

**HVB**

**327**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: February 3, 1994

FURTHER REFERRALS:

Date of Committee Action: 2/14/94

The FINANCE Committee considered:

HB 327

HOUSE BILL NO. 327

EXTEND BOARD OF VETERINARY EXAMINERS

"An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date."

RECOMMENDATIONS:

be replaced with \_\_\_\_\_

HB 327

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) DCED 2/3/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Donald J. Larson</i> Larson	<input checked="" type="checkbox"/>	<i>Tom Jernigan</i> TACYRAGUIT		<input checked="" type="checkbox"/>	
<i>Terry Martin</i> martin	<input checked="" type="checkbox"/>				
<i>John R. Pannell</i> Pannell	<input checked="" type="checkbox"/>				
<i>Ben J. Grussendorf</i> grussendorf	<input checked="" type="checkbox"/>				
<i>Mike Navarre</i> Navarre	<input checked="" type="checkbox"/>				
<i>Tam Brown</i> Brown	<input checked="" type="checkbox"/>				
<i>Richard Foster</i> FOSTER	<input checked="" type="checkbox"/>				
<i>E.P. MacLean</i> MacLean	<input checked="" type="checkbox"/>				

*Donald J. Larson*  
CO-CHAIRMAN'S SIGNATURE

*E.P. MacLean*  
MACLEAN

# FISCAL NOTE

No. 1

Bill Version: HB 327

(H) Publish Date: 2/3/94

**STATE OF ALASKA  
1994 LEGISLATIVE SESSION**

**BILL**

Revision Date: 1/28/94  
 Title: An Act extending the termination date of the  
Board of Veterinary Examiners;....  
 Sponsor: Reps. Toohy and Bunde  
 Requestor: Rep. Toohy

Department: Commerce and Economic Dev.  
 BRU: Occupational Licensing  
 Component: Operations  
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the termination date of the Board of Veterinary Examiners to June 30, 1997. Funding for the board is included in the FY 95 operating budget request; therefore, new funds are not required.

Average Annual Cost: \$28.1  
 Average Annual Revenue: \$33.9

Prepared by: Jennifer Strickler, Administrative Officer  
 Division: Occupational Licensing  
 Approved by Commissioner: Paul Fuhs  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: 1/28/94  
 Date: \_\_\_\_\_

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**COMMITTEE COPY**

## SPONSOR STATEMENT

*House Bill 327: An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date.*

This bill will amend Alaska Statute 08.03.010 (c)(24) in order to extend the 'sunset date' of the State Board of Veterinary Examiners until June 30th, 1997. The 'sunset date' currently on the books is June 30th of this year, which means the Board is only a few months from ceasing to exist legally. At the request of several members of the veterinary medical community, I introduced HB 327 to extend the life of the Board of Veterinary Examiners for four more years.

Please note that the Division of Occupational Licensing has indicated that the Board operates from revenues generated through professional licensing fees, and not monies from the General Fund. I believe that the Board of Veterinary Examiners is necessary to support the health, safety, and welfare of the people of Alaska (and their pets), and I hope to see HB 327 speedily passed.

Back-up

STATE OF ALASKA  
Boards and Commissions

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VETERINARY EXAMINERS

BOARD: Board of Veterinary Examiners

BOARD IDENTIFICATION NUMBER: 102

DEPARTMENT: Department of Commerce and Economic Development

AUTHORITY: AS 08.98.010

STATUS: Active

SUNSET DATE: June 30, 1993

REQUIREMENTS: Legislative Confirmation

PROHIBITIONS: Cannot serve more than all or part of two consecutive terms.

TERM: 4 years

DESCRIPTION: 5 members appointed by Governor – 4 licensed veterinarians in active practice in Alaska for 5 years; plus 1 public member; no person may serve who is, or was during the two years immediately preceding appointment, a member of a faculty, board of trustees, or advisory board of a veterinary school.

FUNCTION: Regulates and controls applications, licenses, and permits of veterinarians and veterinarian technicians.

CHAIR: No provision.

SPECIAL FACTS: Serve at the pleasure of the Governor. Members serve until a successor is appointed. An appointment to fill a vacancy is for the remainder of the unexpired term. A member who has served all or part of two successive terms may not be reappointed unless four years have elapsed since the person has last served.

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: At least 3 annually; normally 3 times per year, 3 days maximum, plus 2-4 work sessions.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt West, Division of Occupational Licensing, DCED, P.O. Box 110806 M/S 0800, Juneau, AK, 99811 0806, Phone: 907 465 3035

STATE OF ALASKA  
Boards and Commissions

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Membership Roster  
VETERINARY EXAMINERS (102)

Member	Appointed	Reappointed	Term Exp.
Jonathan P. Bertridge Veterinarian 12320 Old Glenn Highway Eagle River, AK 99577	09/20/93		01/31/97
Paul O. Frith Veterinarian 4273 Birch Lane Fairbanks, AK 99709	10/20/89	12/12/89	01/31/94
Virginia M. Johnson Veterinarian 12531 Old Seward Highway Anchorage, AK 99515	03/10/89	05/12/92	01/31/95
James Leach, III Veterinarian - Chair P.O. Box 520682 Big Lake, AK 99652	02/01/88	05/12/92	01/31/96
Barbara J. Marcisak Public HC04 Box 9563 Palmer, AK 99645	06/11/92		01/31/96



BIG LAKE SUSITNA VETERINARY HOSPITAL

PO. BOX 520682  
MILE 51 PARKS HIGHWAY  
BIG LAKE, ALASKA 99652  
TELEPHONE: (907) 892-9292

DEC - 5 1993

December 1, 1993

Representative Cynthia Toohey  
Health and Social Services  
Co-chair  
716 West 4th Avenue  
Suite 330  
Anchorage, Alaska 99501

Dear Representative Toohey;

This letter is to request your consideration for legislative extension of the sunset date for the Board of Veterinary Examiners.

There is apparently a bill introduced by the Division of Occupational Licensing to blanket cover a number of boards. We are concerned regarding the outcome of that bill and respectfully request a separate bill for the Board of Veterinary Examiners.

Thank you for your consideration regarding this matter and for your efforts on behalf of the Board of Veterinary Examiners.

Respectfully,

James B. Leach III, DVM  
Board of Veterinary Examiners  
Chairman

JBL/psk



HB327

# Audit Report

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DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
BOARD OF VETERINARY EXAMINERS

December 3, 1993

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Audit Control Number:

08-1409-94

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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## DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

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Representative John Davies  
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Randy S. Welker, CPA  
Legislative Auditor  
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Deputy Legislative Auditor

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

December 3, 1993

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

### DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF VETERINARY EXAMINERS

December 3, 1993

Audit Control Number

08-1409-94

The objective of the audit was to determine whether the Board of Veterinary Examiners should continue its existence. Alaska Statute 08.03.010(24) has scheduled the board for termination on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature enact legislation that extends the board's termination date until June 30, 2001.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

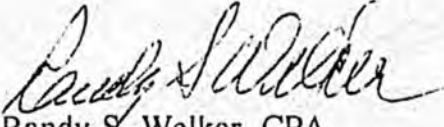
  
Randy S. Welker, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

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 Veterinary Examiners to determine if it should continue in existence.

As required by statute, the legislative committee of reference is to consider this report as part of the legislative oversight process in determining whether this board should be reestablished. The law currently specifies that the Board of Veterinary Examiners will terminate on June 30, 1993 and will have one year from that date to conclude its affairs. As of the date of this report, the board is technically in its one-year "wrap up" period.

During the course of our examination, we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Interviews with Board of Veterinary Examiners board members.
- Interviews with Department of Commerce and Economic Development, Division of Occupational Licensing personnel.
- Interviews with Human Rights Commission and Equal Employment Opportunity Office personnel.
- Interviews with other states' licensing agency personnel.
- Licensing files.
- Investigation files.
- Annual reports prepared by the board.
- Minutes of the Board of Veterinary Examiners' meetings.
- Office of the Ombudsman closed case files.
- Division of Occupational Licensing Policy and Procedures Manual.
- Contents of the Director of the Division of Occupational Licensing correspondence files.
- Other documents and interviews as deemed pertinent.

(Intentionally left blank)

## ORGANIZATION AND FUNCTION

The Board of Veterinary Examiners (the board) was established in the Department of Commerce and Economic Development in April 1963 by Chapter 91, SLA 1963. It is a regulatory board consisting of four licensed veterinarians and one public member (see inset at right). Members are appointed by the governor and approved by the legislature. Board members serve staggered, four-year terms. The authority of the board is outlined within Alaska Statutes 08.98.010 - .250.

### Board of Veterinary Examiners Members

James B. Leach III, DVM, Chairman  
Jonathan Bettridge, DVM  
Paul O. Frith, DVM  
Virginia Johnson, DVM  
Barbara J. Marcisak, Public Member

The board determines the minimum quality of veterinary care in the State by:

1. Examining applicants and approving the issuance of licenses to qualified applicants;
2. Establishing or amending rules and regulations necessary to enforce state statutes; and
3. Conducting disciplinary proceedings in accordance with law.

The board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing. The division provides the board with licensing and investigative support. The licensing section processes applications, maintains license files, answers inquiries, and performs other administrative duties for the board.

(Intentionally left blank)

## REPORT CONCLUSIONS

Alaska Statute 08.03.010(24) requires that the Board of Veterinary Examiners be terminated on June 30, 1993. Alaska Statute 08.03.020 provides one year in which to conclude its affairs if the legislature does not enact legislation for the continuance of the board. As of the date of this report, the board is technically in its one year "wrap up" period and, if no action is taken by the legislature, the board will be dissolved June 30, 1994. We recommend that the legislature enact legislation that extends the board's termination date until June 30, 2001 (see Recommendation No. 1).

The Findings and Recommendations section describes areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the efficiency and effectiveness of the board.

(Intentionally left blank)

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The legislature should reestablish the Board of Veterinary Examiners (the board) with a termination date of June 30, 2001.

The regulation and licensing of qualified professionals is necessary to protect the public's interest. The board has performed its statutory duties and appears to be licensing qualified individuals to serve the public. Assurance that licensed professionals act in a competent manner is provided by investigation of complaints and revocation or suspension of licenses when appropriate.

Alaska currently has the most restrictive time period for sunset reviews, with sunsets scheduled for every four years. In the 24 states with sunset laws, agency reestablishment has ranged from 4 to 13 years. The average review cycle is eight years with many states going to review cycles of ten years or longer.

The board is well established and has consistently been found to satisfy a public purpose. The board has demonstrated an ability to conduct business in an adequate manner and deficiencies have been relatively minor. Though the sunset review this year does reveal a few areas to be addressed (see following recommendations), there does not appear to be any need to review the board every four years.

### Recommendation No. 2

The board should pursue legislation that stipulates the penalty for unlicensed activity.

Alaska Statute 08.98.120 states that a person may not practice veterinary medicine, surgery, or dentistry without a license. However, statutes are silent as to the penalty for unlicensed activity.

This is inconsistent with several other professions regulated by boards associated with the Department of Commerce and Economic Development (DCED), Division of Occupational Licensing (OL). For example, AS 08.13.190 states that the unlicensed practice of barbers and hairdressers is a class B misdemeanor. Alaska Statute 08.48.291 makes unlicensed practice for architects, engineers, and land surveyors a class A misdemeanor. The unlicensed practice of chiropractors is defined in AS 08.20.200 as a misdemeanor.

At its February 1993 meeting the board proposed changing the statute to include a civil penalty for unlicensed activity of up to \$5,000. The board should contact the Department of Law to determine whether a criminal or civil penalty would be most effective and pursue appropriate legislation.

### Recommendation No. 3

DCED should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

OL's methodology for determining FY 93 fees allocates costs to a board or occupation in one of two ways. Some costs, termed direct costs by OL, are directly distributed to a specific licensing program. Direct costs include personnel assigned to one specific occupation, travel associated with board business, public notices of board proceedings, and printing of board applications and statute booklets. Other costs, termed indirect costs, are allocated based upon the percentage of licensees in each occupation compared to the total number of occupational licensees. These costs include the expenditures associated with licensing examiners', investigators', hearing officers', management's, and clerical staff's time.

Effective August 24, 1992, DCED was required to establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation (AS 08.01.065(c)). Prior to FY 93, DCED could establish fees that reflected, but did not exceed, the actual costs of the activity for which the fee was charged and could establish a fee at less than full cost if they deemed it unreasonable to impose the full cost of the activity on the licensee.

Our office and OMB have both reviewed OL's cost allocation methodology to determine if it is sufficient to meet the requirements of AS 08.01.065(c). Both our office and OMB do not believe that OL's cost allocation methodology distributes costs reflective of the actual effort spent. The primary disparity involves the classification of licensing examiners', investigators', and hearing officers' time. The manner in which these three categories of employees' cost have been allocated prior to FY 94 can cause occupations with a large number of licensees to absorb costs that are not associated with the actual effort spent regulating their profession.

In addition to our concerns with OL's cost allocation methodology, we found problems in how they distributed costs in their calculation of a two-year average of expenditures used in determining FY 93 license fees. The percentages applied to allocate indirect costs were not always correct. These inconsistencies were caused by formula errors on spreadsheets prepared by OL staff. Also, documentation supporting some expenditures on the spreadsheets has not been retained. Review of selected current information available does not confirm these numbers. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distribution of costs.

In their September 1993, *Occupational Licensing Fee-Setting Policy Assessment* report OMB made seven recommendations to OL on how to allocate costs so that the intent of AS 08.01.065(c) is met. According to OMB's report, "A follow-up review for this project will be scheduled for March 1994." DCED has recently indicated that, for the determination of the FY 94 fees, they will allocate costs for licensing examiners, investigators, and hearing

officers based on estimated time spent by those employees, with periodic adjustments to actual time spent in accordance with our office and OMB's recommendations. As of October 1993, the allocation of direct and indirect costs using FY 93 expenditures has not been performed.

DCED should continue to work with OMB in establishing fee levels for occupational licensees that are more reflective of actual regulatory cost of the occupation.

#### Recommendation No. 4

OL should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

Alaska Statute 08.01.050 establishes DCED's administrative duties for professional licensing boards. Alaska Statute 08.01.070 identifies the administrative duties of the boards. Included in the board's responsibilities are the taking of minutes and records of all proceedings, forwarding of a draft of the minutes of proceedings to the department within 20 days after the proceedings, and submission of an annual performance report to the department before the end of the fiscal year. However, we found that OL rather than the board performed these duties.

For example, the licensing examiner is responsible for tape recording the board proceedings, recording votes, taking notes, and preparing the minutes. OL also compiles much of the information in the board's annual report. OL has the records needed to determine statistics such as the number of licenses issued and examinations given and passed.

We recommend that OL review the statutes and request changes that reflect actual responsibilities and timelines that are both practical and timely.

#### Recommendation No. 5

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (Law).

The Alaska Executive Branch Ethics Act (AS 39.52) requires members of boards and commissions to disclose potential violations of that Act to their designated supervisor. The designated supervisor for members of a board is the chair or acting chair of the board. Functionally, OL staff advise the professional licensing boards as to the reporting necessary for compliance with the Ethics Act, as does Law. Disclosures by board members are compiled by OL for submission to Law. These reports are required to be submitted on a quarterly basis. Law reviews these submissions and makes available to the public a summary of the reports received with sufficient deletions to prevent disclosure of a person's identity.

These reports have not been submitted in a timely manner. In 1991, no reports were submitted to Law. In 1992, reports were submitted three to six months after the end of the quarter. In 1993, the first two quarters' reports were submitted in July. In addition, division personnel have indicated that there is some confusion as to what should be reported. While staff at Law believe that OL understands what should be reported, written policies and procedures governing the reporting of potential ethical violations would benefit OL as well as board members. There would be clear criteria for OL staff to follow as to what should be reported as well as when it should be reported.

#### Recommendation No. 6

OL should, in conjunction with the Equal Employment Opportunity Office (EEO), review the Board of Veterinary Examiners licensure application forms to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

The veterinary application requires a photo of the candidate. EEO within the Department of Administration, Division of Personnel discourages agencies from asking applicants information on sex, height, weight, and hair and eye color. If an applicant were denied a license, the board or OL may find it difficult to prove that there was no discrimination involved if this type of information had been provided to the board members reviewing the application for licensure.

The veterinarian application forms should be reviewed with EEO to make sure that a photo is pertinent to licensure of veterinary candidates. OL indicated that one of the reasons photos are required is to prevent fraud when a licensee moves from one state to another. If a photograph is considered necessary for identification, to prevent fraud or for other reasons, it should be separated from the application prior to review of the application for licensure.

#### Recommendation No. 7

OL should investigate complaints regarding the competency of veterinarians in a timely manner.

OL has not been following up on investigative cases regarding the competency of veterinarians in a timely manner. In our test of four cases, two errors were noted. One case opened in July 1991 alleging a veterinarian's negligence had no investigative action until March 1992. When the board decided in October 1992 to close this case with a warning letter to the respondent, the letter was not mailed until February 1993. Another case, opened September 1992, regarding alleged fraud and/or misrepresentation by a veterinarian is still open at the date of this report. Documentation in the file indicates no investigative action was undertaken during a four month period.

OL staff indicate that the reason for the delays is that these cases were not a priority. The division has established priorities for responding to cases among the different license or

certification categories they are charged with investigating. The most egregious cases which represent an immediate danger to public health and safety are responded to immediately. Other cases which are not immediately life threatening may be delayed.

While we understand OL's need to prioritize investigations, monitoring compliance with statutory and regulatory requirements is very important to any licensing or certification program. When complaints are not addressed in a timely manner, the public's perception of the reliability of state licensing or certification may be diminished. OL should work cases on a timely basis to ensure that the support and respect of the public for its enforcement duties is maintained.

#### Recommendation No. 8

OL should establish a record tracking system for license files to provide for improved file security and accountability.

In our test of five applicants for licensure by examination and four applicants for temporary permits, several errors were noted. One licensed veterinarian's file did not have documentation of verification of board approval for licensure. Neither was approval indicated in the board minutes. In addition, one applicant's file could not be found by OL staff.

After giving OL the opportunity to locate the missing file, the staff again was unable to find the missing record. Nonavailability of the supporting records may raise concern that the permit/license was not issued in accordance with Alaska statutes and regulations.

OL should establish a record tracking system that will provide an audit trail of files or document(s) removed from files.

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## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

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

The board has endeavored to ensure quality among those licensed to practice veterinary medicine, surgery and dentistry. This has been achieved by, among other things, administering a series of examinations to applicants for licensure. One examination is a national clinical competency examination and the other is a national written examination. The third examination is a state examination questioning applicants about Alaskan laws and regulations as well as such things as practices in extremely cold climates.

The board distributes a handbook to all applicants for licensure and to all licensed veterinarians. The handbook assists veterinarians new to the State to become familiar with disease problems that exist in Alaska. It also provides information on state laws and regulations pertaining to domestic animals and it provides a list of resource agencies and contact persons. The handbook is updated approximately every two years by board members.

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

During FY 91 and FY 92, the board achieved their statutory requirement of meeting at least three times during the year. In FY 93, the board met only twice.

Since the last sunset audit, the board has adopted regulations as indicated below:

- A. Significant changes were made in the requirements for veterinary technicians. Effective April 1993, they are now required to be registered by the board. Prior to registration, a national examination must be passed. Continuing competency must be demonstrated prior to renewal of a registration by the applicant. In addition, unethical conduct has been defined in regulation.
- B. Regulations were adopted, effective October 1992, to allow the issuance of courtesy licenses to veterinarians. These are licenses that can be used only for a special event and are valid for up to 30 days. A special event can be a sporting event, an

emergency situation, or a clinic or seminar in veterinary medicine conducted by specialists certified by the American Veterinary Medical Association.

- C. Several regulations pertaining to continuing education were adopted. The number of credit hours required for renewal increased from 10 to 15 per calendar year. This change became effective December 1990.
- D. Regulations were adopted, effective December 1990, to allow board members to recommend to the governor the removal of a member that is absent from three meetings within a two-year period.

While no statutory changes have been made since the last sunset audit, the board, at its February 1993 meeting, has resolved to recommend changes to statutes. Changes proposed by the board would require applicants for licensure by credentials to meet the licensing requirements that are in effect at the time the applicant applies for a license in Alaska. Current statutes require applicants to meet the Alaskan requirements that were in effect at the time the applicant was licensed in the other jurisdiction.

The intent behind this proposal is apparently to require all applicants to take the national clinical competency examination (which became effective in the early eighties), regardless of when the applicant was licensed in another state. We question whether this is an appropriate change. Individuals licensed in Alaska prior to the requirement of a clinical competency examination are not being required to take such an examination at this date. We do not believe licensees from other states should be held to a higher standard than those licensed in Alaska during the same timeframe.

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

Again, while no statutory changes have been made since the last sunset audit, the board, at its February 1993 meeting, has resolved to recommend changes to statutes. Those changes include providing a civil penalty of up to \$5,000 for persons that practice veterinary medicine without being licensed or authorized to practice. The statutes are currently silent on this issue (see Recommendation No. 2).

*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 that it has provided.*

In accordance with AS 44.62.310 and AS 08.01.050, board meetings have been open to the public. A public comment period is made available at the meetings.

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

As discussed above, a public comment period is made available at each meeting. The board periodically changes the city in which to have its board meetings in order to be accessible to a greater number of people. In addition, a public comment period is made available in the process of adopting new regulations.

*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.*

Since the last sunset audit in FY 88, 30 cases have been logged by OL's Investigative Unit and none in the Office of the Ombudsman's closed case files. We reviewed four of the cases reported during the period FY 91 through FY 93 and determined that two were not being investigated in a timely manner (see Recommendation No.7).

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

Based on the board's Annual Performance Report at the end of FY 93 there were 227 licensed veterinarians and 82 registered veterinary technicians. During FY 93, the board issued licenses to 29 veterinarians and registered 82 veterinary technicians.

The board is statutorily responsible for approving the issuance of all licenses. A person may apply for licensure by credentials or by examination.

In our test of five applicants for licensure by examination and four applicants for temporary permits, several errors were noted. One licensed veterinarian's file did not have documentation of verification of board approval for licensure. Neither was approval indicated in the board minutes. In addition, one applicant's file could not be found by OL staff. OL should improve their filing and documentation procedures while managing case files (see Recommendation No. 8).

All applicants for licensure by examination are not submitting official college transcripts as required by 12 AAC 68.010. The reason is that OL has conflicting requirements of requesting a diploma on the application forms. Applicants are confused as to the type of documentation required. During our test of eight applicants, we found that three submitted diplomas and five submitted transcripts. OL needs to change their application forms to be consistent with regulation requirements.

*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.*

The application forms used by OL requires information which has been questioned by the Department of Administration, Division of Personnel, Equal Employment Opportunity Office (see Recommendation No. 6).

*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 Findings and Recommendations section of this report.

*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.*

The application forms used by OL requires information which has been questioned by the Department of Administration, Division of Personnel, Equal Employment Opportunity Office (see Recommendation No. 6).

*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 Findings and Recommendations section of this report.

APPENDICES

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## APPENDIX A

Department of Commerce and Economic Development  
Board of Veterinary Examiners  
Schedule of Revenues Compared with Expenditures  
(Unaudited)  
(Note 1)

Revenues (Note 2)	\$13,418
Expenditures (Note 3)	<u>28,107</u>
Excess of Expenditures over Revenues (Note 3)	<u>(\$14,689)</u>

### Note 1

The Schedule of Revenues Compared with Expenditures was prepared from discussions with Division of Occupational Licensing (OL) personnel and from OL prepared documents comparing revenue and expenditures for fee determination. 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 comprised of license renewal fees. For the current fee structure, see Appendix B. Licenses are renewed biennially. Because of the biennial collection cycle, revenues vary substantially year to year. Therefore, OL combined revenues collected in FY 90 and FY 91 and calculated an average in order to obtain a representative amount of annualized revenues collected for comparison with expenditures.

### Note 3

Expenditures consist of direct costs resulting from board member activities, (i.e., travel and per diem) and an allocation of OL's overhead costs. Our understanding of the allocation methodology is discussed in Recommendation No. 3 of this report and is the subject of a September 1993 Office of Management and Budget (OMB), Division of Audit and Management Services report entitled *Occupational Licensing Fee-Setting Policy Assessment*. Both our office and OMB do not believe that OL's method of allocating costs to a professional licensing board distributes costs reflective of the actual effort spent regulating their profession.

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**APPENDIX B**  
**Department of Commerce and Economic Development**  
**Board of Veterinary Examiners**  
**Application, License and Other Fees<sup>1</sup>**

**Application and Other Fees<sup>2</sup>**

Type of Fee	Amount
Application	\$ 50
National written examination for veterinarians	100
Clinical competency test for veterinarians	100
State written examination for veterinarians	100
Examination for veterinary technicians	70
Temporary license	100
Temporary permit	100

**License Fees**

License Category	Initial	Biennial Renewal <sup>3</sup>
Veterinarian	\$200	\$200
Veterinary Technicians	80	80
Courtesy license <sup>4</sup>	75	N/A

<sup>1</sup>The licensing fees charged by the Division of Occupational Licensing for the Board of Veterinary Examiners are set out in the Alaska Administrative Code at § 12 AAC 02.350. The last fee change for this board was effective September 5, 1993. According to Division of Occupational Licensing staff, at this time there are no planned fee changes for this board.

<sup>2</sup>The Division of Occupational Licensing is also authorized to charge administrative fees. Administrative fees include: duplicate license fee, photocopying fee, and penalty for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

<sup>3</sup>The next biennial renewal for the Board of Veterinary Examiners' licensees is December 31, 1994.

<sup>4</sup>Alaska Statute 08.02.030 states that boards may establish criteria for issuing a temporary license to nonresidents who enter the State so that, on a temporary basis, they may practice the occupation regulated by the board. The Board of Veterinary Examiners also has regulations to issue courtesy licenses to qualified individuals. Courtesy licenses are issued so as to authorize the licensee to practice veterinary medicine for a special event only.

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WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

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February 3, 1994

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LEGISLATIVE AUDIT

Mr. Randy Welker  
Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

Dear Mr. Welker:

Thank you for the opportunity to review the preliminary audit report regarding whether the Board of Veterinary Examiners should be continued or terminated under AS 44.66.010.

Recommendation No. 1

The legislature should reestablish the Board of Veterinary Examiners (the board) with a termination date of June 30, 2001.

The department concurs. The department believes that the board is operating in the public's interest and protection. The board is currently updating the state examinations to ensure that they adequately test new applicants for licensure in Alaska.

Recommendation No. 2

The board should pursue legislation that stipulates the penalty for unlicensed activity.

The department concurs. The board's proposal to seek a legislative change to include a civil fine up to \$5,000 for unlicensed activity is still in the proposal stage. The board will be discussing this issue at the February 1994 meeting in Juneau. It is anticipated that the board will seek support for the legislative change at that time.

Recommendation No. 3

The Department of Commerce and Economic Development (DCED) should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

The department agrees with this recommendation subject to the following comments.

An OMB audit of the department's fee setting practice, was completed in early October. OMB's recommendations for defining direct costs, including the implementation of timekeeping records for licensing staff, investigators, and hearing officers, has been implemented effective July 1, 1993 by the division.

The OMB audit recommended a cap on incremental fee increases of no more than 10-25% per licensing period. This is problematic inasmuch as it places a limit on recovering the actual cost of licensing the profession. Unpredictable and unforeseen program expenses occur due to investigations, litigation, and legal challenges which are not controlled by the board or the division. Limiting expenditures in order to comply with these caps is anticipated to have serious effects on the division's abilities to comply with their statutory mandates. Under the present scheme, once a program has expended its "acceptable limit" for fee increase adjustments under the OMB recommendations and in accordance with AS 08.01.065, the board will effectively be shut down for the remainder of the fiscal year. The consequences have potential health and safety risks as well as potential economic hardships for licensees who wish to renew their licenses, sit for examinations, etc. The division will make requests for additional spending allocation to Legislative Budget and Audit Committee to alleviate these harsh consequences, but failing favorable consideration, the division must control its expenditures.

The division does not fully concur with the audit findings that errors were made in the calculation of a two-year average of expenditures used to determine the FY 93 license fees, and as a result, license fees did not truly reflect the cost of providing regulatory services to each occupation. Detailed expenditure information used in calculating a two-year average was based on information obtained from the state accounting system. The data generated from the state accounting system for the purposes of this audit has changed from data obtained by division staff when fee decisions were made.

In conclusion, the Department of Commerce and Economic Development has worked with the OMB auditor regarding this issue.

#### Recommendation No. 4

The Division of Occupational Licensing (OL) should request statutory change to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

The department concurs. A rewrite of AS 08.01 is available, and the division is seeking legislative support to introduce it. The rewrite makes numerous revisions including amendments to the statutes cited in this recommendation.

The rewrite included revisions which make drafting minutes a department responsibility. It also provides for an annual report deadline submission of

August 1. The annual report deadline revision is necessary as many statistics needed for the annual report are not available until June 30, thus making it impossible for the boards to meet the existing deadline of submission by June 30.

The division disagrees that the annual report authorship should be amended to make annual report submission a department responsibility. We recognize that division staff are instrumental in assisting boards when completing reports. Staff provide statistical and clerical assistance, however, this report must be reflective of the boards' position on various matters involving the profession regulated including legislative and regulatory needs, budget requests, and upcoming goals. These are areas which the board is solely responsible for developing.

Recommendation No. 5

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (Law).

The department agrees and will comply with this recommendation. A written procedure developed by staff will be limited to include directives for staff follow-up at each meeting with collection of ethic reports, as well as clarifying dates which quarterly reports must be compiled and forwarded to the Attorney General's Office. We concur that staff is responsible for the timely submission to the Department of Law. This is the limit of responsibility on behalf of the department.

All other policy, procedures, interpretations, and written directives for what must be reported, must come from the Department of Law. Guidance on when a member must report a conflict, what should be reported, confirmation of what constitutes a conflict, and who has authority to rule/overrule a decision made by a designated supervisor, are all matters which are beyond the scope of DCED staff expertise. Consequently, the department disagrees with the statement in the text of recommendation No. 5 which states, "Functionally, OL staff advise the professional licensing boards associated with them as to the reporting necessary for compliance with the Ethics Act . . . ."

The department has asked for a written directive from the Department of Law, in layman's terms, which clarifies these matters. Any forthcoming directives from the Department of Law will be distributed to board members.

Recommendation No. 6

OL should, in conjunction with the Equal Employment Opportunity Office (EEO), review the Board of Veterinary Examiners licensure application forms to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

Mr. Randy Welker

-4-

February 3, 1994

The department disagrees with this recommendation. We believe the procedures for denying an applicant and the practice of listing the specific reasons for denial in the notice to the applicant provides adequate protection for the board from being subject to discrimination complaints based on the height/weight questions.

Recommendation No. 7

OL should investigate complaints regarding the competency of veterinarians in a timely manner.

The division agrees that complaints regarding the competency of veterinarians should be investigated timely, however, investigative staff are sometimes overwhelmed by higher priority cases which represent an immediate danger to public health and safety. Cases which do not present any potential danger to the public may be delayed.

Recommendation No. 8

OL should establish a record tracking system for license files to provide for improved security and accountability.

The department concurs with this recommendation. The division has maintained a "file out" card system in the past, which proved to work well in locating files which were being used by other staff. Occasionally, documents are misfiled by staff and it is a matter of time before the error is noted and the file is returned to the proper location. I suspect this is the case with the file noted in the text of Recommendation #8.

Sincerely,

  
Paul Fuhs  
Commissioner

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