

ALASKA LEGISLATURE

1031

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

105



Alaska Dental Society

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(907) 277-4675 • FAX: 274-2960

Wednesday, February 23, 1994

Representative Gary Davis
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Davis:

The Alaska Dental Society is pleased to provide you with the attached information sheet relative to the following House and Senate Bills currently under review:

Senate Bill 201 - *COORDINATING INSURANCE BENEFITS*

House Bill 324 - *KEEPING THE BOARD OF DENTAL EXAMINERS*

House Bill 476 - *ANY WILLING PROVIDER (Freedom of Choice for Dental Patients)*

House Bill 472 - *DENTAL REFERRAL SERVICES (Disclosure of fees paid)*

The information sheet provides you with a comparison of the various types of dental reimbursement plans currently being offered to employees as well as a glossary of dental benefits terminology. We have devised this chart as a means of educating people about the differences between the various programs.

The Alaska Dental Society supports all of the above legislation because it helps protect the interests and freedoms of our patients. If you have any questions with regards to the information contained herein, please contact the Alaska Dental Society at (907) 277-4875.

Sincerely,

The Alaska Dental Society

ALASKA STATE BOARD OF DENTAL EXAMINERS
ANNUAL REPORT
FISCAL YEAR 1993

August 1, 1993

The Honorable Walter J. Hickel
Office of the Governor
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Hickei:

Enclosed is the Alaska State Board Annual Report for Fiscal Year 1993. This is in accordance with Alaska Statutes 08.36.070.

The Dental Board's goals and objectives, significant discussions and actions by the board, adopted regulations and future legislative recommendations are listed on the following pages. Statistical overview of board information by the Licensing Examiner is also included.

Respectfully submitted:

George Shaffer, DMD
Chairperson
Alaska State Board of Dental
Examiners

Prepared by:

Royann Royer, RDH, MPH
Secretary
Alaska State Board of Dental
Examiners

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BOARD OF DENTAL EXAMINERS

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BOARD OF DENTAL EXAMINERS

GOALS AND OBJECTIVES - FY 93

1. Cooperate with the Sunset Review Committee and Legislative Audit Committee. Improve the representation and communications with the committees from the entire board.
2. Be responsive to questions concerning the regulation of dental hygienists in areas such as:
 - a. placement of pit and fissure sealants;
 - b. topical medicament;
 - c. coronal polishing; and
 - d. supervision required for hygienists utilizing local anesthetic agents.
3. Investigate the means and mechanisms of assuring quality control of functions delegated to allied dental health professions.
 - a. dental auxiliaries placing pit and fissure sealants;
 - b. minimum competency requirements for dental auxiliaries placing pit and fissure sealants;
 - c. auxiliaries placing topical medicaments; and
 - d. guidelines for placing topical medicaments.
4. Encourage the Governor's Office to expedite appointments and re-appointments of board members.
5. Maintain adequate procedures for background investigations of all licensure applicants.
6. Continue to interact with testing entities to ensure continued upgrading of examination procedures and content.
7. Distribution of licensure information to licensees through the board-published newsletter.
8. Investigate with WREB the use of limited specialty licensing examinations for ADA recognized dental specialties.
9. Develop policy with regard to ethics to include dental advertising.

10. Support a cooperative relationship with dental education institutions to continue to supply adequate numbers and quality of allied health professionals.
 - o Support courses that could be used for continued competency assurance to upgrade the knowledge of the state's allied health professionals.
11. Continue to investigate further methods to insure adequacy in our licensing procedures.
12. Assist the division in establishment of fees commensurate with costs incurred for each license category.
13. Investigate extension programs for dental auxiliary training.
14. Continue to promote continued competency. Monitor continuing education and compliance with state statutes and regulations:
 - a. develop infection control regulations;
 - b. develop radiation protection regulations;
 - c. develop regulations for the use of dental laser devices; and
 - d. develop regulations for identification of dental prosthesis.

BOARD OF DENTAL EXAMINERS
REVIEW OF PRIOR YEAR OBJECTIVES

A copy of the Goals and Objectives for FY 92 precedes the following highlights and current status of the board's actions or involvement regarding these issues:

1. The board wishes to cooperate with the Sunset Review Committee and Legislative Audit Committee in all respects. It is essential to enhance communication with the department and to demonstrate the need and important role the board represents for maintaining the highest quality dental profession in the State of Alaska and as advocates for the consumers of their services.
2. (a-d): The board is currently involved in ongoing discussions trying to clarify the board's opinions and regulations of the dental hygienist's scope of practice. These discussions can be read in the excerpts from the minutes that have been included in the narrative section.
3. (a-f): Again, as identified in the minutes the board is continuing controversial discussions in regard to requiring minimum competency requirements for dental auxiliaries. A regulation was proposed and passed by the board to allow dental assistants to place pit and fissure sealants and topical medicants. This regulation was repealed after receiving our Attorney General's opinion that, since these duties are listed under the state's dental hygiene statutes, they cannot be delegated to dental assistant.
4. The board would like to emphasize how important it is for the Governor's Office to expedite appointments and reappointments of board members. It is crucial for maintaining appropriate representation of dental professionals throughout the state. At minimum, it is needed to ensure a quorum is available to conduct business during board meetings when not all board members are available to attend. Also, Board has ongoing commitments with the Western Regional Examining Board. Board members provide manpower to develop and administer examinations for licensure. This requires a fully staffed board since extensive time and travel are required from all board members. WREB schedules may also conflict with state board meetings.
5. The board has developed and adopted new/additional procedures which should now maintain adequate background investigations of all licensure applications. These include Verification of Dental Association Membership; Drug Enforcement Administration Verification; Impaired Practitioner Affidavit; Affidavit of Professional Reference; and Certification of Practice, including three letters of reference and verification from Federal Jurisdiction (if applicable).

6. The board continues to participate in the Western Regional Board Examinations and interact with the American Association of Dental Examiners and Western Conference of Dental Examiners through conferences to ensure continued upgrading of examination procedures and content. The board currently has a representative for the State of Alaska on the WREB. Board members share responsibility of two meetings a year for the WREB Board of Directors. Dental hygiene examinations are four to five days of travel, and dental exams are five to seven days in length. All members try to participate in one or two exams per year. This responsibility is one of the major factors in having an adequate number of members on the state board.
7. The board has chosen to utilize the Alaska State Dental Association newsletter, Alaska Update, as its medium for distribution of licensure information to licensees. A biannual insert of board information will be mailed to all licensees, not only to members of the Alaska State Dental Association. Additional articles will be published as needed in this quarterly publication.
8. The board continues to investigate the use of limited specialty licensing examinations for ADA-recognized dental specialties. Western Regional Examining Board is currently researching possibilities for conducting these examinations.
9. The American Dental Association has outlined and defined appropriate guidelines for ethical advertising in dentistry which can be utilized under Sec. 08.36.315(3) in the Alaska Statutes. This statute identifies grounds for discipline, suspension or revocation of a license. The board has also voted to accept the ADA Code of Ethics as Alaska's ethics guideline in dentistry.
10. The board strives to maintain a cooperative relationship with the only state dental education institution at the University of Alaska at Anchorage Dental Programs. The goal is to supply adequate numbers and quality allied health professionals in Alaska. Also, the University and the State Dental and Dental Hygiene Associations have offered an adequate number and quality continuing education courses for dental professionals throughout this fiscal year.
11. The board continues to investigate further methods to insure adequacy in our licensing procedures. Regulations have been developed during these last two fiscal years in regard to licensing by credentials. However, legal interpretations continue to confuse the validity of these regulations. Adequate legal counsel is needed when making decisions pertaining to these regulations.
12. The board feels that the current fees do not reflect and compensate for actual operating costs to the division. A request for revising and assisting the division in establishment of fees is provided in the Budget Recommendations section of this report.

13. The board will continue to encourage extension programs for dental auxiliary training as requested by the community and/or mandated by new statutes or regulations.
14.
 - a. Infection control regulations have been mandated by the current OSHA guidelines. Dental professionals throughout the country must implement these guidelines into their practices. These mandated guidelines are enforced by the federal government. Therefore, the board fees additional infection control regulations are no longer needed.
 - b. A committee was formed and recommendations provided for developing radiation protection regulations for dental auxiliaries this fiscal year. The majority of the board does not want to develop regulations at this time and will delete this objective from its FY 94 goals.
 - c. Regulations were developed for use of dental laser devices. These regulations were approved as detailed in Regulation Recommendations section of this report.
 - d. Regulations were developed and approved for identification of dental prosthesis. See Regulation Recommendations section.

BOARD OF DENTAL EXAMINERS
GOALS AND OBJECTIVES - FY 94

1. Cooperate with the Sunset Review Committee and Legislative Audit Committee. Improve the representation and communications with the committees from the entire board.
2. Be responsive to questions concerning the regulation of dental hygienists in areas such as:
 - a. placement of pit and fissure sealants;
 - b. topical medicament;
 - c. coronal polishing; and
 - d. supervision required for hygienists utilizing local anesthetic agents.
3. Investigate the means and mechanisms of assuring quality control of functions delegated to allied dental health professions.
 - a. dental auxiliaries placing pit and fissure sealants;
 - b. minimum competency requirements for dental auxiliaries placing pit and fissure sealants;
 - c. auxiliaries placing topical medicaments; and
 - d. guidelines for placing topical medicaments.
4. Encourage the Governor's Office to expedite appointments and re-appointments of board members.
5. Maintain adequate procedures for background investigations of all licensure applicants.
6. Continue to interact with testing entities to ensure continued upgrading of examination procedures and content.
7. Distribution of licensure information to licensees through the board-published newsletter.
8. Investigate with WREB the use of limited specialty licensing examinations for ADA recognized dental specialties.
9. Develop a policy with regard to ethics to include dental advertising.

10. Support a cooperative relationship with dental education institutions to continue to supply adequate numbers and quality of allied health professionals.
 - o Support courses that could be used for continued competency assurance to upgrade the knowledge of the state's allied health professionals.
11. Continue to investigate further methods to insure adequacy in our licensing procedures.
12. Assist the division in establishment of fees commensurate with costs incurred for each license category.
13. Investigate extension programs for dental auxiliary training including training in infection control and radiation protection. Continue to promote continued competency. Monitor continuing education and compliance with state statutes.
 - a. develop infection control regulations; and
 - b. develop radiation protection regulations.
14. Maintain compliance with the Americans With Disabilities Act, PL 101-336.

BOARD OF DENTAL EXAMINERS
SUNSET PERFORMANCE AUDIT RECOMMENDATIONS

The board is under Sunset Review and will sunset on June 30, 1993 unless extended. The board has one year, June 30, 1994, to conclude its business and will cease to exist as of June 30, 1994 unless extended.

BOARD OF DENTAL EXAMINERS

BUDGET NARRATIVE

This section details the number of board meetings requested and travel requests for board members. The number of meetings coincide with the number mandated. Teleconferences are conducted only when matters of significant importance need to be acted on and cannot be detained till the next scheduled meeting.

Travel requests have been reduced to an absolute minimum for outside meetings. The two meetings requested, American Association of Dental Examiners Conferences, are essential for the board to attend. The Dental Board is required to belong to this organization to maintain the state's participation in the Western Regional Board Exam. Members need to attend these meetings in order to keep abreast of current issues and examination procedures discussed and developed during these conferences.

The board would like to request a comparison of the allocated "line item" budget for the dental component of the Division of Occupational Licensing and expenses incurred by the Dental Board during the last fiscal year. If this budget represents enumeration of fees collected through licensing and renewals but does not cover expenses, fees should be increased to compensate for this difference. This request by the board for increased fees to cover expenses incurred is also included.

**BOARD OF DENTAL EXAMINERS
FOUR TWO-DAY MEETINGS PER YEAR**

	ANCHORAGE
Examiner (Juneau)	\$1,776.00
Per Diem	1,064.00
Martinelli (Soldotna)	496.00
Per Diem	996.00
Robinson (Wasilla)	94.08
Per Diem	288.00
Eichman (Juneau)	1,776.00
Per Diem	840.00
Michels (Nome)	2,320.00
Per Diem	1,456.00
Remaklus (Anchorage)	0.00
Royer (Anchorage)	<u>0.00</u>
Arneson (Kodiak)	1,544.00
Per Diem	544.00
Cameron (Juneau)	1,776.00
Per Diem	840.00
TOTAL MEETING COST	<u>\$15,810.08</u>

Costs determined by full coach air fare, per diem: first day prorated, last day 36.00, daily rate at higher season rate (examiner travel not prorated on first day of travel).

Board requests out-of-state travel for two members to attend three conferences (AADE Annual and Mid-Year-Winter and Western Conference) - these costs are not provided for in these figures.

**BOARD OF DENTAL EXAMINERS
OUTSIDE TRAVEL COSTS**

	<u>Approximate Cost</u>
<u>AADE Annual Meeting</u> November 4-5, 1993 San Francisco, California	For One Member) \$1,151.00
Transportation:	427.00
Per Diem x 4 days:	
Actuals: Lodging @ \$105.00 x 3	315.00
Meals - 36.00 x 4	<u>144.00</u>
	459.00
Registration:	265.00
 <u>AADE Mid-Year Meeting</u> April 1994 Chicago, Illinois	 For One Member) 659.00
Transportation:	Paid by ADA
Per Diem x 4 days:	
Actuals: Lodging @ \$105.00 x 3	315.00
Meals - 36.00 x 4	<u>144.00</u>
	459.00
Registration:	200.00
 <u>Western Regional Board Conference</u> Dates Unknown - Summer Rates San Francisco, California	 (For One Member) 1,159.00
Transportation:	500.00 (Ultra Saver)
Per Diem:	
Actuals: Hotel @ \$105.00 x 3	315.00
Meals - 36.00 x 4	<u>144.00</u>
	459.00
Registration:	200.00

BOARD OF DENTAL EXAMINERS

BOARD TRAVEL REQUEST

A. In-State Regular Board Meetings:

Number of board meeting authorized by statute: 4

FY 93

FY 94

July 27, 1992
(Special Meeting
called by Chair)

October 2-3, 1992

September 24-25, 1993

Number of board meetings requested: 4

FY 92

FY 93

November 5, 1992
(Teleconference)

November 19-20, 1993

January 14-15, 1993

February 4-5, 1994

May 6-8, 1993

May 4-5, 1994

June 18, 1993
(Teleconference)

Locations:

Anchorage
Juneau - if needed

B. Out-of-State Travel:

Name of event/conference

Location (City, State)

Date(s)

Who is anticipated to attend? (Name of board member(s), staff)

Name of alternate attendee.

- | | |
|--|---------------------------------------|
| 1. AADE Annual Meeting
October 1993
San Francisco, California | 1 Dental Member
1 Dental Hygienist |
| 2. AADE Mid-Winter Meeting
Chicago, Illinois
April 1993 | 1 Dental Member
1 Dental Hygienist |
| 3. Western Regional Board
Conference
San Francisco, California
(Dates unknown as of this
report) | 1 Dental Member
1 Dental Hygienist |

BOARD OF DENTAL EXAMINERS
LEGISLATIVE AND REGULATION RECOMMENDATIONS

The following regulations were approved or proposed by the board in FY 93. See attached documents.

TO: Division of Occupational Licensing

FROM: State Board of Dental Examiners

RE: Budget for Fiscal Year 1995

The State Board of Dental Examiners would like to make its requests known to the Division concerning the budget for the next Fiscal Year. As per AS 08.01.065, the Board wishes to become self-sufficient, and revise its fees to reflect, and compensate for, actual operating costs. We cannot comply with this statute unless we are given a detailed accounting of costs which apply to each specific Board function. Each fee category must be revised accordingly to enable the Board to operate in a break-even fashion.

- Progress in becoming self-sufficient has been stifled by the Division's failure to agree to fee increases. The Board therefore petitions the Division to calculate adjustments to each fee category based on the current record of expenses and income. The aforementioned license and other fees are delineated in 12 AAC 02.190.

The Board cites the following goals which necessitate increased budgetary considerations:

- 1) Compliance with the legislative mandate
- 2) The ability to function effectively in our capacity
- 3) The opportunity to retain necessary legal counsel where necessary
- 4) Funding to allow attendance at WREB, AADE, and other meetings critical to our function.
- 5) Compensation for Expert Witnesses where needed
- 6) Disciplinary action for Dental and Dental Hygiene offenders
- 7) Other travel, contractual, and commodity expenses

DIVISION OF OCCUPATIONAL LICENSING

Prepared for:

Board of Dental Examiners

The information shown below provides an estimate of meeting(s) and exam(s) that can be held with the Travel allocation shown on the attached FY 94 Cost Allocation page.

This information should be used strictly as a guide. For example, a board may choose to hold a meeting by teleconference in lieu of a face-to-face meeting in order to use travel funds for other trips. As a reminder, activities requiring travel funds must remain within the allocated funding for travel.

The Travel Allocation can provide:

4 - two-day meetings.

DENCA.XLS

TITLE:		FY 94 COST ALLOCATION	
PROGRAM:		DENTAL	
DATE:		May-93	
NUMBER OF LICENSIFES		28,717	1,048
PERCENT OF LICENSEES		100	3.65%
	TOTAL		
		DIRECT	IN-DIRECT
		(Program)	(Division)
PERSONAL SERVICES			
Division Support	51,188	0	51,188
Lic. Examiner PCN 08- \$48,109	2008 12,688	12,688	0
SUB TOTAL	63,876	12,688	51,188
TRAVEL/PER DIEM			
Division	554	0	554
Program	13,359	13,359	0
SUB TOTAL	13,913	13,359	554
CONTRACTUAL			
Professional Services	15,164 *	6,978	1,224
Communications	5,791	1,462	4,329
Transportation	1,041	153	888
Advertising/Printing	2,782	1,168	1,614
Repairs/Maintenance	898	0	898
Rentals/Leases	1,113	225	888
Other (Mbrships, etc.)	2,151	1,676	476
SUB TOTAL	28,340	11,661	10,316
SUPPLIES			
Division	1,846	0	1,846
Program	129	129	0
SUB TOTAL	1,975	129	1,846
EQUIPMENT			
Division	3,608	0	3,608
Program	0	0	0
SUB TOTAL	3,608	0	3,608
TOTAL COSTS	112,311	37,837	67,511

*Includes a \$6,962 FY 92 (in-direct) legal services increase.

**BOARD OF DENTAL EXAMINERS
ANNUAL REGULATIONS REPORT
FY 93**

1. Regulations projects pending at the end of FY 92	Status
A. CPR/Credentials	Closed - approved in 2 parts; effective 2/18/93 and 4/8/93
B.	
C.	

2. New projects started in FY 93	Status
* A. Lasers/prosthetics	A. Adopted - pending review by Dept. of Law
* B. Licensure by credentials	B. Adopted - pending review by Dept. of Law
* C. Consultants, continuing education	C. Pending board review

3. Number of public regulations hearings held in FY 93: 2

4. Number of board meetings the regulations specialist attended
0 in person
3 by teleconference

(* indicates a regulations project that is pending at the end of FY 93)

REGULATIONS APPROVED

12 AAC 28.105 EXAMINATIONS

Made necessary word changes to comply with new statute.

12 AAC 28.400 CONTINUING EDUCATION REQUIREMENTS

Made necessary language changes for requirements for cardiopulmonary resuscitation (CPR) be made to be in compliance with AS 08.36.070 and 12AAC 28.920, and defines contact hours of continuing education.

12 AAC 28.410 APPROVED CONTINUING EDUCATION COURSES

Adds cardiopulmonary resuscitation training to the list.

12 AAC 28.420(a)(3) REPORT OF CONTINUING EDUCATION

Made necessary word changes to comply with regulations.

12 AAC 28.500(b) DENTAL HYGIENIST EXAMINATION

Addition of on or after January 1, 1987.

12 AAC 28.920 CPR CERTIFICATION

Added a new section defining CPR requirements.

12 AAC 28.930 INACTIVE LICENSE RENEWAL

Added a new section for renewal of an inactive license and methodology to reinstate as an active license.

12 AAC 28.950 cessation of licensing by credentials

Repealed.

12 AAC 28.951 LICENSURE BY CREDENTIALS

Added a new section defining the requirements that are considered generally equivalent licensing requirements.

12 AAC 02.190(b)(8) & (9) BOARD OF DENTAL EXAMINERS

Added initial and biennial parenteral sedation permit fees.

REGULATIONS RECOMMENDATIONS

12 AAC 28.410 APPROVED CONTINUING EDUCATION COURSES

Requests that AS 08.36.234(1)(H) be included.

12 AAC 28.700 IDENTIFICATION OF DENTAL PROSTHESIS

Requests that dentures be identified with the name of the owner.

12 AAC 28.710 USE OF LASER DEVICES

Requests that laser devices be in compliance with radiation requirements, used only by a licensed dentist, and cannot be used in false advertising.

12 AAC 28.910(b) DENIAL OF LICENSURE

Requests addition of (b) that the board may deny a license for the same grounds as imposing discipline under AS 08.36.315.

12 AAC 08.28.940 LICENSURE OF A DENTAL CONSULTANT OR REVIEW AGENT

Requests that any person who diagnosis, approves, disapproves, determines, or decides the dental care or treatment performed in this state must be licensed to practice dentistry in this state.

12 AAC 28.990(6) DEFINITIONS

Requests addition of a definition of "graduate of a dental school accredited by the Commission on Accreditation of the American Dental Association, or its successor agency". AS 08.234(a)(1)(A) needs to be in agreement with AS 08.36.110(1)(A) which is the requirements for all licensees.

12 AAC 28.951(3) LICENSURE BY CREDENTIALS

Requests addition of subjects of examination.

12 AAC 02.190 BOARD OF DENTAL EXAMINERS

Requests additions and fee changes.

**BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION**

The Division of Occupational Licensing requests that each board or commission proposing legislative requests complete this form in its entirety. Completion of this analysis will provide division staff with a clearer understanding of the board's/commission's intent and position on relevant issues concerning the proposed changes.

1. **Proposed language:**
AS 08.36.070(b)(3) refuse to grant a license to any applicant for the same reasons that it may impose disciplinary sanctions under AS 08.32.160 and AS 08.36.315.
2. **Public/Industry/Profession benefit and consequences:**
For the protection and safety of the public the board should be able to refuse to grant a license for the same reasons it would discipline, suspend or revoke a license.
3. **State the problem or purpose prompting this request identifying the serious risk to the consumer's life, health, safety, and economic well-being:**
Without the explicate statute allowing the board to refuse to grant a license
4. **Briefly state the history of this problem or proposal:**
This change is necessary to treat all applicants the same and not to discriminate or have two different sets of requirements.
5. **Identify the alternatives to this legislation (if any) and an analysis as to whether the benefits to the public are outweighed by the harmful effects of not having the recommended statute:**
There are no alternatives. Not having the recommended statute could force the board to issue a license to an applicant by examination that it would not have issued to an applicant under AS 08.36.234(a)(1)(G).
6. **Cite any similar statutes from other states or other professions.**
The medical profession has this same wording in their statutes AS 08.64.240(b).

7. Which alternative mentioned would be most acceptable?

No Alternative identified.

8. Does the entire board/commission agree with this legislative request?

Yes the board voted unanimously in support of the change.

9. In the event questions should be raised during review of this request, please indicate below which board member we should contact?

Board/Commission Member: Robert W. Robinson II, D.M.D.

Day Phone: 907 373-0747

**BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION**

The Division of Occupational Licensing requests that each board or commission proposing legislative requests complete this form in its entirety. Completion of this analysis will provide division staff with a clearer understanding of the board's/commission's intent and position on relevant issues concerning the proposed changes.

1. Proposed language:

AS 08.36.110(1)(C) has not had a license to practice dentistry revoked, suspended, or voluntarily surrendered in [THIS] a state, territorial, local, or federal dental licensing jurisdiction.

2. Public/Industry/Profession benefit and consequences:

3. State the problem or purpose prompting this request identifying the serious risk to the consumer's life, health, safety, and economic well-being:

4. Briefly state the history of this problem or proposal:

The board unanimously voted that (C) should be as inclusive as (D) & (E) and should conform with the rest of the reading of the practice act.

5. Identify the alternatives to this legislation (if any) and an analysis as to whether the benefits to the public are outweighed by the harmful effects of not having the recommended statute:

6. Cite any similar statutes from other states or other professions.

AS 08.36.110(1)(D) & (E)

7. Which alternative mentioned would be most acceptable?
8. Does the entire board/commission agree with this legislative request?
The board voted unanimously for this change.
9. In the event questions should be raised during review of this request,
please indicate below which board member we should contact?

Board/Commission Member: Robert W. Robinson II, D.M.D.

Day Phone: 907 373-0747

BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION

The Division of Occupational Licensing requests that each board or commission proposing legislative requests complete this form in its entirety. Completion of this analysis will provide division staff with a clearer understanding of the board's/commission's intent and position on relevant issues concerning the proposed changes.

1. Proposed language:

AS 08.36.234(1)(A) is a graduate of a dental school that at the time of graduation is accredited by the Commission on Accreditation of the American Dental Association, or its successor agency,

2. Public/Industry/Profession benefit and consequences:

To have AS 08.36.234(1)(A) agree with AS 08.110(1)(A) which covers all applicants for a license to practice dentistry. This will avoid any confusion or possible litigation.

3. State the problem or purpose prompting this request identifying the serious risk to the consumer's life, health, safety, and economic well-being:

To protect the public from unnecessary legal expense. To protect the public from a possible situation of a dentist practicing without having graduated from an accredited dental school.

4. Briefly state the history of this problem or proposal:

Recently passed statute needing to conform to the language of Chapter AS 08.36 of which it is a part.

5. Identify the alternatives to this legislation (if any) and an analysis as to whether the benefits to the public are outweighed by the harmful effects of not having the recommended statute:

6. Cite any similar statutes from other states or other professions.

AS 08.36.110(1)(A)

7. Which alternative mentioned would be most acceptable?
8. Does the entire board/commission agree with this legislative request?
The Board voted unanimously in support of this request for statute change.
9. In the event questions should be raised during review of this request, please indicate below which board member we should contact?

Board/Commission Member: Robert W. Robinson II, D.M.D.

Day Phone: 907 373-0747

7. Which alternative mentioned would be most acceptable?

8. Does the entire board/commission agree with this legislative request?

Yes

9. In the event questions should be raised during review of this request, please indicate below which board member we should contact?

Board/Commission Member: Robert W. Robinson II, D.M.D.

Day Phone: 907 373-0747

AS 08.02.020(3) change: ... to a person licensed under AS 08.64 [.], AS 08.32, and 08.36.

Add new section: AS 08.02.21 Limitation on liability for persons providing information. (a) A person providing information to a licensing board or peer review committee established to review a licensing matter is not subject to action for damages or other relief by reason of having furnished that information, unless the information is false and the person providing the information knew or had reason to know the information was false.

(b) A privilege of confidentiality arising from a health care provider-patient relationship may not be invoked to withhold pertinent information from review by a licensing board or peer review committee.

AS 18.23.010(b) change: ... arising from a [physician-patient] health care provider-patient relationship may not

AS 18.23.030(d) add: ... in a report submitted to the Board of Dental Examiners or the State Medical Board, and information gathered by the board during an investigation, under AS 08.36.315-340 and AS 08.64.336 is not subject ...

AS 18.23.070(5) add: the Board of Dental Examiners established by AS 08.36.010

**BOARD/COMMISSION RECOMMENDATIONS FOR
PROPOSED LEGISLATION**

The Division of Occupational Licensing requests that each board or commission proposing legislative requests complete this form in its entirety. Completion of this analysis will provide division staff with a clearer understanding of the board's/commission's intent and position on relevant issues concerning the proposed changes.

1. Proposed language:

AS 08.36.70(b)(4) appoint a person who has been licensed and engaged in the practice of dentistry in the state for five years immediately preceding appointment to approve continuing education courses.

2. Public/Industry/Profession benefit and consequences:

It creates undue hardships on the licensees, public and the board to be unable to designate someone to represent the board in matters such as approving continuing education courses.

3. State the problem or purpose prompting this request identifying the serious risk to the consumer's life, health, safety, and economic well-being:

Until the board has its scheduled meeting many dentists and hygienist are unable to know if a course will be approved. This also can lead to a reduction of courses available.

4. Briefly state the history of this problem or proposal:

There have been many inquiries to the department and board as to whether an upcoming course will meet the requirements of continuing education. The board wants to designate someone to approve courses.

5. Identify the alternatives to this legislation (if any) and an analysis as to whether the benefits to the public are outweighed by the harmful effects of not having the recommended statute:

To leave as is and therefore not give approval until the board has its scheduled meeting. It can be as long as four months between meetings and could mean a licensee must guess the boards decision or the course cancels for lack of approval.

6. Cite any similar statutes from other states or other professions.

AS 08.36.130 authorizes the board to appoint persons to conduct or supervise the dental examination.
AS 08.64.336(c); AS 08.64.101(6) allows the State Medical Board to appoint.

7. Which alternative mentioned would be most acceptable?
Change the statute to allow the board to appoint a person to approve continuing education courses.
8. Does the entire board/commission agree with this legislative request?
Yes
9. In the event questions should be raised during review of this request, please indicate below which board member we should contact?

Board/Commission Member: Robert W. Robinson II, D.M.D.

Day Phone: 907 373-0747

HVB

327

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 3, 1994

FURTHER REFERRALS:

Date of Committee Action: 2/14/94

The FINANCE Committee considered:

HB 327

HOUSE BILL NO. 327

EXTEND BOARD OF VETERINARY EXAMINERS

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

RECOMMENDATIONS:

be replaced with _____

HB 327

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DCED 2/3/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Donald J. Larson</i> Larson	<input checked="" type="checkbox"/>	<i>Tom Jernigan</i> TACYRAGUIT		<input checked="" type="checkbox"/>	
<i>Terry Martin</i> martin	<input checked="" type="checkbox"/>				
<i>John R. Pannell</i> Pannell	<input checked="" type="checkbox"/>				
<i>Ben J. Grussendorf</i> grussendorf	<input checked="" type="checkbox"/>				
<i>Mike Navarre</i> Navarre	<input checked="" type="checkbox"/>				
<i>Tam Brown</i> Brown	<input checked="" type="checkbox"/>				
<i>Richard Foster</i> FOSTER	<input checked="" type="checkbox"/>				
<i>E.P. MacLean</i> MacLean	<input checked="" type="checkbox"/>				

Donald J. Larson
CO-CHAIRMAN'S SIGNATURE

E.P. MacLean
MACLEAN

FISCAL NOTE

No. 1

Bill Version: HB 327

(H) Publish Date: 2/3/94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL

Revision Date: 1/28/94
 Title: An Act extending the termination date of the
Board of Veterinary Examiners;....
 Sponsor: Reps. Toohy and Bunde
 Requestor: Rep. Toohy

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The bill extends the termination date of the Board of Veterinary Examiners to June 30, 1997. Funding for the board is included in the FY 95 operating budget request; therefore, new funds are not required.

Average Annual Cost: \$28.1
 Average Annual Revenue: \$33.9

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 1/28/94
 Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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COMMITTEE COPY

SPONSOR STATEMENT

House Bill 327: An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date.

This bill will amend Alaska Statute 08.03.010 (c)(24) in order to extend the 'sunset date' of the State Board of Veterinary Examiners until June 30th, 1997. The 'sunset date' currently on the books is June 30th of this year, which means the Board is only a few months from ceasing to exist legally. At the request of several members of the veterinary medical community, I introduced HB 327 to extend the life of the Board of Veterinary Examiners for four more years.

Please note that the Division of Occupational Licensing has indicated that the Board operates from revenues generated through professional licensing fees, and not monies from the General Fund. I believe that the Board of Veterinary Examiners is necessary to support the health, safety, and welfare of the people of Alaska (and their pets), and I hope to see HB 327 speedily passed.

Back-up

STATE OF ALASKA
Boards and Commissions

VETERINARY EXAMINERS

BOARD: Board of Veterinary Examiners

BOARD IDENTIFICATION NUMBER: 102

DEPARTMENT: Department of Commerce and Economic Development

AUTHORITY: AS 08.98.010

STATUS: Active

SUNSET DATE: June 30, 1993

REQUIREMENTS: Legislative Confirmation

PROHIBITIONS: Cannot serve more than all or part of two consecutive terms.

TERM: 4 years

DESCRIPTION: 5 members appointed by Governor – 4 licensed veterinarians in active practice in Alaska for 5 years; plus 1 public member; no person may serve who is, or was during the two years immediately preceding appointment, a member of a faculty, board of trustees, or advisory board of a veterinary school.

FUNCTION: Regulates and controls applications, licenses, and permits of veterinarians and veterinarian technicians.

CHAIR: No provision.

SPECIAL FACTS: Serve at the pleasure of the Governor. Members serve until a successor is appointed. An appointment to fill a vacancy is for the remainder of the unexpired term. A member who has served all or part of two successive terms may not be reappointed unless four years have elapsed since the person has last served.

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: At least 3 annually; normally 3 times per year, 3 days maximum, plus 2-4 work sessions.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt West, Division of Occupational Licensing, DCED, P.O. Box 110806 M/S 0800, Juneau, AK, 99811 0806, Phone: 907 465 3035

STATE OF ALASKA
Boards and Commissions

Membership Roster
VETERINARY EXAMINERS (102)

Member	Appointed	Reappointed	Term Exp.
Jonathan P. Bertridge Veterinarian 12320 Old Glenn Highway Eagle River, AK 99577	09/20/93		01/31/97
Paul O. Frith Veterinarian 4273 Birch Lane Fairbanks, AK 99709	10/20/89	12/12/89	01/31/94
Virginia M. Johnson Veterinarian 12531 Old Seward Highway Anchorage, AK 99515	03/10/89	05/12/92	01/31/95
James Leach, III Veterinarian - Chair P.O. Box 520682 Big Lake, AK 99652	02/01/88	05/12/92	01/31/96
Barbara J. Marcisak Public HC04 Box 9563 Palmer, AK 99645	06/11/92		01/31/96



BIG LAKE SUSITNA VETERINARY HOSPITAL

PO. BOX 520682
MILE 51 PARKS HIGHWAY
BIG LAKE, ALASKA 99652
TELEPHONE: (907) 892-9292

DEC - 5 1993

December 1, 1993

Representative Cynthia Toohey
Health and Social Services
Co-chair
716 West 4th Avenue
Suite 330
Anchorage, Alaska 99501

Dear Representative Toohey;

This letter is to request your consideration for legislative extension of the sunset date for the Board of Veterinary Examiners.

There is apparently a bill introduced by the Division of Occupational Licensing to blanket cover a number of boards. We are concerned regarding the outcome of that bill and respectfully request a separate bill for the Board of Veterinary Examiners.

Thank you for your consideration regarding this matter and for your efforts on behalf of the Board of Veterinary Examiners.

Respectfully,

James B. Leach III, DVM
Board of Veterinary Examiners
Chairman

JBL/psk



HB327

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BOARD OF VETERINARY EXAMINERS

December 3, 1993



Audit Control Number:

08-1409-94

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

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Senator Al Adams
Senator Steve Frank
Senator Steve Rieger
Senator Bert Sharp
Senator Jay Kerttula (alternate)

Representative Terry Martin, Vice Chair
Representative John Davies
Representative Mark Hanley
Representative Ron Larson
Representative Eileen MacLean
Representative Sean Parnell (alternate)

DIVISION OF LEGISLATIVE AUDIT

Randy S. Welker, CPA
Legislative Auditor
Merle R. Jenson, CPA
Deputy Legislative Auditor

P.O. Box 113300
Juneau, Alaska 99811-3300

(907) 465-3830, Juneau
(907) 561-1445, Anchorage
(907) 465-2347, Juneau FAX

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

December 3, 1993

Members of the Legislative Budget
and Audit Committee:

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

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF VETERINARY EXAMINERS

December 3, 1993

Audit Control Number

08-1409-94

The objective of the audit was to determine whether the Board of Veterinary Examiners should continue its existence. Alaska Statute 08.03.010(24) has scheduled the board for termination on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature enact legislation that extends the board's termination date until June 30, 2001.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

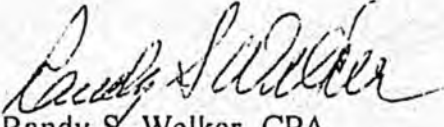

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Veterinary Examiners to determine if it should continue in existence.

As required by statute, the legislative committee of reference is to consider this report as part of the legislative oversight process in determining whether this board should be reestablished. The law currently specifies that the Board of Veterinary Examiners will terminate on June 30, 1993 and will have one year from that date to conclude its affairs. As of the date of this report, the board is technically in its one-year "wrap up" period.

During the course of our examination, we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Interviews with Board of Veterinary Examiners board members.
- Interviews with Department of Commerce and Economic Development, Division of Occupational Licensing personnel.
- Interviews with Human Rights Commission and Equal Employment Opportunity Office personnel.
- Interviews with other states' licensing agency personnel.
- Licensing files.
- Investigation files.
- Annual reports prepared by the board.
- Minutes of the Board of Veterinary Examiners' meetings.
- Office of the Ombudsman closed case files.
- Division of Occupational Licensing Policy and Procedures Manual.
- Contents of the Director of the Division of Occupational Licensing correspondence files.
- Other documents and interviews as deemed pertinent.

ORGANIZATION AND FUNCTION

The Board of Veterinary Examiners (the board) was established in the Department of Commerce and Economic Development in April 1963 by Chapter 91, SLA 1963. It is a regulatory board consisting of four licensed veterinarians and one public member (see inset at right). Members are appointed by the governor and approved by the legislature. Board members serve staggered, four-year terms. The authority of the board is outlined within Alaska Statutes 08.98.010 - .250.

Board of Veterinary Examiners Members

James B. Leach III, DVM, Chairman
Jonathan Beuridge, DVM
Paul O. Frith, DVM
Virginia Johnson, DVM
Barbara J. Marcisak, Public Member

The board determines the minimum quality of veterinary care in the State by:

1. Examining applicants and approving the issuance of licenses to qualified applicants;
2. Establishing or amending rules and regulations necessary to enforce state statutes; and
3. Conducting disciplinary proceedings in accordance with law.

The board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing. The division provides the board with licensing and investigative support. The licensing section processes applications, maintains license files, answers inquiries, and performs other administrative duties for the board.

REPORT CONCLUSIONS

Alaska Statute 08.03.010(24) requires that the Board of Veterinary Examiners be terminated on June 30, 1993. Alaska Statute 08.03.020 provides one year in which to conclude its affairs if the legislature does not enact legislation for the continuance of the board. As of the date of this report, the board is technically in its one year "wrap up" period and, if no action is taken by the legislature, the board will be dissolved June 30, 1994. We recommend that the legislature enact legislation that extends the board's termination date until June 30, 2001 (see Recommendation No. 1).

The Findings and Recommendations section describes areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the efficiency and effectiveness of the board.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should reestablish the Board of Veterinary Examiners (the board) with a termination date of June 30, 2001.

The regulation and licensing of qualified professionals is necessary to protect the public's interest. The board has performed its statutory duties and appears to be licensing qualified individuals to serve the public. Assurance that licensed professionals act in a competent manner is provided by investigation of complaints and revocation or suspension of licenses when appropriate.

Alaska currently has the most restrictive time period for sunset reviews, with sunsets scheduled for every four years. In the 24 states with sunset laws, agency reestablishment has ranged from 4 to 13 years. The average review cycle is eight years with many states going to review cycles of ten years or longer.

The board is well established and has consistently been found to satisfy a public purpose. The board has demonstrated an ability to conduct business in an adequate manner and deficiencies have been relatively minor. Though the sunset review this year does reveal a few areas to be addressed (see following recommendations), there does not appear to be any need to review the board every four years.

Recommendation No. 2

The board should pursue legislation that stipulates the penalty for unlicensed activity.

Alaska Statute 08.98.120 states that a person may not practice veterinary medicine, surgery, or dentistry without a license. However, statutes are silent as to the penalty for unlicensed activity.

This is inconsistent with several other professions regulated by boards associated with the Department of Commerce and Economic Development (DCED), Division of Occupational Licensing (OL). For example, AS 08.13.190 states that the unlicensed practice of barbers and hairdressers is a class B misdemeanor. Alaska Statute 08.48.291 makes unlicensed practice for architects, engineers, and land surveyors a class A misdemeanor. The unlicensed practice of chiropractors is defined in AS 08.20.200 as a misdemeanor.

At its February 1993 meeting the board proposed changing the statute to include a civil penalty for unlicensed activity of up to \$5,000. The board should contact the Department of Law to determine whether a criminal or civil penalty would be most effective and pursue appropriate legislation.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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At its February 1993 meeting the board proposed changing the statute to include a civil penalty for unlicensed activity of up to \$5,000. The board should contact the Department of Law to determine whether a criminal or civil penalty would be most effective and pursue appropriate legislation.

Recommendation No. 3

DCED should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

OL's methodology for determining FY 93 fees allocates costs to a board or occupation in one of two ways. Some costs, termed direct costs by OL, are directly distributed to a specific licensing program. Direct costs include personnel assigned to one specific occupation, travel associated with board business, public notices of board proceedings, and printing of board applications and statute booklets. Other costs, termed indirect costs, are allocated based upon the percentage of licensees in each occupation compared to the total number of occupational licensees. These costs include the expenditures associated with licensing examiners', investigators', hearing officers', management's, and clerical staff's time.

Effective August 24, 1992, DCED was required to establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation (AS 08.01.065(c)). Prior to FY 93, DCED could establish fees that reflected, but did not exceed, the actual costs of the activity for which the fee was charged and could establish a fee at less than full cost if they deemed it unreasonable to impose the full cost of the activity on the licensee.

Our office and OMB have both reviewed OL's cost allocation methodology to determine if it is sufficient to meet the requirements of AS 08.01.065(c). Both our office and OMB do not believe that OL's cost allocation methodology distributes costs reflective of the actual effort spent. The primary disparity involves the classification of licensing examiners', investigators', and hearing officers' time. The manner in which these three categories of employees' cost have been allocated prior to FY 94 can cause occupations with a large number of licensees to absorb costs that are not associated with the actual effort spent regulating their profession.

In addition to our concerns with OL's cost allocation methodology, we found problems in how they distributed costs in their calculation of a two-year average of expenditures used in determining FY 93 license fees. The percentages applied to allocate indirect costs were not always correct. These inconsistencies were caused by formula errors on spreadsheets prepared by OL staff. Also, documentation supporting some expenditures on the spreadsheets has not been retained. Review of selected current information available does not confirm these numbers. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distribution of costs.

In their September 1993, *Occupational Licensing Fee-Setting Policy Assessment* report OMB made seven recommendations to OL on how to allocate costs so that the intent of AS 08.01.065(c) is met. According to OMB's report, "A follow-up review for this project will be scheduled for March 1994." DCED has recently indicated that, for the determination of the FY 94 fees, they will allocate costs for licensing examiners, investigators, and hearing

officers based on estimated time spent by those employees, with periodic adjustments to actual time spent in accordance with our office and OMB's recommendations. As of October 1993, the allocation of direct and indirect costs using FY 93 expenditures has not been performed.

DCED should continue to work with OMB in establishing fee levels for occupational licensees that are more reflective of actual regulatory cost of the occupation.

Recommendation No. 4

OL should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

Alaska Statute 08.01.050 establishes DCED's administrative duties for professional licensing boards. Alaska Statute 08.01.070 identifies the administrative duties of the boards. Included in the board's responsibilities are the taking of minutes and records of all proceedings, forwarding of a draft of the minutes of proceedings to the department within 20 days after the proceedings, and submission of an annual performance report to the department before the end of the fiscal year. However, we found that OL rather than the board performed these duties.

For example, the licensing examiner is responsible for tape recording the board proceedings, recording votes, taking notes, and preparing the minutes. OL also compiles much of the information in the board's annual report. OL has the records needed to determine statistics such as the number of licenses issued and examinations given and passed.

We recommend that OL review the statutes and request changes that reflect actual responsibilities and timelines that are both practical and timely.

Recommendation No. 5

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (Law).

The Alaska Executive Branch Ethics Act (AS 39.52) requires members of boards and commissions to disclose potential violations of that Act to their designated supervisor. The designated supervisor for members of a board is the chair or acting chair of the board. Functionally, OL staff advise the professional licensing boards as to the reporting necessary for compliance with the Ethics Act, as does Law. Disclosures by board members are compiled by OL for submission to Law. These reports are required to be submitted on a quarterly basis. Law reviews these submissions and makes available to the public a summary of the reports received with sufficient deletions to prevent disclosure of a person's identity.

These reports have not been submitted in a timely manner. In 1991, no reports were submitted to Law. In 1992, reports were submitted three to six months after the end of the quarter. In 1993, the first two quarters' reports were submitted in July. In addition, division personnel have indicated that there is some confusion as to what should be reported. While staff at Law believe that OL understands what should be reported, written policies and procedures governing the reporting of potential ethical violations would benefit OL as well as board members. There would be clear criteria for OL staff to follow as to what should be reported as well as when it should be reported.

Recommendation No. 6

OL should, in conjunction with the Equal Employment Opportunity Office (EEO), review the Board of Veterinary Examiners licensure application forms to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

The veterinary application requires a photo of the candidate. EEO within the Department of Administration, Division of Personnel discourages agencies from asking applicants information on sex, height, weight, and hair and eye color. If an applicant were denied a license, the board or OL may find it difficult to prove that there was no discrimination involved if this type of information had been provided to the board members reviewing the application for licensure.

The veterinarian application forms should be reviewed with EEO to make sure that a photo is pertinent to licensure of veterinary candidates. OL indicated that one of the reasons photos are required is to prevent fraud when a licensee moves from one state to another. If a photograph is considered necessary for identification, to prevent fraud or for other reasons, it should be separated from the application prior to review of the application for licensure.

Recommendation No. 7

OL should investigate complaints regarding the competency of veterinarians in a timely manner.

OL has not been following up on investigative cases regarding the competency of veterinarians in a timely manner. In our test of four cases, two errors were noted. One case opened in July 1991 alleging a veterinarian's negligence had no investigative action until March 1992. When the board decided in October 1992 to close this case with a warning letter to the respondent, the letter was not mailed until February 1993. Another case, opened September 1992, regarding alleged fraud and/or misrepresentation by a veterinarian is still open at the date of this report. Documentation in the file indicates no investigative action was undertaken during a four month period.

OL staff indicate that the reason for the delays is that these cases were not a priority. The division has established priorities for responding to cases among the different license or

certification categories they are charged with investigating. The most egregious cases which represent an immediate danger to public health and safety are responded to immediately. Other cases which are not immediately life threatening may be delayed.

While we understand OL's need to prioritize investigations, monitoring compliance with statutory and regulatory requirements is very important to any licensing or certification program. When complaints are not addressed in a timely manner, the public's perception of the reliability of state licensing or certification may be diminished. OL should work cases on a timely basis to ensure that the support and respect of the public for its enforcement duties is maintained.

Recommendation No. 8

OL should establish a record tracking system for license files to provide for improved file security and accountability.

In our test of five applicants for licensure by examination and four applicants for temporary permits, several errors were noted. One licensed veterinarian's file did not have documentation of verification of board approval for licensure. Neither was approval indicated in the board minutes. In addition, one applicant's file could not be found by OL staff.

After giving OL the opportunity to locate the missing file, the staff again was unable to find the missing record. Nonavailability of the supporting records may raise concern that the permit/license was not issued in accordance with Alaska statutes and regulations.

OL should establish a record tracking system that will provide an audit trail of files or document(s) removed from files.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

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

The board has endeavored to ensure quality among those licensed to practice veterinary medicine, surgery and dentistry. This has been achieved by, among other things, administering a series of examinations to applicants for licensure. One examination is a national clinical competency examination and the other is a national written examination. The third examination is a state examination questioning applicants about Alaskan laws and regulations as well as such things as practices in extremely cold climates.

The board distributes a handbook to all applicants for licensure and to all licensed veterinarians. The handbook assists veterinarians new to the State to become familiar with disease problems that exist in Alaska. It also provides information on state laws and regulations pertaining to domestic animals and it provides a list of resource agencies and contact persons. The handbook is updated approximately every two years by board members.

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

During FY 91 and FY 92, the board achieved their statutory requirement of meeting at least three times during the year. In FY 93, the board met only twice.

Since the last sunset audit, the board has adopted regulations as indicated below:

- A. Significant changes were made in the requirements for veterinary technicians. Effective April 1993, they are now required to be registered by the board. Prior to registration, a national examination must be passed. Continuing competency must be demonstrated prior to renewal of a registration by the applicant. In addition, unethical conduct has been defined in regulation.
- B. Regulations were adopted, effective October 1992, to allow the issuance of courtesy licenses to veterinarians. These are licenses that can be used only for a special event and are valid for up to 30 days. A special event can be a sporting event, an

emergency situation, or a clinic or seminar in veterinary medicine conducted by specialists certified by the American Veterinary Medical Association.

- C. Several regulations pertaining to continuing education were adopted. The number of credit hours required for renewal increased from 10 to 15 per calendar year. This change became effective December 1990.
- D. Regulations were adopted, effective December 1990, to allow board members to recommend to the governor the removal of a member that is absent from three meetings within a two-year period.

While no statutory changes have been made since the last sunset audit, the board, at its February 1993 meeting, has resolved to recommend changes to statutes. Changes proposed by the board would require applicants for licensure by credentials to meet the licensing requirements that are in effect at the time the applicant applies for a license in Alaska. Current statutes require applicants to meet the Alaskan requirements that were in effect at the time the applicant was licensed in the other jurisdiction.

The intent behind this proposal is apparently to require all applicants to take the national clinical competency examination (which became effective in the early eighties), regardless of when the applicant was licensed in another state. We question whether this is an appropriate change. Individuals licensed in Alaska prior to the requirement of a clinical competency examination are not being required to take such an examination at this date. We do not believe licensees from other states should be held to a higher standard than those licensed in Alaska during the same timeframe.

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

Again, while no statutory changes have been made since the last sunset audit, the board, at its February 1993 meeting, has resolved to recommend changes to statutes. Those changes include providing a civil penalty of up to \$5,000 for persons that practice veterinary medicine without being licensed or authorized to practice. The statutes are currently silent on this issue (see Recommendation No. 2).

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

In accordance with AS 44.62.310 and AS 08.01.050, board meetings have been open to the public. A public comment period is made available at the meetings.

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

As discussed above, a public comment period is made available at each meeting. The board periodically changes the city in which to have its board meetings in order to be accessible to a greater number of people. In addition, a public comment period is made available in the process of adopting new regulations.

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.

Since the last sunset audit in FY 88, 30 cases have been logged by OL's Investigative Unit and none in the Office of the Ombudsman's closed case files. We reviewed four of the cases reported during the period FY 91 through FY 93 and determined that two were not being investigated in a timely manner (see Recommendation No.7).

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

Based on the board's Annual Performance Report at the end of FY 93 there were 227 licensed veterinarians and 82 registered veterinary technicians. During FY 93, the board issued licenses to 29 veterinarians and registered 82 veterinary technicians.

The board is statutorily responsible for approving the issuance of all licenses. A person may apply for licensure by credentials or by examination.

In our test of five applicants for licensure by examination and four applicants for temporary permits, several errors were noted. One licensed veterinarian's file did not have documentation of verification of board approval for licensure. Neither was approval indicated in the board minutes. In addition, one applicant's file could not be found by OL staff. OL should improve their filing and documentation procedures while managing case files (see Recommendation No. 8).

All applicants for licensure by examination are not submitting official college transcripts as required by 12 AAC 68.010. The reason is that OL has conflicting requirements of requesting a diploma on the application forms. Applicants are confused as to the type of documentation required. During our test of eight applicants, we found that three submitted diplomas and five submitted transcripts. OL needs to change their application forms to be consistent with regulation requirements.

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.

The application forms used by OL requires information which has been questioned by the Department of Administration, Division of Personnel, Equal Employment Opportunity Office (see Recommendation No. 6).

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 Findings and Recommendations section of this report.

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.

The application forms used by OL requires information which has been questioned by the Department of Administration, Division of Personnel, Equal Employment Opportunity Office (see Recommendation No. 6).

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 Findings and Recommendations section of this report.

APPENDICES

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APPENDIX A

Department of Commerce and Economic Development
Board of Veterinary Examiners
Schedule of Revenues Compared with Expenditures
(Unaudited)
(Note 1)

Revenues (Note 2)	\$13,418
Expenditures (Note 3)	<u>28,107</u>
Excess of Expenditures over Revenues (Note 3)	<u>(\$14,689)</u>

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from discussions with Division of Occupational Licensing (OL) personnel and from OL prepared documents comparing revenue and expenditures for fee determination. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is comprised of license renewal fees. For the current fee structure, see Appendix B. Licenses are renewed biennially. Because of the biennial collection cycle, revenues vary substantially year to year. Therefore, OL combined revenues collected in FY 90 and FY 91 and calculated an average in order to obtain a representative amount of annualized revenues collected for comparison with expenditures.

Note 3

Expenditures consist of direct costs resulting from board member activities, (i.e., travel and per diem) and an allocation of OL's overhead costs. Our understanding of the allocation methodology is discussed in Recommendation No. 3 of this report and is the subject of a September 1993 Office of Management and Budget (OMB), Division of Audit and Management Services report entitled *Occupational Licensing Fee-Setting Policy Assessment*. Both our office and OMB do not believe that OL's method of allocating costs to a professional licensing board distributes costs reflective of the actual effort spent regulating their profession.

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APPENDIX B
Department of Commerce and Economic Development
Board of Veterinary Examiners
Application, License and Other Fees¹

Application and Other Fees²

Type of Fee	Amount
Application	\$ 50
National written examination for veterinarians	100
Clinical competency test for veterinarians	100
State written examination for veterinarians	100
Examination for veterinary technicians	70
Temporary license	100
Temporary permit	100

License Fees

License Category	Initial	Biennial Renewal ³
Veterinarian	\$200	\$200
Veterinary Technicians	80	80
Courtesy license ⁴	75	N/A

¹The licensing fees charged by the Division of Occupational Licensing for the Board of Veterinary Examiners are set out in the Alaska Administrative Code at § 12 AAC 02.350. The last fee change for this board was effective September 5, 1993. According to Division of Occupational Licensing staff, at this time there are no planned fee changes for this board.

²The Division of Occupational Licensing is also authorized to charge administrative fees. Administrative fees include: duplicate license fee, photocopying fee, and penalty for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

³The next biennial renewal for the Board of Veterinary Examiners' licensees is December 31, 1994.

⁴Alaska Statute 08.02.030 states that boards may establish criteria for issuing a temporary license to nonresidents who enter the State so that, on a temporary basis, they may practice the occupation regulated by the board. The Board of Veterinary Examiners also has regulations to issue courtesy licenses to qualified individuals. Courtesy licenses are issued so as to authorize the licensee to practice veterinary medicine for a special event only.

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WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P.O. BOX 110800
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500
FAX: (907) 465-5442

February 3, 1994

RECEIVED
FEB 3 1994

LEGISLATIVE AUDIT

Mr. Randy Welker
Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Mr. Welker:

Thank you for the opportunity to review the preliminary audit report regarding whether the Board of Veterinary Examiners should be continued or terminated under AS 44.66.010.

Recommendation No. 1

The legislature should reestablish the Board of Veterinary Examiners (the board) with a termination date of June 30, 2001.

The department concurs. The department believes that the board is operating in the public's interest and protection. The board is currently updating the state examinations to ensure that they adequately test new applicants for licensure in Alaska.

Recommendation No. 2

The board should pursue legislation that stipulates the penalty for unlicensed activity.

The department concurs. The board's proposal to seek a legislative change to include a civil fine up to \$5,000 for unlicensed activity is still in the proposal stage. The board will be discussing this issue at the February 1994 meeting in Juneau. It is anticipated that the board will seek support for the legislative change at that time.

Recommendation No. 3

The Department of Commerce and Economic Development (DCED) should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

The department agrees with this recommendation subject to the following comments.

An OMB audit of the department's fee setting practice, was completed in early October. OMB's recommendations for defining direct costs, including the implementation of timekeeping records for licensing staff, investigators, and hearing officers, has been implemented effective July 1, 1993 by the division.

The OMB audit recommended a cap on incremental fee increases of no more than 10-25% per licensing period. This is problematic inasmuch as it places a limit on recovering the actual cost of licensing the profession. Unpredictable and unforeseen program expenses occur due to investigations, litigation, and legal challenges which are not controlled by the board or the division. Limiting expenditures in order to comply with these caps is anticipated to have serious effects on the division's abilities to comply with their statutory mandates. Under the present scheme, once a program has expended its "acceptable limit" for fee increase adjustments under the OMB recommendations and in accordance with AS 08.01.065, the board will effectively be shut down for the remainder of the fiscal year. The consequences have potential health and safety risks as well as potential economic hardships for licensees who wish to renew their licenses, sit for examinations, etc. The division will make requests for additional spending allocation to Legislative Budget and Audit Committee to alleviate these harsh consequences, but failing favorable consideration, the division must control its expenditures.

The division does not fully concur with the audit findings that errors were made in the calculation of a two-year average of expenditures used to determine the FY 93 license fees, and as a result, license fees did not truly reflect the cost of providing regulatory services to each occupation. Detailed expenditure information used in calculating a two-year average was based on information obtained from the state accounting system. The data generated from the state accounting system for the purposes of this audit has changed from data obtained by division staff when fee decisions were made.

In conclusion, the Department of Commerce and Economic Development has worked with the OMB auditor regarding this issue.

Recommendation No. 4

The Division of Occupational Licensing (OL) should request statutory change to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

The department concurs. A rewrite of AS 08.01 is available, and the division is seeking legislative support to introduce it. The rewrite makes numerous revisions including amendments to the statutes cited in this recommendation.

The rewrite included revisions which make drafting minutes a department responsibility. It also provides for an annual report deadline submission of

August 1. The annual report deadline revision is necessary as many statistics needed for the annual report are not available until June 30, thus making it impossible for the boards to meet the existing deadline of submission by June 30.

The division disagrees that the annual report authorship should be amended to make annual report submission a department responsibility. We recognize that division staff are instrumental in assisting boards when completing reports. Staff provide statistical and clerical assistance, however, this report must be reflective of the boards' position on various matters involving the profession regulated including legislative and regulatory needs, budget requests, and upcoming goals. These are areas which the board is solely responsible for developing.

Recommendation No. 5

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (Law).

The department agrees and will comply with this recommendation. A written procedure developed by staff will be limited to include directives for staff follow-up at each meeting with collection of ethic reports, as well as clarifying dates which quarterly reports must be compiled and forwarded to the Attorney General's Office. We concur that staff is responsible for the timely submission to the Department of Law. This is the limit of responsibility on behalf of the department.

All other policy, procedures, interpretations, and written directives for what must be reported, must come from the Department of Law. Guidance on when a member must report a conflict, what should be reported, confirmation of what constitutes a conflict, and who has authority to rule/overrule a decision made by a designated supervisor, are all matters which are beyond the scope of DCED staff expertise. Consequently, the department disagrees with the statement in the text of recommendation No. 5 which states, "Functionally, OL staff advise the professional licensing boards associated with them as to the reporting necessary for compliance with the Ethics Act"

The department has asked for a written directive from the Department of Law, in layman's terms, which clarifies these matters. Any forthcoming directives from the Department of Law will be distributed to board members.

Recommendation No. 6

OL should, in conjunction with the Equal Employment Opportunity Office (EEO), review the Board of Veterinary Examiners licensure application forms to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

Mr. Randy Welker

-4-

February 3, 1994

The department disagrees with this recommendation. We believe the procedures for denying an applicant and the practice of listing the specific reasons for denial in the notice to the applicant provides adequate protection for the board from being subject to discrimination complaints based on the height/weight questions.

Recommendation No. 7

OL should investigate complaints regarding the competency of veterinarians in a timely manner.

The division agrees that complaints regarding the competency of veterinarians should be investigated timely, however, investigative staff are sometimes overwhelmed by higher priority cases which represent an immediate danger to public health and safety. Cases which do not present any potential danger to the public may be delayed.

Recommendation No. 8

OL should establish a record tracking system for license files to provide for improved security and accountability.

The department concurs with this recommendation. The division has maintained a "file out" card system in the past, which proved to work well in locating files which were being used by other staff. Occasionally, documents are misfiled by staff and it is a matter of time before the error is noted and the file is returned to the proper location. I suspect this is the case with the file noted in the text of Recommendation #8.

Sincerely,


Paul Fuhs
Commissioner

PF/KW/mme357.kw
020394b

HB

327

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/14/94

FURTHER:

DATE TURNED INTO OFFICE: 4-20-94

The Finance Committee considered HOUSE BILL NO. 327

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

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCREED	11/28/94	<input checked="" type="checkbox"/>	

Appropriation No Fiscal Note

DO PASS:

Alma Ni
~~_____~~
Bob Sharp

OTHER RECOMMENDATIONS:

1. *Alma Ni*
 Co-Chair: Signature/Recommendation

2. _____
 Co-Chair: Signature/Recommendation

FISCAL NOTE

No. 1

Bill Version: HB 327

BILL: (H) Publish Date: 2/3/94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

Revision Date: 1/28/94
 Title: An Act extending the termination date of the Board of Veterinary Examiners;....
 Sponsor: Reps. Toohy and Bunde
 Requestor: Rep. Toohy

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUNDS SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 General Fund							
1005 GF/Program Receipts							
1006 GF/MHTIA							
Other							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

Estimate of any current year (FY 94) cost: \$ None

POSITIONS							
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0	
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0	
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0	

ANALYSIS: (Attach a separate page if necessary)
 The bill extends the termination date of the Board of Veterinary Examiners to June 30, 1997. Funding for the board is included in the FY 95 operating budget request; therefore, new funds are not required.

Average Annual Cost: \$28.1
 Average Annual Revenue: \$33.9

Prepared by: Jennifer Strickler, Administrative Office
 Division: Occupational Licensing
 Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 1/28/94
 Date: _____

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