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**372**



372

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

The Honorable Tim Kelly  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to continue the existence of the Board of Nursing Home Administrators (AS 08.70) for four years. Under current law, the board is scheduled to "sunset" June 30, 1990 (AS 08.03.010(c)(9)). There is a "wind-down" period of one year under AS 08.03.020.

If the board is allowed to "sunset," Alaska could not comply with federal law. 42 U.S.C. 1395i-3(e)(4) requires the state to implement and enforce skilled nursing facility administrator standards developed by the secretary of the United States Department of Health and Human Services. Under AS 08.70.050(a) and (b), the Board of Nursing Home Administrators is responsible for adopting regulations setting standards for the licensing of nursing home administrators and adopting regulations "necessary . . . to meet the requirements" of Title 19 of the Social Security Act (42 U.S.C.).

Furthermore, the board's responsibilities have been somewhat increased by amendments to 42 U.S.C. 1396 contained in the Omnibus Budget Reconciliation Act ("OBRA") of 1987 (P.L. 100-203), which established stricter criteria for the federal certification and licensing of nursing homes. Compliance with OBRA is necessary in order for nursing homes to continue to receive federal reimbursement for services provided for their medicaid-eligible residents.

The Board of Nursing Home Administrators is responsible for maintaining a high standard of skill for those who administer our state's nursing homes. Many of our senior citizens rely on nursing homes for their care, and nursing home administrators serve a critical function in assuring that this care is of the highest caliber.

Our senior citizens deserve the very best care possible, and I believe that the board's activities in administering, implementing, and enforcing our nursing home administrator laws are essential. I urge your prompt and favorable consideration of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper". The signature is written in a cursive style with a large initial "S" and a long, sweeping tail that extends downwards and to the right.

Steve Cowper  
Governor

SB 372: "An Act continuing the existence of the Board of Nursing Home Administrators; and providing for an effective date.


The Department of Commerce and Economic Development supports enactment of SB 372. This bill would continue the Board of Nursing Home Administrators (hereinafter "NHA Board") for an additional four years, or until June 30, 1994.

As the final report on the performance audit conducted by the Legislature's Budget and Audit Committee states, federal law [U.S. Code, Title 42, Sec. 1396a(29)] requires a state to license nursing home administrators in order for that state to receive medicaid assistance from the federal government. Thus, a nursing home, in order to be eligible for medicaid funding, must be administered by a licensed nursing home administrator. In response to this requirement, the NHA Board was created by the Alaska Legislature in 1975.

The performance audit has suggested continuation of the board, but did find that it had failed to meet its one-meeting-a-year requirement in 1988. While the NHA Board has had some difficulties in the past meeting its quorum requirement, that issue was resolved with the recent appointment of a new public member (Rose Palmquist). The board met this past fall.

Albeit the primary reason for the creation of the board was the federal mandate, with the recent changes to long-term care facility management required by the Nursing Home Reform Act contained in the federal Omnibus Reconciliation Act of 1987 (OBRA '87), we believe greater responsibility will be placed on the board. Given the present focus on the quality of nursing home care in America, the role of the NHA Board in establishing guidelines for the employment of competent nursing home administrators may take on added importance and relevance.

For the above-stated reasons, we urge continuation of the Board of Nursing Home Administrators and passage of SB 372.

  
\_\_\_\_\_  
Larry Mercurieff, Commissioner

Date: 20 18/1/90

LM/RPB/dgl6116D  
11790c

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: January 8, 1990

FURTHER: Finance

Date of 5-Day Notice: 2/22/90  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/1/90

HESS Committee considered SENATE BILL NO. 372

"An Act continuing the existence of the Board of Nursing Home Administrators; and providing for an effective date."

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_  same title
- attached amendment(s)  new title
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

[Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Paul Trish (Do Pass)  
Chair: Signature and Recommendation

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Economic Dev.  
 Title: An Act continuing the existance of BRU: Occupational Licensine  
the Board of Nursing Home Administrators;...  
 Sponsor: Rules Committee Components: Admin., Boards, Inv.  
 Requestor: Governor

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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 continuation of the Board of Nursing Home Administrators is included in the department's FY 91 operating budget request. For information purposes only, attached shows the division's FY 91 budget allocation for the Board of Nursing Home Administrators.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
 Division: Occupational Licensing Date: January 3, 1990

Approved by Commissioner: Larry Mercurieff Date: 4 Jan 90  
 Agency: Commerce and Economic Development

**Distribution (by preparer) :**

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

STATEMENT OF FISCAL NOTE ANALYSIS  
For Bill/Resolution No. \_\_\_\_\_

DIVISION OF OCCUPATIONAL LICENSING  
FY 91 Budget Allocation for the Board of Nursing Home Administrators

PERSONAL SERVICES	\$ 6.7
TRAVEL	1.1
CONTRACTUAL SERVICES	1.6
SUPPLIES	<u>.1</u>
Total Allocation	\$ 9.5

Introduced: 1/8/90  
Referred: Health, Education and Social  
Services and Finance

go00120s

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 372

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Board of  
7 Nursing Home Administrators; and providing for an  
8 effective date."

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

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

11 (9) Board of Nursing Home Administrators (AS 08.70.010) -  
12 June 30, 1994 [1990].

13 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).  
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*Refer*

*KSS*

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

*Dissect*

August 28, 1989

Audit Control Number

08-1375-90-R

Commissioner, Department of  
Commerce and Economic Development

Larry Mercurieff

Deputy Commissioner, Department of  
Commerce and Economic Development

Jeffrey Bush

Members of the  
Board of Nursing Home Administrators

Chairperson  
Member  
Member

Eloise E. Deater  
Irma Gallagher, RN  
John Vowell, Jr., NHA

# STATE OF ALASKA

THE LEGISLATURE  
BUDGET AND AUDIT COMMITTEE

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


August 28, 1989

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 Nursing Home Administrators.

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 Nursing Home Administrators 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

August 28, 1989

Members of the Legislative Budget  
and Audit Committee:

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

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF NURSING HOME ADMINISTRATORS  
August 28, 1989

Audit Control Number

08-1375-90-R



Mike Greany, Director  
Division of Legislative Finance

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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 reviewed the activities of the Board of Nursing Home Administrators for the past four fiscal years to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Nursing Home Administrators should be re-established. Alaska Statutes 08.03.010(9) specifies that the Board will terminate June 30, 1990, and have 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 performed the following:

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

## ORGANIZATION AND FUNCTION

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

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

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

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

License renewal is required biennially. Renewal requires the licensee to complete a license renewal application, an affidavit of good moral character, and to submit a \$60 license fee.

There are currently 20 facilities in the State which are required to have licensed administrators unless exempted under AS 08.70.080.

## REPORT CONCLUSION

### Policy Issues

This report contains policy issues raised as a result of our evaluation of Board practices. The final policy decisions affecting these practices are not within the scope of this report but require legislative consideration. In debating these issues, the oversight committees should take into consideration the finding and recommendation presented in this report so the potential impact of policy changes can be evaluated.

### Report Conclusion

In our opinion the Board of Nursing Home Administrators should be re-established. Although there is no evidence that this board is necessary to protect the public's health, safety and welfare, it is needed to comply with Federal laws. U.S. Code, Title 42, requires the State to have either a licensing board or an agency for licensing under the Healing Arts Act of the State to continue receiving Medicaid funding. Since Alaska does not have a Healing Arts Act, the State is required to have a licensing board.

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

## FINDING AND RECOMMENDATION

### Recommendation No. 1

The Board of Nursing Home Administrators should comply with statutory mandate to hold a minimum of one meeting per year.

Alaska Statute 08.70.040 requires the Board to meet at least annually to conduct its business. The last meeting held by the Board was on January 25, 1988. Since that date the Board has not been able to meet due to the lack of a quorum.

Alaska Statute 08.70.050 gives the Board the ability to adopt regulations that may be necessary in performing its duties. At the Board's January 25, 1988 meeting action was taken on several items that require changes to the regulations. Some of those items include continuing education requirements, length of provisional licenses, deadlines on initial license applications, and basic education requirements. The Division of Occupational Licensing prepared changes to the regulations to incorporate these amendments. They were public noticed on October 27, 1988. The Board has failed to meet to discuss these changes and no action has taken place to incorporate them into the regulations.

Other items that the Board has not been able to address due to a lack of meetings are recommendations for statutory changes, review of the Board's goals and objectives and updating of application materials. We recommend that the Board meet its statutory requirement of one meeting per year and continue to use teleconferencing as an alternative.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

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

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

We have determined that no public need for the Board has been demonstrated. The Board was created to comply with Federal law.

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's ability to operate effectively and efficiently has been impeded by the lack of annual meetings (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.

Although the Board has discussed statutory changes, no directions have been provided to Occupational Licensing to seek submission of legislation.

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.

It is the policy of the Division of Occupational Licensing (OL) to publish in Anchorage, Fairbanks, and Juneau newspapers public meeting notices 30 days prior to scheduled meeting dates in order to allow persons wishing to attend a meeting time to prepare for it. There have been four board meetings held since FY 86.

APPENDIXES

APPENDIX A

BOARD OF NURSING HOME ADMINISTRATORS  
REVENUES COMPARED WITH EXPENDITURES

For Fiscal Year 1989

(UNAUDITED)

(Note 1)

Average Revenues (Note 2)	\$3,150
Expenditures (Note 3)	<u>2,337</u>
Excess of Revenues over Expenditures	<u>\$ 813</u>

Schedule 1  
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Application Fee	\$30	With application form
Examination/Reexamination Fee	45	With application form
Exam Postponement Fee	20	With application form
Biennial License/Renewal Fee	60	Prior to initial license issuance and biennially
Wall Certificate Fee	20	
Returned Check Charge	20	With valid payment
Penalty Fee	20	
Duplication License Fee	5	
Verification/Certification of AK License	5	
Name Change	5	

Note 1

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

Note 2

The majority of the revenues collected are composed of license renewal fees. These fees are collected by this board once every two years and cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average for the revenues collected in Fiscal Years 1988 and 1989 in order to obtain a more accurate representation of collected revenues.

APPENDIX B

BOARD OF NURSING HOME ADMINISTRATORS  
EXAMINATION STATISTICS

Number of Examinations Given in Fiscal Years 1986-89

<u>Fiscal</u> <u>Year</u>	<u>Passes</u>	<u>Fails</u>	<u>Total</u>
1986	5	0	5
1987	3	1	4
1988	5	5	10
1989	9	4	13

APPENDIX C

BOARD OF NURSING HOME ADMINISTRATORS  
ADMINISTRATIVE STATISTICS

As of June 30, 1989

Licensed Nursing Home Administrators	63
<u>Board Meetings in Fiscal Years 1986-1989</u>	
1986	2
1987	1
1988	1
1989	0

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

P. O. BOX 7  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2500

OFFICE OF THE COMMISSIONER

November 3, 1989

NOV 6 1989

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

Dear Mr. Welker:

Thank you for the opportunity to respond to your sunset audit findings on the Board of Nursing Home Administrators.

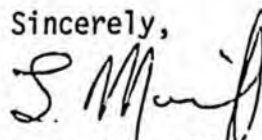
We concur with your recommendation that the board should meet its statutory requirement of one meeting per year or use of teleconferencing as an alternative.

Your findings are correct in that proposed regulations were prepared, but the board has not met to take action on the proposal. At this point, the regulations will have to be renoticed to the public before any further action can occur. In FY 89, the three member board has had difficulty in establishing a quorum, much less an agreeable date on which to meet. A new member was recently appointed to the board and hopefully the board will be able to meet and carry out its statutory responsibilities.

The audit states the board was established in 1975 to satisfy federal medicaid law; and the audit also determined that no public need for the board has been demonstrated. However, we would like to add that greater need and responsibility will be placed on the board as a result of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) which requires the certification of nurse aides working in long-term health care facilities. Although the nurse aide program is administered by the Board of Nursing, cooperation and support from nursing home administrators will be necessary if the state administered program is to succeed.

Once again, we agree with your findings and appreciate the opportunity to comment on the audit report.

Sincerely,



Larry Mercurieff  
Commissioner

LM/fh6094s/110389a

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

-19-