

HB

95

STATE OF ALASKA
THE LEGISLATURE

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. HESS 1-31-89

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 95
PUBLISH DATE: HOUSE 1/20/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act extending the termination of the Board of Pharmacy;...
Sponsor: Rules Committee
Requestor: Governor

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Funding for the Board of Pharmacy is included in the department's FY 90 operating budget request.

Prepared by: Jennifer Strickler, Admin. Officer
Division: Occupational Licensing

Phone: 465-2144
Date: 11-2-88

Approved by Commissioner: Larry Mercurieff
Agency: Commerce and Economic Development

Date: 11/3/88

Distribution (by preparer):

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

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 19, 1989

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

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting three bills, to extend the Board of Pharmacy, the Board of Veterinary Examiners, and the State Physical Therapy and Occupational Therapy Board, respectively, for the standard four years. These boards are currently scheduled to "sunset" on June 30, 1989.

The boards provide valuable services and should be continued. I urge your prompt and favorable action on all three bills.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

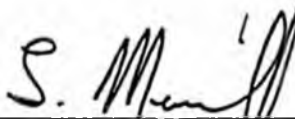
Steve Cowper
Governor

42 95
76
47

HB 95: An Act extending the termination of the Board of Pharmacy and providing for an effective date.

The bill proposes to extend the termination date of the Board of Pharmacy to June 30, 1993. To date, the board has issued licenses to 418 practitioners. The board continues to operate in the best interest of the public by granting licensure only to competent, qualified individuals.

The department supports continuation of the Board of Pharmacy and feels that the board is necessary to protect the health, safety and welfare of the public.



Larry Mercurieff, Commissioner

Date: 2-6-89

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A FOLLOW-UP REVIEW ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF PHARMACY

July 1, 1985 - June 30, 1988

Audit Control Number

08-1341-89-R

Commissioner, Department of Commerce
and Economic Development

Larry Mercurieff

Deputy Commissioner, Department of
Commerce and Economic Development

Vacant

Members of the
Board of Pharmacy

Chair
Secretary
Member
Member
Member
Member

William P. Larson
Margaret D. Soden
Emil L. Cekada
Christy C. Nielsen
Gerald W. Race
Claire Strand

STATE OF ALASKA

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

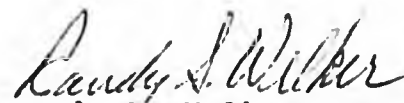
November 30, 1988

Members of the Legislative Budget
and Audit Committee:

According to the provisions of Titles 24 and 44 of the Alaska Statutes, the Division of Legislative Audit is required to conduct a "sunset" review of the Board of Pharmacy.

At the request of the Chairman, during Fiscal Year 1988 budget deliberations, the Audit Division's budget was revised to reflect certain changes in the organization of the Committee's two Divisions. The revised budget of the Audit Division reflected efficiencies that might be obtained by utilizing the staff of the Legislative Finance Division on selected audit assignments during the interim.

As a result, the audit of the Board of Pharmacy was conducted and this report has been prepared by the Legislative Finance Division. We feel this report discharges our responsibility under Titles 24 and 44. The report is submitted for your review.



Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

November 30, 1988

Members of the
Legislative Budget and Audit Committee:

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

A PERFORMANCE REPORT
ON THE BOARD OF
BOARD OF PHARMACY

July 1, 1985 - June 30, 1988

Audit Control Number

08-1341-89-R



Mike Greany, Director
Legislative Finance Division

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PURPOSE AND SCOPE OF THE REPORT

PURPOSE

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have examined the activities of the Board of Pharmacy for the past three fiscal years to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Pharmacy should be reestablished. The law now specifies that the Board will terminate June 30, 1989, and has one year from that date to conclude its affairs.

SCOPE

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

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

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ORGANIZATION AND FUNCTION

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

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

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

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

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

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

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REPORT CONCLUSION

POLICY ISSUES

This review contains policy and/or procedural issues raised as a result of our evaluation of various Board practices. The final decisions affecting the practices are not within the scope of this report, but required legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendations presented in this report so that the potential impact on changes can be evaluated.

REPORT CONCLUSION

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

The Findings and Recommendations Section (see page 7), describe areas where weaknesses or conflicts exist. Therefore, we have made recommendations which, if implemented, will improve the efficiency and effectiveness of the Board.

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FINDINGS AND RECOMMENDATION

Recommendation No. 1

The Board of Pharmacy should comply with AS 08.80.460(b) which requires the Board to establish a schedule of fines for violation of AS 08.80.295, the generic drug substitution law.

During our review of Board's statutes and regulations we found the Board has not established regulations mandated by AS 08.80.460. AS 08.80.460(b) requires the Board to establish a schedule of fines for violation of AS 08.80.295, the generic drug substitution law.

The Attorney General has taken a similar position in a memorandum dated February 20, 1985. The Attorney General stated AS 08.80.460(b) imposes civil penalties through a schedule of fines for violation of AS 08.80.295. Further, the Board is mandated to adopt these regulations.

We recommend that the Board adopt these regulations as soon as possible.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need defined in the "sunset" law. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission, or program has operated the public interest.

- A. The Board has held meetings and administered examinations in accordance with statutory requirements.
- B. The Board has promulgated regulations governing its duties and licensure requirements. Specifically, the Board has updated and revised regulations pertaining to lapsed licenses, continuing education and hospital pharmacies.

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The Board has not adopted regulations required to enforce the generic drug substitution law (see Recommendation No. 1).

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

The Board has proposed various statutory changes regarding the number of Board meetings per year, temporary license requirements, grading and content of examinations and miscellaneous housekeeping changes.

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

The Board has published public notices of all examination, meetings, and regulation changes.

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

The Board has announced proposed regulation changes or additions in newspapers according to the Administrative Procedures Act.

- VI. The efficiency with which public inquires or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

According to the Division of Occupational Licensing's files, there have been 17 investigations in the past three fiscal years with 5 cases still open. Open cases are in litigation or under investigation. No complaints have been filed against the Board with the Attorney General's Office or the Ombudsman Office.

- VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

As of June 30, 1988, there were 262 current licensed Alaskan Pharmacists. We found no instances where the Board had licensed unqualified practitioners.

- VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area or activity or interest.

The Human Rights Commission and the Equal Employment Opportunity Office have received no complaints related to the Board's activities.

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

Please refer to the previous section, Findings and Recommendations.

APPENDIX

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APPENDIX A

BOARD OF PHARMACY
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES
 For Fiscal Year 1988
 (Unaudited)
 (Note 1)

Average Revenue (Note 2)		\$42,156
Expenditures (Note 3)		
Personal Services	\$25,592	
Travel	7,587	
Contractual Services	4,894	
Supplies	435	
Equipment	<u>476</u>	<u>\$38,984</u>
Excess of Revenues Over Expenditures (Note 5)		<u>\$ 3,172</u>

Schedule 1
Types of Revenues
 (Note 4)

<u>REVENUES</u>	<u>AMOUNT</u>	<u>COLLECTION TIME</u>
License Application Fee	\$ 30	With Application
Examination Fee	\$150	With Application
Temporary License Fee	\$ 20	With Application
Emergency Permit Fee	\$ 90	With Application
Pharmacy Intern License Fee	\$ 20	With Application
Pharmacist License	\$180	With Initial Licensing
Pharmacist License Renewal	\$180	Biennially
Wholesale Drug Dealer	\$180	With Initial Licensing
Wholesale Drug Dealer Renewal	\$180	Biennially
Retail Pharmacy	\$180	With Initial Licensing
Retail Pharmacy Renewal	\$180	Biennially
Hospital Pharmacy	\$180	With Initial Licensing
Hospital Pharmacy Renewal	\$180	Biennially
Hospital Drug Room	\$180	With Initial Licensing
Hospital Drug Room Renewal	\$180	Biennially
Nursing Home Drug Room	\$180	With Initial Licensing
Nursing Home Drug Room Renewal	\$180	Biennially

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from available records and discussions with the Division of Occupational Licensing (DOL) personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

Revenues are primarily composed of license renewal fees which are collected on a biennial basis. Because of the two year renewal cycle, revenues will increase substantially every second year. To obtain an average of annual revenues collected, we combined actual receipts collected in FY88 with the division's estimate of revenues to be collected in FY89. For the current fee structure, see Schedule 1 on the previous page.

Note 3

Expenditures consist of direct cost resulting from Board members activities, (i.e. travel and per diem) and an allocation of direct and indirect costs of DOL. The expenditures do not include expenses incurred by other Departments or other divisions of the Department of Commerce and Economic Development in assisting the Board.

Note 4

The Schedule reflects changes in licensing fees since the previous audit.

Note 5

The amount of revenue generated by a board's activity depends upon the number of licensee's that are regulated by the board. A small number of licensed professionals, generally lead to an excess of expenditures over revenues. Conversely, a large number of licensees generally results in an excess of revenues over expenditures.

The comparison of revenues and expenditures for all licensing boards indicates, that collectively, the licensing boards are substantially self supporting. The following schedule represents revenues and expenditures for all boards combined:

Average Revenue	\$2,130,834
Expenditures	<u>2,242,216</u>
Excess Expenditures	< <u>\$ 111,382</u> >

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

January 12, 1989

Mr. Randy S. Welker
Legislative Audit
P.O. Box W
Juneau, AK 99811-3300

JAN 13 1989

Dear Mr. Welker:

This is written in response to the Audit Division's (hereinafter "Audit") preliminary audit report of its sunset performance review of the Board of Pharmacy (hereinafter "Board"). Below is the Department of Commerce and Economic Development's (hereinafter "Department") comments on Audit's preliminary findings and recommendations.

Response to Recommendation No. 1

Audit recommends that the Board of Pharmacy should comply with AS 08.80.460(b) and establish a schedule of fines for violations of the generic drug substitution law (AS 08.80.295).

This is to advise that the Department has no objection to such a recommendation and, indeed, will support such a recommendation before the Board. I have asked the Division of Occupational Licensing (hereinafter the "Division") to place this matter before the Board at its next regularly scheduled meeting.

As your report points out, a February 20, 1985 memorandum from Diane T. Colvin, then an assistant attorney general, informed Harry Treager, then Director of Occupational Licensing, that the Board of Pharmacy had a responsibility under AS 08.80.460(b) to adopt a schedule of civil fines for violations of the generic drug substitution guidelines. This memorandum apparently resulted from a telephone conversation Ms. Colvin had with Mr. Treager. He was asked to remind the Board that they had not yet complied with this statute.

Unfortunately, we can find no evidence that this issue was ever subsequently brought to the Board's attention. It is important to remember that from 1984 through 1986, the Board was consumed with the issues of controlled substance registration and the marijuana therapeutic research program and it may simply not have been deemed a priority.

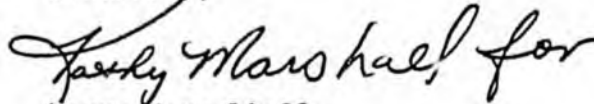
January 12, 1989

This does not mean, however, that the Board turned the other cheek on this matter. Over the last few years, the Division has conducted a number of cases involving pharmacists suspected of violating AS 08.80.295. In each case, the pharmacist was asked to stop the offending practice and, following compliance, no further disciplinary action was taken. These types of cases have never been a high priority of the Board, nor has evidence of a repeat violation ever been found.

At the present time, we see no reason why the Board of Pharmacy cannot establish civil fines for violations of the generic substitution requirements of AS 08.80.295. The Board is tentatively scheduled to meet April 5-7, 1989 in Anchorage. The Division of Occupational Licensing will present regulations to the Board at that time to resolve this matter.

Thank you for this opportunity to respond. If you have any additional questions or comments, or if my department can assist you in any other way, please do not hesitate to let me know.

Sincerely,



Larry Mercurieff
Commissioner

LM/djd9502W
011289b

cc: Randall P. Burns, Director
Division of Occupational Licensing