

LEG. FINANCE - BILLS 1983 - 1984 1890

HB 332 1990

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

4/21/83

Date: 5-5-83

Mr. Speaker:

The Committee on FINANCE has had HB 332

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

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 332 (fin) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Arthur Adams
Tom Haddock
Jim Ward
Bob Haddock
Jim Ward
Bob Haddock
Tom Haddock
Jim Ward
Bob Haddock

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tom Haddock (No Rec)
Jim Ward (No Rec)

Arthur Adams

CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/7, 1983

I. REQUEST

Bill/Resolution No.: CS HB 332 (Fin)
Title: "AN Act relating to medical practice".
Sponsor: H.E.S.S. Committee
Requestor: Labor & Commerce Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
Program Category Affected: Public Prot.
BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		48.8	51.4	55.0	58.8	63.0
200 TRAVEL		7.2	7.7	8.2	8.8	9.4
300 CONTRACTUAL		13.0	13.9	14.9	15.9	17.0
400 COMMODITIES		.4	.4	.5	.5	.5
500 EQUIPMENT		3.4	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		72.9	73.0	78.6	84.0	89.9
CAPITAL						
REVENUE		549.0	17.6	17.6	17.6	549.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		72.9	73.0	78.6	84.0	89.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Darrell Miller
Division: Occupational Licensing

Phone: 465-2535
Date: April 7, 1983

Approved by Commissioner: Richard A. Lyon
Department: Commerce & Economic Development

Date: 4/8/83

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

FISCAL IMPACT: Medical Practice Act.

(NOTE: 7% inflation factor projected for FY '85 through FY '88 for operating costs)

100 PERSONAL SERVICES - FY '83 Salary Schedule

1 Investigator, Range 18A, General Government,
12 months, to be located in Anchorage \$48,755.00

200 TRAVEL

4 board meetings annually (2 days each @ \$80.00/day
per diem = \$160.00 x 4) \$ 640.00
Transportation - board meetings annually
(\$350.00/each x 4) 1,400.00
Investigative travel - 5 days per month
(@ \$80.00/day per diem x 5 x 12) 4,800.00
Transportation - 1.5 trips per month
(@ \$350.00/each x 12) 4,200.00
\$ 7,240.00

300 CONTRACTUAL

Postage, telephone, printing, publication
and operating cost \$ 3,000.00
Computer terminal use, prorated share
(@ \$350.00/mo x 12) 4,200.00
1 lease vehicle with maintenance for investigator
use (\$385.00/mo x 12) 4,620.00
Fuel, \$100.00/mo x 12 1,200.00
\$13,020.00

400 COMMODITIES

Stationery, typewriter ribbons, pens, pencils,
and other miscellaneous desk top supplies \$ 400.00

500 EQUIPMENT (One time cost FY '84 only)

1 desk, double pedestal, 60" x 30" \$ 427.00
1 chair, executive swivel w/arms 202.00
1 typewriter, IBM Selectric II 1,129.00
1 typewriter table 94.00
1 chair, side, without arms 104.00
1 desk calculator 332.00
1 recorder, Lanier 705.00
1 book case 138.00
1 file cabinet, 4 drawer, legal w/lock 306.00
\$ 3,437.00

One position total: \$72,852.00

ASSUMPTIONS: Medical Practices Act

This bill increases the licensing fees for the medical profession a substantial amount and would impact revenues generated in FY '84 and FY '85 as follows:

FY '84

709 active license renewals, January 1, 1985 @ \$600.00 each	\$425,400.00
535 inactive license renewals, January 1, 1985 @ \$200.00 each	107,000.00
Average 5 new applications @ \$50.00 each (annually)	250.00
Average 3 new licenses by examination @ \$200.00 each (annually)	600.00
Average 2 new licenses by reexamination @ \$150.00 each (annually)	300.00
Average 79 Locum Tenens permits @ \$50.00 each (annually)	3,950.00
Average 78 temporary permits @ \$50.00 each (annually)	3,900.00
Average 43 license by credentials (½ FY '84) @ \$200.00 each	8,600.00
Total projected FY '84 revenue from licensing	<u>\$549,000.00</u>

FY '85

Average 5 new applications @ \$50.00 each (annually)	\$ 250.00
Average 3 new licenses by examination @ \$200.00 each (annually)	600.00
Average 2 new licenses by reexamination @ \$150.00 each (annually)	300.00
Average 79 Locum Tenens permits @ \$50.00 each (annually)	3,950.00
Average 78 temporary permits @ \$50.00 each (annually)	3,900.00
Average 43 license by credentials (½ FY '85) @ \$200.00 each	8,600.00
Total projected FY '85 revenue from licensing	<u>17,600.00</u>

Projected revenue for subsequent years would be impacted as this bill establishes the license renewal from biennial to every four years.

1.	POSITION TITLE Investigator III				RANGE/STEP 18A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT All	LEG.		
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION			
4.	TYPE OF EXPENDITURE				AMOUNT		<p>This position is required under <u>CS</u> HB 332 (Fin), "An Act relating to professional licensing and to the regulation of the practice of medicine. (Section 1, AS 08.01.050(c) to conduct investigations into alleged violations of AS 08.84, and into alleged violations of regulations and orders of the State Medical Board)</p>			
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		34.1							
6.	Benefits		5.3							
7.	Supplemental Benefits		2.1							
8.	Fixed Benefits		2.9							
9.	TOTAL PERSONAL SERVICES		01		44.4					
10.	Travel		02		7.2					
11.	Contractual		03		13.0					
12.	Commodities		04		0.4					
13.	Equipment		05		3.4					
14.	Other				---					
15.	TOTAL COST				68.4					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		68.4						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

Page _____ of _____
Revised Date _____

FY 84

Original sponsor: Labor and Commerce
Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 332 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of medicine, and extending
8 the termination date of the State Medical Board; and
9 providing for an effective date."

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

11 * Section 1. AS 08.01.050 is amended by adding a new subsection to
12 read:

13 (c) After consulting with the State Medical Board (AS 08.64.-
14 010), the department shall employ an individual who is not a member of
15 the board to be assigned as the investigator for the board. The
16 investigator shall

17 (1) conduct investigations into alleged violations of
18 AS 08.64, and into alleged violations of regulations and orders of the
19 State Medical Board;

20 (2) at the request of the State Medical Board, conduct
21 investigations based on complaints filed with the department or with
22 the board; and

23 (3) be directly responsible and accountable to the State
24 Medical Board, except that only the department has authority to termi-
25 nate the investigator's employment and the department shall provide
26 day to day and administrative supervision of the investigator.

27 * Sec. 2. AS 08.03.010(c)(11) is amended to read:

28 (11) State Medical Board (AS 08.64.010) -- June 30, 1987
29 [1983].

1 * Sec. 3. AS 08.64.010 is amended to read:

2 Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD.
3 The governor shall appoint a board of medical examiners, to be known
4 as the State Medical Board, consisting of five [LICENSED] physicians
5 licensed in the state and [,] residing in as many separate geograph-
6 ical areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and
7 two persons with no direct financial interest in the health care
8 industry.

9 * Sec. 4. AS 08.64.020 is amended to read:

10 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members
11 shall be appointed for staggered terms [A TERM] of four years, subject
12 to confirmation by a majority of the members of the legislature in
13 joint session, and shall hold office until their successors are ap-
14 pointed and qualified. A person who has served two successive com-
15 plete terms may not be reappointed until four years after the expira-
16 tion of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD
17 SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

18 * Sec. 5. AS 08.64.040 is amended to read:

19 Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a
20 member of the board for cause. The board may by regulation provide
21 that unexcused absences from meetings is cause for removal.

22 * Sec. 6. AS 08.64 is amended by adding a new section to read:

23 Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall meet at
24 least four times a year.

25 * Sec. 7. AS 08.64 is amended by adding a new section to read:

26 Sec. 08.64.101. DUTIES. The board shall
27 (1) examine and issue licenses to applicants;
28 (2) develop written guidelines to insure that licensing
29 requirements are not unreasonably burdensome and the issuance of

1 licenses is not unreasonably withheld or delayed;

2 (3) establish a procedure to provide for binding arbitra-
3 tion by an impartial arbitrator to resolve a dispute between an appli-
4 cant and the board;

5 (4) submit an annual report of its proceedings to the
6 governor, including a statement of money received and disbursed;

7 (5) after a hearing, impose disciplinary sanctions on per-
8 sons who violate this chapter, or the regulations or orders of the
9 board;

10 (6) adopt regulations insuring that renewal of licenses is
11 contingent upon proof of continued competency on the part of the
12 licensee.

13 * Sec. 8. AS 08.64.170(a) is amended to read:

14 (a) A person may not practice medicine, podiatry, osteopathy, or
15 acupuncture in the state unless the person is licensed under this
16 chapter, except that

17 (1) a physician assistant may examine, diagnose or treat
18 persons under the supervision, control, and responsibility of either a
19 physician licensed under this chapter or a physician exempted from li-
20 censing [LICENSURE] under AS 08.64.370;

21 (2) a physician-trained mobile intensive care paramedic may
22 render emergency lifesaving service; [AND]

23 (3) a person licensed under AS 08.36 may perform acupuncture
24 in the regular practice of dentistry, subject to the regulations
25 of the Board of Dental Examiners; and

26 (4) a person who is licensed or authorized under another
27 chapter of this title may engage in a practice that is authorized un-
28 der that chapter.

29 * Sec. 9. AS 08.64.240 is repealed and reinserted to read:

1 Sec. 08.64.240. LICENSE REFUSED. (a) The board may not grant a
2 license if

- 3 (1) the applicant fails or cheats during the examination;
4 (2) the board determines that the applicant is profes-
5 sionally unfit to practice medicine or osteopathy in the state; or
6 (3) the applicant fails to comply with a requirement of
7 this chapter.

8 (b) The board may refuse to grant a license to any applicant for
9 the same reasons that it may impose disciplinary sanctions under
10 AS 08.64.326.

11 * Sec. 10. AS 08.64.250 is amended to read:

12 Sec. 08.64.250. LICENSE [LICENSURE] BY CREDENTIALS [ENDORSE-
13 MENT]. The board may waive the examination requirement and license by
14 credentials [ENDORSEMENT] if the physician or podiatry applicant meets
15 the requirements of AS 08.64.200 or 08.64.209, submits proof of con-
16 tinued competence as required by regulation, pays the required fee and
17 has

- 18 (1) an active license from a board of medical examiners
19 established under the laws of a state or territory of the United
20 States or a province of Canada issued after thorough examination; or
21 (2) passed an examination given by the National Board of
22 Medical Examiners or the Federation of State Medical Boards of the
23 United States if the applicant is a physician, or passed an examina-
24 tion given by the National Board of Podiatry Examiners if the appli-
25 cent is a podiatrist.

26 * Sec. 11. AS 08.64.270(a) is amended to read:

27 (a) The board may issue a temporary permit to an applicant who
28 meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209
29 and pays the required fee.

1 * Sec. 12. AS 08.64.311 is amended to read:

2 Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be
3 renewed four years after the date of issue [BIENNIALY].

4 * Sec. 13. AS 08.64.315 is amended to read:

5 Sec. 08.64.315. FEES. The following fees are imposed under this
6 chapter:

- 7 (1) application \$ 50 [\$25]
8 (2) license by examination 200 [125]
9 (3) license by credentials [ENDORSEMENT]
10 or waiver of examination 200 [100]
11 (4) temporary permit 50 [25]
12 (5) locum tenens permit 50 [25]
13 (6) license renewal [, BIENNIAL], active . . . 600 [100]
14 (7) license renewal [, BIENNIAL], inactive . . 200 [25]
15 (8) license by reexamination 150 [75]

16 * Sec. 14. AS 08.64 is amended by adding a new section to read:

17 Sec. 08.64.326. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
18 TIONS. (a) The board may impose a sanction if the board finds after
19 a hearing that a licensee

20 (1) secured a license through deceit, fraud, or intentional
21 misrepresentation;

22 (2) engaged in deceit, fraud, or intentional misrepresenta-
23 tion while providing professional services or engaging in professional
24 activities;

25 (3) advertised professional services in a false or mislead-
26 ing manner;

27 (4) has been convicted, including conviction based on a
28 guilty plea or plea of nolo contendere, of

29 (A) a felony or other crime if the felony or other

1 crime is substantially related to the qualifications, functions,
2 or duties of the licensee; or

3 (B) a crime involving the unlawful procurement, sale,
4 prescription or dispensing of drugs;

5 (5) has procured, sold, prescribed or dispensed drugs in
6 violation of a law, regardless of whether there has been a criminal
7 action;

8 (6) intentionally or negligently permitted the performance
9 of patient care by persons under the licensee's supervision that does
10 not conform to minimum professional standards even if the patient was
11 not injured;

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

14 (8) has demonstrated

15 (A) professional incompetence, gross negligence or re-
16 peated negligent conduct;

17 (B) addiction to, severe dependency on, or habitual
18 overuse of alcohol or other drugs which impairs the licensee's
19 ability to practice safely;

20 (C) unfitness because of physical or mental disabil-
21 ity;

22 (9) engaged in unprofessional conduct or in lewd or immoral
23 conduct in connection with the delivery of professional services to
24 patients;

25 (10) has violated AS 18.16.010;

26 (11) has violated any code of ethics adopted by regulation
27 by the board;

28 (12) has denied care or treatment to a patient or person
29 seeking assistance from the physician if the only reason for the

1 denial is the failure or refusal of the patient to agree to arbitrate
2 as provided in AS 09.55.535(a); or

3 (13) has had a license or certificate to practice medicine
4 in another state, territory of the United States or a province or Can-
5 ada suspended or revoked unless the suspension or revocation was
6 caused by the failure of the licensee to pay fees to that state,
7 territory or province.

8 (b) In a case involving (a)(13) of this section, the final
9 findings of fact, conclusions of law and order of the authority that
10 suspended or revoked a license or certificate constitutes a prima
11 facie case that the license or certificate was suspended or revoked
12 and the grounds under which the suspension or revocation was granted.

13 * Sec. 15. AS 08.64 is amended by adding a new section to read:

14 Sec. 08.64.331. DISCIPLINARY SANCTIONS. (a) If the board finds
15 that a licensee has committed an act set out in AS 08.64.326(a), the
16 board may

- 17 (1) permanently revoke a license to practice;
18 (2) suspend a license for a determinate period of time;
19 (3) censure a licensee;
20 (4) issue a letter of reprimand;
21 (5) place a licensee on probationary status and require the

22 licensee to

23 (A) report regularly to the board on matters involving
24 the basis of probation;

25 (B) limit practice to those areas prescribed;

26 (C) continue professional education until a satisfac-
27 tory degree of skill has been attained in those areas determined
28 by the board to need improvement;

- 29 (6) impose limitations or conditions on the practice of a

1 licensee; or

2 (7) impose one or more of the sanctions set out in (1) -
3 (6) of this subsection.

4 (b) The board may end the probation of a licensee if it finds
5 that the deficiencies which required this sanction have been remedied.

6 (c) The board may summarily suspend a license before final hear-
7 ing or during the appeals process if the board finds that the licensee
8 poses a clear and immediate danger to the public health and safety if
9 the licensee continues to practice. A person whose license is sus-
10 pended under this section is entitled to a hearing by the board no
11 later than seven days after the effective date of the order and the
12 person may appeal the suspension after a hearing to a court of compe-
13 tent jurisdiction.

14 (d) The board may reinstate a license that has been suspended or
15 revoked if the board finds after a hearing that the applicant is able
16 to practice with reasonable skill and safety.

17 (e) The board may suspend a license upon receipt of a certified
18 copy of evidence that a license to practice medicine in another state
19 or territory of the United States or province of Canada has been
20 suspended or revoked. The suspension remains in effect until a hear-
21 ing can be held by the board.

22 (f) The board shall be consistent in the application of disci-
23 plinary sanctions. A significant departure from earlier decisions of
24 the board involving similar situations must be explained in findings
25 of fact or orders made by the board.

26 * Sec. 16. AS 08.64.336 is repealed and reenacted to read:

27 Sec. 08.64.336. DUTY OF PHYSICIANS AND HOSPITALS TO REPORT. (a)
28 A physician who professionally treats a person licensed to practice
29 medicine and surgery or osteopathy in this state for alcoholism or

1 drug addiction, or for mental, emotional or personality disorders,
2 shall report it to the board if the physician providing treatment
3 feels that the person may constitute a danger to the health and wel-
4 fare of that person's patients or the public if that person continues
5 in practice. The report shall state the name and address of the person
6 and the condition found.

7 (b) A hospital that restricts or refuses to grant hospital
8 privileges to a person licensed to practice medicine and surgery or
9 osteopathy in this state because that person poses a danger to the
10 public shall report to the board the name and address of the person
11 and the reasons for restricting or refusing to grant hospital privi-
12 leges.

13 (c) Upon receipt of a report under (a) or (b) of this section,
14 the board shall investigate the matter and, upon a finding of reason-
15 able cause, may appoint a committee of three qualified physicians to
16 examine the licensee and report their findings to the board.

17 (d) If the board finds that the licensee is unable to continue
18 to practice medicine and surgery or osteopathy with reasonable safety
19 to the licensee's patients or the public, it shall initiate action to
20 suspend, revoke, limit or condition the licensee's license to the
21 extent determined necessary for the protection of the public.

22 * Sec. 17. AS 08.64.360 is amended to read:

23 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN
24 VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a
25 physician-trained mobile intensive care paramedic under AS 08.64.170,
26 or a person licensed or authorized under another chapter of this title
27 who engages in practices for which that person is licensed or autho-
28 rized under that chapter, a person practicing medicine or osteopathy
29 in the state without a valid [OBTAINING AND FILING AN APPROPRIATE]

1 license or permit is guilty of a class A misdemeanor [AND UPON CON-
2 VICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN
3 \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90
4 DAYS, OR BY BOTH. EVIDENCE THAT THE DEFENDANT HAS FAILED TO FILE A
5 LICENSE WITH THE CLERK OF THE COURT IS PRIMA FACIE EVIDENCE THAT THE
6 DEFENDANT IS NOT LICENSED]. Each day of illegal practice is a sepa-
7 rate offense.

8 * Sec. 18. AS 08.64.380(2) is repealed and reenacted to read:

9 (2) "practice of medicine" or "practice of osteopathy"

10 means:

11 (A) for a fee, donation or other consideration, to
12 diagnose, treat, operate on, prescribe for, or administer to, any
13 human ailment, blemish, deformity, disease, disfigurement, disor-
14 der, injury, or other mental or physical condition; or to attempt
15 to perform or represent that a person is authorized to perform
16 any of the acts set out in this subparagraph;

17 (B) to use or publicly display a title in connection
18 with a person's name including "doctor of medicine," "physician,"
19 "M.D.," or "doctor of osteopathic medicine" or "D.O." or a
20 specialist designation including "surgeon," "dermatologist," or a
21 similar title, or any title which tends to show that the person
22 is willing or qualified to diagnose or treat the sick or injured;

23 * Sec. 19. AS 08.64.030, 08.64.140, 08.64.200(1), 08.64.325, 08.64.330,
24 and 08.64.380(3) are repealed.

25 * Sec. 20. This Act takes effect immediately in accordance with AS 01.-
26 10.070(c).

The following individuals are expected to testify on HB 332:

Harry Traeger, Director, Division of Occupational Licensing,
Department of Commerce and Economic Development

A representative of the Alaska State Medical Board may testify

1.	POSITION TITLE Investigator III				RAISE/STEP 1BA	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PPP	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRY PRIORITY	LOCATION EJA	ELECTION DISTRICT A11	LEG.		
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION			
4.	TYPE OF EXPENDITURE				AMOUNT		<p>This position is required under CS HB 332 (Fin), "An Act relating to professional licensing and to the regulation of the practice of medicine. (Section 1, AS 08.01.050(c) to conduct investigations into alleged violations of AS 08.84, and into alleged violations of regulations and orders of the State Medical Board)</p>			
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		34.1							
6.	Benefits		5.3							
7.	Supplemental Benefits		2.1							
8.	Fixed Benefits		2.9							
9.	TOTAL PERSONAL SERVICES		01		44.4					
10.	Travel		02		7.2					
11.	Contractual		03		13.0					
12.	Commodities		04		0.4					
13.	Equipment		05		3.4					
14.	Other				---					
15.	TOTAL COST				68.4					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		C.F. Match 1003								
18.		General Funds 1004		68.4						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR BHM USE ONLY										
4A KEY NUMBER										

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
DRU Occupational Licensing
COMPONENT Investigations

Page of
Revised Date

FY 84

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 332
 Title: "Medical Board-Continuation"
 Sponsor: Labor & Commerce Committee
 Requestor: H.E. & S.S. Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: *Darrell Miller*
 Division: Occupational Licensing

Phone: 465-2535
 Date: April 12, 1983

Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Date: 4/13/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

STATE MEDICAL BOARD

Current number of licensees (all categories)		985.
New (initial issue)		66.
FY '82 - Allocation (board travel & per diem only)		13.
Revenue	28.6	
Expenditures		
Board travel and per diem		14.2
* Contractual		2.6
** Personal services		5.7
Total		<u>22.5</u>
FY '83 Allocation (board travel & per diem only)		17.
(7/1/82 to 5/1/83)		
Revenue	83.5	
Expenditures	19.	
Board travel and per diem		10.3
* Contractual		3.
** Personal services		5.7
Total		<u>19.</u>
FY '84 Board Component of DOL budget		205.3
State Medical Board allocation		18.2

* Funded in the division's administrative component

** Personal services = 1/4 of 1 full-time position

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 332
 Title: "Medical Board-Continuation"
 Sponsor: Labor & Commerce Committee
 Requestor: H.E. & S.S. Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Darrell Miller
 Division: Occupational Licensing

Phone: 465-2535
 Date: April 12, 1983

Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Date: 4/13/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

STATE MEDICAL BOARD

Current number of licensees (all categories)		985.
New (initial issue)		66.
FY '82 - Allocation (board travel & per diem only)		13.
Revenue	28.6	
Expenditures		
Board travel and per diem		14.2
* Contractual		2.6
** Personal services		5.7
Total		<u>22.5</u>
FY '83 Allocation (board travel & per diem only)		17.
(7/1/82 to 5/1/83)		
Revenue	83.5	
Expenditures	19.	
Board travel and per diem		10.3
* Contractual		3.
** Personal services		5.7
Total		<u>19.</u>
FY '84 Board Component of DOL budget		205.3
State Medical Board allocation		18.2

* Funded in the division's administrative component

** Personal services = 1/4 of 1 full-time position

A PERFORMANCE REVIEW OF THE
ALASKA STATE MEDICAL BOARD

July 30, 1982

Audit Control Number
08-112-0082-R

Commissioner, Department
of Commerce and Economic
Development

Charles R. Webber

Deputy Commissioner,
Department of Commerce and
Economic Development

Edward Eboch

Members of the
Alaska State Medical Board

Chairman
Secretary
Member
Member
Member
Member
Member

Jeffrey A. Partnow, M.D.
Donald R. Rooney, M.D.
Hugh Gellert
George R. Brenneman, M.D.
Thomas Kinsella
George E. Rhyneer, M.D.
T.L. Conley, M.D.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

August 18, 1982

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the
Alaska Statutes, the attached report is submitted for your
review.

A PERFORMANCE REVIEW OF THE ALASKA STATE MEDICAL BOARD

July 30, 1982



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose and Scope of the Review.	1
Organization and Function.	2
Report Conclusions	3
Findings and Recommendations	4
Auditor's Comments	5
Analysis of Public Need.	6
Appendixes:	
A. State Medical Board Revenues Compared with Expenditures12
Agency Responses:	
Chairman, Alaska State Medical Board14
Department of Commerce and Economic Development.17

PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of AS 24.20.271(1) and AS 44.66.050 (sunset legislation), a review of the Alaska State Medical Board was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Alaska State Medical Board should be reestablished. The law currently specifies that this Board will terminate on June 30, 1983, but will continue until June 30, 1984, for the purpose of concluding its affairs.

Scope

The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint, and affirmative action functions. Our review consisted of analyzing and evaluating the following:

1. Applicable statutes and Board regulations;
2. tests of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development;
3. interviews with OL employees;
4. complaints filed with OL, the Ombudsman's Office, and the Equal Employment Opportunity Office; and,
5. interviews with Board members.

ORGANIZATION AND FUNCTION

The State Medical Board is a regulatory board with 7 members: 5 licensed physicians, and 2 public members with no direct financial interest in the health care industry. It is preferable that the licensed physicians reside in as many separate Alaska judicial districts as possible.

The function of the Board is to determine the minimum quality of medical care by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing or amending rules and regulations necessary and desirable to enforce the statutes of the State.
3. Holding hearings in order to revoke, annul, or suspend the license of a person violating the medical statutes and regulations.

The Board regulates the following groups engaged in medical practice in Alaska: physicians, osteopaths, physician assistants (PA's), podiatrists, and acupuncturists. Most licensing requirements are established by statute. However, statutes have granted power to waive some requirements in favor of conditions concerning special licenses--those by endorsement, those for temporary licensure up to 8 months or until the Board meets to consider the application, whichever occurs first, and a temporary locum tenens permit which is valid for 120 consecutive days.

An applicant for registration as a medical practitioner must have passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States. An oral interview is also administered by a member of the Board. Foreign medical graduates who are graduated from medical colleges not recognized by the American Medical Association or one of its agencies must be certified by the Educational Council of Foreign Medical Graduates or be licensed by examination in another state or territory of the United States or a province in Canada.

Licensure by a temporary permit allows a practitioner the opportunity to practice medicine when all other requirements are met. It is renewable only once.

REPORT CONCLUSIONS

In our opinion, the State Medical Board should be reestablished. The practices of medicine, osteopathy, and acupuncture by physicians, osteopaths, physician assistants, paramedics, and podiatrists is regulated by the Alaska State Medical Board. Because these occupations affect the public's health, safety, and welfare, in our opinion they should be subject to regulations and controls.

Establishing minimum educational and experience requirements provided reasonable assurance to the public that licensees are qualified. In addition, active investigation of complaints from the public and other practitioners ensures that licensees continue to practice in a competent manner.

In our opinion, these functions are needed for the protection of the public. Although we believe the Medical Board has effectively accomplished these functions, we are making a recommendation which we believe is needed in order for the State Medical Board to more effectively serve the Alaska public.

We recommend legislative consideration be given to statutory change which would (1) define unprofessional conduct or practices, (2) require hospitals to notify the Medical Board when a practitioner is deemed a potential danger to the public, and (3) change the composition of the Board to represent all persons regulated (see Recommendation No. 1).

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Legislative consideration should be given to regulatory changes concerning the disciplinary process and the composition of the Board.

The 1978 audit recommended the establishment of regulations to ensure consumer complaints receive an impartial examination on the basis of merit. CSSB 237 delineated the grounds for imposition of disciplinary sanctions and disciplinary actions to be imposed. These grounds included unprofessional business practices as well as malpractice. This bill did not pass, and we recommend that it be reintroduced to the Legislature.

In addition, we believe statutory changes in the following areas would benefit the public:

- A. Hospitals should be required to notify the State Medical Board when a practitioner's hospital privileges are refused or restricted because that person is a real or potential danger to the public. If hospitals were to report such actions, the Medical Board could initiate an investigation to determine if a questionable practitioner should retain his or her license.
- B. The Board should adequately represent those persons it regulates. The Board regulates 689 physicians, 73 physician assistants, 53 paramedics, and 10 podiatrists. The Board is currently composed of 5 physicians and 2 public members. Allowing participation of all occupations regulated by the Board would ensure that one occupational group does not promote its interests over the interests of an unrepresented occupational group.

AUDITOR'S COMMENTS

The illness of one of the Division's three full-time investigators resulted in minimal investigative effort for the State Medical Board during the last year as the Division could not replace him until his resignation of June 2, 1982. The Division hired an investigator to fill this position as of June 28, 1982.

As a result of this situation, investigative effort was not sufficient to provide adequate public protection.

Once the unit is fully operational, we believe a management analysis would be in order to determine if additional resources are needed to help reduce the backlog of 44 cases, 17 of which are priority I (life threatening).

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative attainments as Board activities relate to the public need factors defined in the "Sunset" law. These analyses are not intended to be comprehensive in nature, but address those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission or program has operated in the public interest.
 - A. The following demonstrate the Board's performance in the public's best interest:
 1. The board has held an average of 4 meetings a year in various locations in Alaska.
 2. The Board provided an examination twice a year for candidates.
 3. Since 1978, the Board has established regulations for continuing Medical Education, Physician Assistants, and Paramedics.
 - B. The following conditions and activities existed which could not be demonstrated to be in the public's best interest:
 1. There has been no examination of complaints by consumers because AS 08.64.380 does not specify unethical economic or business practices as unprofessional conduct (see Recommendation No. 1).
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource and personnel matters.
 - A. The following enhanced the performance of the Medical Board.
 1. The Board received funding and support from OL in the amount of \$108,704 (see Appendix A).
 2. The Board received assistance in drafting legislation and regulatory changes from OL.

3. The Board receives legal assistance from the Attorney General's Office.
 4. The Board receives cooperation from the Department of Health and Social Services in licensing paramedics as a result of a Memorandum of Agreement between the two agencies.
- B. The following practices have impeded the Board's performance:
1. The Division of Occupational Licensing (OL) has not been able to provide the necessary investigative effort required by AS 08.01.050(19); and the Board has not been able to provide regulations covering unethical or improper actions on the part of licensees (see Auditor's Comments).
- III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.
- A. The following statutory changes were recommended by the Board:
1. The Board has recommended and strongly supported passage of CSSB 237 delineating grounds for imposition of disciplinary sanctions and sanctions to be imposed among other changes to the Medical Practices Act.
- IV. 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 which it has provided.
- A. Encouragement of persons to report to the Board is demonstrated by the following:
1. The placement of advertisements requesting input on proposed regulation changes.
- V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.
- A. The Board's meetings and examinations are advertised in newspapers by OL to encourage public

participation. In one case, OL had not placed an advertisement for an examination.

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

A. The Office of the Ombudsman and the Attorney General's Office has no consumer complaints regarding the Alaska State Medical Board.

B. There is no provision for consumer complaints in AS 08.64 (see Recommendation No. 1).

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

A. The following demonstrate the Board's performance in presenting qualified applicants, and ensuring their continued competence:

1. The Board has issued 349 licenses, temporary permits, locum tenens permits, physician assistant authorizations, and paramedic authorizations since July 1981.

2. The Board has demonstrated a liberal policy of licensing by endorsing physicians from other states.

3. The Board requires foreign Medical Graduates to have qualifications equivalent to other applicants. This is evidenced by the requirement of the FLEX exam and of completed internship or residency. Note that the requirement of an internship or residency makes it impossible for any medical school graduate to come directly to Alaska upon graduation, since there are no internship or residency programs in Alaska.

VIII. 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.

A. According to the State Equal Employment Opportunity Office, applications require

unnecessary information such as an applicant's date and place of birth, weight, height, social security number, and sex. However, the Board believes this information is needed to facilitate its background investigations for licensure.

IX. 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.

A. The Division of Legislative Audit has recommended a review of the following statutes for possible revision:

1. A statutory change for AS 08.64.010 should be considered to allow all occupations regulated by the Board to be represented on the Board (see Recommendation No. 1).
2. A statutory change for AS 08.64.336 should be considered to require hospitals to report to the Medical Board when a practitioner's hospital privileges are refused or restricted because that person poses a danger to the public (see Recommendation No. 1).

B. The Division of Legislative Audit has recommended that the Medical Board consider regulations to protect the public in the following areas:

1. Regulations are needed to make actions on the part of licensed persons, which are unethical, improper, and not in the best interest of the welfare of the public violations of the licensing act (see Recommendation No. 1).

APPENDIXES

APPENDIX A

ALASKA STATE MEDICAL BOARD
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

Average Revenue (Schedule 1 and Note 1)	\$ 49,502
Expenditures (Note 2)	
Direct Expenditures	\$14,050
Indirect Expenditures	<u>94,654</u>
Total Expenditures	<u>108,704</u>
<u>Excess of Revenues Over Expenditures</u>	<u>\$(59,202)</u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Application Fee	\$ 25	With Application
Examination Fee	125	With Application
Endorsement Fee	100	With Application
Temporary Permits	25	With Application
Locum Tenens Permits	25	With Application
Renewal, Active	100	Biennially
Renewal, Inactive	25	Biennially
Reexamination Fee:		
Part I	\$15	With Application
Part II	20	With Reapplication
Part III	<u>40</u>	75 With Reapplication
Parts I and II by Individual Subject	10	With Reapplication
Physician Assistant:		
Authorization Fee	25	With Application
Renewal Fee	25	Biennially
Paramedic:		
Authorization Fee	50	With Application
Renewal Fee	50	Biennially

Note 1

Most of the medical revenues are composed of renewal registration fees. These fees are collected once every two years and cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average of the revenues collected in fiscal years 1980 and 1981 in order to obtain an accurate representation of collected revenues.

Note 2

Direct expenditures include Board travel and those expenditures shown for the Board in the Division's accounts. Indirect expenditures are an allocated percentage of the administrative expenses of OL and an allocated percentage of the investigative expenses of OL. They do not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board and OL.

FAIRBANKS INTERNAL MEDICINE
and
DIAGNOSTIC CENTER, INC.
1919 LATHROP STREET
FAIRBANKS, ALASKA 99701
(907) 452-4769

INTERNAL MEDICINE
WILLIAM H. DOOLITTLE, M.D. F.A.C.P.
JEFFREY A. PARTNOW, M.D.

INTERNAL MEDICINE, HEMATOLOGY & ONCOLOGY
J. MICHAEL CARROLL, M.D.

INTERNAL MEDICINE & AVIATION MEDICINE
DAVID S. GRAUMAN, M.D.

September 29, 1982

RECEIVED
OCT 04 1982
LEGISLATIVE
AUDIT

Gerald Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

Dear Mr. Wilkerson:

Thank you for your recent letter, as well as the copy of the "Preliminary Audit Report". In accordance with a telephone report from Patricia Harms of your Division, I have had copies made and forwarded them to the other Board members as well as to the Division of Occupational Licensure. I have informed those who will be receiving copies that the report is confidential and not for public release.

My comments are as follows (please refer to the cited page of the audit):

Page 2: The Board also regulates mobile intensive care paramedics in addition to those professions listed. This omission is obviously an oversight since the audit recognizes (page 7, pgh 4) the Memorandum of Agreement between the Board and Department of Health and Social Services dealing with this group.

Page 4: Recommendation #1 - I agree wholeheartedly with the recommendation as stated. As I have previously indicated to the Auditors, I have some reservations relating to adequate representation of those persons it regulates. In order to obtain proportional representation, the size of the Board would have to be large, clearly resulting in "large group inefficiencies". I would be absolutely opposed to any legislation depriving us of our public members or any dilution of the medical expertise which the Board needs in dealing with disciplinary and licensing matters. In principle, I would like to see "non-M.D. professional representation" on the Board provided that the Board does not become large and unwieldy, and I would suggest that the best way to accomplish this would be a statutory change adding one additional position to the Board to be chosen from amongst the other regulated groups in whatever manner the governor deems appropriate. I do not feel that the Board has short-shrifted any of the non-physician groups which it currently regulates, however, and such a change may be simply solving a problem which does not exist. Currently, the Board makes use of the Alaskan Academy of Physician Assistants, as well as representatives of the Paramedics and Podiatrists in dealing with licensure and regulation of these groups.

Page 2

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

continuation Page 4 -

I am personally unaware of any changes in regulations or licensing which the Board has made over the past four years, in the absence of consultation and advice of the affected group.

As regarding the remainder of the recommendation, I enthusiastically applaud the Auditor's endorsement of CSSB 237. The Board has requested that this be reintroduced into the next legislative session (Board resolution September 10, 1982 at a meeting in Nome), and this has been done. In addition to the features of the Bill which are mentioned, the Bill also creates a position of Executive Officer for the Board (certainly not a precedent - the Board of Nursing, Real Estate Examiners, etc. already have Executive Officers). The Board feels this will "keep the ball rolling" between meetings, improve the efficiency of staff support, and allow for better tracking of our various legislative concerns. Further, by establishing the position of an investigator responsible primarily to the Board, we feel that the investigative deficiencies to which the Audit refers (page 5) can be abolished.

Finally, the Board members feel that statutory change to require hospitals to notify the Board in case of serious credentialing action which would help the Board become aware of potential problems before they become actual problems.

Page 7, pgh B. The Board has not been able to provide regulations covering unethical or improper actions on the part of licensees, feeling that this is essentially an impossible task. A number of national professional groups have attempted to formulate a formal code of ethics in the past, most notably the American Medical Association, but these have been almost universally abandoned. Although the Legislature has apparently granted to the Board the power to adopt in regulation a code of ethics, AS08.64.380.G, I suspect that it would prove difficult if not impossible to formulate a comprehensive ethical code.

In summary, I feel that the "Preliminary Audit Report" is fair and accurate. With the reservations expressed above, I agree with the recommendation enclosed in the report. I feel that the report accurately reflects the public spirited efforts of the Board and its various members, and I feel that Ms. Harms and Mr. Busch have done a commendable job in identifying the problems against which the Board has to struggle in order to accomplish its goals and objectives.

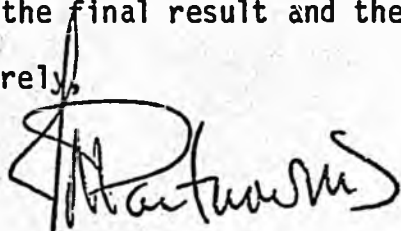
As only one of two "leftovers" from the first audit of the Board several years ago, I am personally appreciative of the time and consideration which the auditors spent in order to provide a fair and accurate assessment of the Board's status.

Page 3

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

As Chairman, I feel that I speak for the Board in saying that I appreciate both the final result and the effort which went into the report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Partnow". The signature is written in a cursive style with a large, stylized initial "J".

Jeffrey A. Partnow, M.D., Chairman
Alaska State Medical Board

JAP/co

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

October 13, 1982

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

RECEIVED
OCT 14 1982

LEGISLATIVE
AUDIT

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary Performance Review of the Alaska State Medical Board. The Department of Commerce and Economic Development agrees with your finding that the Medical Board has been operating in the public interest and should be continued.

The department concurs with your recommendations that an equivalent to the former CSSB 237 be introduced in the 1983 legislative session and that hospitals be required to notify the Medical Board when a practitioner's hospital privileges have been refused or restricted due to the practitioner's actual or potential danger to the public.

The department does not feel that the composition of the board should be changed at this time. Liability for the authorization of physician assistants and paramedics to practice lies solely with their collaborating physicians. There are only ten podiatrists licensed by the board, of which only four presently reside in Alaska. A member from this profession on the board does not appear to be necessary.

Lastly, we are in basic agreement with the auditor's comments on page 5 of the report. The investigative unit is presently fully staffed, and complaints are being handled in an expeditious manner. As of June 30, 1982, 21 cases were reported as pending. During a recent board meeting (September 9-10, 1982) 15 were closed. There are presently six active cases, none are priority one. In this regard, we would like to comment on the choice of the word "backlog" to describe those cases which are presently under investigation. We believe that the term "backlog" may be misleading to the extent that it implies that no investigative action has been taken on a case. All complaints presently filed with the Division of Occupational Licensing are being actively investigated and their status is more correctly described as "active." A single case may remain open for an extended period of time and receive substantial attention because of its complexity and would be considered an "active" case rather than a "backlog" case in our terminology.

Mr. Gerald L. Wilkerson, CPA

-2-

October 13, 1982

The above comments notwithstanding, the department concurs with the basic recommendation that closer management analysis is appropriate here to determine whether additional investigative support is necessary.

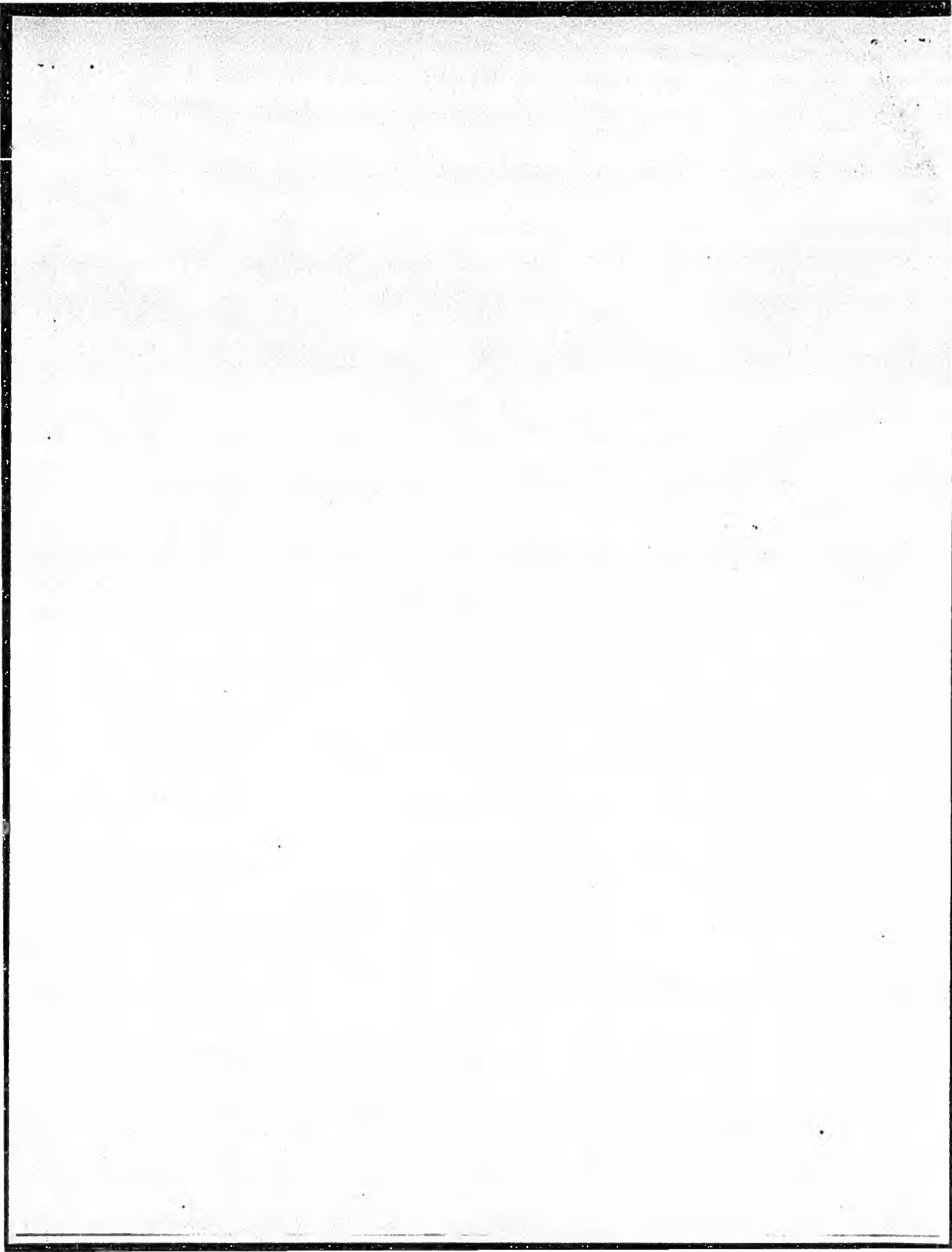
Thank you again for the opportunity to comment on your findings.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles R. Webber", with a long horizontal line extending to the right.

Charles R. Webber
Commissioner

CRW/mc1/8



STATE OF ALASKA

WALT FURNACE, CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
NIILLO E. KOPONEN
HUGH MALONE
JOHN RINGSTAD
RON WENDTE



POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE

March 4, 1983

Representative Joe Hayes, Speaker of House
Alaska House of Representatives
Pouch V,
Juneau, Alaska 99811

Re: Alaska State Medical Board

Dear Mr. Speaker:

Pursuant to AS 44.66.050(a) the House Labor and Commerce Committee has held hearings regarding the above referred Board. Under AS 44.66.050(e) the Committee recommends adoption of the attached Committee Bill continuing the Board. The Legislative Budget & Audit Committee report outlined some concerns that have been reviewed by the Alaska State Medical Board. The Labor & Commerce Committee is satisfied that those concerns are being addressed in an expeditious manner.

The Committee believes the Alaska State Medical Board should be reestablished. The Alaska State Medical Board regulates the practices of medicine, osteopathy, and acupuncture by physicians, osteopaths, physician assistants, paramedics, and podiatrists. By establishing minimum educational and experience requirements and actively investigating complaints from the public and other practitioners, the Alaska State Medical Board provides a

needed public service. Specifically, the findings of the Committee of the public need for the Board as required under AS 44.66.050(c) are as follows:

AS 44.66.050(c) " A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:"

(1) the extent to which the board, commission or program has operated in the public interest;

The Alaska State Medical Board provides for examinations twice a year and has held an average of 4 meetings a year in various locations throughout the State.

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

The Alaska State Medical Board has been impeded in its operation by the lack of statutory authority to address licensing and business practice(s) violations. Also, the Division of Occupational Licensing has been unable to provide support necessary to the Board and the Courts are not placing emphasis on the findings of the Board developed through the hearing process.

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

The Alaska State Medical Board has recommended and strongly supported legislation to correct these problem areas.

(4) 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 which it has provided;

The Alaska State Medical Board has encouraged interested persons to report by advertising and requesting public input on proposed regulation changes.

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

The Division of Occupational Licensing places advertisements of the Alaska State Medical Board's meetings and examinations.

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

While there have been no consumer complaints filed with the Ombudsman or the Attorney General's Office regarding the Alaska State Medical Board, there is no provision for consumer complaints in AS 08.64.

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

The Alaska State Medical Board has issued 349 licenses, temporary permits, locum tenens permits, physician assistant authorizations, and paramedic authorizations since July 1981. The Board has a liberal policy of licensing by endorsing physicians from other states. The Alaska State Medical Board requires the FLEX exam and of completed internship or residency which serves to protect the public.

(8) 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; and

The Committee believes the Alaska State Medical Board to be in compliance with applicable law and regulation.

(9) 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 Committee believes adoption of the proposed legislation would better serve to protect the interests of the public.

Pursuant to AS 44.66.050(d) the Committee recommends the following:

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding

officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

The Alaska State Medical Board regulates the medical practice of physicians, osteopaths, physician assistants, podiatrists, and acupuncturists.

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

The objective of the Alaska State Medical Board is to ensure that the public is provided safe and effective medical care by qualified health care professionals.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

The Committee found no other program having similar, conflicting or duplicate objectives.

(4) an assessment of alternative methods of achieving the purposes of the program;

The Committee could find no viable alternative method of achieving the purposes of the Alaska State Medical Board.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

The Committee believes the consequence of eliminating the Alaska State Medical Board or funding its activities at a lower level would be an unnecessary exposure to potential improper medical care.


(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

The critical necessity for proper medical treatment is the primary justification for the continuation of the Alaska State Medical Board.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

The Alaska State Medical Board should be given legislative support in addressing the concerns outlined by the Legislative Budget and Audit report.

Respectfully submitted:



Representative Walt Furnace, Chairman

(S)

Representative Rick Uehling, Vice Chairman

(S)

Representative John Cowdery

(S)

Representative Niilo Koponen

151

Representative Hugh Malone

151

Representative John Ringstad

Representative Ron Wendte

SECTIONAL ANALYSIS OF PROPOSED CS HB 332 (FINANCE)

TITLE: An Act relating to professional licensing and to the regulation of the practice of medicine, and extending the termination date of the State Medical Board; and providing for an effective date.

SECTION 1. Allows the Board to hire an investigator to investigate consumer complaints, and lists the duties of the Board. This is in response to audit findings that there is too much lag time in investigating physicians reported to the Board.

SECTION 2. Extends the life of the Board until June 30, 1987.

SECTION 3. Amends current law to provide that physicians appointed to the Board must be licensed in Alaska and represent different geographical areas to the greatest extent possible.

SECTION 4. Amends current law by limiting successive Board terms to two and provides for appointment of staggered four year terms.

SECTION 5. Allows the Board to remove a member for not attending board meetings.

SECTION 6. Requires a minimum of four board meetings per year.

SECTION 7. Amends current law by providing duties of the Board; presently no duties are specified in statute.

SECTION 8. Amends current law by exempting a person licensed under another chapter of this title from the requirements of this chapter.

SECTION 9. In response to audit findings, specifies the reasons to refuse licensure to an applicant. The wording found offensive was the reference to "morally...unfit".

SECTION 10. Amends current law by changing "endorsement" to "credentials" and by requiring podiatrists to be licensed as well.

SECTION 11. Provides that podiatrists, as well as physician assistants and osteopaths, can get temporary permits.

SECTION 12. Changes timeframe for license renewal from two to four years.

SECTION 13. Raises license and application fees, resulting in \$549,000 additional revenue which will more than pay for the

investigator position provided for in section 1. (See fiscal note.)

SECTION 14. Amends current law by specifying grounds for disciplinary action.

SECTION 15. Amends current law by providing for disciplinary sanctions.

SECTION 16. Provides that hospitals must report to the Board if they restrict or refuse hospital privileges of a physician. Again, this is a response to audit findings.

SECTION 17. Provides that a person practicing without a license or permit is guilty of a class A misdemeanor.

SECTION 18. Provides for a clearer definition of the practice of medicine and the practice of osteopathy.

SECTION 19. Repeals current law relating to substitution of members at board meetings, annual report to the Governor, the "good moral character" language discussed in the analysis of section 9, limits or conditions on license and discipline, grounds for revocation of license, and elimination of "unprofessional or dishonorable conduct" from the definition section.

SECTION 20. Provides for an immediate effective date.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

HB 332

I. REQUEST

Bill/Resolution No.: HB 332
 Title: "Medical Board-Continuation"
 Sponsor: Labor & Commerce Committee
 Requestor: H.E. & S.S. Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected:
 Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Darrell Miller
 Division: Occupational Licensing
 Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Phone: 465-2535
 Date: April 12, 1983
 Date: 4/13/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

STATE MEDICAL BOARD

Current number of licensees (all categories)		985.
New (initial issue)		66.
FY '82 - Allocation (board travel & per diem only)		13.
Revenue	28.6	
Expenditures		
Board travel and per diem		14.2
* Contractual		2.6
** Personal services		5.7
Total		<u>22.5</u>
FY '83 Allocation (board travel & per diem only)		17.
(7/1/82 to 5/1/83)		
Revenue	83.5	
Expenditures	19.	
Board travel and per diem		10.3
* Contractual		3.
** Personal services		5.7
Total		<u>19.</u>
FY '84 Board Component of DOL budget		205.3
State Medical Board allocation		18.2

* Funded in the division's administrative component
 ** Personal services = 1/4 of 1 full-time position

Levy
5-4-83

Original sponsor: Labor and Commerce
Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 332 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of medicine, and extending
8 the termination date of the State Medical Board; and
9 providing for an effective date."

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

11 * Section 1. AS 08.01.050 is amended by adding a new subsection to
12 read:

13 (c) After consulting with the State Medical Board (AS 08.64.-
14 010). the department shall employ an individual who is not a member of
15 the board to be assigned as the investigator for the board. The
16 investigator shall

17 (1) conduct investigations into alleged violations of
18 AS 08.64, and into alleged violations of regulations and orders of the
19 State Medical Board;

20 (2) at the request of the State Medical Board, conduct
21 investigations based on complaints filed with the department or with
22 the board; and

23 (3) be directly responsible and accountable to the State
24 Medical Board, except that only the department has authority to termi-
25 nate the investigator's employment and the department shall provide
26 day to day and administrative supervision of the investigator.

27 * Sec. 2. AS 08.03.010(c)(11) is amended to read:

28 (11) State Medical Board (AS 08.64.010) -- June 30, 1987
29 [1983].

1 * Sec. 3. AS 08.64.010 is amended to read:

2 Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD.
3 The governor shall appoint a board of medical examiners, to be known
4 as the State Medical Board, consisting of five [LICENSED] physicians
5 licensed in the state and [,] residing in as many separate geograph-
6 ical areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and
7 two persons with no direct financial interest in the health care
8 industry.

9 * Sec. 4. AS 08.64.020 is amended to read:

10 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members
11 shall be appointed for staggered terms [A TERM] of four years, subject
12 to confirmation by a majority of the members of the legislature in
13 joint session, and shall hold office until their successors are ap-
14 pointed and qualified. A person who has served two successive com-
15 plete terms may not be reappointed until four years after the expira-
16 tion of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD
17 SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

18 * Sec. 5. AS 08.64.040 is amended to read:

19 Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a
20 member of the board for cause. The board may by regulation provide
21 that unexcused absences from meetings is cause for removal.

22 * Sec. 6. AS 08.64 is amended by adding a new section to read:

23 Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall meet at
24 least four times a year.

25 * Sec. 7. AS 08.64 is amended by adding a new section to read:

26 Sec. 08.64.101. DUTIES. The board shall

27 (1) examine and issue licenses to applicants;

28 (2) develop written guidelines to insure that licensing
29 requirements are not unreasonably burdensome and the issuance of

NEW LANGUAGE

1 licenses is not unreasonably withheld or delayed;

2 (3) establish a procedure to provide for binding arbitra-
3 tion by an impartial arbitrator to resolve a dispute between an appli-
4 cant and the board;

5 (4) submit an annual report of its proceedings to the
6 governor, including a statement of money received and disbursed;

7 (5) after a hearing, impose disciplinary sanctions on per-
8 sons who violate this chapter, or the regulations or orders of the
9 board;

10 (6) adopt regulations insuring that renewal of licenses is
11 contingent upon proof of continued competency on the part of the
12 licensee.

13 * Sec. 8. AS 08.64.170(a) is amended to read:

14 (a) A person may not practice medicine, podiatry, osteopathy, or
15 acupuncture in the state unless the person is licensed under this
16 chapter, except that

17 (1) a physician assistant may examine, diagnose or treat
18 persons under the supervision, control, and responsibility of either a
19 physician licensed under this chapter or a physician exempted from li-
20 ensing [LICENSURE] under AS 08.64.370;

21 (2) a physician-trained mobile intensive care paramedic may
22 render emergency lifesaving service; [AND]

23 (3) a person licensed under AS 08.36 may perform acupunc-
24 ture in the regular practice of dentistry, subject to the regulations
25 of the Board of Dental Examiners; and

26 (4) a person who is licensed or authorized under another
27 chapter of this title may engage in a practice that is authorized un-
28 der that chapter.

29 * Sec. 9. AS 08.64.240 is repealed and reenacted to read:

1 Sec. 08.64.240. LICENSE REFUSED. (a) The board may not grant a
2 license if

- 3 (1) the applicant fails or cheats during the examination;
4 (2) the board determines that the applicant is profes-
5 sionally unfit to practice medicine or osteopathy in the state; or
6 (3) the applicant fails to comply with a requirement of
7 this chapter.

8 (b) The board may refuse to grant a license to any applicant for
9 the same reasons that it may impose disciplinary sanctions under
10 AS 08.64.326.

11 * Sec. 10. AS 08.64.250 is amended to read:

12 Sec. 08.64.250. LICENSE [LICENSURE] BY CREDENTIALS [ENDORSE-
13 MENT]. The board may waive the examination requirement and license by
14 credentials [ENDORSEMENT] if the physician or podiatry applicant meets
15 the requirements of AS 08.64.200 or 08.64.209, submits proof of con-
16 tinued competence as required by regulation, pays the required fee and
17 has

18 (1) an active license from a board of medical examiners
19 established under the laws of a state or territory of the United
20 States or a province of Canada issued after thorough examination; or

21 (2) passed an examination given by the National Board of
22 Medical Examiners or the Federation of State Medical Boards of the
23 United States if the applicant is a physician, or passed an examina-
24 tion given by the National Board of Podiatry Examiners if the appli-
25 cant is a podiatrist.

26 * Sec. 11. AS 08.64.270(a) is amended to read:

27 (a) The board may issue a temporary permit to an applicant who
28 meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209
29 and pays the required fee.

* Sec. 12. AS 08.64.311 is amended to read:

Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be renewed four years after the date of issue [BIENNIALY].

* Sec. 13. AS 08.64.315 is amended to read:

Sec. 08.64.315. FEES. The following fees are imposed under this chapter:

- (1) application \$ 50 [\$25]
- (2) license by examination 200 [125]
- (3) license by credentials [ENDORSEMENT]
- or waiver of examination 200 [100]
- (4) temporary permit 50 [25]
- (5) locum tenens permit 50 [25]
- (6) license renewal [, BIENNIAL], active . . . 600 [100]
- (7) license renewal [, BIENNIAL], inactive . . 200 [25]
- (8) license by reexamination 150 [75]

* Sec. 14. AS 08.64 is amended by adding a new section to read:

Sec. 08.64.326. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS. (a) The board may impose a sanction if the board finds after a hearing that a licensee

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation while providing professional services or engaging in professional activities;

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

(4) has been convicted, including conviction based on a guilty plea or plea of nolo contendere, of

(A) a felony or other crime if the felony or other

1 crime is substantially related to the qualifications, functions,
2 or duties of the licensee; or

3 (B) a crime involving the unlawful procurement, sale,
4 prescription or dispensing of drugs;

5 (5) has procured, sold, prescribed or dispensed drugs in
6 violation of a law, regardless of whether there has been a criminal
7 action;

8 (6) intentionally or negligently permitted the performance
9 of patient care by persons under the licensee's supervision that does
10 not conform to minimum professional standards even if the patient was
11 not injured;

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

14 (8) has demonstrated

15 (A) professional incompetence, gross negligence or re-
16 peated negligent conduct;

17 (B) addiction to, severe dependency on, or habitual
18 overuse of alcohol or other drugs which impairs the licensee's
19 ability to practice safely;

20 (C) unfitness because of physical or mental disabil-
21 ity;

22 (9) engaged in unprofessional conduct or in lewd or immoral
23 conduct in connection with the delivery of professional services to
24 patients;

25 (10) has violated AS 18.16.010;

26 (11) has violated any code of ethics adopted by regulation
27 by the board;

28 (12) has denied care or treatment to a patient or person
29 seeking assistance from the physician if the only reason for the

1 denial is the failure or refusal of the patient to agree to arbitrate
2 as provided in AS 09.55.535(a); or

3 (13) has had a license or certificate to practice medicine
4 in another state, territory of the United States or a province or Can-
5 ada suspended or revoked unless the suspension or revocation was
6 caused by the failure of the licensee to pay fees to that state,
7 territory or province.

8 (b) In a case involving (a)(13) of this section, the final
9 findings of fact, conclusions of law and order of the authority that
10 suspended or revoked a license or certificate constitutes a prima
11 facie case that the license or certificate was suspended or revoked
12 and the grounds under which the suspension or revocation was granted.

13 * Sec. 15. AS 08.64 is amended by adding a new section to read:

14 Sec. 08.64.331. DISCIPLINARY SANCTIONS. (a) If the board finds
15 that a licensee has committed an act set out in AS 08.64.326(a), the
16 board may

- 17 (1) permanently revoke a license to practice;
- 18 (2) suspend a license for a determinate period of time;
- 19 (3) censure a licensee;
- 20 (4) issue a letter of reprimand;
- 21 (5) place a licensee on probationary status and require the

22 licensee to

23 (A) report regularly to the board on matters involving
24 the basis of probation;

25 (B) limit practice to those areas prescribed;

26 (C) continue professional education until a satisfac-
27 tory degree of skill has been attained in those areas determined
28 by the board to need improvement;

- 29 (6) impose limitations or conditions on the practice of a

1 licensee; or

2 (7) impose one or more of the sanctions set out in (1) -
3 (6) of this subsection.

4 (b) The board may end the probation of a licensee if it finds
5 that the deficiencies which required this sanction have been remedied.

6 (c) The board may summarily suspend a license before final hear-
7 ing or during the appeals process if the board finds that the licensee
8 poses a clear and immediate danger to the public health and safety if
9 the licensee continues to practice. A person whose license is sus-
10 pended under this section is entitled to a hearing by the board no
11 later than seven days after the effective date of the order and the
12 person may appeal the suspension after a hearing to a court of compe-
13 tent jurisdiction.

14 (d) The board may reinstate a license that has been suspended or
15 revoked if the board finds after a hearing that the applicant is able
16 to practice with reasonable skill and safety.

17 (e) The board may suspend a license upon receipt of a certified
18 copy of evidence that a license to practice medicine in another state
19 or territory of the United States or province of Canada has been
20 suspended or revoked. The suspension remains in effect until a hear-
21 ing can be held by the board.

22 (f) The board shall be consistent in the application of disci-
23 plinary sanctions. A significant departure from earlier decisions of
24 the board involving similar situations must be explained in findings
25 of fact or orders made by the board.

26 * Sec. 16. AS 08.64.336 is repealed and reenacted to read:

27 Sec. 08.64.336. DUTY OF PHYSICIANS AND HOSPITALS TO REPORT. (a)
28 A physician who professionally treats a person licensed to practice
29 medicine and surgery or osteopathy in this state for alcoholism or

1 drug addiction, or for mental, emotional or personality disorders,
2 shall report it to the board if the physician providing treatment
3 feels that the person may constitute a danger to the health and wel-
4 fare of that person's patients or the public if that person continues
5 in practice. The report shall state the name and address of the person
6 and the condition found.

7 (b) A hospital that restricts or refuses to grant hospital
8 privileges to a person licensed to practice medicine and surgery or
9 osteopathy in this state because that person poses a danger to the
10 public shall report to the board the name and address of the person
11 and the reasons for restricting or refusing to grant hospital privi-
12 leges.

13 (c) Upon receipt of a report under (a) or (b) of this section,
14 the board shall investigate the matter and, upon a finding of reason-
15 able cause, may appoint a committee of three qualified physicians to
16 examine the licensee and report their findings to the board.

17 (d) If the board finds that the licensee is unable to continue
18 to practice medicine and surgery or osteopathy with reasonable safety
19 to the licensee's patients or the public, it shall initiate action to
20 suspend, revoke, limit or condition the licensee's license to the
21 extent determined necessary for the protection of the public.

22 * Sec. 17. AS 08.64.360 is amended to read:

23 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN
24 VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a
25 physician-trained mobile intensive care paramedic under AS 08.64.170,
26 or a person licensed or authorized under another chapter of this title
27 who engages in practices for which that person is licensed or autho-
28 rized under that chapter, a person practicing medicine or osteopathy
29 in the state without a valid [OBTAINING AND FILING AN APPROPRIATE]

1 license or permit is guilty of a class A misdemeanor [AND UPON CON-
2 VICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN
3 \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90
4 DAYS, OR BY BOTH. EVIDENCE THAT THE DEFENDANT HAS FAILED TO FILE A
5 LICENSE WITH THE CLERK OF THE COURT IS PRIMA FACIE EVIDENCE THAT THE
6 DEFENDANT IS NOT LICENSED]. Each day of illegal practice is a sepa-
7 rate offense.

8 * Sec. 18. AS 08.64.380(2) is repealed and reenacted to read:

9 (2) "practice of medicine" or "practice of osteopathy"

10 means:

11 (A) for a fee, donation or other consideration, to
12 diagnose, treat, operate on, prescribe for, or administer to, any
13 human ailment, blemish, deformity, disease, disfigurement, disor-
14 der, injury, or other mental or physical condition; or to attempt
15 to perform or represent that a person is authorized to perform
16 any of the acts set out in this subparagraph;

17 (B) to use or publicly display a title in connection
18 with a person's name including "doctor of medicine," "physician,"
19 "M.D.," or "doctor of osteopathic medicine" or "D.O." or a
20 specialist designation including "surgeon," "dermatologist," or a
21 similar title, or any title which tends to show that the person
22 is willing or qualified to diagnose or treat the sick or injured;

23 * Sec. 19. AS 08.64.030, 08.64.140, 08.64.200(1), 08.64.325, 08.64.330,
24 and 08.64.380(3) are repealed.

25 * Sec. 20. This Act takes effect immediately in accordance with AS 01.-
26 10.070(c).

Levy
5/3/83

Original sponsor: Labor and Commerce
Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 332 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of medicine, and extending
8 the termination date of the State Medical Board; and
9 providing for an effective date."

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

11 * Section 1. AS 08.01.050 is amended by adding a new subsection to
12 read:

13 (c) After consulting with the State Medical Board (AS 08.64.-
14 010), the department shall employ an individual who is not a member of
15 the board to be assigned as the investigator for the board. The
16 investigator shall

17 (1) conduct investigations into alleged violations of
18 AS 08.64, and into alleged violations of regulations and orders of the
19 State Medical Board;

20 (2) at the request of the State Medical Board, conduct
21 investigations based on complaints filed with the department or with
22 the board; and

23 (3) be directly responsible and accountable to the State
24 Medical Board, except that only the department has authority to termi-
25 nate the investigator's employment and the department shall provide
26 day to day and administrative supervision of the investigator.

27 * Sec. 2. AS 08.03.010(c)(11) is amended to read:

28 (11) State Medical Board (AS 08.64.010) -- June 30, 1987

29 [1983].

1 * Sec. 3. AS 08.64.010 is amended to read:

2 Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD.

3 The governor shall appoint a board of medical examiners, to be known
4 as the State Medical Board, consisting of five [LICENSED] physicians
5 licensed in the state and [,] residing in as many separate geograph-
6 ical areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and
7 two persons with no direct financial interest in the health care
8 industry.

9 * Sec. 4. AS 08.64.020 is amended to read:

10 Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members
11 shall be appointed for staggered terms [A TERM] of four years, subject
12 to confirmation by a majority of the members of the legislature in
13 joint session, and shall hold office until their successors are ap-
14 pointed and qualified. A person who has served two successive com-
15 plete terms may not be reappointed until four years after the expira-
16 tion of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD
17 SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

18 * Sec. 5. AS 08.64.040 is amended to read:

19 Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a
20 member of the board for cause. The board may by regulation provide
21 that unexcused absences from meetings is cause for removal.

22 * Sec. 6. AS 08.64 is amended by adding a new section to read:

23 Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall meet at
24 least four times a year.

25 * Sec. 7. AS 08.64 is amended by adding a new section to read:

26 Sec. 08.64.101. DUTIES. The board shall

27 (1) examine and issue licenses to applicants;

28 (2) submit an annual report of its proceedings to the

29 governor, including a statement of money received and disbursed;

1 (3) after a hearing, impose disciplinary sanctions on per-
2 sons who violate this chapter, or the regulations or orders of the
3 board;

4 (4) adopt regulations insuring that renewal of licenses is
5 contingent upon proof of continued competency on the part of the
6 licensee.

7 * Sec. 8. AS 08.64.170(a) is amended to read:

8 (a) A person may not practice medicine, podiatry, osteopathy, or
9 acupuncture in the state unless the person is licensed under this
10 chapter, except that

11 (1) a physician assistant may examine, diagnose or treat
12 persons under the supervision, control, and responsibility of either a
13 physician licensed under this chapter or a physician exempted from li-
14 censing [LICENSURE] under AS 08.64.370;

15 (2) a physician-trained mobile intensive care paramedic may
16 render emergency lifesaving service; [AND]

17 (3) a person licensed under AS 08.36 may perform acupunc-
18 ture in the regular practice of dentistry, subject to the regulations
19 of the Board of Dental Examiners; and

20 (4) a person who is licensed or authorized under another
21 chapter of this title may engage in a practice that is authorized un-
22 der that chapter.

23 * Sec. 9. AS 08.64.240 is repealed and reenacted to read:

24 Sec. 08.64.240. LICENSE REFUSED. (a) The board may not grant a
25 license if

26 (1) the applicant fails or cheats during the examination;

27 (2) the board determines that the applicant is profes-
28 sionally unfit to practice medicine or osteopathy in the state; or

29 (3) the applicant fails to comply with a requirement of

1 this chapter.

2 (b) The board may refuse to grant a license to any applicant for
3 the same reasons that it may impose disciplinary sanctions under
4 AS 08.64.326.

5 * Sec. 10. AS 08.64.250 is amended to read:

6 Sec. 08.64.250. LICENSE [LICENSURE] BY CREDENTIALS [ENDORSE-
7 MENT]. The board may waive the examination requirement and license by
8 credentials [ENDORSEMENT] if the physician or podiatry applicant meets
9 the requirements of AS 08.64.200 or 08.64.209, submits proof of con-
10 tinued competence as required by regulation, pays the required fee and
11 has

12 (1) an active license from a board of medical examiners
13 established under the laws of a state or territory of the United
14 States or a province of Canada issued after thorough examination; or

15 (2) passed an examination given by the National Board of
16 Medical Examiners or the Federation of State Medical Boards of the
17 United States if the applicant is a physician, or passed an examina-
18 tion given by the National Board of Podiatry Examiners if the appli-
19 cant is a podiatrist.

20 * Sec. 11. AS 08.64.270(a) is amended to read:

21 (a) The board may issue a temporary permit to an applicant who
22 meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209
23 and pays the required fee.

24 * Sec. 12. AS 08.64.311 is amended to read:

25 Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be
26 renewed four years after the date of issue [BIENNIALY].

27 * Sec. 13. AS 08.64.315 is amended to read:

28 Sec. 08.64.315. FEES. The following fees are imposed under this
29 chapter:

- 1 (1) application \$ 50 [\$25]
- 2 (2) license by examination 200 [125]
- 3 (3) license by credentials [ENDORSEMENT]
- 4 or waiver of examination 200 [100]
- 5 (4) temporary permit 50 [25]
- 6 (5) locum tenens permit 50 [25]
- 7 (6) license renewal [, BIENNIAL], active . . . 600 [100]
- 8 (7) license renewal [, BIENNIAL], inactive . . 200 [25]
- 9 (8) license by reexamination 150 [75]

* Sec. 14. AS 08.64 is amended by adding a new section to read:

Sec. 08.64.326. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS. (a) The board may impose a sanction if the board finds after a hearing that a licensee

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation while providing professional services or engaging in professional activities;

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

(4) has been convicted, including conviction based on a guilty plea or plea of nolo contendere, of

(A) a felony or other crime if the felony or other crime is substantially related to the qualifications, functions, or duties of the licensee; or

(B) a crime involving the unlawful procurement, sale, prescription or dispensing of drugs;

(5) has procured, sold, prescribed or dispensed drugs in violation of a law, regardless of whether there has been a criminal

1 action;

2 (6) intentionally or negligently permitted the performance
3 of patient care by persons under the licensee's supervision that does
4 not conform to minimum professional standards even if the patient was
5 not injured;

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

8 (8) has demonstrated

9 (A) professional incompetence, gross negligence or re-
10 peated negligent conduct;

11 (B) addiction to, severe dependency on, or habitual
12 overuse of alcohol or other drugs which impairs the licensee's
13 ability to practice safely;

14 (C) unfitness because of physical or mental disabil-
15 ity;

16 (9) engaged in unprofessional conduct or in lewd or immoral
17 conduct in connection with the delivery of professional services to
18 patients;

19 (10) has violated AS 18.16.010;

20 (11) has violated any code of ethics adopted by regulation
21 by the board;

22 (12) has denied care or treatment to a patient or person
23 seeking assistance from the physician if the only reason for the
24 denial is the failure or refusal of the patient to agree to arbitrate
25 as provided in AS 09.55.535(a); or

26 (13) has had a license or certificate to practice medicine
27 in another state, territory of the United States or a province or Can-
28 ada suspended or revoked unless the suspension or revocation was
29 caused by the failure of the licensee to pay fees to that state,

1 territory or province.

2 (b) In a case involving (a)(13) of this section, the final
3 findings of fact, conclusions of law and order of the authority that
4 suspended or revoked a license or certificate constitutes a prima
5 facie case that the license or certificate was suspended or revoked
6 and the grounds under which the suspension or revocation was granted.

7 * Sec. 15. AS 08.64 is amended by adding a new section to read:

8 Sec. 08.64.331. DISCIPLINARY SANCTIONS. (a) If the board finds
9 that a licensee has committed an act set out in AS 08.64.326(a), the
10 board may

- 11 (1) permanently revoke a license to practice;
12 (2) suspend a license for a determinate period of time;
13 (3) censure a licensee;
14 (4) issue a letter of reprimand;
15 (5) place a licensee on probationary status and require the

16 licensee to

17 (A) report regularly to the board on matters involving
18 the basis of probation;

19 (B) limit practice to those areas prescribed;

20 (C) continue professional education until a satisfac-
21 tory degree of skill has been attained in those areas determined
22 by the board to need improvement;

23 (6) impose limitations or conditions on the practice of a
24 licensee; or

25 (7) impose one or more of the sanctions set out in (1) -
26 (6) of this subsection.

27 (b) The board may end the probation of a licensee if it finds
28 that the deficiencies which required this sanction have been remedied.

29 (c) The board may summarily suspend a license before final

1 hearing or during the appeals process if the board finds that the
2 licensee poses a clear and immediate danger to the public health and
3 safety if the licensee continues to practice. A person whose license
4 is suspended under this section is entitled to a hearing by the board
5 no later than seven days after the effective date of the order and the
6 person may appeal the suspension after a hearing to a court of compe-
7 tent jurisdiction.

8 (d) The board may reinstate a license that has been suspended or
9 revoked if the board finds after a hearing that the applicant is able
10 to practice with reasonable skill and safety.

11 (e) The board may suspend a license upon receipt of a certified
12 copy of evidence that a license to practice medicine in another state
13 or territory of the United States or province of Canada has been
14 suspended or revoked. The suspension remains in effect until a hear-
15 ing can be held by the board.

16 (f) The board shall be consistent in the application of disci-
17 plinary sanctions. A significant departure from earlier decisions of
18 the board involving similar situations must be explained in findings
19 of fact or orders made by the board.

20 * Sec. 16. AS 08.64.336 is repealed and reenacted to read:

21 Sec. 08.64.336. DUTY OF PHYSICIANS AND HOSPITALS TO REPORT. (a)
22 A physician who professionally treats a person licensed to practice
23 medicine and surgery or osteopathy in this state for alcoholism or
24 drug addiction, or for mental, emotional or personality disorders,
25 shall report it to the board if the physician providing treatment
26 feels that the person may constitute a danger to the health and wel-
27 fare of that person's patients or the public if that person continues
28 in practice. The report shall state the name and address of the person
29 and the condition found.

1 (b) A hospital that restricts or refuses to grant hospital
 2 privileges to a person licensed to practice medicine and surgery or
 3 osteopathy in this state because that person poses a danger to the
 4 public shall report to the board the name and address of the person
 5 and the reasons for restricting or refusing to grant hospital privi-
 6 leges.

7 (c) Upon receipt of a report under (a) or (b) of this section,
 8 the board shall investigate the matter and, upon a finding of reason-
 9 able cause, may appoint a committee of three qualified physicians to
 10 examine the licensee and report their findings to the board.

11 (d) If the board finds that the licensee is unable to continue
 12 to practice medicine and surgery or osteopathy with reasonable safety
 13 to the licensee's patients or the public, it shall initiate action to
 14 suspend, revoke, limit or condition the licensee's license to the
 15 extent determined necessary for the protection of the public.

16 * Sec. 17. AS 08.64.360 is amended to read:

17 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN
 18 VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a
 19 physician-trained mobile intensive care paramedic under AS 08.64.170,
 20 or a person licensed or authorized under another chapter of this title
 21 who engages in practices for which that person is licensed or autho-
 22 rized under that chapter, a person practicing medicine or osteopathy
 23 in the state without a valid [OBTAINING AND FILING AN APPROPRIATE]
 24 license or permit is guilty of a class A misdemeanor [AND UPON CON-
 25 VICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN
 26 \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90
 27 DAYS, OR BY BOTH. EVIDENCE THAT THE DEFENDANT HAS FAILED TO FILE A
 28 LICENSE WITH THE CLERK OF THE COURT IS PRIMA FACIE EVIDENCE THAT THE
 29 DEFENDANT IS NOT LICENSED]. Each day of illegal practice is a

1 separate offense.

2 * Sec. 18. AS 08.64.380(2) is repealed and reenacted to read:

3 (2) "practice of medicine" or "practice of osteopathy"

4 means:

5 (A) for a fee, donation or other consideration, to
6 diagnose, treat, operate on, prescribe for, or administer to, any
7 human ailment, blemish, deformity, disease, disfigurement, disor-
8 der, injury, or other mental or physical condition; or to attempt
9 to perform or represent that a person is authorized to perform
10 any of the acts set out in this subparagraph;

11 (B) to use or publicly display a title in connection
12 with a person's name including "doctor of medicine," "physician,"
13 "M.D.," or "doctor of osteopathic medicine" or "D.O." or a
14 specialist designation including "surgeon," "dermatologist," or a
15 similar title, or any title which tends to show that the person
16 is willing or qualified to diagnose or treat the sick or injured;

17 * Sec. 19. AS 08.64.030, 08.64.140, 08.64.200(1), 08.64.325, 08.64.330,
18 and 08.64.380(3) are repealed.

19 * Sec. 20. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

Introduced: 4/7/83
Referred: Health, Education &
Social Services and Finance

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 HOUSE BILL NO. 332

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act extending the termination date of the State
7 Medical Board; and providing for an effective date."

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

9 * Section 1. AS 08.03.010(c)(11) is amended to read:

10 (11) State Medical Board (AS 08.64.010) -- June 30, 1987
11 [1983].

12 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).