a privilege granted to individuals by the state for the convenience and health of its citizens. It is not an inherent right of individuals any more than is a drivers license. Thus when there is good and sufficient reason for the board to believe an individual is not practicing safely and endangering the public health, it seems reasonable to permit sanctions imposed to stand unless and until a court of competent jurisdiction overrules the board on appeal. It must be remembered the board acts cautiously

and in full compliance with the administrative procedures act, assuring rights to a complete hearing, before acting on a license sanction. To then have a court stay the action for long periods of time while an appeal is heard seems to be significantly detrimental to the public's health and safety. In one particularly notorious case within the board's experience an incompetent practitioner who had caused a number of deaths was permitted to practice for seven years after the board revoked his license while he slowly pursued appeals all the way to the U.S. Supreme Court. The board's action was upheld at each level but the practitioner was permitted to endanger the public for an additional seven years after original revocation.

The present statute, with language which protects the licensee against arbitrary action by the board, seeks to correct this most unfortunate state of affairs.

Recognizing that there could be problems with this section if the courts rule that it arrogates to the board functions more proper to the court an alternate method of addressing the problem is presented in an addendum as a change in court rules. It would need to be reworked and properly placed in court rules by Legislative Drafting so there has been no attempt to number it as the committee lacks the expertise for the task.

R. Section 22.

The change is requested as the board finds itself spending inordinate amounts of time and state legal funds pursuing individuals who have earned the academic title M.D., but who are not licensed and who "display" the title in other settings than in seeking patients (i.e., teaching, journal articles, legal consulting, out of personal pride, etc.). The proposed change would permit us to ignore such trivial matters while still empowering the board to pursue those using the title M.D. to dupe the public into believing they can legally diagnose and treat the sick and injured.

Any questions concerning the proposals can be directed to:

Anchorage	Abigail Hensley, Secretary, State Medical Board	346-1802
Anchorage	Pamela Ventgen, Executive Secretary, State Medical Board	561-2878
Ketchikan	Thomas L. Conley, Member, State Medical Board	225-4483
Juneau	Randall Burns, Director, Division of Occupational Licensing	465-2534
Juneau	James Thompson, Chairman, State Medical Board	586-8447

CSHB 146 (HESS) "An Act limiting civil liability for damages relating to certain occupational licensing functions; authorizing temporary courtesy licenses for certain occupations; relating to powers and duties of the State Medical Board; requiring persons licensed by the State Medical Board to report medical malpractice civil actions; requiring the State Medical Board to make a report relating to the use of malpractice claims histories to determine medical competency and to impose sanctions on its licensees; and providing for an effective date."

This bill contains a number of provisions which would increase the effectiveness of the State Medical Board in the performance of its duties relating to 1) licensing and permitting medical professionals; 2) reviewing the malpractice claims histories of physicians already licensed in Alaska; and 3) creating a retired status license for physicians retired from active practice. In addition, the bill somewhat increases the immunity provisions for persons -- including witnesses -- assisting occupational licensing boards in general in carrying out their enforcement duties and functions, and creates a "courtesy" status permit for various professionals visiting Alaska.

Section 1 of the bill, amends AS 08.02.020 by extending and clarifying the "limitation of liability" provisions already in law to encompass witnesses, medical board convened physician review panels, and impaired practitioner program volunteers who assist the Medical Board through the provision of consultation and expert testimony services relative to Division of Occupational Licensing (hereinafter "division") disciplinary cases.

At the present time, various licensing boards and the division have experienced difficulty in identifying in-state licensed professionals willing to serve in advisory capacities to the boards on individual discipline cases or involve themselves in physician impaired practitioner programs. This reluctance flows from the professionals' legitimate personal liability fears that licensees ("respondents" in discipline cases) who are being investigated will decide to personally sue the professional or witness who is providing their services to a board or the division.

The department supports the protections this will provide to persons assisting the division and its regulatory boards in licensing actions. Without this language, the state's ability to turn to licensees or other witnesses to assist in disciplinary matters will continue to be severely impeded.

Section 2 of the bill would give the state's twenty-one (21) licensing boards and commissions the ability to issue a "courtesy" license to visiting professionals. This idea was originally conceived in order to accommodate Olympic team physicians when it was anticipated that the Olympics would be coming to Alaska.

In working up this proposal, it was discovered that there are many other occasions when a courtesy license would be helpful: visiting Iditarod veterinarians; international sporting teams playing in Anchorage accompanied by their team physician; visiting foreign delegations accompanied by a variety of professionals. This new provision would allow for the courtesy licensing of visiting professionals and would allow the boards to authorize limited practice restricted to the treatment of or professional assistance to members of their sports team or delegation while visiting in the state.

Section 3 amends AS 08.64.101 to clarify the Medical Board's (hereinafter "board's") authority to contract with a private professional organization to establish an impaired physician program. The word "contract" is a more accurate term for the relationship between the board, the division, and the private organization establishing such a program, and creates a legal bond between the state and the program in order that the program can be designated an agent of the board for purposes of liability limitations under AS 08.02.020. This section also adds language which more clearly states the range or scope of the impaired physician program, and requires that the board adopt regulations concerning the impaired medical professionals program.

Thus, this section extends immunity protections to physicians serving in a voluntary capacity on the impaired physician program committee. Currently, the physicians and intervenors serving on the impaired physician committee have done so with considerable personal risk, given their vulnerability to suit by an angry colleague.

Section 4 of HB 146 pertains to board records and adds two new subsections to AS 08.64.130. The first new subsection [subsection (b)] directs the board to maintain records on each licensed physician concerning civil malpractice actions and their outcomes. The second new subsection [subsection (c)] simply requires that the malpractice records received under new subsection (b) be available to the public, just as board records regarding the admission of licensed physicians are already available to the public.

Section 5 amends AS 08.64.190 to add to the list of application procedures the requirement that the applicant provide his or her medical work history. The board has, by policy decision, already begun independent verification of each applicant's medical school and internship program records. Section 5 amends AS 08.64.190 to place into statute the specific authority of the board to scrutinize the applicant's medical work history.

Section 6 of the bill amends board provisions concerning the qualifications of physician applicants. The bill adds language to AS 08.64.200 to require the physician applicant to provide an explanation of all negotiated settlements or judgments in claims or civil actions alleging medical malpractice against the applicant.

New language in this section also provides for the board, or the division on its behalf, to contact other licensing jurisdictions directly if an applicant for licensure in Alaska was licensed in a jurisdiction that does not report its disciplinary actions affecting physicians to the Federation of State Medical Boards. The Federation maintains the disciplinary data bank which is accessed by most jurisdictions for information on physician applicants.

Section 7 amends AS 08.64.205 which deals with qualifications for licensure of osteopathic physician applicants and merely makes these sections equivalent to the allopathic physician applicant requirements in AS 08.64.200, as amended in Section 6 of this bill.

Similarly, Section 8 makes parallel amendments for podiatry applicants.

Section 9 amends the statutory provisions affecting foreign medical graduates by clarifying the language for verification of foreign medical credentials. The proposed language more accurately identifies the national agency responsible for accrediting medical schools and moves the examination specifications into regulation. This action will accommodate substantial changes expected over the next two years as the Educational Commission for Foreign Medical Graduates (ECFMG) exam is phased out and all medical school graduates (U.S. and foreign alike) are required to follow the same examination pathway.

Sections 10 and 11 of the bill clarify the interview requirement for licensure.

Section 12 amends the grounds on which the board may refuse to grant a license. This amendment closes an existing loophole in the statute. Currently, persons who have surrendered a license in another jurisdiction while under disciplinary investigation by that jurisdiction are free to apply for licensure in Alaska. It then falls to the board to spend considerable time and money investigating the causes of the disciplinary problem in that other jurisdiction (in a sense, duplicating the actions of that jurisdiction) in order to determine whether it is appropriate to license the physician, deny the license, or place some conditions on the license.

It seems sensible from a public protection standpoint to require that the physician under disciplinary review in one jurisdiction resolve his or her discipline problem in that jurisdiction before being eligible to apply for licensure in Alaska.

Section 13 contains primarily housekeeping changes to recognize applicants from both the provinces and territories of Canada and to allow for flexibility concerning upcoming changes in the medical examination pathways by putting exam specifications into regulation.

Section 14 and 15 of HB 146 amends physician "temporary" permit provisions by changing the present nature of a temporary permit. Currently, a temporary permit is available to a physician who is applying for a permanent license in the state, has completed all of the documentation for application, and is merely awaiting the next medical board meeting to have his or her application reviewed by the board. The new provisions in this section would allow physicians to serve temporary "tours of duty" in Alaska or to come to Alaska for a brief period of time to determine whether or not they wish to relocate their practice to Alaska.

This section provides that physicians seeking temporary licensure must complete a full, permanent license application and would be issued a temporary permit for up to six months at a reduced fee. If, at the end of that period of time, the physician with the temporary license wishes to seek permanent licensure, he or she would merely pay the remainder of the licensing fees for the biennial licensing period. If the physician has decided not to stay, the temporary permit expires. A temporary license could not be renewed under the proposed amendment.

Section 16 contains primarily housekeeping changes to bring the requirements for intern and resident-in-training permits in line with requirements for other physician applicants, and providing for interviews by the medical board executive secretary or other board designated person.

Section 17 limits a locum tenens permit to sixty (60) consecutive days from its current 120 days, and allows the executive secretary of the board to conduct interviews and issue permits to locum tenens physicians.

The board also wishes to restrict the use of the locum tenens permit to its intended statutory purpose, which is to allow a physician licensed in another state to substitute for an Alaska-licensed physician for a limited period of time. These amendments in Section 17-20 are companion to the changes made to the temporary permit in Sections 14 and 15 of the bill and would further clarify the distinction between those physicians coming to Alaska specifically to substitute for an Alaska licensed physician (locum tenens permit) and those coming to take a "look-see" to determine if they wish to pursue practice in Alaska (temporary permit).

Also in these sections are some housekeeping changes which would bring this section into line with the rest of the medical practice act relative to interviews and references to both the provinces and territories of Canada.

Sections 18 and 19 contain housekeeping changes similar to those in Section 16.

Section 20 limits the length of time a physician could work under a locum tenens permit. If a physician found it necessary to work more than 240 days during any consecutive 24 months, the physician would be required to meet the requirements for full licensure.

Section 21 of HB 146 creates a new section, AS 08.64.276, establishing a retired status license. There are a number of physicians who retain licensure far beyond the time it is reasonable for them to practice, mostly out of a sense of pride that licensure brings them and because of an oddity in statute that prohibits them from using the "M.D." after their name if not licensed. (That statute, 08.02.010, is designed to prevent the unlicensed from deluding the public as to their qualifications.)

It is felt that a permanent retired license status will both serve elderly physicians wishing to retain their M.D. title and protect the public. Retired status should also appeal to those physicians who are effectively retired and presently faced with CME requirements they cannot meet due to age and infirmity. The proposed language also empowers the board to make very certain the physician is competent, should a retired physician wish to return to active status.

Section 21 also creates a new section (AS 08.64.279) that authorizes the executive secretary or other designee of the board to conduct certain physician candidate interviews. This greatly enhances the efficiency and effectiveness of the board without compromising the standards for license and permit requirements. The executive secretary or board designee would conduct interviews for the variety of short-term licenses and permits that are issued by the Medical Board; however, this amendment does not remove the requirement that a physician getting permanently licensed in Alaska must be interviewed by a member of the board itself.

In recent years, individual board members have encountered severe difficulty in accommodating the requirement imposed on board members to interview locum tenens physicians. As a result, the board has, by policy, delegated to the executive secretary the authority to conduct these interviews where feasible. This language would put that authority into statute.

Section 22 amends the grounds for imposition of disciplinary sanctions in AS 08.64.326. The amendments are primarily very minor housekeeping changes, but do include a fairly controversial revision to the "professional incompetence" standard (page 11, lines 3 - 5). This section adds a qualifier stating that the board may not impose disciplinary sanctions "solely on the basis that a licensee's practice is unconventional or experimental."

The medical board considers this inclusion unnecessary and somewhat offensive because of its implication that the board has in the past based a finding of medical incompetence on the mere fact that a particular practice is "unconventional or experimental." The board and the division see this as special interest language supported by only one of two physicians to tie the board's hands in scrutinizing questionable medical therapies and practices that may place patients at risk.

Section 23 of the bill amends board statutes which address reports of disciplinary action to the Federation of State Medical Boards and the National Practitioner Data Bank. Present language specifies that disciplinary action taken against licensees is to be reported. The changes in this section broaden the reporting to include temporary, residency, locum tenens and physician assistant permit holders, as well. The board reports disciplinary actions against permit holders, considering that such reporting falls under the legislative intent of the statute, but we believe it would be best to have specific language in the statute authorizing such reporting.

Section 24 amends the "duty to report" provisions of the Medical Board's statute by strengthening the subsection having to do with peer review and physician assistance in investigatory cases, making clear that the limited liability provisions of amended AS 08.02.020 (Sec. 1 of this bill) apply to those persons assisting the board in determining the competency of a physician and his or her potential danger to the public. This section also specifically includes the impaired physician program volunteers in the immunity protections provided for in this section of the statute.

Section 25 amends the board statutes by creating a new section that requires licensed physicians to report to the board any civil malpractice actions filed against them. This is information currently not readily available to the board. It is conceivable that this additional information, combined with consumer complaints and investigatory information obtained independently by the division, could perhaps "tip the scales" in providing enough data to "make a case" against a physician who has been practicing "on the edge" of competency.

It would also allow the board to review such information and determine if there is cause for investigation and/or disciplinary action in those instances where the board/division had not received a complaint against the licensee the civil claim was filed against.

Although this section is controversial and not popular among the medical community, the department does not oppose this section of the bill at this time. We remain concerned, however, that this section -- while giving us more information than now required as a result of Federal Public Law 99-660 -- will engender opposition from the medical community and thus hinder passage of this bill. This concerns us because the bill contains many amendments to the board's statutes far more important to the consumer than this one section. Our belief is that only a reporting experience of some years will provide us with adequate data to determine the potential consumer protection value of collecting reports of malpractice claims.

Section 26 amends the definitions section to clarify the issue of who may use the designation "physician," "M.D.," "D.O.," etc. There is presently a great deal of concern over this statute because it effectively prohibits a person who is trained as a physician and received an M.D. degree but who is not licensed or practicing medicine from using the designation M.D. in teaching, authoring books, or other types of activities. It is hoped that the proposed language will clarify this issue and allow persons to use the academic designations they earned without misleading the public that they are licensed to diagnose and treat patients.

Section 27 of HB 146 is related to proposed new AS 08.64.345. It directs the Medical Board to submit a report to the Legislature by January 30, 1992. The report would contain the board's recommendations for statutory changes necessary to implement policies regarding review of medical malpractice claim data.

Section 28 is the effective date clause.

The State Medical Board and the division have spent considerable time reviewing these proposed changes and feel that they would greatly enhance not only the effectiveness of all occupational licensing boards vis-a-vis their discipline cases, but that the provisions directly impacting the Medical Board would solve a great many existing licensing complications and substantially benefit Alaska's consumers of medical services.

For the reasons stated above, this department supports passage of CSHB 146 (HESS).

Linda Weiss for
Larry Merculieff, Commissioner

Date: 4/2/90

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HB146

Commission investigating physicians

Times 10/10/88

MIAMI (AP) — The Federal Trade Commission is interviewing hundreds of Florida doctors and demanding minutes from medical societies' meetings in an investigation of emergency room boycotts last year, a newspaper reported.

"I don't see any smoking guns," said John Thrasher, general counsel for the Florida Medical Association. "My guess is had they had something, it would have developed by now and something would have been done about it."

The FTC is questioning doctors to determine if they acted as individuals or as a group when they began refusing emergency calls in response to a 33 percent to 42 percent hike in insurance premiums, The Miami Herald reported Sunday.

Federal antitrust laws prohibit businesses from acting together for financial gain.

"We're intimidated," said Dr. Charles Lipman, a thoracic surgeon in North Miami Beach. "It's kind of like you're up against the big boys and that's scary."

The FTC won't discuss the growing investigation, but Lipman and Dade County hospital officials said hundreds of doctors have been questioned, either voluntarily or after being subpoenaed.

Some doctors who canceled their insurance saw eliminating emergency room work as a way to reduce the risk of being sued. Their actions captured the attention of politicians who promised to do something about the cost of malpractice insurance in Florida.

Last spring, the Legislature passed a law making it harder to gain damages in lawsuits from doctors who deliver babies and work in emergency rooms. Injured people must now prove the doctor showed reckless disregard for their care, and all lawsuits involving brain-damaged babies are handled by a state compensation system instead of the courts.

The changes stabilized insurance premiums and brought some doctors back to emergency rooms.

But many more are refusing to return unless Florida voters approve Amendment 10 on the November ballot. The law would ease their malpractice insurance burden by capping non-economic damages or those a jury would give for pain and suffering at $100,000.

The FTC began last year to investigate whether doctors were legally trying to change the state malpractice law, or illegally trying to pad their wallets.

The agency has forced some medical societies to hand over minutes from meetings and all written communication between its members. That includes identical letters the Palm Beach obstetricians sent to hospitals announcing the boycott.

FTC spokeswoman Dee Ellison said the agency will try to make doctors found to have violated antitrust laws to agree to stop refusing emergency room care.

FORUM

Remaining ill, with bodies that cannot heal

By DR. ROBERT JAY ROWEN

The Daily News has done a laudable job in recent months reporting on the extent of poisoning of the environment and the appalling content of the typical American diet. The health insurance cost crisis has been presented, yet the wisdom to tie it all together continues to be lacking.

Three years ago, the News published a four-part series on modern cardiology extensively reporting on the latest "wonders" of medicine, drugs and bypass surgery. Not a word was written on prevention or nutritional approaches extolled by many "alternative practitioners," but now, years later, articles are published on the reversibility of coronary disease by diet, nutrition and exercise.

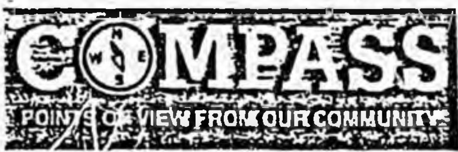
Concurrently, articles are finally reaching the lay public about the gross abuse and failure of the $50,000-plus bypass in America. Yet it and other surgeries continue.

In the '50s and '60s, the fad surgery was tonsillectomy. The '70s gave us hysterectomy. The '80s — bypass. Through it all was the maiming radical mastectomy. Skyrocketing insurance costs are often blamed on high technology.

Yet what has all this wizardry given us? Of all the expensive CAT scans, X-rays, MRI's and procedures performed, how many are positive? Or better yet, how many give us information that will actually help the patient instead of creating an intellectual pursuit for the physician and dollars for the industry? In truth, very few.

Treatment is often little better. Aside from costly and dangerous surgery, a quick glance through the bible of medicine, the "Physicians' Desk Reference," reveals that almost every drug used by the doctor is an anti: anti-hypertensive, anti-biotic, ant(i)-acid, antihistamines, etc.

All of these drugs are designed to interfere with physiologic functions. Physicians are wooed by grand promotions for drugs that are not only costly (and long-term, since they do not cure), but are



often very dangerous. With the possible exception of antibiotics (which don't cure if you don't have an immune system), what other drugs cure any disease?

Are hyperactive children born with a deficiency of Ritalin? What has medicine done to promote or enhance natural healing functions instead of suppressing symptoms? A single nutrient deficiency or excess sugar is known to impair immune function.

Drug treatment of high blood pressure has been going on for years, yet most studies indicate that patients might be better off without the drugs. Further, most hypertensives (and those with high cholesterol) have moderate to severe nutritional deficiencies brought on by the typical American diet, which contributes to the blood pressure and is never addressed, but is easily, inexpensively and safely treated.

The logic of natural selection suggests that humans have self-healing mechanisms, or we would have died out. Logic further suggests the body must get basic building blocks (nutrients) to repair itself and, further, must avoid toxins or poisons that interfere with normal or repair processes.

It has been standard medical training (mine included) to offer perhaps two hours on these simple truisms and months on drugs and surgical education. Yet published U.S. Drug Administration studies confirm that at least 99 percent of Americans are malnourished in at least one essential nutrient.

The epidemic of malnutrition and chemical contamination in this country parallels the rise in "unexplained illnesses." Insurance pays for the "usual and customary" (expensive drugs, surgery and procedures).

Studies have shown that patients with metastatic cancer fare worse with their $15,000 per year average chemical poison program (paid for by insurance and Medicare) than they would if they had done nothing!

Yet a $10 nutrient that could correct the imbalance creating a disorder and obviate a surgery or illness is not covered. The lay press is full of information on self-help, nutrition and healing from basic science journals that rarely makes it into the mainstream medical journals, which rely heavily on drug promotion. So doctors are kept in the dark.

Until physicians and insurance companies alike give attention to the three basic causes of biologic failures — malnutrition, toxic factors and stress — we will continue to pay more and get less as people remain ill with bodies that cannot heal.

☐ Dr. Robert Jay Rowen is an Anchorage physician.

STEVE COWPER
GOVERNOR

-1.5 -6

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that deals with the interview requirements for applicants for medical licenses and permits.

Present law requires that an applicant for a physician or osteopath license be interviewed by a member of the State Medical Board. These interviews allow the board to inquire into issues that cannot be effectively examined in written tests. They also help the board positively identify license applicants. The current law also contains some procedural safeguards that relate to license denials.

The bill also establishes a new interview requirement for medical permits that are issued by the board. This requirement does not provide the same procedural safeguards as for license applicants. This is because the minimal protection the safeguards would provide to permit applicants do not outweigh the administrative burden of giving written notice and explanation to them.

Section 5 of the bill creates the new requirement and says that either a member of the State Medical Board or its executive secretary may conduct the interview. Sections 3 and 4 say that an interview is a prerequisite for an intern or resident permit, or for a permit for temporary substitution, that is, for "locum tenens" practice.

Because this bill will help to ensure the compentency of persons who receive medical licenses and permits, I urge your passage of it.

Sincerely,

Steve Cowper
Governor

ELEMENTS OF A MODERN STATE MEDICAL BOARD

A PROPOSAL

6

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DATE: August 15, 1989

TO: Distinguished State Officials and Legislators

FROM: Melvin E. Sigel, MD, Chairman, Federation Project Work Panel

ABOUT: Enclosed *Elements of a Modern State Medical Board: A Proposal*

Enclosed for your consideration is a copy of a document recently completed by a special task force of the Federation of State Medical Boards of the United States. Called the Project Work Panel, the task force has spent over a year developing the *Elements of a Modern State Medical Board: A Proposal* under a federal contract awarded by the Health Resources and Services Administration of the US Department of Health and Human Services. The document was first introduced during a meeting of the National Conference of State Legislatures' Health Committee at the NCSL's annual meeting in Tulsa on August 7. Its preparation and purpose are discussed succinctly in its preface and introduction, which I hope you will read before reviewing the full document. Let me point out here, however, that **the *Elements* is not a policy or position statement by the Federation of State Medical Boards.** It is the result of the Project Work Panel's study and discussion under the federal contract and will be evaluated as carefully by the Federation as by others interested in enhancing the effectiveness of state medical boards.

My colleagues and I on the Project Work Panel would be pleased to receive your comments on our effort, and we hope you will find it useful as you evaluate your own medical board. The *Elements* will achieve its purpose if it stimulates constructive discussion concerning the structure and function of state medical boards in this country.

Should you have any comments or should you like to have additional copies of the *Elements*, please write to me care of Mr Dale G Breaden, Associate Executive Vice President, Federation of State Medical Boards, 2630 West Freeway, Suite 138, Fort Worth, Texas 76102-7199.

Thank you for your time.

MES:lm

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PREFACE

To be of value, an idea must be challenging enough to concern us a bit. Certainly, the idea of attempting to specify the elements fundamental to the structure and function of a modern state medical board meets that criterion, given the diversity of the states and the differences among the medical boards now in place. Needless to say, in undertaking preparation of the document you hold in your hand, the Federation of State Medical Boards of the United States was more than aware it faced a challenging idea, but one with which it had to deal.

In early 1988, the Division of Medicine of the Bureau of Health Professions, Health Resources and Services Administration, US Department of Health and Human Services, requested proposals for the development of a document on board structure and function to be a complementary companion to the fifth edition of the Federation's *Guide to the Essentials of a Modern Medical Practice Act.* It was clear the Federation must respond: no other organization had the knowledge, experience, and resources required for the task. And no other could offer as responsible and informed an effort. If the project was to be undertaken at all, and it surely was, the Federation had to do it. The Federation's proposal was accepted and the organization was awarded HRSA Contract Number 240-88-0040 to develop the document and make it available for consideration by the public, the states, the state medical boards, medical organizations, and others.

The result is the *Elements of a Modern State Medical Board: A Proposal.* It is the product of over a year of research, inquiry, meetings, consultation, drafting, and redrafting by a special Federation task force called the Project Work Panel (PWP). The *Elements* is not a detailed model for a complete state medical practice act; it is focused only on the structure and function of a modern state medical board and on the powers, duties, and protections basic to that structure and function. In that context, it reflects the study, concepts, opinions, knowledge, and experience of the members and consultants of the PWP as officers, members, attorneys, and staff of state medical boards and as Federation leaders. It is not intended to be, and is not, a policy or position statement by the Federation of State Medical Boards. Though the outgrowth of a federally funded project conducted under the auspices of the Federation, it will be reviewed and evaluated by the Federation's Board of Directors and membership as carefully and critically as it should be by a wide range of interested and involved agencies, organizations, and individuals. Far from perfect, the *Elements* is simply the best effort of the PWP to develop a proposal for the structure and function of a modern state medical board consistent with the principles expressed in the Federation's formally approved *Guide to the Essentials of a Modern Medical Practice Act.* It is offered as a stimulus for discussion of a number of issues vital to improving the regulation of the medical profession in this country.

During the past year, the PWP carefully studied the basic structural and functional outlines of sixty-five medical boards, contacted fifty-six boards in telephone surveys on several specific issues, reviewed in detail the medical statutes of thirty-eight states, and analyzed the potential impact of the *Elements* if implemented in eighteen widely differing state settings. While developing the document, the PWP benefited greatly from the advice, insight, and counsel of twenty-six state medical board members, eighteen of whom were board presidents, and twenty-three state medical board

executives. They deserve much of the credit for what you may find agreeable in the *Elements* and none of the blame for what you may find disagreeable. They certainly earned the PWP's warmest thanks for their kind cooperation and thoughtful assistance.

The *Elements* is the responsibility of the members and consultants of the PWP, acting at the behest of the Federation to fulfill its federal contract. Whether the project achieved its true purpose or not, only you and time can judge. The idea, however, was worth the trying.

The Federation Project Work Panel

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Associate Executive Vice President, Federation of State Medical Boards

INTRODUCTION

The organization and activities of each of the more than sixty medical regulatory boards (allopathic, osteopathic, and composite) within the United States are determined by a unique state statute, usually referred to as a *practice act*. The differences among these statutes are related to the general administrative structure of each jurisdiction and to the needs of the public as they are perceived by each responsible legislative body.

The *Elements of a Modern State Medical Board: A Proposal* is not intended to encourage movement toward total uniformity among these statutes. Given the diversity of administrative structures and the variations in perceived needs, that would be a futile exercise. In any case, such differences have a positive creative value, allowing the evolution and testing of a range of new approaches in a number of jurisdictions at once. In light of the concepts and principles it offers for consideration, the *Elements* is intended to nurture that creativity by encouraging the public, state legislators, medical boards, medical societies, and others who have an interest in the regulation of the medical profession to reexamine existing practice acts as they relate to the composition, structure, functions, responsibilities, powers, and funding of medical boards. In doing this, however, the *Elements* does **not** address issues relating to standards for licensure, grounds for disciplinary action, or rules and regulations. It is **not** an effort to provide a pattern for a complete medical practice act. It includes only those portions of an act the authors believe focus most directly on the medical board itself.

It is axiomatic that state medical boards can most effectively discharge their important responsibilities to society only if they are properly organized and effectively empowered. The project that resulted in development of the *Elements* was conceived because of the growing realization that some medical practice acts remain inadequate to enable boards to respond to broad public needs. While not advocating total uniformity, which would have a stultifying effect, the Federation of State Medical Boards has, for over three decades, encouraged and facilitated the improvement of the various state medical practice acts through its official publication, *A Guide to the Essentials of a Modern Medical Practice Act.* Now in its fifth edition, *A Guide to the Essentials of a Modern Medical Practice Act* has served as a highly effective stimulus to medical boards and state legislatures for periodic review and revision of their statutes. The *Elements* builds on the foundation of *A Guide to the Essentials of a Modern Medical Practice Act* and is, in effect, an explication of the chapters in that publication relating to board structure and function. Unlike the broad recommendations of *A Guide to the Essentials of a Modern Medical Practice Act*, however, the *Elements of a Modern State Medical Board: A Proposal* is presented in language and detail readily adaptable to statutory formats.

The *Elements* reflects not only relevant characteristics of effective current practice acts but also a number of innovative concepts not yet widely implemented. The result is a document, eclectic in its content, that its authors believe is worthy of consideration for adaptation to the requirements of any jurisdiction. While it could hardly be expected that any one jurisdiction would accept the *Elements* in every particular, the principles of responsibility, empowerment, and accountability the proposal clearly affirms should lead each jurisdiction to assess its present board to

determine if it provides maximum potential for protection of the public interest. Though presented for consideration as an integrated whole, the *Elements* offers significant approaches to a variety of issues that concern and trouble many boards: issues involving funding and budgeting, confidentiality, board authority, personnel and staffing, administration, emergency powers, training of board members, immunity and indemnity, standards of evidence, and the public's right to know, among other things. Any one or a combination of these approaches could be extracted from the *Elements* and adapted to meet the needs of specific boards.

In some states, responsibility for licensing and disciplinary functions is divided between two separate boards. In others, boards are subject to supervision or, in some cases, complete control by larger administrative or umbrella agencies. In a few, the board is simply an advisory body. In most states, the board regulates both allopathic and osteopathic physicians; in others, separate boards exist. And in some states, narrow constitutional restrictions inhibit effective board funding. Clearly, the *Elements* proposes a true working board with real and effective power and support, a proposal some states are much better prepared to implement than others. But it is also a reflection of those principles the authors consider to be basic to the operation of any accountable medical board, regardless of the administrative structure of the state, the size or distribution of the physician population being regulated, the form of legislation required for funding, or the title of the body to which responsibility and power for regulation have been entrusted. It can be drawn upon by both MD and DO boards, making appropriate adaptations in the area of board membership. Larger administrative agencies can use it to better assess their own structures and functions and to explore the broader roles their medical boards might play in meeting public expectations. The *Elements* includes significant material on a wide range of issues, much of which has the potential to benefit any administrative structure.

Recognizing the differences between and among jurisdictions, the authors have designed the *Elements* with the flexibility to accommodate as many of those differences as possible while maintaining the integrity of their overall concept. Specific flexible factors are designated in the text by bracketed, italicized segments and are footnoted. In addition, some sections empower a board to adopt alternatives of its choice provided they are in accord with other state statutes. Finally, some sections, such as that relating to board committees, are phrased permissively or in order to allow a board needed discretionary authority. In a sense, the *Elements* can be seen, not as one proposal, but as various proposals. Each is applicable, in one form or another, to a diversity of settings and all are aimed at increasing or refining the ability of state medical boards to protect the health, safety, and welfare of the public.

The Federation Project Work Panel

ELEMENTS OF A MODERN STATE MEDICAL BOARD

A PROPOSAL

I. LEGISLATIVE FINDINGS AND DECLARATION

As a matter of public policy, the practice of medicine is a privilege granted by the people of this State acting through their elected representatives. It is not a natural right of individuals. Therefore, in the interests of public health, safety, and welfare, and to protect the people from the unprofessional, improper, and incompetent practice of medicine, it is the responsibility of the Legislature to enact laws regulating the granting and subsequent use of the privilege to practice medicine and to ensure, as far as possible, that only qualified and fit persons hold that privilege. The fundamental purpose of this statute is to protect the public, and any license, certificate, or other practice authorization issued pursuant to this statute shall be a revocable privilege and no holder of such a privilege shall acquire thereby any irrevocable right.

II. DEFINITIONS

License: any license, certificate, or other practice authorization granted by the State Medical Board pursuant to this or any other applicable statute.

Licensee: the holder of any license, certificate, or other practice authorization granted by the State Medical Board.

Statute: this statute or any other statute applicable to the State Medical Board.

III. STATE MEDICAL BOARD

A. Board Created
There is hereby created the State Medical Board (hereafter referred to as the Board) to regulate the practice of medicine in this State in accord with this statute and to otherwise enforce this statute.

B. Delegation of Duty
The duty of determining a person's initial and continuing qualification and fitness for the practice of medicine, of proceeding against the unlawful and unlicensed practice of medicine, and of enforcing this statute is hereby delegated to the Board. That duty shall be discharged in accord with this statute.

C. Interpretation of Powers
It is necessary that the powers conferred on the Board by this statute be liberally construed to protect the health, safety, and welfare of the people of this State.

D. Board Membership

1. Number
The Board shall consist of *[from twelve (12) to twenty-four (24)]* members, twenty-five percent (25%) of whom must be public members *[and at least one (1) of whom must be a doctor of osteopathic medicine]*.[1] The remaining members must be doctors of allopathic medicine. The membership of the Board shall be drawn from as many different regions of this State as possible.

2. *Qualifications*
a. Public members must reside in this State and be persons of integrity and good reputation who have lived in this State for at least five (5) years immediately preceding their appointments, have never been authorized to practice a healing art, and have never had a substantial personal, business, professional, or pecuniary connection with a healing art or with a medical education or health care facility, except as patients or potential patients.
b. Physician members must reside in this State and be persons of recognized professional ability, integrity, and good reputation who have lived and actively practiced medicine in this State with a full and unrestricted medical license granted by this State for at least five (5) years immediately preceding their appointments.
c. Members must be citizens of the United States who have attained the age of majority as defined in the statutes of this State.
d. Members must be selected without regard to sex, race, national or ethnic origin, creed, religion, or age above majority.
e. No member shall be a registered lobbyist.
f. No member shall be an officer, board member, or employee of a statewide or national organization established for the purpose of advocating

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[1] Flexible Factors: The size of a state's physician population should be considered in determining how many persons would be required, within this range (12-24), to accomplish the work of the Board as envisioned in this document. Similarly, should the Board regulate both MDs and DOs, DO representation should be required if the DO population is judged to be significant.

the interests of or conducting peer review of health care practitioners licensed under this statute.

3. Terms

The term of Board service shall be four (4) years. A person shall not serve as a member of the Board for more than two (2) consecutive full terms, but may be reappointed two (2) years after completion of such service. For the purpose of this paragraph, a person who serves more than two (2) years of an unexpired term shall be considered to have served a full term. Terms of service shall be staggered, one fourth of the Board's membership being appointed each year. The term[s] of no more than *[one (1)/two (2)]* public member*[s]* shall expire in any one year.[2]

4. Requirements

a. Before entering on the duties of office, each member of the Board shall take the constitutional oath or affirmation of office and shall swear or affirm he or she is qualified to serve under all applicable statutes.

b. The Board shall conduct and new members shall attend a training program designed to familiarize new members with their duties. A training program for new members shall be held annually.

5. Appointment of Members

a. The members of the Board shall be appointed by the Governor, who shall make each appointment at least thirty (30) calendar days prior to the beginning of the Board term being filled. The Governor shall fill an unexpired term within thirty (30) calendar days of the vacancy's occurrence. Should the Governor not act as required by this paragraph, the Board, by majority vote, shall select a qualified person to serve until such time as the Governor acts.

b. Any individual, organization, or group may suggest potential Board appointees to the Governor. Medical societies and associations in this State shall be specifically requested to recommend two or more potential physician appointees for each available physician Board seat.

6. Removal of Board Members

A Board member shall be automatically removed from the Board should he or she

a. cease to be qualified;

b. be found guilty of a felony or an unlawful act involving moral turpitude by a court of competent jurisdiction;

c. be found guilty of malfeasance, misfeasance, or nonfeasance in relation to his or her Board duties by a court of competent jurisdiction;

d. be found mentally incompetent by a court of competent jurisdiction;

e. fail to attend three successive Board meetings without just cause as determined by the Board, or, if a new member, fail to attend the new members' training program without just cause as determined by the Board;

f. be found in violation of this statute.

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[2]Flexible Factor: One (1) per year should the Board have up to four public members, two (2) per year should the Board have more than four public members.

7. *Board Compensation/Reimbursement*

a. Compensation: Each Board member shall receive compensation equivalent to three-quarters (3/4) the daily rate paid the State Commissioner of Health *[or equivalent State officer]*[3] for each day or part of a day spent in Board or Board-related meetings. Other Board-related services shall be compensated at the same level on a pro-rata basis as determined by the Board.

b. Expenses: Each Board member's travel and expenses for active Board service shall be paid at the State's current approved rate.

c. Education/Training: Travel, expenses, and daily compensation shall also be paid for each Board member's attendance, in or out of State, at up to ten full days of education or training per year directly related to Board duties and approved by the Board, except that daily compensation shall not be paid to physicians eligible for continuing medical education credit for such education and training.

E. **Board Structure**

1. *Officers*

The Board shall elect annually from its members a president, a vice president, a secretary-treasurer, and those other officers it determines are necessary to conduct its business. The officers shall serve for a one (1) year term. No person shall serve more than two (2) years in the same Board office during a single four (4) year Board term.

2. *Duties of Officers*

a. The president shall preside at Board meetings, arrange the Board agenda, sign Board orders and other required documents, appoint Board committees and their chairmen, coordinate Board activities, represent the Board before legislative committees, and perform those other duties assigned by the Board and this statute.

b. The vice president shall assist the president in all that officer's duties as requested by the president and shall perform the duties of the president in that officer's absence.

c. The secretary-treasurer shall be responsible for the keeping of Board minutes and records, for development of the Board budget, and for authorizing the expenditure of Board funds as directed by the Board and this statute.

3. *Committees*

To effectively facilitate its work, fulfill its duties, and exercise its powers, the Board may establish standing committees, including, but not limited to, licensing, investigation, finance, administration, personnel, rules, legislative communications, and public information committees. Ad hoc committees may be named as required. Committees shall be comprised of Board members only; and, except as otherwise noted in this statute, the president shall appoint members and chairmen of committees, who shall serve one (1) year terms and

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[3] The highest ranking health official in the State's executive branch.

may be reappointed. In the absence of regular committee members and when necessary to provide a quorum for the conduct of committee business, the president may appoint from the Board temporary members to a committee. Changes in membership shall not be deemed to affect or hinder the continuing business or activity of any committee.

If established, committees of the Board shall conform with the following.

a. *A licensing committee* shall be comprised of at least one-quarter (1/4) of the Board's members and shall be responsible for reviewing or directing the review of the qualifications of applicants for licensure in accord with this statute and Board policy and rules. It shall recommend to the Board the issuance or denial of licenses to applicants. A licensing committee may also be responsible for recommending or preparing for the Board's consideration and approval those examinations to be used in meeting the examination requirements set by this statute for medical licensure, and for other evaluative purposes. It may also administer or direct administration of all examinations in keeping with this statute and Board policy and rules.

b. *An investigation committee* shall be comprised of at least three (3) members of the Board, one (1) of whom must be a public member. An investigation committee shall be responsible for reviewing any complaint or charge referred to it in accord with written Board policy, for conducting an investigation to determine if there is a reasonable basis for the complaint or charge, for determining if a hearing is required, and for referring the matter to the appropriate prosecuting authority for presentation to the Board or, if directed to do so by the Board, to a Board designated hearing officer. In performing its duties, it shall have all the powers granted the Board in this statute to compel cooperation and the provision of information by individuals and institutions. The Board shall act in the capacity of the hearing and adjudicatory body, and no member of an investigation committee shall sit with the Board to hear or adjudicate a matter considered by his or her investigation committee nor shall he or she be counted as part of the Board in determining a quorum for the conduct of business during such a hearing or adjudication. Should the volume of complaints and charges require it, more than one investigation committee may be named at the Board's discretion.

c. *A finance committee* shall be comprised of the secretary-treasurer, acting as chairman, the president and vice president, and one public member of the Board. It shall be responsible for gathering budget information and proposing a budget to the Board for its consideration. It shall also arrange for annual audit of the Board's accounts by the State Auditor's Office *[or equivalent State office]*[4]. Budgets shall be prepared and adopted sufficiently in advance of the fiscal year to allow reasonable notice for increases or decreases in the fees and charges set by the Board.

d. *Other committees* created by the Board shall have those responsibilities,

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[4] That office or authority charged by law with primary responsibility for auditing the State's accounts.

consistent with this statute, delegated to them by the Board.

4. Advisory Councils

To assist the Board in the performance of its duty relating to the regulation of health care professionals other than physicians, the president, with advice and approval of the Board, shall appoint a separate Advisory Council for each of the health care fields for which the Board has responsibility under this statute. Each Advisory Council shall be chaired by a member of the Board appointed by the president and shall have four other members. Each of those four other members shall meet the same requirements and be subject to the same limitations and causes for removal as a physician member of the Board, the requirement for medical licensure being replaced by that for full and unrestricted authorization to practice in the particular health care field of the Advisory Council to which he or she is appointed. Terms and limitations of service on an Advisory Council shall be the same as for the Board. The chairman of an Advisory Council shall be compensated and reimbursed as a Board member. The other four members of an Advisory Council may be compensated at an appropriate and reasonable level as determined by the Board and shall be reimbursed for meeting-related travel and expenses at the State's current approved rate. Advisory Councils shall meet at least once each year to review the regulation of their health care fields and to advise the Board on policy and rules relating to that regulation. The Board may also consult them or their members for advice on particular issues or disciplinary matters. The Board shall determine the specific functions of the Advisory Councils in keeping with this statute.

F. **Funding**

1. Revenues

The Board shall be fully supported by the revenues generated from its activities, including fees, charges, and reimbursed costs. All such revenues, with the exception of fines, shall be deposited in the State Treasury to the credit of the State Medical Board Account, which is hereby established and which shall also receive all interest earned on the deposit of such revenues. Such funds are appropriated continuously and shall be used by the Board only for administration and enforcement of this statute. All fines levied by the Board shall be deposited in the State General Fund.

2. Budget

The Board shall develop and adopt its own budget reflecting revenues, including the interest thereon, and costs associated with each health care field regulated. Revenues, and interest thereon, from each health care field regulated shall fully support Board regulation of that field. The budget shall include allocations for establishment and maintenance of a reasonable reserve fund.

3. Setting Fees and Charges

All Board fees and charges shall be set by the Board pursuant to its proposed budget needs. Reasonable notice shall be provided for all increases or decreases in fees and charges.

4. Fiscal Year
The Board shall operate on the same fiscal year as the State.
5. Secretary-Treasurer
The secretary-treasurer of the Board, at the direction of the Board, shall oversee the collection and disbursement of funds. That officer shall be bonded by the Board in an amount to be fixed by the Board.
6. Audit
The State Auditor's Office *[or equivalent State office]*[5] shall audit the financial records of the Board annually and report to the Board and the Legislature.

G. Board and Committee Meetings
1. Location
The Board and its several committees shall meet in the Board's offices or other appropriate facilities in the same city as those offices. At their discretion, however, they may meet from time to time in other areas of the State to facilitate their work or to enhance communication with the regulated professions.
2. Frequency; Duration
a. The Board shall meet at least bimonthly *[quarterly]*[6] for a period sufficient to complete the work before it at that time.
b. Committees shall meet as directed by the Board. However, each standing committee shall meet at least once per year to review its area of responsibility and to prepare a formal annual report for presentation to the Board.
3. Special Meetings; Conferences
a. Emergency meetings of the Board may be called at any time by the president or at the request of an officer and two (2) Board members if required to enforce this statute. The Board may establish procedures by which its committees may call emergency meetings.
b. Informal conferences of an investigation committee may be called by the chairman of the committee for the purpose of holding discussions with licensees, accused or otherwise, who seek or agree to such conferences. Any disciplinary action taken as a result of such a conference and agreed to in writing by the Board and licensee shall be binding and a matter of public record. The holding of an informal conference shall be at an investigation committee's discretion and shall not preclude formal disciplinary investigation, proceedings, or action.
c. A telephone or other telecommunication conference shall be an acceptable form of Board meeting for the purpose of taking emergency action to enforce this statute if the president alone or another officer and two (2) Board members believe the situation precludes another form of meeting. The Board may establish procedures by which its committees may meet by

[5] That office or authority charged by law with primary responsibility for auditing the State's accounts.

[6] Flexible Factor: Bimonthly meetings may not be required in states with small physician population. One meeting per quarter may be sufficient in such cases.

telephone or other telecommunication conference to take emergency action.

4. *Notice*

a. The Board shall establish a system for giving all Board and committee members reasonable advance notice of all Board and committee meetings.

b. The Board shall establish a system for giving the public, including its regulated professions, reasonable advance notice of all open Board and committee meetings. Emergency meetings, including telephone or other telecommunication conference meetings, shall be exempt from this public notice requirement.

5. *Quorum*

a. A majority of members shall constitute a quorum for the transaction of business by the Board or any committee of the Board.

b. Notwithstanding any provision of law to the contrary, the business of the Board and its committees shall be conducted in accord with this statute and with rules of parliamentary procedure adopted by the Board.

6. *Conflict of Interest*

No member of the Board, acting in that capacity or as a member of any Board committee, shall participate in the making of any decision or the taking of any action affecting his or her own personal, professional, or pecuniary interest, or that of a known relative or of a business or professional associate. With advice of legal counsel, the Board shall adopt and annually review a conflict of interest policy to enforce this section.

7. *Records*

Minutes of all Board and committee meetings and proceedings, and other Board and committee records, shall be prepared and kept in accord with the Board's adopted rules of parliamentary procedure and other applicable State statutes.

8. *Open Meetings; Confidentiality*

a. All meetings of the Board and its committees shall be open to the public, with the following exceptions:

(1) meetings or portions of meetings of the Board devoted to consideration of personnel and staff employment or evaluation issues, to consultation with legal counsel, to business or contract matters the premature public knowledge of which would adversely affect the financial interests of the Board or the State, and to matters the Board is required to keep confidential by contract or statute;

(2) meetings or portions of meetings of the Board, acting in its capacity as a hearing or adjudicatory body, held to receive testimony or evidence the public disclosure of which the Board determines would constitute an unreasonable invasion of personal privacy, to consult with legal counsel, to deliberate issues, and to arrive at disciplinary judgments;

(3) meetings of an investigation committee;

(4) meetings of a licensing committee.

Recommendations or decisions made in non-public meetings shall be ratified in public and shall be matters of public record.

b. The minutes and all records of non-public meetings are privileged and confidential and shall not be disclosed except to the Board or its designees

for the enforcement of this statute, except that all licensing decisions made by the Board and all disciplinary orders, with the associated findings of fact and conclusions of law, issued by the Board shall be matters of public record.

c. The following shall be privileged and confidential:

(1) application and reregistration forms and any evidence submitted in proof or support of an application to practice, except that the following items of information about each applicant or licensee included on such forms shall be matters of public record:

(a) full name;
(b) date and place of birth;
(c) name(s) and location(s) of professional schools attended;
(d) school awarding professional degree, date of award, and designation of degree;
(e) site(s) and date(s) of graduate professional training;
(f) Board recognized specialty certification(s) held and date(s) granted;
(g) specialty and professional society memberships;
(h) year of initial licensure in this State;
(i) other states in which licensed to practice in the same field; and
(j) current office address and telephone number;

(2) all investigations and records of investigations;

(3) any report from any source concerning the fitness of any person to receive or hold a license;

(4) any communication between or among the Board and/or its committees, staff, advisors, attorneys, employees, hearing officers, consultants, experts, investigators, and panels occurring outside public meetings;

(5) the identity of that individual or entity filing an initial complaint with the Board.

d. Notwithstanding the foregoing provisions, the Board may cooperate with and provide documentation to other boards, agencies, or law enforcement bodies of this State, other states, other jurisdictions, or the United States upon written official request by such an entity.

e. Nothing herein shall be construed as prohibiting a respondent or his or her legal counsel from exercising the respondent's right of due process under the law.

H. Offices; Administration

1. Offices

The Board shall maintain offices it determines are adequate in size, staff, and equipment to effectively carry out the provisions of this statute. At its discretion, it may establish branch offices, staffed and equipped as it finds necessary, in as many areas of the State as it believes require such branch offices to facilitate the work of the Board.

2. Administration

The Board, in keeping with applicable State statutes, shall set out the function, operation, and administrative structure of its offices.

I. Staff; Special Personnel

1. Board Authority

The Board is hereby empowered to determine its staff needs and to employ, fix compensation for, evaluate, and remove its own full-time, part-time, and temporary staff in accord with the statutory requirements of this State. It shall define the duties of and qualifications for staff positions and shall bond those members of staff charged with the handling of funds. Staff benefits shall be provided in accord with the statutes of this State.

2. Staff Positions

The Board's staff may include, but need not be limited to, the following:

a. *an executive director,* who, among administrative and other delegated responsibilities, may assist, at the Board's discretion, in the discharge of the duties of the secretary-treasurer;

b. *one or more assistant executive directors;*

c. *one or more medical consultants,* who shall be licensed to practice medicine in this State without restriction;

d. *office* and clerical staff;

e. *one or more attorneys,* who may be full-time employees of the Board, or assigned from the Office of the State Attorney General by agreement between the Board and that office, or in private practice;

f. *one or more hearing officers,* who shall be trained to conduct hearings according to law and vested with full authority to do so on the Board's behalf and in its name, but whose decisions shall be reviewed and approved, modified, or disapproved by the Board;

g. *one or more investigators,* who shall be trained in and knowledgeable about the investigation of medical and related health care practice;

h. *experts and consultants;* and

i. *special agents.*

3. Special Support Personnel

The Board may, at its discretion, and in accord with the statutes of this State, enlist the services of experts, advisors, consultants, and others who are not part of its staff to assist it in more effectively enforcing this statute. Such persons may serve voluntarily, be reimbursed for expenses in accord with State law and policy, or be compensated at a level commensurate with services rendered in accord with State law and policy. When acting for or on behalf of the Board, such persons shall benefit from the same immunity and indemnification protections afforded by this statute to the members and staff of the Board.

J. Immunity; Indemnity; Protected Communication

1. Immunity

There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any current or former member, officer, administrator, staff member, committee member, examiner, representative, agent, employee, consultant, witness, or any other person serving or having served the Board, either as a part of the Board's operation or as an individual, as a result of any act, omission, proceeding, conduct, or decision related to his or her duties undertaken or performed in good faith and within the scope of

the function of the Board.

2. *Indemnity*

If a current or former member, officer, administrator, staff member, committee member, examiner, representative, agent, employee, consultant, or any other person serving or having served the Board requests the State to defend him or her against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to his or her duties undertaken or performed in good faith and within the scope of the function of the Board, and if such a request is made in writing at a reasonable time before trial, and if the person requesting defense cooperates in good faith in the defense of the claim or action, the State shall provide and pay for such defense and shall pay any resulting judgment, compromise, or settlement.

3. *Protected Communication*

a. Every communication made by or on behalf of any person, institution, agency, or organization to the Board or to any person(s) designated by the Board relating to an investigation or the initiation of an investigation, whether by way of report, complaint, or statement, shall be privileged. No action or proceeding, civil or criminal, shall be permitted against any such person, institution, agency, or organization by whom or on whose behalf such a communication was made in good faith.

b. The protections afforded in this provision shall not be construed as prohibiting a respondent or his or her legal counsel from exercising the respondent's constitutional right of due process under the law.

K. Duties of the Board

In addition to any other duties placed on the Board by this statute, the Board, acting in accord with this statute, shall:

1. enforce the provisions of this statute;
2. adopt and enforce rules to carry into effect the provisions of this statute and to fulfill its duties thereunder;
3. develop and use application and other necessary forms and related procedures it finds appropriate for purposes of this statute;
4. prepare or select, conduct or direct the conduct of, set passing requirements for, and assure security of licensing and other required examinations;
5. acquire information about and evaluate the professional education and training of applicants;
6. issue or deny licenses;
7. accept or deny applications for license reregistration based on the evaluation of adverse information, if any, relating to applicant fitness, performance, or practice;
8. review and investigate complaints and adverse information about licensees;
9. establish by rule a mechanism, which, at the Board's discretion, may involve cooperation with and/or participation by one or more Board approved professional organizations, for the identification and monitored treatment of licensees who abuse or are dependent on or addicted to alcohol or other addictive chemical substances;

10. establish by rule a mechanism by which licensees who believe they abuse or are or may be dependent on or addicted to alcohol or other addictive chemical substances, and who have not been identified by the Board through other sources of information, will be encouraged to report themselves voluntarily to the Board and/or, at the Board's discretion, to a professional organization approved by the Board to seek assistance and monitored treatment;
11. conduct hearings in accord with this statute;
12. adjudicate those matters that come before it for judgment under this statute and issue final decisions on such matters;
13. discipline licensees;
14. report all final disciplinary actions, license denials, and voluntary license limitations or surrenders related to physicians, with any accompanying Board orders, findings of fact and conclusions of law, to the Board Action Data Bank of the Federation of State Medical Boards of the United States and to any other data repository required by law, and report all such actions, denials, and limitations or surrenders related to other licensees, with the same supporting documentation, to the appropriate national practitioner data repositories recognized by the Board or required by law;
15. act to halt the unlicensed or illegal practice of medicine and to seek penalties against those engaged in such practice;
16. institute proceedings in courts of competent jurisdiction to enforce its orders and the provisions of this statute;
17. establish appropriate fees and charges to ensure active and effective pursuit of its responsibilities;
18. employ, direct, reimburse, evaluate, and dismiss staff in accord with State procedures;
19. establish policies for Board operations; and
20. recommend to the Legislature those changes in or amendments to this statute that it determines would benefit the health, safety, and welfare of the public.

L. Powers of the Board

In addition to any other powers provided the Board herein, the Board, when acting in accord with this statute, shall have those powers necessary to fulfill its duties under this statute. Those powers shall include, but not be limited to, the following:

1. to employ or contract with one or more organizations or agencies known to provide acceptable examinations for the preparation and scoring of required examinations, and to employ or contract with one or more organizations or agencies known to provide acceptable examination services for the administration of required examinations;
2. to prescribe the time, place, method, manner, scope, and subjects of examination;
3. to impose sanctions, deny licensure, levy fines, seek appropriate civil and/or criminal penalties, or any combination of these, against those who violate or attempt to violate examination security, those who obtain or attempt to obtain licensure by fraud or deception, and those who knowingly assist in

such activities;
4. to determine which professional schools, colleges, universities, training institutions, and educational programs are acceptable in connection with licensure under this statute, and to accept the approval of such facilities and programs by Board recognized accrediting bodies in the United States;
5. to require supporting documentation or other acceptable verifying evidence of any information provided the Board by an applicant or licensee;
6. to require information on an applicant's or a licensee's fitness, qualifications, and previous professional record and performance from recognized data sources, including, but not limited to, the Federation of State Medical Boards' Board Action Data Bank, other national data repositories, licensing and disciplinary authorities of other jurisdictions, professional education and training institutions, liability insurers, health care institutions, and law enforcement agencies;
7. to require the self-reporting by applicants or licensees of any information the Board determines may indicate possible deficiencies in practice, performance, fitness, or qualification;
8. to require all licensees to report to the Board information that appears to show another licensee is or may be professionally incompetent, guilty of unprofessional conduct, or mentally or physically unable to engage safely in licensed practice, and to report to the Board and/or to an agency designated by the Board a licensee's possible dependence on alcohol or other addictive chemical substances;
9. when deemed appropriate by the Board to do so, to require professional competency, physical, mental, or chemical dependency examination of any applicant or licensee, including withdrawal and laboratory examination of bodily fluids;
10. in establishing mechanisms for dealing with licensees who abuse or are dependent on or addicted to alcohol or other addictive chemical substances, to conclude agreements, at its discretion, with professional organizations, whose relevant procedures and techniques it has evaluated and approved, for their cooperation and/or participation;
11. to issue cease and desist orders, and to obtain court orders and injunctions to halt unlicensed practice, violation of this statute, or the rules of the Board;
12. to act on its own motion in disciplinary matters, administer oaths, issue notices, issue subpoenas in the name of the State, including subpoenas for patient records, hold hearings, institute court proceedings for contempt to compel testimony or obedience to its orders and subpoenas, take evidentiary depositions, and perform such other acts as are reasonably necessary under law to carry out its duties;
13. to use preponderance of the evidence as the standard of proof and to issue final decisions when acting as trier of fact in the performance of its adjudicatory duties;
14. to present to the proper authorities information it believes indicates an applicant or licensee may be subject to criminal prosecution;

15. to issue conditional, restricted, or otherwise circumscribed licenses as it determines necessary;
16. to take the following actions, alone or in combination, against those found in violation of this statute:
a. revoke, suspend, restrict, and/or otherwise circumscribe the license;
b. place the licensee on probation with conditions;
c. levy fines and/or assess the costs of proceedings against the licensee;
d. censure, reprimand, and/or otherwise chastise the licensee;
e. require the licensee to provide monetary redress to another party, and/or provide a period of free public or charitable service;
f. require the licensee to satisfactorily complete an educational, training, and/or treatment program or programs;
g. require the licensee to successfully complete an examination or examinations designated by the Board;
17. to summarily suspend a license if it has cause to believe such action is required to protect public health and safety prior to hearing and final adjudication, and no court shall act to lift or otherwise interfere with such suspension while the Board proceeds in a timely fashion;
18. to determine and direct Board operating, administrative, personnel, and budget policies and procedures in accord with applicable State statutes;
19. to set necessary fees and charges, employ, evaluate, and dismiss personnel, and otherwise administer or direct administration of the Board in accord with applicable State statutes.

M. Board Reports

1. Annual Report

The Board shall present to the Governor, the Legislature, and the public, at the end of each fiscal year, a formal report summarizing its licensing and disciplinary activity for that year. The report shall include, but need not be limited to, the following information about each of the Board's regulated professions:
a. the total number of persons fully licensed by this State and the number of those persons resident in this State;
b. the number of persons holding each form of limited license authorized by this statute;
c. the number of persons granted a full license by this State for the first time in the past year, the number of those persons resident in this State, and the number of full licenses denied in the past year;
d. the number of resident licensees about whom a complaint, a charge, or an adverse item of information required by law was received in the past year;
e. the number and the sources, by category, of complaints, charges, and adverse items of information required by law received about resident licensees in the past year, and the number of these found not to warrant action under this statute and the rules of the Board;
f. the number of disciplinary investigations conducted by the Board or its representatives concerning resident licensees in the past year;

g. the number of disciplinary actions, by category, taken by the Board in the past year against resident and non-resident licensees;
h. a ranking, by frequency, of primary causes for disciplinary action against resident and non-resident licensees in the past year;
i. the number of actions taken or instigated by the Board to halt the unlawful practice of medicine in the past year;
j. a review of disciplinary activity related to holders of limited forms of license in the past year;
k. a review of the operations of the Board's current mechanisms for dealing with licensees dependent on or addicted to alcohol or other addictive chemical substances;
l. a schedule of all current fees and charges;
m. a revenue and expenditure statement for the past year indicating the percentage of revenue from and expenditures for each regulated profession;
n. a summary of other Board activities and a schedule of days met by the Board and each of its committees during the year.

2. Public Record; Action Reports

Each of the Board's license denials and final disciplinary orders, including any associated findings of fact and conclusions of law, shall be matters of public record. Voluntary surrenders of or limitations on licenses shall also be matters of public record. All such denials, orders, surrenders, and limitations shall be promptly reported by the Board to the public, all health care institutions in this State, appropriate State and federal agencies, related professional societies or associations in this State, and any data repository required by Board rules or policy, the laws of this State, or the laws of the United States.

3. Required Response to Complainants and Others Providing Information

Persons or entities reporting to the Board adverse information about licensees or instances of possible unlicensed practice shall receive prompt acknowledgment of their reports from the Board. The Board shall also inform them of the final disposition of the matters reported.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 146 (HESS)
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act relating to occupational licensing; . . .
Sponsor: House Rules Committee/Governor
Requestor: House HESS Committee

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	22.1	22.1	22.1	22.1	22.1	22.1
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	22.1	22.1	22.1	22.1	22.1	22.1

CAPITAL	0	0	0	0	0	0

REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	22.1	22.1	22.1	22.1	22.1	22.1
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact for FY 90.

SEE ATTACHED

Prepared by: Jennifer Strickler, Administrative Officer
Phone: 465-2144
Division: Occupational Licensing
Date: 4/2/90

Approved by Commissioner: Larry Merculieff
Date: 4/2/90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

JS/dg16194D/040290b

FISCAL NOTE ANALYSIS

CSHB 146 (HESS)

The bill repeals and reenacts AS 08.02.020, Immunity and Indemnity Related to Licensing Functions. The bill also makes several amendments to AS 08.64 regarding the State Medical Board. Section 3 adds a new provision to the medical statutes requiring the board to maintain records on licensees concerning malpractice actions and the outcome of each action.

The board is also required to periodically review the records and determine if the licensee should be found professionally incompetent. To assist the board in determining whether a licensee is professionally incompetent and to ensure that licensees report malpractice claims and the outcome to the board as required in Section 25, this fiscal note provides costs of personal services only for a seasonal Investigator II position, six months, Range 16A.

6194D-2/040290b