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SENATE COMMITTEE REPORT

FURTHER

4/29/89

DATE TURNED INTO OFFICE 5/5/89

Mr. President:

Finance

Committee considered

CSHB 70 (FIN)

extending the termination date of the Board of Pharmacy; relating to substitution of generic drugs that are therapeutically equivalent; relating to pharmaceutical medical assistance for needy persons; etc and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- Senate Finance letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) ^{DHSS} zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

Frank

France

OTHER RECOMMENDATIONS

Paul Trish No Rec

Rich (No Rec)

 Chair signature and recommendation

Committee Backup attached

John DO PASS

 CO CHAIR



Official Business

Alaska State Legislature

Senate

Committee on Finance

Pouch V
State Capitol
Juneau, Alaska 99811

Letter of Intent

for

CS FOR HOUSE BILL NO. 70 (Finance)

ADOPTED

It is the intent of the Senate that the Department of Health and Social Services will submit to the Health Care Financing Administration (HCFA) for its approval a Medicaid state plan amendment, which incorporates Alaska data and which is based upon the Texas reimbursement methodology for pharmacy services as approved by HCFA, including a dispensing fee which varies by ingredient cost. The Department of Health and Social Services will work with Alaska pharmacists to prepare this plan amendment and vigorously promote its approval by the Health Care Financing Administration. This plan amendment shall be submitted to HCFA by the Department of Health and Social Services as soon as practical (but no later than three months) after formal HCFA approval of the Medicaid plan amendments submitted March 31, 1989.

It is the intent of the Senate that the Department of Health and Social Services will work with Alaska pharmacists to immediately define a class of "expensive drugs" and then develop an interim methodology to adequately compensate pharmacy providers for dispensing these expensive drugs with a mutually acceptable reimbursement formula.

The Department of Health and Social Services shall report to the legislature by the tenth day of the Sixteenth Alaska State Legislature on the Department's progress in implementing the pharmaceutical Medicaid option.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 70
PUBLISH DATE: HOUSE 1/9/89

24
al

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to pharmaceutical
medical assistance for needy persons.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Health & Social Services
BRU: Medical Assistance
Components: General Relief Medical
and Medicaid Non-Facility

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		Ø	Ø	Ø	Ø	Ø

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* See Attached *

Prepared by: Kim Busch *Kim Busch*
Division: Director

Phone: 465-3355
Date: 11-3-88

Approved by Commissioner: *Mika M. Munn*
Agency: DHSS

Date: 12-1-88

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

Adopted

Summary

Before the last legislative session, pharmacy services for Medicaid eligible individuals were purchased from the General Relief Medical program. Because Alaska had not adopted the pharmacy option under the Medicaid program. During the last legislative session, CSSB 255, which was signed into law as Chapter 120, SLA 1988, added pharmacy services as a Medicaid option for the period October 1, 1988 - June 30, 1989. (SB 255 has a sunset clause which repeals Chapter 120 effective July, 1989.)

Unless this legislation is passed, a general fund appropriation of \$2,560 million will be needed in FY90 to continue to pay for pharmacy services for poor Alaskans. In essence, the state would be relinquishing \$2.56 million in federal match and pharmacy services for Medicaid eligible individuals would once again be purchased through the general relief medical program (GRM). Should general funds not be appropriated, significant reductions in pharmacy services would also likely occur.

Budgetary and Program Impact

All services which are purchased by the state under the Medicaid program receive a dollar-for-dollar federal match. All services purchased under the General Relief Medical program are entirely general funds.

The Department has submitted its FY90 budget assuming this legislation would pass, pharmacy services would remain as a Medicaid option and, \$2,560.2 in federal funds would be received as match. Consequently, this legislation has a zero fiscal note. If it passes, the total pharmacy cost of \$5.037 million is split between federal funds and general funds. The

proposed FY90 budget contains sufficient general funds to pay the state share, so pharmacy services would continue as currently provided.

If this legislation does not pass, federal matching funds for pharmacy services would be lost. Should this occur, an additional \$2,560.2 in general funds would be needed to replace the federal funds so that existing services could be maintained.

When pharmacy legislation (SB 255) passed in FY89, the department estimated \$2 million in savings because the total drug program cost about \$4 million. Services to new eligibles and utilization and price increases have since increased the total program cost to \$5 million. Consequently, returning to a totally general funded pharmacy program would cost \$1 million more in FY90 than it did in FY88, the last year in which pharmacy was entirely funded by several funds.

Throughout the interim, the department has worked diligently with pharmacists to fashion a Medicaid program which captures federal reimbursement while minimizing financial impact to pharmacists. A separate document describes the policy making process, the research conducted on pharmacy costs, and the reimbursement methodologies which resulted from that process.

If the legislature decides not to pass this legislation, the department requests that the full \$2.56 million in general funds be appropriated. This amount includes the inflation in pharmacy service costs which occurred from FY88 to FY90 in addition to the restoration of the general fund which had been supplanted by federal funds.

The following describes the sequence of modification to the FY90 budget that would be needed to continue present services should the legislation not pass:

1. Transfer \$2,476.9 State General Fund Match (SGFM) from the Medicaid Non-Facility component to the General Relief Medical component. (1,328.9 FY89 transfer for Chapter 120, 913.6 FY90 Budget Request transfer and 234.4 FY90 increments for price, utilization and eligibles.) If the program is not a Medicaid option, there are no federal funds to match with state general funds.
2. Decrement the Medicaid Non-Facility component for 2,560.2 federal funds. (1,412.3 FY89 Chapter 120, 913.6 FY90 Budget request and 234.3 FY90 increments for price, utilization and eligibles.) These federal match funds are not received if the pharmacy services are not provided through Medicaid.
3. Increment the General Relief Medical program for 2,560.2 state general funds to offset the federal decrements in #2 above.

The following chart depicts the development of the FY90 budget request and the above described modifications.

FY90 Budget Development

	<u>GRM</u>	<u>Medicaid Non-Facility</u>	<u>Total</u>
FY89 Authorization	913.6	2,741.2	3,654.8
C-4 Transfer	<u>(913.6)</u>	<u>913.6</u>	<u>0</u>
FY90 Adjusted Base	0	3,654.8	3,654.8
FY90 Increments:			
Federal Increment		913.6	913.6
Price		135.2	135.2
Eligibles		196.4	196.4
Utilization		<u>137.1</u>	<u>137.1</u>
FY90 Budget Request	0	5,037.1	5,037.1

Required Modifications

Transfer SGFM	2,476.9	[1] (2,476.9)	0
Decrement Federal	-	[2] (2,560.2)	(2,560.2)
Increment SGF	[3] <u>2,560.2</u>	<u>-</u>	<u>2,560.2</u>
Totals	5,037.1	0	5,037.1

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 70 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL
6 For an Act entitled: "An Act extending the termination date of the Board
7 of Pharmacy; relating to substitution of generic
8 drugs that are therapeutically equivalent; relating
9 to pharmaceutical medical assistance for needy per-
10 sons; changing the order of priority for eliminating
11 medical assistance coverage for certain services; and
12 providing for an effective date."

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

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

15 (4) Board of Pharmacy (AS 08.80.010) -- June 30, 1993
16 [1989].

17 * Sec. 2. AS 08.80.460(b) is repealed and reenacted to read:

18 (b) A person who violates AS 08.80.295 is guilty of a violation.

19 * Sec. 3. AS 47.07.030(b) is amended to read:

20 (b) In addition to the mandatory services specified in (a) of
21 this section, the department may offer only the following optional
22 services: case management and nutrition services for pregnant women;
23 personal care services in a recipient's home; emergency hospital
24 services; long-term care noninstitutional services; medical supplies
25 and equipment; clinic services; inpatient psychiatric facility ser-
26 vices for individuals age 65 or older and individuals under age 21;
27 prescribed drugs; physical therapy; occupational therapy; chiropractic
28 services; treatment of speech, hearing, and language disorders; adult
29 dental services; prosthetic devices and eyeglasses; optometrists'

1 services; intermediate care facility services, including intermediate
2 care facility services for the mentally retarded; skilled nursing
3 facility services for individuals under age 21; and reasonable trans-
4 portation to and from the point of medical care.

5 * Sec. 4. AS 47.07.035 is amended to read:

6 Sec. 47.07.035. PRIORITY OF MEDICAL ASSISTANCE. If the depart-
7 ment finds that the cost of medical assistance for all persons eligi-
8 ble under this chapter will exceed the amount allocated in the state
9 budget for that assistance for the fiscal year, the department shall
10 eliminate coverage for optional medical services and optionally eligi-
11 ble groups of individuals in the following order:

- 12 (1) chiropractic services;
- 13 (2) adult dental services;
- 14 (3) emergency hospital services;
- 15 (4) treatment of speech, hearing, and language disorders;
- 16 (5) optometrists' services and eyeglasses;
- 17 (6) occupational therapy;
- 18 (7) prosthetic devices;
- 19 (8) medical supplies and equipment;
- 20 (9) clinic services;
- 21 (10) physical therapy;
- 22 (11) personal care services in a recipient's home;
- 23 (12) prescribed drugs;
- 24 (13) long-term care noninstitutional services;
- 25 (14) [(13)] inpatient psychiatric facility services;
- 26 (15) [(14)] intermediate care facility services for the men-
27 tally retarded;
- 28 (16) [(15)] intermediate care facility services;
- 29 (17) [(16)] pregnant women, and children five years of age

1 or younger, with a household income that does not exceed 100 percent
2 of the federal poverty level;

3 (18) [(17)] individuals under age 21 who are not eligible
4 for benefits under the federal aid to families with dependent children
5 program because they are not deprived of one or more of their natural
6 or adoptive parents;

7 (19) [(18)] skilled nursing facility services for persons
8 under age 21;

9 (20) [(19)] aged, blind, and disabled individuals who,
10 because they do not meet the income requirements, do not receive
11 supplemental security income under Title XVI of the Social Security
12 Act, but who are eligible, or would be eligible if they were not in a
13 skilled nursing facility or intermediate care facility, to receive an
14 optional state supplementary payment;

15 (21) [(20)] individuals in a hospital, skilled nursing
16 facility, or intermediate care facility whose income while in the
17 facility does not exceed 300 percent of the supplemental security
18 income benefit rate under Title XVI of the Social Security Act, but
19 who, because of income, are not eligible for the optional state sup-
20 plementary payment;

21 (22) [(21)] individuals under age 21 under supervision of
22 the department, for whom maintenance is being paid in whole or in part
23 from public money and who are in foster homes or private child-care
24 institutions.

25 * Sec. 5. AS 47.07 is amended by adding a new section to read:

26 Sec. 47.07.065. PAYMENT FOR PRESCRIBED DRUGS. The department
27 shall pay for prescribed drugs under AS 47.07.030(b) under regulations
28 adopted by the commissioner in conformity with applicable federal
29 regulations.

1 * Sec. 6. Section 2 of this Act takes effect January 1, 1990, unless by
2 that date the director of the division of occupational licensing has certi-
3 fied to the revisor of statutes that the Board of Pharmacy has adopted
4 regulations establishing the schedule of civil fines required under AS 08.-
5 80.460(b).

6 * Sec. 7. Sections 1 and 3 - 5 of this Act take effect July 1, 1989.

5/4/89 SFC
Myra Manson

It is the intent of the legislature that the Department of Health and Social Services will submit to the Health Care Financing Administration (HCFA) for its approval a Medicaid state plan amendment, which incorporates Alaska data and which is based upon the Texas reimbursement methodology for pharmacy services as approved by HCFA, including a dispensing fee which varies by ingredient cost. The Department of Health and Social Services will work with Alaska pharmacists to prepare this plan amendment and vigorously promote its approval by the Health Care Financing Administration. This plan amendment shall be submitted to HCFA by the Department of Health and Social Services as soon as practical (but no later than three months) after formal HCFA approval of the Medicaid plan amendments submitted March 31, 1989.

It is the intent of the legislature that the Department of Health and Social Services work with Alaska pharmacists to minimize problems which may exist with adequate reimbursement for "expensive drugs".

The Department of Health and Social Services shall report to the legislature by the 10th day of 16th Alaska State Legislature on the Department's progress in implementing the pharmaceutical Medicaid option.

ALASKA STATE SENATE



SENATOR DICK ELIASON
SITKA
CHAIRMAN

SENATOR PAT RODEY
ANCHORAGE
VICE-CHAIRMAN

LABOR AND COMMERCE COMMITTEE

MEMBERS
SENATOR JAN FAIKS
ANCHORAGE

SENATOR JACK COGHILL
NENANA

SENATOR JALMAR KERTTULA
PALMER

It is the intent of the Senate that the Department of Health and Social Services will submit to the Health Care Financing Administration (HCFA) for its approval a Medicaid state plan amendment, which incorporates Alaska data and which is based upon the Texas reimbursement methodology for pharmacy services as approved by HCFA, including a dispensing fee which varies by ingredient cost.

The Department of Health and Social services will work with Alaska pharmacists to prepare this plan amendment and vigorously promote its approval by the Health Care Financing Administration. This plan amendment shall be submitted to HCFA by the Department of Health and Social Services as soon as practical (but no later than three months) after formal HCFA approval of the Medicaid plan amendments submitted March 31, 1989. The Department of Health and Social Services shall report to the legislature by the 10th day of Sixteenth Alaska State Legislature on the Department's progress in implementing the pharmaceutical Medicaid option.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

cc
14B70

January 9, 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 a bill relating to pharmaceutical medical assistance for needy persons in the medicaid program. The bill would add prescribed drugs as a covered medicaid service under that program. Chapter 120, SLA 1988 added prescribed drug services for fiscal year 1989 only. Passage of the attached bill will allow the state to continue to receive federal financial participation for these services.

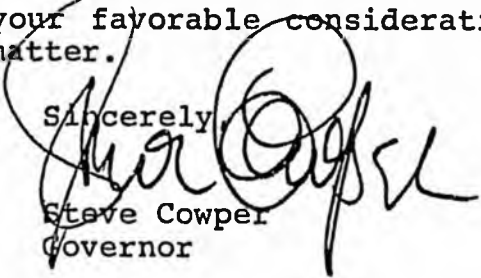
The bill has two main components: the authorization of prescribed drugs as a covered service under medicaid and the establishment of a priority for deletion of prescribed drugs if a funding shortfall occurs. Additionally, the bill adopts the federal medicaid standards of reimbursement for prescribed drugs, and the federal definition of prescribed drugs under the medicaid program.

With regard to the first of the two main components, the Department of Health and Social Services would continue to be required to cover prescribed drugs under the medicaid program after ch. 120, SLA 1988's temporary authorization expires. (Section 1 of the bill.) Before the temporary authorization (July 1, 1988), the department provided this service under the state-funded general relief medical program for medicaid recipients. While the change in program will not increase service to medicaid recipients, the bill will allow the State to continue to collect the federal funding that it collected under ch. 120, SLA 1988.

As to the second main component, sec. 2 of the bill would add prescribed drugs to the priority scheme in AS 47.07.035 that provides for elimination of services if a medicaid budget shortfall occurs. The bill would require that prescribed drugs be eliminated as a covered service under medicaid after personal care services in a recipient's home were eliminated, but before long-term care noninstitutional services were eliminated.

The Department of Health and Social Services (DHSS) views this bill as a critical step forward in continuing to maximize federal financial participation under the medicaid program. Without the federal financial participation that this bill would provide, a DHSS general fund budget shortfall of approximately \$2,500,000 will occur in FY 90 and prescribed drugs would be eliminated from medicaid coverage. Therefore, I urge your favorable consideration of, and prompt action on, this matter.

Sincerely,



Steve Cowper
Governor

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

157

BB 10

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

Summit

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

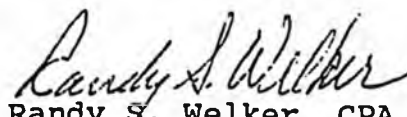
November 30, 1988

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.

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.

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.

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.

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

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

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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.

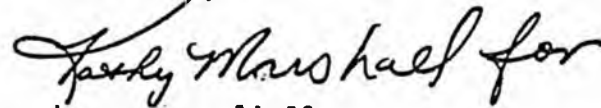
January 12, 1989

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

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