

HB

74

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 74(FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title An Act extending the termination date of the
Board of Nursing.
 Sponsor Reps. Dahlstrom, Stoltze, Wilson
 Requester House Finance

Dept. Affected: DCED
 BRU Occupational Licensing (117)
 Component Occupational Licensing
 Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	477.4	477.4	477.4	477.4	477.4	477.4
Travel	39.2	39.2	39.2	39.2	39.2	39.2
Contractual	192.4	192.4	192.4	192.4	192.4	192.4
Supplies	3.7	3.7	3.7	3.7	3.7	3.7
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	712.7	712.7	712.7	712.7	712.7	712.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	712.7	712.7	712.7	712.7	712.7	712.7
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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	712.7	712.7	712.7	712.7	712.7	712.7
TOTAL	712.7	712.7	712.7	712.7	712.7	712.7

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	7	7	7	7	7	7
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Nursing to June 30, 2011. In accordance with AS 08.03.020, 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 2004 Operating Budget request. New funds are not required to implement this bill.

The Board of Nursing has one additional position to coordinate the Nurse Aide Registry program, funded by inter-agency receipts from the Department of Health and Social Services, Division of Medical Assistance. Inter-Agency funding of \$118.9 for the Nurse Aide Registry program is included in the Governor's FY 2004 budget request.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford, Commissioner
 Agency: Department of Community & Economic Development

Phone (907) 465-2144
 Date/Time 2/24/03 3:46 PM
 Date 2/24/2003

adopted

AMENDMENT #

OFFERED IN HOUSE FINANCE

BY DAHLSTROM

To: HB 74

Page 1, line 4

Change 2007 to 2011

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 74
 (H Publish Date: 2/12/03)

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title An Act extending the termination date of the BRU Occupational Licensing (i17)
Board of Nursing Component Occupational Licensing
 Sponsor Representative Dahlstrom
 Requester House Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	477.4	477.4	477.4	477.4	477.4	
Travel	39.2	39.2	39.2	39.2	39.2	
Contractual	192.4	192.4	192.4	192.4	192.4	
Supplies	3.7	3.7	3.7	3.7	3.7	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	712.7	712.7	712.7	712.7	712.7	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	712.7	712.7	712.7	712.7	712.7	
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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	712.7	712.7	712.7	712.7	712.7	
TOTAL	712.7	712.7	712.7	712.7	712.7	0.0

Estimate of any current year (FY2003) cost: 712.7

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	7	7	7	7	7	
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Nursing to June 30, 2007. In accordance with AS 08.03.020, 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 2004 Operating Budget request. New funds are not required to implement this bill.

The Board of Nursing has one additional position to coordinate the Nurse Aide Registry program, funded by inter-agency receipts from the Department of Health and Social Services, Division of Medical Assistance. In addition to the direct cost of the board outlined above, Inter-Agency funding of \$118.9 for the Nurse Aide Registry program is included in the Governor's FY 2004 budget request.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 2/10/03 12:01 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/10/2003
 Agency Department of Community & Economic Development

ALASKA STATE LEGISLATURE

Vice Chair:
Joint Armed Services Committee

Member:
Military and Veterans Affairs Committee
Labor and Commerce Committee
State Affairs Committee
Economic Development, Trade, &
Tourism Committee



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REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON
Representative_Nancy_Dahlstrom@legis.state.ak.us

Sponsor Statement for HB 74 An Act extending the termination date of the Board of Nurses

AS 08.68.010 established the Board of Nurses, whose members are appointed by the governor, consist of one licensed practical nurse currently involved in institutional nursing service, one registered nurse engaged in baccalaureate nursing education, three registered nurses at large, and two persons with no direct financial interests in the healthcare industry. HB 74, if enacted would extend the board operation for another 4 years to June 30, 2007.

The board serves the public interest by establishing minimum education and work experience requirements that individuals must meet to become licensed nurses or certified nursing aides. The board further serves the public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate.

The board has consistently proven to be efficient, and I therefore recommend that the Board of Nursing be extended to June 30, 2007, and urge you to vote for it's passage.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Audit Report

**DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF NURSING
SUNSET REVIEW**

August 16, 2002



Audit Control Number:

08-20018-02

**Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300**

LEGISLATIVE BUDGET AID

LEGISLATIVE BUDGET AID

DIVISION OF LEGISLATIVE AID

LEGISLATIVE BUDGET AID COMMITTEE
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LEGISLATIVE BUDGET AID COMMITTEE

The Legislative Budget and Audit Committee is a committee of the House of Representatives. The committee is composed of members of the House of Representatives and members of the Senate. The committee is authorized to conduct audits of the operations of the Federal Government.

LEGISLATIVE BUDGET AID COMMITTEE
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The committee is authorized to conduct audits of the operations of the Federal Government. The committee is authorized to conduct audits of the operations of the Federal Government. The committee is authorized to conduct audits of the operations of the Federal Government.

DIVISION OF LEGISLATIVE AID

As a guide, all audits conducted by the Division of Legislative Aid shall conform with the standards established by the American Institute of Certified Public Accountants and the standards established by the U.S. General Accounting Office.

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Audits are conducted by the Division of Legislative Aid. Audits are conducted by the Division of Legislative Aid. Audits are conducted by the Division of Legislative Aid.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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August 19, 2002

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 NURSING
SUNSET REVIEW

August 16, 2002

Audit Control Number

08-20018-02

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)(13), the Board of Nursing is scheduled to terminate on June 30, 2003. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Nursing should be extended. The regulation and licensure of nurses and the certification of nursing aides contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Nursing to June 30, 2011.

This sunset review was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are set out in the Objectives, Scope and Methodology section.

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 Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Nursing. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(13) states that the board will terminate on June 30, 2003, and will have one year from that date to conclude its administrative operations.

Objectives

Our specific audit objectives were:

- To determine if the termination date of the board should be extended.
- To determine if the board is operating in the interest of the public.
- To determine if the board has exercised appropriate regulatory oversight of nurses.

The assessment of the operations and performance of the board was based on the criteria set out in AS 44.66.050(c). Criteria set out in this statute relates 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 Nursing for fiscal years 1999 through 2002. During the course of our examination, we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Tests of files and documentation of licensees.
- Interviews with Division of Occupational Licensing staff.
- Minutes of board meetings, division correspondence files and annual reports issued by the board.
- Attorney general's opinions applicable to professional boards.

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ORGANIZATION AND FUNCTION

The Board of Nursing, as established under AS 08.68, consists of seven members appointed by the governor. Statutes require that the board consist of: a licensed practical nurse currently involved in institutional nursing service, a registered nurse engaged in baccalaureate nursing education, three registered nurses at large, and two public members who have no direct financial interest in the health care industry.

The board regulates the following Alaskan professionals engaged in nursing practice: registered nurses, licensed practical nurses, advanced nurse practitioners, registered nurse anesthetists, and certified nurse aides.

Most licensing requirements are established by statute. Nurses are either licensed by examination or endorsement. Examinations are administered according to a contract with the National Council of State Boards of Nursing.

Licenses by endorsement are issued to nurses licensed in other states that have licensing requirements acceptable to the board.

The board regulates nursing practice in the state in ways such as:

1. Establishing and amending policy and regulations necessary and desirable to enforce state statutes,
2. Approval of curricula for nursing programs along with adopting standards for basic and continuing education programs designed to prepare persons for licensure and ensure the maintenance of competency,
3. Issuing licenses on the basis of examination or endorsement to qualified applicants,
4. Holding hearings to resolve investigations that may lead to revocation, suspension or other disciplinary action against an individual holding a license issued by the board, and
5. Periodically reviewing and approving the facility training programs for individuals employed and certified as nursing aides.

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 Nursing.

Board of Nursing

(As of June 30, 2002)

Nancy L. Sanders, Chair RN/Baccalaureate

Education representative

Barbara Berner, Registered Nurse

Lynn Hartz, Registered Nurse

Mary (Sue) S. Nikodym, Registered Nurse

Susan Rinker, Public

Mary H Weymiller, LPN

VACANT, Public

Administrative assistance includes budgetary services and functions such as: collection of fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings.

DCEC is empowered with the authority to act on its own initiative, or in response to a complaint. DCEC may:

1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a practice over which DCED has authority.
2. Issue an order for a licensed individual to stop the practice.
3. Bring an action in superior court to enjoin the act.
4. Examine the books and records of an individual.
5. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Nursing should be extended. The regulation and licensing of qualified nursing professionals is necessary to protect the public's health, safety, and welfare. The board serves this public interest by establishing minimum educational and experience requirements that individuals must meet to become licensed nurses or certified nursing aides. The board further serves this public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate. The board has satisfactorily carried out its responsibilities in a manner consistent with statutes, good administrative practice, and the public interest.

Alaska Statute 08.03.010(c)(13) requires that the Board of Nursing be terminated on June 30, 2003. Under AS 08.03.020 the board has a one-year period after that date to conclude its administrative operations. Based upon our review of the Board of Nursing's performance for the past four fiscal years (FY 99 through FY 02), we recommend that the termination date of the board be extended.

We recommend the legislature extend the board's termination date to June 30, 2011. While such an extension exceeds the maximum period suggested in statute, it is within legislative discretion.¹

The 1995 legislature, consistent with the recommendation set out in our previous sunset report on the board, extended the Board of Nursing's termination date eight years. In our view, this was done because the board had operated in a professional, competent and efficient manner, and reflected the confidence the legislature had that the board was acting in the public's interest.

As was the case with the last sunset review, we have not identified any significant operating deficiencies in the manner in which the board has been operating. The two findings (set out in the Findings and Recommendations section) involve administrative deficiencies that, in our view, can be readily remedied through the adoption and practice of improved procedures. These deficiencies do not represent a significant impact on the board's capability to operate in the public interest. Accordingly, we again recommend that the legislature extend the termination date of the board to June 30, 2011.

¹ AS 08.03.020 (c) states:

A board scheduled for termination... may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period... [emphasis added]

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Nursing should develop procedures to notify the Board of Pharmacy of changes in the status of prescriptive authority of various nursing licensees.

State regulation at 12 AAC 44.440(g) requires the Board of Nursing to notify the Board of Pharmacy *"within 24 hours after termination of, or change in, an [Advance Nurse Practitioner's] prescriptive authority."* Additionally, at 12 AAC 44.525(b), the Board of Nursing is required to *"transmit to the Board of Pharmacy a list of all [Registered Nurse Anesthetists] with prescriptive authority...."*

The Board of Nursing does not have a procedure in place to ensure compliance with these regulatory requirements. Accordingly, the Board of Nursing has not consistently notified the Board of Pharmacy as to the termination of, or changes in, the prescriptive authority for various licensed Advanced Nurse Practitioners and Registered Nurse Anesthetists. We recommend the board take steps to develop procedures to ensure compliance with these regulatory requirements related to the prescriptive authority of various licensed nursing professionals.

Alternatively, the board may wish to inquire of the Board of Pharmacy about the importance that such notification plays in controlling the distribution of controlled medications. It seems to be unclear what role such notification, or more importantly, the lack of notification, plays in communicating the prescriptive authority status of various licensed professionals to licensed pharmacists. We recommend the development of procedures to ensure that changes in the prescriptive authority of various licenses are consistently communicated to the Board of Pharmacy in accordance with regulation. Additionally, the Board of Nursing, along with the State Medical Board, should discuss with the Board of Pharmacy how such information is utilized by, and communicated to, pharmaceutical dispensing professionals.

Recommendation No. 2

The Board of Nursing should develop and implement a self-evaluation monitoring checklist for organizations operating approved certified nursing aide training programs.

Under state regulations 12 AAC 44.830-847 and 12 AAC 33.857, the Board of Nursing has authority to review and approve training programs for certified nursing aides. Such programs are typically developed and administered by health care organizations required to hire certified nursing aides, such as Providence Hospital and the Southeast Alaska Regional Health Corporation.

Each training program is subject to on-site reviews and approval by the Board of Nursing at two-year intervals. State regulations require program providers to complete "*a self-evaluation form provided by the board.*" The Board of Nursing has not developed the required self-evaluation form for aide training programs.

Accordingly, we recommend the Board of Nursing direct staff to develop a self-evaluation form to bring the operations of the board in compliance with specified regulations related to training programs for certified nursing aides.

ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public need factors defined in 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 has operated in the public interest.

The board has been diligent in ensuring that qualified applicants are licensed as nurses or certified as nursing aides. Regulations related to licensure and certification provide reasonable assurance of competence, without being overly restrictive to entry into the nursing profession. Continuing competency requirements provide assurance that licensed professionals remain current in their professional practice. The regulation and licensing of qualified nursing professionals promotes the public's health, safety, and welfare.

By establishing minimum requirements for education, experience, and continuing education for licensed and certified nursing professionals, the board is acting in the public interest. Likewise, the board holds licensees in the nursing practice accountable to an established standard of care. Through the active investigation of complaints related to the professional and personal conduct of individuals subject to board oversight, and disciplining these individuals through fines, revocation or suspension of licenses, as appropriate, the board is also acting in the public interest.

The board has displayed an ability to conduct its business in a professional, competent, and efficient manner. The board has consistently proposed changes to statutes and regulations to improve its effectiveness in regulating the nursing profession in Alaska.

Since 1994, the National Council Licensure Examination (NCLEX) for nursing has been available in a computerized format and is available on an online basis. NCLEX examinations are adapted interactively online for each applicant. That is, after a candidate answers an examination question, subsequent questions are selected based on the response chosen by the applicant. Using such a method, one candidate may take an hour to complete the test, another three hours, and both receive passing scores. Such a method allows the examination to probe an applicant's knowledge, skills, and abilities in a more precise manner.

NCLEX has contracted with Sylvan Learning Systems to provide testing services. All Sylvan centers are accessible to individuals with disabilities. The testing centers only accommodate candidates with authorization from the Board of Nursing. The turnaround time for testing has decreased so much that temporary permits for license by examination candidates have been eliminated. Previously, the board issued temporary permits while the candidate was waiting for results from NCLEX, however scores can now be received in as little as three days.

Determine the extent to which the operation 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 board has served the public by examining and licensing qualified applicants and proposing changes in regulations that are necessary to enforce state statutes and enhance the quality of nursing care to Alaskans.

In order to protect the objectivity of the board members, when Division of Occupational Licensing staff are investigating the conduct of nurses, only limited advice is sought from the board. At each meeting, the board only sees a brief, one sentence synopsis of cases under investigation, and receives no information on the name of the nurse or location of the investigation. The board's executive administrator, and at times, individual board members, provide technical advice and assistance to the investigator.

In order to expedite case management, the investigative unit of the Division of Occupational Licensing has changed the process it follows to close a case. Previously, board involvement was required to close a case. Now, typically cases are closed based upon consultation with only the Attorney General's Office.

Under state law all professional licensing boards must be self-sufficient. Alaska Statute 08.01.065 requires that "*the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.*" Although the statute calls for fees to be set at the occupational level, the division has only tracked expenditures and revenues at the board level, leaving it to the board to set licensing fees for the various professions it may regulate in order to meet the general, if not specific intent of the statute.

We reviewed the internal records maintained by the Division of Occupational Licensing related to revenues and expenditures associated with the Board of Nursing. We did not audit this information, and present it here for general information purposes. It is likely that the cumulative surplus at the end of FY 01, combined with projected FY 02 revenues, will not be sufficient to cover the board's operating costs in FY 02. This indicates the Board of Nursing has not set licensing fees at a level sufficient to cover its operating costs. It is likely the board will need to increase licensing fees to comply with the requirements of AS 08.01.065.

The response from the Division of Occupational Licensing, which begins on page 19, provides updated and additional information regarding expenditures and revenues related to the Board of Nursing through FY 02. This response, and our additional comments on page 25, should be reviewed to further understand the financial position of the Board of Nursing.

State of Alaska
Board of Nursing
Schedule of License Revenues and Board Expenditures
FY 98 - FY 01
(Unaudited)

	FY01	FY00	FY99	FY98
Total Revenues:	\$ 1,919,723	\$ 181,259	\$ 879,525	\$ 210,426
Board/Occupation Direct Expenditures:				
Personal Services	\$ 428,739	\$ 261,554	\$ 247,597	\$ 175,838
Travel	31,639	21,504	17,847	26,681
Contractual	212,052	94,589	39,577	34,807
Supplies	3,955	727	1,757	1,946
Equipment	1,738	-0-	56	-0-
Total Board/Occupation Direct Expenditures	\$ 678,123	\$ 378,374	\$ 306,834	\$ 239,272
Total Administrative Indirect Expenditures	\$ 487,953	\$ 332,248	\$ 352,512	\$ 301,080
Total Direct and Indirect Expenditures	\$1,166,076	\$ 710,622	\$ 659,346	\$ 540,352
Revenues Compared to Expenditures	\$ 753,647	(\$529,363)	\$220,179	(\$329,926)
Cumulative Surplus or (Deficit) for Board Operations	\$ 484,337	\$ (269,310)	\$ 260,053	\$ 39,874

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

The most significant change to the professional nursing statutes in recent years involved oversight and regulation of certified nursing aides. The board supported changes to state law requiring the board to maintain a registry of certified nurse aides. At a minimum, (consistent with federal regulations) such a registry was to contain information about any aide found to have "committed abuse, neglect, or misappropriation of property in connection with their employment by a facility participating in the Medicaid or Medicare program."

Further, the 1998 legislation provided that if the board found that a certified nurse aide committed "*abuse, neglect, or misappropriation of property in connection with employment as a nurse aide*" it had the authority to revoke the individual's certification and enter the finding on the registry. The legislation also clarified the Board of Nursing's statutory authority to take disciplinary actions against certified nursing aides. Although the board had been responsible for education and testing standards for aides since 1989, prior to adoption of the 1998 legislation, the board lacked specific statutory authority to investigate and discipline aides through sanctions against their certification.

The board also supported legislation adopted in 2002 that permitted nurses to delegate certain nursing duties to others, including "*unlicensed assistive personnel*" as long as such delegation was done in a manner consistent with "*regulations adopted by the board.*" The 2002 legislation also provided whistleblower protection if nurses refuse to perform a task involving improper delegation of nursing care. Nurses can obtain immunity from discharge or other disciplinary actions of an employer, if the directive involving improper delegation is reported to the board in a timely manner.

Determine the extent to which the board 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 board meetings are published around the State so that interested public members can attend the meetings.

Members of the public are welcome at board meetings, and attend in high numbers, as evidenced by the sign-in sheets from board meetings. If the board is considering changes to regulations, public testimony is solicited in the meeting advertisements.

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

Meetings and proposed regulations are advertised in the *Anchorage Daily News* and on the Internet. Time is available at all public meetings for public comment. The board also accepts written comments to be discussed at board meetings.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board filed with it, with the department to which a board is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

For the 45 month period from June 1, 1998, through March 31, 2002, the Division of Occupational Licensing opened 258 investigative cases related to individuals licensed by, or seeking licensure, from the Board of Nursing. Over 40% of the cases (112) involved applicants seeking certification or individuals already certified as nursing aides.

Further, the 1998 legislation provided that if the board found that a certified nurse aide committed "*abuse, neglect, or misappropriation of property in connection with employment as a nurse aide*" it had the authority to revoke the individual's certification and enter the finding on the registry. The legislation also clarified the Board of Nursing's statutory authority to take disciplinary actions against certified nursing aides. Although the board had been responsible for education and testing standards for aides since 1989, prior to adoption of the 1998 legislation, the board lacked specific statutory authority to investigate and discipline aides through sanctions against their certification.

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Board of Nursing staff and license examiners with the Division of Occupational Licensing were the source of many of these cases, generating 116 of the 258 complaints. Complaints from the public or nursing patients accounted for only nineteen complaints, while another 60 investigations were generated by what are termed "licensed associates" (typically, either other nurses or physicians).

Of the 152 cases that had been closed as of the date of our review, 59 involved licensure action such as revocation or suspension. An additional 61 were resolved by either a warning letter to the individual involved or through entering into what was termed a memorandum of agreement. The memorandum of agreement typically required the individual to take some remedial action in order to maintain their license. The remaining 32 investigations were closed due to a finding that no violation occurred (9 times), or there was insufficient evidence for the board to take action (23 times).

Of the 106 cases not closed as of the date of our review, most (99) had been opened within the previous 120 days. Of the remaining seven, two involved nurses that had been associated with a major investigation involving a physician, and action on the cases had been suspended pending resolution of that case.

Three cases involved individuals who apparently no longer reside, or are practicing nursing, in the State. These cases have been given lower priority since there is limited public risk involved. The other two cases involved complex, problematic investigations, since the circumstances of the complaint involve the incorrect administration of medication to a patient over a given period of time. Since a group of nurses are involved, it has proven difficult to isolate which nurse may have been responsible for the negligence. The investigation continues.

In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate actions and proceeded in a manner consistent with the potential threat the various 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.

We reviewed the requirements for licensure and they appear reasonable and appropriate to ensure qualified professionals are licensed, and the public's best interest is protected. The table on the next page summarizes the licenses and certifications issued by the board over the past three fiscal years.

New Licenses Issued	FY 00	FY 01	FY 02	Total	Current Licenses as of June 30, 2002
Registered Nurses	737	744	1,076	2,557	7,369
Licensed Practical Nurses	76	107	121	304	855
Advanced Nurse Practitioners	53	49	47	149	497
Registered Nurse Anesthetists	26	8	6	40	94
Certified Nursing Aide	440	450	540	1,430	1,956

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. Each time the board has denied an applicant a license, the reason has been based on experience requirements and not personal attributes of the applicant.

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 AS 44.66.050.

See discussion in Recommendations No. 1 and No. 2 in the Findings and Recommendations section of this report. The Board of Nursing should adopt administrative procedures that will allow for:

1. More timely notification of changes in prescriptive authority. The board must improve its compliance with the regulation related to notification of the Board of Pharmacy regarding changes in the prescriptive authority status of licensees in a timely manner.
2. Development and utilization of a self-evaluation form for nursing aide programs. The board has not developed and distributed self-evaluation forms to the various facilities and institutions in the State that maintain and operate certified nursing aide programs. Such a self-evaluation review instrument is required by the board's regulations related to its oversight of certified nursing aides.

Alaska Department of Community and Economic Development

Division of Occupational Licensing

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September 10, 2002

Pat Davidson, Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED

SEP 13 2002

LEGISLATIVE AUDIT

Re: Preliminary Audit Report, DCED, Board of Nursing,
Sunset Review, August 16, 2002

Dear Ms. Davidson,

I have reviewed the preliminary audit of the DCED, Board of Nursing. Overall, the audit was very positive and reflects the operation of the Board of Nursing. Two recommendations were made in the audit. I will address those recommendations and will also point out some inaccuracies in the report for which I have concern.

Recommendation 1: The Board of Nursing should develop procedures to notify the Board of Pharmacy of changes in the status of prescriptive authority of various nursing licensee.

The audit is correct. The Board of Nursing currently does not have a specific procedure for notifying the Board of Pharmacy of changes in the status of prescriptive authority for licensees.

Suggested action:

- 1) The Board of Nursing will meet with Margaret Soden, Chair of the Board of Pharmacy during its meeting to be held in Fairbanks, AK from September 18-20. During that meeting, information about the best way to address this recommendation will be discussed with the Chair of the Board of Pharmacy.
- 2) Information related to prescriptive authority for advanced practice nurses is available on the Division of Occupational Licensing website. The Pharmacy Association is planning to put instructions about how to access this information from the website in their newsletter.

Recommendation 2: The Board of Nursing should develop and implement a self-evaluation monitoring checklist for organizations operating approved certified nurse aide training programs.

This is an excellent recommendation. The Board will direct staff to develop a self-evaluation monitoring checklist for organizations operating approved certified nurse aide training programs.

Three additional concerns were identified in the audit report. I will be address each separately.

Concern 1: The audit report (p. 10 last paragraph) stated that "It is likely that the cumulative surplus at the end of FY 01 combined with projected FY 02 revenues, will not be sufficient to cover the Board's operating costs in 02". The report suggests that licensing fees were not set at a level sufficient to cover its operating costs.

Response: The Board of Nursing, in order to continue to function, is required to be self sufficient. Licensing fees pay for the Board staff and the investigators, among other costs. When setting 2002-2004 license renewal fees for RNs and LPNs, the Board considered a budget projection that demonstrated sufficient revenue to allow continued operation. The Board is aware that the licensing fees for nurses in the State of Alaska are the highest for RNs in the United States. Balancing the burden of paying the licensing fee with the need to operate to protect the health of the public, the Board set the licensing fee at the same level as the last renewal cycle. There was every reassurance that these fees were sufficient to cover expenses of the Board.

Concern 2: The audit report (p. 10, paragraph 3) stated that "Previously, Board involvement was required to close a case. Now, typically cases are closed based upon consultation with only the Attorney General's office".

Response: It is a concern to the Board that scope of practice cases would be closed with consultation only with the Attorney General's office. Nurses have a responsibility to monitor the practice of members of the profession. One of the duties and powers of the Board of Nursing is to develop reasonable and uniform standards for nursing practice to protect the health, safety, and welfare of clients. It is a concern that non-nurses are determining whether the scope of nursing practice has been violated.

I can understand a procedure to close a case where criminal complaints have been lodged, but the procedure to close a case for potential violations of scope of practice should include consultation with a nurse.

Concern 3: The audit report (p. 9, final paragraph) is in error when it states that "the turnaround time for testing has decreased so much that temporary permits for licenses by examination candidates have been eliminated".

Response: Temporary permits for examination candidates continue to be issued. It is true that the result of the NCLEX examination has decreased. However, candidates sometimes have had to wait for an appointment to take the examination; therefore a temporary permit continues to be issued when requested to allow the candidate to practice prior to taking the examination. Temporary permits are also issued for other reasons. For example, a recent regulation requiring a criminal background check has lengthened the time it takes from application to licensure. Temporary permits allow the applicant to practice.

Thank you for the opportunity to address these issues. I trust the information will be clarified in the final report.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Sanders". The signature is written in black ink and is positioned above the typed name.

Nancy L. Sanders, RN, PhD
Chair, Board of Nursing

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Alaska Department of Community
and Economic Development

Division of Occupational Licensing

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September 24, 2002

Ms. Pat Davidson
Legislative Auditor
Division of Legislative Audit
Juneau, AK 99811

RECEIVED

SEP 26 2002

LEGISLATIVE AUDIT

Dear Ms. Davidson,

Thank you for the opportunity to respond to the preliminary audit of the Board of Nursing.

The Division of Occupational Licensing agrees with the audit recommendation to extend the board until 2011. The regulation of nurses and nurse aides is essential for the protection of public health and safety. The board and staff do an excellent job.

The chair of the board submitted a response to the preliminary audit. The division supports that response with the following clarifications.

In response to the comments about license fees on page 10 of the preliminary audit, I have attached charts showing that total revenue from the nursing program has exceeded total expenses for the period from FY97 through FY02. These charts include nurse aide revenue and expenses beginning in FY98.

Please note that the Department of Community and Economic Development sets license fees, rather than the board. It is true that the division sets fees so that the revenue from all occupations under the Board of Nursing equals the combined cost of regulating those occupations. However, the division does track the expenditures and revenue at the occupation level.

Page 10 of the preliminary audit states that board involvement was previously required to close a nursing investigation. That is not correct. The division has the responsibility and authority to open and close investigations. In 1997 I issued a policy and procedure describing the process for closing cases. This P&P applies to all division programs. Nursing investigations are handled in the same way as other cases. The division often consults with the Department of Law on the legal strength of a case before making a closure decision. When a case involves a question of nursing scope of practice or otherwise requires a professional analysis, the investigation unit requests a professional opinion from the executive administrator of the Board of Nursing, a member of the board or another licensed professional.

I appreciate your consideration of these comments.

Sincerely,



Catherine Reardon, Director

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DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
OCCUPATIONAL LICENSING

BUDGET REPORT FOR THE BOARD OF NURSING

As of September 23, 2002

Nursing (In Thousands)		FISCAL YEAR 1997	NUR/NUA FISCAL YEAR 1998	NUR/NUA FISCAL YEAR 1999	NUR/NUA FISCAL YEAR 2000
PERSONAL SERVICES EXPENSES (71000)	Direct	177.4	243.5	346.6	369.9
	Indirect	210.8	283	267.8	266
	Total:	\$388.2	\$526.5	\$614.4	\$635.9
Personal service expenses are employee salaries and benefits. In Fiscal Year 1994 the Division began using detailed time sheets to record actual time spent on the various licensing areas.					
TRAVEL EXPENSES (72000)	Direct	23.7	31.0	22.6	28.9
	Indirect	5.1	2.5	3.7	2.5
	Total:	\$28.8	\$33.5	\$26.3	\$31.4
Travel expenses include transportation, food and lodging for board meetings, complaint investigations, disciplinary hearings and national meetings.					
CONTRACTUAL SERVICES EXPENSES (73000)	Direct	41.5	76.9	101.3	152.0
	Indirect	86.7	105.9	149.7	176.6
	Total:	\$128.2	\$182.8	\$251.0	\$328.6
Contractual services are services purchased from sources outside the Division and include telephone calls, postage, expert witnesses and Department of Law legal work, and other costs.					
SUPPLIES EXPENSES (74000)	Direct	1.4	2.6	2.7	1.2
	Indirect	11.6	20.0	18.9	15.1
	Total:	\$13.0	\$22.6	\$21.6	\$16.3
Supply expenses include paper, envelopes, cassette tapes, and other office supplies.					
EQUIPMENT EXPENSES(75000)	Direct	0.3	0.0	0.2	0.0
	Indirect	42.0	13.1	13.5	6.6
	Total:	\$42.3	\$13.1	\$13.7	\$6.6
Equipment expenses include purchase and repair of computers, software, copy machine, telephones and other office equipment.					
	Total Direct:	\$244.3	\$354.0	\$473.4	\$552.0
	Total Indirect:	\$356.2	\$424.5	\$453.6	\$466.8
TOTAL EXPENSES:		\$600.5	\$778.5	\$927.0	\$1018.8
TOTAL REVENUE:		\$997.3	\$412.3	\$1084.6	\$589.6
BALANCE (Revenue - Expenses) :		\$396.8	(\$366.2)	\$157.6	(\$429.2)

This chart shows the figures in the state accounting system on the day the chart was prepared. Some bills are not received and entered in the system for several months after the expense occurs. Direct costs are expenditures which can be specifically attributed to distinct occupations. Indirect costs are collective expenses which are shared equally by all division license holders on a per capita basis. Fiscal Years for Alaska's state government begin July 1 and end June 30. Figures are in thousands of dollars and are rounded to the nearest hundred. For example, \$1.3 means \$1,300.00.

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DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
OCCUPATIONAL LICENSING

BUDGET REPORT FOR THE BOARD OF NURSING

As of September 23, 2002

Nursing <i>(In Thousands)</i>		NUR/NAR FISCAL YEAR 2001	NUR/NAR FISCAL YEAR 2002
PERSONAL SERVICES EXPENSES (71000)	Direct	428.7	477.4
	Indirect	290.8	282.3
	Total:	\$719.5	\$759.7
Personal service expenses are employee salaries and benefits. In Fiscal Year 1994 the Division began using detailed time sheets to record actual time spent on the various licensing areas.			
TRAVEL EXPENSES (72000)	Direct	31.6	39.2
	Indirect	3.9	3.9
	Total:	\$35.5	\$43.1
Travel expenses include transportation, food and lodging for board meetings, complaint investigations, disciplinary hearings and national meetings.			
CONTRACTUAL SERVICES EXPENSES (73000)	Direct	212.1	192.4
	Indirect	146.8	173.5
	Total:	\$358.9	\$365.9
Contractual services are services purchased from sources outside the Division and include telephone calls, postage, expert witnesses and Department of Law legal work, and other costs.			
SUPPLIES EXPENSES (74000)	Direct	4.0	3.7
	Indirect	15.8	15.5
	Total:	\$19.8	\$19.2
Supply expenses include paper, envelopes, cassette tapes, and other office supplies.			
EQUIPMENT EXPENSES(75000)	Direct	1.7	0.0
	Indirect	30.6	20.4
	Total:	\$32.3	\$20.4
Equipment expenses include purchase and repair of computers, software, copy machines, telephones and other office equipment.			
	Total Direct:	\$678.1	\$712.7
	Total Indirect:	\$487.9	\$495.6
TOTAL EXPENSES:		\$1166.0	\$1208.3
TOTAL REVENUE:		\$1919.7	\$927.7
BALANCE (Revenue - Expenses) :		\$753.7	(\$280.6)

Expense and revenue for the Nurse Aide Program are reflected in the budget reports starting FY 99. Health and Social Services RSA revenue, received to date, is included in the Total Revenue figure. This chart shows the figures in the state accounting system on the day the chart was prepared. Some bills are not received and entered in the system for several months after the expense occurs. Direct costs are expenditures which can be specifically attributed to distinct occupations. Indirect costs are collective expenses which are shared equally by all division license holders on a per capita basis. Fiscal Years for Alaska's state government begin July 1 and end June 30. Figures are in thousands of dollars and are rounded to the nearest hundred. For example, \$1.3 means \$1,300.00.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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September 26, 2002

Members of the Legislative Budget
and Audit Committee:

We have reviewed the responses of the director of Occupational Licensing and the chair of the Board of Nursing. In response to these comments, and the additional information provided, we offer the following comments.

Projected deficit for the Board of Nursing

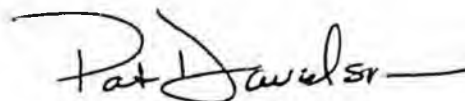
The financial impact of two factors has mitigated the projected deficit for the Board of Nursing.

1. Inclusion of nursing aide financial activity since FY 98 increases the cumulative surplus for the board at the end of FY 01. In the financial schedule presented on page 11 of the report, we included only FY 01 revenues and expenditures related to nursing aides. The board did collect registration fees and maintain a listing of nursing aides in prior years, but FY 01 was the first year the board assumed full oversight for nursing aides from the Department of Health and Social Services. In contrast, the director's response included the financial activity for nurses aides since FY 98, thus increasing the available surplus at the end of FY01.
2. Higher than expected revenues were collected in FY 02. Due to a significant increase in the number of applicants seeking licensure, revenues collected for application fees and first time licenses fees were significantly larger than estimated. FY 02 revenues for nurses exceeded \$600,000. Compared to the two previous non-renewal year revenue totals (FYs 98 and 00) which averaged around \$200,000, this represented a three-fold increase in licensing revenues for the board.

Based on the level of FY 02 revenues, restated prior year revenues and expenditure comparisons, we agree that the board's current fee structure does provide sufficient revenues to cover the board's costs.

Fee Setting Process

In her response the director notes, "*the Department of Community and Economic Development sets license fees, rather than the board.*" This is a clarification of our comment (page 10) that the Board of Nursing had not set fees at a sufficient level. We acknowledge that the division is the final authority for setting for various licensing boards, but it is our experience that fee establishment is a very interactive process between the board and the division.

A handwritten signature in black ink that reads "Pat Davidson" with a horizontal line extending to the right.

Pat Davidson, CPA
Legislative Auditor