

SB

243

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/1/02

REPORTED OUT
MAR 5 2002
SENATE FINANCE
COMMITTEE

FURTHER:

DATE TURNED IN TO OFFICE: 03/06/02

Finance Committee considered **SENATE BILL NO. 243**
SB 243 CHIROPRACTORS: SUNSET/LICENSING

"An Act extending the termination date of the Board of Chiropractic Examiners; and relating to chiropractors."

and recommends:

- be replaced with CS SB 243 (FIN)
- adopt previous CS FORTHCOMING
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DCED	1/30/02	44.2		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Linda Green</i>	✓			
<i>John D. Flann</i>	✓			
<i>Tom Webb</i>	✓			
<i>Michael Abbott</i>	✓			
<i>Jim Ward</i>	✓		✓	
<i>COCHAIR: [Signature]</i>	✓			
<i>COCHAIR: [Signature]</i>	✓			

FISCAL NOTE
MAR 5 2002

STATE OF ALASKA
2002 LEGISLATIVE SESSION

SENATE FINANCE
COMMITTEE

Fiscal Note Number: 1
Bill Version: SB 243
(S) Publish Date: 2/1/02

Revision Date/Time (Note if correction): 1/30/2002 Dept. Affected: DCED
Title: An Act extending the termination date of the BRU: Occupational Licensing (117)
Board of Chiropractic Examiners Component: Occupational Licensing
Sponsor: Senator Therriault
Requester: Senate Labor & Commerce Component No.: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	24.5	24.5	24.5	24.5	24.5	
Travel	10.8	10.8	10.8	10.8	10.8	
Contractual	8.9	8.9	8.9	8.9	8.9	
Supplies	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	44.2	44.2	44.2	44.2	44.2	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	44.2	44.2	44.2	44.2	44.2	
------------------------	------	------	------	------	------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services	44.2	44.2	44.2	44.2	44.2	
TOTAL	44.2	44.2	44.2	44.2	44.2	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Chiropractic Examiners to June 30, 2006. In accordance with AS 08.02.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. The bill also amends AS 08.20.180(a) to include license by credentials. New funds are not required to implement this amendment.

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

Phone: (907) 465-2144
Date/Time: 1/30/02 10:58 AM
Date: 1/30/2002

CS FOR SENATE BILL NO. 243()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS THERRIAULT, Taylor, Austerman

A BILL
FOR AN ACT ENTITLED

1 "An Act extending the termination date of the Board of Chiropractic Examiners; and
2 relating to chiropractors."

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

4 * Section 1. AS 08.03.010(c)(5) is amended to read:

5 (5) Board of Chiropractic Examiners (AS 08.20.010) - June 30, 2006
6 [2002];

7 * Sec. 2. AS 08.20 is amended by adding a new section to read:

8 Sec. 08.20.141. Licensure by credentials. The board may issue a license by
9 credentials to an applicant who pays the appropriate fee and presents satisfactory proof
10 that the applicant

11 (1) is a graduate of a school or college of chiropractic that

12 (A) is accredited by or a candidate for accreditation by the
13 Council on Chiropractic Education or a successor accrediting agency
14 recognized by the board; or

1 (B) if an accrediting agency under (A) of this paragraph does
2 not exist, requires the completion of a minimum of 4,000 hours of formal
3 education and training in order to graduate, including

4 (i) 150 hours of chiropractic philosophy or principles;

5 (ii) 1,200 hours of basic sciences, including anatomy,
6 chemistry, physiology, and pathology;

7 (iii) 1,400 hours of preclinical technique, including
8 diagnosis, chiropractic technique, and x-rays; and

9 (iv) 700 hours of clinical training;

10 (2) has held a license in good standing to practice chiropractic in
11 another jurisdiction for the five years preceding the date of application; for purposes of
12 this paragraph, "good standing" means that

13 (A) no action has been reported about the applicant in the
14 national licensee database of the Federation of Chiropractic Licensing Boards;

15 (B) the applicant has not, within the five years preceding the
16 date of application, been the subject of an unresolved review or an adverse
17 decision based on a complaint, investigation, review procedure, or disciplinary
18 proceeding undertaken by a foreign, state, territorial, local, or federal
19 chiropractic licensing jurisdiction, chiropractic society, or law enforcement
20 agency that relates to criminal or fraudulent activity, chiropractic malpractice,
21 or negligent chiropractic care and that adversely reflects on the applicant's
22 ability or competence to engage in the practice of chiropractic or on the safety
23 or well-being of patients; and

24 (C) the applicant has not been convicted of a felony within the
25 five years preceding the date of application;

26 (3) has been in active licensed clinical chiropractic practice for at least
27 three of the five years immediately preceding the date of application;

28 (4) has passed, to the satisfaction of the board, the parts of the
29 examination of the National Board of Chiropractic Examiners required by the board;

30 (5) has passed an examination approved by the board that is designed
31 to test the applicant's knowledge of the laws of the state governing the practice of

1 chiropractic and the regulations adopted under those laws; and

2 (6) has completed 120 hours of formal training in physiological
3 therapeutics or has passed, to the satisfaction of the board, a physiological therapeutics
4 examination of the National Board of Chiropractic Examiners required by the board.

5 * Sec. 3. AS 08.20.180(a) is amended to read:

6 (a) An applicant for an examination, reexamination, issuance of a temporary
7 permit under AS 08.20.160, issuance of a locum tenens permit under AS 08.20.163,
8 issuance of a license by credentials under AS 08.20.141, one-time issuance of a
9 retired status license, or initial issuance or renewal of an active or inactive license shall
10 pay a fee established under AS 08.01.065.

CS FOR SENATE BILL NO. 243()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS THERRIAULT, Taylor, Austerman

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2 not exist, requires the completion of a minimum of 4,000 hours of formal
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4 (i) 150 hours of chiropractic philosophy or principles;

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6 chemistry, physiology, and pathology;

7 (iii) 1,400 hours of preclinical technique, including
8 diagnosis, chiropractic technique, and x-rays; and

9 (iv) 700 hours of clinical training;

10 (2) held a license in good standing to practice chiropractic in another
11 jurisdiction on the day immediately preceding the date of application under this
12 section; for purposes of this paragraph, "good standing" means that

13 (A) no action has been reported about the applicant in the
14 national licensee database of the Federation of Chiropractic Licensing Boards;

15 (B) the applicant has not, within the five years preceding the
16 date of application, been the subject of an unresolved review or an adverse
17 decision based on a complaint, investigation, review procedure, or disciplinary
18 proceeding undertaken by a foreign, state, territorial, local, or federal
19 chiropractic licensing jurisdiction, chiropractic society, or law enforcement
20 agency that relates to criminal or fraudulent activity, chiropractic malpractice,
21 or negligent chiropractic care and that adversely reflects on the applicant's
22 ability or competence to engage in the practice of chiropractic or on the safety
23 or well-being of patients; and

24 (C) the applicant has not been convicted of a felony within the
25 five years preceding the date of application;

26 (3) has passed, to the satisfaction of the board, the parts of the
27 examination of the National Board of Chiropractic Examiners required by the board;

28 (4) has passed an examination approved by the board that is designed
29 to test the applicant's knowledge of the laws of the state governing the practice of
30 chiropractic and the regulations adopted under those laws; and

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7 retired status license, or initial issuance or renewal of an active or inactive license shall
8 pay a fee established under AS 08.01.065.

Alaska State Legislature

SENATOR
GENE THERRIAULT
Chair



SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
(907) 465-1797
Fax: (907) 465-3884

Legislative Budget and Audit Committee

Senate Bill 243

"An Act extending the termination date of the Board of Chiropractic Examiners."

Sponsor:

Senator Gene Therriault

Sponsor Statement

Under AS 08.20.010 the State Board of Chiropractic Examiners regulates qualified professionals by ensuring that the requirements laid out for licensure are met and adhered to. The Board was established in 1949 and currently regulates 204 chiropractors in the State of Alaska.

The Board consists of five members appointed by the governor. Four members shall be licensed chiropractic physicians who have practiced in Alaska for no less than two years. The fifth member shall be a person with no direct financial interest in the health care industry.

The regulation and licensing of qualified chiropractors continues to safeguard the public by promoting competence and integrity of those individuals who represent themselves as chiropractors to the public. The Board continues to do this by establishing standards for licensed professionals and monitoring the manner in which they practice.

The State Board of Chiropractic Examiners is set to expire June 30, 2002 under AS 08.03.010, Termination of State Boards and Commissions. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 243 will extend the Board for another four years and restore the Board's statutory authority to license by credentials.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide, 465-6590

INTERIM ADDRESS

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CS SB 243

Sectional Analysis

Section 1. This section extends the Board to June 30, 2006, the standard four-year extension as recommended by the audit report released on December 5, 2001 by the Legislative Budget and Audit Committee.

Section 2. This section addresses Recommendation No. 1 of the audit report implementing full licensure by credentials with requirements acceptable to the board, such as education, current licensure in good standing, evidence of active clinical practice, and formal training.

Section 3. This section helps to implement the new licensure by credentials by acknowledging it in the fee structure.

Audit Report

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF CHIROPRACTIC EXAMINERS
SUNSET REVIEW

September 13, 2001



Audit Control Number:

08-20009-01

Division of Legislative Audit

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

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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 the Senate and two from the House. 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 \$6 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.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

BUDGET AND AUDIT COMMITTEE

Senator Gene Therriault, Chair
Senator Dave Donley
Senator Lyman Hoffman
Senator Randy Phillips
Senator Jerry Ward
Senator Gary Wilken (alternate)

Representative Hugh Fate, Vice Chair
Representative John Harris
Representative Reggie Joule
Representative Ken Lancaster
Representative Eldon Mulder
Representative Bill Williams (alternate)
Representative John Davies (alternate)

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Legislative Auditor

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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October 1, 2001

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 COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF CHIROPRACTIC EXAMINERS
SUNSET REVIEW

September 13, 2001

Audit Control Number

08-20009-01

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(5), the Board of Chiropractic Examiners is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Chiropractic Examiners should be extended. The regulation and licensure of chiropractors contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Chiropractic Examiners to June 30, 2006.

This 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 Objective, Scope and Methodology section of this report.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Chiropractic Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(5) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

Objectives

There are three central, interrelated objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed chiropractors.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Chiropractic Examiners for the period of FY 99 through FY 01.

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

1. Applicable statutes and regulations
2. Tests of files and documentation of licensees
3. Investigation files
4. Minutes of board meetings and division correspondence files
5. Attorney general's opinions applicable to professional boards

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

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ORGANIZATION AND FUNCTION

The Board of Chiropractic Examiners was established under the provisions of Title 8, Chapter 20 of the Alaska Statutes. The board consists of five members appointed by the governor and subject to legislative confirmation. Four members must be chiropractors and one member must be appointed from the general public. Board members serve staggered terms of four years.

The board regulates chiropractic practice in the state by setting the following standards of practice:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations controlling the standards of professional chiropractic practice.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when an individual has violated chiropractic statutes or regulations.

<u>Board of Chiropractic Examiners</u>

<i>(As of June 30, 2001)</i>

Trevor Ireland, Chiropractor, Chair LeRoy Nordstrom, Chiropractor Carol Davis, Chiropractor Steven Messerschmidt, Chiropractor Sean Siegel, Public Member

Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Chiropractic Examiners. Administrative assistance includes budgetary services, functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

(Intentionally left blank)

REPORT CONCLUSIONS

In our opinion, the Board of Chiropractic Examiners is operating in an efficient and effective manner and should continue to regulate and license chiropractors. We believe the board is serving the public interest by promoting competence and integrity of individuals holding themselves out to the public as chiropractors.

The Board of Chiropractic Examiners serves a public purpose by promoting the competent and safe practice of chiropractic therapy. The board does this through establishing standards for licensed professionals and monitoring the manner in which they practice. The board has carried out these responsibilities satisfactorily.

Alaska Statute 08.03.010(c)(5) requires that the Board of Chiropractic Examiners be terminated on June 30, 2002. Under AS 08.01.020, the board has a one-year period to administratively conclude its operations. Based upon our review, we recommend that the board's termination date be extended to June 30, 2006.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board is currently considering developing regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. This process is referred to as licensure by credentials. Providing for licensure by credentials is, in our view, good public policy and should generally be promoted whenever it serves the broader interest of the public – licensure of competent professionals who will practice in an ethical manner.

The board's legal authority to adopt such regulations is somewhat clouded by legislative action taken in response to our agency's last sunset report on the board. In that report we recommended the legislature repeal the statutory provisions related to the Board of Chiropractic Examiners' authority to license by credentials. Section 2 of Chapter 96, SLA 96 repealed AS 08.20.140. This statute allowed the board to license chiropractors without taking the State of Alaska chiropractic practical examination.

In this report, we are recommending the legislature reestablish the board's authority in this area. We make this recommendation because the board has changed the manner in which it considers Alaska licensure for prospective applicants licensed in another jurisdiction. The explanation of our change in position is as follows:

Previously, board actions were inconsistent with the implications of the credentialing statute

The recommendation in our 1995 report (Department of Commerce and Economic Development Board of Chiropractic Examiners 08-1434-96) was prompted by our concern that board practices at the time were not consistent with the statutes related to licensure by credentials. At that time the board was requiring all candidates for licensure to pass a practical examination, in front of the board, in order for the candidate to demonstrate they could physically perform the requirements of the profession. This was required even if the individual seeking an Alaska chiropractor license was already licensed and practicing in good standing in another jurisdiction – as long as that jurisdiction had licensing requirements that were **equivalent** to those established by the board.

The implication of the credentialing statute was that a practicing chiropractor, licensed in another state, only had to meet the equivalency standard to receive their Alaska license. There was no suggestion that further testing or examination may be required. In reality, the board always required such an applicant to pass the practical exam demonstrating they were physically able to practice chiropractic therapy.

We were concerned this incongruity between statute and procedure exposed the board to potential legal liability. To reduce this potential liability we recommended repeal of the credentialing statute because of two factors:

1. It seemed a practical examination confirming an applicant's physical capacity to practice was reasonable.
2. We saw no evidence the board was using the practical exam to unfairly exclude applicants from being licensed.

Currently, the board is phasing out the state practical examination requirement

The Board of Chiropractic Examiners requires applicants to pass all sections of the National Board of Chiropractic Examiners Examination (NBCEE). In recent years the NBCEE examination has added a practical section similar to that utilized for many years by the state board. The state board has informally decided that an applicant licensed by another jurisdiction, who has passed all of the NBCEE examination, should be eligible for licensure by credential.

Discussion with the current chairman indicates the board is interested in both expanding the credentialing process and placing more reliability on the NBCEE examination as it is currently constructed. Toward this end, the board may be willing to explore licensure by credentials of individuals from other states, even if at the time the individual was licensed they did not pass a practical examination. That is, they were licensed in a manner not equivalent to that of Alaska. This would be done only if the individual could demonstrate they practiced for a specified period of time (at a minimum five years) and had done so in good standing with the board in their local jurisdiction.

The board's regulatory authority is uncertain due to the repeal of the credentialing statute

We have been advised by the Department of Law that the board may not have the authority to adopt regulations providing for licensure by credentials. The board's authority is made more uncertain due to the 1996 legislative action that specifically repealed the statute which gave the board the specific authority to grant licenses by credential. Accordingly, we recommend the legislature clarify the board's authority in this area by considering and adopting legislation that returns to the board the power to license applicants through a reasonable credential review process.

Recommendation No. 2

The Office of the Governor should expedite the appointment of vacant and expired board member positions. Additionally, the Office of the Governor should proactively recruit prospective board members from rural communities to attain broader representation.

During our review of board member terms and appointments, it was noted that a member had reached the end of the appointed term and a replacement member had not been appointed. We recommend that the Board of Chiropractic Examiners and the Governor's office actively recruit new board members on a continual basis, so that the time between term expiration and new appointments is minimized.

Additionally, we noted adequate board representation by all of the major population areas: Anchorage, Juneau and Fairbanks. However, there is a lack of board representation from smaller urban communities around the state. We recommend the board solicit and encourage their colleagues living in and around smaller rural areas of the state to apply for board positions as they become vacated.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analysis of the Board of Chiropractic Examiners (board) activities relates to the public need factors defined in the "sunset" review law, AS 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.

Determine the extent to which the board, commission, or agency has operated in the public interest.

The board has improved its accessibility to the public and prospective applicants. The board has increased the number of meetings to three times a year. Additionally, the board now offers examinations three times a year.

The board has formed a peer review committee that has been instrumental in the establishment of minimal professional standards and guidelines that will be requirements for licensed chiropractors in the course of their practice.

The board has committed itself to raising domestic violence awareness among chiropractors and encouraging reporting of suspected cases they may become aware of in the course of their practice. They developed and distributed a pamphlet to chiropractors which discusses domestic violence and provides points of contact for further information and voluntary reporting of suspected domestic violence and child abuse.

Determine the extent to which the operations of the board has been impeded or enhanced by existing statutes, procedures, and practices, which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The national licensing examination administered by the National Board of Chiropractic Examiners has in recent years adopted what is termed a "practical" section. Since the national examination now has such a section, the state board has determined it can reasonably rely on this examination when considering applicants for licensure. Accordingly, if individuals licensed in other states pass this examination as part of that jurisdiction's licensing requirements, the board wants to develop regulations to allow it to license such individuals by credential.

Due to past legislative actions, the board's current authority to adopt regulations permitting licensure by credentials is uncertain. As discussed in Recommendation No. 1, we suggest the legislature clarify the board's authority in this area by reestablishing the board's authority to license by credentials.

Determine the extent to which the board has recommended statutory changes that are generally of benefit to the public interest.

In recent years the board has supported the legislation concerning temporary and *locum tenens* permits to practice. The board has supported legislation that has served to clarify the statutes related to licensing by credential. In our view, these statutory changes have been in the best interest of the profession, and in the public's interest.

Determine 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 services, economy of service, and availability of services that it has provided.

The location, date, and time of upcoming meetings and exams were advertised in Alaskan newspapers, as well as on the board's web page. Adequate time has been provided at public meetings for individuals to attend and testify or to submit written comment for review. The board's meeting agenda sets aside suitable time for public comment. Minutes from the meetings of the board reflect public participation at various meetings.

Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.

Public notices of proposed regulations are published in major newspapers. As noted above, meetings were adequately advertised, and time was set aside for public testimony.

Determine 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.

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01), the Division of Occupational Licensing opened 45 cases related to chiropractors. The cases can be summarized as follows:

1. Malpractice, incompetence, unlicensed practice, or advertisement of services beyond the scope of chiropractic practice. Nineteen of the cases involved allegations of malpractice, incompetence, or licensees providing services beyond the scope of chiropractic practice. All ten of the complaints received from the public during the period under the review fall into this category. The other nine complaints were generated by either by the Division of Occupational Licensing staff or other license holders. None of the complaints to date have been found serious enough to warrant action against an individual's license. The primary sanction utilized for complaints found to be valid has been a letter of warning. At the time of fieldwork in August 2001, the status of the complaints and cases were as follows:

Source of complaint	Total	Complaint Valid Warning Letter Sent	Invalid No Action	Case open
Public	10	3	3	4
License Holders	5	4	1	-0-
Occupation Licensing Staff	4	3	-0-	1

2. Untimely renewal of licenses. Eighteen of the opened cases involved situations where the Division of Occupational Licensing formally followed up on chiropractors who did not renew their licenses on a timely basis. The Division wanted assurance that all individuals holding themselves out to the public as chiropractors were licensed appropriately. The division brought all of the chiropractors into compliance either by prompting them to obtain a license or by confirming that the license holder no longer practiced in the state.
3. Insurance settlements. When insurance companies pay out large malpractice settlements on chiropractors, they notify the Division of Occupational Licensing. The insurance companies notify the division so the agency can conduct an investigation into the full scope of the insured professional's practice.

While such settlements may not be related to the general competency of a given practitioner, they may be a key indicator of a chiropractor who is acting in an unethical, improper, or dangerous manner. During our scope period, four such cases were reported. The cases involved settlements ranging from \$5,000 to \$110,000. A division investigation of the chiropractor with the largest settlement payment found no violation. The other three cases were open as of August 2001 pending further investigation.

4. Background Checks at Licensure. Two of the cases were opened on individuals where criminal background checks conducted at the time of initial licensure indicated the applicants did not disclose previous criminal activity when seeking licensure as chiropractors.
5. License Actions. Two cases were opened on individuals where action was taken on their licenses for activities beyond strict chiropractic practice. The first individual had signed a Memorandum of Agreement (MOA) regarding his abuse of alcohol, since it had an adverse impact on his practice. When he was arrested and pleaded *nolo contendere* to the charge of driving while intoxicated, he was in violation of the MOA, which resulted in the board suspending his license to practice. After the local district attorney declined prosecution of an individual whose license had been suspended when he faced possible prosecution on sexual misconduct charges, he sought reinstatement. The board sustained its earlier suspension and the individual did not pursue a formal hearing.

We have reviewed the nature and extent of complaints filed involving licensed chiropractors. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and

proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.

New Licenses Issued (Exclusive of Renewals)	FY 99	FY 00	FY 01	Issued to Date
License	14	10	9	205
Temporary permit	2	1	2	6
Locum Tenens permit	—	—	-0-	-0-

The board has some of the most stringent licensing requirements of any state. These requirements ensure that only those candidates who meet these specific requirements are licensed as chiropractors.

The board has started to issue temporary and *locum tenens* permits. These permits are valid for limited practice (sixty days) and are issued to professionals who are awaiting their licensure or are licensed in another state.

Continuing education requirements for renewal of a chiropractic examiner license appear to be sufficient when compared to other licensing jurisdictions. These requirements are reviewed by the Division of Occupational Licensing to ensure licensees met regulatory requirements intended to promote continued competence.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board to its own activities and the area of activity or interest.

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instance has the board denied an applicant a license based on personal attributes.

Determine the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the board to better serve the interest of the public and to comply with the factors enumerated in this subsection.

As discussed in Recommendation No. 1, the legislature should consider specifically reestablishing the board's authority to license applicants by credential.



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LEGISLATIVE AUDIT

October 1, 2001

Mr. Jim Griffin, Audit Manager
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P. O. Box 113300
Juneau, AK 99811-3300

RE: Management Letter No. 1
Division of Occupational Licensing
Board of Chiropractic Examiners

Dear Mr. Griffin:

Thank you for providing me with an opportunity to comment on your letter of the 13th ultimo.

Your letter reflects accuracy, sensitivity, fairness and balance; and I, therefore, see no need for change. It is indeed an honor to work with you and other members of your division. Thank you.

Sincerely yours,

IRELAND CLINIC OF CHIROPRACTIC, LLC.

Trevor V. Ireland, D.C., (Hon) F.I.C.A., F.P.C.W., F.P.A.C., F.I.C.C.
President
Member, Board of Trustees, Palmer Chiropractic University System
President, Alaska Board of Chiropractic Examiners

TI:lmg

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Alaska Department of Community
and Economic Development

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: license@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

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NOV 28 2001

LEGISLATIVE AUDIT

November 27, 2001

Pat Davidson, Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Chiropractic Examiners preliminary audit.

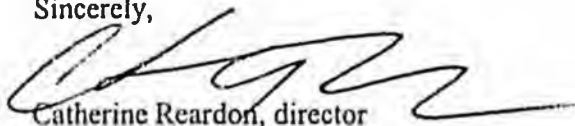
The division agrees that the board is operating in an efficient and effective manner and should continue.

Recommendation No. 1

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board has asked the division to issue public notice of proposed regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. If the board's legal authority to adopt regulations for licensure by credentials is unclear, then the division supports amending the statute.

Sincerely,


Catherine Reardon, director

(Intentionally left blank)

Tony Knowles, Governor

Alaska

Department of Community and Economic Development

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

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Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occl

March 5, 2002

Dear Members of the Senate Finance Committee:

I am writing to explain the Board of Chiropractic Examiners' position on the requirements for licensure by credentials in the Board's sunset extension bill, SB 243.

The purpose of the licensure by credentials section of the bill is to expand opportunities for licensure for experienced chiropractors from other states. The current law requires all applicants for an Alaska chiropractic license to meet identical qualifications, including exam requirements. This can be a barrier for chiropractors that have been practicing in states with different exam requirements than Alaska currently requires. SB 243 creates a second option with modified exam requirements for chiropractors that have been practicing in other states.

Under the proposed CSSB 243 that the Senate Finance Committee has adopted for discussion, chiropractors who have been licensed in another jurisdiction for at least five years and have been in active, clinical practice for three of the past five years can obtain an Alaska license without taking all the national exams required of applicants who just graduated from chiropractic college.

The committee substitute states that the applicant for licensure by credentials must have passed, the parts of the examination of the National Board of Chiropractic Examiners required by the board..." It is the Board's intent to require passage of either Parts I and II of the national examination or the Special Purpose Examination for Chiropractic (SPEC). Both the national examination and the SPEC are written by the National Board of Chiropractic Examiners.

The Board would not require applicants for licensure by credentials to take Parts III and IV of the national examination, which are currently required for applicants using the standard route to licensure. Part III is the written clinical competency examination and Part IV is the practical clinical examination. These clinical exams would not be required because the credentials applicant would have proven their clinical competency through work experience in other jurisdictions. In other words, clinical experience is substituted for clinical examination.

The Board opposes eliminating the requirement that applicants for licensure by credentials have held a license for five years and practiced for three of the past five years because there would be no proof of their clinical competency. The Federation of Chiropractic Licensing Boards recommends five years of active practice for that very reason. Applicants who do not have recent work experience could still be licensed under the standard qualifications in existing law by taking the clinical exams.

I would be glad to answer any questions you may have on this topic.

Sincerely,


Catherine Reardon, Director

"Promoting a healthy economy and strong communities"

SB 243-CHIROPRACTORS: SUNSET/LICENSING
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Deborah Beakes Subject/Bill No: _____
 Co./Dept./Title: Senator's Inquiries Phone: X 6590
 Address: Office Zip: _____
 Do you wish to testify? Yes No Respond To Questions

NAME: Pat Davidson Subject/Bill No: _____
 Co./Dept./Title: Leg Audit Phone: 3830
 Address: _____ Zip: _____
 Do you wish to testify? Yes No Respond To Questions

NAME: Catherine Reardon Subject/Bill No: SB 243
 Co./Dept./Title: Director, Div. of Phone: 465-2538
 Address: Occupational Licensing Zip: 99811
DCED PO 110806 Bureau
 Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
 Co./Dept./Title: _____ Phone: _____
 Address: _____ Zip: _____
 Do you wish to testify? Yes No Respond To Questions