

HB

164



Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH V
JUNEAU, AK 99811
465-3759

M E M O R A N D U M

TO: REP. GEORGIANNA LINCOLN, CO-CHAIR
REP. PATRICK CARNEY, CO-CHAIR
REP. BETTYE DAVIS, VICE-CHAIR
REP. CHERI DAVIS
REP. JOHN GONZALES
REP. MARK HANLEY
~~REP. MARY MILLER~~
PAT JACKSON
CAROLINE LOMBARD
LIBRARY FILE
REFERRAL FILE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

FR: PATTI, HESS COMMITTEE SECRETARY *Patti*

DT: APRIL 4, 1991

RE: HESS HEARING 3/26, NEW CSHB 164 (HES)

ATTACHED FOR YOUR HESS FILE IS THE NEW CSHB 164 (HES) AS
AMENDED AND PASSED DURING OUR HESS HEARING ON MARCH 26, 1991.

FOR YOUR FILE.

CS FOR HOUSE BILL NO. 164 (HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES/GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the Board of Dental Examiners in the Department of Commerce and
2 Economic Development; and providing for an effective date."

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

4 * Section 1. AS 08.03.010(c)(6) is amended to read:

5 (6) Board of Dental Examiners (AS 08.36.010) - June 30, 1993 [1991];

6 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BOARD OF DENTAL EXAMINERS

October 21, 1990



Audit Control Number:

08-1388-91

Division of Legislative Audit
P.O. Box W, Juneau, Alaska 99811-3300

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

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

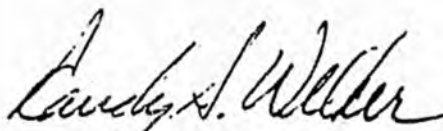
October 21, 1990

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 Dental Examiners.

At the request of the Chairman, during Fiscal Year 1988 budget deliberations, the Finance and Audit Divisions' budgets were revised to reflect certain changes in the organizations 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 Dental Examiners 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

October 21, 1990

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 REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF DENTAL EXAMINERS
October 21, 1990

Audit Control Number

08-1388-91 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 Dental Examiners 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 should be reestablished. The law now specifies that the Board will terminate June 30, 1991, 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 investigation functions of the Board. We reviewed and performed the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licensees.
3. Interviews with the staff of the Board.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, 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

The Board of Dental Examiners was created in 1955. The Board consists of nine persons: six licensed dentists, two dental hygienists, and one public member, which are appointed by the Governor subject to confirmation of the Legislature. Board members serve terms of four years.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing (DOL). Administrative functions of the Board are provided by DOL, such as processing applications, maintaining licensing files, answering inquiries, and providing investigative support.

The primary function of the Board is to ensure a minimum quality of dental care to Alaskans by licensing qualified applicants and establishing regulations necessary to enforce statutes. The Board regulates dentists, dental specialists, and dental hygienists who perform services in the State.

The responsibility and authority for evaluating the competence of candidates for dental licensure are vested in the Board. Previous to January 1987, candidates had to pass a state administered clinical and written examination to assess a candidate's competency. The Board now accepts the results of the Western Regional Examining Board's clinical and written examination for general dentistry and dental hygienists. Dental hygienists who are licensed in another State and who possess minimum work experience can be licensed through credentials.

Although dental specialists are not required to take an examination, they must be licensed dentists in Alaska and may be required to have completed additional years of education in their specialty area.

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 information presented in this report so the potential impact of policy changes can be evaluated.

Report Conclusion

In our opinion, the Board of Dental Examiners 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. Also, assurances that those licensed act in a competent manner is provided by active investigation of complaints and revocation or suspension of licenses when appropriate.

Current statutes, AS 08.03.101, specify that the sunset review period for the Board of Dental Examiners shall be three years.

The last 4 reviews, since 1985 found that the Board has restricted entry into the dental profession by not allowing licensure by credentials as permitted by Alaska law (see current Recommendation No. 1). As part of the 1986 legislation that continued the Board for two years, the legislature included two letters of intent that the Board should allow licensure by credentials.

At two Board meetings in 1988, the Board discussed the issue of allowing licensure by credential, and denied licensure by credential to 3 dentist. At the present time several dentists have filed suit to force the Board to allow licensure by credential.

Based on the Board of Dental Examiners refusal to allow licensure by credential, it is recommended that the review interval be two years. The next statutory termination date subject to sunset review would be June 30, 1993.

FINDING AND RECOMMENDATION

Recommendation No. 1

The Board should allow for licensure by credentials for dentists and dental specialists.

Alaska Statute 08.36.234 allows but does not mandate the Board to approve dental licenses to applicants with valid dental licenses in other states by reviewing their credentials instead of requiring the applicant to pass a written and clinical examination. In 1984, the Board issued an emergency regulation 12 AAC 28.950, which suspended licensure by credentials after concern was expressed by the Attorney General about the Board's procedures. The Attorney General found that the Board was conducting an "oral test" instead of an "oral interview" as allowed by statute.

The cessation of licensure by credentials restricts entry into the dental profession in Alaska for out-of-state dentists wishing to practice in the State.

As part of the 1986 legislation which continued the Board for two years, the Legislature included two letters of intent that the Board should repeal the emergency regulation and reinstate licensure by credentials. The Board has not complied with this intent.

Legislation was introduced in the 1990 session to mandate licensure by credential, but the legislation did not pass. At the present time several dentists have filed suit to force the Board to allow licensure by credential.

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 pertinent to our review.

- I. The extent to which the board, commission, or program has operated in the public interest.
 - A. The Board has served the public by examining and licensing qualified applicants and proposing changes in regulations that are necessary to enforce State statutes and enhance the quality of dental care to Alaskans.
 - B. The Board has instituted an impaired dentist program for dentists addicted to alcohol, drugs or narcotics.
 - C. The Board has held four board meetings per year during the past two fiscal years.
- 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.
 - A. The Board suspended, by regulation in 1984, statutory provision for licensure by credentials (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.
 - A. No legislation has been introduced by the Board since 1987.
- 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.
 - A. The public is informed of meeting and examination dates and regulation changes by notices in major newspapers.
 - B. Minutes of Board meetings include names of applicants and support staff in attendance.

- B. Minutes of Board meetings include names of applicants and support staff in attendance.
- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.
- A. The public is invited by notices in major newspapers throughout the state to give input about Board business and proposed regulations.
- VI. The efficiency with which public inquiries 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.
- A. The Board processes and addressed complaints in an effective and timely manner.
- 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.
- A. The Board, as of October 8, 1990, regulated 434 Dentists, 53 Dental Specialists and 173 Dental Hygienists.
- B. The Board requires continuing dental education of dentists and dental hygienists.
- 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 of activity or interest.
- A. 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.
- A. Please refer to previous section, Finding and Recommendation.

APPENDIX

APPENDIX A

BOARD OF DENTAL EXAMINERS
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES

For Fiscal Year 1990

(Unaudited)

(Note 1)

Revenues (Note 2)		\$57,510
Expenditures (Note 3)		
Personal Services	\$59,163	
Travel	12,850	
Contractual	16,217	
Supplies	1,013	
Equipment	<u>2,319</u>	
Total Expenditures		<u>91,562</u>
Revenues Compared to Expenditures		<u><\$34,052></u>

Note 1

The Schedule of Revenues Compared with Expenditures was prepared by the Division of Occupational Licensing 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

A significant portion of revenues is composed of license renewal fees. Licenses are renewed biennially. Because of the renewals, revenues vary substantially every year. Therefore, we combined revenues collected in fiscal year 1989 and 1990, and calculated an average in order to obtain a representative amount of annualized revenues collected.

Note 3

This amount does not include expenditures for efforts of other departments assisting the Board.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

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

OFFICE OF THE COMMISSIONER

December 3, 1990

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

DEC 04 1990

Dear Mr. Welker:

This letter is in response to the preliminary "sunset" audit findings of the Legislative Audit Division (hereinafter "audit") regarding the Board of Dental Examiners (hereinafter "board"). Your review of the board's performance has resulted in one recommendation to the Department of Commerce and Economic Development (hereinafter "department"). You recommend that "the board should allow for licensure by credentials for dentists and dental specialists."

As your report indicates, legislation was introduced during the 1990 legislative session to mandate dental licensure by credentialing. As you also state, the legislation failed to pass the Senate. It is the position of the department that the Legislature's failure to specifically require the board to license by credential has removed from the board the requirement that it comply with the letters of intent filed by the Legislature over four years ago.

As you are aware, since 1987, the board has used the Western Regional Examining Board's dental exam for Alaska's dentistry applicants. Any dentist who sits for and successfully passes the Western Regional Examining Board (WREB) is now eligible for licensure in Alaska. As a result, at the time of this writing, there exists a significant pool of dentists who, if they so desired, could immediately apply for and be granted a license to practice dentistry in the State of Alaska. It is the department's contention that the Dental Board's participation in the WREB exam successfully counters your finding that "the cessation of licensure by credentials restricts entry into the dental profession in Alaska for out-of-state dentists wishing to practice in the state."

The board continues to believe that the recognized variance in the quality of dental education received in schools across the country mandates the use of an objective clinical examination prior to licensure in order to assure the public that the dentist seeking to practice in

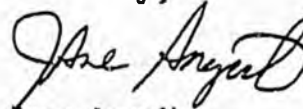
Alaska is at least minimally qualified. Without an exam, the board does not feel it has an adequate knowledge of a dentist's professional abilities. For that reason, a majority of the board continues to oppose the requirements that the board strike administrative regulation 12 AAC 28.950.

Consequently, the department takes exception to audit's recommendation that the board be continued, but for only a period of two (2) years. This board has been reviewed four (4) times since 1985, and each time the only significant issue raised by audit has been the credentialing issue. Each performance report finds audit recommending that the Dental Board be reestablished, because the board has generally conducted itself in a professional, competent, and efficient manner, but each report has also contained a recommendation regarding audit's apparent policy position that the board should provide for licensure by credential.

Audit's current performance report contains no new data indicating that the public continues to be harmed by a cessation of credentialing. Indeed, all that is stated is that failing to admit on credentials "restricts entry into the dental profession in Alaska for out-of-state dentists wishing to practice in the state." Simply because the board does not license every dentist who wishes to practice in Alaska is not sufficient reason to repeatedly recommend a short continuation period for the board.

Given the significant controversy of this issue, and the fact that the Legislature itself is split on it, as evidenced by the Senate debate, it is the department's firm position that the credentialing issue be separated from a sunset review. Certainly the Legislature is not precluded from addressing the credentialing issue at any time. The board should be continued for four years, not two, in light of your admission that the board continues to successfully meet its primary public purposes.

Sincerely,



Jane Angvik
Commissioner

JA/RPB/bkt3208c

120390a

cc: Board of Dental Examiners

Randall P. Burns, Director
Division of Occupational Licensing

HOUSE COMMITTEE REPORT

(7)
Date Referred: February 25, 1991

FURTHER REFERRALS:

Labor and Commerce
Finance

Date of Committee Action: 3-26-91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 164

HOUSE BILL NO. 164

EXTEND BOARD OF DENTAL EXAMINERS

"An Act extending the Board of Dental Examiners in the Department of Commerce and Economic Development; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____

CS HB 164 (HES)

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: 2 letters by HESS 3/26/91 letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

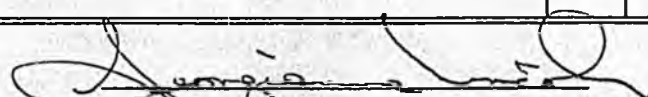
fiscal impact _____

fiscal note(s) _____

zero fiscal note D.C.E.D.

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Deborah Miller		(LINCOLN)			
Patricia Gray	✓	(CARNEY)			
J. G. Gonzales	✓	(GONZALES)			
Bettye Davis	✓	(DAVIS)			
Mark Hanley		(HANLEY)			
Cheri Davis		Cheri Davis		✓	
May Miller	✓				


CO-CHAIRMAN'S SIGNATURE


March 26, 1991

by the House Health, Education and Social Services Committee

**Letter of Intent
for
CS HB 164 (HES)**

It is the intent of the House Health, Education and Social Services Committee that occupational licensing fees established pursuant to AS 08.01.065 shall reflect the actual costs to the department for which the fee is charged, except when to do so would create an unreasonable burden upon licensees. The committee requests the Board of Psychologist and Psychological Associate Examiners to work with the department in re-evaluating its current licensing fee schedule. The committee further requests the department to issue a report on fee schedules, with notation as to those fees which have been changed, to the legislature by the first day of the second session of the Seventeenth Legislature.

It is also the intent of the House Health, Education and Social Services Committee that in the next year the Board of Dental Examiners and the Division of Occupational Licensing develop new procedures for credentialing, including credentialing for dental specialists and report their recommendations to the House and Senate HESS Committees by the first day of the second session of the Seventeenth Alaska State Legislature.



Representative Georgianna Lincoln, Co-Chair



Representative Pat Carney, Co-Chair

March 26, 1991

*Revised
letter of intent
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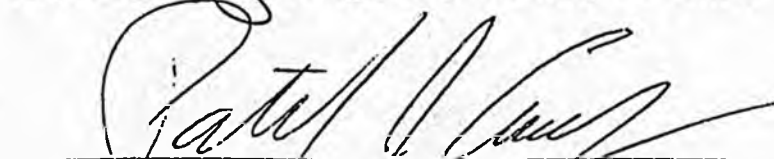
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Representative Georgianna Lincoln, Co-Chair


Representative Pat Carney, Co-Chair



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: March 26, 1991

PLACE: Capitol Room 106

SUBJECT OF MEETING:

HB164 EXTEND BOARD OF DENTAL EXAMINERS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Ann Boudreau	Director Occ Lisen'g	DCED				Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 164

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Extending the Board of Dental BRU: Occupational Licensing
Examiners Component: Administration
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
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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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Funding for the Board of Dental Examiners is included in the department's FY 92 operating budget request, and therefore, new funds are not required.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 3/22/91
 Approved by Commissioner: Glenn A. Olds *[Signature]* Asst. Comm.
 Agency: Commerce and Economic Development Date: 3-22-91

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