

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 178, HB 179 *Leg. Files* 290 290

C S H B

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SENATE COMMITTEE REPORT

FURTHER:

5/11/87

DATE TURNED INTO OFFICE 5/16/87

Mr. President:

FINANCE Committee considered CSHB 178(L&C) am

practice of nursing; extending the termination date of the Board of Nursing; efd.

and recommended:

replace with CS FOR \_\_\_\_\_ )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

3 Do Pass  
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_  
Revision Date: \_\_\_\_\_  
Title: An Act extending the termination date of the Board of Nursing:  
Sponsor: Reps. Donlev, Hanlev, Gruenberg -  
Requestor: Collins, Ellis & Koponen

Bill Version: CSHB 178(L&C)  
Publish Date: HOUSE 3/20/87

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Funding for continuation of the Board of Nursing is budgeted in the department's FY 88 operating budget request and is anticipated to be covered primarily through program receipts.

*Jennifer Strickler*  
Prepared by: Jennifer Strickler, Management Analyst  
Division: Occupational Licensing

Phone: 465-2144  
Date: 3/16/87

Approved by Commissioner: *Anthony Smith*  
Anthony Smith  
Agency: Commerce and Economic Development

Date: 3/17/87

- Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

Original sponsors: Donley, Hanley,  
Gruenberg, et al.

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 178 (L&C) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the practice of nursing; extend-

7

ing the termination date of the Board of Nursing; and

8

providing for an effective date."

9

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

10

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

11

(1) Board of Nursing (AS 08.68.010) -- June 30, 1991

12

[1987].

13

\* Sec. 2. AS 08.68.100(a) is amended to read:

14

(a) The board shall

15

(1) adopt regulations necessary to implement this chapter,

16

including regulations pertaining to practice as an advanced nurse

17

practitioner and a nurse anesthetist;

18

(2) approve curricula and adopt standards for basic educa-

19

tion programs that prepare persons for licensing under AS 08.68.190;

20

(3) provide for surveys of the basic nursing education

21

programs in the state at the times it considers necessary;

22

(4) approve [ACCREDIT] education programs that meet the

23

requirements of this chapter and of the board, and deny, revoke, or

24

suspend approval [ACCREDITATION] of education programs for failure to

25

meet the requirements;

26

(5) examine, license, and renew the licenses of qualified

27

applicants;

28

(6) prescribe requirements for competence before a former

29

nurse may resume the practice of nursing under this chapter;

1 (7) keep a record of its proceedings, and submit annual  
2 reports to the governor and legislature;

3 (8) define by regulation the qualifications and duties of  
4 the executive secretary and delegate authority to the executive secre-  
5 tary that is necessary to conduct board business;

6 (9) develop reasonable and uniform standards for nursing  
7 practice;

8 (10) publish advisory opinions regarding whether nursing  
9 practice procedures or policies comply with acceptable standards of  
10 nursing practice as defined under this chapter.

11 \* Sec. 3. AS 08.68.190 is amended to read:

12 Sec. 08.68.190. LICENSE BY EXAMINATION. The applicant shall  
13 pass a written examination as prescribed by the board. The board  
14 shall issue a license to an applicant who passes the examination to  
15 practice registered or practical nursing provided the other qualifica-  
16 tions outlined in AS 08.68.170 and 08.68.180 are also met. The board  
17 shall conduct examinations annually and as often as it considers  
18 necessary at locations designated by the board [IN EACH REGION OF THE  
19 STATE].

20 \* Sec. 4. AS 08.68.200 is amended to read:

21 Sec. 08.68.200. LICENSE BY ENDORSEMENT. The board may issue a  
22 license by endorsement to practice as a registered or practical nurse,  
23 whichever is appropriate, to an applicant who

24 (1) is licensed as either a registered or practical nurse  
25 under the laws of another state [OR TERRITORY], if in the opinion of  
26 the board the applicant meets the qualifications required for licens-  
27 ing in the state, and meets the requirements of AS 08.68.170; [OR]

28 (2) meets the requirements of AS 08.68.170 and has success-  
29 fully completed the Canadian Nurses' Association Testing Service

1 examination if the board determines it is comparable to the examina-  
2 tion administered by this state; or

3 (3) has not worked as a nurse within the last five years,  
4 if the applicant meets the continuing competency requirements of the  
5 board or completes a course of study approved by the board.

6 \* Sec. 5. AS 08.68.210(a) is amended to read:

7 (a) The board may issue a temporary permit, nonrenewable and  
8 valid for a period not exceeding four months, to an applicant for a  
9 license by endorsement if the applicant

10 (1) submits proof satisfactory to the board that the appli-  
11 cant is currently licensed in another state or Canadian province or  
12 Canadian territory that administers an examination approved by the  
13 board under AS 08.68.200(2) [TERRITORY],

14 (2) meets the requirements of AS 08.68.170, and

15 (3) pays the required fee.

16 \* Sec. 6. AS 08.68.210(b) is amended to read:

17 (b) The board may issue a nonrenewable permit to an applicant  
18 for license by examination if [(1)] the applicant (1) meets the quali-  
19 fications of AS 08.68.170; or (2) [THE APPLICANT] is a graduate of a  
20 foreign school of nursing and has successfully completed the examina-  
21 tion administered by the Commission on Graduates of Foreign Nursing  
22 Schools. The permit will be valid for a period not extending beyond  
23 the time when the results are published of the first examination the  
24 applicant is eligible to take after the permit is issued, however, if  
25 the applicant does not take the examination for which the applicant is  
26 scheduled, the permit lapses on the day of the examination.

27 \* Sec. 7. AS 08.68.230 is amended by adding new subsections to read:

28 (c) A person who holds a temporary permit to practice as a  
29 registered nurse shall use the title "Temporary Registered Nurse" and

1 the abbreviation "TRN."

2 (d) A person who holds a temporary permit to practice as a  
3 licensed practical nurse shall use the title "Temporary Licensed  
4 Practical Nurse" and the abbreviation "TLPN."

5 \* Sec. 8. AS 08.68.251 is amended to read:

6 Sec. 08.68.251. LAPSED LICENSES. (a) A lapsed license may be  
7 reinstated if it has not remained lapsed for more than five years by  
8 payment of the license fees for the current renewal period and the  
9 penalty fee. The person seeking reinstatement shall meet the continu-  
10 ing competency requirements of the board [DURING WHICH THE LICENSE HAS  
11 LAPSED].

12 (b) If a license is lapsed for more than five years,

13 (1) the board shall require the applicant to complete a  
14 course of study approved by the board or to pass an examination pre-  
15 scribed by the board, and to pay the fees prescribed by this chapter;  
16 or

17 (2) if the board determines that the person applying for  
18 reinstatement was actively employed in nursing in another state during  
19 the time that the license has lapsed in this state, the license that  
20 has lapsed may be reinstated by payment of fees as required by (a) of  
21 this section [AS 08.01.100(b)].

22 \* Sec. 9. AS 08.68.270 is amended to read:

23 Sec. 08.68.270. GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION.  
24 The board may deny, suspend, or revoke the license of a person who

25 (1) has obtained or attempted to obtain a license to prac-  
26 tice nursing by fraud or deceit;

27 (2) has been convicted of a felony or other crime if the  
28 felony or other crime is substantially related to the qualifications,  
29 functions or duties of the licensee;

1 (3) [Repealed  
2 (4)] habitually abuses alcoholic beverages, or illegally  
3 uses controlled substances [AS DEFINED BY AS 11.71.900(4)];

4 (4) [(5)] has impersonated a registered or practical nurse;

5 (5) [(6)] has intentionally or negligently engaged in  
6 conduct that has resulted in a significant risk to the health or  
7 safety of a client or in injury to a client;

8 (6) [(7)] practices or attempts to practice nursing while  
9 afflicted with physical or mental illness, deterioration, or disabil-  
10 ity which interferes with the individual's performance of nursing  
11 functions;

12 (7) [(8)] is guilty of unprofessional conduct as defined by  
13 regulations adopted by the board;

14 (8) [(9)] has wilfully or repeatedly violated a provision  
15 [ANY OF THE PROVISIONS] of this chapter or regulations adopted under  
16 it;

17 (9) [(10)] is professionally incompetent;

18 (10) [(11)] denies care or treatment to a patient or person  
19 seeking assistance if the sole reason for the denial is the failure or  
20 refusal of the patient or person seeking assistance to agree to arbi-  
21 trate as provided in AS 09.55.535(a).

22 \* Sec. 10. AS 08.68.275 is repealed and reenacted to read:

23 Sec. 08.68.275. DISCIPLINARY SANCTIONS. (a) The board may take  
24 the following disciplinary actions singly or in combination:

25 (1) permanently revoke a license or permit to practice;

26 (2) suspend a license for a stated period of time;

27 (3) censure a licensee;

28 (4) issue a letter of reprimand;

29 (5) impose limitations or conditions on the professional

1 practice of a licensee;

2 (6) impose peer review;

3 (7) impose professional education requirements until a  
4 satisfactory degree of skill has been attained in those aspects of  
5 professional practice determined by the board to need improvement;

6 (8) impose probation and require the licensee to report  
7 regularly to the board upon matters involving the basis for the pro-  
8 bation;

9 (9) accept a voluntary surrender of a license.

10 (b) The board may withdraw probation status if it finds that the  
11 deficiencies that required the sanction have been remedied.

12 (c) The board may summarily suspend a license before final  
13 hearing or during the appeals process if the board finds that the  
14 licensee poses a clear and immediate danger to the public health and  
15 safety. A person whose license is suspended under this section is  
16 entitled to a hearing by the board within seven days after the effec-  
17 tive date of the order. If, after a hearing, the board upholds the  
18 suspension, the licensee may appeal the suspension to a court of  
19 competent jurisdiction.

20 (d) The board may reinstate a license that has been suspended or  
21 revoked if the board finds, after a hearing, that the applicant is  
22 able to practice with skill and safety.

23 (e) The board may return a license that has been voluntarily  
24 surrendered if the board determines that the licensee is competent to  
25 resume practice and that the applicable renewal fees are paid.

26 (f) The board shall seek consistency in the application of  
27 disciplinary sanctions. A significant departure from prior decisions  
28 involving similar situations shall be explained in the findings of  
29 fact or order.

1 \* Sec. 11. AS 08.68 is amended by adding a new section to article 2 to  
2 read:

3 Sec. 08.68.278. IMMUNITY FOR CERTAIN REPORTS TO THE BOARD. A  
4 person who, under oath and in good faith, reports information to the  
5 board relating to alleged incidents of incompetent, unprofessional, or  
6 unlawful conduct of a nurse is not liable in a civil action for  
7 damages resulting from the reporting of the information.

8 \* Sec. 12. AS 08.68.280 is amended to read:

9 Sec. 08.68.280. NURSING EDUCATION PROGRAM PROHIBITED UNLESS  
10 APPROVED [ACCREDITED]. A [NO] person, institution, or agency may not  
11 conduct a nursing education program that prepares persons for examina-  
12 tion or [,] licensing [, AUTHORIZATION FOR SPECIALIZED PRACTICE, OR A  
13 GRADUATE DEGREE] unless the program is approved [ACCREDITED] by the  
14 board. A program may be approved [ACCREDITED] by the board only if it  
15 is established through an approved [ACCREDITED] postsecondary educa-  
16 tional institution.

17 \* Sec. 13. AS 08.68.330 is amended to read:

18 Sec. 08.68.330. LIST OF APPROVED [ACCREDITED] PROGRAMS. The  
19 board shall prepare, maintain, and from time to time publish a list of  
20 approved [ACCREDITED] nursing education programs in the state.

21 \* Sec. 14. AS 08.68.400(a) is amended to read:

22 (a) This chapter does not apply to

23 (1) a qualified nurse licensed in another state employed by  
24 the United States Government or a bureau, or agency, or division of  
25 the United States Government while in the discharge of official  
26 duties;

27 (2) nursing service given temporarily in the event of a  
28 public emergency, epidemic, or disaster;

29 (3) the practice of nursing by a student enrolled in a

1 nursing education program accredited by the board when the practice is  
2 in connection with the student's course of study;

3 (4) the practice of nursing by an individual enrolled in an  
4 approved program or course of study approved by the board to satisfy  
5 the requirements of AS 08.68.251; [OR]

6 (5) the practice of nursing by a nurse licensed in another  
7 state who engages in nursing education or nursing consultation activ-  
8 ities, if these activities and contact with clients do not exceed 20  
9 working days within a licensing period; or

10 (6) the practice of nursing by a nurse licensed in another  
11 state whose employment responsibilities include transporting patients  
12 into, out of, or through this state; however, this exception is valid  
13 for a period not to exceed 48 hours for each transport.

14 \* Sec. 15. This Act takes effect immediately under AS 01.10.070(c).

MAY 14 REC'D

DAVID T. WALKER  
ATTORNEY AT LAW  
MENDENHALL BUILDING  
326 FOURTH STREET, SUITE B  
JUNEAU, ALASKA 99801  
(907) 586-3537

May 14, 1987

HAND DELIVERED

Don Bennett, Co-Chairman  
John Binkley, Co-Chairman  
Senate Finance Committee  
Capitol Building, Room 518  
Juneau, Alaska 99811

Re: House Bill 178

Dear Senators Bennett & Binkley:

I am the registered lobbyist for the Alaska Nurses' Association. The Board of Nursing is terminated under Alaska's Sunset Statutes June 30, 1987.

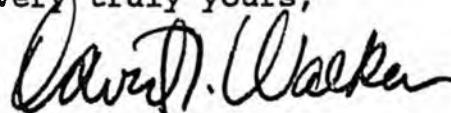
House Bill 178 continues the existence of the Board of Nursing. The Association recognizes that the Board of Nursing performs a vital and necessary service for the public and the profession by regulating the practice of nursing in Alaska. The Association strongly supports and endorses continuation of the Board of Nursing. The Association urges the Finance Committee to report HB 178 at its earliest possible opportunity so that the Board of Nursing, which performs the vital service of regulating the practice of nursing in Alaska, will be continued. The Association requests the Finance Committee to approve legislation continuing the Board.

Insofar as I am aware, the Association has not taken a position on the proposed fee increases. I am moved to comment that the State requires licensing of certain professionals, my clients included, as being necessary to protect the public health and safety by establishing minimum qualifications for licensure. In my view, it is poor public policy to require regulatory boards in a state with a small professional population to be self-supporting. The public is the primary beneficiary of the regulation and the public must be primarily responsible for paying the costs.

Don Bennett, Co-Chairman  
Johne Binkley, Co-Chairman  
Senate Finance Committee  
May 14, 1987  
Page Two

The Association has always appreciated the legislature's interest in providing quality health care and the opportunity to work with the legislature to improve health care in Alaska. If you have a question concerning the Association's position on this bill, or on any other matters related to nursing or health care, please do not hesitate to call.

Very truly yours,

A handwritten signature in cursive script, appearing to read "David T. Walker".

David T. Walker

DTW:jp

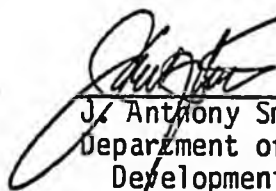
cc: Finance Committee Members  
Alaska Nurses' Association

HB 178: An Act extending the termination date of the Board of Nursing and providing for an effective date.

The bill extends the Board of Nursing to June 30, 1991. A performance audit conducted on the board by the Budget and Audit Committee dated December 10, 1986 concluded that the Board of Nursing should be reestablished. The Department of Commerce and Economic Development concurs with the audit findings that reestablishment of the board is in the public's best interest.

The department recommends that the attached amendments to the nursing statutes be considered to be added to HB 178. The amendments were requested by the board and are primarily housekeeping proposals. Three new issues are proposed which: (1) establishes that a temporary permit holder must use the title TLPN or TRN; (2) establishes a section on disciplinary powers of the board which will increase and standardize the board's discipline authority; and (3) grant immunity from civil action to a board member, staff or any person reporting alleged incidents of incompetent, unprofessional or illegal conduct of a health care provider.

In summary, the Department of Commerce and Economic Development supports the reestablishment of the Board of Nursing. The board is essential to establish standards of nursing practices, evaluate and approve applicants for licensure, review and approve curriculum of nursing programs to maintain quality nursing education in Alaska, and to provide an avenue of disciplining incompetent or dishonest practitioners.

  
\_\_\_\_\_  
J. Anthony Smith, Commissioner  
Department of Commerce and Economic  
Development

Date: 3/17/87

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
BOARD OF NURSING

December 10, 1986

Audit Control Number

08-1273-87-R

Commissioner, Department of  
Commerce and Economic Development

J. Anthony Smith

Deputy Commissioners, Department of  
Commerce and Economic Development

Greg Baker  
Terry Elder

Members of the  
Board of Nursing

Chairperson  
Member  
Member  
Member  
Member  
Member  
Member

Effie Graham  
Janet Burness  
Barbara Carberry  
Anita Allen Farley  
Linda Todd  
Georgianna Waskey  
Connie Bertholf

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811-3300

**THE LEGISLATURE**  
BUDGET AND AUDIT COMMITTEE

December 10, 1986

Members of the Legislative Budget  
and Audit Committee:

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

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
BOARD OF NURSING

December 10, 1986

Audit Control Number

08-1273-87-R



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

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## PURPOSE AND SCOPE OF THE REPORT

### Purpose

In accordance with the provisions of Alaska Statutes 24.20.271 and 44.66.050 (sunset legislation), an examination of the Board of Nursing was conducted 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 Board of Nursing should be reestablished. The law currently specifies that this Board will terminate on June 30, 1987.

The policy and audit approach utilized by the Division of Legislative Audit for performance reports can best be described as "audit by exception." This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made and little time is devoted to reviewing well-run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

### Scope

The major areas of our examination were the administration, licensing, and investigation functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and Board regulations.
2. Discussions with Board members.
3. Review of records and documents of the Board and the Division of Occupational Licensing.
4. Interviews with Division of Occupational Licensing employees.

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## ORGANIZATION AND FUNCTION

The role of nursing in Alaska has witnessed many changes to the scope of responsibilities for the practicing nurse. Responsibilities of the nurse have increased as physicians and patients rely more heavily on the assistance and guidance provided by the nursing profession.

To regulate the profession, under AS 08.68 the seven member Board of Nursing is charged the responsibility to determine the minimum quality of nursing care in the State by:

1. Establishing or amending rules and regulations necessary and desirable to enforce State statutes.
2. Approve curricula and adopt standards for basic education programs that prepare persons for licensure.
3. Examining and issuing licenses to qualified applicants.
4. Holding hearings in order to revoke, suspend, or take other action on the license of a person violating the nursing statutes and regulations.

To carry out its statutorily mandated responsibilities, the Board has support from the Division of Occupational Licensing. The Division employs an Executive Secretary who is responsible for performing administrative duties and assisting the Board in conducting examinations and educational programs. In addition, the Division processes applications, prepares license files, provides investigative services in the event of consumer or other professional complaints, and provides other administrative assistance to the Board.

Most licensing requirements are established by statute. Nurses are either licensed by examination or endorsement. Examinations are administered according to a contract with the National Council State Boards of Nursing which endorses this national exam. Licenses by endorsement are issued to nurses licensed in other states that have licensing requirements acceptable to the Board.

(Intentionally left blank)

## REPORT CONCLUSION

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendation presented in this report, so that the potential impact of the policy changes can be evaluated.

### Report Conclusion

In our opinion, the Board of Nursing should continue to regulate the practice of nursing. This regulation is necessary to protect the public's health, safety, and welfare.

In the public's best interest, the Board has developed regulations that will require practitioners to maintain a level of competency and has composed formal regulations which define license violations. However, to better serve the public, the Department of Commerce and Economic Development should ensure that public notices are advertised well in advance of nursing exam dates (see Recommendation No. 1).

(Intentionally left blank)

## FINDINGS AND RECOMMENDATION

### Recommendation No. 1

The Department of Commerce and Economic Development (DCED) in conjunction with the Board of Nursing should comply with existing regulations.

12 AAC 44.290(b) provides, in part, that applications and fees must be postmarked no later than 60 days before the examination except that applications postmarked after that date may be accepted on a showing of good cause. In addition, all supporting documents required must be on file with the Department no later than 21 days before the date of the examination. The intent of this regulation is to provide adequate time for the Department to ensure that applicants have met State requirements for licensure.

To ensure applicants are notified of the examination date and to allow adequate time for submission of applications with supporting documentation, DCED publicly notices examination dates. However, DCED has not consistently allowed sufficient timely notice. In a review of advertisements for eleven test dates from February 1984 through October 1986, we found that six (54%) did not provide for adequate notification. The six notifications were published an average of only 39 days before the examinations.

As with other State regulated professions, most candidates are aware of upcoming examination dates. However, to ensure that all potential candidates are notified of exam dates in a timely manner and that the Board has sufficient time to determine that candidates meet State requirements for licensure by examination, advertisements should be publicly noticed in excess of sixty days prior to an exam. This was also reported in the Board's previous 1978 and 1982 sunset reviews.

(Intentionally left blank)

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of Board activities indicate both positive and negative factors as they relate to the public need factors defined in AS 44.66.050. These analyses were not intended to be all-inclusive, 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.

The Board has been dedicated in its attempts to allow that only qualified applicants seek licensure and to regulate them in such a manner as to ensure adequate nursing services are provided to the general public. However, public notice of exams have not been advertised in a timely manner to ensure adequate time to submit applications and supporting documentation (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.

The operation of the Board has been enhanced through the Department's employment of an Executive Secretary to handle the administration of over 6,000 licensed nurses and to assist the Board in licensing and regulating the profession.

The Office of the Governor has not appointed Board members in a timely manner. Vacancies have averaged over four months.

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

To serve the public's interests, the Board has successfully initiated statutory changes for the betterment of the nursing profession. Alaska Statute 08.68.276 approved by the 1982 Legislature requires that a license to practice nursing may not be renewed unless the nurse has complied with continuing competence requirements. Through regulations, the Board has developed the requirements for continuing competency which are effective January 1, 1987. In addition, the Board has developed formal regulations which define unprofessional conduct.

- 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.

All formal proceedings are properly and timely noticed and open to the public. The Board holds meetings in the major Alaska cities.

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

All formal proceedings are noticed and open to the public. Interested persons may intervene to the benefit of the proceeding. The Executive Secretary also conducts seminars on subjects appropriate to the nursing community.

- 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.

During the last four years, two complaints were filed. One complaint concerned the lack of statutes and regulations. The second complaint concerned the lack of a refresher course outside of Anchorage. Both complaints were satisfactorily resolved.

- VII. 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 Board, prior to granting a license to practice nursing, is required to determine that the applicant is qualified. The Board reviews all applications to make this determination. The Board has issued 2,985 licenses from FY 83 through FY 86.

- 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 of interest.

We found no evidence of problems in this area.

- 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.

Please refer to the previous section, Findings and Recommendation.

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APPENDIXES

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APPENDIX A

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF NURSING  
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES  
For the Fiscal Year Ended June 30, 1986  
(Unaudited)  
(Note 1)

<u>Revenues</u> (Schedule 1 and Note 2)	<u>\$114,198</u>
<u>Expenditures</u> (Note 3)	
Personal Services	100,628
Travel	9,677
Contractual	9,825
Other	<u>5,319</u>
<u>Total Expenditures</u>	<u>125,449</u>
<u>Excess of Revenues over Expenditures</u>	<u>\$(11,251)</u>

Schedule 1  
Types of Revenues

<u>Revenues</u>	Fee Rates Effective		<u>Collection Time</u>
	<u>7/2/82</u>	<u>3/31/86</u>	
<u>Registered Nurse</u>			
Application	\$30	\$30	With application
License by Examination	20	65	With application
License by Endorsement	20	65	With application
License Renewal	20	65	Biennially
Late Fee Fine	10	10	With late payment
Temporary Permit	-0-	20	With application
NCLEX	-0-	25	With application
<u>Advanced Nurse</u>			
Practitioner	25	25	With application
<u>Registered Nurse</u>			
Anesthetists	25	25	With application
Prescriptive Authority	-0-	10	With application
<u>Licensed Practical Nurse</u>			
Application Fee	20	30	With application
License by Examination	10	65	With application
License by Endorsement	10	65	With application
License Renewal	20	65	Biennially
Late Fee Fine	10	10	With late payment
NCLEX	-0-	25	With application

See the Notes to Appendix A.

NOTES TO APPENDIX A

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF NURSING  
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES  
For the Fiscal Year Ended June 30, 1986  
(Unaudited)  
(Note 1)

Note 1

The information included in this Schedule was obtained from the Board of Nursing's records. This information has not been audited by us and, accordingly, we express no opinion on it.

Note 2

A significant portion of revenues is composed of license renewal fees. Licenses are renewed biennially. The last renewal for registered nurses (RN) and licensed practical nurses (LPN) was June 30, 1984. Therefore, we averaged revenues collected in FY 85 and FY 86 in order to obtain a representative amount of average annual revenues collected.

In addition, the renewal period for RNs and LPNs was staggered for FY 86. RNs were required to renew their license by November 30, 1986 and LPNs by September 30, 1986. Therefore, average revenues reported are understated since the majority of license renewals scheduled for FY 86 will be collected during FY 87. Revenues should cover direct expenditures in future years.

Note 3

Expenditures consist of direct costs resulting from Board activities which includes travel, per diem, and miscellaneous contractual expenditures incurred by Board members. In addition, the Division of Occupational Licensing provides administrative support to the Board. This support includes an Executive Secretary and a percentage of a Licensing Examiner and an Investigator assigned to the Board. This amount does not include indirect administrative expenditures of the Division or expenditures for efforts of other departments assisting the Board.

APPENDIX B

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF NURSING  
EXAMINATION STATISTICS  
For Fiscal Years 1984 through 1986  
(Note 1)

	Fiscal Year			<u>Total</u>
	<u>1984</u>	<u>1985</u>	<u>1986</u>	
<u>Registered Nurses Exam</u>				
<u>Alaska Graduates</u>				
Passed	63	60	61	184
Failed	5	12	4	21
<u>Total Alaska Graduates</u>	<u>68</u>	<u>72</u>	<u>65</u>	<u>205</u>
<u>Percentage Passing</u>	<u>92%</u>	<u>83%</u>	<u>93%</u>	<u>89%</u>
<u>Other Graduates</u>				
Passed	33	47	38	118
Failed	23	18	34	75
<u>Total Other Graduates</u>	<u>56</u>	<u>65</u>	<u>72</u>	<u>193</u>
<u>Percentage Passing</u>	<u>58%</u>	<u>72%</u>	<u>52%</u>	<u>61%</u>
 <u>Licensed Practical Nurse Exam</u>				
<u>Alaska Graduates</u>				
Passed	9	15	6	30
Failed	3	0	0	3
<u>Total Alaska Graduates</u>	<u>12</u>	<u>15</u>	<u>6</u>	<u>33</u>
<u>Percentage Passing</u>	<u>75%</u>	<u>100%</u>	<u>100%</u>	<u>90%</u>
<u>Other Graduates</u>				
Passed	29	21	16	66
Failed	8	1	8	17
<u>Total Other Graduates</u>	<u>37</u>	<u>22</u>	<u>24</u>	<u>83</u>
<u>Percentage Passing</u>	<u>78%</u>	<u>95%</u>	<u>66%</u>	<u>79%</u>

Note 1: The information included in this schedule was obtained from the Board of Nursing's records. Examinations are administered according to a contract with the National Council of State Boards of Nursing which endorses the national exam.

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STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

February 4, 1987

FEB 17 1987

Mr. Gerald Wilkerson  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box W  
Juneau, AK 99811-3300

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary audit report for the Board of Nursing. The Department of Commerce and Economic Development agrees with your audit findings and conclusion that the Board of Nursing should continue to regulate the practice of nursing for the protection of the public's health, safety and welfare. The department offers the following comments on the findings contained in your report.

Recommendation No. 1

The Department of Commerce and Economic Development in conjunction with the Board of Nursing should comply with existing regulations.

One of the department's administrative functions for the Board of Nursing is to public notice examinations. Regulations of the board, 12 AAC 44.290(b), provide deadlines for making application and completion of files for license by examination. The purpose of the regulation is to allow for the ordering of exam supplies from the test service and to allow enough time for processing and reviewing applications prior to the exam.

The Board of Nursing utilizes national exams for testing knowledge of registered and practical nurse applicants. On behalf of the board, the department contracts with the National Council State Boards of Nursing (NCSBN) for the NCLEX-RN and NCLEX-PN exams. The dates for administration of the exam are set by NCSBN ten years in advance. The RN exams are administered in February and July and the PN exams are administered in April and October. Since the national exam is administered on standard dates nationally, the dates are well known in advance by candidates who are recent graduates of schools of nursing.

Use of newspaper advertisements is the most widely accepted method of notifying the public. The department acknowledges the importance of public notices but does not believe the public has been harmed by the lack of timeliness of the newspaper advertisements.

Other methods which are used to notify the target group of the exam dates and deadline dates for submission of materials include direct discussion with applicants. The Executive Secretary meets with the graduating classes and faculty to provide applications and information on the exam. Candidates who fail an exam are notified by letter at the time of failure when the next scheduled exam is and the required deadline dates. In addition, exam application information pages include the deadline dates.

A review of past applicants for the exam did not reveal candidates who were not allowed to sit for the exam for failure to meet the deadlines. The board policy on this regulation (12 AAC 44.290(b)) is to be liberal in its interpretation of "a showing of good cause." Candidates have been, on occasion, allowed to complete their files up to the day prior to the exam. This has occurred for candidates who have transcripts being sent from foreign countries or schools in other states.

The department will make every effort to assure timely notice to the public of the Board of Nursing exams. The licensing examiners are the staff responsible for this activity. Each examiner provides assistance to several boards. Due to the complex nature of the examiner's responsibilities, the public notice process experiences a higher rate of tardiness than we would like. Efforts will be made to make public noticing a higher priority by a method such as institution of a master calendar system for each examiner which identifies the date public notice should be made to exams.

#### Analysis of Public Need

The analysis of public need section of the performance report indicates that Board of Nursing vacancies averaged over four months.

The board had three members who resigned from their appointed positions between 1982 and 1984 in addition to those whose terms expired. Two resigned due to moves out of state and one due to personal reasons. This latter person was in her third year of her second term. While it is certainly most desirable that a full complement of the board be available for meetings, at no time while there were vacancies did the board experience difficulty in obtaining a quorum.

Mr. Gerald Wilkerson

-3-

February 4, 1987

In addition, the department would like to bring to your attention several errors in Fee Schedule 1 contained in Appendix A. The fee rates for Advanced Nurse Practitioner and Registered Nurse Anesthetists were \$25.00 each effective July 2, 1982. The fee rates for license by examination, license by endorsement, for both RN's and LPN's effective March 31, 1986 should be \$65.00 instead of \$25.00.

If the department can provide you with any additional information, please do not hesitate to contact me.

Sincerely,



J. Anthony Smith  
Commissioner

JAS/KM/wfs5323W  
2487a

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# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811-3300

## THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

February 17, 1987

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the Department of Commerce and Economic  
Development's response to our preliminary report. Our  
comments follow:

### Appendix A

The Department has identified corrections necessary to the  
Fee Schedule. We have made the adjustments to the appendix  
for the final report, and we appreciate the Department's  
assistance.



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



SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

\*\*FISCAL NOTE(S) ATTACHED \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

LABOR AND COMMERCE Committee considered CS HB 178 (L&C) am

practice of nursing; extending the termination date of the Board  
of Nursing; efd

and recommended:

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_
- letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero *printing*  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Richard Kelly (Do Pass)*  
*Fahnestock*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Tim Kelly - Do Pass*  
Chairman signature and recommendation

Committee Backup Attached

HB

179

# HOUSE COMMITTEE REPORT

(11)

Date referred: 3/18/87

FURTHER REFERRALS:

Finance

DATE: 4-22-87

The \_\_\_\_\_ Committee has considered HB 179

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

**RECOMMENDS:**

- replace with CS HB 179 (FIN)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Adams Robert P. Adams

Rundt John Rundt

Larson John Larson

Goll John Goll

Swack Charles Swack

Boyer Mark Boyer

Wallis F. Kay Wallis

**SIGNING OTHER RECOMMENDATIONS:**

Rieger Steve Rieger No Recommendation

Frank Frank No Rec

Brown Ray Brown NO Rec

Davis Mike Davis NO Rec

Robert P. Adams  
Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

No. 1

REQUEST: \_\_\_\_\_

Bill Version: <sup>US</sup> HB 179 (FIN)  
Publish Date: HOUSE 3/18/87

Revision Date: \_\_\_\_\_

Title: An Act extending the termination date of the Board of Psychologist & Psych.

Agency Affected: Commerce & Economic Dev.

BRU: Occupational Licensing

Sponsor: House Labor & Commerce

Associate Examiners: \_\_\_\_\_

Requestor: \_\_\_\_\_

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Funding for continuation of the Board of Psychologist and Psychological Associate Examiners is budgeted in the department's FY 88 operating budget request and is anticipated to be covered primarily through program receipts.

Prepared by: Jennifer Strickler, Management Analyst  
Division: Occupational Licensing

Phone: 465-2111  
Date: 3/16/87

Approved by Commissioner: J. Anderson Smith  
Agency: Commerce and Economic Development

Date: 3/17/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Original sponsor: Labor and Commerce  
Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 179 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act extending the termination date of the Board  
7 of Psychologist and Psychological Associate Examin-  
8 ers; changing the composition of the board; and  
9 providing for an effective date."

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

11 \* Section 1. AS 08.03.010(c)(10) is amended to read:

12 (10) Board of Psychologist and Psychological Associate  
13 Examiners (AS 08.86.010) -- June 30, 1991 [1987].

14 \* Sec. 2. AS 08.86.010 is amended to read:

15 Sec. 08.86.010. CREATION AND MEMBERSHIP OF BOARD. There is  
16 created a Board of Psychologist and Psychological Associate Examiners.  
17 It consists of three [FOUR] licensed psychologists, a licensed psycho-  
18 logical associate, and one person who has no direct financial interest  
19 in the health care industry.

20 \* Sec. 3. Notwithstanding AS 08.86.010, as amended by sec. 2 of this  
21 Act, the licensed psychologist-members of the Board of Psychologist and  
22 Psychological Associate Examiners who are serving on the board on the  
23 effective date of this Act shall continue to serve the remainder of the  
24 terms to which they were appointed.

25 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).  
26  
27  
28  
29

Original sponsor: Labor and Commerce  
Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 179 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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15 Sec. 08.86.010. CREATION AND MEMBERSHIP OF BOARD. There is  
16 created a Board of Psychologist and Psychological Associate Examiners.  
17 It consists of three [FOUR] licensed, psychologists, a licensed psycho-  
18 logical associate, and one person who has no direct financial interest  
19 in the health care industry.

20 \* Sec. 3. Notwithstanding AS 08.86.010, as amended by sec. 2 of this  
21 Act, the licensed psychologist-members of the Board of Psychologist and  
22 Psychological Associate Examiners who are serving on the board on the  
23 effective date of this Act shall continue to serve the remainder of the  
24 terms to which they were appointed.

25 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).  
26  
27

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

HOUSE FINANCE COMMITTEE



## House of Representatives

### MEMORANDUM

FAIRBANKS

1098 LAKEVIEW TERRACE  
FAIRBANKS, ALASKA 99701  
(907) 456-6473

JUNEAU

P.O. BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3466

TO: Representative Al Adams, Chair  
Representative Pat Pourchot, Vice-Chair  
House Finance Committee  
Committee Members

FROM: Representative Mark Boyer *MB*

SUBJECT: CS for HB 179 (Finance) Board of Psychologist and  
Psychological Associate Examiners

DATE: April 21, 1986

Last year the Legislature passed CSSB 251 (HESS) which, among other changes to the statute regulating the practice of psychology, added a section allowing psychological associates (practitioners with M.A., rather than Ph.D) to practice without the supervision of a psychologist. The new section applied to associates with five years of licensed practice able to satisfy "criteria established by the board by regulation."

The regulations which the Board has proposed for independent practice are so restrictive as to render the likelihood of any associate being granted the privilege very small. A Legislative Budget and Audit Report of December 19, 1986 questioned the validity of the proposed regulations:

Currently, PAs are required to have three years of supervised experience prior to getting their license and an additional five years of supervised experience after receiving their license. Eight years of experience combined with 60 hours of graduate program study seems overly restrictive in order for PAs to practice without supervision. Based on public response to the draft regulations, it may not be in the public's best interest to require this additional amount of education.

Attached is a letter from Legislative Auditor Gerald Wilkerson to the LBA Committee which describes the regulation situation in greater detail.

I originally proposed an amendment to change the composition of the Board and put the various license fees back in statute. I was concerned that the Board had lowered its fees in November of last year, at a time when we are attempting to fund all the licensing boards through program receipts. I have been assured by the Director of the Occupational Licensing Division that the fees will be raised in the near future in an effort to make the Board financially self-sustaining, and am therefore withdrawing that amendment.

The committee substitute before you extends the termination date of the Board of Psychologist and Psychological Associate Examiners through June 30, 1991 and replaces one of the psychologists on the board with a licensed psychological associate. I think it is inherently fair that all classes of a profession regulated by a board be represented on that board. With participation of a psychological associate in board deliberations, we may see more realistic regulations regarding their practice of psychology.

With your approval, we are now ready to bring the bill back to the full committee.

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811-3300

## THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

February 23, 1987

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the Board's response to the preliminary audit report on the Performance Report on the Department of Commerce and Economic Development, Board of Psychologist and Psychological Associate Examiners. Our comments follow.

The Board has proposed regulations requiring a psychological associate (PA) to have 60 credit hours of program study after five years of supervised experience in order to practice unsupervised. In the Board's opinion, 60 credit hours of study is necessary to insure adequate public protection. The Board gave an example of a PA practicing but only seeing three clients per week for a year (three hours) and has three face-to-face supervision sessions each year. We believe the 60 credit hour educational requirement is excessive.

Currently, a PA is required to have a Master's degree (24 credit hours) and three years of weekly supervision and pass a national examination in order to be licensed as a PA. Legislation amending AS 08.86.164 recently passed that allows a PA who has completed at least five years of licensed practice to petition the Board for certification to practice without supervision (monthly contact and quarterly face-to-face meetings). The Board is required to grant the petition if the PA satisfies the criteria established by the Board by regulation. Proposed regulations include requiring the PA to have documented at least five years of supervised practice which included at least an average of 1,500 hours of supervised practice per year. This would prevent a non-experienced PA from being certified to practice unsupervised.

The new legislation also requires the Board to propose regulations defining the academic programs that are required to be included in obtaining the Master's degree. Testimony was given by the Division of Occupational Licensing during the legislative hearings. At the hearings it was stated that the main purpose of the bill was to define an acceptable masters program through regulation so that the Board could agree that a PA can practice psychology after a certain amount of time. Therefore, the Board's definition of programs to be included in a PA's Master's degree along with supervised experience should be adequate to protect the public.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

No. 1

REQUEST: \_\_\_\_\_

Bill Version: <sup>US</sup> HB 179 (FIN)  
Publish Date: HOUSE 3/18/87

Revision Date: \_\_\_\_\_

Agency Affected: Commerce & Economic Dev.

Title: An Act extending the termination date of the Board of Psychologist & Psych.

BRU: Occupational Licensing

Sponsor: House Labor & Commerce

Associate Examiners: \_\_\_\_\_

Requestor: \_\_\_\_\_

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Funding for continuation of the Board of Psychologist and Psychological Associate Examiners is budgeted in the department's FY 88 operating budget request and is anticipated to be covered primarily through program receipts.

Prepared by: Jennifer Strickler, Management Analyst

Phone: 465-2144

Division: Occupational Licensing

Date: 3/16/87

Approved by Commissioner: JJ Anderson Smith

Date: 3/17/87

Agency: Commerce and Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Title change:

Proposed Amendments to the Board of Psychologist and Psychological Associate Examiners, extending the termination date, making miscellaneous changes and providing for an effective date.

add:

Sec. AS 08.86.010 is amended to read:

Creation and membership of board. There is created a Board of Psychologist and Psychological Associate Examiners. It consists of three[four] licensed Psychologists, one licensed psychological associate, and one person who has no direct financial interest in the health care industry.

add:

Sec. AS 08.86.140 is amended to read:

The following fees shall be imposed under this chapter as applicable:

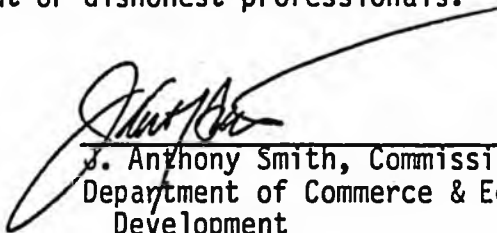
1) Application fee	\$50
2) Examination fee	\$175
3) Credential Review Fee	\$125
4) Initial License Fee	\$400
5) License Renewal	\$400

(complete re-write)

HB 179: An Act extending the termination date of the Board of Psychologist and Psychological Associate Examiners and providing for an effective date.

HB 179 extends the Board of Psychologist and Psychological Associate Examiners from June 30, 1987 to June 30, 1991. In December 1986 the Legislative Budget and Audit Committee issued a performance report on the board which recommended they be reestablished.

The department maintains its support for continuation of the Board of Psychologist and Psychological Associate Examiners and recognizes the important functions they provide. The board has the expertise to evaluate and approve applicants for licensure and provides a mechanism for disciplining incompetent or dishonest professionals.

  
\_\_\_\_\_  
J. Anthony Smith, Commissioner  
Department of Commerce & Economic  
Development

Date: \_\_\_\_\_

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811-3300

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 14, 1987

SUMMARY OF: A Performance Report on the Department of Commerce and Economic Development, Board of Psychologist and Psychological Associate Examiners, December 19, 1986.

### PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Psychologist and Psychological Associate Examiners. Our examination was conducted to determine if the Board has been operating in an efficient, effective manner and whether the Board should be reestablished. The law now specifies that the Board will terminate on June 30, 1987.

### REPORT CONCLUSION

In our opinion, the Board of Psychologist and Psychological Associate Examiners should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Also, assurances that those licensed act in a competent manner are provided by active investigation of complaints and revocation or suspension of licenses when appropriate.

### FINDINGS AND RECOMMENDATION

1. The Board should adhere to regulations concerning Board powers to deny applicants from licensure by examination.

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS

December 19, 1986

Audit Control Number

08-1270-87-R

Commissioner, Department of  
Commerce and Economic Development J. Anthony Smith

Deputy Commissioners, Department of  
Commerce and Economic Development Greg Baker  
Terry Elder

Members of the Board of Psychologist  
and Psychological Associate Examiners

Chairperson Vacant  
Member Margaret E. Fischer, Ph.D.  
Member James F. Harper, Ph.D.  
Member Dennis M. Scholl, Ph.D.  
Member Linda Olsen-Webber, Ph.D.

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811-3300

**THE LEGISLATURE**  
BUDGET AND AUDIT COMMITTEE

December 19, 1986

Members of the Legislative Budget  
and Audit Committee:

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

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS

December 19, 1986

Audit Control Number

08-1270-87-R



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

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## PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Psychologist and Psychological Associate Examiners to determine if the Board has been operating in an efficient and effective manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Psychologist and Psychological Associate Examiners should be reestablished. The law currently specifies that this Board will terminate on June 30, 1987.

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licensees.
3. Interviews with the licensing examiner.
4. Complaints filed with the Division of Occupational Licensing, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General's Opinions applicable to professional boards.

## ORGANIZATION AND FUNCTION

The Board of Psychologist and Psychological Associate Examiners (PPAE) was established under the provisions of Title 8, Chapter 86 of the Alaska Statutes. The Board consists of four licensed psychologists and one public member appointed by the Governor and approved by the Legislature.

The Board regulates licensed psychologists and psychological associates in the State. A psychologist is licensed to use psychological principles, methods, and procedures for the treatment of emotional and mental disorders. A psychological associate is licensed to perform psychological services under the supervision of a licensed psychologist. Legislation recently passed (Chapter 63, SLA 1986) allows a psychological associate who has completed at least five years of licensed practice to petition the Board for certification to practice without supervision.

The Board's duties are basically the following:

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

An applicant may be licensed by passing an exam given by the Board or by credentials. For credentials, an applicant must provide proof of licensure by another authority with equal licensing requirements.

In order to qualify for licensure as a psychologist by examination, an applicant must pass a written examination, have a doctorate degree, and one year of experience. The examination is composed of two parts: an objective national examination composed by the Professional Examination Service and an essay examination composed by the Board.

Psychological associates may qualify for the examination if they have three years supervised experience after obtaining a Master's degree.

## REPORT CONCLUSION

### Policy Issues

This report contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this report but require legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendation presented in this report so the potential impact of policy changes can be evaluated.

### Report Conclusion

In our opinion, the Board of Psychologist and Psychological Associate Examiners should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Also, assurances that those licensed act in a competent manner is provided by active investigation of complaints and revocation or suspension of licenses when appropriate.

However, the following finding describes an area where weaknesses or conflicts exist. We have made a recommendation which, if implemented, will improve the efficiency and effectiveness of the Board.

The Board should adhere to regulations for denying applicants the right to take the psychology examination. Two applicants were improperly denied the right to take the psychology examination.

## FINDINGS AND RECOMMENDATION

### Recommendation No. 1

The Board should adhere to regulations concerning Board powers to deny applicants from licensure by examination.

The Board inappropriately denied a person the right to take the psychology exam based on the allegation of unethical conduct. The Attorney General's Office determined that the Board's action was not authorized under existing statute or regulation.

12 AAC 60.055 permits the Board to deny an applicant for licensure if the applicant has . . .

- (1) been found guilty of incompetence by another state or jurisdiction;
- (2) violated the ethical standards for providers of psychological services as established by another state agency or jurisdiction;
- (3) misrepresented his or her qualifications to the board in any way; or
- (4) been found to be practicing psychological services without a license.

In this instance there was no actual finding or decision by another State agency or jurisdiction.

Similarly, another applicant for licensure by examination was not allowed to take the examination pending the outcome of an investigation by the Division of Occupational Licensing. Board of Psychology regulations do not prohibit a person from taking the psychology exam merely based on an investigation. According to the Licensing Examiner, the Board tabled their decision to act on the application without even reviewing the applicant's file.

Alaska Statute 08.86.070 provides for the Board to impose disciplinary sanctions. Those disciplinary sanctions apply to licensed psychologists and psychological associates. The Board does not have the authority to deny applicants the right to take the psychology examination as long as other minimum requirements are met. Denial of that right cannot be based on mere allegations or outstanding investigations.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law. These analyses are not intended to be comprehensive, 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 Board has promulgated regulations concerning continuing education requirements. In addition, public hearings have been held to consider regulation changes regarding course requirements for graduate programs in psychology, criteria for practicing psychology without supervision as a psychological associate, and the qualifications for persons performing psychological-related activities that are exempt from licensure. The public is notified about upcoming examinations and meetings and is invited to provide input at Board meetings.
  - B. The Board has developed goals and objectives. Some of the goals the Board achieved in 1986 includes:
    - (1) Reviewing applications for licensure and examination.
    - (2) Conducting examinations twice a year.
    - (3) Reviewing investigative reports.
    - (4) Considering regulatory changes to psychology regulations.
  - C. The Board prepared forms to document continuing education by licensed psychologists.
- 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 Board needs to clarify AS 08.86.180 which defines the Board's jurisdiction over the practice of psychology. The statutes which govern the Board prohibit any person, unless they are licensed or exempt, to practice psychology in the State.

to a permit process and allow applicants for licensure by credentials to be issued a temporary permit provided they meet criteria similar to licensing requirements.

- B. The Board has proposed statutory changes to clarify exactly when confidentiality may be waived if a client threatens serious harm to her/himself or to another person, or to property in such a way that a person's life might be in danger. In addition, the Board has proposed legislation to clarify under what conditions the board may impose disciplinary sanctions against a psychologist for lewd conduct.
- 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. The public is invited to attend Board meetings. Notices of meetings and examinations are published in at least 3 major newspapers and a time for public comment is reserved at Board meetings.
- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.
- A. Public notices of proposed regulations are published in major newspapers. Public comment to proposed regulations, both written and oral, are considered at Board meetings.
- 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. Most complaints filed with OL allege unlicensed activity. For the most part, these complaints are investigated and resolved in a timely manner. Investigations could be hampered because statutory language concerning licensing exemptions to the practice of psychology is difficult to interpret (see II. A.). Based on records at OL, there were 6 complaints filed at OL in FY 86, 20 filed in FY 85, and 19 filed in FY 84. Currently, only one investigative case is outstanding.
  - B. Review of recently closed Ombudsman's case files showed no significant complaints.

APPENDIXES

APPENDIX A  
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS  
REVENUES COMPARED WITH EXPENDITURES  
 For the Fiscal Year Ended June 30, 1986  
 (Unaudited)  
 (Note 1)

Average Revenue (See Schedule 1 and Note 2)	\$ 8,808.00
Expenditures (See Note 3)	<u>22,045.28</u>
Excess of Revenues over Expenditures	<u><u>\$(13,237.28)</u></u>

Schedule 1  
Types of Revenues

Revenues	Amount Prior to 11/20/86	Amount Effective 11/20/86	Collection Time
Application Fee	\$ 25	\$ 20	With submittal of application
Examination Fee	\$125	\$ 90	With submittal of application
Credential Review Fee	\$125	\$ 50	With submittal of application
Initial License Fee	\$200	\$200	With submittal of application
License Renewal	\$200	\$200	Every Four Years

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Statement of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is composed of license renewal fees. Licenses are renewed every four years and the last renewal date was June 30, 1985. Because of the renewals, revenues vary substantially every fourth year. Therefore, we averaged revenues collected in fiscal years 83, 84, 85 and 86 in order to obtain a representative amount of average annual revenues collected.

APPENDIX B  
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL  
ASSOCIATE EXAMINERS  
EXAMINATION STATISTICS

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Failed at Least one Section	4	4	4	2	3
Passed	<u>9</u>	<u>5</u>	<u>3</u>	<u>8</u>	<u>4</u>
Total	<u>13</u>	<u>9</u>	<u>7</u>	<u>10</u>	<u>7</u>

APPENDIX C  
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL  
ASSOCIATE EXAMINERS  
ADMINISTRATIVE STATISTICS

Schedule 1  
Number of Licenses

	<u>As of June 30, 1986</u>
Licensed Psychologists	94
Licensed Psychological Associates	<u>14</u>
Total	<u>108</u>

Schedule 2  
Licenses Issued by Fiscal Year

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Psychologists	7	10	7	12	9
Psychological Associates	<u>2</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
Total	<u>9</u>	<u>12</u>	<u>8</u>	<u>14</u>	<u>10</u>

STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

February 6, 1987

Mr. Gerald Wilkerson  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box W  
Juneau, AK 99811

FEB 17 1987


Dear Mr. Wilkerson:

The department agrees that the Board of Psychologist and Psychological Associate Examiners should be continued and concurs with the recommendation that the board should adhere to regulations concerning the board powers to deny applicants from licensure by examination. It should be noted, however, that, although the board initially inappropriately denied an applicant from licensure by examination, an attorney general's opinion was sought prior to the examination and the candidate was permitted to take the examination on schedule.

The issue was whether or not the board has the power to deny a license by examination or licensure by credentials based on allegations of unethical conduct or pending the results of ongoing investigations. Under its current regulations, the board does not have this authority. Since the board has the responsibility to ensure only qualified, competent individuals receive licenses to practice, the department would recommend that the board amend 12 AAC 60.055 to add another section: "(5) is not the subject of an unresolved complaint, review procedure or disciplinary proceeding." There is a current applicant for licensure who has been accused of several counts of sexual misconduct in another state. Under the existing regulation, the board is required to license the applicant. The department believes the public safety will be in danger if this applicant is licensed prior to the allegation being substantiated. Several regulatory boards have similar provisions in statute or regulation.

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

Sincerely,

  
J. Anthony Smith  
Commissioner

JAS/KM/ssC19  
020687b

# STATE OF ALASKA

## THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811-3300

February 23, 1987

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the Board's response to the preliminary audit report on the Performance Report on the Department of Commerce and Economic Development, Board of Psychologist and Psychological Associate Examiners. Our comments follow.

The Board has proposed regulations requiring a psychological associate (PA) to have 60 credit hours of program study after five years of supervised experience in order to practice unsupervised. In the Board's opinion, 60 credit hours of study is necessary to insure adequate public protection. The Board gave an example of a PA practicing but only seeing three clients per week for a year (three hours) and has three face-to-face supervision sessions each year. We believe the 60 credit hour educational requirement is excessive.

Currently, a PA is required to have a Master's degree (24 credit hours) and three years of weekly supervision and pass a national examination in order to be licensed as a PA. Legislation amending AS 08.86.164 recently passed that allows a PA who has completed at least five years of licensed practice to petition the Board for certification to practice without supervision (monthly contact and quarterly face-to-face meetings). The Board is required to grant the petition if the PA satisfies the criteria established by the Board by regulation. Proposed regulations include requiring the PA to have documented at least five years of supervised practice which included at least an average of 1,500 hours of supervised practice per year. This would prevent a non-experienced PA from being certified to practice unsupervised.

The new legislation also requires the Board to propose regulations defining the academic programs that are required to be included in obtaining the Master's degree. Testimony was given by the Division of Occupational Licensing during the legislative hearings. At the hearings it was stated that the main purpose of the bill was to define an acceptable masters program through regulation so that the Board could agree that a PA can practice psychology after a certain amount of time. Therefore, the Board's definition of programs to be included in a PA's Master's degree along with supervised experience should be adequate to protect the public.

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

HOUSE BILL NO. 179

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act extending the termination date of the Board

7

of Psychologist and Psychological Associate Examin-

8

ers; and providing for an effective date."

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

10 \* Section 1. AS 08.03.010(c)(10) is amended to read:

11

(10) Board of Psychologist and Psychological Associate

12

Examiners (AS 08.86.010) -- June 30, 1991 [1987].

13

\* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).