

**HB**

**240**

<TARGET><BILL>HB 240</BILL><SUBJECT>HB  
240</SUBJECT><COMM>SFIN28</COMM></TARGET>

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/11/14

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

**Finance Committee** considered HOUSE BILL NO. 240

## HB 240-EXTEND BOARD OF CHIROPRACTIC EXAMINERS

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

and recommends:

- be replaced with SCS \_\_\_\_\_ ( \_\_\_\_\_ )  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_
- adopt previous SCS \_\_\_\_\_ ( \_\_\_\_\_ )  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
HFIN/CED	✓			2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Anna L. Fairclough</i>	FAIRCLOUGH	✓			
<i>Clare Bishop</i>	BISHOP	✓			
<i>James Hoffman</i>	Hoffman	✓			
<i>Thomas Orsay</i>	Orsay	✓			
CO-CHAIR: <i>Val L...</i>		✓			
CO-CHAIR: <i>L.M...</i>	Meyer				

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: HB 240  
Fiscal Note Number: 2  
(H) Publish Date: 3/13/14

Identifier: HB240-DCCED-CBPL-03-13-14  
Title: EXTEND BOARD OF CHIROPRACTIC EXAMINERS  
Sponsor: REINBOLD  
Requester: House Finance

Department: Department of Commerce, Community and Economic Development  
Appropriation: Corporations, Business and Professional Licensing  
Allocation: Corporations, Business and Professional Licensing  
OMB Component Number: 2360

### Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>					
Personal Services							
Travel		15.0	15.0	15.0	15.0	15.0	15.0
Services		1.6	1.6	1.6	1.6	1.6	1.6
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>

### Fund Source (Operating Only)

1156 Rcpt Svcs		16.6	16.6	16.6	16.6	16.6	16.6
<b>Total</b>	<b>0.0</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>	<b>16.6</b>

### Positions

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

### ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?  No  
If yes, by what date are the regulations to be adopted, amended or repealed?

### Why this fiscal note differs from previous version:

The fiscal note analysis has been revised to include the Board of Chiropractic Examiners summary of total revenues, expenditures and carryforward balance based on the Department's 2013 Professional Licensing Programs Annual Report.

Prepared By: Co-Chair Representative Austerman Phone: (907)465-6258  
House Finance Committee  
Co-Chair Representative Stoltze Date: 03/11/2014  
House Finance Committee

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HB 240

**Analysis**

HB240 extends the existing Board of Chiropractic Examiners (BCE) through June 30, 2022. Adoption of the bill will continue existing activities by the board. Failure to adopt the bill will result in a one-year wind-down of the board, and the division will assume all licensing responsibility in FY2016 under AS 08.03.020.

Extension of the BCE will require travel for board members and one staff to attend four board meetings per year and for board member participation in an annual out of state professional conference (\$15.0). Service costs include conference registrations (\$1.5) and advertising of board meetings (\$0.1). These estimated costs are based on the average board specific direct charges to this program over the previous biennium licensing cycle.

If the BCE is not extended, Chiropractic licensing will continue under the direction of the division, rather than the board. Costs associated with licensing the profession will continue to be incurred by the division including license examiners, investigations, legal, supplies, and allocated administrative support services. These on-going licensing costs are not reflected in this fiscal note because their incurrence is not impacted by the legislation.

Below is a summary of the BCE's revenues, expenditures, and carry forward balance:

FY12-FY13 Biennium Data:

Board's revenues: \$179,215

Board's expenditures: \$168,800

Biennium Surplus/(Deficit): \$10,415

Ending Cumulative Surplus/(Deficit): \$80,344

FY08-FY11 Data

During the FY08 and FY09 biennium, revenue exceeded regulatory costs by \$36,002. The regulatory costs for the board exceeded revenue during the FY10 and FY11 biennium, for a deficit of \$34,068. There were 248 licensees and 266 licensees during the FY08-FY09 biennium and FY10-FY11 biennium, respectively. The increase in regulatory costs during this biennium was due to higher investigation costs. Fees have been set to be consistent with statute language regarding cost recovery for this board.

# Alaska State Legislature



**Representative Lora Reinbold**  
House District 26

## **Sponsor Statement for House Bill 240**

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

Each year, the Division of Legislative Audit reviews state boards and commissions to determine if they should be reestablished per AS 24.44. The Division of Legislative Audit reviewed the activities of the Board of Chiropractic Examiners (BCE). The purpose of this audit was to determine whether there is a demonstrated public need for BCE's continued existence and whether it has been operating in an effective manner.

The Division of Legislative Audit concluded that the board's termination date should be extended until June 30, 2022, as the concluded that the board's termination date should be extended as the BCE is serving the public's interest by effectively licensing and regulating chiropractors. The recommendations from the prior sunset audit (recommended the board improve the efficiency of its operations by ensuring board meeting discussions were limited to topics within its purview) have been resolved. The Division of Legislative Audit makes two new recommendations:

- a. The Office of the Governor appoint board member in accordance with statute.  
Currently, one public board member does not meet the statutory requirements for appointment "One member of the board shall be a person with no direct financial interest in the health care industry."
- b. CBLP should continue efforts to improve the investigative case management system's integrity and confidentiality.

I urge your support on this legislation to allow the Board of Chiropractic Examiners to continue to carry out their duties to effectively license and regulate chiropractors and to protect and promote the public health, welfare, and safety of Alaskans.

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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Juneau, AK 99811-3300  
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SUMMARY OF: A Sunset Review on the Department of Commerce, Community, and Economic Development, Board of Chiropractic Examiners, June 6, 2013

### PURPOSE OF THE REPORT

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the Board of Chiropractic Examiners' (board or BCE) activities. The purpose of this audit was to determine if there is a demonstrated public need for the board's continued existence and if it has been operating in an effective manner. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether BCE should be reestablished. Currently, under AS 08.03.010(c)(5), the board will terminate on June 30, 2014, and will have one year from that date to conclude its administrative operations.

### REPORT CONCLUSIONS

We conclude that BCE's termination date should be extended. The board is protecting the public's interest by effectively licensing and regulating chiropractors. BCE monitors licensees and ensures that only qualified individuals practice. Furthermore, the board develops and adopts regulatory changes to improve the chiropractic profession in Alaska. We recommend that the board's termination date be extended eight years to June 30, 2022.

The prior sunset audit included one recommendation which has been resolved. This report makes two new recommendations for improving board operations.

### FINDINGS AND RECOMMENDATIONS

1. The Office of the Governor should make board appointments in compliance with statutory requirements.
2. The Division of Corporations, Business and Professional Licensing's director should continue efforts to improve the investigative case management system's integrity and confidentiality.

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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July 24, 2013

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Chiropractic Examiners, and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT  
BOARD OF CHIROPRACTIC EXAMINERS

June 6, 2013

Audit Control Number  
08-20080-13

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.27(1). Per AS 08.03.010(c)(5), the Board of Chiropractic Examiners is scheduled to terminate on June 30, 2014. We recommend the legislature extend the termination date to June 30, 2022.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in black ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the Board of Chiropractic Examiners' (board or BCE) activities to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether BCE should be reestablished. Currently, under AS 08.03.010(c)(5), the board will terminate on June 30, 2014, and will have one year from that date to conclude its administrative operations.

### Objectives

The four, central audit objectives were:

1. Determine whether the board's termination date should be extended.
2. Determine whether the board is operating in the public's interest.
3. Determine whether the board has exercised appropriate regulatory oversight of licensed chiropractors.
4. Provide a current status of recommendations made in the prior sunset audit report.

### Scope and Methodology

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

The audit reviewed board operations and activities from FY 06 through May 2013.

During the course of the audit, the following were reviewed and evaluated:

- Applicable statutes and regulations to identify board functions and responsibilities. Changes made during the audit period were reviewed to determine whether the changes enhanced or impeded board activities. Changes were also evaluated for consistency with statutory purpose and to ascertain if the board operated in the public's interest.
- BCE members' applications and resumes filed with the Office of the Governor's Boards and Commissions to verify members met statutory requirements.

- Board meeting minutes, budget documents, and annual reports to understand board proceedings and activities as well as the nature and extent of public input.
- Public notice documents to ascertain whether public notices for board meetings and regulatory changes were published as required by Alaska Statutes and Division of Corporations, Business and Professional Licensing (DCBPL or division) policies.
- The prior sunset audit and a previous special audit of DCBPL to identify issues affecting the board.

The current and former board presidents, the board vice president, and the public member were interviewed to gain an understanding of the board's activities, the level of public input, and changes in fee levels. DCBPL's director, various other division personnel, and several employees in the information technology section of the Department of Commerce, Community, and Economic Development's (DCCED) Administrative Services Division were also interviewed to assess the adequacy of division support for board activities.

A survey of active board licensees with United States addresses was conducted to obtain licensee opinions on: what regulatory changes should be made, whether the board operated effectively and in the public's interest, the board's performance in addressing important issues, and whether the board is duplicating the efforts of other organizations.

A random sample of 25 initial and renewal licensing files was selected from 257 active licenses and assessed for statutory and regulatory compliance. In determining sample size, the applicable controls were considered moderately significant; the inherent risk was considered limited; and the risk of noncompliance was considered low.

A random sample of investigative files and documentation was tested to assess the efficiency and effectiveness of the investigative process. In determining sample size, the applicable controls were considered moderately significant, and the inherent risk was considered limited. Prior audits found errors with the case management system, and the extract of the investigations database showed evidence of system errors. Therefore, the risk of noncompliance was considered moderate, and a 15 percent sample was determined sufficient to detect errors. Four of the 28 board-related cases open or opened between July 2008 and January 2013 were randomly selected and examined.

Board and division internal control procedures relating to various audit objectives, including procedures over licensing, investigations, and board proceedings, were assessed. Controls over the investigative case management system and the licensing database were also assessed.

Inquiries regarding board-related complaints were made with the following organizations:

- Alaska State Commission for Human Rights;

- Department of Administration's Division of Personnel and Labor Relations;
- United States Equal Employment Opportunity Commission;
- DCCED's Commissioner's Office;
- Office of the Ombudsman;
- Office of Victim's Rights; and
- Office of the Governor's Boards and Commissions.

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# ORGANIZATION AND FUNCTION

The Board of Chiropractic Examiners (board or BCE) was established under the provisions of Title 8, Chapter 20 of the Alaska Statutes. Board members are appointed by the governor and subject to legislative confirmation. All board members serve four-year terms.

Alaska Statutes require the board to consist of five members. Four board members must be licensed chiropractors who have practiced in the State for at least two years at the time of their appointment. The fifth member must be a member of the public with no direct financial interest in the healthcare industry.

## Board Duties and Powers

The board regulates chiropractic practice in Alaska by setting practice standards through:

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

### **Exhibit 1**

#### **Board of Chiropractic Examiners as of March 19, 2013**

James Heston  
*President, Chiropractor*

Daniel Holt  
*Vice-President, Chiropractor*

Walter L. Campbell  
*Secretary, Chiropractor*

Ed Barrington  
*Chiropractor*

Renee Robinson  
*Public Member*

## Department of Commerce, Community, and Economic Development (DCCED), Division of Corporations, Business and Professional Licensing (division or DCBPL)

DCBPL provides administrative and investigative assistance to the board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings. Investigative assistance is available upon request, or the division may initiate an investigation if an individual appears to have engaged, or is about to engage, in a practice over which the division has authority. The division can issue an order that an individual stop a practice, bring an action in the Alaska Superior Court to enjoin the act, examine the books and records of a license holder and/or association, and subpoena witnesses and records.

Alaska Statute 08.01.065 mandates that DCCED adopt regulations to establish the amount and manner of fee payments for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by statutes.

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## **REPORT CONCLUSIONS**

In developing our conclusion regarding whether the Board of Chiropractic Examiners' (board or BCE) termination date should be extended, board operations were evaluated using the 11 factors set out in AS 44.66.050. Under the State's "*sunset*" law, these factors are to be used to assess whether an agency has demonstrated a public policy need for continuing operations.

Overall, we conclude BCE is serving the public's interest by effectively licensing and regulating chiropractors. The board monitors licensees and ensures that only qualified individuals practice. Furthermore, the board develops and adopts regulatory changes to improve the chiropractic profession in Alaska.

In accordance with AS 08.03.010(c)(5), the board is scheduled to terminate June 30, 2014. We recommend that the board's termination date be extended eight years to June 30, 2022.

This audit makes two recommendations for improving board operations. The Office of the Governor should ensure statutory requirements for board members are met before appointment. (See Recommendation No. 1.) Additionally, the Division of Corporations, Business and Professional Licensing's director should continue efforts to improve the investigative case management system. (See Recommendation No. 2.)

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## FINDINGS AND RECOMMENDATIONS

The prior 2005 sunset audit<sup>1</sup> of the Board of Chiropractic Examiners' (board or BCE) recommended the board improve the efficiency of its operations by ensuring board meeting discussions were limited to topics within its purview and benefited the public. Subsequently, the board discontinued discussions with respect to the topics noted in the prior recommendation. The prior audit recommendation is considered resolved.

This audit makes two new recommendations.

### Recommendation No. 1

The Office of the Governor should make board appointments in compliance with statutory requirements.

The board's current public member does not meet the statutory requirements for appointment as mandated by AS 08.20.020 which states:

*Four members of the board shall be licensed chiropractic physicians who have practiced chiropractic in this state not less than two years. **One member of the board shall be a person with no direct financial interest in the health care industry.** Each member serves without pay but is entitled to per diem and travel expenses allowed by law. (Emphasis added.)*

As a licensed pharmacist in the State of Alaska, the current public member has a direct financial interest in the health care industry. Boards and Commissions staff within the Office of the Governor did not verify that all statutory requirements were met prior to appointment.

Public board members are intended to provide a consumer perspective to help protect the public's interest. The consumer perspective is impaired when a public member has a direct financial interest in the health care industry.

We recommend the Office of the Governor appoint board members in compliance with statutory requirements. Additionally, we recommend the current public board member be replaced by an appointee with no direct financial interest in the health care industry.

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<sup>1</sup>Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Board of Chiropractic Examiners, September 26, 2005, audit control number 08-20041-05.

## Recommendation No. 2

The Division of Corporations, Business and Professional Licensing's (division or DCBPL) director should continue efforts to improve the investigative case management system's integrity and confidentiality.

DCBPL's investigative case management system does not fully support efficient case management. The system was purchased with the expectation that it would be an "off the shelf" product with immediate functionality as a case management tool. However, the system does not entirely meet the investigations unit's needs.

When the investigative case management system was implemented in 2010, division management identified many system deficiencies. These ranged from significant security, reporting, and conversion problems to various inefficiencies in case management processing. Deficiencies were caused by software limitations and a lack of procedures.

While some of the deficiencies were addressed through a revised policies and procedures manual dated May 2012, other problems require software fixes by the vendor. A contract signed in June 2012 has allowed the division to work with the vendor to address software issues. The vendor was tasked with improving the investigative case management system's efficiency and reliability in several areas. Division management reported that these improvements are in the testing phase and should be effective by the end of June 2013.

However, other problems persist. Security related to case confidentiality remains weak as each investigator may view and alter other investigators' cases. Though investigators are discouraged from viewing cases to which they are not assigned, they have access to all investigative files. The investigative case management system's deficiencies have also affected case management efficiency. Investigators reported the system may fail to respond which results in lost work. Additionally, the system's reporting function did not consistently produce reliable information.

The duty to investigate occupational licensing complaints is statutorily assigned to DCBPL. The efficiency with which complaints are investigated is one of the evaluation criteria used in the sunset legislative oversight process. Specifically, AS 44.66.050(c) requires examining:

*The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.*

The deficiencies in the investigative case management system impede the division's ability to provide investigative support to the board.

We recommend DCBPL's director continue efforts to improve the investigative case management system's integrity and confidentiality.

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## **A ANALYSIS OF PUBLIC NEED D**

The following analyses of the Board of Chiropractic Examiners' (board or BCE) activities relate to the public need factors defined in the "sunset" law AS 44.66.050(c). These analyses were not intended to be comprehensive but to address those areas we were able to cover within the scope of our audit.

As part of the audit, a survey of board licensees was conducted. All active licensees with addresses in the United States (276 as of January 23, 2013) were provided a survey, and 108 licensees (39 percent) responded. The survey questions and responses are presented in Appendix A of this report.

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

BCE served the public's interest by issuing licenses, holding meetings, and administering exams in accordance with statutes and regulations. To promote continued competency, all licensees were required to comply with continuing education requirements when renewing licenses, and approximately 10 percent of licensees were subject to a continuing education audit each biennial licensing cycle.

From FY 06 through FY 12, the board adopted, repealed, or revised 35 regulations. The changes focused primarily on updating continuing education requirements. Other changes included adding an oral examination to the licensing requirement, requiring a criminal background check for applicants, and clarifying and defining regulatory language.

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

The majority of licensee survey respondents reported overall satisfaction with the board's performance. Seventy percent of respondents rated the board's effectiveness as "good" to "excellent." Eighty-four percent of respondents also reported that the board's effectiveness has either remained the same or increased over the last four years.

The board held a minimum of two meetings per year as required by regulation and maintained a quorum at all meetings. Member appointments were made in a timely manner with no extended vacancies. However, the public board member did not meet the statutory requirements for the position. (See Recommendation No. 1.)

Exhibit 2 (following page) presents a schedule of board revenues and expenditures from FY 09 through March 2013. The amounts were provided by Division of Corporations,

Business and Professional Licensing (division or DCBPL) management. Division staff restated all occupational board financial activity to adjust for the over allocation of DCBPL indirect costs to occupational boards as identified in a 2011 special audit.<sup>2</sup> Exhibit 2 is unaudited and provided for general informational purposes.

**Exhibit 2**

<b>Board of Chiropractic Examiners Restated Schedule of Revenues and Expenditures FY 09 through March 31, 2013 (Unaudited)</b>					
	<u>FY 09</u>	<u>FY 10</u>	<u>FY 11</u>	<u>FY 12</u>	<u>July 2012 - March 31, 2013</u>
Licensing Revenue	\$ 135,112	\$ 35,295	\$ 139,294	\$ 34,529	\$ 140,275
Direct Expenditures					
Personal Services	31,864	44,397	60,992	58,635	25,902
Travel	17,218	18,662	16,889	18,169	5,710
Contractual	1,961	18,600	20,873	4,526	2,221
Supplies	293	314	31	255	126
Total Direct Expenditures	51,336	81,973	98,785	81,585	33,959
Indirect Expenditures*	11,202	14,651	13,247	17,238	12,929
Total Expenses	62,538	96,624	112,032	98,823	46,888
Annual Surplus (Deficit)	72,574	(61,329)	27,262	(64,294)	93,387
Beginning Cumulative Surplus (Deficit)	31,423	103,997	42,668	69,930	5,636
Ending Cumulative Surplus (Deficit)	\$ 103,997	\$ 42,668	\$ 69,930	\$ 5,636	\$ 99,023

Source: DCBPL management.

\*FY 13 indirect costs are estimated based on the prior fiscal year's amount.

The adequacy of fee levels did not impact the effectiveness of board activities. Alaska Statute 08.01.065(c) requires *“the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.”* Biennial license fees were reduced from \$730 in FY 07 to \$500 in FY 09. Fees were reduced again in FY 11 to \$450 and remained at that level through FY 13. At the end of FY 12, the board’s cumulative surplus was approximately \$5,600.

<sup>2</sup>Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupational Licensing and Enforcement Issues, June 29, 2011, audit control number 08-30059-11.

Board operations were impeded by deficiencies in DCBPL's investigative case management system. These deficiencies have limited DCBPL's ability to provide investigative support to the board. (See Recommendation No. 2.)

During FY 13, board operations were also impeded by restrictions placed on travel. Board members were prohibited from traveling out of state due to DCBPL budgetary restrictions. According to DCBPL management, restrictions on travel should be alleviated in FY 14 by an increase in the travel budget and the ability to receive third-party reimbursements for some board member travel.

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

There were no statutory changes from FY 06 through FY 13. Seventy-seven percent of licensee survey respondents believed that existing statutes met the needs of licensees and protect the public interest.

The board supports the statutory changes proposed by the Alaska Society of Chiropractors. Changes include increasing the fine for unlicensed practice under AS 08.20.200, and deleting the word "apparently" from the statement "apparently qualified" as it pertains to temporary permits in AS 08.20.160. The statute currently states, "Temporary permits may be issued to persons apparently qualified until the next regular meeting of the board."

***Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.***

From FY 06 through FY 12, the board met at least twice a year as required by Alaska Statutes. For 22 of the 23 meetings held during that time, public notices of the meetings were posted at least 20 days in advance of the meeting. Additionally, time was provided for public comment at 22 of the meetings.<sup>3</sup> Board meeting minutes and interviews with board members indicate that public comments were considered when changing regulations and making decisions.

Regulation changes relating to the chiropractic profession were published a minimum of 30 days before adoption as statutorily required. Eighty-one percent of licensee survey respondents believed existing regulations met the needs of licensees and protected the public's interest.

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<sup>3</sup>One meeting, on July 15, 2011, was a teleconference with the sole purpose of discussing a consent order. The division considered this meeting to be quasi-judicial and not subject to the public meeting requirement.

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

BCE consistently published notices of regulation changes and allowed time for public input. The board also provided time for public comment at all of its regular board meetings during the audit period.

***Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.***

From July 2008 through January 2013, no board-related complaints were filed with the Office of Victims' Rights or the Office of the Governor. One complaint was filed with the Department of Commerce, Community, and Economic Development's (DCCED) Commissioner's Office, and three complaints were filed with the State's Office of the Ombudsman. All complaints were efficiently resolved.

Twenty-eight complaints against board licensees or applicants were either open or opened by DCBPL between July 2008 and January 2013. As of February 2013, 27 complaints had been closed.

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

From FY 06 through FY 12, the number of active licensed chiropractors increased 28 percent (from 226 to 290). Exhibit 3 shows the number of new licenses issued annually as reported in board annual reports prepared by DCBPL. As of March 31, 2013, there were 281 active licensees.

**Exhibit 3**

<b>New Chiropractic Licenses Issued FY 06 through FY 12 (Excluding Renewals)</b>							
<b>License Type</b>	<b>FY 06</b>	<b>FY 07</b>	<b>FY 08</b>	<b>FY 09</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>
Chiropractor	13	18	21	16	23	14	24

Source: DCBPL annual reports.

There were also 21 temporary permits issued for the period FY 06 through FY 12. The board may issue a temporary permit to an applicant for licensure by examination or credentials if the applicant is scheduled to sit for the next state chiropractic examination and meets the requirements outlined in 12 AAC 16.200.

BCE requires all new license applicants to pass a national exam, pass a board-administered exam on state laws, and successfully complete the required education to qualify for licensure in Alaska. Additionally, the board requires approved continuing education for license renewal. A review of 25 new and renewal applicants showed that chiropractors were licensed in accordance with statutes and regulations.

Seventy-five percent of licensee survey respondents rated their experience applying for or maintaining licensure as “good” to “excellent” with seventy-eight percent rating the amount of time taken for licensure as reasonable.

Continuing education is required and monitored by the board. DCBPL audits approximately 10 percent of renewal license applications for compliance with continuing education requirements.

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

From July 2008 through January 2013, no board-related complaints were filed with the Alaska State Commission for Human Rights, the United States Equal Employment Opportunity Commission, or the Department of Administration’s Division of Personnel and Labor Relations.

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

The majority of licensee survey respondents believed that existing statutes and regulations met licensees’ needs and protected the public’s interest.

During the audit period, board operations were impeded by DCBPL’s investigative case management system. Identified deficiencies range from security, reporting, and conversion problems to various inefficiencies in case management processing. (See Recommendation No. 2.)

The public’s interest was not served by the appointment of a public board member with a financial interest in the health care industry. This board member should be replaced to ensure the consumer perspective is appropriately represented. (See Recommendation No. 1.)

***Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.***

BCE identified the following eight goals in its FY 12 annual report.

1. Carry out assigned board duties.
2. Provide information regarding board activities to chiropractors and the public.
3. Continue affiliating with the Alaska Chiropractic Society to work cooperatively in chiropractors and the public's best interest.
4. Pursue statutory authority consistent with the chiropractic practice to ensure the health and safety of the public.
5. Assess and evaluate regulations.
6. Assess and evaluate the review process available through the Peer Review Committee.
7. Remain informed of the board's sunset review process and review and respond to the sunset audit report recommendations.
8. Continue affiliating with: the Federation of Chiropractic Licensing Boards; the National Board of Chiropractic Examiners (NBCE); the Association of Chiropractic Board Administrators; the Council on Chiropractic Education; the Council on Licensure, Enforcement and Regulation; and the Federation of Associations of Regulatory Boards.

Interviews with board members and an examination of meeting minutes and annual reports indicate that the board reasonably achieves its operational objectives annually. Each goal serves the public's interest either directly (goals one through five), or indirectly (goals six through eight).

***Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.***

The board does not duplicate the activities of another governmental or private sector agency. The board's principal activities are licensing, regulating, and disciplining chiropractors in the State. There are no other governmental or private sector agencies designated for these purposes.

The board works cooperatively with NBCE. NBCE is a nonprofit national organization for chiropractic examiners. The purpose of NBCE is to develop and administer standardized national examinations. NBCE examination scores are among the criteria used by state licensing agencies to determine whether applicants satisfy state qualifications for licensure. Licensees, however, are not required to maintain membership with NBCE, and NBCE has no licensing, regulatory, or investigative responsibilities in the State.

## **A**ppendi**X**

As a part of this audit, a survey was provided to all 276 chiropractic licensees with United States addresses as of January 23, 2013. Of those surveyed, 108 (39 percent) responded. The survey results are summarized in Appendix A.



## Appendix A

### Board of Chiropractic Examiners Survey Results

1. How would you rate the overall effectiveness of the board?

Responses	Number of Responses	Percentage of Total Responses
Excellent	35	32%
Good	41	38%
Average/Fair	28	26%
Poor	2	2%
No Opinion	2	2%
Total Respondents	108	100%

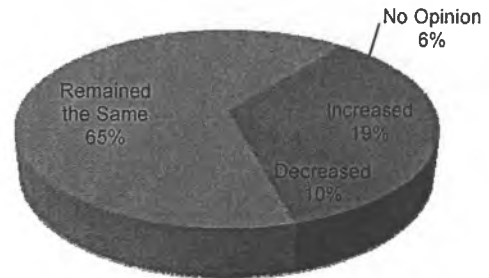
**Overall Board Effectiveness**



2. In your opinion, has the effectiveness of the board increased, decreased, or remained the same over the last four years?

Responses	Number of Responses	Percentage of Total Responses
Increased	20	19%
Decreased	11	10%
Remained the Same	71	65%
No Opinion	6	6%
Total Respondents	108	100%

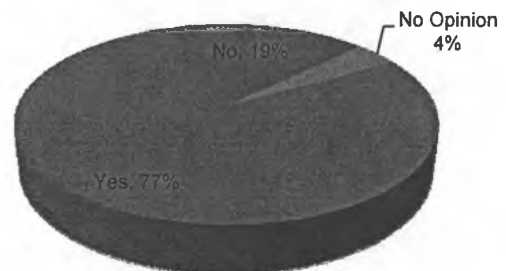
**Change in Board Effectiveness**



3. Do you believe existing statutes meet the needs of regulated individuals and/or entities and protect the public's interests?

Responses	Number of Responses	Percentage of Total Responses
Yes	83	77%
No	20	19%
No Opinion	5	4%
Total Respondents	108	100%

**Existing Statutes Meet Needs**



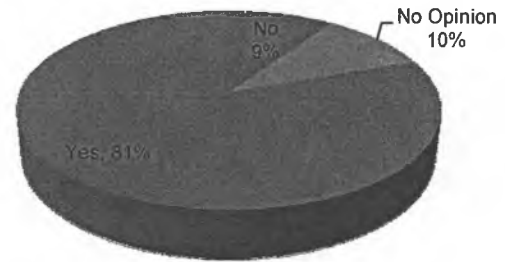
## Appendix A

### Board of Chiropractic Examiners Survey Results (Continued)

4. Do you believe existing board regulations meet the needs of regulated individuals and/or entities and protect the public's interests?

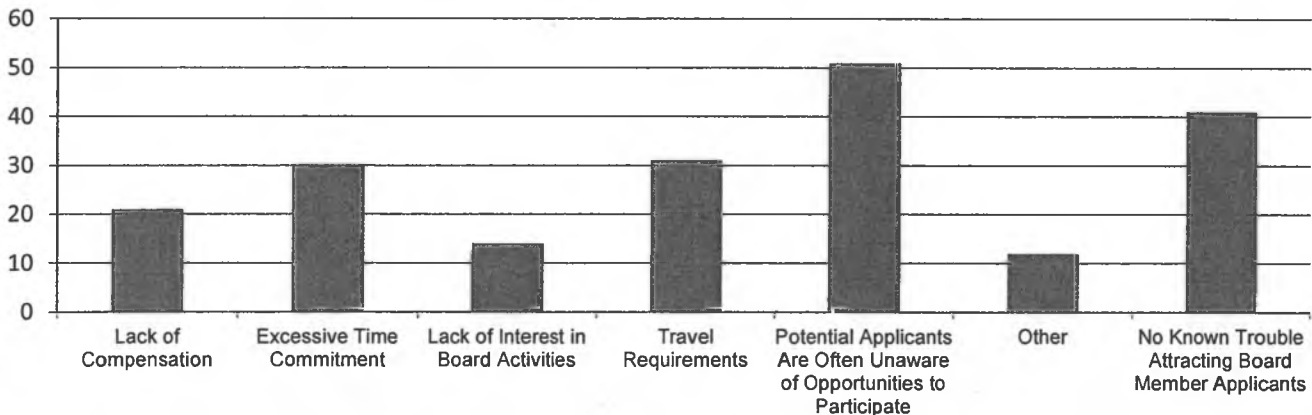
Reponses	Number of Responses	Percentage of Total Responses
Yes	87	81%
No	10	9%
No Opinion	11	10%
<b>Total Respondents</b>	<b>108</b>	<b>100%</b>

**Existing Regulations Meet Needs**



5. If applicable, what are the main reason(s) the board has difficulty attracting new board member applicants?

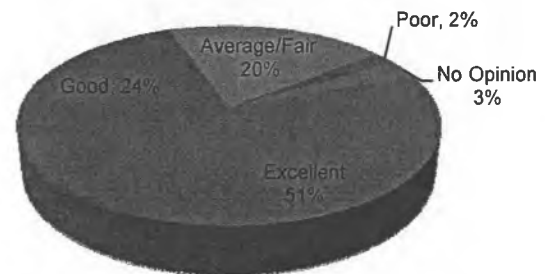
**Reasons for Difficulty Attracting New Members**



6. How would you rate your overall experience in applying for or maintaining professional licensure?

Reponses	Number of Responses	Percentage of Total Responses
Excellent	55	51%
Good	26	24%
Average/Fair	22	20%
Poor	2	2%
No Opinion	3	3%
<b>Total Respondents</b>	<b>108</b>	<b>100%</b>

**Licensure Experience**



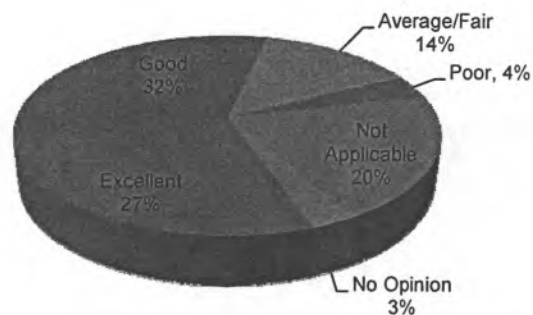
## Appendix A

### Board of Chiropractic Examiners Survey Results (Continued)

7. How would you rate the board's responsiveness to your questions or concerns?

Reponses	Number of Responses	Percentage of Total Responses
Excellent	30	27%
Good	34	32%
Average/Fair	15	14%
Poor	4	4%
Not Applicable	22	20%
No Opinion	3	3%
<b>Total Respondents</b>	<b>108</b>	<b>100%</b>

**Board's Responsiveness**



8. If you were required to take an examination for licensure in the last four years, how would you rate the board's administration of testing procedures?

Reponses	Number of Responses	Percentage of Total Responses
Excellent	13	12%
Good	7	6%
Average/Fair	4	4%
Poor	1	1%
Not Applicable	67	62%
No Opinion	16	15%
<b>Total Respondents</b>	<b>108</b>	<b>100%</b>

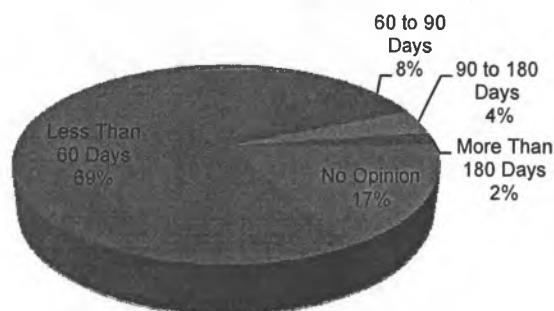
**Board's Testing Administration**



9. What was the approximate length of time from the submission of your application (new or renewal) to the board's ultimate decision?

Reponses	Number of Responses	Percentage of Total Responses
Less Than 60 Days	75	69%
60 to 90 Days	9	8%
90 to 180 Days	4	4%
More Than 180 Days	2	2%
No Opinion	18	17%
<b>Total Respondents</b>	<b>108</b>	<b>100%</b>

**Timeframe for Licensure Decisions**



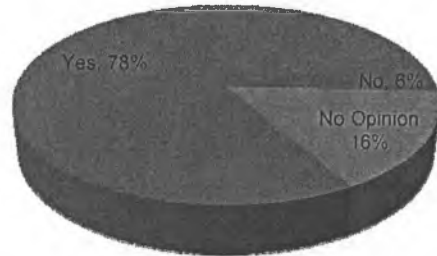
## Appendix A

### Board of Chiropractic Examiners Survey Results (Continued)

10. Do you believe this timeframe was reasonable?

Reponses	Number of Responses	Percentage of Total Responses
Yes	85	78%
No	6	6%
No Opinion	17	16%
Total Respondents	108	100%

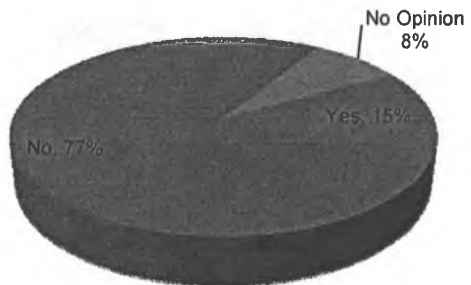
**Timeframe Reasonableness**



11. Do current licensing requirements create any unnecessary barriers to entry?

Reponses	Number of Responses	Percentage of Total Responses
Yes	16	15%
No	83	77%
No Opinion	9	8%
Total Respondents	108	100%

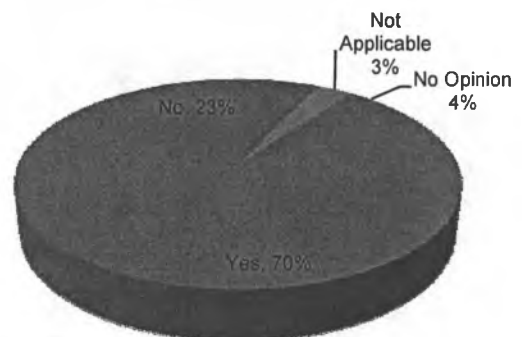
**Licensing Barriers to Entry**



12. Do you believe annual dues/fees are reasonable?

Reponses	Number of Responses	Percentage of Total Responses
Yes	76	70%
No	25	23%
Not Applicable	3	3%
No Opinion	4	4%
Total Respondents	108	100%

**Dues and Fees Reasonableness**



## Appendix A

### Board of Chiropractic Examiners Survey Results (Continued)

13. Do you believe the composition of the board is a reasonable representation of your profession?

Reponses	Number of Responses	Percentage of Total Responses
Yes	87	81%
No	9	8%
No Opinion	12	11%
Total Respondents	108	100%

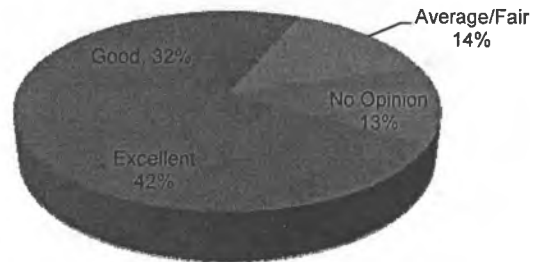
**Board's Representation of the Profession**



14. How would you rate board members' knowledge and understanding of the profession?

Reponses	Number of Responses	Percentage of Total Responses
Excellent	45	41%
Good	34	32%
Average/Fair	15	14%
No Opinion	14	13%
Total Respondents	108	100%

**Board Members' Knowledge**



15. How would you rate the board's performance in addressing important issues?

Reponses	Number of Responses	Percentage of Total Responses
Excellent	32	30%
Good	33	30%
Average/Fair	24	22%
Poor	3	3%
No Opinion	16	15%
Total Respondents	108	100%

**Board's Performance Addressing Issues**



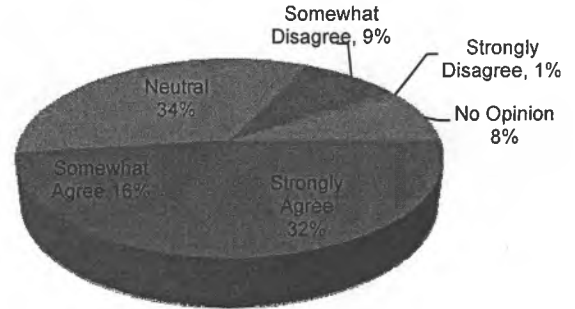
## Appendix A

### Board of Chiropractic Examiners Survey Results (Continued)

16. Does the board maintain a good working relationship with members of the profession?

<u>Reponses</u>	<u>Number of Responses</u>	<u>Percentage of Total Responses</u>
Strongly Agree	34	32%
Somewhat Agree	17	16%
Neutral	37	34%
Somewhat Disagree	10	9%
Strongly Disagree	1	1%
No Opinion	9	8%
Total Respondents	108	100%

**Board's Relationship with Chiropractors**



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Office of Governor Sean Parnell  
STATE OF ALASKA

October 3, 2013

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OCT 03 2013

LEGISLATIVE AUDIT

Ms. Kris Curtis, CPA, CISA  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

Dear Ms. Curtis,

This letter is in response to your CONFIDENTIAL preliminary audit report on *A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Chiropractic Examiners, June 6, 2013*, received by our office on September 19.

Regarding recommendation No. 1: The Office of the Governor should make board appointments in compliance with statutory requirements.

Under his constitutional authority, the Governor makes board appointments and assures faithful execution of Alaska law. The Board of Chiropractic Examiners (BCE) was previously not in compliance with the statutory requirement that one member of the Board be a person with no direct financial interest in the health care industry (AS 08.20.020). Specifically, the public member referenced was a licensed, though non-practicing, pharmacist in Alaska. This status disqualifies her eligibility as a public member. The Office of Boards and Commissions has accepted the resignation of this public member from the BCE, and the appropriate action steps have been initiated to appoint a subsequent public member in compliance with the statutory requirements.

Please contact us at 907-269-7450 if you have any additional questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth Giardina".

Elizabeth Giardina  
Acting Director  
Boards and Commissions

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THE STATE  
of ALASKA

GOVERNOR SEAN PARNELL

Department of Commerce, Community,  
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800  
Juneau, Alaska 99811-0800  
Main: 907.465.2500  
Programs fax: 907.465.5442

September 11, 2013

Ms. Kris Curtis, CPA, CISA  
Legislative Auditor  
Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

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SEP 11 2013

LEGISLATIVE AUDIT

RE: Preliminary Audit Report Department of Commerce, Community, and Economic Development (DCCED), Board of Chiropractic Examiners (board or BCE), June 6, 2013

Dear Ms. Curtis:

Thank you for the opportunity to respond to the auditor's conclusion and recommendations regarding the sunset review of the Board of Chiropractic Examiners. The Division of Corporations, Business and Professional Licensing (DCBPL) concurs with the report conclusion that the board's termination date should be extended to June 30, 2022. Our comments on the report recommendations are provided below.

Recommendation No. 1

The office of the Governor should make board appointments in compliance with statutory requirements.

DCCED has reviewed the audit comments and will work with the board and the Office of the Governor Boards and Commissions to determine any necessary actions.

Recommendation No. 2

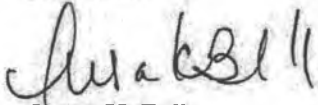
DCBPL's director should continue efforts to improve the investigative case management system's integrity and confidentiality.

The department concurs with this recommendation. As noted in the audit report, DCBPL has taken action to address deficiencies and improve the investigative case management system's efficiency and reliability in several areas. The division will continue these efforts through FY14.

Ms. Kris Curtis  
September 11, 2013  
Page 2

Again, thank you for the opportunity to respond to the audit report conclusion and recommendations. If you have any additional questions, please contact me at 907-465-2500.

Regards,

A handwritten signature in cursive script that reads "Susan K. Bell".

Susan K. Bell  
Commissioner

Cc: Don Habeger, Director CBPL  
JoEllen Hanrahan, Director ASD



CLINIC OF  
CHIROPRACTIC HEALTH

JAMES F. HESTON, D.C.

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LEGISLATIVE AUDIT

September 6, 2013

Kris Curtis, CPA, CISA  
Legislative Auditor

Dear Kris,

I have read and reviewed the preliminary Sunset Review audit report from the Division of Legislative Audit for the Board of Chiropractic Examiners. I concur with the findings, however, implementing the recommended changes will not directly involve changing our Board's current operating procedures. The recommendations were directed at the Governor's office for following the statutory requirements when making board appointments, and the Director of Professional Licensing who has been encouraged to continue efforts to improve the investigative case management system's integrity and confidentiality.

The prior sunset audit review had one recommendation which has been successfully implemented by our Board. I found this audit review to be a helpful, positive experience.

Respectfully submitted,

James F. Heston DC  
Chairman, Board of Chiropractic Examiners

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