

HB

68

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/14/99

FURTHER: 5/12/99

DATE TURNED
IN TO OFFICE: 12 May 1999

Finance Committee considered

HOUSE BILL NO. 68

"An Act extending the termination date of the Board of Pharmacy to June 30, 2005; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:**
- same title
- technical title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	X				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>		Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

DCEIS	7/1/99	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Enr Version: HB 68

(H) Publish Date: 2/26/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

5/12/99

Revision Date/Time (Note if correction) _____ Dept. Affected Commerce & Econ Dev.
 Title An Act extending the termination of the BRU Occupational Licensing
Board of Pharmacy Component Occupational Licensing
 Sponsor House Labor and Commerce Committee
 Requester House Labor and Commerce Committee Component Serial No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 61.2

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

House Bill 68 extends the Board of Pharmacy to June 30, 2005. Funding for continuation of the board in the amount of \$61.2 is included in the department's FY 2000 operating budget request; therefore, new funds are not needed. The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs.

Prepared by Jennifer Strickler, Administrative Manager
 Division Occupational Licensing
 Approved by Commissioner Deborah B. Sedwick
 Agency Commerce & Economic Development

Phone 465-2144
 Date/Time 1/29/99 11:01 AM
 Date 2/1/99

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BOARD COSTS
INFORMATION

HB 68				
DIRECT COSTS			Total	AVG
	FY:	97	98	DIRECT ANNUAL COSTS
Personal Services		34.9	35.5	70.4 35.2
Travel		6.2	6.4	12.6 6.3
Contractual Services		18.0	21.3	39.3 19.7
Commodities			0.1	0.1 0.1
Equipment				0.0 0.0
		59.1	63.3	122.4 61.2

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT & TOURISM, MEMBER



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e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

Representative Norman Rokeberg

MEMORANDUM

TO: Senator Sean Parnell, Co-Chairman
Senator John Torgerson, Co-Chairman
Senate Finance Committee

FROM: Rep. Norman Rokeberg, Chairman
House Labor & Commerce Committee

DATE: April 14, 1999

RE: HB 68 - Extend Board of Pharmacy

A handwritten signature in black ink, appearing to read "Norman Rokeberg".

I would request that you schedule HB 68 for consideration before the Senate Finance Committee.

The bill has a zero fiscal note for FY 2000-2005 and an estimated fiscal impact for FY 99 of \$61,200. As with other occupational licensing boards, the fees paid by the licensees pay for the Board's activities.

The audit performed by Legislative Audit recommends the extension of the board to June 30, 2005, which is the date used in the bill.

Attached are:

1. HB 68
2. Sponsor Statement/Sectional Analysis
3. Fiscal Note
4. Information for the Boards and Commission Book on the Board of Pharmacy
5. Copy of the August 25, 1998 audit report from the Division of Legislative Audit
6. Board of Pharmacy Support Indication.

Thank you for considering this request.

ALASKA STATE LEGISLATURE

HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Andrew Halcro, Vice-Chairman
Representative John Harris
Representative Lisa Murkowski
Representative Jerry Sanders
Representative Tom Brice
Representative Sharon Cissna



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
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SPONSOR STATEMENT AND SECTIONAL ANALYSIS HOUSE BILL 68

An Act extending the termination date of the Board of Pharmacy to June 30, 2005

SPONSOR STATEMENT:

As the title indicates, House Bill 68 would extend the termination date of the Board of Pharmacy to June 30, 2005.

The Board of Pharmacy controls registration and disciplinary sanctions and provides for the regulation of controlled substances in the State of Alaska. There are seven members on the Board. The August 25, 1998 Audit Report from the Division of Legislative Audit recommends that this Board be extended to June 30, 2005, which is what the legislation proposes. The Legislative Audit found that the Board does benefit the public's health, safety and welfare.

The last time the Board of Pharmacy was reviewed, the termination date was set at June 30, 1999. If this Board's termination date is not extended this year, the Board will be in its wind down year and would cease to exist, without further action, on June 30, 2000.

In order to provide for some standards of practice in the pharmaceutical field, we would request your support of the extension of this Board.

SECTIONAL ANALYSIS

Section 1: Extends termination date to June 30, 2005

Section 2: Effective date: immediate

ED1:02/20/99

BOARD COSTS
INFORMATION

HB 68				
DIRECT COSTS			Total	AVG
FY:	97	98	DIRECT	ANNUAL
				COSTS
Personal Services	34.9	35.5	70.4	35.2
Travel	6.2	6.4	12.6	6.3
Contractual Services	18.0	21.3	39.3	19.7
Commodities		0.1	0.1	0.1
Equipment			0.0	0.0
	59.1	63.3	122.4	61.2

STATE OF ALASKA
Boards and Commissions

PHARMACY BOARD

BOARD: Board of Pharmacy

BOARD IDENTIFICATION NUMBER: 078

DEPARTMENT: DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

AUTHORITY: AS 08.80.010

STATUS: Active

SUNSET DATE: June 30, 1999

REQUIREMENTS: Legislative Confirmation

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

TERM: 4 years

DESCRIPTION: 7 members appointed by Governor: 5 licensed pharmacists actively engaged in practice in Alaska for 3 years immediately preceding appointment; 2 public members with no direct financial interest in health care industry; when possible, one member should represent each judicial district; terms begin April 1; members elect president. Terms of public members shall be staggered so that they do not expire at the same time.

FUNCTION: Controls registration, disciplinary sanctions, provides for the regulation of controlled substances.

CHAIR: Board selects.

SPECIAL FACTS: Serve at the pleasure of the Governor. Quorum - 4 members (3 when examining applications for registration); report to Legislature; members may be removed for cause. 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. E-mail: Pat_Park-Fisher@commerce.state.ak.us or license@commerce.state.ak.us

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: 3 times per year; 9 days total.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Park-Fisher, Division of Occupational Licensing, DCED, P.O. Box 110806 M/S 0806, Juneau, AK, 99811-0806, Phone: 907-465-2538, Fax: 907-465-2974.

STATE OF ALASKA
Boards and Commissions

Membership Roster
PHARMACY BOARD (078)

Member	Appointed	Reappointed	Term Exp.
Chris E. Coursey Pharmacist AK Regional Hospital P.O. Box 143889 Anchorage, AK 99514-3889	04/23/91	09/14/95	04/01/99
* Paul Joseph Gionet Pharmacist IVY Home Infusions 2841 DeBarr Road, Suite 20 Anchorage, AK 99508	04/01/93	11/26/97	04/01/01
Gerry Knasiak Public 119 Austin Street, No. 611 Ketchikan, AK 99901	04/16/98		04/01/01
Martin Krull Pharmacist Director of Pharmacy Carr Gottstein Food Co. 6411 A Street Anchorage, AK 99518	01/21/98		04/01/01
Margaret D. Soden Pharmacist P.O. Box 61328 Fairbanks, AK 99706-1328	12/11/98		04/01/02
Bonnie R. Stewart Public P.O. Box 230132 Anchorage, AK 99523	01/02/97		04/01/00
Stanley P. Thompson Pharmacist 1018 West 73rd Avenue Anchorage, AK 99518	04/09/92	01/02/97	04/01/00

August 25, 1998

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
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF PHARMACY

August 25, 1998

Audit Control Number

08-1457-98

The objective of this review is to advise the legislature as to whether the Board of Pharmacy should be extended or terminated in statute. Currently, AS 08.03.010(c)(15) has the board scheduled for termination on June 30, 1999. If no action is taken by the legislature, the board has one year in which to conclude its affairs and will be dissolved on June 30, 2000. We recommend that the legislature extend the board's termination date to June 30, 2005.

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.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

In accordance with Title 24 and 44 of the Alaska Statutes, we conducted a review of the activities of the Board of Pharmacy. The primary objective of our review was to advise the legislature as to whether the board should continue in existence.

As required by statute, the legislative committee of reference is to consider this report as part of its oversight process and determining whether the board should be reestablished. The law currently specifies that the board will terminate on June 30, 1999 and will have one year from that date to conclude its affairs.

Scope

The major areas of our review were board proceedings, examination, licensing, and investigations. We also reviewed the existing licensing/fee structure as it relates to financial self-sufficiency of the board.

Methodology

A majority of this review was conducted by another auditor at our direction and supervision. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

To accomplish the audit objectives, the following documents were reviewed and the following interviews were conducted:

- Applicable sections of state statutes and regulations.
- Interviews with employees of the Division of Occupational Licensing (OL), Department of Commerce and Economic Development.
- Minutes of board meetings and annual reports.
- Licensing files for pharmacists and pharmacies.
- Investigation files related to the pharmacy profession.
- Projections of license fee revenues and regulation costs prepared by OL.
- Complaints filed with OL.

(Intentionally left blank)

ORGANIZATION AND FUNCTION

The Board of Pharmacy was established for the purpose of controlling and regulating the practice of pharmacy in the State. Alaska Statute 08.80.005 states that effective control and regulation of the practice of pharmacy is necessary to promote, preserve, and protect the public's health, safety, and welfare.

Board Membership

The Board of Pharmacy is composed of seven members (see inset at right). Statutes require five board positions be licensed pharmacists actively engaged in the practice of pharmacy in the State for a period of three years immediately preceding their appointment. The remaining two positions are to be filled by individuals from the general public. Statute prohibits these public members from having a direct financial interest in the health care industry.

Board Duties

In general, the board regulates admission into the practice of pharmacy, establishes and enforces competency by ensuring compliance with professional standards, and adopts regulations. Enforcement includes assisting in the investigation of potential violations and suspending or revoking licenses when determined necessary.

The board licenses pharmacists, retail facilities, wholesale distributors, drug rooms, institutional facilities, and out-of-state facilities. It also issues permits to individuals to act as pharmacy interns. Beginning with the FY 98 licensing cycle, the board will be licensing pharmacy technicians.

Applicants for a pharmacist license are required to pass a National Association of Boards of Pharmacy Licensing examination. Additionally, applicants must pass a jurisprudence examination covering Alaska pharmacy law and the Federal Controlled Substance Act. Applicants who are licensed to practice pharmacy in another state may be awarded an Alaska license to practice based on their credentials as long as they have passed the national examination.

BOARD OF PHARMACY MEMBERS

Registered Pharmacists

Paul Clonet, Chairperson
Chris Coursey
Kenal Kaihol
Martin Krull
Stanley Thompson

Public Members

Gerry Knaslak
Bonnie Stewart

Division of Occupational Licensing

Division of Occupational Licensing (OL) staff assists the board in its duties. OL staff processes applications, maintains licensing files, answers board-related correspondence, and provides administrative support to the board. Additionally, OL staff investigates complaints involving the practice of pharmacy.

REPORT CONCLUSIONS

Alaska Statute 08.03.010 (c) (15) requires that the Board of Pharmacy be terminated on June 30, 1999. If the legislature does not take action to continue the board, AS 08.03.020 (a) provides the board one year in which to conclude its affairs. Consequently, if no action is taken by the legislature, the Board of Pharmacy will be dissolved June 30, 2000.

The regulation and licensing of qualified professionals and pharmaceutical facilities benefits the public's health, safety, and welfare. By establishing minimum educational and practical experience requirements, the board provides reasonable assurance that individuals licensed are qualified to practice. Assurance that licensed individuals act in a manner consistent with the public interest is also promoted by active investigation of complaints and license revocation or suspension when appropriate.

In our opinion, the Board of Pharmacy serves an important public purpose. It should be continued in statute and its termination date should be extended until June 30, 2005.

(Intentionally left blank)

A 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(c). 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 operated in the public's interest by licensing qualified applicants, authoring pharmacy related pamphlets, publishing a newsletter, and drafting new regulations in conjunction with extensive legislative revision to the state's pharmacy statutes. According to the board's annual reports, 209 new pharmacists and 181 pharmacies and drug rooms were licensed between FY 94 and FY 98. Beginning July 1, 1998, the board will license pharmacy technicians.

During FY 98, the board authored three pamphlets that further define certain regulations¹ and help explain their legal intent. All three pamphlets are included as appendices to the pharmacy statutes and regulations booklet distributed by the board and the Division of Occupational Licensing (OL). The board also published and distributed newsletters informing licensees of the State's current jurisprudence and the recent revision of statutes and regulations.

The board completed a comprehensive revision of pharmacy regulations that were effective January 16, 1998. The regulation's project was a work in progress for just over five years. According to the board's 1998 annual report, the new regulations reflect the current practice of pharmacy and position the board to serve the public health and welfare in regulating the practice of pharmacy as it evolves over the next decade.

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.

Our prior audit of the Board of Pharmacy dated October 26, 1993 took exception to the distribution of board members. Alaska Statute 08.80.010 states, in part, "[w]henever possible, the board shall include at least one member from each judicial district." Traditionally, the Northwest region of the State, which makes up the second judicial district, has not been represented on the

¹ Specifically, the three pamphlets are entitled "Sterile Pharmaceuticals," "Compounding," and "Facility Standards."

board. Only 8 of the 534 licensed pharmacists (1.5%) reside in the Northwestern region of the State.

Current board membership consists of five members from the Southcentral region, one from the Southeast, and one from the Interior. The second judicial district continues to be absent. However, during the past four years, no one from the Northwestern Region has applied for an open board position.

The concentration of board members in the Southcentral region affects the board's availability to the public and to pharmacist candidates, who must take the jurisprudence exam from a board member before they can be licensed.

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

At the urging of the board and the Alaska Pharmaceutical Association, a comprehensive statutory revision to the pharmacy statutes was passed by the legislature in the 1996 session and became effective August 26, 1996. The statutory rewrite was designed to correct obsolete and fragmented pharmacy statutes and to reflect current pharmacy practices. As already discussed, the board completed a comprehensive rewrite of regulations to implement the new statutes.

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.

OL has published notices of all examinations, meetings, and regulation changes. A period of time for public comment was available at each public meeting.

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

Each board meeting agenda allots time for public comment. The public has been encouraged to use these public comment periods to express concerns and obtain information from the board. The public comment period for regulation changes also assures that the public has the opportunity to participate in the regulatory process.

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.

From FY 94 through FY 98, OL's investigative unit investigated 39 cases involving pharmacies, pharmacists, and unlicensed pharmacists. Six of the cases remained open as of June 24, 1998. Generally, the cases were resolved in a timely and efficient manner given the nature of the complaints and OL resources.

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

The table below summarizes licensing activity for the past four fiscal years, listing the number of new licenses issued per year and the number of current license holders regulated by the board at the end of FY 98.

Types of Licenses	New Issued in FY 94	New Issued in FY 95	New Issued in FY 96	New Issued in FY 97	New Issued in FY 98	Total Current Active Licenses
Pharmacists	53	32	35	43	46	534
Pharmacies:						
Retail	15	3	5	15	14	92
Hospital	0	0	0	0	3	16
Drug Rooms	0	0	0	3	0	15
Out-of-State	13	16	21	46	22	113
Wholesale	0	0	2	0	3	8

The board ensures that the licensees are qualified through screening of applications, examination and continuing education requirements. When reviewing licensure procedures, we found no instances of unqualified applicants being awarded a license.

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 board continues to require applicants submit a photograph and answer several personal questions (height, weight, hair color, etc). Our prior audit recommended the board work to eliminate these potentially discriminatory licensing procedures. We found that no progress has been made to address this recommendation. In the past, the State's Equal Employment Opportunities office has discouraged state agencies from asking applicants questions regarding personal appearance. The board believes there is reasonable cause to review such information

because it is important for identifying individuals being licensed to work with controlled substances. The board adopted a motion stating it will continue to review photographs of applicants as part of the licensing process.

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.

As discussed above, statutes and regulations have been comprehensively rewritten. Previously obsolete and fragmented statutes and regulations were updated. Such revisions were designed to serve the public welfare by regulating the practice of pharmacy as it evolves over the next decade. However, we did find a problem relating to general fee setting statutes.

As discussed under prior year Recommendation No. 5 in the Auditor's Comments section of the report, the Division of Occupational Licensing is required to set license fees so that occupations are self-supporting. Alternately, the division is setting fees so that boards are self-supporting. The Board of Pharmacy issues several different types of licenses. The fees charged are not intended to cover the costs associated with each type of license. Further, the division's cost accounting system is not set up to track revenue by occupation. We recommended the division change its procedures to comply with statute.

AUDITOR'S COMMENTS

In the last review of the Board of Pharmacy, dated October 26, 1993, we reported eight findings and recommendations. The current status of each is discussed below.

In summary, prior year Recommendation No. 1 was partially implemented by extending the board until June 30, 1999. Three of the prior year Recommendations (Nos. 2, 6, and 7) were not implemented but do not warrant a finding and recommendation in this report. Three Recommendations (Nos. 3, 4, and 8) were addressed through a comprehensive rewrite of statutes and regulations. Prior year Recommendation No. 5 was reviewed during our audit of license fees dated October 3, 1997. It continues to be an issue as discussed in this report.

Prior Year Recommendation No. 1

The statutory provision for the Board of Pharmacy should be extended until June 30, 2003.

This recommendation was partially implemented by the legislature when it extended the board until June 30, 1999. We make a similar recommendation regarding extension of the board until June 30, 2005 in the Report Conclusions section.

Prior Year Recommendation No. 2

Office of the Governor. Boards and Commissions should appoint Board of Pharmacy members in accordance with Alaska Statute.

In our prior audit of the Board of Pharmacy, we took exception to the distribution of board members. Traditionally, the Northwestern region of the State, which makes up the second judicial district, has not been represented on the board.

Although the second judicial district continues to go be absent from the board, at this time we do not believe board composition is inconsistent with statutes. Statutes require regional representation "*whenever possible.*" The Boards and Commissions section within the Office of the Governor stated that no one from the second judicial district applied for an open board position during the period of our review.

Prior Year Recommendation No. 3

The Board of Pharmacy should review pharmacy inspection procedures to ensure that pharmacies inspected are impartially selected and evaluated.

Prior to the comprehensive rewrite of pharmacy statutes and regulations, board members conducted inspections. Board members inspecting their competitors created an awkward situation open to criticisms of partiality. Under the new law, applicants, not board members, conduct the inspections. Each licensee must fill out a self-evaluation form when obtaining or renewing a license. Division of Occupational Licensing (OL) staff views the self-inspections as an improvement and believes the self-inspections are useful in helping the board monitor compliance with statute and regulation.

Prior Year Recommendation No. 4

The Board of Pharmacy should revise these statutes to reflect current pharmacy practices.

The recent rewrite of statutes and regulations addressed this recommendation. Statutes now reflect current practices.

Prior Year Recommendation No. 5

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

We conducted an audit² during calendar year 1997 of the practices and procedures followed by OL in setting license fees for various professions. In that review, we determined OL was not complying with the statutory requirement that revenues and expenditures be accounted for on an occupation basis.

Specifically, AS 08.01.065 (c) states:

The department shall establish fee levels [in this] section so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. [Emphasis added.]

By not accounting for financial data on an occupation-by-occupation basis, OL could not demonstrate that it met the self-sufficiency standard established in statute. We recommended that OL establish new cost accounting procedures to ensure compliance with the statute requiring financial self-sufficiency at the occupation level.

In performing fieldwork for this audit, we followed-up this general recommendation as it relates specifically to the Board of Pharmacy. We found that OL tracks expenditures by occupation regulated by the Board of Pharmacy but does not account for revenue at the

² The audit was titled *The Department of Commerce and Economic Development – Occupation Fee Setting Policies and Regulatory Costs* dated October 3, 1997.

occupational level or set fees to ensure that each occupation is self-sufficient. Therefore, we conclude that OL's current practice is inconsistent with statute and recommend it adopt procedures to comply with self-sufficiency requirements set out in statute.

Prior Year Recommendation No. 6

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

During the period of our review, applicants were still required to submit a photograph and answer several personal questions (height, weight, hair color, etc). The board believes there is reasonable cause to review personal information because such information is important when licensing individuals working with controlled substances. The board adopted a motion stating it will continue to review photographs of applicants as part of the licensing process. We recognize the importance of identifying applicants who wish to distribute/administer controlled substances. However, the board should take steps to ensure justification is compatible with equal employment law.

Prior Year Recommendation No. 7

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.

OL provides administrative assistance to many boards and commissions, including the Board of Pharmacy. OL staff helps during the board meetings, including taking minutes. These minutes are submitted to the board for approval at the subsequent meeting. The board prepares the annual report.

Prior Year Recommendation No. 8

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

OL has implemented this recommendation by improving its procedures for submitting potential violations. According to the Department of Law staff member in charge of monitoring the reports, OL prepares a quarterly report covering all boards and commissions and submits it timely.

October 27, 1998

RECEIVED
OCT 28 1998

Ms. Pat Davidson
Legislative Audit
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3830

LEGISLATIVE AUDIT

Dear Ms. Davidson:

Thank you for the opportunity to respond to the preliminary audit report on the Department of Commerce and Economic Development, Division of Occupational Licensing, Board of Pharmacy (audit control number 08-1457-98).

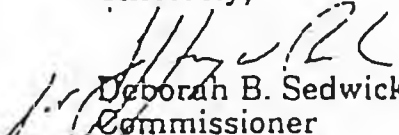
The department concurs with the report's conclusion that the Board of Pharmacy serves an important public purpose and should be extended. As the auditor's comments indicate, most of the issues raised by the prior audit have been resolved and regulation of pharmacy has been strengthened as a result of legislative and Board action.

The department does not concur with the auditor's comments relating to Prior Year Recommendation No. 5. The auditor states that, "We have found that OL tracks expenditures by occupation regulated by the Board of Pharmacy but does not account for revenue at the occupational level or set fees to ensure that each occupation is self-sufficient." The department addressed these issues in our response to the October 3, 1997, audit of occupation fee setting policies and regulatory costs.

The Division of Occupational Licensing credits revenue to each of the 35 licensing boards and programs as funds are received. Licensing statistics are then used to determine which occupations within a board or program generated the revenue. Licensing statistics are an acceptable means of tracking revenue at the occupation level.

Strict interpretation of AS 08.01.065(c) to require each occupation within a board to cover its own costs is impractical in a state with a small population of licensees and contrary to the public interest. This action would increase the volatility of license fees and make licenses prohibitively expensive for some occupations.

Sincerely,


Deborah B. Sedwick
Commissioner

DBS/CR/dgl/4022cr.doc
102798a

08-H2LH

**interoffice
MEMORANDUM**

to: Catherine Reardon, Director
thru: Carol Whelan, Licensing Supervisor *CW*
from: Debora Stovern, Licensing Examiner *DS*
subject: Pharmacy Board Opinion on HB 68
date: February 19, 1999

The Board of Pharmacy met in Anchorage on February 5, 1999; they reviewed HB 68, a bill for an act "extending the termination date of the Board of Pharmacy to June 30, 2005; and providing for an effective date."

The following motion was carried unanimously:

RESOLVED to support House Bill 68.

FEB 26 1999

SENATE FINANCE COMMITTEE

SIGN-IN

HB 68-BCARD OF PHARMACY

NAME: Janet Seitz Sub./Bill No: hb 68

Co./Dept./Title: Rep. Rokeberg's office Phone: 4954

Address: Room 24, Capitol, Juneau Zip: 99801

Do you wish to testify? Yes No Respond to Questions

NAME: Catherine Rando Sub./Bill No: H868

Co./Dept./Title: Direct Occ Lawyer Phone: 2538

Address: PO 110806 Juneau Zip: 99811

Do you wish to testify? Yes No Respond to Questions Support only

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions