

SB 323

# HOUSE COMMITTEE REPORT

(11)

Date Referred: April 29, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/5/92

The FINANCE Committee considered:

CSSSSB 323(FIN)

CS FOR SS FOR SEN. BILL NO. 323(FIN)

SUBSTANCE ABUSE BY LICENSED PERSONS; FEES

"An Act relating to substance abuse by certain persons who are licensed under state law; and relating to occupational licensing fees."

**RECOMMENDATIONS:**

be replaced with HCS CSSSSB 323(LTC)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

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

zero fiscal note \_\_\_\_\_

zero fiscal note(s) DCEB 3/13/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mike Navarre</i> Navarre	✓				
<i>Monika Boyer</i> Boyer	X				
<i>Fay Brown</i> Brown	✓				
<i>W. Kopone</i> Kopone	✓				
<i>Diana Farmer</i> Farmer	X				
<i>R. Phillips</i> Phillips	✓				
<i>Ronald J. Larsen</i> Larsen	X				
<i>W. Ulmer</i> Ulmer	X				
<i>Ken Sharp</i> Sharp	X				

*Mike Navarre*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO. HCS CSSSSB 323(L&C)

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Development  
 Title: An Act relating to substance abuse by certain BRU: Occupational Licensing  
persons who are licensed under state law;... Component: Administration  
 Sponsor: Sen. Sturgulewaki and Pearce  
 Requestor: House Finance COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)  
 The bill will allow the department to contract with public and private organizations at the request of any of the ten health care boards listed in the bill, to provide assistance and treatment to licensees who abuse alcohol, other drugs, or other substances. (Continued on attached)

Prepared By: Jennifer Strickler Phone: 465-2144  
 Division: Occupational Licensing Date: 05/01/92  
 Approved by Commissioner: Glenn A. Olds  
 Agency: Commerce & Economic Development Date: 5-1-92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCS CSSSSB 323(L&C)

Because of the permissive language used in the bill which provide that the department "may" contract with an organization at the request of the board, new funding will not be necessary to implement the bill at the onset. Currently, the division is aware of only one licensing board committed to a substance abuse type program. As additional licensing boards become involved with similar programs, the department may require additional staff support at that time to coordinate activities between the division and the substance abuse programs.

When additional staff support becomes necessary, licensees may be asked to cover costs associated with the program through an increase in fees.

The bill also makes amendment to the departments statutory authority for setting of fees by regulations. New funds are not required to implement the bill.

## HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 323 (L&amp;C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/29/92

Referred: Finance

Sponsor(s): SENATORS STURGULEWSKI, Pearce

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to substance abuse by certain persons who are licensed under state law;  
 2 and relating to occupational licensing fees."

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

4 \* Section 1. AS 08.01.050 is amended by adding a new subsection to read:

5 (d) At the request of one of the following boards, the department may contract with  
 6 public agencies and private professional organizations to provide assistance and treatment to  
 7 persons licensed by the board who abuse alcohol, other drugs, or other substances:

- 8 (1) Board of Clinical Social Work Examiners;  
 9 (2) Board of Dental Examiners;  
 10 (3) Board of Dispensing Opticians;  
 11 (4) State Medical Board;  
 12 (5) Board of Nursing;  
 13 (6) Board of Examiners in Optometry;  
 14 (7) Board of Pharmacy,

- 1 (8) State Physical Therapy and Occupational Therapy Board;
- 2 (9) Board of Psychologist and Psychological Associate Examiners; and
- 3 (10) Board of Veterinary Examiners.

4 \* Sec. 2. AS 08.01.065(c) is repealed and reenacted to read:

5 (c) The department shall establish fee levels under (a) of this section so that the total  
6 amount of fees collected for an occupation approximately equals the actual regulatory costs for  
7 the occupation. The department shall annually review each fee level to determine whether the  
8 regulatory costs of each occupation are approximately equal to fee collections related to that  
9 occupation. If the review indicates that an occupation's fee collections and regulatory costs are  
10 not approximately equal, the department shall calculate fee adjustments and adopt regulations  
11 under (a) of this section to implement the adjustments. In January of each year, the department  
12 shall report on all fee levels and revisions for the previous year under this subsection to the office  
13 of management and budget. If a board regulates an occupation covered by this chapter, the  
14 department shall consider the board's recommendations concerning the occupation's fee levels  
15 and regulatory costs before revising fee schedules to comply with this subsection. In this  
16 subsection, "regulatory costs" means costs of the department that are attributable to regulation  
17 of an occupation plus

18 (1) all expenses of the board that regulates the occupation if the board regulates  
19 only one occupation;

20 (2) the expenses of a board that are attributable to the occupation if the board  
21 regulates more than one occupation.

22 \* Sec. 3. AS 08.02.020 is amended to read:

23 Sec. 08.02.020. LIMITATION OF LIABILITY. An action may not be brought against  
24 a person for damages resulting from

25 (1) the person's good faith performance of a duty, function, or activity required  
26 as

27 (A) a member of, or witness before, a licensing board or peer review  
28 committee established to review a licensing matter;

29 (B) a member of a committee appointed under AS 08.64.336(c);

30 (C) a contractor or agent of a contractor under AS 08.01.050(d) or  
31 AS 08.64.101(6); [OR]

1 (2) a recommendation or action in accordance with the prescribed duties of a  
2 licensing board, peer review committee established to review a licensing matter, committee  
3 appointed under AS 08.64.336(c), or contractor or agent of a contractor under AS 08.01.050(d)  
4 or AS 08.64.101(6) when the person acts in the reasonable belief that the action or  
5 recommendation is warranted by facts known to the person, board, peer review committee,  
6 committee appointed under AS 08.64.336(c), or contractor or agent of the contractor under  
7 AS 08.01.050(d) or AS 08.64.101(6) after reasonable efforts to ascertain the facts upon which  
8 the action or recommendation is made; or

9 (3) a report made in good faith to a public agency by the person, or  
10 participation by the person in an investigation by a public agency or a judicial or  
11 administrative proceeding relating to the report, if the report relates to the abuse of alcohol,  
12 other drugs, or other substances by a person licensed by a board listed in AS 08.01.050(d).

13 \* Sec. 4. AS 08.01.065(b) is repealed.

# Alaska State Legislature

SENATOR  
ARLISS STURGULEWSKI



Senate

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## Sponsor Statement for SB 323

Several health care practitioners' groups have recognized the problem of health care practitioners who have become professionally impaired as a result of chemical dependency. These groups wish to find a solution that does not result in loss of licensure. Currently, if a chemically impaired practitioner voluntarily comes forward, or is reported to his or her licensing board, disciplinary action is taken.

Senate Bill 323 amends existing law to allow the Department of Commerce and Economic Development to contract with public agencies and private professional organizations to provide education, recommend treatment, and monitor recovery for certain persons licensed as medical practitioners who abuse alcohol, other drugs, or other substances.

Often a medical professional is hesitant to come forward to seek treatment for substance abuse because he or she is afraid of a possible license revocation. This legislation would provide a formal means by which intervention and monitoring can be done to meet the standards required by the licensing boards.

As this legislation progressed we became aware of a difference between the cost to the Department for regulating occupational licensing boards and the amount of funding received from licensing fees. This difference results in a shortfall in excess of \$300,000. The bill was amended to direct the Department of Commerce and Economic Development to review fee levels for occupational boards and to adopt fee levels that approximately equal the cost to the Department for regulating those boards.

SECTIONAL ANALYSIS  
SENATE BILL 323

**SECTION 1:**

**Authorizes the Department of Commerce and Economic Development to contract with public agencies and private professional organizations to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances.**

The contracting would be at the request of one of the following boards:

- (1) Board of Clinical Social Work Examiners;
- (2) Board of Dental Examiners;
- (3) Board of Dispensing Opticians;
- (4) State Medical Board;
- (5) Board of Nursing;
- (6) Board of Examiners in Optometry;
- (7) Board of Pharmacy;
- (8) State Physical Therapy and Occupational Therapy Board;
- (9) Board of Psychologist and Psychological Associate Examiners; and
- (10) Board of Veterinary Examiners.

**SECTION 2:** (Applies to all boards addressed in AS 08.01.010)

Directs the Department to establish fee levels for occupations which approximately equal the actual cost to the Department for that occupation. Calls for the department to annually review fee levels. If the fee levels are not equal to the actual costs to the Department the Department shall calculate fee adjustments and adopt regulations to implement the adjustments. Recommendations of the effected Board will be considered prior to the increase in fee levels.

**SECTION 3:**

Releases from any liability those individuals who are involved in reporting, investigating, or hearing a complaint when that complaint relates to the abuse of alcohol, other drugs, or other substances by a licensed individual.

**SECTION 4:**

Repeals AS 08.01.065(b). Allows the Department to implement fee increases without direct approval of the effected board.

SSSB 323 (L&C):

"An Act relating to substance abuse by certain persons who are licensed under state law."

This bill contains provisions encouraging early intervention and a nondisciplinary approach for handling licensed health care providers who abuse addictive substances. In addition, the bill provides immunity and indemnity for persons who act in good faith in reporting suspected abuse or who assist the board in intervention, peer review, and other activities deemed necessary to rehabilitate or discipline an impaired practitioner.

Section 1 of the bill adds a new subsection which allows specific health care licensing boards to request the department to contract with a professional association or public agency to provide assistance and treatment to persons who abuse addictive substances. The State Medical Board currently has this provision in 08.64.101 (6), and has had an agreement with the Alaska State Medical Association and its Impaired Physician's Committee since June, 1988. Thus far, it has demonstrated effectiveness.

Denial of the disease and threat of licensing discipline prevent many impaired professionals from entering treatment, thus, putting the public at risk for a greater period of time. Co-workers might be more willing to report someone they thought was abusing if the result were treatment, not punishment. With this legislation, the department could enter into contracts which reflect individual board concerns and philosophies. The contracts would include provisions for identifying, confronting, assisting into treatment, and the monitoring of recovery activities of health care professionals in substance abuse recovery.

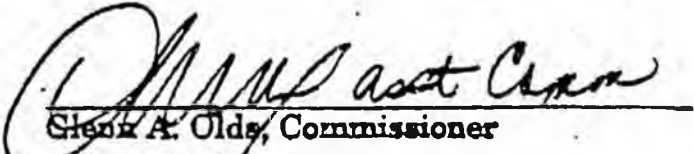
The department's Division of Occupational Licensing currently has staff members who have responsibilities in the area of investigation, education, and monitoring of professionals in recovery who have entered into disciplinary probation agreements with the boards. This problem is growing rapidly nationally and we have no reason to believe Alaska will not have a like increase in impaired practitioners. Having the ability to contract as provided in this bill might ease a strain on staff resources that we are beginning to feel.

Section 2 of the bill extends the limitation of liability protections currently in place for persons assisting the medical board to those other professionals assisting the other health care licensing boards in carrying out their duties. There is considerable fear about litigation or other retaliation for reporting a fellow practitioner. Reports made in good faith should be protected. Failure to provide this protection would preclude members of the professions from participating in the intervention and monitoring committees.

POSITION PAPER  
SSSB 323 (L&C)  
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The boards will continue to maintain the ability to discipline the chemically addicted professionals who fail to comply with terms of the optional program of treatment and monitoring among those licensed to practice. The department, not the individual boards, will be entering into the contract with the association or private care provider. The bill is permissive, not mandatory. For these reasons, the department is comfortable with the bill as written.

The department supports passage of SSSB 323 (L&C).

  
Glenn A. Olds, Commissioner  
Date: 2.18.92