

HB

93

HFIN

FILE

April 11 1:42 PM.

HB 93 - Dentists & Hygienists

FN#1 CED

Anderson
H. Helyard

CSHB 93 (FIN) adopted on 4-10 (C)

(R.O.) "no rec."

HB 485 - Pharmacists/Drs./Auditors

FN (1) CED \emptyset

Rules

(G)

~~2 REV *~~

Rokeberg

New FN Rev * Replaces #2

(3) COR *

New HSS

~~4 HSS *~~

New HSS

R.O.

~~5 HSS *~~

New HSS

"no rec."

~~6 HSS *~~

New HSS

~~7 HSS *~~

HB 447 - Broadcasting for Charitable Gaming

#1 REV \emptyset

Labon+Commins

CSHB 447 (L+C)

(G)

McGuire

(R.O.) "do p..."

CSHB 447 (FIN)

HB 475 - Pub. Employee & Teacher Retirement SBS

Seaton

new CS HB 475 () (L)

new Amend. 1 - Kerttula

#1 ADM \emptyset

new Amend. 2 - Kerttula

HB 470 - postponed

HB 308 - Waived

~~HB 470~~

schedule but not heard.

HOUSE FINANCE COMMITTEE

April 11, 2006 - Tuesday 1:30 p.m.

**HB 485 STATE PHARMACISTS/DOCTORS/AUDITOR EXEMPT
5 New Fiscal Notes: Revenue, DHSS(2671), DHSS(#242), DHSS(#311),
DHSS(#296) with old notes #3Corrections, #1Commerce**

Testimony taken 3/7/06

Jim Duncan, ASEA

Questions:

Robynn Wilson, Director, Division of Tax, Dept. of Revenue

Janet Clarke, Deputy Commissioner, Dept. of HSS

Dave Williams, Alaska Pioneer Homes, Dept. of HSS

Mila Cosgrove, Director, Division of Personnel, Dept. of Admin

Art Chance, Labor Relations Director, Dept. of Admin.

HB 447 BROADCASTING PROMOTING CHARITABLE GAMING

Craig Johnson, Staff to Rep. Lesil McGuire

Jeff Prather, Gaming Group, Tax Division, Revenue

Teleconference

Ric Schmidt, General Manager, KNOM-AM/FM, *from*

Dennis Bookey, Morris Communications, Anchorage

Carter Crawford, Fairbanks

Stuart Whyte, KFMI Radio

Vicki Muzik, KRMI Radio

HB 475 PUBLIC EMPLOYEE & TEACHER RETIREMENT & SBS

Need to Adopt CSLSI685M.

New Amendments 1 & 2 Kerttula

Rep. Paul Seaton/Katie Shows, Staff

Melanie Millhorn, Director, Retirement and Benefits, Administration

Traci Carpenter, Retirement and Benefits, Administration *Traci Carpenter*

Jim Duncan, ASEA

Tom Harvey, NEA-Alaska

Via Teleconference:

Nancy Duez, Fairbanks Education Association

Pat Holmes, Kodiak

Kristina Tornquist, NEA-Alaska, MatSu

Kathy Summers, MatSu Education Association

Bette Reed, NEA-Alaska

HOUSE FINANCE COMMITTEE

April 11, 2006 - Tuesday 1:30 p.m.

HB 93-DENTISTS AND DENTAL HYGIENISTS

New Fiscal Note Commerce

Need to Adopt CS LS0384C

Heath Hilyard, Staff, Representative Anderson

Via Teleconference:

Mr. Jim Towle, Alaska Dental Society

George Shaffer, DMD, Alaska Dental Society

(Dr. Robert Robertson, Dentist)

In Juneau

David Logan, Alaska Dental Society

Rick Urion, Director Occupational Licensing, DCCED

HB 485 STATE PHARMACISTS/DOCTORS/AUDITOR EXEMPT

New Fiscal Note Revenue

Testimony taken 3/7/06

Robynn Wilson, Director, Division of Tax, Dept. of Revenue

Janet Clarke, Deputy Commissioner, Dept. of HSS

Dave Williams, Alaska Pioneer Homes, Dept. of HSS

Mila Cosgrove, Director, Division of Personnel, Dept. of Admin

Art Chance, Labor Relations Director, Dept. of Admin.

HB 447 BROADCASTING PROMOTING CHARITABLE GAMING

Craig Johnson, Staff to Rep. Lesil McGuire

Jeff Prather, Gaming Group, Tax Division, Revenue

Teleconference

Ric Schmidt, General Manager, KNOM-AM/FM

Dennis Bookey, Morris Communications, Anchorage

HB 475 PUBLIC EMPLOYEE & TEACHER RETIREMENT & SBS

Need to Adopt CS Rep. Paul Seaton

New Amendments 1 & 2 Kerttula

Katie Shows, Staff to Rep. Seaton

Melanie Millhorn, Director, Retirement and Benefits, Administration

Traci Carpenter, Retirement and Benefits, Administration

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Committee Action on Legislation

COMMITTEE House Finance
N. Thomas SECRETARY

DATE: 4-11-06
PAGE 2 OF 2

SHORT TITLE

HB 475

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS () Out of Cmte
- Moved HCS () Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

SHORT TITLE

HB 470 postponed

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS () Out of Cmte
- Moved HCS () Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

SHORT TITLE

HB 308 waived

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS () Out of Cmte
- Moved HCS () Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

Committee Action on Legislation

COMMITTEE House Finance
N. Thomas SECRETARY

DATE: 4-11-06
PAGE 1 OF 2

SHORT TITLE

HB 93

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS (FIN) Out of Cmte
- Moved HCS () Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

SHORT TITLE

HB 485

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS () Out of Cmte
- Moved HCS () Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

SHORT TITLE

HB 447

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS (FIN) Out of Cmte
- Moved HCS () Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

HB 93

BY: Representative Tom Anderson

"An Act relating to dentists and dental hygienists and the Board of Dental Examiners; establishing certain committees for the discipline and peer review of dentists; excluding the adjudicatory proceedings of the Board of Dental Examiners and its committees from the Administrative Procedure Act and from the jurisdiction of the office of administrative hearings; and providing for an effective date"

The public is neither protected nor well served when the responsibility for discipline of licensed professionals is relegated to individuals with no training, experience or expertise in the profession they investigate. HB 93 brings the expertise, professional experience and judgment of respected dentists into the process of alleged wrongdoing.

HB 93 empowers the Board of Dental Examiners to review complaints, assess the level and degree of misconduct and impose remedial measures as well as appropriate disciplinary actions when warranted. The Dental Board will have the authority to revoke or suspend the license of those who endanger the public health.

The current lack of uniform standards in the dental practice including continuing education requirements also pose a health risk. HB 93 addresses this by giving the Board authority to enforce mandatory use of the most recent breakthroughs in dental medicine. This bill will improve dental care in the State of Alaska as well as give dental patients a peer-reviewed process to address their complaints.

I urge your support of this legislation.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: CSHB 93 (JUD)
Bill Version: _____
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title: Dentists and Dental Hygienists RDU: Corporations & Licensing (117)
Component: Corporations & Licensing
Sponsor: Anderson
Requester: House Finance Component No.: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	6.0	6.0	6.0	6.0	6.0	6.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	6.0	6.0	6.0	6.0	6.0	6.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	6.0	6.0	6.0	6.0	6.0	6.0
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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	6.0	6.0	6.0	6.0	6.0	6.0
TOTAL	6.0	6.0	6.0	6.0	6.0	6.0

Estimate of any current year (FY2006) cost: 1543

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 93(JUD) provides the Board of Dental Examiners significant authority to conduct its disciplinary and hearing proceedings through appointment of its own peer review or disciplinary committees

The travel funding of \$6.0 above provides for one additional meeting for the Board to be used by the Board for a disciplinary hearing in person or to be used by the peer review or disciplinary committees. In FY05, the Board spent \$13.5 on travel. This funding is expected to continue with the addition of \$6.0 new costs.

The increased cost is anticipated to be funded by licensing fees.

Prepared by: Jennifer Stricklet, Chief Phone: (907) 465-2144
Division: Corporations, Business and Professional and Licensing Date/Time: 4/11/06 11:05 AM
Approved by: William C. Noll, Commissioner Date: 4/11/2006
Agency: Commerce, Community, and Economic Development

ALASKA STATE HOUSE OF REPRESENTATIVES

Labor & Commerce Committee, Chair
Administrative Regulation Review, Chair
Judiciary Committee, Vice-Chair
Health, Education and Social Services



716 W 4th Ave
Suite 610
Anchorage, AK 99501

Phone (907) 269-0265
Fax (907) 269-0264

Representative Tom Anderson

SUMMARY OF CHANGES

CSHB 93()
24-LS0384\c

Page 2, Line 20-26 – DELETE all material

Page 4, Line 30-31 – DELETE "All officers must be licensed dentists except for the position of secretary."

Page 4, Line 31-Page 5, Lines 1-2 (CONCEPTUAL) – ADD "If the president is not a licensed dentist, the board shall designate a licensed dentist to assist in the president's duties which include. . ."

Page 6, Line 5 – DELETE "only"

Page 7, Line 11 (CONCEPTUAL) – After ". . . as determined by the board;" INSERT "unless the board designates that the exam is to be conducted outside the state"

Page 7, Line 18 – After "programs" DELETE the remainder of the sentence.

Page 9, Line 21 – REPLACE "shall" with "may"

Page 10, Line 2 – REPLACE "shall" with "may"

Page 10, Line 6 – After "A person" INSERT "or the department"

Page 10, Lines 16-27 (CONCEPTUAL) – After "The board president" INSERT "or their designee"

Page 10, Line 28 – REPLACE "decide" with "recommend"

Handwritten:
Mischel
4-1-06

CS FOR HOUSE BILL NO. 93()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ANDERSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to dentists and dental hyg' the Board of Dental Examiners;
2 establishing certain committees for the discipl e and peer review of dentists; excluding
3 the adjudicatory proceedings of the Board of Dental Examiners and its committees from
4 the Administrative Procedure Act and from the jurisdiction of the office of
5 administrative hearings; and providing for an effective date."

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

7 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 PURPOSE. It is the purpose of this Act to modify the existing framework used to
10 license and discipline dentists and dental hygienists in order to improve the practice of
11 dentistry and dental hygiene in the state and to better protect the public. It is the further
12 purpose of this Act to provide peer review and to ensure confidentiality for the complainants
13 and the licensee, to involve licensed dentists and dental hygienists in the decision-making

1 process, and to better address patient and public complaints.

2 * Sec. 2. AS 08.01.080 is amended to read:

3 **Sec. 08.01.080. Department regulations.** The department shall adopt
4 regulations to carry out the purposes of this chapter including but not limited to
5 describing

6 (1) how an examination is to be conducted;

7 (2) what is contained in application forms;

8 (3) how a person applies for an examination or license;

9 (4) how to maintain the confidentiality of information required to

10 be confidential under AS 08.01.087.

11 * Sec. 3. AS 08.01.087 is amended by adding a new subsection to read:

12 (d) Except as otherwise provided under AS 08.36, the department shall
13 maintain the confidentiality of information involving

14 (1) a dental hygienist or dentist licensed in the state under AS 08.32 or
15 AS 08.36 unless the licensee is disciplined by the board and, even if the licensee is
16 disciplined by the board, shall maintain the confidentiality of the licensee's personal
17 medical records; and

18 (2) a person who is a patient or complainant of a licensed dentist or
19 dental hygienist if the information pertains to the health or rehabilitation of the person.

20 * Sec. 4. AS 08.32.160 is amended to read:

21 **Sec. 08.32.160. Grounds for discipline, suspension, or revocation of license.**

22 The board may revoke or suspend the license of a dental hygienist, or may reprimand,
23 censure, or discipline a licensee, or impose a lesser form of discipline that the
24 board determines is warranted and necessary, if, after a hearing, the board finds
25 that the licensee

26 (1) used or knowingly cooperated in deceit, fraud, or intentional
27 misrepresentation to obtain a license or registration;

28 (2) engaged in deceit, fraud, or intentional misrepresentation in the
29 course of providing or billing for professional services or engaging in professional
30 activities;

31 (3) advertised professional services in a false or misleading manner;

1 (4) has been convicted of a felony or other crime that affects the
2 licensee's ability to continue to practice competently and safely;

3 (5) failed to comply with this chapter, with a regulation adopted under
4 this chapter or under AS 08.36, or with an order of the board;

5 (6) continued to practice after becoming unfit due to

6 (A) professional incompetence;

7 (B) addiction or dependence on alcohol or other drugs that
8 threatens or compromises patient care, has the potential to compromise
9 patient care, or impairs the licensee's ability to practice safely;

10 (C) physical or mental disability, not overcome through an
11 accommodation for purposes of complying with this chapter, that
12 threatened or compromised patient care, had the potential to compromise
13 patient care, or impaired the licensee's ability to practice safely;

14 (D) failure to keep informed of or use current professional
15 theories and practices;

16 (7) engaged in lewd or immoral conduct in connection with the
17 delivery of professional service to patients;

18 (8) performed clinical procedures [FOR COMPENSATION] without
19 being under the supervision of a licensed dentist.

20 * Sec. 5. AS 08.32.171 is repealed and reenacted to read:

21 Sec. 08.32.171. Disciplinary sanctions. The board may summarily suspend
22 the license of a licensee who refuses to submit to a physical or mental examination
23 under AS 08.36.070(b)(1) upon proof by clear and convincing evidence that the
24 licensee poses an immediate threat of harm to patient care in the absence of a physical
25 or mental examination. A decision to suspend a license under this section is a final
26 administrative decision subject to judicial review under AS 44.62.560 and 44.62.570.

27 * Sec. 6. AS 08.36.010(a) is amended to read:

28 (a) There is created the Board of Dental Examiners consisting of nine
29 members who physically reside in the state. Six members shall be currently
30 licensed dentists under this chapter who have been engaged in the clinical practice
31 of dentistry in the state for at least five years immediately preceding appointment, two

1 members shall be dental hygienists currently licensed under AS 08.32 who have been
2 engaged in the clinical practice of dental hygiene in the state for at least five years
3 immediately preceding appointment, and one member shall be a public member.

4 * Sec. 7. AS 08.36.010 is amended by adding new subsections to read:

5 (c) At least five board members who are licensed dentists must maintain a
6 practice of dentistry in the state during the term of the appointment, and at least one
7 member who is a licensed dental hygienist must maintain a practice of dental hygiene
8 in the state during the term of the appointment.

9 (d) In this section, "practice of dentistry" and "practice of dental hygiene"
10 must include at least an average of 20 hours a week of private clinical practice in the
11 state, excluding temporary absences because of illness or travel, that is regulated by
12 the board under this chapter.

13 * Sec. 8. AS 08.36.025 is amended to read:

14 **Sec. 08.36.025. Suspension of board members.** A member against whom an
15 accusation or complaint has been filed under this chapter [AS 44.62] for violation of
16 AS 08.32.160 or AS 08.36.315 is suspended from the board until the decision of the
17 board on the accusation or complaint takes effect [UNDER AS 44.62.520].

18 * Sec. 9. AS 08.36.030 is repealed and reenacted to read:

19 **Sec. 08.36.030. Officers.** The board shall elect a president, vice-president, and
20 secretary from among its members, each to serve a term of not more than two years. If
21 the president is absent or incapable of performing the duties of president, the vice-
22 president shall succeed to the presidency until the president is able to return to the
23 duties of president. The president must be a licensed dentist unless the board elects a
24 licensee from among the board members to assist the president in performing the
25 president's duties. The president's duties include coordination, supervision, and
26 direction of the functions of the board, with the assistance of the department or other
27 staff and the concurrence of the board.

28 * Sec. 10. AS 08.36.040 is amended to read:

29 **Sec. 08.36.040. Meetings.** The board shall meet at the call of the president at
30 least four times annually and at other times necessary to conduct its business. In the
31 absence of a call of the president, a majority of the board may call a meeting. A

1 meeting of the board may be conducted telephonically except for a meeting
2 conducted for the purpose of holding a disciplinary hearing. A disciplinary
3 hearing shall be conducted in person.

4 * Sec. 11. AS 08.36.070 is amended to read:

5 Sec. 08.36.070. General powers. (a) The board shall

6 (1) provide for the examination of applicants and issue licenses to
7 those applicants it finds qualified;

8 (2) register licensed dentists and licensed dental hygienists who are in
9 good standing;

10 (3) affiliate with the American Association of Dental Examiners and
11 pay annual dues to the association;

12 (4) establish peer review and confidentiality procedures for
13 hearings, direct investigations, hold hearings, and order the disciplinary sanction of a
14 person who violates this chapter, AS 08.32, or a regulation of the board;

15 (5) supply forms for applications, licenses, permits, certificates, and
16 other papers and records;

17 (6) enforce the provisions of this chapter and AS 08.32 and adopt or
18 amend the regulations necessary to make the provisions of this chapter and AS 08.32
19 effective;

20 (7) adopt regulations ensuring that renewal of registration is contingent
21 upon proof of continued professional competence by a licensed dentist or licensed
22 dental hygienist;

23 (8) provide the department with the requirements for proof of
24 continued professional competence and request the department to make these
25 requirements available to each licensed dentist and licensed dental hygienist at least
26 one year before the date on which the dentist or dental hygienist must renew
27 registration;

28 (9) at least annually cause to be published in a newspaper of general
29 circulation in each major city in the state a summary of disciplinary actions the board
30 has taken during the preceding calendar year that identifies the name of the licensee,
31 the type of discipline imposed, and a reference to the statute or regulation

1 violated by the licensee; a copy of the summary published under this paragraph
2 shall be delivered to the named licensee; if possible, the delivery shall be by
3 electronic mail or facsimile;

4 (10) issue permits or certificates to licensed dentists, licensed dental
5 hygienists, and dental assistants who meet standards determined by the board for
6 specific procedures that require specific education and training;

7 (11) regulate the reentry into practice of inactive dentists and dental
8 hygienists;

9 (12) require, as a condition of a license or license renewal issued by
10 the board, that an applicant or licensee has, at the time of licensing or renewal and
11 maintains throughout the period of a license, current certification in cardiopulmonary
12 resuscitation techniques, except that the board may waive this requirement under an
13 agreement with the applicant or licensee if the applicant or licensee documents, to the
14 satisfaction of the board, the existence of a physical impairment that results in an
15 inability to be certified in cardiopulmonary resuscitation techniques and the agreement
16 specifies that the applicant or licensee will ensure that another person who is certified
17 in cardiopulmonary resuscitation techniques will be in the same office [ROOM] as the
18 applicant or licensee whenever the applicant or licensee is practicing dentistry [ON A
19 LIVING PATIENT WHO IS ALSO PRESENT]; the board may include in the
20 agreement an expiration date or provide that the agreement remains in effect until
21 reviewed by the board;

22 (13) maintain confidentiality over patient, complainant, and
23 licensee information that contains personal health information; or is otherwise
24 required to be kept confidential under federal or state law;

25 (14) rely on the department for legal, investigative, and
26 administrative services as necessary to carry out the board's duties under this
27 chapter.

28 (b) The board may

29 (1) order a licensed dentist or licensed dental hygienist to submit to a
30 reasonable physical or mental examination if there is reasonable evidence that the
31 dentist's or the dental hygienist's physical or mental capacity to practice safely during

1 the past 12 months is at issue and the examination is reasonably necessary to
2 determine whether the licensee has violated AS 08.32 or this chapter; if an
3 examination is designated by the board to be conducted in the state, then the
4 examination must be conducted by a person who is licensed in the state and
5 otherwise qualified to perform the examination, as determined by the board; a
6 licensee may submit for the board's consideration another medical evaluation in
7 addition to an examination ordered by the board; [AND]

8 (2) authorize its representative to inspect the practice facilities or
9 patient or professional records of a dentist at reasonable times and in a reasonable
10 manner to monitor compliance with this chapter and with AS 08.32; and

11 (3) monitor informal and confidential chemical dependency
12 intervention programs.

13 * Sec. 12. AS 08.36.080 is repealed and reenacted to read:

14 Sec. 08.36.080. Application of Administrative Procedure Act. (a) The
15 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)
16 do not apply to adjudicatory proceedings of the board or the board's committees
17 except that final administrative determinations by the board are subject to judicial
18 review as provided in AS 44.62.560 and 44.62.570.

19 (b) AS 44.62.010 - 44.62.320 and 44.62.640 apply to regulations adopted by
20 the board.

21 (c) An order issued under AS 08.36.070(b)(1) may be appealed to the superior
22 court. The court shall review the matter de novo.

23 * Sec. 13. AS 08.36.315 is amended to read:

24 Sec. 08.36.315. Grounds for discipline, suspension, or revocation of license.
25 The board may revoke or suspend the license of a dentist, or may reprimand, censure,
26 or discipline a dentist, or both, or impose a lesser form of discipline that the board
27 determines is warranted and necessary, if the board finds after a hearing that the
28 dentist

29 (1) used or knowingly cooperated in deceit, fraud, or intentional
30 misrepresentation to obtain a license;

31 (2) engaged in deceit, fraud, or intentional misrepresentation in the

1 course of providing or billing for professional dental services or engaging in
2 professional activities;

3 (3) advertised professional dental services in a false or misleading
4 manner;

5 (4) received compensation for referring a person to another dentist or
6 dental practice;

7 (5) has been convicted of a felony or other crime that affects the
8 dentist's ability to continue to practice dentistry competently and safely;

9 (6) engaged in the performance of patient care, or permitted the
10 performance of patient care by persons under the dentist's supervision, that does not
11 conform to minimum professional standards of dentistry regardless of whether actual
12 injury to the patient occurred;

13 (7) failed to comply with this chapter, with a regulation adopted under
14 this chapter, or with an order of the board;

15 (8) continued to practice after becoming unfit due to

16 (A) professional incompetence;

17 (B) failure to keep informed of or use current professional
18 theories or practices;

19 (C) addiction or dependence on alcohol or other drugs that
20 threatens or compromises patient care, has the potential to compromise
21 patient care, or impairs the dentist's ability to practice safely;

22 (D) physical or mental disability, not overcome through an
23 accommodation for purposes of complying with this chapter, that
24 threatened or compromised patient care, had the potential to compromise
25 patient care, or impaired the licensee's ability to practice safely;

26 (9) engaged in lewd or immoral conduct in connection with the
27 delivery of professional service to patients;

28 (10) permitted a dental hygienist or dental assistant who is employed
29 by the dentist or working under the dentist's supervision to perform a dental procedure
30 in violation of AS 08.32.110 or AS 08.36.070(a)(10);

31 (11) failed to report to the board a death that occurred on the premises

1 used for the practice of dentistry within 48 hours.

2 * Sec. 14. AS 08.36.315 is amended by adding new subsections to read:

3 (b) A dentist's choice to employ one of several treatment modalities
4 recognized or approved by an accredited dental school may not be grounds for
5 discipline imposed under (a) of this section.

6 (c) The board shall comply with federal and state laws that prohibit
7 discrimination and may not discriminate against a licensee solely on the basis of a
8 mental or physical impairment or disability. The board may reinstate a license of a
9 person who suffers from a mental or physical impairment or disability on proof of
10 completion of rehabilitation through an accredited rehabilitation program designed for
11 professionals and consistent with regulations adopted under this chapter. When
12 making a decision under this section that is based on the existence of a physical or
13 mental impairment or disability, the board shall comply with federal law. The board
14 may consider voluntary rehabilitation completed by a licensee as a mitigating
15 circumstance in determining the form of discipline to impose on a licensee. The board
16 shall consider a failure to complete a rehabilitation program by a licensee as an
17 aggravating circumstance in determining the form of discipline to impose on a
18 licensee.

19 (d) In this section, a "mental or physical impairment or disability" includes
20 addiction to drugs or alcohol.

21 * Sec. 15. AS 08.36 is amended by adding a new section to read:

22 **Sec. 08.36.316. Disciplinary and peer review procedures.** (a) The board
23 shall conduct disciplinary proceedings consistent with principles of substantive and
24 procedural due process and by using peer review, when applicable, as described in this
25 section.

26 (b) The board may appoint one or more disciplinary committees and one or
27 more peer review committees to address disciplinary matters. The committees shall be
28 made up of dentists who are currently licensed in Alaska, who have at least five years
29 private practice experience, and who are unbiased.

30 (c) A person or the department may file a written complaint with the board on
31 a form provided by the board and signed by the complainant for actions involving a

1 person licensed under this chapter. The complaint must contain a clear statement of
2 the details of each act of alleged misconduct, including the approximate place and
3 time of the act.

4 (d) The department shall mail a copy of the complaint by certified mail to the
5 licensee within 30 days after receipt of the complaint and shall provide notice to the
6 licensee of the requirement to provide an answer within 30 days after receipt of the
7 notice. Failure to file a timely answer may be presumed to be an admission of guilt
8 except that a licensee may not be compelled to provide evidence of criminal
9 wrongdoing.

10 (e) The department shall conduct a preliminary investigation and determine
11 whether to dismiss the complaint for insufficiency of evidence to support the
12 allegation. If the department determines that a complaint contains some factual basis,
13 the department shall present the complaint and supporting documentation to the board
14 president or the president's designee. The board president or the president's designee
15 may return the complaint to the department for further investigation or submit the
16 complaint and supporting documentation to the board with a recommendation for
17 dismissal of the complaint, submission of the complaint to a disciplinary committee,
18 or submission of the complaint to mediation by a peer review committee. The board
19 president or the president's designee may not recommend mediation by a peer review
20 committee, nor may the board refer a matter for mediation by a peer review
21 committee, if the allegations in the complaint include fraud, sexual misconduct,
22 criminal activity, or prescription medication abuse.

23 (f) The peer review committee may recommend dismissal of a complaint,
24 subject to the approval of the board, mediate the complaint, refer the matter to the
25 disciplinary committee, or refer the matter to the board. The peer review committee
26 shall issue a written report to the board that includes its recommendations. Mediation
27 shall be informally conducted without regard to the rules of evidence. If mediation is
28 successful, the complaint shall be closed subject to the terms of the mediation and the
29 approval of the board. The board shall approve a mediated agreement under this
30 subsection unless good cause is shown that the agreement is contrary to law or the
31 facts of the case. The peer review committee may oversee a resolution that the parties

1 agree on, including refunds, payment of damages, release of claims, fines, disciplinary
2 action, or other action that is just and equitable under the circumstances. The peer
3 review committee proceedings and records are confidential and are not subject to the
4 public records law under AS 40.25.100 - 40.25.220. The committee may request the
5 assistance of counsel through the department and the Department of Law.

6 (g) Within 30 days after service of the peer review committee findings and
7 decision, a party to the peer review may appeal the peer review committee's findings
8 and decision to the board if the decision includes a recommendation for disciplinary
9 action by the board. The appeal shall be limited to a decision by the board of whether
10 sufficient evidence supported the findings and decision of the peer review committee.
11 An appeal to the board under this subsection does not disqualify the board from
12 reviewing further decisions on the matter.

13 (h) The board shall appoint a disciplinary committee made up of three
14 currently licensed dentists who have each been engaged in the practice of dentistry in
15 the state for at least five years in the same field as the licensee. The disciplinary
16 committee shall review complaints referred to it by a peer review committee or by the
17 board. The disciplinary committee is not bound by a peer review committee's findings
18 in cases that have involved peer review and may fully reconsider the issues and
19 conduct an evidentiary hearing consistent with the court rules of evidence and civil
20 procedure. The parties may be represented by counsel at a proceeding of the
21 disciplinary committee. After a hearing, the disciplinary committee shall issue written
22 findings and a decision that dismisses the case, accepts the findings of a peer review
23 committee with or without modification and orders disciplinary action, remands the
24 matter back to a peer review committee, or orders disciplinary action. The department
25 shall provide necessary staff to support the disciplinary committee except that
26 disciplinary and enforcement recommendations shall be made only by a member of
27 the disciplinary committee, the peer review committee, or the board. Each member of
28 the disciplinary committee shall be present during the presentation of evidence in
29 order to participate in the decision on a matter. The disciplinary committee may
30 resolve a complaint through a stipulated agreement with the licensee in lieu of a
31 hearing at any stage in the proceedings.

1 (i) At the next regularly scheduled board meeting, the board shall conduct a
2 review of the disciplinary committee recommendations and shall either affirm the
3 decision or remand the matter to the disciplinary committee with instructions. A party
4 may appeal a board decision to the superior court within 30 days after the filing and
5 service of the board decision.

6 (j) Decisions made under this section shall be made by a quorum of the
7 committee membership.

8 (k) The department, with the assistance of the Department of Law, shall
9 investigate and present a complaint involving a dentist or dental hygienist and may
10 negotiate a settlement agreement with a licensee, subject to the approval of the
11 committee and the board. The department and the Department of Law may not have ex
12 parte contact with the board or a disciplinary or peer review committee member. The
13 disciplinary committee shall appoint an attorney to serve as administrative law judge
14 who shall rule on matters of law and procedure and who may issue subpoenas. The
15 committee shall serve as the sole fact finder and shall issue written findings, based on
16 clear and convincing evidence, and a recommendation of discipline or dismissal of the
17 complaint to the board, within 180 days following the conclusion of the hearing.

18 (l) A party may appeal a decision of the disciplinary committee to the full
19 board by filing a written notice of appeal on a form provided by the board within 30
20 days after receiving notice of a decision of the disciplinary committee. The board shall
21 review the evidence and the conclusions and recommendations. The board shall issue
22 a written decision within 90 days after receiving the notice of appeal and shall mail a
23 copy of the decision to the licensee. A board decision under this section is a final
24 administrative decision subject to appeal to the superior court. Documents pertaining
25 to an administrative appeal are confidential to the extent provided in AS 08.01.087(d),
26 and the heading shall be styled "in the matter of" followed by the licensee's initials.

27 (m) Evidence at any stage of a disciplinary proceeding shall be admitted under
28 the standards set out in the Alaska Rules of Evidence except that rebuttal testimony of
29 patients of the licensee may not be excluded. An expert shall be allowed to testify
30 before the board only if the expert is a licensed dentist in good standing and is actively
31 engaged in the clinical practice of dentistry. The conduct of the hearing shall adhere to

1 the extent practicable to the Alaska Rules of Civil Procedure.

2 (n) The attorney for the licensee is entitled to receive copies of all relevant
3 material, including names of witnesses and investigative records in the possession and
4 control of the department or the Department of Law. The department shall provide
5 copies to the licensee not later than 120 days before a disciplinary hearing. Failure to
6 timely disclose relevant evidence shall result in the exclusion of the nondisclosed
7 evidence.

8 (o) Disciplinary committees and peer review committees established under
9 this section are review organizations for the purposes of AS 18.23.005 - 18.23.070.

10 (p) An administrative law judge appointed to a disciplinary matter may enter
11 an order requiring the licensee to pay a portion of the reasonable costs of the
12 disciplinary hearing if the judge finds by clear and convincing evidence that the
13 licensee acted maliciously or outrageously toward a patient. A cost order may not
14 exceed 50 percent of actual costs. A licensee shall be entitled to a portion of the
15 licensee's reasonable defense costs and fees incurred as part of a disciplinary matter if
16 the administrative law judge determines that the department or the Department of Law
17 acted in bad faith or recklessly in pursuing the disciplinary matter. Not more than 50
18 percent of the licensee's reasonable costs and fees may be imposed.

19 (q) Investigative, peer review, and disciplinary records shall be confidential,
20 and related disciplinary and peer review proceedings shall be closed to the public,
21 except that a summary of the results of a disciplinary proceeding may be released to
22 the public and, if the licensee is disciplined by the board, information that does not
23 contain identifying information of the patient or is not a personal medical record of the
24 licensee may be released after the board has issued a final decision in a matter.
25 Confidential information and records obtained through disciplinary investigations and
26 peer review and disciplinary proceedings are not subject to disclosure under subpoena
27 or court order.

28 * Sec. 16. AS 08.36.317 is amended to read:

29 **Sec. 08.36.317. Civil fine authority.** Notwithstanding AS 08.01.075(a), in a
30 disciplinary action, the board may impose a civil fine not to exceed \$50,000 [~~\$25,000~~]
31 for each complaint resulting in a finding of a violation or violations of this chapter

1 or of a regulation adopted under this chapter.

2 * **Sec. 17.** AS 08.36.320(c) is amended to read:

3 (c) The board may summarily suspend the license of a licensee who refuses to
4 submit to a physical or mental examination under AS 08.36.070(b)(1). A person
5 whose license is suspended under this section is entitled to a hearing conducted by the
6 board [OFFICE OF ADMINISTRATIVE HEARINGS (AS 44.64.010)] within seven
7 days after the effective date of the order. After [IF, AFTER] a hearing, a party [, THE
8 BOARD UPHOLDS THE SUSPENSION, THE LICENSEE] may appeal [THE
9 SUSPENSION] to a court of competent jurisdiction.

10 * **Sec. 18.** AS 08.36.320 is amended by adding a new subsection to read:

11 (f) For purposes of implementing the board's power to summarily suspend a
12 license under AS 08.01.075(c), the term "clear and immediate danger to the public
13 health and safety" in AS 08.01.075(c), as applied to persons licensed under this
14 chapter, means that the licensee's physical or mental condition or professional
15 judgment is such that patients will likely suffer serious injury or death if the licensee is
16 permitted to continue to practice dentistry. Proof of "clear and immediate danger to the
17 public health and safety" shall be by clear and convincing evidence and shall be based
18 on verifiable recent harm to patients when there was a substantial probability of death
19 or serious personal injury to the patient.

20 * **Sec. 19.** AS 08.36 is amended by adding new sections to read:

21 **Sec. 08.36.325. Statute of limitations.** A disciplinary action may not be
22 considered by the board or a committee of the board if the conduct giving rise to a
23 complaint or accusation has occurred, or is discovered after reasonable inquiry, more
24 than two years before the filing of a complaint or accusation except when the licensee
25 has actively attempted to conceal the conduct.

26 **Sec. 08.36.330. Disciplinary action; board principles.** The board shall be
27 ultimately responsible for approving and imposing all disciplinary actions. The
28 governing principle of all disciplinary investigations and proceedings shall be direct,
29 confidential, and candid peer review, with a focus on solving and correcting
30 deficiencies, not on punishment or public humiliation. The board shall establish
31 standards in regulation for the imposition of consistent discipline linked to each action

1 giving rise to the discipline.

2 * Sec. 20. AS 08.36.365 is amended by adding new paragraphs to read:

3 (5) be judged by the dentist's peers who are licensed dentists in the
4 state;

5 (6) be treated consistently and fairly, in light of the goal of upholding
6 the professional and personal dignity of the licensee and the profession in general;

7 (7) be afforded privacy and confidentiality; in light of the number of
8 unfounded patient allegations made and the harmful effects those allegations have on
9 the professional reputation of the licensee, and in order to promote true peer review,
10 investigations and disciplinary hearings shall be closed to the public and the records
11 shall be confidential.

12 * Sec. 21. AS 18.23.070(5) is amended to read:

13 (5) "review organization" means

14 (A) a hospital governing body or a committee whose
15 membership is limited to health care providers and administrative staff, except
16 where otherwise provided for by state or federal law, and that is established by
17 a hospital, by a clinic, by one or more state or local associations of health care
18 providers, by an organization of health care providers from a particular area or
19 medical institution, or by a professional standards review organization
20 established under 42 U.S.C. 1320c-1, to gather and review information relating
21 to the care and treatment of patients for the purposes of

22 (i) evaluating and improving the quality of health care
23 rendered in the area or medical institution;

24 (ii) reducing morbidity or mortality;

25 (iii) obtaining and disseminating statistics and
26 information relative to the treatment and prevention of diseases, illness,
27 and injuries;

28 (iv) developing and publishing guidelines showing the
29 norms of health care in the area or medical institution;

30 (v) developing and publishing guidelines designed to
31 keep the cost of health care within reasonable bounds;

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(vi) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations;

(vii) acting as a professional standards review organization under 42 U.S.C. 1320c;

(viii) reviewing, ruling on, or advising on controversies, disputes, or questions between a health insurance carrier or health maintenance organization and one or more of its insured or enrollees; between a professional licensing board, acting under its powers of discipline or license revocation or suspension, and a health care provider licensed by it when the matter is referred to a review organization by the professional licensing board; between a health care provider and the provider's patients concerning diagnosis, treatment, or care, or a charge or fee; between a health care provider and a health insurance carrier or health maintenance organization concerning a charge or fee for health care services provided to an insured or enrollee; or between a health care provider or the provider's patients and the federal or a state or local government, or an agency of the federal or a state or local government;

(ix) acting on the recommendation of a credential review committee or a grievance committee;

(B) the State Medical Board established by AS 08.64.010;

(C) a committee established by the commissioner of health and social services and approved by the State Medical Board to review public health issues regarding morbidity or mortality; at least 75 percent of the committee members must be health care providers;

(D) the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

(E) the state Board of Dental Examiners established under AS 08.36.010 and a disciplinary or peer review committee established by the Board of Dental Examiners.

* Sec. 22. AS 44.64.030(a)(6) is amended to read:

1 (6) AS 08 (occupational licensing), other than AS 08.08, AS 08.32,
2 AS 08.36, and AS 08.62.046;

3 * Sec. 23. AS 44.62.330(a)(2) is repealed.

4 * Sec. 24. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 APPLICABILITY. AS 08.36.316, added by sec. 15 of this Act, applies to complaints
7 filed on or after the effective date of this Act.

8 * Sec. 25. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 TRANSITIONAL PROVISION; BOARD MEMBERS. Notwithstanding
11 AS 08.36.010, as amended by secs. 6 and 7 of this Act, a member of the Board of Dental
12 Examiners who holds a position on the board on the day before the effective date of this Act
13 may continue to hold the position, subject to removal as provided by law, until the person's
14 term expires. Appointments occurring on or after the effective date of this Act are governed
15 by AS 08.36.010, as amended by secs. 6 and 7 of this Act, whether the appointment is for a
16 new term or to fill the unexpired portion of a term.

17 * Sec. 26. This Act takes effect immediately under AS 01.10.070(c).

*Replaced
4/17/06*

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 93(L&C)
(H) Publish Date: 1/20/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title: Dentists and Dental Hygienists RDU: Corp, Bus & Prof Licenses (117)
Component: Corp, Bus & Prof Licensing
Sponsor: Anderson
Requester: Labor and Commerce Component No.: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	131.1	131.1	131.1	131.1	131.1	131.1
Travel	6.0	6.0	6.0	6.0	6.0	6.0
Contractual	62.4	62.4	62.4	62.4	62.4	62.4
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	12.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	212.5	200.5	200.5	200.5	200.5	200.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	212.5	200.5	200.5	200.5	200.5	200.5
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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						
1156 Receipt Supported Services	212.5	200.5	200.5	200.5	200.5	200.5
TOTAL	212.5	200.5	200.5	200.5	200.5	200.5

Estimate of any current year (FY2006) cost: \$154.3

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 93 provides the Board of Dental Examiners significant authority to conduct its licensing functions independently. The bill authorizes the Board to establish its own procedures for conduct of investigations, hearings, and to employ or contract legal, investigative and administrative services.

Currently, administrative, budgetary, technical and investigative support are provided by the Division of Corporations, Business and Professional and Licensing under AS 08.01, Centralized Licensing. The Board does not have its own budget appropriation structure. Given the new authority in the bill to employ or contract services, the division anticipates staffing support from the division to cease unless otherwise requested by the Board. The costs above are explained on the following pages.

Prepared by: Jennifer Strickler, Chief
Division: Corporations and Licensing
Approved by: William C. Noll, Commissioner
Agency: Commerce, Community and Economic Development

Phone: (907) 465-2144
Date/Time: 1/17/06 3:40 PM
Date: 1/17/2006

FISCAL NOTE #1

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSHB 93(L&C)

ANALYSIS CONTINUATION

Personal Services: \$131.1

This funding provides for the following positions -

1 - Occupational Licensing Examiner, PFT, GGU, Range 13B - \$57.5

1 - Investigator III, PFT, GGU, Range 18A - \$73.6

Currently, the Board receives support from these positions in the Division of Corporations and Licensing. The services provided are charged to the board based on positive timekeeping, making the Board responsible only for services it actually receives. The new Board authority to employ services directly will require its own dedicated positions through the State system.

*In FY05, the Board spent \$78.2 on direct personal services; which is anticipated to be replaced by the new costs above.

(Indirect costs for clerical support, accounting, management, etc. are not new costs and therefore not included in this fiscal note. In FY05, the personal services indirect cost to the Dental Board totaled \$28.9 and is expected to continue.)

Travel: \$6.0

This funding is based on the cost of one additional meeting for the Board, whether the funding is used by the Board to hold one extra meeting for a disciplinary hearing in person as required by Section 9 of the bill; or whether this funding is to be used by the peer review or disciplinary committee.

*In FY05, the Board spent \$13.5 on travel. This funding is expected to continue with the addition of \$6.0 new costs.

(Indirect FY05 travel costs totaled \$0.4. This cost is not new and therefore not included in this fiscal note but is expected to continue.)

Contractual Services: \$62.4

This funding assumes that at least the same level of legal services used in FY05 will continue. However, the Board's new authority to contract or employ legal services could raise this cost rapidly and significantly. The Division currently operates under agreement with the Department of Law to obtain legal services for all licensing programs. The programs are then charged back based on actual attorney time. The new authority provided in the bill allows the Board to contract or employ services directly, and the Board will need to do so in accordance with State procurement requirements.

*In FY05, the Board spent \$62.4 on contractual services. It assumes the activity of the peer review and disciplinary committees will generate need for additional legal services, resulting in costs remaining high.

(Indirect FY05 contractual services costs totaled \$25.2. This cost is not new and therefore not included in this fiscal note but is expected to continue.)

FISCAL NOTE #1

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSHB 93(L&C)

ANALYSIS CONTINUATION

Supplies: \$1.0

Provides funding for general operating supplies of the two new positions.

(Indirect FY05 supplies cost \$1.8. This cost is not new and therefore not included in this fiscal note but is expected to continue.)

Equipment: \$12.0 (one-time costs)

Provides funding for equipment and space needs of the two new positions.

New Costs resulting from HB93:	\$212.5
Existing Direct Cost in FY05:	\$154.3
Indirect Costs in FY05:	<u>\$56.3</u>
TOTAL Costs:	\$423.1

(For comparison purposes, FY05 Direct and Indirect Costs for the Board of Dental Examiners totaled \$210.6. The independent authority to contract and employ services provided in FY05 anticipates an increase of \$212.5).

Note: If the Board of Dental Examiners remains in Centralized Licensing (AS 08.01.010(13)) indirect costs will apply resulting from the self sufficiency mandate of AS 08.01.065. If the Board is removed from AS 08.01 and made autonomous, other costs will apply.

**The current Board cost under the present organizational structure is \$210.6, and is included in the Governor's FY06 operating budget.

ALASKA STATE LEGISLATURE HOUSE FINANCE COMMITTEE

Representative Mike Chenault
Co-Chairman
(907) 465-3779

Fax: (907) 465-2833
Representative_Mike_Chenault@legis.state.ak.us

145 Main St. Loop #223
Kenai, Alaska 99611



Representative Kevin Meyer
Co-Chairman
(907) 465-4945

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Representative_Kevin_Meyer@legis.state.ak.us

716 W. 4th Avenue
Anchorage, Alaska 99501

State Capitol, Juneau, Alaska 99801-1182

MEMORANDUM

DATE: April 10, 2006
TO: House Finance Committee Members
FROM: Representative Kevin Meyer *KM/KC*
RE: HB 93 Dentists and Dental Hygienists

Per statute, the Board of Dentistry is required to be self-sufficient, hence the fiscal note indicating an increase, beginning in FY 07, of \$212.5 in Receipt Supported Services.

The bill packet did not include any information that pertains to the fees that are charged for the licensing and renewal of licenses for dentists and dental hygienists.

Attached to this memo is information that pertains to the fees collected for each type of license and license renewal. It should be of concern to the Finance Committee that the Board of Dentistry is able to absorb the potential operating cost increases through the fees that are charged for licenses and license renewal.

I hope that this helps in the deliberation of this bill.

DEN

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF DENTAL EXAMINERS
333 Willoughby Avenue, 9th Floor
P.O. Box 110806
Juneau, Alaska 99811-0806
(907) 465-2542
E-mail: license@dced.state.ak.us
Website: www.dced.state.ak.us/occpden.htm

FOR OFFICE USE ONLY

APPLICATION FOR DENTAL LICENSE BY EXAMINATION
LEVEL II PBIS CREDENTIAL REVIEW REPORT

NONREFUNDABLE APPLICATION FEE: \$300.00
LICENSE FEE: \$590.00
WALL CERTIFICATE FEE (OPTIONAL): \$ 20.00

I HEREBY APPLY for a license to practice dentistry in the State of Alaska and submit the following statement, under oath, and enclose the required documents and fees.

INSTRUCTIONS TO THE APPLICANT: It is the responsibility of the applicant to ensure that all information requested in this application is received. Each question must be answered fully, truthfully, and accurately. Any omissions or inaccuracies are grounds for disapproval and rejection. Section 08.36.315(1) of the Dental Practice Act provides that knowingly cooperating in deceit, fraud, or intentional misrepresentation to obtain a license is cause for suspension, revocation, or annulment of licensure. If the space of any answer is insufficient, the applicant may complete his/her answer on an additional sheet signed by him/her and specifying the number of the question to which it relates.

Type or print all requested data.

- Name in full: _____ SSN: _____
Last First Initial (Required by AS 08.01.060(b))
- Other names used, including maiden name: _____
- Mailing Address: _____
City State Zip Code: _____
- Business Address: _____
City State Zip Code: _____
- Daytime Telephone Number: _____ Home Telephone Number: _____
- Sex: Female Male Place of Birth: _____ Date of Birth: _____
- Are you a citizen of the United States? _____ Native born or naturalized? _____
If naturalized, give date and place of naturalization: _____

PRE-DENTAL EDUCATION

- High School: _____
City and State: _____ Year of Graduation: _____
- College or University: _____
City and State: _____
Year of Attendance: _____ Semester Hours: _____ Degree: _____

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
 DIVISION OF OCCUPATIONAL LICENSING
 BOARD OF DENTAL EXAMINERS
 333 Willoughby Avenue, 9th Floor
 P.O. Box 110806
 Juneau, Alaska 99811-0806
 (907) 465-2542
 E-mail: license@dced.state.ak.us

For Office Use Only

APPLICATION FOR LICENSURE AS A DENTAL SPECIALIST
 AND/OR GENERAL ANESTHETIC PERMIT

- SPECIALTY DENTAL LICENSE FEE: \$100.00
 PERMIT TO ADMINISTER GENERAL ANESTHETIC AGENTS: \$100.00
 NONREFUNDABLE APPLICATION FEE: \$ 50.00
 (Only one application fee due if you are applying at the same time for both a specialty license and general anesthetic permit.)

I hereby apply for a specialty license and/or general anesthetic agent in the State of Alaska, and submit the following statements under oath, and herewith enclose the required documents and fee.

INSTRUCTIONS TO THE APPLICANT

It is the responsibility of the applicant to ensure that all information requested in this application is received. Each question must be answered fully, truthfully, and accurately. Any omissions or inaccuracies are grounds for disapproval and rejection. AS 08.36.315(1) of the Dental Practice Act provides that knowingly cooperating in deceit, fraud, or intentional misrepresentation to obtain a license is cause for suspension, revocation, or annulment of licensure. If the space for any answer is insufficient, the applicant may complete his/her answer on another sheet signed by him/her and specifying the number of the question to which it relates.

Type or print all requested data.

- Name in full _____ Last _____ First _____ M.I. _____ SSN _____ (Required by AS 06.01.060(b))
- Mailing Address _____
 _____ City _____ State _____ Zip Code _____
- Residence Address _____
 _____ City _____ State _____ Zip Code _____
- Office Address _____
 _____ City _____ State _____ Zip Code _____
- Date of Birth _____

6. GENERAL DENTISTRY

Dental College _____ Year of Graduation _____

Number of Alaska Dental License and Date of Issuance _____

List all other states in which you are or have been licensed. Give license number, date of issuance, and expiration date.

STATE	LICENSE NUMBER	DATE OF ISSUANCE	EXPIRATION DATE



Alaska Department of Commerce, Community, and Economic Development
Division of Occupational Licensing
P.O. Box 110806
Juneau, Alaska 99811-0806
Telephone: (907) 465-2542
E-mail: license@commerce.state.ak.us

BIENNIAL DENTAL LICENSE RENEWAL
January 1, 2005 — December 31, 2006

(IMPORTANT INFORMATION)

IT IS TIME TO RENEW YOUR DENTAL LICENSE

ACTIVE STATUS

Check Appropriate Boxes

- Dental License: \$590.00 License # _____
- Specialty License: \$100.00 License # _____
Specialty: _____
- General Anesthetic Permit: \$100.00 License # _____
- Parenteral Sedation Permit: \$100.00 License # _____

INACTIVE STATUS

- Inactive Dental License: \$295.00 License # _____

Specialty Licenses and permits will lapse if you place your dental license in an inactive status or fail to renew your dental license per AS 08.36, a person who holds an INACTIVE license may not practice as a dentist in the State of Alaska. Before you place your license in "Inactive Status," please review 12 AAC 28.930, Inactive License Renewal, regarding the requirements for reactivating your license. This information can be found on page 5 of this renewal.

BRANCH OFFICE REGISTRATION
(\$25.00 per location)

Registration # _____

PRORATED (Only applies to license #1116 and above) Do not use this section if your license is not 1116 and above (Licensed January 1, 2004 – October 2, 2004)

- Active Dental License: \$295.00 License # _____
- Inactive Dental License: \$147.00 License # _____

Please fill out this section

Name Change: If you have had a legal name change since your last dental license was issued, please enclose a certified true copy of the legal document (marriage certificate, divorce decree, etc.) for proof of your name change.

Name: _____
Last First Middle

Corrected Mailing Address (complete only if your address is different than the address label shown above): _____

P.O. Box or Street City State ZIP Code

Social Security Number _____ (Mandatory on every renewal) Date of Birth: _____
(See explanation under Social Security Numbers – page 2)

License Number _____ Daytime Telephone Number _____

Practice Location _____

Branch Office Location(s) _____

DEN

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF DENTAL EXAMINERS
333 Willoughby Avenue, 9th Floor
P.O. Box 110806
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(907) 465-2542
E-mail: license@dced.state.ak.us
Website: www.dced.state.ak.us/occ/pden.htm

FOR OFFICE USE ONLY

APPLICATION FOR DENTAL HYGIENE LICENSE BY EXAMINATION
LEVEL II PROFESSIONAL BACKGROUND INFORMATION SERVICE
CREDENTIAL REVIEW REPORT - PBIS

NONREFUNDABLE APPLICATION FEE: \$ 85.00
INITIAL LICENSE FEE: \$220.00
WALL CERTIFICATE FEE (OPTIONAL): \$ 20.00

I HEREBY APPLY for a license to practice dental hygiene in the State of Alaska, and submit the following statements, under oath, and herewith enclose the required documents and fees.

INSTRUCTIONS TO THE APPLICANT: It is the responsibility of the applicant to ensure that all information requested in this application is received. Each question must be answered fully, truthfully, and accurately. Any omissions or inaccuracies are grounds for disapproval and rejection. Section 08.32.160(1) of the Dental Hygiene Practice Act provides that knowingly cooperating in deceit, fraud, or intentional misrepresentation to obtain a license is cause for suspension, revocation, or annulment of licensure. If the space for any answer is insufficient, the applicant may complete his/her answer on another sheet signed by him/her and specifying the number of the question to which it relates.

Type or print all requested data.

1. Name in full _____ SSN: _____
Last First MI. (Required by AS 08.01.060(b))

Other names used, including maiden name _____
Last First MI.

2. Mailing Address _____

City _____ State _____ Zip Code _____

3. Daytime Telephone _____ Date of Birth _____

Home Telephone _____ Sex: Female Male

EDUCATION

5. High School _____ City and State _____ Year _____

6. College or University _____ City and State _____

Years of Attendance _____ Semester Hours _____ Degree _____

7. School of Dental Hygiene _____ City and State _____

Dates Attended _____ Exact Date of Diploma _____

8. Give names, addresses, telephone numbers, and dates of all dentists for whom you have worked as a dental hygienist during the past two years. If not applicable (N/A), please indicate. DO NOT LEAVE BLANK.

Name of Dentist Address City/State Dates of Employment

1 _____

2 _____

3 _____

4 _____

CONTINUED ON REVERSE SIDE

DEN

FOR OFFICE USE ONLY

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF DENTAL EXAMINERS
333 Willoughby Avenue, 9th Floor
P.O. Box 110806
Juneau, Alaska 99811-0806
(907) 465-2542
E-mail: license@dced.state.ak.us
Website: www.dced.state.ak.us/occ/pden.htm

APPLICATION FOR DENTAL HYGIENE LICENSE BY CREDENTIALS

NONREFUNDABLE APPLICATION FEE: \$ 85.00
CREDENTIAL REVIEW FEE: \$100.00
INITIAL LICENSE FEE: \$220.00
WALL CERTIFICATE FEE (OPTIONAL): \$ 20.00

I HEREBY APPLY for a license to practice dental hygiene in the State of Alaska, and submit the following statements, under oath, and herewith enclose the required documents and fees.

INSTRUCTIONS TO THE APPLICANT: It is the responsibility of the applicant to ensure that all information requested in this application is received. Each question must be answered fully, truthfully, and accurately. Any omissions or inaccuracies are grounds for disapproval and rejection. Section 08.32.160(1) of the Dental Hygiene Practice Act provides that knowingly cooperating in deceit, fraud, or intentional misrepresentation to obtain a license is cause for suspension, revocation, or annulment of licensure. If the space for any answer is insufficient, the applicant may complete his/her answer on another sheet signed by him/her and specifying the number of the question to which it relates.

Type or print all requested data.

1. Name in full _____ Last _____ First _____ Initial _____ SSN: _____
(Required by AS 08.01.060(b))
2. Mailing Address _____
City _____ State _____ Zip Code _____
3. Daytime Telephone _____ 4. Date of Birth _____
Home Telephone _____ Sex: Female Male

EDUCATION

5. High School _____ City and State _____ Year _____
6. College or University _____ City and State _____
Years of Attendance _____ Semester Hours _____ Degree _____
7. School of Dental Hygiene _____ City and State _____
Dates Attended _____ Exact Date of Diploma _____

8. Give names, addresses, telephone numbers, and dates of all dentists for whom you have worked as a dental hygienist during the past two years. If not applicable (N/A), please indicate DO NOT LEAVE BLANK.

Name of Dentist	Address	Telephone No	Dates of Employment
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____

CONTINUED ON REVERSE SIDE



DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF DENTAL EXAMINERS
333 Willoughby Avenue, 9th Floor
P.O. Box 110806
Juneau, Alaska 99811-0806
(907) 465-2542
E-mail: license@dced.state.ak.us

CERTIFICATION TO ADMINISTER LOCAL ANESTHETIC AGENTS

No dental hygienist may administer local anesthetic agents without certification from the board. A local anesthetic agent certification is renewed biennially in conjunction with the renewal of the permittee's license to practice dental hygiene in the State of Alaska.

A dental hygienist desiring certification shall apply to the board by either showing successful passing of the local anesthetic examination given by the Western Regional Examining Board (WREB);

OR

Showing documentation that the dental hygienist is currently licensed or certified in another licensing jurisdiction and has actively been administering local anesthetic agents.

LOCAL ANESTHETIC CERTIFICATION (BY EXAMINATION)

A dental hygienist desiring certification shall apply to the board after registering for and/or successfully passing the local anesthetic examination given by the Western Regional Examining Board (WREB). For information regarding the WREB examination, please contact:

Western Regional Examining Board
9201 North 25th Avenue, Suite 185
Phoenix, AZ 85021
Telephone: (602) 944-3315
Fax: (602) 371-8131
website: www.wreb.org
E-mail Address: generalinfo@wreb.org

The following documents must be on file before your application will be reviewed for certification to administer local anesthetic agents:

1. Complete, signed and notarized application form 08-0073.
2. Application fee of \$85.00 (nonrefundable).
3. Certification fee of \$50.00.
4. Completed Course Verification form 08-0073 with university or college seal.
5. Course description and/or outline from the university or college where you received your training in administering local anesthetic agents to verify compliance with 12 AAC 28.340.
6. Copy of certificate from the Western Regional Examining Board (WREB) showing successful completion of the local anesthetic portion of the examination, and
7. Copy of both sides of current cardiopulmonary resuscitation (CPR) card.

LOCAL ANESTHETIC CERTIFICATION (CERTIFIED IN ANOTHER LICENSING JURISDICTION)

1. Complete, signed and notarized application form 08-0073.
2. Application fee of \$85.00 (nonrefundable).
3. Certificate fee of \$50.00.



Alaska Department of Commerce, Community, and Economic Development
Division of Corporations, Business and Professional Licensing
P.O. Box 110806, Juneau, Alaska 99811-0806
Telephone: (907) 465-2542 * E-mail: license@commerce.state.ak.us

**BIENNIAL DENTAL HYGIENE LICENSE RENEWAL
AND LOCAL ANESTHETIC PERMIT RENEWAL**

January 1, 2006 – December 31, 2007

IT IS TIME TO RENEW YOUR DENTAL HYGIENE LICENSE

Your license to practice as a Dental Hygienist in the State of Alaska expires on December 31, 2005. It is illegal for you to practice if your license has expired. **There is no grace period.** To renew your license for the period from January 1, 2006 through December 31, 2007, return this **signed and dated** application to the above address with a check or money order payable to the State of Alaska. This is the only renewal notice you will receive. Incomplete applications or insufficient fees will result in your renewal being rejected.

RENEWAL DUE DATE If you have met the continuing competency requirements (see 12 AAC 28.400 – .410), complete this form and return with the appropriate fee for processing. The processing time for correct and completed renewal applications is three to four weeks after receipt. **Plan accordingly and submit your form by November 30, 2005, to ensure processing by the expiration date of December 31, 2005.**

(IMPORTANT INFORMATION – CONTINUED ON PAGE 2)

CHECK APPROPRIATE BOX(ES):

ACTIVE STATUS:

- Active Dental Hygiene License..... \$220.00
- Local Anesthetic Permit..... \$ 50.00

INACTIVE STATUS:

- Inactive Dental Hygiene \$110.00

INACTIVE STATUS: Before placing your license in "Inactive" status, please read 12 AAC 28.930, "Inactive License Renewal," regarding the requirements to reactivate a license. Administration of Local Anesthetic permit will lapse if you place your dental hygiene license in an inactive status or fail to renew your license. (Per 12 AAC 28.930, a person who holds an INACTIVE license may not practice as a dental hygienist in the State of Alaska.)

Name _____
Last First Middle

Name Change: If you have had a legal name change since your last dental hygiene license was issued, please enclose a certified true copy of the legal document (marriage certificate, divorce decree, etc.) for proof of your name change.

Corrected Mailing Address (complete only if your address is different than the address label shown above.)

P.O. Box or Street City State ZIP Code

Social Security Number Date of Birth

License Number Daytime Telephone Number (optional)

E-mail Address

ALASKA STATE HOUSE OF REPRESENTATIVES

Labor & Commerce Committee, Chair

Administrative Regulation Review, Chair

Judiciary Committee, Vice-Chair

Health, Education and Social Services



716 W 4th Ave
Suite 610
Anchorage, AK 99501

Phone (907) 269-0265
Fax (907) 269-0264

Representative Tom Anderson

SUMMARY OF CHANGES

CSHB 93()
24-LS0384 S

Page 2, Line 30 - Reinsert [OR KNOWINGLY COOPERATED IN]

Page 4, Line 2 - Insert "physically" between "who" and "reside"

Page 4, Line 3 - Insert "clinical" between "the" and "practice"

Page 7, Line 2 - Substitute "reasonable" for "substantial"

Page 9, Lines 8-9 - Strike "or an approved provider of continuing education for dentists"

Page 13, Line 28 - Substitute \$50,000 for \$25,000

Fact Sheet for HB-93
Dental Disciplinary and Accountability Bill
By the House Labor and Commerce Committee

Bill # & Title: **House Bill 93**
Bill Sponsor: **Rep. Tom Anderson, Anchorage**
 Capitol Office 907-465-4939
 866-465-4939
 Capitol Fax 907-465-2418
 Capitol Address State Capitol Rm # 408
 Juneau, AK 99801 + 1182

Purpose of bill:

This bill would enhance public safety, reduce state expenditures and improve the quality of dentistry by:

- ① Establishing a process where public grievances or complaints are investigated and reviewed involving the Alaska Board of Dental Examiners instead of state employees with no training or background in dentistry and oral health care standards and procedures.
- ② Allowing the Board of Dental Examiners to refer appropriate types of complaints to a "peer review committee" for resolution and recommendations to the Dental Board, instead of a "prosecutorial hearing" involving attorneys and overburdened state hearing officers.
- ③ Allowing the Board of Dental Examiners to direct serious allegations (such as fraud, sexual misconduct or prescription drug abuse) directly to a disciplinary committee comprised of dentists, for recommendations.
- ④ Allowing Board of Dental Examiners to impose continuing education requirements and monetary fines on dentists found to be practicing below the accepted standard of care, thus improving the quality of dental care in the state, instead of punish for minor infractions in the current quasi-criminal environment.
- ⑤ The establishment of uniform standards of care and of discipline, thus ensuring that dentists who violate the same standard receive equivalent forms of punishment. Currently there are no fixed standards and punishments and sanctions vary widely for the same offense.
- ⑥ Revises the standards for use of summary suspension, a method to suspend a dental license without any hearing or any evidence. The revision would require the Board of Dental Examiners to have evidence that there was a clear threat of imminent harm before invoking a summary suspension. The current lack of objective time frames can a result in licensees "summarily" losing their licenses for events that transpired years before and where there is no immediate threat of harm to the public.
- ⑦ Creating a statute of limitations equal to the civil liability statute of two years. Currently, a patient can file a complaint regarding an event that took place over a decade or more. As a result a licensee can be sanctioned for an event that is so old the witnesses have died or moved away or the paperwork destroyed. Thus, a licensee can find it almost impossible to defend against such stale claims.
- ⑧ Giving the Board of Dental Examiners authority to require participation in a substance abuse intervention program. This is designed to assist licensees to overcome any such problem and return to the profession.

Fact Sheet for HB-93
Dental Disciplinary and Accountability Bill
By the House Labor and Commerce Committee

Why needed:

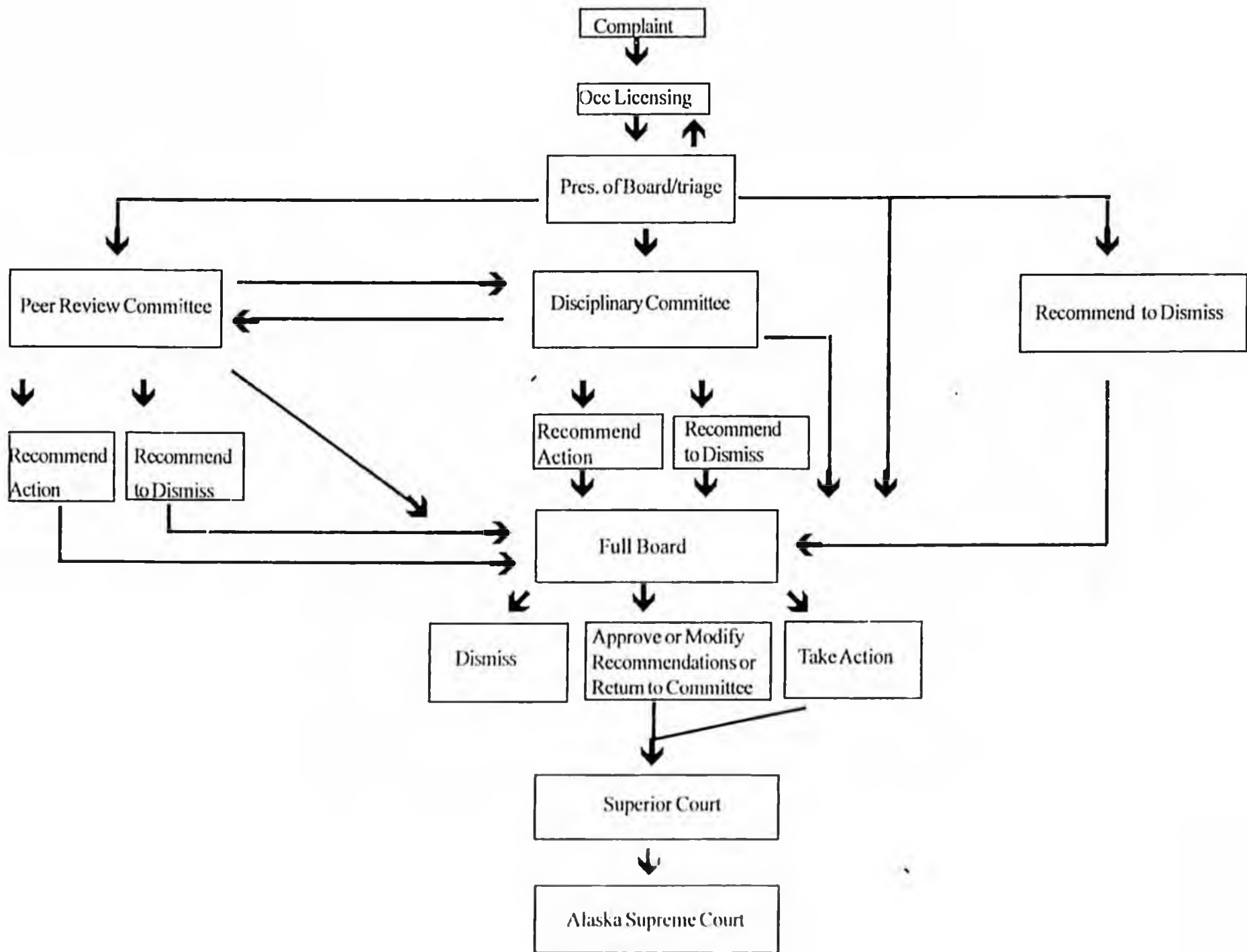
- ① The public is neither protected nor well served when the responsibility for discipline of licensed professionals is relegated to lay bureaucrats with no training, experience or expertise in the profession they investigate. Alaska is best served and its citizens protected when competent and respected members of the dental profession, appointed by the governor, are in a position to assess and evaluate the actions of members of their profession. Presently the Board of Dental Examiners does exercise its responsibility to the public. The current system relegates investigation and critical decision making to non-dentists who lack the necessary scientific background and professional education to effectively assess the conduct of those dentists accused of inappropriate or ineffective treatment or conduct. The current system relies upon draconian forms of punishment that are not uniformly arrived at or imposed. This legislation is designed to bring the expertise and professional experience and judgment of respected dentists into the process of investigating alleged wrong doing. It empowers the Board of Dental Examiners to review what occurred, assess the level and degree of misconduct and impose remedial measures as well as appropriate disciplinary actions when warranted. The Dental Board retains the authority to revoke or suspend the license of those who endanger the health and well being of the public. The bill expands the board's role to improving the overall quality of care, in addition to dispensing punitive sanctions.
- ② The current lack of uniform standards, including no statute of limitations, no regulations setting forth guidelines for sanctions for various offenses have created a haphazard approach to dental discipline that is not serving the public. Consistency and fairness based upon professionally recognized and enforced standards is needed to ensure public and professional confidence in the system.
- ③ This bill strives to enhance not only the process by which dentistry is governed and held accountable, but to improve the quality of dentistry in Alaska.

Supported by:

Alaska Dental Society,

Opposed by:

No opposition to this bill has been presented to the Alaska Dental Society at the time this has been prepared. It is conceivable the Division of Occupational Licensing may oppose some portions of the bill since it elevates peer review by dentists and reduces the role of state workers who presently act in this capacity. This can be seen as institutional opposition and the natural tendency to preserve the status quo inherent in all bureaucracies.



Dental Complaint Flow Chart

Complaint would be submitted to

Occupational Licensing, which would send complaint and their recommendation to

President of the Board for triage. The president can:

- Return to Occ. Licensing for further investigation;
- recommend dismissal and send to full board;
- forward to Peer Review Committee for recommendation;
- forward to Disciplinary Committee for recommendation; or
- forward to full board for action.

Peer Review Committee can:

- Return to Occ. Licensing for further investigation;
- recommend dismissal and refer to full board;
- determine complaint should be directed to Disciplinary Committee and forward;
- determine complaint should be directed to full board and forward; or
- recommend resolution and send to full board for approval.

Disciplinary Committee can:

- Return to Occ. Licensing for further investigation;
- recommend dismissal and refer to full board;
- determine complaint should be directed to Peer Review Committee and forward;
- determine complaint should be directed to full board and forward; or
- recommend discipline and forward to full board for approval.

Full board will:

- Return to Occ. Licensing for further investigation;
- review recommendations to dismiss (from president or committees) and confirm or it can:
 - o send to Peer Review Committee;
 - o send to Disciplinary Committee;
 - o take action that will close case; or
- Review recommended resolutions from Peer Review Committee and:
 - o approve and close case;
 - o return for further action, or
 - o determine complaint needs to be reviewed by Disciplinary Committee;
 - o amend resolution of committee and close case
- Review recommendations from Disciplinary Committee and
 - o Approve and close case
 - o Return for further action
 - o Amend recommendation and close case



DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Frank H. Morkowski, Governor
William C. Noll, Commissioner
Rick Urion, Director

Division of Corporations, Business and Professional Licensing

February 2, 2006

To: Representative Tom Anderson

From: Rick Urion, Director

Re: CSHB 93

I have been asked for written comments on CSHB 93. Attached is a line by line review of that legislation.

I regret that my hurried remark about this legislation prior to the hearing before your committee was taken as support for the bill. After a quick look at the proposal I saw that the language to make the Dental Board an autonomous operation had been removed and that was good. I had not really looked at or thought about this proposed legislation since last session.

When I first came to this position, there were many problems associated with disciplinary actions taken by our various boards. We have worked hard to make changes, but those changes are not easy to come by. We now have a new Chief Investigator with a whole new outlook on how things should be done. Last session the legislature created a new Office of Administrative Hearings. Prior to that, we had only one hearing officer and cases got bogged down. We still have a dental case that is mired in the old system. Unfortunately, that case is part of the justification for HB 93.

One case, problems in the past and a lot of misinformation from certain defense attorneys are not good reasons to pass this legislation. This proposal creates a lot more problems than it solves. The Board of Dental Examiners adopted a new system of dealing with complaints at their meeting in March of 2005 (see attached). This system has been used quite successfully by the State Medical Board for the last two years.

I have a lot of background information on this legislation that I would be happy to share with you, but it is probably a lot more that you really want to know. I would like you to remember one thing. I have absolutely nothing to gain or lose with the passage or failure of this proposed legislation but my experience here has convinced me that it should be put back in the drawer and left there.

Comments on CSHB 93

An Act relating to dentists and dental hygienists

Page 2, lines 17-23.

In most cases, after a complaint is filled, the investigators have to ask for the patient records from the dentist to determine the validity of the claim. So the dentist is aware that an investigation is being done. The problem here is the requirement that the entire case records be ready within 30 days. It is usually impossible to complete an investigation within 30 days. Expert witnesses sometimes take months to report their findings.

Page 2, lines 27, 28.

Disciplinary actions must be done uniformly. This language provides for something other than uniformity.

Page 3, lines 12, 13.

If a licensee is impaired and unable to practice safely, patient care is compromised. Adding this language is not necessary and makes the law more difficult to understand and/or prove if an accusation is filed.

Page 3, line 16.

On line 12 it is present tense "threatens or compromises", here it is past tense "threatened or compromised". Which should it be?

Page 5, lines 4-6.

This prevents telephonic meetings for disciplinary hearings. Do all persons involved in the hearing have to appear in person? This would be like the legislature not allowing the public to testify by telephone. Telephonic hearings cost less money and are an efficient means of doing business.

Page 6, lines 4-5.

Now a licensee has been disciplined and they know that they have been disciplined, but we still have to tell them that their names will be published and give them a copy of what is published. Why? How does this better protect the public?

Page 6, line 20.

Your office and my office are rooms. Maybe you need to define "office".

Page 7, lines 2-9.

The amendments to (b)(1) confuse the burden of proof before a dental hygienist may be ordered to undergo a mental or physical exam. In AS 08.32.171, there has to be "clear and convincing proof" before the board can order an exam. Here it says that "substantial recent evidence" and that the exam is "reasonably necessary" to make the violation determination. For dentists, this is the only section that deals with proof before the exam. Shouldn't the law be the same for dentists as you have written for dental hygienists?

Page 7, lines 14-16.

This provides for "informal" intervention programs without giving any guidance as to what that means.

Page 7, lines 30-31.

Again, disciplinary actions must be done uniformly. This language provides for some unknown actions.

Page 8, lines 24-25.

Again, this new language is not necessary and confusing.

Page 9, line 11.

The board may not "discriminate against any licensee. It appears that the word "discriminate" should be replaced with "discipline".

Page 9, line 25 through page 13, line 26, all of Sec.15.

The entire "peer review" system as laid out in this section is costly, time consuming and not necessary. At it's meeting on March 3-4, 2005, the Board of Dental Examiners adopted a new complaint review process. This is the same process that has been used, very successfully, for about two years by the State Medical Board. This process uses two board members to act as a peer review committee and they review each complaint and determine if an investigation is warranted. It uses dentists that are appointed by the Governor and confirmed by the legislature. The proposed peer review process has the board giving up its responsibility to other dentists appointed by the board to the "peer review" and "disciplinary committees".

Page 13, lines 16-20.

"A licensee shall be entitled to a portion of the licensee's reasonable defense costs and fees incurred as part of a disciplinary matter if the administrative law judge determines that the department or the Department of Law acted in bad faith or recklessly in pursuing the disciplinary matter." So the peer review and disciplinary committees appointed by the board make the decisions that disciplinary actions should or should not be pursued yet it is the Departments of Commerce and Law who are responsible if the matter should not have been pursued.

Page 14, lines 1-8.

Please note that the board may summarily suspend the license (line 2) then the board has a hearing to uphold its OWN decision (line 6). They are the judge and jury. Shouldn't there be a hearing before a neutral unbiased person or group to determine if the license should have been suspended. That is the way it is now. There is a serious lack of due process.



Alaska Dental Society, Inc.

9170 Jewel Lake Road, Suite 203
Anchorage, Alaska 99502-5390
(907) 563-3003 • FAX: 563-3009
akdental@alaska.net

February 8, 2006

The Honorable Tom Anderson
House of Representatives
Alaska State Capitol
Juneau Alaska 99801-1192

Subject: CSIB 93

Dear Rep. Anderson:

On behalf of the Alaska Dental Society, and the dentists in the State of Alaska, we are providing the following responses to the February 2, 2006 comments submitted to your office by the State of Alaska Department of Commerce, Community and Economic Development, Division of Occupational Licensing Director Rick Urion relative to CS for House Bill 93 (L&C).

We would like to thank Director Urion for pointing out several inconsistencies in the bill, and have noted those necessary changes below. It appears from Mr. Urion's comments, that there are misunderstandings of several key aspects of the bill so we are taking this opportunity to clarify the intent of the legislation.

Bill Overview: The bill is not a response to any one case or incident. House Bill 93 was introduced as a result of the collective experience of dozens of dentists, many of whom served on the State Dental Board, over the last 20 years. In particular former Board Presidents, Dr. Robert Robinson, Dr. Dave Logan and Dr. George Shaffer have provided their considerable experience and input in the development of this legislation, as have ADS President Dr. David Eichler and former ADS President Dr. Mark Laurin.

The primary purpose of the bill is to alter the structure of dental discipline so that it is conducted as *true peer review*, where cases are presented to licensed dentists to determine the facts, and allowing dentists instead of lawyers and non-dentists to decide the merits of dental complaints.

Dental Board members currently receive only minimal information relating to complaints filed, are presented with incomplete data, and have otherwise been insulated from the

Rep. Tom Anderson
Re: CSHB-93
Page 2 of 4
2/13/2006

review and application of complaints and disciplinary actions. Dentists in Alaska, supported by the ADS, prefer to be more directly involved in review of complaints and application of disciplinary actions.

House Bill 93 allows dentists in Alaska to apply their knowledge of acceptable clinical behavior, learned through years of practicing dentistry, and protect the public from practitioners who venture outside of those boundaries.

Specific Comments: ADS agrees with Mr. Urion's assessment of a Division "plagued with problems". While he insists changes have been made, the most dramatic changes seen by the dentists' have been changes in staff. While this may result in somewhat better review of complaints, we still feel strongly that the basic structure of dental discipline needs to be changed. This is the reason for House Bill 93.

Mr. Urion also discusses the use of the new Office of Administrative Hearings (OAH). The use of the OAH is new, but this is a change of a name (instead of the lawyer being called a hearing officer they are now called administrative law judge); not a change in the structure of the process. More importantly, the OAH does not provide peer review. That is the real goal of this legislation. The dentists need to be more involved in the disciplinary process.

Mr. Urion makes a reference to "one case" and claims that one case is no reason to change things. As identified above, House Bill 93 is based on the collective experience of Dental Board members, and dentists, from around the state and for issues that have arisen over the past 20 years. The bill provides statutory structure to a process that involves the Dental Board early in the life of a complaint, and continuing through to disciplinary action or dismissal. House Bill 93 will protect the public better than the current system by involving dentists earlier in the process, identifying problem practitioners and utilizing peer review, where appropriate, to expedite decisions on cases.

Mr. Urion does mention a new complaint system, but did not identify the details. He mentions that the State Medical Board is using this system. The ADS is hopeful that the changes proposed by Mr. Urion result in better review of complaints. If the new system involves more dentist review of complaints, that is definitely a step in the right direction. But a change made by policy, will not result in the structural change needed to insure continued involvements of dentists in the complaint process. Again, House Bill 93 provides the structural changes needed to insure adequate involvement of dentists in the complaint process.

It is understandable that the Division is defensive about how it has handled occupational licensing issues. Even positive change can be difficult. We believe that the State of Alaska can do better, and House Bill 93 is a start.

Mr. Urion offered some specific comments to the bill. Our responses follow:

Page 2, Sec. 3 subpart (e): Mr. Urion expresses concern over his inability to complete an investigation in 30 days. This section actually does not require that an investigation be

completed in 30 days; all it requires is that information submitted to the department in conjunction with a complaint be made available to the licensee within 30 days of receipt by the department.

Page 2, Lines 27, 28. Mr. Urion states that disciplinary sanctions must be done uniformly. We agree, and House Bill 93 is consistent with that end. Consistency of disciplinary punishment is a major concern to the dentists and the Board. In order to be fair and satisfy due process, dentists with similar cases must be treated similarly. In House Bill 93, Page 14, lines 29-31, provides "the Board shall establish standards in regulation for the imposition of consistent discipline linked to each action giving rise to the discipline." We are confident that the provisions of the bill result in fair and uniform treatment for the discipline of dentists regulated under this statute.

Page 3, lines 12 and 13, House Bill 93 actually expands the definition under subpart 6 allowing discipline to be imposed in situations where addiction or dependence **threatens or compromises** patient care. The current law does not allow for that. The Bill makes discipline in such situations easier, not harder.

Page 3, line 12, Mr. Urion points out a grammatical inconsistency in use of the present tense "threatens or compromises" and the past tense of "threatened or compromised" in the preceding paragraph. This is a typographical issue and should be corrected. The past tense is used throughout the rest of the section so the corrected phrase on line 12 should be "threatened or compromised".

Page 5, lines 4-6. Mr. Urion brings up a valid point, that telephonic hearings cost less money. House Bill 93 allows telephonic participation for *all* meetings of the Board, or committee meetings, something current law does not address. The *only* exception is for disciplinary hearings, which are hearings like a trial, where witnesses and evidence are presented. The licensee has a right to confront any accuser in this type of a proceeding, and unless the licensee waives that right, such a hearing has to be done in person . . . as they are today under current law. A disciplinary hearing is a quasi-criminal proceeding. Article 1, Section 11 of the Alaska Constitution provides: "The accused is entitled . . . to be confronted with the witnesses against him." Accordingly, in a disciplinary hearing, in-person participation is mandatory unless waived by the licensee.

Page 6, lines 4-5. The publication requirement on page 6 lines 3-6 is almost the same as required under the Administrative Procedures Act (APA), which requires publication of disciplinary actions, but gives instruction to the Division on what can be publicly disclosed. This is necessary because the process identified in House Bill 93 removes the Board from the APA.

Page 6, line 20. The difference between room and office is clearly understood by dentists and those working in a dentist's office. Office refers to the suite of rooms in which the dentist or dentists work. A room in this context refers to particular operator. The intent is to allow a waiver of CPR certification for dentists with a physical impairment that prohibits their certification, with the provision that someone who is CPR

Rep. Tom Anderson
Re: CSHB-93
Page 4 of 4
2/13/2006

certified be in the same office (as opposed to room) while the dentist is practicing dentistry.

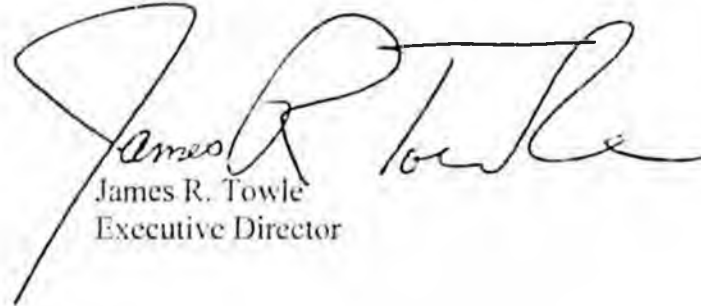
Page 7, Lines 2-9. Mr. Urion refers to AS 08.32.171, which discusses summary suspension of a hygienist's license when "clear and convincing evidence" of an immediate threat is shown, and compares this to provisions under the general powers of the Board in regard to requesting a licensee to submit to a physical or mental examination. These sections discuss two different situations that warrant different standards, therefore, ADS believes that these sections can stand independent of each other.

We trust that this information is helpful to the committee. Please let us know if we can answer any other questions.

Sincerely,



David L. Eichler, DMD
President



James R. Towle
Executive Director

CLAPP • PETERSON
VAN FLEIN • TIEMESSEN • THORSNESS
----- LLC -----

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Marcus R. Clapp, ret.

March 1, 2006

Representative Max Gruenberg
State Capitol Room 112
Juneau 907-581-1182

Fax: 907-465-3766

Re: HB 93

Dear Max:

Although HB 93 is now pending before the Finance Committee, I am writing to express my support for it and I am asking you to back this bill and assist Rep. Anderson in shepherding this bill into law.

The primary focus of HB 93 is to create true peer review for the dentists, who have long sought this obligation and privilege, much the same that lawyers utilize through the Bar Association. Nobody is harsher in evaluating another professional, and nobody can spot BS faster, than another professional who has years of experience in the field. Similarly, no one can appreciate the nuances, difficulties and subtleties involved in any professional practice, such as dentistry, than another professional.

The dentists want the obligation and privilege of truly implementing peer review for disciplinary cases. The present system has many flaws—flaws that even Mr. Union conceded exist. This bill is a structural change and alters the status quo—something state divisions always get agitated about, understandably. But public policy comes from the Legislature, not the state workers. The public will likely benefit from HB 93 and the dentists will have a system that better reflects the reality of practicing dentistry.

You may or may not be aware that I represent the Alaska Dental Society which strongly supports this bill, and I have represented dozens of dentists over the years who have had to deal with issues (both big and small) before the Division of Occupational Licensing. I

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can give you my assurance that if HB 93 is enacted, it will be to the detriment of my private practice representing dentists in disciplinary cases, as HB 93 streamlines the process and likely will result in fewer miscarriages of justice that require extensive legal proceedings. Nothing is better for lawyers than the current system, which is slow, impervious at times to common sense, and relentlessly misguided. Do not take my word for it. Please call Anna Webb, John Tiemessen, Paul Stockler or Howie Lazar, all of whom have represented health care professionals before the DOL. The experience is nearly universal.

But above all, this is a bill that the dentists have been talking about for many years and it is the result of almost 20 years of experience by Board Members and dentists; and its strongest supporters are former members of the State Dental Board. Please talk with Dr. Dave Logan, Dr. Shaffer or Dr. Robert Robinson on this if you have questions. That alone is compelling when the very members of the board for whom the DOL is ostensibly charged with assisting are demanding improvements.

If there are any questions you have regarding this bill, please let me know (272-9228). Thank you for your consideration.

Very truly yours,



Thomas Van Flein, for

Clapp, Peterson, Van Flein
Tiemessen & Thorsness, LLC

Cc: Jim Towle, Executive Director
Rep. Tom Anderson
Dr. Eichler
Dr. Shaffer
Dr. Boothe
Dr. Robinson
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